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 8 ZURICH AMERICAN INSURANCE COMPANY
 and Defendant and Counter-Claimant
 9 STEADFAST INSURANCE COMPANY

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 (SAN FRANCISCO DIVISION)

13 UNITED STATES OF AMERICA,
 14
 15 Plaintiff,
 16 vs.

17 ZURICH INSURANCE COMPANY,
 18 ZURICH AMERICAN INSURANCE
 COMPANY and STEADFAST
 INSURANCE COMPANY,
 19 Defendants.

CASE NO. CV08-5005-MMC (EDL)

**JOINT STIPULATION AND [PROPOSED]
 ORDER REGARDING LIMITED
 REOPENING OF DISCOVERY**

Trial Date: February 28, 2011

20 STEADFAST INSURANCE COMPANY,
 21
 22 Counter-claimant,
 23 vs.

24 THE PRESIDIO TRUST, a Wholly-Owned
 Corporation of the UNITED STATES OF
 AMERICA,
 25
 26 Counter-defendant.

1 This stipulation for the limited reopening of discovery is being jointly made and submitted
2 by Plaintiff United States of America and Counter Defendant The Presidio Trust (collectively
3 referred to herein as “Plaintiff”), and Defendant Zurich American Insurance Company and
4 Defendant/Counter-Claimant Steadfast Insurance Company (collectively, “Defendants”).

5 WHEREAS, on October 4, 2010, Defendants filed a motion to compel certain depositions
6 (“Motion”) arising from the recent production of a document [Dkt. 133];

7 WHEREAS, at Plaintiff’s request, Defendants withdrew the motion to allow for further
8 meet and confer discussion [Dkt. 141];

9 WHEREAS, the parties agreed and stipulated to permit the re-opening of discovery to
10 permit the subpoena of documents from U.C. Berkeley, per the three subpoenas issued by
11 defendants’ counsel on September 24, 2010, requesting depositions and production of documents
12 on October 15, 2010 [Dkts. 140, 142]; and

13 WHEREAS, Plaintiff informed Defendants on October 13, 2010 that Plaintiff would agree
14 to Defendants’ request to depose Prof. Byrne on the conditions concerning location, timing and
15 duration described herein;

16 It is AGREED AND STIPULATED by the parties, that the deposition of Professor Roger
17 Byrne shall go forward as follows:

- 18 1. Defendants will be permitted to take the deposition of University of California
19 (“UC”), Berkeley Professor Roger Byrne, for up to two hours maximum time;
- 20 2. Plaintiff will be permitted to ask questions of Professor Byrne at his deposition, for
21 up to a maximum of two hours;
- 22 3. The total length of Professor Byrne’s deposition will not exceed four hours;
- 23 4. The deposition will take place on a date mutually convenient for the witness and
24 all counsel of record no later than November 5, 2010, subject to the availability of the witness;
- 25 5. The deposition will take place at Professor Byrne’s office or a conference room at
26 the UC, Berkeley campus to the extent such accommodations can be made with UC;
- 27 6. Also as a part of the Motion, Defendants requested a second deposition of
28 someone with knowledge about the origin of the document at issue in the Motion. At the

1 Plaintiff's request to be more specific about the second deposition requested as a part of Motion,
2 Defendants requested the deposition of Carol Prince. Plaintiff has neither agreed nor disagreed to
3 allow this second deposition to go forward. Instead, also at Plaintiff's request, the parties have
4 agreed to revisit this matter after the deposition of Professor Byrne. Therefore, the deadline of
5 October 15, 2010 for Defendants to renew their motion, previously mentioned in Dkt 140, no
6 longer applies. Defendants shall have until: (a) five (5) days after the deposition of Prof. Byrne
7 or (b) November 12, 2010, whichever is later, in which to file their renewed motion, if necessary.
8 Defendants are not limited to requesting Carol Prince be the second deponent. After the
9 deposition of Professor Byrne, the parties shall revisit who, if anyone, should sit for the second
10 deposition sought in the Motion.

11
12 **IT IS SO STIPULATED.**

13 DATED: October 21, 2010

MELINDA L. HAAG
United States Attorney

14
15 By: /s/ Jonathan U. Lee/
16 JONATHAN U. LEE

17 Assistant U.S. Attorneys
COUNSEL FOR PLAINTIFF

18 DATED: October 21, 2010

SQUIRE, SANDERS & DEMPSEY L.L.P.

19
20 By: /s/ David A. Gabianelli
21 DAVID A. GABIANELLI

22 Attorneys for Defendant
ZURICH AMERICAN INSURANCE COMPANY
and Defendant and Counter-Claimant
23 STEADFAST INSURANCE COMPANY

24 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

25
26 DATED: October 26, 2010

Elizabeth D. Laporte

27 ELIZABETH D. LAPORTE
United States Magistrate Judge