

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 &
SURETY COMPANY OF AMERICA,

Defendant.

v.

KEARNEY CONSTRUCTION
COMPANY, LLC, BING CHARLES W.
KEARNEY, BRIAN W. SEEGER,
ALAN PAYNE, FLORIDA
TRUCKING CO., INC., FLORIDA
EQUIPMENT CO., LLC., KEARNEY
CONSTRUCTION COMPANY, INC.,
AVT EQUIPMENT LLC, KEARNEY
DEVELOPMENT COMPANY, INC.,
K & S EQUIPMENT COMPANY, INC.,
FLORIDA SOIL CEMENT, LLC, FLORIDA
FUEL TRANSPORTERS, LLC.

Third Party Defendants.

_____ /

ORDER

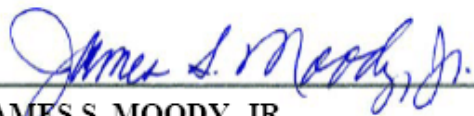
This cause comes before the Court upon the Magistrate Judge’s Order dated January 14, 2016 (Dkt. #680), Travelers Casualty & Surety Company of America’s Objection to the Magistrate Judge’s January 14, 2016 Order (Dkt. #687), and Defendant Bing Charles W. Kearney’s Response to Travelers’ Objection to Magistrate Judge’s

January 14, 2016 Order (Dkt. #691). Upon review and consideration, the Court concludes that Travelers' Objection should be overruled.

The Magistrate Judge did not err when he denied Travelers' Motion to Strike Defendant Bing Charles W. Kearney's Amended Claim of Exemption. Under the unique facts presented, the interests of justice dictate that Kearney should be granted leave to amend his claim of exemption. Kearney timely filed a claim of exemption claiming head of household and tenants-by-the-entireties exemptions, as well as unspecified "other exemptions as provided by law." Kearney's failure to place a checkmark or "X" on the line indicating the retirement funds exemption was due to a scrivener's error—the oversight does not prejudice Travelers because Travelers was already aware that Kearney disputed the garnishment and was already on notice that the funds held by USAmeriBank included retirement funds.

It is therefore ORDERED and ADJUDGED that Travelers Casualty & Surety Company of America's Objection to the Magistrate Judge's January 14, 2016 Order (Dkt. #687) is OVERRULED.

DONE and **ORDERED** in Tampa, Florida on February 12, 2016.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record