

LAW OFFICES OF
MATHENY SEARS LINKERT & JAIME, LLP
3638 AMERICAN RIVER DRIVE
SACRAMENTO, CALIFORNIA 95864

1 Law Offices of
2 **MATHENY SEARS LINKERT & JAIME, LLP**
3 RICHARD S. LINKERT, ESQ. (SBN 88756)
4 JACK A. KLAUSCHIE, ESQ. (SBN 094029)
5 jklauschie@mathenysears.com
6 3638 American River Drive
7 Sacramento, CA 95864
8 Telephone: (916) 978-3434
9 Facsimile: (916) 978-3430

6 Attorneys for Defendants, **WILLIAM M. NIEMI,**
7 **an individual; BETH H. NIEMI, an individual;**
8 **WILLIAM and BETH NIEMI, 1985**
9 **REVOCABLE FAMILY TRUST, a California**
10 **Trust**

11 UNITED STATES DISTRICT COURT
12 EASTERN DISTRICT OF CALIFORNIA

13 TRAVELERS CASUALTY AND
14 SURETY COMPANY OF
15 AMERICA,,
16

17 Plaintiff,

18 v.

19 SIDNEY B. DUNMORE, et al.,,
20

21 Defendants.
22

23 _____
24 AND RELATED CROSS-ACTIONS.
25 _____
26 _____

Case No. 2:07-CV-02493-LKK-DAD

**[Assigned to The Honorable Lawrence K.
Karlton]**

**STIPULATION AMONG TRAVELERS
AND NIEMI DEFENDANTS RE:
TRAVELERS' RULE 12 MOTION TO
STRIKE THE NIEMI DEFENDANTS'
COUNTERCLAIM; ORDER GRANTING
STIPULATION**

27 Plaintiff, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, and
28 Defendants, WILLIAM M. NIEMI, an individual; BETH H. NIEMI, an individual; WILLIAM
and BETH NIEMI, 1985 REVOCABLE FAMILY TRUST, a California Trust, have met and
conferred with respect to Travelers' pending Rule 12 Motion to Strike the Counterclaim filed by
Niemi Defendants.

1 During communications among the parties, all parties agree it was responsible and prudent
2 to conserve financial resources and promote an environment where the parties can focus on
3 preparation for up-coming mediation and resolution of pending claims, rather than incurring fees
4 and costs relating to pleadings and procedural distractions at this very early stage in the litigation
5 among the parties. To that end, the parties discussed a mechanism to resolve Travelers pending
6 Rule 12 Motion to Strike in a manner where the Niemi Defendants are not obligated to prepare
7 and file an opposition to the Motion to Strike.
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9 After meeting and conferring and for good cause as described briefly above, Travelers and
10 Niemi Defendants respectfully stipulate and ask the Court to enter an order consistent with the
11 parties' stipulation set out below. The parties understand and agree that the actions to be taken by
12 the parties in their stipulation are conditioned on the Court's approval and entry of an order.
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14 Travelers and Niemi Defendants hereby stipulate as follows:

- 15 1. Niemi Defendants will dismiss their Counterclaim without prejudice;
- 16 2. Travelers will take its Rule 12 Motion to Strike off calendar;
- 17 3. Plaintiffs shall re-notice their Rule 12 motion to strike, if appropriate;
- 18 4. Niemi Defendants shall have 15 calendar days to file an amended counterclaim
19 after the mediator selected by the parties declares in writing that mediation has
20 been unsuccessful and settlement is not possible; and
- 21 5. Travelers has the right to file any responsive pleading or motion with respect to
22 any amended counterclaim filed by Niemi Defendants in accord with the terms and
23 requirements of the FRCP.
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1 IT IS SO STIPULATED:

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3 Dated: October 19, 2010

/s/ _____

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Attorneys for Travelers Casualty
and Surety Company of America

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WOLKIN CURRAN, LLP
Donald J. Colucci, Esq.
Daniel C. Welch, Esq.

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9 Dated: October 19, 2010

/s/ _____

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Attorneys for Defendants, WILLIAM M. NIEMI,
an individual; BETH H. NIEMI, an individual;
WILLIAM and BETH NIEMI, 1985
REVOCABLE FAMILY TRUST, a California
Trust

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MATHENY SEARS LINKERT & JAIME, LLP
Richard S. Linkert, Esq.
Jack A. Klauschie, Jr. Esq.

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IT IS SO ORDERED:

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19 Dated: October 22, 2010

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LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT

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