IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

ATAIN SPECIALTY INSURANCE)	
COMPANY,)	
)	
Plaintiff,)	
)	
VS.) (Case No. 15-cv-00161-JPG-SCW
THOMBICK CORD 1/1 / FOLEY)	
THOMRICK CORP d/b/a FOLEY)	
TRAVERN and JOHN GUEST,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter comes before the Court on Plaintiff Atain Specialty Insurance Company's ("Atain") Motion (Doc. 24) for Judgment on the Pleadings pursuant to Federal Rule of Civil Procedure 12(c). Defendants indicated to the Court at a status conference (Doc. 25) that they would not file a response and no response has been filed.

In ruling on a motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c), the Court considers the complaint, answer and any written instruments attached to those pleadings. *See Pisciotta v. Old Nat'l Bancorp*, 499 F.3d 629, 633 (7th Cir. 2007); *Forseth v. Village of Sussex*, 199 F.3d 363, 368 (7th Cir. 2000). Judgment on the pleadings is appropriate when "[t]he moving party demonstrates that there are no material issues of fact to be resolved." *Moss v. Martin*, 473 F.3d 694, 698 (7th Cir. 2007).

Local Rule 7.1(c) provides that, "Failure to timely file a response to a motion may, in the Court's discretion, be considered an admission on the merits of the motion." Being fully aware of the court's rule and having specifically indicated to the Court that they would not file a response, the Court is exercising its discretion to consider Defendant's failure to respond as an admission of the Plaintiff's motion.

Therefore, Plaintiff Atain Specialty Insurance Company's Motion (Doc. 24) for Judgment

on the Pleadings is **GRANTED**.

The Court finds that Atain Specialty Insurance Company has no duty to defend or

indemnify Thomrick Corp. d/b/a Foley's Tavern or any other party under the Policy with regard

to the Underlying Litigation. The Clerk of Court is **DIRECTED** to enter judgment accordingly.

IT IS SO ORDERED.

DATED: 10/27/2015

s/J. Phil Gilbert

J. PHIL GILBERT **DISTRICT JUDGE**