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8 Attorneys for Plaintiffs  
9 JON W. BAYLESS and GARY J. MORGENTHALER,  
as Trustees in Dissolution for WESTWAVE COMMUNICATIONS, INC.  
10 a dissolved Delaware Corporation

11 UNITED STATES DISTRICT COURT  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 JON W. BAYLESS and GARY J.  
MORGENTHALER, as Trustees in  
15 Dissolution for WESTWAVE  
COMMUNICATIONS, INC. a dissolved  
16 Delaware Corporation,

17 Plaintiff,

18 vs.

19 ILLINOIS UNION INSURANCE  
20 COMPANY, and DOES 1-10.

21 Defendants.

) Case No. C 08-01779 JSW  
)  
)

) **REQUEST FOR ORDER DISMISSING**  
) **COMPLAINT WITH PREJUDICE AND**  
) **[PROPOSED] ORDER RE SAME**

) The Honorable Jeffrey S. White  
)  
)

22  
23 AND RELATED THIRD-PARTY ACTION  
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1 Pursuant to Fed. Rule Civ. Pro., Rule 41(a)(2), Plaintiffs Jon W. Bayless and Gary J.  
2 Morgenthaler, as Trustees in Dissolution for Westwave Communications, Inc., a dissolved  
3 Delaware corporation (“Westwave”), request that the Court enter a *dismissal with prejudice* of  
4 the Complaint for Breach of Contract and Breach of the Implied Covenant of Good Faith and  
5 Fair Dealing (the “Complaint”) filed by Westwave against Illinois Union Insurance Company  
6 (“Illinois Union”) on or about January 25, 2008 in the Superior Court for the County of San  
7 Francisco, and timely removed to this Court. The reason for this request is that Westwave and  
8 Illinois Union have reached a settlement that fully resolves all claims asserted in the  
9 Complaint.

10 The dismissal of the Complaint is not intended to have any effect on the First Amended  
11 Third-Party Complaint and Demand for Jury Trial (the “Third-Party Action”) that Illinois  
12 Union filed against Federal Insurance Company (“Federal”) on or about September 21, 2009,  
13 and the claims in the Third-Party Action will therefore remain pending.

14 As indicated below, Illinois Union consents to the dismissal and agrees that Westwave  
15 and Illinois Union will each bear their own costs and attorneys’ fees related to the litigation of  
16 the Complaint.

17 Dated: November 12, 2009 PILLSBURY & LEVINSON, LLP  
18  
19 By: /s/ Celia M. Jackson  
20 Celia M. Jackson  
21 Attorneys for Plaintiffs  
22 JON W. BAYLESS, GARY J. MORGENTHALER, as  
23 Trustees in Dissolution for WESTWAVE  
24 COMMUNICATIONS, INC. a dissolved Delaware Corporation

25 Illinois Union hereby consents to the Proposed Order.

26 Dated: November 12, 2009 WILSON, ELSER, MOSKOWITZ, EDELMAN &  
27 DICKER LLP  
28  
29 By: /s/ Julie E. Van Wert  
30 Darren Le Montree  
31 Julie E. Van Wert  
32 Attorneys for Defendant  
33 ILLINOIS UNION INSURANCE COMPANY

**PROPOSED ORDER**

IT IS HEREBY ORDERED that the Complaint for Breach of Contract and Breach of the Implied Covenant of Good Faith and Fair Dealing filed by Plaintiffs Jon W. Bayless and Gary J. Morgenthaler, as Trustees in Dissolution for Westwave Communications, Inc., a dissolved Delaware corporation ("Westwave") Illinois Union Insurance Company ("Illinois Union") is *dismissed with prejudice*. Westwave and Illinois Union will each bear its own costs of and attorneys' fees related to the litigation of the Complaint. THIS ORDER DOES NOT TERMINATE THE THIRD PARTY ACTION. THE CLERK SHALL NOT CLOSE THE FILE.

Dated: November 13, 2009

  
Hon. Jeffrey S. White  
United States District Court Judge

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