

VERMONT SUPERIOR COURT
Windham Unit
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802-365-7979
www.vermontjudiciary.org



CIVIL DIVISION
Case No. 24-CV-01178

Foxrock 90 Technology Drive Realty, LLC v. Bread Loaf Corporation

ENTRY REGARDING MOTION

Title: Motion to Amend Judgment Pursuant to V.R.C.P. 59(e) (Motion: 4)
Filer: Stephanie T. Reed
Filed Date: October 31, 2024

The motion is DENIED.

The court declines to amend its ruling dismissing Plaintiff's tort claim for damages to Plaintiff's property. No new law has been shown that was not already considered, and there has been no newly discovered evidence.

Plaintiff specifically asks the court to reexamine the analysis in the federal district court case of *Cincinnati Insurance Co. v. Southern Vermont Sprinkler Services Inc.*, No. 5:17-cv-254, 2019 WL 5698930, at *3-4 (D. Vt. 2019). In that case, the court allowed a tort claim for damage to "other property" (not the subject of the contract upon which contractual duties were based). The contract concerned work on a sprinkler system from which water escaped and damaged 12 rooms. The court considered that those rooms were "other property" unrelated to the contract and that the economic loss rule, precluding tort liability for economic damages, did not apply. In this case, the damage was to the part of the building that was both the floor of the mezzanine and the ceiling of the refrigerated transfer bay area below it, which was the site of the contract work performed. It was not some uninvolved other part of the building. The analysis in *Cincinnati Insurance Co.* does not compel a conclusion that the damage to the mezzanine was damage to "other property."

Electronically signed November 12, 2024 pursuant to V.R.E.F. 9 (d).

A handwritten signature in black ink that reads "Mary Miles Teachout".

Mary Miles Teachout
Superior Judge (Ret.), Specially Assigned