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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

TRAVELERS PROPERTY,

Plaintiff,

v.

CENTEX HOMES,

Defendant.

No. C 10-02757 CRB

**ORDER DIRECTING ARGUMENT
AND VACATING HEARING ON
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Defendant Centex Homes asks the Court to reconsider its Order denying in part and granting in part Plaintiff Travelers's Motion for Summary Judgment. See *dk*t. 214. Centex argues that (1) new evidence demonstrates that the counsel Travelers sought to assign to Centex has a conflict of interest, thus excusing Centex of its breach of the duty to cooperate, and (2) the Court was wrong to conclude that Travelers was prejudiced by Centex's breach. Id. The Court does not wish to hear argument on the issue of conflict of interest. However, the Court does wish to hear argument on the issue of prejudice. Specifically, Centex should be prepared to tell the Court whether it would permit Travelers to assume its defense in the underlying actions from this point forward, provided the counsel appointed by Travelers was free of conflicts.

Additionally, the hearing on Travelers's Motion for Partial Summary Judgment as to the Kent, Ackerman, and Carter actions, *dk*t. 223, currently calendared for June 3, 2011, is

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hereby VACATED. Only the Motion for Reconsideration will be heard on June 3, 2011.

IT IS SO ORDERED.

Dated: June 1, 2011



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE