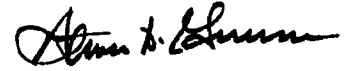


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1 **ORDR**

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CLERK OF THE COURT

6 Attorneys for MID CENTURY INSURANCE
7 COMPANY, erroneously sued and served as
8 FARMERS INSURANCE EXCHANGE TRUCK
9 UNDERWRITERS

10 **DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 ARROWPOINT CAPITAL
13 CORPORATION, successor in interest to
14 ROYAL INSURANCE COMPANY OF
15 AMERICA, a Delaware Corporation,

Plaintiffs,

v.

16 NATIONAL UNION FIRE INSURANCE
17 COMPANY OF PITTSBURGH, PA, a
18 Pennsylvania Corporation; BURLINGTON
19 INSURANCE COMPANY, a North
20 Carolina Corporation, and DOES 1-10,

Defendants.

CASE NO. A568539
DEPT NO.: XVI

21 AND RELATED COUNTER-CLAIMS,
22 CROSS-CLAIMS AND THIRD-PARTY
23 CLAIMS

24 **ORDER**

25 Third-Party Defendant MID-CENTURY INSURANCE COMPANY'S Motion for
26 Summary Judgment having come before the Court on October 20, 2010, with Michael J.
27 Nuñez, Esq., with the law firm of MURCHISON & CUMMING, LLP, appearing on behalf
28 Third-Party Defendant MID-CENTURY INSURANCE COMPANY and with Robert J. Scott,

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1 Jr., Esq., with the law firm of McCURDY & FULLER, LLP, appearing on behalf of Third-Party
2 Plaintiff NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, the
3 Court, after a review and evaluation of the points and authorities and supporting
4 declarations and documents on file herein and the arguments of counsel pursuant to NRCP
5 Rule 56(c), the COURT HEREBY FINDS THE FOLLOWING UNDISPUTED MATERIAL
6 FACTS AND MAKES THE FOLLOWING LEGAL DETERMINATIONS:

7 **1. Undisputed Material Facts:**

8 Under the plain and ordinary meaning of the CG2010 10/93 endorsement to the
9 commercial general liability insurance policies Third-Party Defendant MID-CENTURY
10 INSURANCE COMPANY issued to subcontractor Sunstate Landscape and Lawn, Inc.
11 ("Sunstate"), coverage for the additional insured general contractor Falcon Development
12 Corporation ("Falcon") is limited to claims for property damage that occurs during Sunstate's
13 ongoing operations and does not provide completed operations coverage for Falcon. The
14 complaints filed against Falcon in the four underlying construction defect actions at issue
15 allege only property damage that occurred after Sunstate's work on those projects was
16 completed. The evidence produced by Third-Party Plaintiff NATIONAL UNION FIRE
17 INSURANCE COMPANY OF PITTSBURGH, PA is insufficient to create a triable issue of
18 fact as to whether property damage arising out of Sunstate's work could possibly have
19 occurred prior to completion of Sunstate's work. Therefore, there are no genuine issues of
20 material fact.

21 **2. Legal Determinations:**

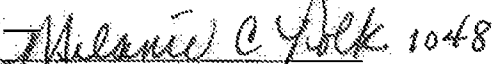
22 Third-Party Defendant MID-CENTURY INSURANCE COMPANY has no duty to
23 defend or indemnify Falcon against the claims asserted in the underlying construction defect
24 actions at issue and no duty to indemnify Third-Party Plaintiff NATIONAL UNION FIRE
25 INSURANCE COMPANY OF PITTSBURGH, PA or contribute to any costs Third-Party
26 Plaintiff NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA has or
27 may incur to defend or indemnify its insured Falcon in those actions. Therefore, Third-Party
28

1 Defendant MID-CENTURY INSURANCE COMPANY is entitled to judgment as a matter of
2 law. As such:

3 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED**, that Third-Party
4 Defendant MID-CENTURY INSURANCE COMPANY'S Motion for Summary Judgment is
5 GRANTED in its entirety as to Third-Party Plaintiff NATIONAL UNION FIRE INSURANCE
6 COMPANY OF PITTSBURGH, PA'S Third Party Complaint brought against Third-Party
7 Defendant MID-CENTURY INSURANCE COMPANY.

8 January 12, 2010 ^{MP}

9 MURCHISON & CUMMING, LLP

10 

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16 erroneously sued and served as FARMERS INSURANCE
17 EXCHANGE TRUCK UNDERWRITERS

18 January 3, 2011

19 McCURDY & FULLER, LLP


20 

21 Robert J. Scott Jr., Esq.
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23 4300 Bohannon Drive, Suite 240
24 Menlo Park, California 94025
25 Attorney for Third-Party Plaintiff NATIONAL UNION FIRE
26 INSURANCE COMPANY OF PITTSBURGH, PA,

27 **ORDER**

28 IT IS SO ORDERED.

Dated this 14th day of January, 2011
~~2010~~



DISTRICT COURT JUDGE