

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

BENCHMARK INSURANCE COMPANY

PLAINTIFF

VS.

CIVIL ACTION NO. 1:20-CV-238-HSO-JCG

**JOAQUIN & SONS CONSTRUCTION
CO., LLC**

**DEFENDANT/
THIRD-PARTY PLAINTIFF**

VS.

**ALLEN & SMITH INSURANCE
AGENCY INCORPORATED**

THIRD-PARTY DEFENDANT

AGREED JUDGMENT OF DISMISSAL WITH PREJUDICE

The Court has been advised that all parties to this action have reached a compromise, and that as part of said compromise, the parties agree and stipulate that Benchmark Insurance Company is entitled to a declaratory judgment that it did not have a worker's compensation insurance policy in force and effect for Joaquin & Sons Construction Co., LLC, at the time of an injury to an alleged employee of Joaquin & Sons Construction Co., LLC, by the name of Lenwood Harvard. The parties also agree that Benchmark Insurance Company is entitled to a judgment that it has no insurance coverage for Lenwood Harvard's worker's compensation claim and has no duty to defend and/or indemnify Joaquin & Sons Construction Co., LLC for said action.

The parties also acknowledge that they have resolved the third party claim of Joaquin & Sons Construction Co., LLC as against Allen & Smith Insurance Agency, Incorporated, in such a way that will provide a defense and indemnity to Joaquin & Sons Construction Co., LLC for Lenwood Harvard's worker's compensation claim and that the Third-Party Complaint against Allen & Smith Insurance Agency, Incorporated should be dismissed with prejudice.

The Court, being advised in the premises, finds and orders as follows:

IT IS, HEREBY, ORDERED AND ADJUDGED that Benchmark Insurance Company had no worker's compensation insurance policy in force and effect for Joaquin & Sons Construction Co., LLC on the date its alleged employee, Lenwood Harvard, was injured and that Benchmark Insurance Company has no coverage for Lenwood Harvard's worker's compensation claim and no duty to defend or indemnify Joaquin & Sons Construction Co., LLC for same.

IT IS, FURTHER, ORDERED AND ADJUDGED, that Joaquin & Sons Construction Co., LLC's Third-Party complaint against Third-Party Defendant, Allen & Smith Insurance Agency Incorporated should be, and same hereby is, dismissed with prejudice.

SO ORDERED AND ADJUDGED, this the 3rd day of June, 2021.

s/ Halil Suleyman Ozerden
HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE

AGREED TO AND APPROVED BY:

/s/ Loraleigh Phillips w/permission
Loraleigh Phillips, Esq. (MSB# 102326)
Counsel for Plaintiff, Benchmark Insurance Company

/s/ J. Paul Barber w/permission
J. Paul Barber, Esq. (MSB# 1983)
Counsel for Third-Party Plaintiff,
Joaquin & Sons Construction Co., LLC.

/s/ David A. Barfield
David A. Barfield, Esq. (MSB# 1994)
Counsel for Third-Party Defendant, Allen & Smith
Insurance Agency Incorporated