

1 IRELL & MANELLA LLP
 Marc S. Maister (SBN 155980; mmaister@irell.com)
 2 Laura A. Seigle (SBN 171358; lseigle@irell.com)
 Michael Fehner (SBN 207312; mfehner@irell.com)
 3 840 Newport Center Drive, Suite 400
 Newport Beach, CA 92660-6324
 4 Telephone: (949) 760-0991
 Facsimile: (949) 760-5200

5 Attorneys for Plaintiff
 6 The Flintkote Company

7 ROBINSON & WOOD, INC.
 Archie S. Robinson (SBN 34789; ASR@robinsonwood.com)
 8 Jesse F. Ruiz (SBN 77984; JFR@robinsonwood.com)
 Bonnie Margaret Ross (SBN 178591; BMR@robinsonwood.com)
 9 Helen H. Chen (SBN 213150; HHC@robinsonwood.com)
 227 North First Street
 10 San Jose, CA 95113
 Telephone: (408) 298-7120
 11 Facsimile: (408) 298-0477

12 Attorneys for Defendant
 Aviva Insurance Company of Canada

14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA**
 16 **SAN FRANCISCO DIVISION**

18 THE FLINTKOTE COMPANY, a Delaware)
 corporation,)
 19)
 Plaintiff,)
 20)
 vs.)
 21)
 GENERAL ACCIDENT ASSURANCE)
 22 COMPANY OF CANADA, a Canada)
 insurance company; GENERAL ACCIDENT)
 23 FIRE AND LIFE ASSURANCE)
 CORPORATION LIMITED OF PERTH,)
 24 SCOTLAND, a Scotland insurance company;)
 and DOES ONE through TEN,)
 25)
 Defendants.)
 26)

Case No. C 04-01827 MHP
**REVISED STIPULATION OF DISMISSAL
 WITH PREJUDICE**
[Proposed Order submitted separately]

1 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), plaintiff the Flintkote
2 Company (“Flintkote”) and defendant Aviva Insurance Company of Canada (“Aviva”) hereby
3 stipulate and agree as follows:
4

5 Whereas Flintkote commenced the instant action against Aviva in the Superior Court of the
6 State of California in and for the City and County of San Francisco on April 14, 2004, which was
7 subsequently removed to this Court;
8

9 Whereas Aviva answered Flintkote’s complaint on October 1, 2004;
10

11 Whereas all the parties to this action have negotiated a resolution of the claims in this
12 action;
13

14 Whereas the Settlement Agreement between the parties was presented for approval, under
15 the Federal Rules of Bankruptcy Procedure and the Bankruptcy Code, to the bankruptcy judge
16 presiding over Flintkote's bankruptcy proceedings in the U.S. Bankruptcy Court for the District of
17 Delaware (*In re The Flintkote Company and Flintkote Mines Limited*, Case No. 04-11300 (JKF));
18

19 Whereas the Bankruptcy Court issued an order approving the Settlement Agreement on
20 July 14, 2010 (Case No. 04-11300 (JKF), Docket No. 5173);
21

22 Whereas the Bankruptcy Court order approving the Settlement Agreement was not
23 appealed within the applicable appeal period and has become a final order;
24

25 NOW THEREFORE, IT IS HEREBY STIPULATED, pursuant to Federal Rule of Civil
26 Procedure 41(a)(1)(A)(ii), by and among the parties hereto, through their respective counsel, that
27 this action shall be dismissed in its entirety with prejudice pursuant to the Settlement Agreement
28

1 with leave to reinstate if the Settlement Agreement is voided for any reason, each party to bear its
2 own costs and expenses, including attorneys' fees.

3 IT IS SO STIPULATED.

4 Counsel for both parties affix their electronic signatures below to this Stipulation of
5 Dismissal With Prejudice.

6 Respectfully submitted,

7 Dated: August 26, 2010

IRELL & MANELLA LLP

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By: /s/ Marc S. Maister
Marc S. Maister
Attorneys for Plaintiff
The Flintkote Company

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12 Dated: _____, 2010

ROBINSON & WOOD, INC.

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By: _____
Jesse F. Ruiz
Attorneys for Defendant
Aviva Insurance Company of Canada

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1 with leave to reinstate if the Settlement Agreement is voided for any reason, each party to bear its
2 own costs and expenses, including attorneys' fees.

3 IT IS SO STIPULATED.

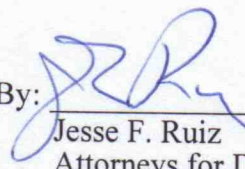
4 Counsel for both parties affix their electronic signatures below to this Stipulation of
5 Dismissal With Prejudice.

6
7 Dated: _____, 2010

Respectfully submitted,
IRELL & MANELLA LLP

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11
12 Dated: 8/26, 2010

By: _____
Marc S. Maister
Attorneys for Plaintiff
The Flintkote Company

ROBINSON & WOOD, INC.
By:  _____
Jesse F. Ruiz
Attorneys for Defendant
Aviva Insurance Company of Canada

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE FLINTKOTE COMPANY, a Delaware corporation,

Plaintiff,

vs.

GENERAL ACCIDENT ASSURANCE COMPANY OF CANADA, a Canada insurance company; GENERAL ACCIDENT FIRE AND LIFE ASSURANCE CORPORATION LIMITED OF PERTH, SCOTLAND, a Scotland insurance company; and DOES ONE through TEN,

Defendants.

Case No. C 04-01827 MHP
~~PROPOSED~~ REVISED ORDER OF DISMISSAL WITH PREJUDICE
[Joint Stipulation Submitted Separately]

1 **ORDER**

2 Pursuant to the parties' Joint Stipulation of Dismissal with Prejudice, the Court is informed
3 and aware that:

4 The Settlement Agreement between the parties was presented for approval, under the
5 Federal Rules of Bankruptcy Procedure and the Bankruptcy Code, to the bankruptcy judge
6 presiding over Flintkote's bankruptcy proceedings in the U.S. Bankruptcy Court for the District of
7 Delaware (*In re The Flintkote Company and Flintkote Mines Limited*, Case No. 04-11300 (JKF));

8 The Bankruptcy Court issued an order approving the Settlement Agreement on July 14,
9 2010 (Case No. 04-11300 (JKF), Docket No. 5173); and

10 The Bankruptcy Court order approving the Settlement Agreement was not appealed within
11 the applicable appeal period and it has become a final order;

12 Thus, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), this action shall be
13 dismissed in its entirety with prejudice pursuant to the Settlement Agreement with leave to
14 reinstate if the Settlement Agreement is voided for any reason, each party to bear its own costs and
15 expenses, including attorneys' fees.

16 IT IS SO ORDERED.

17
18 Dated: 8/27 _____, 2010

