

1 **THE AGUILERA LAW GROUP, APLC**

2 A. Eric Aguilera, Esq. (SBN 192390)

3 Raymond E. Brown, Esq. (SBN 164819)

4 Rebecca E. Hunter, Esq. (SBN 271420)

5 650 Town Center Drive, Suite 100

6 Costa Mesa, CA 92626

7 T: 714-384-6600 / F: 714-384-6601

8 eaguilera@aguileragroup.com

9 rbrown@aguileragroup.com

10 rhunter@aguileragroup.com

11 Attorneys for defendant/counter-claimant/cross-claimant TRAVELERS  
12 PROPERTY CASUALTY COMPANY OF AMERICA, erroneously sued as THE  
13 CHARTER OAK FIRE INSURANCE COMPANY and THE PHOENIX  
14 INSURANCE COMPANY

15 **UNITED STATES DISTRICT COURT**

16 **EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION**

17 HOUSTON CASUALTY COMPANY, ) Case No. 1:16-cv-00535-LJO-EPG

18 Plaintiff, )

19 v. )

20 THE CHARTER OAK FIRE )  
21 INSURANCE COMPANY; ACE )  
22 AMERICAN INSURANCE COMPANY; )  
23 PREFERRED CONTRACTORS )  
24 INSURANCE COMPANY, RRG, LLC; )

25 THE PHOENIX INSURANCE )  
26 COMPANY; WEST AMERICAN )  
27 INSURANCE COMPANY; CRUM & )  
28 FORSTER SPECIALTY INSURANCE )  
COMPANY; FINANCIAL PACIFIC )  
INSURANCE COMPANY; MP )  
NEXLEVEL OF CALIFORNIA, INC.; )  
and DOES 1 through 10, )  
Defendants. )

29 **STIPULATION AND ORDER FOR**  
30 **DISMISSAL WITHOUT**  
31 **PREJUDICE OF THE THIRD**  
32 **CAUSE OF ACTION IN**  
33 **TRAVELERS’ CROSS-CLAIM**  
34 **AGAINST MP NEXLEVEL OF**  
35 **CALIFORNIA, INC.**

1 \_\_\_\_\_ )  
AND RELATED CROSS-ACTIONS )  
2 \_\_\_\_\_ )  
3

4 **IT IS HEREBY STIPULATED** by and between Cross-Claimant  
5 TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA and Cross-  
6 Defendant MP NEXLEVEL OF CALIFORNIA, INC., through their respective  
7 counsels of record, that the third cause of action for breach of the implied covenant  
8 of good faith and fair dealing and the request for punitive damages in TRAVELERS  
9 PROPERTY CASUALTY COMPANY OF AMERICA's cross-claim (Dkt. No. 28)  
10 filed on May 24, 2016, be dismissed without prejudice. Although MP NEXLEVEL  
11 OF CALIFORNIA, INC. has not filed its responsive pleading, the parties further  
12 stipulate to bear their own costs incurred to the date of this Stipulation and as it  
13 relates to the third claim for relief.

14  
15 Dated: February 14, 2017

**THE AGUILERA LAW GROUP, APLC**

16 /s/ Rebecca E. Hunter, Esq.

17 A. Eric Aguilera, Esq.

18 Raymond E. Brown, Esq.

19 Rebecca E. Hunter, Esq.

20 Attorneys for Defendant TRAVELERS PROPERTY  
CASUALTY COMPANY OF AMERICA,  
21 erroneously sued as THE CHARTER OAK FIRE  
INSURANCE COMPANY and THE PHOENIX  
22 INSURANCE COMPANY

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1 Dated: February 14, 2017

**NEWMAYER & DILLION, LLP**

2  
3 /s/ Graham C. Mills, Esq.

4 Alan H. Packer, Esq.

Graham C. Mills, Esq.

5 DEWITT MACKALL CROUNSE & MOORE, SC

Holly J. Newman, Esq.

6 James D. Kremer, Esq.

7 Attorneys for Defendant/Cross-Defendant MP

8 Nexlevel of California, Inc.

9  
10 **ORDER**

11 IT IS HEREBY ORDERED that the third cause of action for breach of the  
12 implied covenant of good faith and fair dealing and the prayer for punitive damages  
13 in TRAVELERS PROPERTY CASUALTY COMPANY OF AMERICA's cross-  
14 claim (Dkt. No. 28) filed on May 24, 2016 against MP NEXLEVEL OF  
15 CALIFORNIA, INC., is dismissed without prejudice. Each party to bear their own  
16 costs incurred to the date of the Stipulation.

17 IT IS SO ORDERED.

18 Dated: February 14, 2017

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