

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
CENTRAL DIVISION at LEXINGTON

ANTHONY WALES, SR. and )  
TONYA WALES, Individually )  
and as parents & guardians )  
of an unmarried infant, )  
Next Friend A.W., Jr., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
 )  
FARMERS STOCKYARDS, INC., et )  
al. )  
 )  
Defendants.

Action No.  
5:14-cv-394-JMH

**MEMORANDUM OPINION AND ORDER**

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This matter is before the Court upon Abner Construction Company's motion for clarification of the Court's ruling on its motion for summary judgment with respect to the issue of common law negligence, [DE 170]. Specifically, Abner requests a statement that the court's ruling of March 28, 2016, is dispositive as to all claims against Abner Construction. Although that is true as to those claims raised by the plaintiffs, the ruling at issue specifically did not address Farmers Stockyard, Inc.'s claim for indemnification.

Abner Construction Company now contends that the Court's ruling should have included Farmers Stockyard, Inc.'s claim for indemnification. However, since Abner Construction Company never moved for summary judgment on that issue, the Court is at loss as

to its authority for making a ruling *sua sponte* on the matter. No further clarification is necessary.

Although Abner Construction Company may be entitled to summary judgment on Farmers Stockyard, Inc.'s claim for indemnification based on the Court's prior rulings in this case, Farmers Stockyard, Inc. is entitled to have its say on the matter.

Accordingly, **IT IS ORDERED** herein as follows:

(1) That Abner Construction Company file a motion for summary judgment on the issue of Farmers Stockyard, Inc.'s claim for indemnification by no later than April 4, 2016.

(2) That Farmers Stockyard, Inc. shall file a response by no later than April 6, 2016.

(3) That Abner Construction Company file a reply by no later than April 8, 2016.

(4) That Abner Construction Company's motion for clarification be, and the same hereby is, **DENIED** as *de trop*.

This the 1st day of April, 2016.



**Signed By:**

**Joseph M. Hood** *JMH*

**Senior U.S. District Judge**