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LIBERTY MUTUAL FIRE INSURANCE COMPANY

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11 Attorneys for Defendant
12 THU TIET NGUYEN

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

16 LIBERTY MUTUAL FIRE INSURANCE
17 COMPANY,
18 Plaintiff,
19 v.
20 THU TIET NGUYEN; WILLIAM
21 CULLIFER,
22 Defendants.

CASE NO. 2:14cv-02532-TLN-AC
**STIPULATION TO JUDGMENT AS TO
INSURANCE COVERAGE; ORDER**

23 The parties to this action hereby stipulate and agree, and it is hereby ORDERED AND
24 ADJUDGED, as follows:

25 1. Plaintiff Liberty Mutual Fire Insurance Company (“Liberty Mutual”) insured defendant
26 Thu Tiet Nguyen and her husband Robert Capps under an automobile insurance policy,
27 LibertyGuard Auto Policy number AO2-268-828286-40 3 1, effective August 25, 2013 to August
28 25, 2014 (“the Policy”). The Policy provided liability insurance coverage for damages for

1 “bodily injury” which any insured becomes legally obligated to pay because of an auto accident.

2 2. The Policy contains an exclusion in Endorsement Form AS 1133 01 08, which states:

3 We do not provide Liability Coverage for any person for “bodily
4 injury” to you or any “family member” whenever the ultimate
5 benefits of that indemnification accrue directly or indirectly to you
6 or any “family member.”

7 3. “You” is defined in the Policy to mean the named insured.

8 4. Nguyen was named as a defendant in a lawsuit brought by William Cullifer, entitled
9 *William “Bill” Cullifer v. Carl Cornelious Odem, et al.*, Sacramento County Superior Court, case
10 number 34-2014-00163774 (“the Cullifer Action”). Plaintiff in the Cullifer Action asserts that
11 Nguyen’s negligence in operating her vehicle resulted in the death of her husband and co-insured
12 under the Liberty Mutual policy, Robert Capps, who was a passenger in Nguyen’s vehicle on
13 September 16, 2013 when she collided with another vehicle, resulting in Capps’ death.

14 5. Defendant William Cullifer has brought suit against Nguyen for wrongful death of his
15 purported step-father Robert Capps in the Cullifer Action.

16 6. The Cullifer Action was consolidated with two other related actions pending in
17 Sacramento County Superior Court arising out of the same motor vehicle accident.

18 7. Liberty Mutual is currently providing a defense to Nguyen in the Cullifer Action under
19 a reservation of rights.

20 8. Liberty Mutual contends that the above cited exclusion in Endorsement Form AS 1133
21 01 08 applies to the Cullifer Action to bar coverage because the plaintiff in the Cullifer Action is
22 seeking recovery for “bodily injury” to a named insured, Capps.

23 9. Defendant William Cullifer has stipulated to be bound by any judgment in the present
24 action and has been dismissed as a party.

25 10. The remaining defendant in the present action, Thu Nguyen, does not dispute Liberty
26 Mutual’s coverage position as to the Cullifer Action.

27 It is hereby stipulated as follows:

28 1. Liberty Mutual’s exclusion in Endorsement Form AS 1133 01 08 applies to bar
coverage for the Cullifer Action, in which Cullifer seeks recovery for bodily injury to a named

1 insured, Robert Capps.

2 2. Liberty Mutual has no duty to defend Nguyen against the claims alleged in the Cullifer
3 Action under the Policy.

4 3. Liberty Mutual has no duty to indemnify Nguyen against the claims alleged in the
5 Cullifer Action under the Policy.

6 4. Liberty Mutual will withdraw from the defense at this time and will not seek any
7 reimbursement for costs and fees expended in the defense of the Cullifer Action prior to its
8 withdrawal from the defense of the Cullifer Action.

9 The parties stipulate, by and through their respective attorneys of record, that judgment be
10 entered in this action in accordance with this stipulation. Each party shall bear their own costs
11 and attorneys' fees.

12 Dated: May 1, 2015

ROPERS, MAJESKI, KOHN & BENTLEY

13
14 By: /s/ Pamela E. Cogan

PAMELA E. COGAN
NORMAN LAU
Attorneys for Plaintiff
LIBERTY MUTUAL FIRE INSURANCE
COMPANY

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18 Dated: May 1, 2015

JONATHAN SAUL & ASSOCIATES

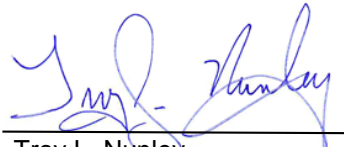
19
20 By: /s/ Jonathan Saul

JONATHAN SAUL
Attorneys for Defendant THU TIET
NGUYEN

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23 **ORDER**

24 Based on the parties' stipulation, and good cause being shown, IT IS SO ORDERED. All
25 other existing dates and deadlines in this matter, including the trial date, are hereby vacated.

26 Dated: May 4, 2015

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Troy L. Nunley
United States District Judge