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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

FIDELITY AND GUARANTY
INSURANCE COMPANY, *et al.*,

Plaintiffs,

v.

CENTEX HOMES, *et al.*,

Defendants.

Case No. 1:14-cv-00826-LJO-GSA

**ORDER GRANTING MOTIONS TO
COMPEL**

(ECF Nos. 56, 57)

On September 11, 2015, Defendants Centex Homes and Centex Real Estate Corporation (“Defendants” or “Centex”) moved to compel discovery responses from Plaintiffs Fidelity and Guaranty Insurance Company and Travelers Property Casualty Company of America (“Plaintiffs” or “Travelers”). (ECF No. 56.) On the same day, Centex also moved to compel depositions of several of Plaintiffs’ employees. (ECF No. 57.)

Defendants’ two Motions to Compel present three issues for the Court to resolve. Specifically, Defendants’ motions seek to compel: (1) the production of documents identified in Request for Production No. 25 in Plaintiffs’ First Set of Requests for Production¹; (2) the deposition of Jeffrey Lautrup; and (3) the depositions of Richard Carillo, Rochelle Ware, Vicki

¹ Although this request was Request for Production No. 25 in the First Set of Requests for Production to Plaintiffs, Travelers appears to have labeled it as Request for Production No. 24 in its responses.

1 Imamura, and a Federal Rule of Civil Procedure 30(b)(6) witness. The parties have submitted
2 joint statements on the issues and the Court has determined that this matter is suitable for decision
3 without further oral argument pursuant to Local Rule 230(g). Based on a review of the pleadings
4 and for the reasons set forth below, the Court GRANTS Defendant's Motions to Compel.

5 **I. BACKGROUND**

6 This case is one of many between Travelers and Centex currently pending in front of this
7 Court and other courts throughout the state of California. Centex was sued, along with Centex
8 subcontractors, for alleged construction defects (the "Almendarez Action" or the "Underlying
9 Action"). Travelers had issued insurance policies to West Coast Countertops (the Centex
10 subcontractor in this instance) as a named insured and had also insured Centex as an additional
11 insured. When the Almendarez Action began, Centex requested coverage from Travelers, which
12 assigned Centex's claim to insurance adjuster Vicki Imamura. Travelers filed suit in this case
13 over a dispute that arose between Travelers and Centex regarding their respective duties in
14 handling the Almendarez Action. In particular, Centex objects to Travelers' attempts to appoint
15 David Lee of Lee, Hernandez, Landrum, Garofalo & Blake as counsel to Centex in the
16 Almendarez Action.

17 Centex argues that Lee has previously engaged in unethical conduct and will focus
18 Centex's defense in Almendarez on an outcome that is favorable to Travelers at the expense of
19 Centex: Because another Travelers insured, West Coast Countertops, is involved in Almendarez
20 (and is, in fact, the target of a cross-complaint filed by Centex in that action), Travelers could
21 dictate that Lee attempt to shift the blame to solely non-Travelers affiliated targets. Centex acting
22 independently (or with independent counsel), on the other hand, could freely argue that West
23 Coast Countertops (or other Travelers insured parties), should bear the bulk of the liability in the
24 Underlying Action.

25 As part of its defense in the present case, Centex served document requests on Travelers
26 requesting, among other things:

27 Any and all DOCUMENTS and COMMUNICATIONS that RELATE TO YOUR
28 coverage decision on West Coast Countertop's tender to YOU for defense and
indemnity of the ALMENDAREZ ACTION, including but not limited to YOUR

1 claim file and claim notes.

