

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

NANCY ESANCY,

Plaintiff

v.

Civil No. 02-265-P-C

VERMONT MUTUAL INSURANCE
COMPANY,

Defendant

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

The United States Magistrate Judge having filed with the Court on October 3, 2003, with copies to counsel, his Memorandum Decision on Motion to Strike and Recommended Decision on Motion for Judgment on the Pleadings and for Summary Judgment (Docket Item No. 29) in the above-entitled matter; and the time for filing objections thereto having expired without any objections having been filed; *see* 28 U.S.C. § 636(b)(1); and this Court having reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; and having made a *de novo* determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and this Court concurring with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and having determined that no further proceeding is necessary; it is **ORDERED** as follows:

- (1) The Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**;
- (2) Defendant's Motion for Judgment on the Pleadings on Counts IV and VI of the Complaint is hereby **GRANTED**;
- (3) Defendant's Motion for Summary Judgment on Counts I and II of the Complaint and on Count II of the Counterclaim is hereby **DENIED**; and
- (4) Defendant's appeal of the Magistrate Judge's action on the Defendant's Motion to Strike is hereby **DENIED**, there being no clear error on the part of the Magistrate Judge in reaching the disposition of that motion.

GENE CARTER
Senior United States District Judge

Dated at Portland, Maine this 29th day of October, 2003.

Plaintiff

NANCY ESANCY

represented by **SEAN M. FARRIS**
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Defendant

**VERMONT MUTUAL
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Counter Claimant

**VERMONT MUTUAL
INSURANCE COMPANY**

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Counter Defendant

NANCY ESANCY

represented by **SEAN M. FARRIS**
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