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2 **UNITED STATES DISTRICT COURT**
3 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

4
5 **ST. PAUL MERCURY INSURANCE**
6 **COMPANY,**

7 **Plaintiff,**

8 **v.**

9 **CENTEX HOMES, et al.,**

10 **Defendants.**

1:14-CV-244-LJO-GSA

**MEMORANDUM DECISION AND
ORDER RE DEFENDANT’S MOTION
TO DISMISS (DOC. 11)**

11
12 This case concerns a dispute between the parties concerning their rights and duties in an
13 underlying action currently pending in Kern County Superior Court. Defendants Centex Homes and
14 Centex Real Estate Corporation (“Centex”) constructs residential homes throughout California. St. Paul
15 Mercury Insurance Company (“St. Paul”) is an insurance provider and provided insurance to one of
16 Centex’s subcontractors, with Centex named as an additional insured under the policy (“the insurance
17 policy”).

18 Centex has been the defendant in a number of cases currently pending in this Court and
19 elsewhere concerning lawsuits over alleged construction defects in the homes Centex has been involved
20 in building and the insurance policies insuring the construction of those homes. St. Paul brought this suit
21 due to Centex’s alleged breach of one of those insurance policies. *See* Doc. 9 at 1. Likewise, Travelers
22 Indemnity Company of Connecticut (“Travelers”) brought suit against Centex in this Court for the exact
23 same reasons as St. Paul. Centex moved to dismiss Travelers’s complaint, which this Court denied on
24 May 15, 2014. *See Travelers v. Centex*, No. 14-CV-217, 2014 WL 2002320 (E.D. Cal. May 15, 2014)
25 (“the *Travelers* case”).

26 Centex has also moved to dismiss St. Paul’s complain in its entirety. The Court has reviewed the

1 record and the parties' submissions in their entirety and finds that the materials facts of the *Travelers*
2 case and the arguments Centex made in support of its motion to dismiss that case are essentially
3 identical to those involved in this case. That is, the Court finds that the Order denying Centex's motion
4 to dismiss in the *Travelers* case is directly applicable to Centex's motion to dismiss here.

5 For the reasons more thoroughly discussed in the Court's May 15, 2014 Order in the *Travelers*
6 case, Centex's motion to dismiss is GRANTED IN PART and DENIED IN PART. Specifically, the
7 Court DENIES Centex's motion to dismiss St. Paul's first and second causes of action and GRANTS
8 Centex's motion to dismiss Plaintiff's third cause of action. Plaintiffs shall file any amended complaint
9 within 20 days of electronic service of this order, but will be given only one chance to do so if it wishes.
10 This Court is not, and should not be, a service for writing pleadings for parties by having to rule on
11 pleading decisions more than once.

12 The May 29, 2014 hearing date is VACATED.

13
14 IT IS SO ORDERED.

15 Dated: May 20, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE