

PAMELA E. COGAN (SBN 105089)
ROBERT M. FORNI, JR. (SBN 180841)
ROPERS, MAJESKI, KOHN & BENTLEY
1001 Marshall Street, Suite 300
Redwood City, CA 94063-2052
Telephone: (650) 364-8200
Facsimile: (650) 780-1701
Email: pcogan@rmkb.com; rforni@rmkb.com

Attorneys for Defendant,
PEERLESS INSURANCE COMPANY.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WINTON WAY SHELLERS/
VERDEGAAL FARMS,

Plaintiff,

v.

GOLDEN EAGLE INSURANCE
CORPORATION, PEERLESS
INSURANCE COMPANY; AND DOES 1
through 10, inclusive

Defendants.

CASE NO. 1:11-cv-00587-AWI-SMS

(Formerly Merced Court Case No. CV-001693)

**STIPULATION AND ORDER
REMANDING ACTION**

WHEREAS, plaintiffs Winton Way Shellers/Verdegaal Farms (hereinafter “plaintiffs”), individually or jointly, do not seek, and will not recover, in the above-captioned action or any case pending before this or any court damages in excess of \$75,000 (including insurance benefits, special damages, economic damages, general damages, non-economic damages, attorney fees, and punitive damages), excluding costs of suit and interest, arising from, related to or in connection with, directly or indirectly, the subject matter of this litigation, including Claim Number 303856540 regarding plaintiffs’ claim or claims for insurance benefits under Policy No. CBP 8692462, effective June 20, 2009 to June 20, 2010, written by defendant Peerless Insurance Company (hereinafter “the Claim”); nor will plaintiffs, individually or jointly, do so in the future for any reason;

1 **WHEREAS**, no judgment in favor of plaintiffs, individually or jointly, in the above-
2 captioned action pending before this court or any other court shall exceed \$75,000, excluding
3 costs of suit and interest;

4 **WHEREAS**, plaintiffs waive, and are estopped from asserting, any right to seek, or to
5 recover, in the above-captioned action any damages of any type in excess of \$75,000, excluding
6 costs of suit and interest, arising from, related to or in connection with, directly or indirectly, the
7 subject matter of this litigation, including the Claim, based on any facts, losses or claims that are
8 not presently known to plaintiffs or their attorneys, that may have been underestimated in amount
9 or severity, or that are discovered after the execution of this Stipulation;

10 **WHEREAS**, plaintiffs and defendant Peerless Insurance Company (hereinafter
11 “Peerless”), by and through their respective counsel, have agreed to and executed the Stipulation
12 and Proposed Order Limiting Amount in Controversy and Damages Recoverable attached hereto
13 as Exhibit “A,” which shall be filed with the Merced County Superior Court following the
14 remand of this action;

15 **WHEREAS**, Peerless consents to the remand of this action to the Merced County
16 Superior Court based on the foregoing, and subject to the terms of this Stipulation and the
17 Stipulation and Proposed Order Limiting Amount in Controversy and Damages Recoverable
18 attached hereto as Exhibit “A”;

19 **WHEREAS**, in the event that plaintiffs, individually or jointly, seek, or attempt to
20 recover, damages in excess of \$75,000, excluding costs of suit and interest, in the above-
21 captioned action, Peerless may remove this action to the United States District Court for the
22 Eastern District of California, pursuant to 28 U.S.C. § 1441(b);

23 **IT IS HEREBY STIPULATED AND AGREED** by and between plaintiffs and Peerless,
24 by and through their respective counsel, that the above-captioned action shall be, and hereby is
25 remanded to the Merced County Superior Court.
26
27
28

1 Dated: May 5, 2011

SILVEIRA, MATTOS & LEWIS

3 By: /s/ Weldon J. Mattos, Jr.

4 WELDON J. MATTOS, JR.
5 Attorneys for Plaintiffs,
6 WINTON WAY SHELLERS/
7 VERDEGAAL FARMS,

6 Dated: May 5, 2011

ROPERS, MAJESKI, KOHN & BENTLEY

8 By: /s/ Robert M. Forni, Jr.

9 PAMELA E. COGAN
10 ROBERT M. FORNI, JR.
11 Attorneys for Defendant,
12 PEERLESS INSURANCE COMPANY

11 **ORDER**

12 The foregoing stipulation is approved. Based upon the stipulation of the parties, and for
13 good cause shown, the above-captioned action shall be, and hereby is remanded to the Merced
14 County Superior Court. In the event that plaintiffs Winton Way Shellers/Verdegaal Farms,
15 individually or jointly, hereafter seek, or attempt to recover, damages in this action in excess of
16 \$75,000, excluding costs of suit and interest, defendant Peerless Insurance Company may remove
17 this action to the United States District Court for the Eastern District of California, pursuant to 28
18 U.S.C. § 1441(b).

21 IT IS SO ORDERED.

22 Dated: May 9, 2011

23 
CHIEF UNITED STATES DISTRICT JUDGE