

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF SCOTT

FIRST JUDICIAL DISTRICT
Case Type: Mechanic's Lien Foreclosure

In re: M.W. Johnson Construction, Inc.,
Mechanic's Lien Foreclosure Litigation,

Consolidated Court File: 70-CV-09-7343
Scott County File: 70-CV-08-10431
Judge: Jerome B. Abrams

Superior Masonry & Concrete, Inc.,
a corporation,

**STIPULATION OF PARTIAL
DISMISSAL WITH PREJUDICE,
STIPULATION OF PARTIAL
DISMISSAL WITHOUT PREJUDICE;**

Plaintiff,

AND

vs.

**ORDER FOR PARTIAL DISMISSAL
WITH PREJUDICE AND PARTIAL
DISMISSAL WITHOUT PREJUDICE
AND PARTIAL JUDGMENT**

M.W. Johnson Construction, Inc., Bounlab
Xayarath and Vatsana Phongsavath; Mortgage
Electronic Registration Systems, Inc. Bell
America Mortgage, LLC, Wenzel Plumbing &
Heating, Inc., Elite Waste Disposal, John Doe
and XYZ Corporation

FILED

Defendants.

OCT 23 2009 A

SCOTT COUNTY COURTS

and

Wenzel Plumbing & Heating, Inc.,

Plaintiff,

vs.

M.W. Johnson Construction, Inc.; Keybank
National Association; Tollefson Development,
Inc.; Bounlab Xayarath and Vatsana
Phongsavath; Mortgage Electronic Registration
Systems, Inc., as nominee for Bell America
Mortgage, LLC, d/b/a Bell Mortgage; Superior
Masonry & Concrete, Inc.; Elite Waste
Disposal; et al.

Defendants.

RECEIVED

OCT 05 2009

SCOTT COUNTY COURTS

IT IS HEREBY STIPULATED AND AGREED, by and among Plaintiff Superior Masonry & Concrete, Inc. (“Superior Masonry”), Plaintiff Wenzel Plumbing & Heating, Inc. (“Wenzel Plumbing”), Defendant Bounlab Xayarath (“Xayarath”), Vatsana Phongsavath (“Phongsavath”), and Mortgage Electronic Registration Systems, Inc., as nominee for Bell America Mortgage, LLC, d/b/a Bell Mortgage (“MERS”), by and through their undersigned attorneys as follows:

1. All claims by Superior Masonry against Xayarath, Phongsavath, MERS, Wenzel Plumbing, Defendant Elite Waste Disposal (“Elite”) and that certain real property located in Scott County, legally described as “Lot 18, Block 25, Countryside” (the “Property”) in the above-captioned matter shall be dismissed with prejudice, in their entirety and on the merits and without an award of costs, disbursements or attorneys’ fees by or against Superior Masonry.

2. All claims by Superior Masonry and Wenzel Plumbing against Defendant M. W. Johnson Construction, Inc. (“M.W. Johnson”) shall be dismissed without prejudice and without an award of costs, disbursements or attorneys’ fees by Superior Masonry and Wenzel Plumbing against M.W. Johnson.

3. All claims by Wenzel Plumbing against Superior Masonry, Defendant Keybank National Association (“Keybank”) and Tollefson Development, Inc. (“Tollefson”) in the above-captioned matter shall be dismissed with prejudice, in their entirety and on the merits and without an award of costs, disbursements or attorneys’ fees by Wenzel Plumbing against Superior Masonry, Keybank and Tollefson.

4. This Stipulation in no way affects Wenzel’s remaining claims against Xayarath, Phongsavath, MERS, Elite and the Property, including its claim for an award of costs, disbursements and attorneys’ fees pursuant to Minn. Stat. § 514.14, which claims Wenzel Plumbing specifically reserves.

REESE E, CHEZICK, P.A.

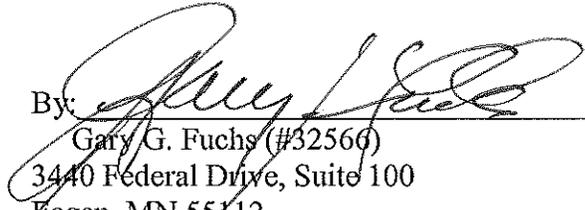
Dated: July 24, 2009

By: 

Reese E. Chezick (#16408)
2219 Westview Drive
Hastings, MN 55033
(651) 438-3999
Attorney for Superior Masonry & Concrete, Inc.

