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6 Attorneys for Plaintiff  
 7 LEXINGTON INSURANCE COMPANY

8 UNITED STATES DISTRICT COURT  
 9 CENTRAL DISTRICT OF CALIFORNIA

10 LEXINGTON INSURANCE  
 COMPANY, a corporation,

11 Plaintiff,

12 v.

13 VIRGINIA SURETY COMPANY, INC.,  
 a corporation; OLD REPUBLIC  
 14 GENERAL INSURANCE  
 CORPORATION, erroneously sued as  
 15 OLD REPUBLIC GENERAL  
 INSURANCE COMPANY, a  
 16 corporation,

17 Defendants.

CASE NO. 2:12-cv-03438-DSF-DTBx  
**JUDGMENT**

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 19 The Court having granted plaintiff Lexington Insurance Company’s motion  
 20 for partial summary judgment on February 26, 2013, and the remaining claims and  
 21 causes of action having been dismissed upon the stipulation of all parties,  
 22

23 IT IS HEREBY ORDERED AND ADJUDGED that judgment shall be and  
 24 hereby is entered in favor of plaintiff Lexington Insurance Company (“Lexington”)  
 25 and against defendant Virginia Surety Company (“Virginia Surety”) on Lexington’s  
 26 First Cause of Action for Declaratory Relief, Lexington’s Second Cause of Action  
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for Declaratory Relief and Lexington’s Third Cause of Action as follows. With respect to the First and Second Causes of Action, the Court declares that:

1. Virginia Surety had and has a duty, under policy no. 1CG50147600, effective from July 1, 2004 to July 1, 2005, to defend San Bernardino Area Governments (“SANBAG”) in the action entitled *San Bernardino County Flood Control District v. State of California et al.*, San Diego County Superior Court case no. 37-2009-002535-CU-EI-CTL (“District Action”); and

2. Virginia Surety’s duty to defend SANBAG in the District Action is primary to any defense obligation owed by Lexington.

As to the Third Cause of Action, Lexington shall be and hereby is awarded judgment in the amount of Five Hundred Nineteen Thousand Nine Hundred Twenty Five Dollars and Fifty Seven Cents (\$519,925.57) representing defense fees paid by Lexington together with interest thereon from the date of entry of judgment at the rate specified in 28 U.S.C. § 1961.

Dated: June 17, 2013



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Dale S. Fischer  
United States District Judge

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Approved As To Form:  
  
BOORNAZIAN JENSEN & GARTHE

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David J. Garthe  
Attorneys for Defendants  
VIRGINIA SURETY COMPANY  
and OLD REPUBLIC GENERAL  
INSURANCE CORPORATION

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