

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DEVELOPERS SURETY AND INDEMNITY
COMPANY, an Iowa corporation,

Plaintiff,

vs.

CORNELL'S QUALITY CONSTRUCTION,
INC., a Washington corporation, CORNELL
PETRISOR and RODICA PETRISOR,
husband and wife,

Defendants.

No. 2:16-cv-01747

**PLAINTIFF DEVELOPERS SURETY
AND INDEMNITY COMPANY'S
MOTION FOR VOLUNTARY
DISMISSAL WITH PREJUDICE OF
CLAIMS AGAINST ALL DEFENDANTS
PURSUANT TO CIVIL RULE 41 AND
ORDER**
**NOTE ON MOTION CALENDAR:
APRIL 12, 2017**

I. MOTION

Plaintiff Developers Surety and Indemnity Company moves this court for an order dismissing its claims against defendants Cornell's Quality Construction and Cornell Petrisor and Rodica Petrisor, with prejudice and without costs.

Plaintiff filed this action on November 10, 2016. On November 18, 2016, the parties stipulated to a stay of proceedings. The Court entered an Order to stay this action until April 25, 2017. Defendants have not pleaded any counterclaims. This motion is based on CR 41 and the Court file in this matter:

CR 41, entitled Dismissal of Actions, provides in relevant part:

Plaintiff Developers Surety and Indemnity Company's Motion
for Voluntary Dismissal with Prejudice of Claims Against All
Defendants Pursuant to Civil Rule 41 - 1
Cause No. 2:16-cv-01747
1777939 / 1408.0002

FORSBERG & UMLAUF, P.S.
ATTORNEYS AT LAW
901 FIFTH AVENUE • SUITE 1400
SEATTLE, WASHINGTON 98164-1039
(206) 689-8500 • (206) 689-8501 FAX

~~(a) Voluntary Dismissal:~~

~~(1) Mandatory Subject to the provisions of rules 23(e) and 23.1, any action shall be dismissed by the court:~~

* * * *

~~(B) By Plaintiff Before Resting. Upon motion of the plaintiff at any time before plaintiff rests at the conclusion of his opening case.~~

* * * *

~~(c) Dismissal of Counterclaim, Cross Claim, or Third Party Claim. The provisions of this rule apply to the dismissal of any counterclaim, cross claim, or third party claim. A voluntary dismissal by the claimant alone pursuant to subsection (a)(1) of this rule shall be made before a responsive pleading is served, or, if there is none, before the introduction of evidence at the trial or hearing.~~

[Emphasis supplied.]

No responsive pleading has been filed by defendants Cornell's Quality Construction and Cornell Petrisor and Rodica Petrisor. Here, dismissal is as a matter of right.

DATED this 12th day of April, 2017.

FORSBERG & UMLAUF, P.S.

s/ Kenneth J. Cusack

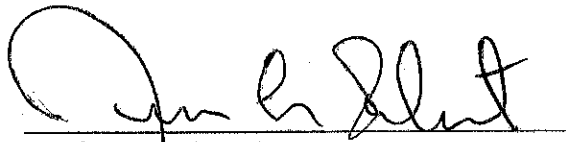
Carl E. Forsberg, WSBA #17025
Kenneth J. Cusack, WSBA #17650
Forsberg & Umlauf, P.S.
901 Fifth Ave., Suite 1400
Seattle, WA 98164
Phone: (206) 689-8500
Fax: (206) 689-8501
Email: cforsberg@foum.law
kcusack@foum.law
Attorneys for Plaintiff

1 **II. ORDER**

2 This Court has reviewed plaintiff Developers Surety And Indemnity Company's Motion
3 of Voluntary Dismissal of Claims Against All Defendants Pursuant to ~~Civil Rule 41~~ regarding ^{Federal Rule of Civil Procedure} 41(a)(1)(A)(i) _^
4 the causes of action by plaintiff against defendants Cornell's Quality Construction and Cornell
5 Petrisor and Rodica Petrisor, and being fully advised, it is

6 **HEREBY ORDERED, ADJUDGED AND DECREED** that plaintiff's causes of action
7 against Defendants Cornell's Quality Construction and Cornell Petrisor and Rodica Petrisor are
8 dismissed with prejudice and without costs to either party.

9 Dated: April 13, 2017

10 
11 _____
12 JAMES L. ROBART
United States District Judge

13 Presented by:

14 FORSBERG & UMLAUF, P.S.

15 s/ Kenneth J. Cusack

16 Carl E. Forsberg, WSBA #17025

Kenneth J. Cusack, WSBA #17650

17 Forsberg & Umlauf, P.S.

18 901 Fifth Ave., Suite 1400

Seattle, WA 98164

19 Phone: (206) 689-8500

Fax: (206) 689-8501

Email: cforsberg@foum.law

kcusack@foum.law

20 Attorneys for Plaintiff

CERTIFICATE OF SERVICE

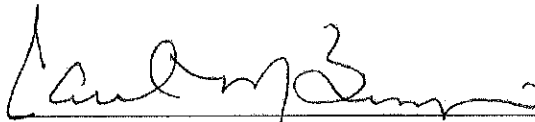
The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing PLAINTIFF DEVELOPERS SURETY AND INDEMNITY COMPANY'S MOTION FOR VOLUNTARY DISMISSAL OF CLAIMS AGAINST ALL DEFENDANTS PURSUANT TO CIVIL RULE 41 on the following individual in the manner indicated:

Mr. Steven J. Jager
Jager Clark, PLLC
1601 5th Ave., Suite 2200
Seattle, WA 98101

Via ECF

SIGNED this 12th day of April, 2017, at Seattle, Washington.



Carol M. Simpson