

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,
BILLINGS DIVISION

United States, for the use of, Whitetail General Constructors, LLC, a
Montana limited liability company v. Northcon, Inc., an Idaho
corporation, and Nationwide Mutual Insurance Company, an Ohio
corporation

Whitetail General Constructors · No. CV 24-64-BLG-SPW · Decided February 18, 2026

SUMMARY

The United States District Court for the District of Montana adopts the magistrate judge’s Findings and Recommendation in this construction contract and payment-bond case. The court grants the defendants’ motion for summary judgment as to Count 4, denies it in all other respects, and denies the plaintiff’s motion for partial summary judgment.

CASE DETAILS

COURT	United States District Court for the District of Montana, Billings Division
WRITING FOR THE COURT	Susan P. Watters
JURISDICTION	United States District Court for the District of Montana, Billings Division
DECIDED	February 18, 2026
DOCKET	CV 24-64-BLG-SPW
DISPOSITION	other
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's findings and recommendation on cross-motions for summary judgment after no party filed objections.
STANDARD OF REVIEW	Clear-error review applies when no party objects to a magistrate judge's findings and recommendation under 28 U.S.C. § 636(b)(1).
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- summary judgment
- civil procedure
- contracts
- construction law
- commercial litigation

PRACTICE AREAS

civil procedure

contracts

construction law

commercial litigation

QUESTIONS PRESENTED

1. Whether the magistrate judge's findings and recommendation should be adopted when no party filed objections.
2. Whether Defendants' motion for summary judgment should be granted as to Count 4 and denied in all other respects.
3. Whether Plaintiff's motion for partial summary judgment should be denied.

HOLDINGS

1. When neither party objects to a magistrate judge's findings and recommendation, the district court reviews the recommendation for clear error.
2. The magistrate judge's findings and recommendation were adopted in full; Defendants' motion for summary judgment was granted as to Count 4 and denied in all other respects, and Plaintiff's motion for partial summary judgment was denied.

KEY QUOTATIONS

“Clear error exists if “the reviewing court . . . is left with the definite and firm conviction that a mistake has been committed.””

FACTUAL BACKGROUND

The action is a contract case involving a Miller Act claim by Whitetail General Constructors against Northcon and Nationwide Mutual Insurance Company. The opinion addresses the parties' cross-motions for summary judgment and does not recite additional underlying merits facts.

PROCEDURAL HISTORY

Defendants moved for summary judgment and Plaintiff moved for partial summary judgment. Magistrate Judge Kathleen L. DeSoto recommended granting Defendants' motion as to Count 4, denying it in all other respects, and denying Plaintiff's motion. Because no objections were filed, the district court reviewed the recommendation for clear error, adopted it in full, granted Defendants' motion as to Count 4, denied it otherwise, and denied Plaintiff's motion.

DISPOSITION

other

CASES CITED

- McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981)

- United States v. U.S. Gypsum Co., 333 U.S. 364, 395 (1948)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION UNITED STATES, for the use of, WHITETAIL GENERAL CV 24-64-BLG-SPW CONSTRUCTORS, LLC, a Montana limited liability company, ORDER ADOPTING Plaintiff, FINDINGS AND RECOMMENDATION vs. NORTHCON, INC., an Idaho corporation, and NATIONWIDE MUTUAL INSURANCE COMPANY, an Ohio corporation, Defendants.

This contract case comes before the Court on Defendants' Motion for Summary Judgment (Doc. 35) and Plaintiffs Motion for Partial Summary Judgment (Doc. 42). United States Magistrate Judge Kathleen L. DeSoto entered her Findings and Recommendation (Doc. 65) on February 2, 2026, in which she recommends: (1) granting Defendants' Motion as to Count 4 and denying it in all other respects, and (2) denying Plaintiff's Motion.

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of a magistrate judge's findings and recommendation. Here, no objections were filed. When neither party objects, the district court reviews for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Clear error exists if "the reviewing court... is left with the definite and firm conviction that a mistake has been committed." *United States v. U.S. Gypsum Co.*, 333 U.S. 364, 395 (1948). After review, the Court agrees with Judge DeSoto's analysis and conclusions and finds no clear error.

Accordingly, IT IS HEREBY ORDERED that the Findings and Recommendation (Doc. 65) are ADOPTED in full. IT IS FURTHER ORDERED that: (1) Defendants' Motion for Summary Judgment (Doc. 35) is GRANTED as to Count 4 and DENIED in all other respects.

(2) Plaintiffs Motion for Partial Summary Judgment (Doc. 42) is DENIED. DATED this 16 Fie of February, 2026. Loewe SUSAN P. eth United States District Judge