

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 06-21598-CIV-HUCK/O'SULLIVAN

CC-AVENTURA, INC., a Delaware corporation,
et al.,

Plaintiffs,

vs.

THE WEITZ COMPANY, LLC, an Iowa limited
liability company, *et al.*,

Defendants.

_____/

AND ALL RELATED ACTIONS

_____/

**ORDER AFFIRMING REPORT AND RECOMMENDATION AND
GRANTING IN PART PARTIAL SUMMARY JUDGMENT**

THIS CAUSE is before the Court upon the Plaintiff CC-Aventura, Inc.'s Objections to Magistrate Judge O'Sullivan's October 27, 2008 Report and Recommendation (D.E. #1428), filed on November 10, 2008. In his October 27, 2008 Report and Recommendation ("R&R," D.E. #1417), Magistrate Judge O'Sullivan recommended that Third Party Defendant, Concrete & Lumber Enterprises Corporation's ("C&L") Motion for Partial Summary Judgment Against Plaintiff's Claim for Attorneys' Fees (DE #1320) be granted in part.

Section 636(b)(1) of the Federal Magistrate Act requires this Court to make a *de novo* determination of those parts of the Magistrate Judge's R&R to which objection is made. 28 U.S.C. § 636(b)(1); *United States v. Raddatz*, 447 U.S. 667, 673 (1980); *Jeffrey S. v. State Bd. of Educ.*, 896 F.2d 507, 512-13 (11th Cir. 1990).


After careful *de novo* consideration of Plaintiff's Motion and Objections, The Weitz Defendants and C&L's Responses, Plaintiff's Reply, and the relevant law, this Court concludes that the R&R contains a thorough, competent, and well-reasoned recommendation. Accordingly, it is hereby

ORDERED and ADJUDGED that Plaintiff's objections are OVERRULED. Magistrate

Judge O'Sullivan's October 27, 2008 R&R is hereby, AFFIRMED and the findings of fact and conclusions of law contained therein ADOPTED. It is further

ORDERED and ADJUDGED that the Motion of Third Party Defendant, Concrete & Lumber Enterprises Corporation, for Partial Summary Judgment Against Plaintiff's Claim for Attorneys' Fees is GRANTED in part and DENIED in part. Plaintiff CC-Aventura, Inc. is precluded from seeking attorney's fees against The Weitz Company, LLC. However, CC-Aventura, Inc may seek attorney's fees against Weitz Company, Inc. under the Guaranty signed by Weitz, Inc., which is part of the Construction Contract between CC-Aventura, Inc. and The Weitz Company, LLC.¹

DONE AND ORDERED in chambers, Miami, Florida, December 4, 2008.


Paul C. Huck
United States District Judge

Copies provided to:
Counsel of Record

¹ Nothing in this Order should be read to preclude any party's entitlement to seek attorney's fees in the form of sanctions for misconduct during the litigation of this matter.