

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**KEARNEY CONSTRUCTION
COMPANY, LLC,**

Plaintiff,

v.

Case No. 8:09-cv-1850-T-30TBM

**TRAVELERS CASUALTY AND SURETY
COMPANY OF AMERICA, et al.,**

Defendants.

ORDER

THIS CAUSE comes before the Court upon Travelers' Motion for Leave to Take Additional and Supplemental Depositions (Dkt. 204), Non-party Pasco County's Response (Dkt. 215), and the Indemnitors' Memorandum in opposition (Dkt. 218). The Court, having considered the motion and the responses, and being otherwise advised in the premises, concludes that the motion should be denied as moot.

Travelers' motion requests that it be permitted to take six depositions in addition to the allotted ten. Travelers' motion, however, is moot, because it has only taken five depositions to date. Thus, it may take the depositions of Bruce Kennedy, Martin Ramirez, Thomas Kroger, Third Party Defendants' unnamed expert witness, Peter Proebiski (regarding events that occurred on the Project since his previous deposition), and Jeff Joaquin (regarding the claims against Pasco County that came to light after his deposition). Because Travelers

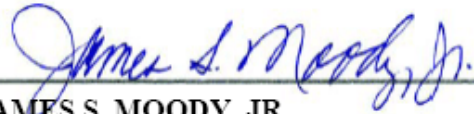
has only taken five depositions within the allotted ten, and failed to inform the Court of what depositions it was including in the remaining five, the Court will construe these five additional depositions (the Court does not count the supplemental deposition of Mr. Joaquin as an additional deposition, but does include the deposition of Mr. Proebiski as an additional deposition) as part of the allotted ten.

To the extent Travelers requests any additional depositions, it must do so after the scheduling of the depositions discussed herein. And any motion for leave to take additional depositions shall list every deposition scheduled and/or previously taken, an explanation of the relevance of these depositions, and an explanation of why any additional depositions would be necessary and not cumulative.

The Court reserves on Travelers' request for fees and costs.

It is therefore ORDERED AND ADJUDGED that Travelers' Motion for Leave to Take Additional and Supplemental Depositions (Dkt. 204) is DENIED as moot.

DONE and **ORDERED** in Tampa, Florida on July 7, 2011.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

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