

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

CHAVIS NICHOLLS and FALON
NICHOLLS,

Plaintiffs,

vs.

MOUNTAIN WEST FARM BUREAU
MUTUAL INSURANCE COMPANY,

Defendant.

CV 17-63-BLG-TJC

ORDER

Before the Court is defendant Mountain West Farm Bureau Insurance Company's ("Mountain West") Motion to Dismiss Count II of Complaint: Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing, Pursuant to Rule 12(b)(6), Fed. R. Civ. P. (Doc. 7; the "Motion.")

As the Motion's title indicates, Mountain West seeks the dismissal under Rule 12(b)(6) of Count II of plaintiffs Chavis Nicholls' and Falon Nicholls' (collectively, "Plaintiffs") original Complaint and Demand for Jury Trial. (Doc. 3; "Original Complaint.") Plaintiffs filed an Amended Complaint (Doc. 11) in response to the Motion, withdrawing Count II of the Original Complaint.

Plaintiffs argue that the Motion is now moot because the claim Mountain West seeks to dismiss is no longer at issue. (Doc. 12.) Counsel for Mountain West

indicated at the Preliminary Pretrial Conference, held August 8, 2017, that he agrees the Amended Complaint mooted the Motion. Accordingly,

IT IS ORDERED that Mountain West's Motion to Dismiss Count II of Complaint: Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing, Pursuant to Rule 12(b)(6), Fed. R. Civ. P. (Doc. 7) is hereby DENIED as moot.

DATED this 8th day of August, 2017.

A handwritten signature in black ink, appearing to read 'TJC', is written above a horizontal line.

TIMOTHY J. CAVAN

United States Magistrate Judge