

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

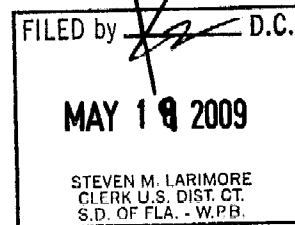
Case No. 07-80112-CIV-HURLEY/VITUNAC

LAFARGE NORTH AMERICA INC.,
a Maryland corporation,

Plaintiff

v.

MATRACO-COLORADO, INC.,
a Florida corporation, and JOHN F.
WALKER, a natural person.Defendants.

REPORT AND RECOMMENDATION

THIS CAUSE is before the Court on Order of Reference (DE 288), dated March 11, 2009, from United States District Judge Daniel T.K. Hurley referring Defendants/Counterclaimants' Verified Motion to Tax Costs (DE 287) for a report and recommendation. By separate Order of Reference (DE 291), United States District Judge Daniel T.K. Hurley also referred Plaintiff/Counter-Defendant's Verified Motion to Tax Costs (DE 289) for a report and recommendation.

On March 23, 2009, the Court entered an Order (DE 292) granting the parties' joint motion for enlargement of time to file their respective responses to the two referred motions for costs. In their joint motion, the parties represented that they were in settlement negotiations and that the enlargement of time would allow them to focus their attention on settling the case and potentially prevent unnecessary expenditure of the parties' and the Court's time and resources.

On April 28, 2009, Plaintiff's counsel contacted chambers to advise that the parties had reached a settlement and would file an appropriate notice with the Court. On May 18, 2009, the

parties jointly filed a Stipulation of Withdrawal of the Parties' Motions to Tax Costs (DE 295). The parties' stipulation renders moot the pending cost motions. Accordingly, both cost motions should be denied as moot by the District Court.

RECOMMENDATION TO THE DISTRICT COURT

Based on the foregoing, this Court respectfully RECOMMENDS to the District Court that:

- (1) Defendants/Counterclaimants' Verified Motion to Tax Costs (DE 287), filed March 10, 2009, be DENIED AS MOOT; and
- (2) Plaintiff/Counter-Defendant's Verified Motion to Tax Costs (DE 289), filed March 11, 2009, be DENIED AS MOOT.

NOTICE OF RIGHT TO OBJECT

A party shall serve and file written objections, if any, to this Report and Recommendation with the Honorable United States District Judge Daniel T. K. Hurley, within ten (10) days after being served with a copy. See 28 U.S.C. § 636(b)(1)(C). Failure to file timely objections may limit the scope of appellate review of factual findings contained herein. See United States v. Warren, 687 F.2d 347, 348 (11th Cir.1982), cert. denied, 460 U.S. 1087 (1983).

DONE and SUBMITTED in Chambers at West Palm Beach in the Southern District of Florida, this 19 day of May 2009.


ANN E. VITUNAC
United States Magistrate Judge

Copies to:
U.S. District Judge Daniel T. K. Hurley
All counsel and parties of record