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Insurance Company of the West

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

JUAN CRUZ-ALMARAZ,

No. CV-09-1210-AA

Plaintiff,

v.

**ORDER TO DEPOSIT FUNDS,
AUTHORIZE TENDER AND
EXONERATION OF BOND,
RESERVATION OF RIGHTS OF
SURETY AND DISMISSAL**

BOURKE CONSTRUCTION, INC., a
corporation incorporated in Oregon and
Washington states; MATTHEW BOURKE,
an individual; INSURANCE COMPANY OF
THE WEST, a California corporation,

Defendants.

This matter, having come before the court on the parties' Stipulation to Deposit Funds, Authorize Tender and Exoneration of Bond, Reservation of Rights of Surety and Dismissal, and the Court being fully advised in the premises, NOW, THEREFORE,

IT IS HEREBY ORDERED:

1. The Clerk is directed to accept Insurance Company of the West's ("ICW") cashier's check, made payable to the Clerk, U.S. District Court, in the amount of \$6,000.00, and to deposit these monies into the Court Treasury Registry Account;

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2. Counsel presenting this Order must serve a copy personally on the Clerk of Court and on the Clerk's Financial Administrator, before the Clerk will take any action on this Order;

3. The Clerk of the United States District Court for the District of Oregon is absolved of any liability by compliance with this Order.

IT IS FURTHER ORDERED that plaintiff shall dismiss ICW from the above entitled action with prejudice and without costs or attorney fees to any party and ICW's Bond No. 2205669 shall be exonerated and discharged in the amount of \$6,000.00.

IT IS FURTHER ORDERED that the Bond proceeds so tendered should not be disbursed without further Order of this Court.

IT IS FURTHER ORDERED that all rights of subrogation under the terms of the Bond held by ICW and authorized by RCW 19.72.070 for the benefit of ICW shall be specifically reserved for the benefit of ICW and that nothing contained herein shall affect ICW's indemnity rights against Bourke Construction, Inc. and Matthew Bourke.

Done in open court this 31 day of August, 2010.

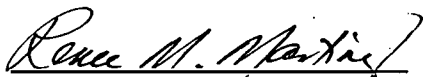


HONORABLE ANN L. AIKEN
United States District Judge

cc: Counsel of Record
Clerk, US District Court
Financial Administrator, Clerk's Office

For Court Use Only

APPROVED AS TO FORM:



US District Court Clerk
By Financial Administrator

Submitted by:

STEWART SOKOL & GRAY LLC
Attorneys for Defendant Insurance Company of the West

By: /s/ Jan D. Sokol
Jan D. Sokol, OSB #780873

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing ORDER TO DEPOSIT FUNDS, AUTHORIZE TENDER AND EXONERATION OF BOND, RESERVATION OF RIGHTS OF SURETY AND DISMISSAL on:

D. Michael Dale
michaeldale@dmichaeldale.net
Meg Heaton
meg@nwjp.org
Of Attorneys for Plaintiff Juan Cruz-Almaraz

Jennifer Nelson
jnelson@littler.com
Of Attorneys for Defendants Bourke Construction, Inc. and Matthew Bourke

by **E-filing** a full, true and correct copy thereof to the attorney, as shown above, at the electronic mail address reflected on the court's CM/ECF system, on the date set forth below.

Dated this ____ day of August, 2010.

/s/ Jan D. Sokol
Jan D. Sokol, OSB #780873
Attorneys for Defendant Insurance
Company of the West