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

GENERAL FIDELITY INSURANCE
COMPANY, a South Carolina
Corporation,

Plaintiff,

v.

QUANTA SPECIALTY LINES
INSURANCE COMPANY, an Indiana
corporation, BELLA VISTA ESTATES, a
California Limited Partnership, LAUREL
TREE HOMES, INC., a California
corporation, DAVID DYCK, an
individual, LAMBETH
CONSTRUCTION OF CALIFORNIA,
INC., a suspended California corporation,
LAMBETH CONSTRUCTION, INC., a
suspended California corporation, RENE
DIAZ, an individual, MONICA DIAZ, an
individual, DAVID BELTRAN, an
individual and ALMA BELTRAN, an
individual,

Defendants.

Case No. 1:14-CV-01325-JAM-EPG
[Assigned To The Hon. John A. Mendez]

**ORDER RE:
DISMISSAL OF ACTION WITHOUT
PREJUDICE**

Complaint Filed: 08/25/2014

This matter is before the Court on the STIPULATION RE: DISMISSAL OF
ACTION WITHOUT PREJUDICE (hereinafter "Stipulation") entered into by and
among Plaintiff General Fidelity Insurance Company ("GFIC"), Defendant, Counter-
Claimant and Cross-Claimant QUANTA SPECIALTY LINES INSURANCE

1 COMPANY (“QUANTA”), and Defendants/Cross-Defendants BELLA VISTA
2 ESTATES (“BELLA VISTA”), LAUREL TREE HOMES, INC. (“LAUREL TREE”),
3 RENE DIAZ and MONICA DIAZ (“RENE & MONICA DIAZ”), though their
4 respective counsel, entered into on February 7, 2017. Said Stipulation was filed in
5 this Action on February 8, 2017 (Doc. 220).

6 Pursuant to the terms of the Stipulation, and for good cause shown,
7 **IT IS HEREBY ORDERED** that QUANTA, BELLA VISTA, LAUREL
8 TREE, and RENE & MONICA DIAZ are dismissed as defendants in this Action in
9 connection with GFIC’s First Amended Complaint for Declaratory Relief, without
10 prejudice and subject to the right of GFIC to re-file or renew its claims against
11 QUANTA, BELLA VISTA, LAUREL TREE, and RENE & MONICA DIAZ that are
12 stated in GFIC’s First Amended Complaint against such parties, and as further limited
13 by the Court’s Pretrial Order dated April 6, 2016 and its Minute Order dated May 6,
14 2016.

15 **IT IS HEREBY FURTHER ORDERED** that GFIC, BELLA VISTA,
16 LAUREL TREE, and RENE & MONICA DIAZ are dismissed from QUANTA’s
17 Counter-Claim and Cross-Claim, without prejudice and subject to the right of
18 QUANTA to re-file or renew its claims against GFIC, BELLA VISTA, LAUREL
19 TREE, and RENE & MONICA DIAZ, as limited by the Court’s Pretrial Order dated
20 April 6, 2016 and its Minute Order dated May 6, 2016.

21 **IT IS HEREBY FURTHER ORDERED** that GFIC, QUANTA, BELLA
22 VISTA, LAUREL TREE, and RENE & MONICA DIAZ shall bear their own costs
23 and attorneys’ fees in connection with the dismissals set forth above.

24 **IT IS HEREBY FURTHER ORDERED** that all statute of limitations, statutes
25 regarding prosecution of claims or time within which a trial must be held or judgment
26 must be entered, and all defenses based upon delay and prosecution (collectively
27 “Statute of Limitations”) with respect to the claims of GFIC against QUANTA,
28 BELLA VISTA, LAUREL TREE, and RENE & MONICA DIAZ and with respect to

1 the claims of QUANTA against GFIC, BELLA VISTA, LAUREL TREE, and RENE
2 & MONICA DIAZ, as limited by the Court's Pretrial Order dated April 6, 2016 and
3 its Minute Order dated May 6, 2016, provided for by law, equity or judicial decision
4 shall be tolled as provided herein. In the event that GFIC and/or QUANTA re-files or
5 renews the Action, or any claims in connection with the Action in the future against
6 any of THESE PARTIES, the period from August 25, 2014, up to and including the
7 date of re-filing the renewal of an action, shall not be included for purposes of
8 computing the applicable time periods for Statute of Limitations, provided, however,
9 that this tolling provision shall not in any way serve to extend any Statutes of
10 Limitations that had already run as of and including August 25, 2014.

11 **IT IS HEREBY FURTHER ORDERED** the tolling of the Statute of
12 Limitations agreed to herein with respect to the dismissal without prejudice of the
13 Action and Cross-Action will not operate either to enlarge or diminish any affirmative
14 defenses, including the affirmative defense of laches defense asserted by BELLA
15 VISTA, LAUREL TREE, and RENE & MONICA DIAZ, as limited by the Court's
16 Pretrial Order dated April 6, 2016 and its Minute Order dated May 6, 2016.

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18 DATED: February 8, 2017

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23 The Honorable James A. Mendez
24 United States District Court Judge
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