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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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9 St. Paul Fire & Marine Insurance)
10 Company, Charter Oak Fire Insurance)
11 Company, and Travelers Indemnity)
12 Company of America,)

No. CV-11-1954-PHX-SMM

Plaintiffs,)

ORDER

v.)

13 Lexington Insurance Company,)
14 American Home Insurance Company,)
15 Commerce & Industry Insurance)
16 Company, and Liberty Mutual Insurance)
17 Company,)

Defendants.)

18 _____)
19 Transportation Insurance Company and)
20 National Fire Insurance Company of)
21 Hartford,)

Cross-Claimants,)

v.)

22 Ohio Casualty Insurance Company,)
23 Maryland Casualty Company, American)
24 Safety Indemnity Company, Lexington)
25 Insurance Company, American Home)
26 Insurance Company, Commerce &)
27 Industry Insurance Company, Zurich)
28 American Insurance Company, Liberty)
Mutual Insurance Company, and)
American Guarantee & Liability)
Insurance Company,)

Cross-Defendants.)

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2 Zurich American Insurance Company,
3 Cross-Claimant,
4 v.
5 Ohio Casualty Insurance Company,
6 American Safety Indemnity Company,
7 Lexington Insurance Company,
8 Transportation Insurance Company,
9 American Home Insurance Company,
10 Commerce & Industry Insurance
11 Company, Liberty Mutual Insurance
12 Company, and National Fire Insurance
13 Company of Hartford,
14 Cross-Defendants.

12 American Home Insurance Company and
13 Commerce & Industry Insurance
14 Company,
15 Counter/Cross-Claimants,
16 v.
17 St. Paul Fire & Marine Insurance
18 Company, Charter Oak Fire Insurance
19 Company, Travelers Indemnity Company
20 of America, Ohio Casualty Insurance
21 Company, Maryland Casualty Company,
22 American Safety Indemnity Company,
23 Transportation Insurance Company,
24 Zurich American Insurance Company,
25 Liberty Mutual Insurance Company,
26 National Fire Insurance Company of
27 Hartford, and American Guarantee &
28 Liability Insurance Company,
Counter/Cross-Defendants.

24 Lexington Insurance Company,
25 Counter/Cross-Claimant,
26 v.
27 St. Paul Fire & Marine Insurance
28 Company, Charter Oak Fire Insurance

1 Company, Travelers Indemnity Company)
2 of America, Ohio Casualty Insurance)
3 Company, Maryland Casualty Company,)
4 American Safety Indemnity Company,)
5 Transportation Insurance Company,)
6 Zurich American Insurance Company,)
7 Liberty Mutual Insurance Company,)
8 National Fire Insurance Company of)
9 Hartford, and American Guarantee &)
10 Liability Insurance Company,)
11 Counter/Cross-Defendants.)

8 Before the Court is a Stipulation of Dismissal between American Safety Indemnity
9 Company (“ASIC”); and Lexington Insurance Company, American Home Assurance
10 Company, and Commerce and Industry Insurance Company (collectively “AIG”). (Doc.
11 371.)

12 To be effective at this stage of the proceedings, a stipulated dismissal must be “signed
13 by all parties who have appeared.” Fed R. Civ. P. 41(a)(1)(A)(ii). There is non-binding
14 authority to suggest that a stipulation signed by a plaintiff and some but not all defendants
15 can be effective against those defendants who signed the stipulation. E.g., McNamara v.
16 Edwards, 1993 WL 410689, 8 F.3d 28 (9th Cir. Oct. 15, 1993) (unpublished table decision).
17 Alternatively, the Court may dismiss an action upon plaintiff’s request on terms the court
18 considers proper. Fed. R. Civ. P. 41(a)(2). Thus, the Court may consider a defective Rule
19 41(a)(1)(A)(ii) dismissal signed by plaintiff pursuant to subsection (a)(2) of that Rule. Rule
20 41 “applies to a dismissal of any counterclaim, crossclaim, or third-party claim.” Id. 41(c).

21 ASIC is one of 11 Counter/Cross-Defendants to AIG’s counter/cross-claims. (Docs.
22 153; 154; 155.) Some of AIG’s Cross-Defendants have their own crossclaims against ASIC.
23 (Docs. 120; 132; 214.) However, the only parties that signed the instant stipulation are AIG
24 and ASIC (Doc. 371); therefore, the stipulation is not signed by all the parties to the action,
25 nor is it signed by all the parties to AIG’s crossclaim against ASIC. Notwithstanding the
26 tangled and overlapping nature of the parties’ claims, the instant stipulation is narrowly
27 limited to dismissal of ASIC from just AIG’s crossclaims, and not the crossclaims of other
28 Cross-Claimants/Cross-Defendants. Under these terms, the Court considers dismissal of

1 ASIC from all of AIG's crossclaims—and only AIG's crossclaims—to be proper.

2 Accordingly,

3 **IT IS HEREBY ORDERED** dismissing without prejudice ASIC from AIG's
4 crossclaims.

5 DATED this 25th day of June, 2014.

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Stephen M. McNamee
Senior United States District Judge

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