

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 CENTEX HOMES, )  
4 )  
5 Plaintiff, )  
6 vs. )  
7 EVEREST NATIONAL INSURANCE )  
8 COMPANY, et al., )  
9 Defendants. )

Case No.: 2:16-cv-01275-GMN-PAL

ORDER

10 Pending before the Court is the Motion to Dismiss, (ECF No. 19), filed by Defendant  
11 Lexington Insurance Company (“Defendant”). Plaintiff Centex Homes (“Plaintiff”) filed a  
12 Response, (ECF No. 28), and Defendant filed a Reply, (ECF No. 34). The commercial general  
13 liability (“CGL”) policies at issue in this case include the following language:

14 A. Section II –Who Is An Insured is amended to included as an  
15 insured [Plaintiff], but only with respect to liability arising out of  
your on-going operations performed for that insured.

16 B. With respect to the insurance afforded to these additional  
17 insureds, the following exclusion is added:

18 2. Exclusions

19 This insurance does not apply to “bodily injury” or “property  
20 damage” occurring after:

21 (1) All work, including materials, parts or equipment  
22 furnished in connection with such work, on the project (other  
23 than service, maintenance or repairs) to be performed by or  
on behalf of the additional insured(s) at the site of the  
covered operations has been completed; or

24 (2) That portion of “your work” out of which the injury or  
25 damage arises has been put to its intended use by any person  
or organization other than another contractor or


1 subcontractor engaged in performing operations for a  
2 principal as a part of the same project.

3 (Ex. 1 to Def.'s App. at 7–8, ECF No. 20-1); (see also Ex. 2 to Def.'s App. at 8–9, ECF No. 20-  
4 2).

5 The parties' briefing on Defendant's Motion to Dismiss does not discuss the two  
6 exclusions to the additional insured endorsement noted above. Accordingly,

7 **IT IS HEREBY ORDERED** that the parties must each file a brief by July 3, 2017, not  
8 to exceed ten pages, discussing whether the exclusions are relevant to Defendant's Motion  
9 with regard to Plaintiff's breach of contract claim.

10 **DATED** this 18 day of <sup>June</sup> [REDACTED], 2017.

11   
12 \_\_\_\_\_  
13 Gloria M. Navarro, Chief Judge  
14 United States District Court