2 (Declaration of Jeffrey M. Hayes In Support of Joint Statement Re: Discovery Disagreement Re:
3 Named Insured Discovery (“Hayes Decl.”) Exh. B, pg. 25, ECF No. 66-2.)²

4 On March 16, 2015, Travelers responded with a list of boilerplate objections, stating that:

5 The foregoing General Objections are incorporated herein by reference. This
6 Request is also objected to on the grounds that the request is vague and
7 ambiguous. Responding Party further objects to the Request on the basis that it is
8 vague, ambiguous, overbroad and unduly burdensome to Responding Party, as
9 Responding Party utilizes hundreds of different applications in order to view,
10 store or recover DOCUMENTS and COMMUNICATIONS. Responding Party
11 objects to this request to the extent such documents are already in the possession,
12 custody or control of Propounding Party and/or are equally available to the
13 Propounding Party. Responding Party objects to this Request to the extent it seeks
14 documents neither relevant to the subject matter nor reasonably calculated to lead
15 to the discovery of admissible evidence. Responding Party objects to this Request
16 to the extent that it seeks information which is protected from disclosure by the
17 trade secret, proprietary, litigation, mediation and/or other applicable privileges,
18 or that are immune from disclosure. Moreover, Responding Party objects to this
19 Request to the extent it seeks documents protected by the attorney client privilege
20 and/or the attorney work product doctrine. Finally, this request calls for a legal
21 conclusion and the premature disclosure of expert opinion information.

22 *Id.* Travelers did not, however, enclose a privilege log with the response (and only did so much
23 later, in September 2015).

24 On August 27, 2015, Centex also served a deposition notice on Jeffrey Lautrup, the
25 insurance adjuster apparently responsible for Travelers’ coverage of West Coast Countertops. *Id.*
26 at Exh. C, pg. 2. In a form objection notice, Travelers explained that Lautrup would not be
27 produced. *Id.* at Exh. D, pg. 3.

28 On August 26, 2015, Centex served deposition notices for Vicki Imamura, Richard
Carrillo, Rochelle Ware, and a witness to be designated under Rule 30(b)(6). At an informal
discovery conference with the Court on September 3, 2015, Travelers agreed to provide potential
deposition dates for the witnesses by September 7, 2015. On September 4, 2015, Travelers served
objections to the depositions and informed Centex that they would provide dates of availability
for each of the witnesses “as soon as possible.” (Declaration of Jeffrey Hayes in Support of Joint
Statement Re: Discovery Disagreement Re: Depositions (“Hayes Decl. #2”), Exh. F, ECF No. 67-

² Page numbers are identified by the CM/ECF generated page number in the upper right hand corner of each page.

1 1.)

2 On September 9, 2015, Centex contacted Travelers to remind them that they still had not
3 provided deposition dates. *Id.* at Exh. G. Centex again emailed on September 10 and informed
4 Travelers that, if they were required to move to compel the depositions, they would seek
5 sanctions. *Id.* at Exh. H. Travelers contacted Centex by phone and indicated that they would be
6 drafting a stipulation to seek a 30 day extension to non-expert discovery. *Id.* Travelers then
7 unilaterally decided that they needed a 60 day extension and drafted the stipulation accordingly.
8 *Id.* In the email to Centex attaching the draft stipulation, Travelers indicated that “if the Court
9 enters the order the depositions for Travelers employees may take place after October 16, 2015
10 through the new discovery deadlines. Should the court not grant the extension, we will continue
11 to seek available dates prior to the set discovery cutoff.” *Id.* Centex replied that although the
12 depositions could be taken through the month of November, they would need to be set by the end
13 of September. As of September 25, 2015, Travelers had not supplied any potential dates for the
14 depositions.

15 Travelers now asserts in response to the first Motion to Compel that it should not be
16 required to produce the claim file and claim notes for West Coast Countertops for review or
17 produce Lautrup for deposition because: (1) communications between Travelers and West Coast
18 Countertops are not relevant to the current action; and (2) communications between Travelers and
19 West Coast Countertops are covered by the attorney-client privilege. In response to the second
20 Motion to Compel, Travelers argues that the Motion is not yet ripe because Centex has agreed
21 that the depositions need not be taken until November.

22 **II. REQUESTS FOR JUDICIAL NOTICE**

23 Both Travelers and Centex request that the Court take judicial notice of a number of
24 orders that have been issued in other cases between the parties. Neither request is opposed.

