

**UNITED STATES DISTRICT COURT
District of Maine**

BARRETT PAVING MATERIALS, INC.)	
)	
Plaintiff)	
)	
v.)	Civil No. 04-61-B-S
)	
CONTINENTAL INSURANCE COMPANY, et al.,)	
)	
Defendants)	
)	

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on November 7, 2005, her Recommended Decision (Docket No. 72). Plaintiff filed its Objection to the Recommended Decision (Docket No. 74) on November 23 2005. Defendant Michigan Mutual filed its objection (Docket No. 77) on December 2, 2005. Defendant Michigan Mutual filed its Response to Objection (Docket No. 78) on December 12, 2005. Defendant First State filed its Response to Objection (Docket No. 79) on December 21, 2005. Plaintiff filed its response to Objection (Docket No. 80) on December 22, 2005. Plaintiff filed its Objection (Docket No. 81) on December 22, 2005.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

It is therefore ORDERED as follows:

1. The Motion for Summary Judgment filed by Defendant Continental Insurance Company (Docket No. 49) is DENIED.
2. The Motion for Summary Judgment filed by Defendant Michigan Mutual Insurance Company (Docket No. 54) is DENIED.
3. The Motion for Summary Judgment filed by Defendant First State Insurance Company (Docket No. 50) is GRANTED.
4. Plaintiff Barrett's Motion for Summary Judgment (Docket No. 53) as against Continental Insurance Company, including attorney fees incurred in the prosecution of this action, is GRANTED. The Motion as against First State Insurance Company is DENIED. The Motion as against Michigan Mutual Insurance Company, to the extent that the question of whether a policy was issued in 1985 remains a dispute of fact, is DENIED.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 1st day of February, 2006.

**BARRETT PAVING MATERIALS
INC**

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