

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

<b>AMERICAN FAMILY MUTUAL INSURANCE COMPANY, Plaintiff,</b>	)	
	)	
vs.	)	<b>1:06-cv-1044-SEB-JMS</b>
	)	
<b>C.M.A. MORTGAGE, INC. d/b/a EMINENT MORTGAGE COMPANY and JASON WANEK, Defendants.</b>	)	
	)	

**ORDER TO RESCIND “FINAL JUDGMENT”**

On March 31, 2008, we entered an order granting summary judgment to Defendants with respect to the issue of whether Plaintiff owed Defendant, C.M.A. Mortgage, Inc., a defense in a contemporaneously litigated lawsuit brought against C.M.A. in Illinois. In connection with the issuance of that order, we mistakenly entered what we titled a “Final Judgment.” (Dkt. # 108) As explained in detail in our order of October 21, 2008, the entry of a final judgment was inadvertent in that the Court was aware that additional indemnity issues had been raised by Plaintiffs in an Amended Complaint, which they had filed during the pendency of the summary judgment motion, and were neither addressed in the briefing on the cross motions nor resolved by our ruling. As a consequence of the erroneously captioned entry, a premature appeal was

filed by Plaintiff with the Seventh Circuit.

The case has recently been remanded by the Seventh Circuit in order to allow this Court to rescind its prior judgment order and conduct the appropriate proceedings to address the heretofore unresolved issues. To that end, we hereby order the judgment entered on March 31, 2008 be rescinded. Following the resolution of the issues raised in Plaintiff's Amended Complaint, a corrected and complete Final Judgment shall be entered by the Court.

Following the filing of the statements required by Local Rule 16.2 following a remand, the assigned Magistrate Judge, Jane Magnus Stinson, is requested to schedule a status conference with the attorneys at the earliest convenient time in order to establish a schedule, including briefing deadlines, for development of the remaining unresolved issues by the parties in preparation for final resolution by the Court.

IT IS SO ORDERED 11/21/2008



SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

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