

1 BUCHALTER NEMER  
2 A Professional Corporation  
2 JEFFREY B. KIRSCHENBAUM (SBN: 152290)  
3 LORI S. LIU (SBN: 225599)  
3 333 Market Street, 25th Floor  
4 San Francisco, CA 94105-2126  
4 Telephone: (415) 227-0900  
4 Facsimile: (415) 227-0770  
5 Email: jkirschenbaum@buchalter.com

6 Attorneys for Plaintiff  
7 FIRST BANK, a Missouri banking corporation

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9 **UNITED STATES DISTRICT COURT**

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11 **EASTERN DISTRICT OF CALIFORNIA – BAKERSFIELD DIVISION**

12 FIRST BANK, a Missouri banking  
13 corporation,

14 Plaintiff,

15 vs.

16 AMERICAN CONTRACTORS  
17 INDEMNITY COMPANY, a California  
corporation; and DOES 1-50,

Defendants.

Case No. 1:10 CV 548 LJO SMS

**FURTHER STIPULATION AND ORDER  
CONTINUING HEARING DATE OF  
DEFENDANT'S MOTION TO DISMISS**

Date: July 22, 2010  
Time: 8:30 a.m.  
Dept.: 4

18 Plaintiff First Bank, a Missouri banking corporation, and defendant American Contractors  
19 Indemnity Company, a California corporation, (hereinafter, "ACIC") hereby stipulate as follows:

20 WHEREAS, defendant ACIC noticed its motion to dismiss for hearing on June 10, 2010.

21 AND WHEREAS, the hearing was continued by stipulation and order to July 1, 2010.

22 AND WHEREAS, the hearing was further continued by stipulation and order to July 22,  
23 2010.

24 AND WHEREAS, plaintiff First Bank and defendant ACIC have agreed to settle this  
25 lawsuit and are in the process of documenting a settlement agreement that will result in dismissal  
26 of this lawsuit.

27 AND WHEREAS, the documentation of the settlement of this lawsuit has taken longer  
28 than initially expected since it is complex and involves multiple parties and agreements.

1 AND WHEREAS, plaintiff First Bank and defendant ACIC agree that a 21-day  
2 continuance of the hearing and due dates for opposition and reply briefs would serve the interests  
3 of justice.

4 AND WHEREAS, two prior continuances of the hearing date or briefing schedule have  
5 been sought or obtained.

6 NOW THEREFORE, it is stipulated and agreed that defendant ACIC's motion to dismiss  
7 shall be heard on August 12, 2010 at 8:30 a.m., in Courtroom 4 of the above-entitled court;  
8 plaintiff First Bank's opposition brief shall be filed and served on or before July 29, 2010; and,  
9 defendant ACIC's reply brief shall be filed on or before August 5, 2010.

10  
11 DATED: July 2, 2010

BUCHALTER NEMER  
A Professional Corporation

13 By: /s/ Jeffrey B. Kirschenbaum  
14 Jeffrey B. Kirschenbaum  
Attorneys for Plaintiff, FIRST BANK

15 DATED: July 2, 2010

RAUL L. MARTINEZ  
MARK A. OERTEL  
LEWIS BRISBOIS BISGAARD & SMITH  
LLP

18 By: /s/ Raul L. Martinez  
19 Raul L. Martinez  
Attorney for AMERICAN CONTRACTORS  
20 INDEMNITY COMPANY

22 **ORDER**

23 Good cause appearing therefore:

24 1. The hearing of defendant ACIC's motion to dismiss is continued to August 12,  
25 2010, at 8:30 a.m., in Courtroom 4 of the above-entitled court.

26 2. Plaintiff First Bank's opposition brief shall be filed and served on or before July  
27 29, 2010.

1           3. Defendant ACIC's reply brief shall be filed and served on or before August 5,  
2 2010.

3           IT IS SO ORDERED.

4           Dated: July 2, 2010

5           /s/ Lawrence J. O'Neill  
6           United States District Judge

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