25 Centex requests that the Court take judicial notice of: (1) Order re: Joint Ex Parte
26 Application re: Outstanding Discovery Disputes, dated April 21, 2015, in the case of *Travelers*
27 *Indemnity Company of Connecticut, et al. v. Centex Homes, et al.*, C.D. Cal. Case No. EDCV 14-
28 965 FMO (PJWx); (2) Orders re: Centex Motions to Compel in *St. Paul Fire and Marine*

1 *Insurance Company, et al. v. Centex Homes, et al.*, C.D. Cal. Case No. EDCV 14-1216 AB (JCx);
2 (3) Order Granting Motion to Compel in *Travelers Indemnity Company of Connecticut v. Centex*
3 *Homes, et al.*, C.D. Cal. Case No. EDCV 14-2590 JAK (JCGx); (4) Transcript of Motion to
4 Compel hearing in *Travelers Indemnity Company of Connecticut v. Centex Homes, et al.*, C.D.
5 Cal. Case No. EDCV 14-2590 JAK (JCGx); (5) Order re: Travelers’ Motion for Partial Summary
6 Judgment in *Fidelity and Guarantee Insurance Company et al. v. KB Home Coastal, Inc., et al.*,
7 C.D. Cal. Case No. LACV 13-00946 JAK (DTBx).

8 Travelers requests judicial notice of: (1) Order Granting in Part and Denying in Party
9 Plaintiff’s Motion for Summary Judgment in *Travelers Property Casualty Company of America*
10 *v. Centex Homes*, N.D. Cal. Case No. C 10-02757 CRB; (2) Order Granting in Part and Denying
11 in Part Cross-Motions for Partial Summary Judgment in *Travelers Property Casualty Company of*
12 *America, et al. v. Centex Homes*, N.D. Cal. Case No. 11-3638-SC; (3) Order on Submitted
13 Matters in *Nello Mazzoni, et al. v. Centex Homes*, Superior Court of California, County of Placer,
14 Case No. SCV 031148; (4) Order Denying Centex’s Motion for Summary Adjudication in
15 *Deusenberry v. Centex*, Riverside County Superior Court Case No. RIC 1105565; (5) Order –
16 Motion for Summary Adjudication Granted in *Afsari v. Centex Homes*, Alameda County Superior
17 Court Case No. RG11593529; (6) Minute Order in *Humphreys v. Centex*, San Bernardino County
18 Superior Court Case No. CIVDS 1302259; (7) Law and Motion Minute Order in *Centex Homes v.*
19 *Windows by Advanced*, Fresno County Superior Court Case No. 13CECG02959; (8) Law and
20 Motion Minute Order in *Javier Castro v. Centex Homes*, Fresno County Superior Court, Case No.
21 11CECG03485 JH; (9) Order re Travelers’ Motion for Partial Summary Judgment in *Fidelity and*
22 *Guaranty Insurance Company v. KB Home Coastal, Inc., et al.* C.D. Cal. Case No. CV13-00946
23 JAK (DTBx); (10) “Notice of Ruling on Cross-Defendants’ Demurrer” in *Travelers Property*
24 *Casualty Company of America v. Centex Homes*, San Bernardino Superior Court, Case No.
25 CIVDS 1315282; (11) “Order Granting Plaintiff’s Motion for Partial Summary Judgment;
26 Denying Defendants’ Motion for Partial Summary Judgment” in *Travelers Property Casualty*
27 *Company of America v. Kaufman & Broad Monterey Bay, Inc.*, N.D. Cal. Case No. 5:13-cv-
28 04745-EJD; (12) “Minute Order” in *Centex v. Ad Land*, Sacramento Superior Court Case No. 34-

1 2011-00112151, filed April 1, 2015; (13) “Statement of Decision” filed on April 24, 2015 in
2 *Centex Homes v. Alan Crane, dba A.L. Drywall* (and consolidated matters), Tulare County
3 Superior Court, Case No. VCU252502; and (14) *Centex Homes v. St. Paul Fire & Marine Ins.*
4 *Co.*, 237 Cal.App.4th 23 (2015) affirming the “Minute Order: Ruling on Demurrer” filed on
5 November 5, 2013 in *Centex Homes v. Accelerated Waterproofing, Inc.*, Superior Court of
6 California, County of Riverside, Case No. RIC 1306704.

