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14 **UNITED STATES DISTRICT COURT**  
15 **EASTERN DISTRICT OF CALIFORNIA**  
16 **FRESNO DIVISION**

17 THOMAS T. HAWKER; JOHN J.  
18 INCANDELA; DAVE KRAECHAN; EDWIN  
19 JAY LEE; EDWARD J. ROCHA; and  
FEDERAL DEPOSIT INSURANCE  
CORPORATION, as Receiver of County Bank,

20 Plaintiffs,

21 vs.

22 JOHN D. DOAK, insurance commissioner as  
23 receiver for Red Rock Insurance Company, f/k/a  
24 BancInsure, Inc.; and DOES 1 through 10,  
inclusive

25 Defendants.

**Case No.: 12-cv-01261-SAB**

**STIPULATION AND ORDER  
CONTINUING STATUS CONFERENCE**

Hon. Stanley A. Boone

Date: May 5, 2017  
Location: Courtroom 9

Complaint Filed: August 1, 2012  
Trial Date: None

1           IT IS HEREBY STIPULATED, by and between Plaintiffs Thomas T. Hawker, John J.  
2 Incandela, Dave Kraechan, Edwin Jay Lee and Edward J. Rocha (collectively “Insureds”),  
3 plaintiff by assignment the Federal Deposit Insurance Corporation as Receiver for County Bank  
4 (the “FDIC-R”), and Defendant John D. Doak, insurance commissioner as receiver for Red Rock  
5 Insurance Company, f/k/a BancInsure, Inc. (“Doak”), through their respective counsel of record,  
6 as follows:

7           1.       On April 7, 2014, this Court granted Defendant’s Motion for Summary Judgment  
8 as to the FDIC-R’s second cause of action for breach of contract. ECF No. 125.

9           2.       On April 17, 2015, this Court granted the Parties’ Renewed Motion for  
10 Certification of Judgment as Final and Appealable, thereby permitting the Parties to appeal the  
11 Court’s summary judgment ruling to the Ninth Circuit. ECF No. 157.

12           3.       On May 14, 2015, the FDIC-R filed a timely Notice of Appeal to the Ninth  
13 Circuit. ECF No. 158.

14           4.       On March 27, 2017, the Ninth Circuit issued an Order affirming this Court’s  
15 summary judgment ruling.

16           5.       On April 18, 2017, the Ninth Circuit issued a Mandate setting that date as the one  
17 where the Ninth Circuit’s Judgment will take effect. ECF No. 164.

18           6.       On April 19, 2017, this Court issued an Order setting a status conference in front  
19 this Honorable Court on May 5, 2017.

20           7.       There are a number a number of pieces of litigation throughout the country  
21 between the FDIC as the receiver of various failed banks, and John D. Doak, insurance  
22 commissioner as receiver for Red Rock Insurance Company, f/k/a/ BancInsure, Inc. In light of  
23 the limited assets in the receivership and the many cases outstanding, the FDIC and Mr. Doak  
24 have been negotiating a global resolution that will settle all such litigation. The Parties expect  
25 that such settlement negotiations will continue for at least the next two weeks in light of the  
26 many moving pieces.

27           8.       In light of the foregoing, the Parties hereby jointly request this Court to continue  
28 the status conference from May 5, 2017 to May 26, 2017, at 9:00 a.m. in Courtroom 9, to permit

1 the Parties to continue global settlement negotiations.

2 SO STIPULATED:

3 DATED: April 27, 2017

HINSHAW & CULBERTSON LLP

4  
5 By: /s/ Edward F. Donohue

6 Edward F. Donohue

7 Attorneys for Defendant BANCINSURE, INC.

8 DATED: April 27, 2017

JOSEPH AND COHEN, A P.C.

9  
10 By: /s/ Jonathan M. Cohen

11 Jonathan M. Cohen

Attorneys for the Insureds

12 DATED: April 27, 2017

NOSSAMAN LLP

13  
14 By: /s/ James H. Vorhis

15 James H. Vorhis

16 Attorneys for FEDERAL DEPOSIT

17 INSURANCE COMPANY, Plaintiff as assignee  
of certain claims

18 **ORDER**

19 Accordingly, IT IS HEREBY ORDERED that the status conference set for May 5, 2017,  
20 is hereby continued to **May 26, 2017, at 9:00 a.m. in Courtroom 9**. The parties shall file a joint  
21 status report seven (7) days prior to the status conference addressing the claims and parties that  
22 remain in this action following the decision on the FDIC's appeal.

23  
24 IT IS SO ORDERED.

25 Dated: April 28, 2017



26 UNITED STATES MAGISTRATE JUDGE