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BRANSON BRINKOP GRIFFITH & STRONG LLP
643 BAIR ISLAND ROAD, SUITE 400
REDWOOD CITY, CALIFORNIA 94063
TELEPHONE (650) 365-7710

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CENTURY SURETY COMPANY,

Plaintiff

vs.

CLARENCE BYAL dba VIPER LOUNGE,

Defendants.

Case No: 3:10-cv-03917-WHA-EDL

**STIPULATION AND ~~PROPOSED~~
ORDER Re: ~~RELIEF FROM
SCHEDULING ORDER FOLLOWING
CMC (DOC NO. 15) AND LEAVE TO FILE
AMENDED ANSWER AND THIRD PARTY
COMPLAINT~~**

The parties to this action, by and through their counsel, hereby stipulate that Defendant, CLARENCE BYAL dba VIPER LOUNGE ~~be given relief from the Scheduling Order following CMC (Doc No. 15) and~~ may ~~thereby~~ file an amended answer and third party complaint, a copy of which is attached hereto.

Defendants request the Court find good cause for this request:

First, following the motion for Mr. McMorrow to be relieved as counsel, new counsel for the defendants did not appear in this matter until January 31, 2011, the date in the scheduling order to amend pleadings or add new parties.

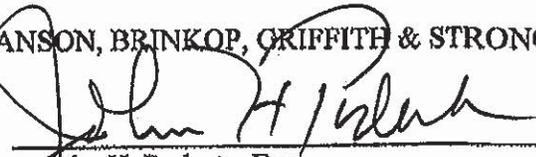
Second, since becoming counsel of record, I have learned that the insurance agent who

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1 placed the Century Surety policy, made misrepresentations to the defendants about the scope of
2 coverage that would be provided such that, if Century Surety is correct in its position that the
3 policy, as issued, does not provide coverage, then the insurance agent has liability for failure to
4 obtain the correct coverage. To have all the issues tried simultaneously, where there are
5 overlapping issues of fact and law, justice requires that the agent be added to this litigation.
6

7 Dated: March 9, 2011

BRANSON, BRINKOP, GRIFFITH & STRONG, LLP

8
9 By: 

John H. Podesta, Esq.
Attorneys for Defendants, CLARENCE BYAL
dba VIPER LOUNGE

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11
12
13 Dated: March 8, 2011

WOOLLS & PEER

14
15 By: 

Lisa Darling-Alderton, Esq.
Attorneys for Plaintiff, CENTURY SURETY

16
17 **IT IS SO ORDERED:**

18
19 The court having reviewed the Stipulation above hereby **ORDERS** ~~that relief from~~
20 ~~the Scheduling Order (Doc No 15) is hereby GRANTED, and~~ that leave of court is granted
21 for Defendants to file an amended answer and third party complaint, the form which is
22 attached to the Stipulation. Responsive pleadings shall be filed according to the FRCP and
23 Local Rules upon service of the amended answer and third party complaint.

24 The filing must be made by Noon on March 14, 2011. This order shall not be grounds
25 for altering future case management deadlines.

26 Dated: March 10, 2011.

27 
UNITED STATES DISTRICT COURT
HONORABLE WILLIAM ALSUP
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