7 While the court may take judicial notice of the fact of filing or existence and the general
8 meaning of words, phrases, and legal expressions, documents are judicially noticeable only for
9 the purpose of determining what statements have been made, not to prove the truth of the
10 contents. *Cactus Corner LLC v. U.S. Dept. of Agric.*, 346 F.Supp.2d 1075, 1100 (E.D. Cal. 2004),
11 citing *Hennessy v. Penril Datacomm Networks, Inc.* 69 F.3d 1344, 1354–55 (7th Cir.1995).
12 “Judicial notice is taken of the existence and authenticity of the public and quasi public
13 documents listed. To the extent their contents are in dispute, such matters of controversy are not
14 appropriate subjects for judicial notice.” *Del Puerto Water Dist. v. U.S. Bureau of Reclamation*,
15 271 F.Supp.2d 1224, 1234 (E.D.Cal.2003); see also *California ex rel. RoNo, LLC v. Altus*
16 *Finance S.A.*, 344 F.3d 920, 931 (9th Cir.2003) (“requests for judicial notice are GRANTED to
17 the extent that they are compatible with Fed. Rule Evid. 201 and do not require the acceptance of
18 facts ‘subject to reasonable dispute’”).

19 The Court grants the requests for judicial notice to the extent they demonstrate that the
20 respective orders have been issued in other cases. The documents are not, however, properly
21 judicially noticeable for the facts or legal conclusions stated therein. *Missud v. Nevada*, 861
22 F.Supp.2d 1044, 1054 (N.D. Cal. 2012) (“While many of these documents (i.e., filing and order
23 in other court proceedings) are judicially noticeable for certain purposes, such as to demonstrate
24 the existence of other court proceedings, they are not judicially noticeable for Mr. Missud’s
25 purpose, which is to demonstrate that his arguments and allegations against Defendants are true”).

26 **III. DISCUSSION**

27 **A. Defendants’ First Motion**

28 As noted above, Centex’s first motion requests that the Court determine whether Travelers

1 must produce documents and testimony regarding Travelers’ handling of West Coast
2 Countertop’s claims in the Almendarez Action. Travelers asserts that Centex is merely on an
3 “unwarranted fishing expedition” for evidence that is irrelevant to the issues in this action and
4 that, in any case, disclosure of the West Coast Countertops file would reveal information about its
5 defense strategy in the Almendarez Action that is protected by the attorney-client and attorney
6 work product privileges. Although Travelers objected on a number of bases in its initial response
7 to Centex, it relies solely on its relevance and privilege objections here.

8 Centex argues that the information contained in the file is potentially relevant because the
9 documents produced thus far indicate that the insurance adjuster assigned to them, Imamura, had
10 discussed the Almendarez Action with Lautrup, the insurance adjuster assigned to West Coast
11 Countertops, as well as with other parties affiliated with West Coast Countertops. They assert that
12 they are entitled to inquire about these communications because they will demonstrate that a
13 conflict of interest existed between Centex and West Coast Countertops, thus requiring the
14 appointment of independent counsel. With respect to the attorney-client privilege claim, Centex
15 suggests that Travelers has not carried its burden of showing that the privilege applies here
16 because it has failed to provide a sufficient privilege log.

