

1 DAVEN G. LOWHURST (CA BAR #124723)
 Email: lowhurstd@howrey.com
 2 AARON R. GRUBER (CA BAR #209509)
 Email: grubera@howrey.com
 3 **HOWREY LLP**
 525 Market Street, Suite 3600
 4 San Francisco, CA 94105-3606
 Tel. 415.848.4900
 5 Fax 415.848.4999
 6 Attorneys for Plaintiff
 CENTEX HOMES

FILED
 APR 20 2010
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY _____
 DEPUTY CLERK
 CLERK, U.S. DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 BY _____
 DEPUTY CLERK

7
 8 UNITED STATES DISTRICT COURT
 9 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION
 10

11 CENTEX HOMES,
 12 Plaintiff,
 13 vs.
 14

15 FINANCIAL PACIFIC INSURANCE
 COMPANY, AC CONCRETE and STEVEN
 MICHAEL PARSONS,
 16

17 Defendants.

Case No. 1:07-CV-00570-AWI-SWS

**STIPULATION AND ~~PROPOSED~~ ORDER
 OF DISMISSAL OF CLAIMS AND
 COUNTERCLAIMS WITH PREJUDICE**

Centex Homes v. Financial Pacific Insurance Company et al

Doc. 66

1 Plaintiff Centex Homes ("Centex") and Defendant Financial Pacific Insurance Company
2 ("FPIC") have settled this action and have agreed to dismiss the claims in this action, pursuant to their
3 Settlement Agreement and Release effective as of March 12, 2010 (the "Settlement Agreement"), and
4 hereby submit this Stipulation of Dismissal.

5 Steven Michael Parsons and Steven Michael Parsons dba AC Concrete ("PARSONS") and
6 Centex Homes or its predecessors in interest or affiliates ("CENTEX"), entered into construction
7 agreements under which PARSONS provided labor, materials and services in connection with the
8 construction of homes on behalf of CENTEX. During the pendency of this action, undersigned
9 counsel for PARSONS learned that PARSONS was deceased and filed a Notice Re Suggestion Of
10 Death of Steven Michael Parsons. Counsel for PARSONS, despite diligent inquiry, has been unable to
11 locate any heir of PARSONS nor any probate or other estate proceeding. Consequently, Centex and
12 FPIC settled this action and have agreed to dismiss the claims in this action, pursuant to the Settlement
13 Agreement, without PARSONS or heirs or successors being a party to the Settlement Agreement.

14 Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Centex and FPIC
15 hereby stipulate to dismiss with prejudice all claims in this action, consistent with and subject to the
16 terms of the Settlement Agreement, and all of the parties herein stipulate to bear their own respective
17 attorney's fees and costs herein.

18 IT IS SO STIPULATED.

19
20 DATED: April 19, 2010

HOWREY LLP

21 By /s/ Aaron Gruber
22 AARON R. GRUBER
23 Attorneys for Plaintiff CENTEX HOMES

24 DATED: April 19, 2010

FOTOUHI EPPS HILLGER GILROY LLP

25 By /s/ Mark Divelbiss
26 MARK DIVELBISS
27 Attorneys for Defendant FINANCIAL PACIFIC
28 INSURANCE COMPANY

1 DATED: April 19, 2010

ARCHER NORRIS LLP

2 By /s/ Sean White

3 SEAN WHITE

4 Attorneys for Defendant FINANCIAL PACIFIC
INSURANCE COMPANY

5 DATED: April 19, 2010

ANWYL SCOFFIELD & STEPP, LLP

6 By /s/ Lindy Scoffield

7 LINDY SCOFFIELD

8 Former attorneys for Steven Michael Parsons (deceased) dba
9 AC Concrete, for the purpose of confirming that a Notice of
10 Suggestion of Death was served, and that Parsons's insurer
11 FPIC has settled the case on behalf of Parsons.

12 **RULE 7-131(e) CERTIFICATION**

13 I, Aaron R. Gruber, hereby attest, pursuant to this Court's Rule 7-131(e), that each of the other
14 counsel identified above have authorized the submission of this Stipulation and [Proposed] Order on
15 that counsel's behalf.

16 Executed this 19th day of April 2010, at San Francisco, California.

17 /s/ Aaron R. Gruber


18 Aaron R. Gruber

19 Attorney for Plaintiff CENTEX HOMES

20 **ORDER ON STIPULATION**

21 The parties having so stipulated, and good cause appearing, the dismissals set forth above are
22 **SO ORDERED.**

23 Dated: April 20, 2010

24 
25 _____
26 Judge of the United States District Court