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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LIBERTY MUTUAL INSURANCE )  
CO., a Massachusetts Corp., )  
Plaintiff(s), )  
v. )  
UPA CALIFORNIA, a California )  
general partnership, et al., )  
Defendant(s). )  
\_\_\_\_\_ )

No. C08-0611 BZ

**ORDER GRANTING LEAVE  
TO AMEND**

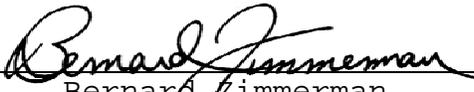
Having read the papers filed in connection with Liberty Mutual's motion to dismiss the counterclaim, I find no need for argument and **VACATE** the hearing scheduled for **December 3, 2008**.

**IT IS HEREBY ORDERED** that the motion to dismiss the counterclaim is **GRANTED** with leave to amend. I find the allegations of the counterclaim replete with legal conclusions but short of factual allegations, especially the first two claims. See Bell Atl. Corp. v. Twombly, 127 S. Ct. 1955, 1965 (2007) (citing Papasan v. Allain, 478 U.S. 265, 286 (1986) (on a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation"))).

1           In amending, counterclaimants shall allege which  
2 contracts they claim Liberty Mutual breached and how it  
3 breached them. They shall allege what Liberty Mutual did to  
4 breach the covenant of good faith and fair dealing. They  
5 should clarify what duty they claim Liberty owed them that was  
6 breached by failing to obtain the executed amendment from  
7 Anderson.

8           Counterclaimants shall file an amended counterclaim by  
9 **December 15, 2008.**

10 Dated: November 18, 2008

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13 Bernard Zimmerman  
14 United States Magistrate Judge

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