17 ***1. Relevance.***

18 Under Rule 37 of the Federal Rules of Civil Procedure, a party may move for an order
19 “compelling disclosure or discovery” when a responding party has failed to respond to discovery
20 or has provided evasive or incomplete responses. The scope of permissible discovery is
21 intentionally broad and can include “any nonprivileged matter that is relevant to any party’s claim
22 or defense . . . the court may order discovery of any matter relevant to the subject matter involved
23 in the action.” Fed. R. Civ. P. 26(b)(1). “Relevance is construed broadly to include any matter
24 that bears on, or reasonably could lead to other matter that could bear on, any issue that may be in
25 the case.” *Rogers v. Giurbino*, 288 F.R.D. 469, 478-479 (S.D. Cal. 2012).

26 In this instance, the documents and testimony sought could bear on, or could lead to
27 evidence that bears on, Centex’s need for independent counsel. The central thrust of Centex’s
28 allegations is that there was a conflict of interest between Centex and West Coast Countertops

1 and that Travelers was aware of that conflict. It makes sense, then, that information pertaining to
2 Travelers' coverage of West Coast Countertops is relevant to determine the scope and nature of
3 that conflict. That discovery has already uncovered some evidence that Imamura, Travelers'
4 agent, was in communication with West Coast Countertops and Lautrup, the adjuster assigned to
5 West Coast Countertops, only reinforces this point.

6 **2. Attorney-Client Privilege.**

7 In a federal action based on diversity jurisdiction, state law governs claims of privilege.
8 Fed. R. Evid. 501; *Star Editorial, Inc. v. U.S. Dist. Ct. for Cent. Dist. of Cal.*, 7 F.3d 856, 859 (9th
9 Cir. 1993). In California, “[t]he party claiming the privilege has the burden of establishing the
10 preliminary facts necessary to support its exercise, i.e., a communication made in the course of an
11 attorney-client relationship.” *Costco Wholesale Corp. v. Superior Court*, 47 Cal.4th 725, 733
12 (2009). Federal law, which governs the application of the attorney product doctrine, also requires
13 that “[t]he party who withholds discovery materials must provide sufficient information (*i.e.*, a
14 privilege log) to enable the other party to evaluate the applicability of the privilege or protection.”
15 *Ramirez v. Cnty. of Los Angeles*, 231 F.R.D. 407, 410 (C.D. Cal. 2005); *see also Aecon Bldgs.,*
16 *Inc. v. Zurich N. Am.*, 253 F.R.D. 655, 660 (W.D. Wash. 2008) (“Even if it could withhold
17 production of some of the materials under one of the privileges, Zurich was undeniably obligated
18 to produce a privilege log documenting its assertion of the privilege”).

19 “[B]oilerplate objections or blanket refusals inserted into a response to a Rule 34 request
20 for production of documents are insufficient to assert a privilege.” *Burlington Northern & Santa*
21 *Fe Ry. Co. v. U.S. Dist. Ct. for Dist. of Mont.*, 408 F.3d 1142, 1149 (9th Cir. 2005). When
22 evaluating the sufficiency of a party’s privilege claim, a court should consider:

23 . . . the degree to which the objection or assertion of privilege enables the litigant
24 seeking discovery and the court to evaluate whether each of the withheld
25 documents is privileged (where providing particulars typically contained in a
26 privilege log is presumptively sufficient and boilerplate objections are
27 presumptively insufficient); the timeliness of the objection and accompanying
28 information about the withheld documents (where service within 30 days, as a
default guideline, is sufficient); the magnitude of the document production; and
other particular circumstances of the litigation that make responding to discovery
unusually easy (such as, here, the fact that many of the same documents were the
subject of discovery in an earlier action) or unusually hard. These factors should
be applied in the context of a holistic reasonableness analysis, intended to

1 forestall needless waste of time and resources, as well as tactical manipulation of
2 the rules and the discovery process. They should not be applied as a mechanistic
determination of whether the information is provided in a particular format.

