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

9 * * *

10 BOARDS OF TRUSTEES OF THE)
ROOFERS LOCAL 27 HEALTH AND)
11 WELFARE TRUST FUND, NATIONAL)
ROOFING INDUSTRY PENSION PLAN,)
12 ROOFERS LOCAL 27, FRESNO)
ROOFING CONTRACTORS VACATION)
13 FUND, and ROOFERS LOCAL 27)
APPRENTICESHIP TRAINING FUND,)

14 Plaintiffs,)
15)

16 v.)

17 FRYER ROOFING CO., INC., a California)
corporation; DAVID BRUCE FRYER;)
LEIGH ANN FRYER; INTERNATIONAL)
18 FIDELITY INSURANCE COMPANY;)
and DOES 1 through 50, inclusive,)

19 Defendants.)
20)

Case No. 1:13-CV-01660-AWI-MJS

**STIPULATION AND ORDER TO
DISMISS CLAIMS BY PLAINTIFF
NATIONAL ROOFING INDUSTRY
PENSION PLAN**

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22 Plaintiff Board of Trustees of the National Roofing Industry Pension Plan (“NRIPP”),
23 defendants Fryer Roofing Co. Inc., David Bruce Fryer, Leigh Ann Fryer, International Fidelity
24 Insurance Company and Old Republic (collectively, “Defendants”) hereby stipulate, and request
25 an order, as to the following:

- 26 1. that the Court dismiss NRIPP’s claims against Defendants, *without* prejudice; and
27 2. that each of the stipulating parties is to bear its own costs and attorneys’ fees
28 incurred to date in this action.

1 This stipulation and requested order is between the NRIPP and Defendants only, and is
2 *not* intended to affect the claims asserted by the other Plaintiffs against Defendants.

3 Dated: July 30, 2014. TUCKER, CHIU HEBESHA & WARD
4 A Professional Corporation

5 By /s/ Henry Y. Chiu
6 HENRY Y. CHIU
7 Attorney for Plaintiffs

8 Dated: July 30, 2014. MOTSCHIEDLER, MICHAELIDES, ET AL.
9 A Limited Liability Partnership

10 By /s/ Justin D. Harris
11 JUSTIN D. HARRIS
12 Attorney for Defendants

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15 **ORDER**

16 The above Stipulation is accepted and adopted by the Court.

17 The NRIPP's claims against Defendants are hereby dismissed, *without* prejudice,
18 with the stipulating parties to bear their own respective costs and attorneys' fees
19 incurred in litigation the claims between the stipulating parties.

20 Said dismissal shall not affect, in any way, any of the claims asserted by the
21 remaining Plaintiffs against Defendants or their right, if any, to seek costs and attorney
22 fees from one another.

23
24 IT IS SO ORDERED.

25 Dated: July 30, 2014

26 /s/ Michael J. Seng
27 UNITED STATES MAGISTRATE JUDGE

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