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13 Attorneys for Plaintiffs

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,

**Case No.: CV F 12-1261-SAB**

**SECOND STIPULATION AND ORDER  
CONTINUING STATUS CONFERENCE**

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.

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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. On May 2, 2017, this Court granted the Parties’ Stipulation to continue the status  
21 conference to May 26, 2017. ECF No. 167.

22 7. As mentioned in the first stipulation to continue the May 5, 2017 status  
23 conference, there are a number of pieces of litigation throughout the country between the FDIC  
24 as the receiver of various failed banks, and John D. Doak, insurance commissioner as receiver  
25 for Red Rock Insurance Company, f/k/a/ BancInsure, Inc. In light of the limited assets in the  
26 receivership and the many cases outstanding, the FDIC and Mr. Doak have been negotiating a  
27 global resolution that will settle all such litigation. The Parties’ have made significant progress  
28 in those efforts, are in the final stages of those settlement negotiations, and hope to finalize a

1 global settlement agreement in the next thirty (30) days that will result in dismissal of this action.

2 8. In light of the foregoing, the Parties hereby jointly request this Court to continue  
3 the status conference from May 26, 2017 to June 30, 2017, at 9:00 a.m. in Courtroom 9, to  
4 permit the Parties to continue global settlement negotiations.

5 SO STIPULATED:

6 DATED: May 23, 2017

HINSHAW & CULBERTSON LLP

7  
8 By: /s/ Edward F. Donahue  
9 Edward F. Donahue  
10 Attorneys for Defendant BANCINSURE, INC.

11 DATED: May 23, 2017

JOSEPH AND COHEN, A P.C.

12  
13 By: /s/ Jonathan M. Cohen  
14 Jonathan M. Cohen  
Attorneys for the Insureds

15 DATED: May 23, 2017

NOSSAMAN LLP

16  
17 By: /s/ James H. Vorhis  
18 James H. Vorhis  
19 Attorneys for FEDERAL DEPOSIT  
20 INSURANCE COMPANY, Plaintiff as assignee  
21 of certain claims  
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IT IS SO ORDERED.

IT IS SO ORDERED.

Dated: May 24, 2017



UNITED STATES MAGISTRATE JUDGE