3 *Id.*

4 In this case, Travelers did not initially include the disputed documents in a privilege log.
5 Although they eventually produced a privilege log (more than five months after they served their
6 initial objections to the requests), the log contains only a short explanation for the basis of the
7 asserted privilege—the entry describes the withheld documents as: “Documents related to the
8 tender by West Coast Countertops, Inc. to Travelers Insurance Companies within NI Claim File
9 ACQ3102.” (Hayes Decl., Exh. K, ECF No. 66-11.) The entry does not explain how many
10 documents or pages are covered by the entry or the dates of the covered documents. *Id.* Moreover,
11 Centex and Travelers have had the same dispute over documents in at least three separate cases
12 prior to this one. In each of those cases, Centex’s motions to compel were granted and Travelers
13 was required to produce the requested documents.³ (Centex’s Request for Judicial Notice, Exhs.
14 A, B, C, ECF Nos. 64-1, 64-2, 64-3.) Travelers has not met its burden in asserting a claim of
15 privilege and must produce documents responsive to Centex’s document request.

16 Travelers must also produce Jeffrey Lautrup for deposition. However, because Centex has
17 not yet posed any specific questions to Lautrup, the Court is unable to determine whether
18 Travelers’ assertion of privilege properly applies to his testimony. Travelers’ counsel thus
19 remains free to make good faith objections to questions posed by Centex at Lautrup’s deposition
20 and Centex remains free to challenge any such objections later on.⁴

21 **B. Defendants’ Second Motion**

22 Centex’s second Motion to Compel requests that Travelers produce employees Vicki

23 ³ While the Court is not bound by the factual or legal findings of the orders in these cases, the fact that Travelers has
24 lost these challenges on three prior occasions (and for substantially identical reasons) but continues to oppose them
25 suggests some intransigence on Travelers’ part. The order in the first case, which was issued on April 21, 2015,
26 compelled disclosure because of Travelers’ failure to produce a privilege log to document its claim of privilege. The
27 fact that this order did not cause Travelers to either: (1) reconsider its position in its other, similarly situated cases; or
28 (2) produce privilege logs to properly assert its claims in its other, similarly situated cases, suggests that Travelers’
claim of privilege is not well-founded. It also suggests that Travelers is not proceeding in the discovery process with
the intent of preventing the needless waste of time and resources.

⁴ The parties are reminded, however, that the non-expert discovery cutoff in this case is currently set for December
21, 2015. Further extensions to discovery are unlikely to be granted absent good cause and the Court will disfavor
any obstinacy or attempts to manipulate the discovery process for tactical advantage.

1 Imamura, Richard Carillo, and Rochelle Ware for depositions. Centex also asks that Travelers
2 designate and produce a Rule 30(b)(6) witness to testify. Travelers has agreed to produce these
3 individuals, but has not provided dates or designated an individual under Rule 30(b)(6) and does
4 not explain its failure to do so.

5 Federal Rule of Civil Procedure 30(b)(6) “requires a corporation to produce one or more
6 officers to testify with respect to matters set out in the deposition notice or subpoena.” *Marker v.*
7 *Union Fidelity Life Ins. Co.*, 125 F.R.D. 121, 126 (M.D.N.C. 1989). After a party has been
8 “served with a Rule 30(b)(6) notice, the corporation is compelled to comply, and it may be
9 ordered to designate witnesses if it fails to do so.” *United States v. Taylor*, 166 F.R.D. 356, 361
10 (M.D.N.C. 1996). While Travelers suggests that this discovery dispute is not yet ripe because the
11 parties are still discussing the scheduling of depositions, the Court sees little reason why
12 Travelers has not, at the very least, designated a Rule 30(b)(6) witness at this point. Indeed,
13 practicality requires that the witness be designated *before* he or she can be scheduled.

14 Moreover, Travelers appears to be either unwilling or unable to propose dates for the
15 employee depositions. Travelers is correct that the agreed to deadline to propose dates
16 (September 30, 2015) had not passed by the time the Motion to Compel was filed. This fact,
17 however, is of little reassurance to the Court, because Travelers failed to meet the previous
18 deadline it set to propose dates (September 7, 2015). The lack of an explanation for these delays
19 is also troubling. Although the parties have only been working to resolve these issues since late
20 August, the Court finds it appropriate to grant Centex’s Motion to Compel Depositions and
21 require Travelers to produce the requested witnesses for deposition.

