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 22 UNITED STATES DISTRICT COURT
 23 EASTERN DISTRICT OF CALIFORNIA

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 25 [CAPTION CONTINUES ON FOLLOWING PAGE]

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TRES CRUZES LAND & CATTLE LLC, a
California limited liability company,

Plaintiff,

vs.

SCOTTSDALE INSURANCE COMPANY, A
SUBSIDIARY OF NATIONWIDE
INSURANCE COMPANY, an Ohio
corporation; GARY HERD, an individual;
NANCY HERD, an individual; and DOES 1-
40, inclusive,

Defendants.

Case No.: 2:15-cv-00449-MCE-DAD

JOHN W. BUSBY II, TRUSTEE OF THE
EDWARD PESTANA TRUST, an individual

Plaintiff,

vs.

SCOTTSDALE INSURANCE COMPANY,
A SUBSIDIARY OF NATIONWIDE
INSURANCE COMPANY, an Ohio
corporation; GARY HERD, an individual;
NANCY HERD, an individual; and DOES
1-30, inclusive,

Defendants.

Case No.: 2:15-cv-00764-MCE-DAD

**STIPULATION AND ORDER TO
CONSOLIDATE RELATED CASES**

Plaintiff TRES CRUZES LAND & CATTLE, LLC (“TRES CRUZES”), and Defendants
SCOTTSDALE INSURANCE COMPANY, A SUBSIDIARY OF NATIONWIDE
INSURANCE COMPANY (“SCOTTSDALE”)¹, parties to the case styled *Tres Cruzes Land &
Cattle LLC v. Scottsdale Insurance Company, a Subsidiary of Nationwide Insurance Company,*

¹ Defendants Gary Herd and Nancy Herd have not yet appeared in this case.

1 *et al.*, U.S. District Court, Eastern District of California, Case No. 2:15-cv-000449-MCE-DAD
2 (“TRES CRUZES ACTION”), and Plaintiff JOHN W. BUSBY II, TRUSTEE OF THE
3 EDWARD PESTANA TRUST (“TRUSTEE”) and Defendants SCOTTSDALE², parties to the
4 case styled *John W. Busby II, Trustee of the Edward Pestana Trust v. Scottsdale Insurance*
5 *Company, a Subsidiary of Nationwide Insurance Company, et al.*, U.S. District Court, Eastern
6 District of California, Case No. 2:15-cv-00764-MCE-DAD (“TRUSTEE ACTION”) having met
7 and conferred, have agreed that these matters should be consolidated, pursuant to Federal Rule of
8 Civil Procedure 42(a). Accordingly, the parties hereby stipulate as follows:

9 WHEREAS, SCOTTSDALE filed its Notice of Removal of Civil Action in the TRES
10 CRUZES ACTION on February 26, 2015 removing the case from San Joaquin County Superior
11 Court (where it was Case No. 39-2015-00321479-CU-BC-STK);³

12 WHEREAS, SCOTTSDALE filed its Notice of Removal of Civil Action in the
13 TRUSTEE ACTION on February 26, 2015 removing the case from Alameda County Superior
14 Court (where it was Case No. RG15754697);

15 WHEREAS, the TRUSTEE ACTION was transferred from the U.S. District Court,
16 Northern District of California on April 8, 2015 pursuant to a stipulation between the parties and
17 an order signed by Hon. Charles R. Breyer;⁴

18 WHEREAS, SCOTTSDALE filed Notices of Related Case in the TRES CRUZES
19 ACTION and TRUSTEE ACTION on April 14, 2015, notifying the court that the two cases are
20 related, with the cases subsequently deemed related by Order filed May 11, 2015;

21 WHEREAS, the TRUSTEE ACTION involves substantially the same parties, similar
22 claims, the same property, the same insurance policy, and similar questions of fact and law as the
23 TRES CRUZES ACTION, such that assignment of these cases to the same judge would result in
24 a substantial savings of judicial effort;

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² Defendants Gary Herd and Nancy Herd have not yet appeared in this case.

28 ³ TRES CRUZES filed a Motion to Remand this case, and a hearing on the motion was set for May 14, 2015.

⁴ TRUSTEE filed a Motion to Remand this case, and a hearing on the motion was set for June 29, 2015.

1 WHEREAS, neither the TRUSTEE ACTION nor the TRES CRUZES ACTION have
2 been assigned a trial date and therefore there is no risk of delaying trial due to the proposed
3 consolidation;

4 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between
5 the parties to the TRES CRUZES ACTION and the TRUSTEE ACTION, through their
6 respective counsel of record herein, that the TRUSTEE ACTION be consolidated with the TRES
7 CRUZES ACTION for all purposes.

8 IT IS SO STIPULATED.

9 Dated: May 11, 2015

BUSBY & ZAPPALA LLP

10
11 By /S/ Erin S. Sanchez
12 ERIN S. SANCHEZ
13 Attorney for Plaintiff
TRES CRUZES LAND & CATTLE LLC

14 Dated: May 11, 2015

BUSBY & ZAPPALA LLP

15
16 By /S/ Erin S. Sanchez
17 ERIN S. SANCHEZ
18 Attorney for Plaintiff
JOHN W. BUSBY II, TRUSTEE OF THE
EDWARD PESTANA TRUST

19
20 Dated: May 11, 2015

DENTONS US LLP


21
22 By /S/ Sonia Martin
23 SONIA MARTIN
24 Attorney for Defendant
SCOTTSDALE INSURANCE COMPANY, A
25 SUBSIDIARY OF NATIONWIDE INSURANCE
26 COMPANY
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1 **ORDER**

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3 In accordance with the foregoing stipulation, and good cause appearing, the Court hereby
4 orders that *Tres Cruzes Land & Cattle LLC v. Scottsdale Insurance Company, a Subsidiary of*
5 *Nationwide Insurance Company, et al.*, U.S. District Court, Eastern District of California, Case
6 No. 2:15-CV-000449-MCE-DAD (“TRES CRUZES ACTION”) is consolidated, for all
7 purposes including trial, with *John W. Busby II, Trustee of the Edward Pestana Trust v.*
8 *Scottsdale Insurance Company, a Subsidiary of Nationwide Insurance Company, et al.*, U.S.
9 District Court, Eastern District of California, Case No. 2:15-CV-00764-MCE-DAD (“TRUSTEE
10 ACTION”).

11 IT IS SO ORDERED.

12 Dated: May 19, 2015

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MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT