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*Attorneys for Defendants/Third-Party Plaintiffs
 E&I Construction and Design, LLC and Nathan E. Nutter*

**MONTANA FIFTH JUDICIAL DISTRICT COURT
 MADISON COUNTY**

<p>BRAD TERRELL,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>E&I CONSTRUCTION AND DESIGN, LLC and NATHAN E. NUTTER,</p> <p style="text-align: right;">Defendants.</p>	<p>Cause No. DV-29-2020-65</p> <p>Judge Luke Berger</p> <p>DEFENDANTS/THIRD-PARTY PLAINTIFFS E&I CONSTRUCTION AND DESIGN, LLC AND NATHAN E. NUTTER'S UNOPPOSED MOTION TO DISMISS BREACH OF CONTRACT AND NEGLIGENCE CLAIMS</p>
<p>E&I CONSTRUCTION AND DESIGN, LLC and NATHAN E. NUTTER,</p> <p style="text-align: right;">Third-Party Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>STEVEN J. ANDERS d/b/a 24SEVEN GENERAL CARPENTRY, and JOHN DOES I-V,</p> <p style="text-align: right;">Third-Party Defendants.</p>	

Defendants and Third-Party Plaintiffs, E&I Construction and Design, LLC (E&I) and Nathan E. Nutter (“Nutter”), move the Court, pursuant to Rule 41(B)(2) and Rule 41(c), M.R. Civ.P., to dismiss the third-party claims for breach of contract and negligence against Steven J. Anders d/b/a 24Seven General Carpentry (“Anders”). Counsel for Steven J. Anders d/b/a 24Seven General Carpentry has been contacted and does not object to this Motion.

As the Court is aware, E&I/Nutter filed an amended third-party complaint against Anders on July 21, 2021, asserting claims of breach of contract, negligence, and contribution/indemnification. The Court entered summary judgment in favor of E&I/Nutter on March 27, 2023. As a result of the Court’s Order, the third-party claims of contribution and indemnification are moot. See *State, ex rel. Deere & Co., v. District Court of Fifth Judicial Dist. of State*, 224 Mont. 384, 730 P.2d 396, and *Durden v. Hydro Flame Corp.*, 1999 MT 186, 295 Mont. 318, 983 P.2d 943.

Therefore, with the dismissal of the breach of contract and negligence claims, the Court may now enter final judgment on all claims in this matter. A proposed Order has been submitted with this Unopposed Motion.

DATED this 29th day of March, 2023.

Respectfully submitted,



Bryan M. Kautz
RITCHIE MANNING KAUTZ PLLP

*Attorneys for Defendants/Third-Party
Plaintiffs*

CERTIFICATE OF SERVICE

I, Bryan Michael Kautz, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Dismiss to the following on 03-29-2023:

Terry F. Schaplow (Attorney)
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Electronically signed by Amy Martin on behalf of Bryan Michael Kautz
Dated: 03-29-2023