22 Finally, Centex requests \$5,400 in discovery sanctions under Federal Rule of Civil
23 Procedure 37(d) against Travelers based on their failure to provide any potential deposition dates.
24 Rule 37(d) allows courts to impose sanctions where “a party or a party’s officer, director, or
25 managing agent—or a person designated under Rule 30(b)(6) or 31(a)(4)—fails, after being
26 served with proper notice, to appear for that person’s deposition.”

27 Although Travelers’s discovery conduct to this point has been less than exemplary, the
28 record does make clear that Centex was willing to entertain deposition dates that occurred after

1 the properly noticed dates for the depositions. Centex also agreed to stipulate to an extension to
2 the non-discovery cutoff date so that the depositions could occur into November 2015. The Court
3 is thus unable to find that Travelers' witnesses failed to appear for their properly noticed
4 depositions as described in Rule 37(d). Sanctions are thus not appropriate in this instance.

5 Travelers is advised, however, that the Court looks with great disfavor on dilatory conduct
6 in discovery or tactical delays aimed at the manipulation of the discovery system. The utter
7 absence of any explanation by Travelers for its failure to propose deposition dates suggests to the
8 Court that Travelers' resistance on this issue is not substantially justified. Travelers' objections to
9 Centex's first Motion to Compel, even in the face of three unfavorable orders in identical
10 situations, suggests similarly. Travelers is reminded that the Court has great discretion in
11 imposing sanctions under Rule 37. *Lee v. Walters*, 172 F.R.D. 421, 426 (D. Or. 1997) (awarding
12 sanctions in the amount of \$7,026 where counsel "did not respond to repeated inquiries and
13 demands by plaintiffs to schedule depositions"). The Court hopes that Travelers' conduct thus far
14 has been inadvertent and that it will work to complete the rest of the discovery process smoothly,
15 efficiently, and without delay.

16 **IV. ORDER**

17 For the reasons set forth above, the Motions to Compel against Plaintiffs Fidelity and
18 Guaranty Insurance Company and Travelers Property Casualty Company of America (ECF Nos.
19 56, 57) are GRANTED. Accordingly:

- 20 1. Plaintiffs are DIRECTED to produce documents requested by Request for
21 Production No. 25 in the First Set of Requests for Production propounded on
22 Plaintiffs, which is labeled "Request for Production No. 24" in Plaintiffs'
23 Response to Defendants' First Set of Requests for Production, to Defendants
24 within **10 days** after the entry of this Order;
- 25 2. Plaintiffs are DIRECTED to produce Jeffrey Lautrup for deposition by Defendants
26 on a mutually agreeable date no later than **November 30, 2015**. Plaintiffs shall
27 provide Defendants with a list of available dates for the deposition within **7 days**
28 after the entry of this Order;

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- 3. Plaintiffs are DIRECTED to produce employees Rochelle Ware and Richard Carillo for deposition by Defendants on mutually agreeable dates no later than **November 30, 2015**. Plaintiffs are further DIRECTED to produce employee Vicki Imamura at a mutually agreeable date consistent with any medical exigencies. Plaintiffs shall provide Defendants with a list of available dates for the depositions of Vicki Imamura, Rochelle Ware, and Richard Carillo within **7 days** after the entry of this Order;
- 4. Plaintiffs are DIRECTED to appropriately designate a witness under Federal Rule of Civil Procedure 30(b)(6) in response to Defendants' Notice of Deposition of Travelers' Rule 30(b)(6) witness and provide a list of available dates for that witness's deposition within **7 days** after the entry of this Order. Any such deposition shall occur no later than **November 30, 2015**;
- 5. Defendants' request for discovery sanctions under Federal Rule of Civil Procedure 37(d) is DENIED.

IT IS SO ORDERED.

Dated: October 2, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE