

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

PROGRESSIVE EXPRESS INSURANCE  
COMPANY,

Plaintiff,

v.

Case No. 6:18-cv-165-Orl-37KRS

H&C FLORIDA TRUCKING, INC.;  
YOANDY CARRASCO; and THE  
ESTATE OF CARLOS ORLANDO  
CRUZ,

Defendants.

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**ORDER**

Plaintiff Progressive Express Insurance Company (“**Progressive**”) filed this action seeking declaratory judgment regarding its duties as the insurer of a truck involved in a fatal accident. (*See* Doc. 7.) Specifically, Progressive seeks a declaration that: (1) the policy does not provide bodily injury liability coverage to the truck owner or driver as a result of the accident; (2) Progressive has no duty to indemnify the truck owner or driver for any damages claimed by the deceased’s estate; and (3) Progressive has no duty to defend the truck owner or driver if the deceased’s estate files a lawsuit for damages. (*See id.*)

Each Defendant failed to appear, so Progressive successfully obtained entries of default against them. (Docs. 19, 20, 28.) Now, Progressive requests default judgment against Defendants. (*See* Doc. 29 (“**Motion**”).) On referral, U.S. Magistrate Judge Karla R. Spaulding recommends that the Court grant the Motion, as under the policy Progressive

has no duty to indemnify the truck owner or driver for damages arising from the incident because the driver was excluded under the policy. (Doc. 35 (“**R&R**”).)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at \*1 (M.D. Fla. Jan 28, 2016); *see also Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). Finding no such error, the Court finds that the R&R is due to be adopted in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Karla R. Spaulding’s Report and Recommendation (Doc. 35) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s Motion for Default Judgment (Doc. 29) is **GRANTED**.
3. The Court finds that Plaintiff Progressive Express Insurance Company owes no duty to indemnify H&C Florida Trucking, Inc. or Yoandy Carrasco under the policy for bodily injury damages arising from the death of Carlos Orlando Cruz when he was struck by the Volvo VNL Truck driven by Mr. Carrasco, an excluded driver.
4. The Clerk is **DIRECTED** to:
  - a. Enter judgment in favor of Plaintiff Progressive Express Insurance Company and against all Defendants; and
  - b. Close the file.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on September 20, 2018.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
Counsel of Record