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FINANCIAL PACIFIC INSURANCE COMPANY  
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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10	CENTEX HOMES	)	<b>Case No. 1:07-CV-00568-AWI-SMS</b>
11	Plaintiff,	)	<b>STIPULATION AND ORDER</b>
12	vs.	)	<b>ALLOWING COUNTER CLAIMANT</b>
13	FINANCIAL PACIFIC INSURANCE	)	<b>FINANCIAL PACIFIC INSURANCE</b>
14	COMPANY, NICKY RODRIGUEZ	)	<b>COMPANY TO AMEND ITS</b>
	CEMENT and NICKY RODRIGUEZ	)	<b>COUNTERCLAIM</b>
15	Defendants.	)	Courtroom: 7
16	_____	)	Judge: Honorable Sandra M. Snyder
17	FINANCIAL PACIFIC INSURANCE	)	Trial Date: March 16, 2010
	COMPANY,	)	
18	vs.	)	
19	GOLDEN EAGLE INSURANCE	)	
20	CORPORATION, ZURICH AMERICAN	)	
	INSURANCE COMPANY	)	
21	Counter Defendants	)	
22	_____	)	

23 **TO THE COURT AND TO ALL PARTIES AND TO THEIR RESPECTIVE**  
24 **ATTORNEYS OF RECORD:**

25 WHEREAS, the above-captioned parties, by and through their respective counsel, hereby  
26 submit this Stipulation and Order Allowing Counter Claimant, FINANCIAL PACIFIC  
27 INSURANCE COMPANY, to amend its Counter Claim as follows:  
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1 WHEREAS, Counter Claimant, FINANCIAL PACIFIC INSURANCE COMPANY,  
2 filed and served its original Counter Claim in this action on June 27, 2007.

3 WHEREAS, Golden Eagle Insurance Corporation was voluntarily dismissed by Counter  
4 Claimant, FINANCIAL PACIFIC INSURANCE COMPANY, on August 7, 2007.

5 WHEREAS, Counter Claimant, FINANCIAL PACIFIC INSURANCE COMPANY, has  
6 only recently become aware that Zurich American Insurance Company did not issue any policies  
7 of insurance to Defendants NICKY RODRIGUEZ and NICKY RODRIGUEZ CEMENT in the  
8 subject litigation. Instead, such policies were issued by another member company of Zurich  
9 North America which should now be named in the Counter Claim in place of Zurich American  
10 Insurance Company.

11 WHEREAS, Assurance Company of America shall be named as a Counter Defendant.

12 WHEREAS, Counter Claimant, FINANCIAL PACIFIC INSURANCE COMPANY,  
13 agrees to dismiss Zurich American Insurance Company from its Counter Claim without  
14 prejudice.

15 WHEREAS, the parties wish to stipulate to the aforementioned amendments to the  
16 Counter Claim in order to avoid the needless filing of a motion and incurring unnecessary costs  
17 to their respective clients.

18 WHEREAS, the modification of such counterclaim is necessary in presenting the merits  
19 of the case and no substantial prejudice will arise to any of the parties from allowing this  
20 modification.

21 Dated: August 27, 2009

FOTOUHI • EPPS • HILLGER • GILROY PC

23 By: \_\_\_\_\_  
24 Mark J. Divelbiss  
25 Attorneys for Defendant  
FINANCIAL PACIFIC INSURANCE  
COMPANY

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2 Dated: August 27, 2009

HOWREY LLP

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By:           /s/ Aaron Gruber            
Aaron R. Gruber  
Attorneys for Plaintiff CENTEX HOMES

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7 Dated: August 27, 2009

ANWYL SCOFFIELD & STEPP, LLP

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By:           /s/ Pamela Lewis            
Pamela Lewis  
Attorneys for Defendants NICKY  
RODRIGUEZ and NICKY RODRIGUEZ  
CEMENT

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Dated: August 27, 2009

SINNOTT, DITO, MOURA & PUEBLA P.C.

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By:           /s/ Stephen R. Wong            
Stephen R. Wong  
Attorneys for Cross-Defendant ZURICH  
INSURANCE COMPANY

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Dated: August 27, 2009

ARCHER NORRIS

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By:           /s/ W. Eric Blumhardt            
W. Eric Blumhardt  
Co-Counsel for FINANCIAL PACIFIC  
INSURANCE COMPANY

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RULE 7-131 (e) CERTIFICATION

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I, Mark J. Divelbiss, hereby attest, pursuant to this Court’s Rule 7-131(e), that each of the  
22 other counsel identified above have authorized the submission of this Stipulation and [Proposed]  
23 Order on that counsel’s behalf.

24

Executed this 28<sup>th</sup> day of August, 2009, at Oakland, California.

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          /s/ Mark J. Divelbiss            
Mark J. Divelbiss, Esq.  
Attorneys for Defendant  
FINANCIAL PACIFIC INSURANCE COMPANY

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**ORDER**

The parties having so stipulated, and good cause appearing, the Court hereby grants leave for the Counter Claimant, FINANCIAL PACIFIC INSURANCE COMPANY, to file an amended counterclaim as set forth the in the above Stipulation.

IT IS SO ORDERED.

Dated: September 1, 2009

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE