

1 BRIAN K. CUTTONE (SBN 201314)
2 ANDREW S. KUCERA (SBN 292817)
3 CUTTONE & ASSOCIATES
4 5380 N. Fresno Street, Suite 102
5 Fresno, California 93710
6 Telephone: 559.228.8490
7 Facsimile: 559.421.1991

8
9 Attorney for Plaintiff, GUARANTEE REAL ESTATE

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GUARANTEE REAL ESTATE, a California Corporation, }
Plaintiff, }
v. }
THE HANOVER INSURANCE COMPANY, a New Hampshire corporation, and DOES 1 to 20, }
Defendants. }

Case No.: 1:14-cv-00860-TLN-MJS

**STIPULATION AND ORDER
OUTLINING DISCOVERY AND
MOTION DATES**

Complaint Filed: May 7, 2014

Pursuant to the above-referenced Court's January 21, 2015 Order ("January 21st Order") Plaintiff Guarantee Real Estate ("Guarantee") and Defendant The Hanover Insurance Company ("Hanover") have met and conferred regarding their proposal for phased discovery and cross motions for summary judgment. **IT IS HEREBY STIPULATED AND AGREED**, by and between Guarantee and Hanover, through their respective counsel of record, as follows:

1. The parties agree that the most efficient was to resolve the case would be to conduct and complete discovery in two phases. The first phase of discovery ("Phase 1 Discovery") will focus on the issues of whether Hanover owes Guarantee a duty to defend the claims filed against it in the California Superior Court, In And For The County Of Fresno,

1 Case No. 12CECG00576 (the “Duty to Defend”). Phase 1 Discovery will be completed on or
2 before June 15, 2015.

3 2. The parties agree that following the close of Phase 1 Discovery, they will file cross-
4 motions for summary judgment on the Duty to Defend. The cross-motions would be filed on
5 or before June 30, 2015.

6 3. If the above-captioned case is not resolved by the Court’s ruling on the Duty to
7 Defend, the parties agree they will commence the second phase of discovery
8 (“Phase 2 Discovery) focusing on the remaining issues related to the claims and defenses
9 framed by the pleadings.

10 4. The parties further agree that all remaining discovery and trial deadlines should be
11 determined following the Court’s ruling on the parties’ cross-motions for summary judgment.
12 This includes the deadline to file summary judgment motions with respect to Phase 2 issues.

13 5. The parties agree that the final discovery cut-off date should not be set for a date prior
14 to November 30, 2015.

15 6. The parties respectfully request that the Court order the following: (1) discovery will
16 be conducted in two phases, Phase 1 Discovery and Phase 2 Discovery; (2) Phase 1 Discovery
17 will conclude on June 15, 2015; (3) the court will hear cross-motions for summary judgment
18 regarding the Duty to Defend; (4) cross-motions shall be filed on or before June 30, 2015;
19 (5) if the Court’s rulings on the cross-motions do not resolve the case in its entirety, the
20 parties will immediately commence Phase 2 Discovery; (6) the remaining discovery and trial
21 deadlines will be set, if necessary, following the Court’s rulings on the cross-motions for
22 summary judgment; and (7) the final discovery cut-off date will not be set, prior to
23 November 30, 2015.

24 ///

25 ///

26 ///

27 ///

28 ///

1 7. There is good cause for the Court to approve this stipulation since: (a) all of the parties
2 have agreed to it; (b) the Court has ordered the parties to enter into such a stipulation; and
3 (c) the stipulation conserves and efficiently uses the resources of the court and the parties.

4

5 DATED: April 9, 2015

CUTTONE & ASSOCIATES

6

7

8 DATED: April 9, 2015

/s/
BRIAN K. CUTTONE, Attorney for Plaintiff
GUARANTEE REAL ESTATE

9

10

SMITH SMITH & FEELEY LLP

11

12

/s/
MICHAEL L. BEAN, Attorney for Defendant
THE HANOVER INSURANCE COMPANY

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

ORDER

Upon reading the foregoing Stipulation between the parties and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

1. Discovery will be conducted in two phases, Phase 1 Discovery and Phase 2 Discovery;

2. Phase 1 Discovery will conclude on June 15, 2015;

3. The court will consider the parties cross-motions for summary judgment regarding the Duty to Defend and will set a hearing accordingly

4. The parties will file the cross-motions on or before June 30, 2015;

5. If the Court's rulings on the cross-motions do not resolve the case in its entirety, the parties will immediately commence Phase 2 Discovery;

6. The remaining discovery and trial deadlines will be set, if necessary, following the Court's rulings on the cross-motions for summary judgment; and

7. The final discovery cut-off date will not be set prior to November 30, 2015.

Dated: April 13, 2015

Troy L. Nunley

Troy L. Nunley
United States District Judge