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 9 Unionamerica Insurance Company Limited, successor-in-
 10 interest to St. Paul Reinsurance Company Limited

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 Unionamerica Insurance Company Limited,
 14 successor-in-interest to St. Paul Reinsurance
 15 Company Limited,

16 Plaintiff,

17 v.

18 The Fort Miller Group, Inc., The Fort Miller
 19 Company, Inc. and Beeche Systems
 20 Corporation,

21 Defendants.

CASE NO. C 05 01912 BZ

STIPULATION AND ~~PROPOSED~~ ORDER
 FOR WITHDRAWAL OF UNIONAMERICA'S
 DEMAND FOR JURY TRIAL

22 Plaintiff Unionamerica Insurance Company Limited ("Unionamerica") and defendants The
 23 Fort Miller Group, Inc., The Fort Miller Company, Inc. and Beeche Systems Corporation
 24 (collectively "Fort Miller"), through their attorneys of record, hereby jointly stipulate as follows:

- 25 1. On or around May 9, 2005, Unionamerica made a demand for jury trial in
 26 conjunction with filing its complaint.
- 27 2. Pursuant to Rule 38(d) of the Federal Rules of Civil Procedure, a demand for jury
 28 trial may be withdrawn with the consent of the parties.
3. Pursuant to Rule 39(a) of the Federal Rules of Civil Procedure, this consent may be
 by written stipulation filed with the court.
4. Fort Miller does not object to Unionamerica's withdrawal of its jury trial demand.

However, Fort Miller contends that the bad faith issues should be decided by a jury and a jury has

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1 been demanded on those issues. Fort Miller believes that the rescission and bad faith issues posed
2 by this action involve many of the same facts, witnesses and documents. Thus, Fort Miller takes
3 the position that the two claims, rescission and bad faith, are intertwined to such a degree that a
4 jury should hear the relevant evidence and decide all issues in this case.

5 5. According to the foregoing, Unionamerica and Fort Miller hereby stipulate to
6 withdraw Unionamerica's demand for jury trial.

7 6. The stipulation reached between Unionamerica and Fort Miller herein will avoid
8 unnecessary law and motion between the parties.

9 7. This continuance would be in the interests of justice and would promote the
10 efficient resolution of disputes between Unionamerica and Fort Miller.

11 8. Good cause exists for this stipulation.

12 9. This stipulation may be executed in counterparts and will retain its full force and
13 effect.

14 10. Facsimile signatures will be acceptable and binding with respect to the
15 enforceability of this stipulation.

16 DATED: October 6, 2008

SELMAN BREITMAN LLP

17
18 By: 

MICHELLE R. PRESS
JANIS M.W. HUI

Attorneys for Plaintiff Unionamerica Insurance
Company Limited, successor-in-interest to St. Paul
Reinsurance Company Limited

19
20
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22 DATED: October 6, 2008

SQUIRE SANDERS & DEMPSEY LLP

23
24 By: 

ETHAN ALLEN H. MILLER, ESQ.
DANIEL T. BALMAT, ESQ.

Attorneys for Defendants The Fort Miller Group, Inc.,
The Fort Miller Company, Inc. and Beeche Systems
Corporation

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ORDER

Pursuant to stipulation, it is so ordered.

DATED: October 7, 2008

By: 
BERNARD ZIMMERMAN
UNITED STATES MAGISTRATE JUDGE

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