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7	Attorneys for Defendant WILLIS OF TEXAS, INC.		
8	WILLIS OF TEAAS, INC.		
9	UNITED STAT	ES DISTRICT COURT	
10	EASTERN DIST	RICT OF CALIFORNIA	
11			
12	ALPHA DYNO NOBEL, a California corporation,	Case No. 2:15-cv-01745-WBS-CKD	
13	Plaintiff,	STIPULATION AND [ <del>PROPOSED</del> ] ORDER TO STAY FURTHER	
14	v.	PROCEEDINGS	
15	v. WILLIS OF TEXAS, INC., a Texas		
16	corporation,		
17	Defendant.		
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	STIPULATION AND [PROPOSED] ORDER TO STAY FURTHER PROCEEDINGS		

DOWNEY BRAND LLP

1	WHEREAS, this action involves a single claim by Plaintiff Alpha Dyno Nobel ("Alpha")		
2	against Willis of Texas, Inc. ("Willis") for failure to procure adequate insurance coverage;		
3	WHEREAS, Alpha is the insured under a commercial general liability insurance policy		
4	and a commercial excess insurance policy, both issued by Lancer Insurance Company ("Lancer")		
5	for the policy period July 1, 2013 to July 1, 2014 (the "Policies");		
6	WHEREAS, on December 18, 2015, Lancer filed an action against Alpha, and others, in		
7	the Eastern District of California to reform the Policies to add certain exclusions from coverage		
8	that occur in Alpha's day-to-day operations ("Lancer Action");		
9	WHEREAS, on January 16, 2015, a complaint was filed against Alpha in a state court		
10	proceeding pending in Kern County Superior Court in connection with certain claims arising out		
11	of injuries and/or damages alleged to have occurred during the scheduled demolition of boiler		
12	structures on or about August 3, 2013 ("State Court Action");		
13	WHEREAS, in or around August 2013, Alpha submitted to Lancer a tender of defense		
14	and coverage in connection with the claims asserted in the State Court Action;		
15	WHEREAS, Lancer initially refused to tender a defense to Alpha for the State Court		
16	Action;		
17	WHEREAS, as a result of, inter alia, the Lancer Action and Lancer's refusal to provide a		
18	defense in the State Court Action, on August 18, 2015, Alpha initiated the instant lawsuit against		
19	Willis, claiming that Willis failed to obtain adequate insurance coverage on Alpha's behalf (the		
20	"Lawsuit");		
21	WHEREAS, Alpha determined that it was necessary to file the Lawsuit on August 18,		
22	2015, in light of certain potential statute of limitations deadlines;		
23	WHEREAS, approximately thirty-five days after the Lawsuit was filed, on September 22,		
24	2015, Lancer informed Alpha by letter that it had re-evaluated its position and would agree, under		
25	a reservation of rights, to defend Alpha in connection with the claims asserted in the State Court		
26	Action;		
27	WHEREAS, Lancer's intervening decision on September 22, 2015 to provide a defense to		
28	Alpha in the State Court Action meaningfully impacts the claim asserted in this Lawsuit;		
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	STIPULATION AND [PROPOSED] ORDER TO STAY FURTHER PROCEEDINGS		

<ul> <li>will meaningfully impact the claim asserted in this Lawsuit;</li> <li>WHEREAS, the Parties believe that, in light of the recent development, it is in the interest of judicial economy and fundamental fairness to stay all further proceedings in this Lawsuit</li> <li>pending the outcome of the State Court Action and the Lancer Action;</li> <li>NOW, THEREFORE, the Parties hereby stipulate to the following, subject to the approvation of the Court:</li> <li>This action will be stayed in all respects until thirty (30) days after the occurrence of any of the following:</li> <li>a. entry of final judgment in the State Court Action or the Lancer Action;</li> <li>b. resolution of the State Court Action or Lancer Action by any means resulting in a dismissal in whole or in part of the action; or</li> <li>c. withdrawal of coverage of Alpha in the State Court Action.</li> <li>Upon expiration of the Stay, the Parties shall promptly meet and confer and submatistic astatus report to the Court regarding further proceedings in this action.</li> </ul>					
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1423589.1 2 STIPULATION AND [PROPOSED] ORDER TO STAY FURTHER PROCEEDINGS					

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2	DATED: October 15, 2015	DOWNEY BRAND LLP		
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4		By: <u>/s/ Avalon J. Fitzgerald</u>		
5		AVALON J. FITZGERALD Attorney for Defendant		
6		WILLIS ÓF TEXAS, INC.		
7	DATED: October 15, 2015	ARONOWITZ SKIDMORE LYON, APLC		
8				
9		By: <u>/s/ Kathleen C. Lyon</u> KATHLEEN C. LYON		
10		Attorney for Plaintiff ALPHA DYNO NOBEL		
11		ALPHA DINO NOBEL		
12	IT IS SO ORDERED.			
13	Dated: October 16, 2015	line i an i		
14		WILLIAM B. SHUBB		
15		UNITED STATES DISTRICT JUDGE		
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