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8 **UNITED STATES DISTRICT COURT**  
9 **IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 SIERRA BAY CONTRACTORS, INC.,

12 Plaintiff,

13 v.

14 WESTCHESTER SURPLUS LINES INSURANCE  
COMPANY, *et al.*,

15 Defendants.  
16

Case No. 3:10-CV-04611-RS

**STIPULATION AND  
[PROPOSED] ORDER FOR  
DISMISSAL OF THIRD-PARTY  
DEFENDANT GEMINI  
INSURANCE COMPANY**

17 **AND RELATED THIRD-PARTY CLAIMS**  
18

19 Pursuant to F.R.C.P. 41, Third-Party Defendant Gemini Insurance Company  
20 (“**Gemini**”) and Third-Party Claimant Westchester Surplus Lines Insurance Company  
21 (“**Westchester**”) have agreed and hereby stipulate to the dismissal of Gemini from this  
22 action, without prejudice, subject to said parties’ mutual waiver of costs. Said parties  
23 request the Court’s approval and execution of the below proposed order for dismissal.

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IT IS SO STIPULATED.

Dated: July 18, 2011

By: A.K. Thomas

Amy K. Thomas  
WOLKIN CURRAN, LLP

Counsel for Third-Party Defendant  
GEMINI INSURANCE COMPANY

Dated: July 26, 2011

By: David A. Astengo

David A. Astengo  
MORALES FIERRO & REEVES, LLP

Counsel for Third-Party Claimant  
WESTCHESTER SURPLUS LINES  
INSURANCE COMPANY

~~PROPOSED~~ ORDER OF PARTIAL DISMISSAL

Having reviewed the above stipulation, the Court orders that Third-Party Claimant Westchester Surplus Lines Insurance Company's claims against Third-Party Defendant Gemini Insurance Company be dismissed, without prejudice. The remainder of the third-party complaint shall not be changed or impacted by this Order.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 7/29/11

Richard Seabury

United States District Court

District of Northern California