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20 Attorneys for Defendant
21 LIBERTY SURPLUS INSURANCE CORPORATION

22 UNITED STATE DISTRICT COURT
 23 EASTERN DISTRICT OF CALIFORNIA

24 LANDMARK AMERICAN INSURANCE
25 COMPANY, an Oklahoma Corporation

26 Plaintiff,

27 v.

28 LIBERTY SURPLUS INSURANCE
CORPORATION, a New Hampshire
corporation and DOES 1 through 50,Inclusive,

Defendants.

CASE NO. 2:17-cv-00061-KJM-KJN

**STIPULATION TO ALLOW LANDMARK
AMERICAN INSURANCE COMPANY TO
FILE FIRST AMENDED COMPLAINT,
AND FOR LIBERTY SURPLUS TO FILE A
CROSSCLAIM AND TO CONTINUE
STATUS CONFERENCE CURRENTLY
SCHEDULED FOR JUNE 8, 2017**

Date: June 8, 2017
Time: 2:30 PM
Location: Courtroom 3
Judge: Hon. Kimberly Mueller

1 Plaintiff Landmark American Insurance Company (“Landmark”) and defendant Liberty
2 Surplus Insurance Corporation (“Liberty”) submit the following Joint Stipulation and request
3 that: the Court grant leave for Plaintiff to file a First Amended Complaint pursuant to FRCP
4 15(a) (2) and for Liberty to file a crossclaim pursuant to FRCP 13 (g):

- 5 1. Landmark filed its Complaint against Liberty on January 10, 2017.
- 6 2. Liberty filed and served its answer on 3/3/17.
- 7 3. Additional facts and documents have come to light which now implicate policies
8 issued by QBE Specialty Insurance Company (“QBE”) to River City Caulking, the
9 mutual insured of Landmark, Liberty and QBE.
- 10 4. Landmark seeks to name QBE as a defendant in this matter, and seeks recovery under
11 theories of contribution, equitable indemnity and declaratory relief.
- 12 5. Liberty seeks to file a crossclaim against QBE.
- 13 6. Liberty and Landmark have met and conferred and have agreed regarding the addition
14 of QBE as a party to this litigation and the requested continuation of the June 8, 2017
15 Status Conference.
- 16 7. Liberty and Landmark agree and stipulate that Liberty’s Answer filed on 3/3/17 is
17 responsive to Landmark’s First Amended Complaint and that Liberty will not be
18 required to file a further responsive pleading.
- 19 8. Landmark and Liberty seek to continue the Status Conference set for June 8, 2017 at
20 2:30 p.m. Good cause exists because QBE as a new party will not have been served
21 much less answered by that date.
- 22 9. The Parties request that the Status Conference currently scheduled for June 8, 2017 be
23 continued until sometime at the court’s convenience, after June 23, 2017 as counsel
24 for Liberty will be out of the country and QBE will not have answered the First
25 Amended Complaint or the crossclaim by June 23, 2017.
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1 NOW THEREFORE, the parties hereby stipulate and request that the Court grant
2 Plaintiff leave to file a First Amended Complaint in this action, a true and correct
3 copy of which is attached as Exhibit A hereto, and for Liberty to promptly file its
4 crossclaim against QBE after Plaintiff's First Amended Complaint has been filed.

5 IT IS SO STIPULATED:

6
7 Date: June 1, 2017

GILL & RHOADES LLP

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9 By: /s/ Julie Rhoades

Susan J. Gill

10 Julie Rhoades

11 Attorneys for Plaintiff

Landmark American Insurance Company

12
13 Date: June 1, 2017

BURNHAM BROWN

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15 By: /s/ David H. Waters

David H. Waters

16 Attorney for Defendant

17 Liberty Surplus Insurance Company

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19
20 **ORDER**

21 Good cause appearing therefore, IT IS HEREBY ORDERED that Plaintiff is granted
22 leave to file the First Amended Complaint, which attached hereto as Exhibit A.

23 Good cause appearing therefore, IT IS HERBY FURTHER ORDERED that Liberty is
24 granted leave to file a crossclaim against QBE promptly after Plaintiff files its First Amended
25 Complaint.

26 Good cause appearing, Liberty's Answer to Landmark's Complaint is deemed responsive
27 to Landmark's First Amended Complaint and therefore, Liberty is not required to file an Answer
28 to Landmark's First Amended Complaint.

1 It is further ordered that the Status Conference Scheduled for June 8, 2017 at 2:30 p.m. in
2 Courtroom 3 is continued until August 3, 2017 at 2:30p.m. in Courtroom 3.

3 Dated: June 7, 2017.

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7 UNITED STATES DISTRICT JUDGE
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