

1 Defendant's argument that plaintiffs have sustained no
2 damages is based in large part on defendant's representation that
3 it agreed to indemnify plaintiffs for any award of compensatory
4 damages in the underlying action, a fact which the court does not
5 find to be supported by the record. To the contrary, defendant
6 has asked this court for a declaratory judgment that it is not
7 required to indemnify plaintiffs for those damages.

8 Because the court cannot conclude that plaintiffs have
9 sustained no damages as a result of the alleged conduct upon
10 which plaintiffs' remaining claims are based, defendant's second
11 motion for summary judgment (Docket No. 115) is DENIED.

12 Dated: January 9, 2017

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14 **WILLIAM B. SHUBB**
15 **UNITED STATES DISTRICT JUDGE**
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