

IN THE CIRCUIT OF THE THIRTEENTH JUDICIAL CIRCUIT  
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA

D.R. HORTON, INC.,

Plaintiff,

v.

CASE NO.: 13-CA-009963

Div. L

COLLIS ROOFING, INC., a Florida  
corporation; et al.,

Defendants.

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**ORDER ON ST. PAUL FIRE AND MARINE INSURANCE COMPANY'S MOTION TO  
DISMISS AMENDED COMPLAINT AND INCORPORATED MEMORANDUM OF  
LAW, DATED JULY 2, 2014**

**THIS CAUSE** having come on to be heard before this Honorable Court on ST. PAUL FIRE AND MARINE INSURANCE COMPANY's Motion to Dismiss Amended Complaint and Incorporated Memorandum of Law, dated July 2, 2014, and being otherwise duly advised in the premises, it is hereby

**ORDERED, ADJUDGED AND DECREED** that ST. PAUL FIRE AND MARINE INSURANCE COMPANY's Motion to Dismiss **Count LII** of the Amended Complaint is **GRANTED** without leave to amend and without prejudice until the preconditions triggering coverage under those policies have been satisfied. **Count LII** asserts claims against ST. PAUL FIRE AND MARINE INSURANCE COMPANY, in its capacity as an excess insurer for Chancey Metal, Inc., wherein ST. PAUL FIRE AND MARINE INSURANCE COMPANY issued two (2) consecutive commercial general liability excess policies under policy numbers QK06802313 and QK06802730, for the policy periods of January 30, 2007 to January 30, 2008 and January 30, 2008 to January 30, 2009, respectively (the "ST. PAUL Chancey Excess Policies"), copies of said policies are attached to the Amended Complaint as **Exhibit "GGGG"** and **Exhibit "HHHH"**. There is no allegation that underlying insurance coverage available to Chancey Metal, Inc. has been exhausted or that damages are being sought for an "occurrence" that is covered by the ST. PAUL Chancey Excess Policies but not covered by any applicable

underlying policy of insurance available to Chancey Metal, Inc. In granting the Motion to dismiss **Count LII** of the Amended Complaint, ST. PAUL FIRE AND MARINE INSURANCE COMPANY may not later claim lack of notice or lack of the ability to participate in discovery.

**DONE** and **ORDERED** in Chambers, Hillsborough County, Florida, on this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Honorable Paul L. Huey  
Circuit Court Judge

ORIGINAL SIGNED  
CONFORMED COPY

**FEB 18 2015**

PAUL L. HUEY  
CIRCUIT JUDGE

Copies provided to counsel as listed on the attached Service List.

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