GARY G. FUCHS, ATTORNEY AT LAW, P.A.

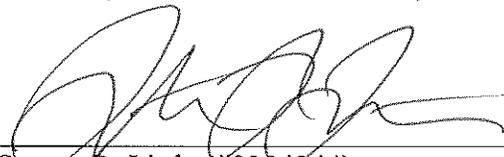
Dated: July 21, 2009

By: 

Gary G. Fuchs (#32560)
3440 Federal Drive, Suite 100
Eagan, MN 55112
(651) 452-1214
Attorneys for Wenzel Plumbing & Heating, Inc.

COLEMAN, HULL & VAN VLIET, PLLP

Dated: 7-31, 2009

By 

Steven R. Little (#0304244)

8500 Normandale Lake Boulevard

Suite 2110

Minneapolis, Minnesota 55437

(952) 841-0001

Attorneys for Defendants

Bounlab Xayarath, Vatsana Phongsavath and

Mortgage Electronic Registration Systems, Inc., as

nominee for Bell America Mortgage, LLC

d/b/a Bell Mortgage

ORDER FOR PARTIAL DISMISSAL WITH PREJUDICE AND PARTIAL JUDGMENT

Pursuant to the foregoing Stipulation of Partial Dismissal with Prejudice entered into by and among Plaintiff Superior Masonry & Concrete, Inc. (“Superior Masonry”), Plaintiff Wenzel Plumbing & Heating, Inc. (“Wenzel Plumbing”), Defendant Bounlab Xayarath (“Xayarath”), Defendant Vatsana Phongsavath (“Phongsavath”), and Defendant Mortgage Electronic Registration Systems, Inc., as nominee for Bell America Mortgage, LLC, d/b/a Bell Mortgage (“MERS”), the Court makes the following **ORDER**:

1. All claims by Superior Masonry against Xayarath, Phongsavath, MERS, Wenzel Plumbing, Defendant Elite Waste Disposal (“Elite”) and that certain real property located in Scott County, legally described as “Lot 18, Block 25, Countryside” (the “Property”) in the above-captioned matter are hereby **DISMISSED WITH PREJUDICE**, in their entirety, on the merits and without an award of costs, disbursements or attorneys’ fees by or against Superior Masonry.

2. All claims by Superior Masonry and Wenzel Plumbing against Defendant M.W. Johnson Construction, Inc. (“M.W. Johnson”) are hereby **DISMISSED WITHOUT PREJUDICE** and without an award of costs, disbursements or attorneys’ fees by Superior Masonry and Wenzel Plumbing against M.W. Johnson.

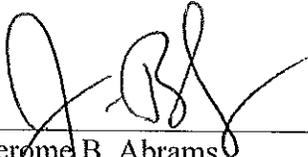
3. All claims by Wenzel Plumbing against Superior Masonry, Defendant Keybank National Association (“Keybank”) and Tollefson Development, Inc. (“Tollefson”) in the above-captioned matter are hereby **DISMISSED WITH PREJUDICE** be dismissed with prejudice, in their entirety, on the merits and without an award of costs, disbursements or attorneys’ fees by Wenzel Plumbing against Superior Masonry, Keybank and Tollefson.

4. This Order in no way affects Wenzel's remaining claims against Xayarath, Phongsavath, MERS, Elite and the Property, including its claim for an award of costs, disbursements and attorneys' fees pursuant to Minn. Stat. § 514.14.

THERE BEING NO JUST REASON FOR DELAY, LET PARTIAL JUDGMENT BE ENTERED FORTHWITH.

BY THE COURT:

Dated: October 23, 2009



Jerome B. Abrams
Judge of District Court
Master Court File No: 8-CV-09-7343
Scott County Court File No: 70-CV-08-10431

JUDGMENT

I DO HEREBY CERTIFY THAT THE FOREGOING ORDER
CONSTITUTES THE JUDGMENT OF THIS COURT.

DATE 10-23-09
GREGORY M. ESS
COURT ADMINISTRATOR, SCOTT COUNTY, MINN.

DEPUTY Audrey K Brown