United States District Court
Northern District of California

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7   IN THE UNITED STATES DISTRICT COURT

8   NORTHERN DISTRICT OF CALIFORNIA

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10   TRAVELERS PROPERTY CASUALTY   ) Case No. 11-3638-SC
     COMPANY OF AMERICA, FIDELITY &   )
11   GUARANTY INSURANCE COMPANY, THE   ) ORDER GRANTING MOTION FOR
     TRAVELERS INDEMNITY COMPANY OF   ) LEAVE TO FILE A MOTION FOR
12   CONNECTICUT, AND ST. PAUL MERCURY   ) RECONSIDERATION
     INSURANCE COMPANY,   )
13   )
              Plaintiffs,   )
14   )
         v.   )
15   )
)
16   CENTEX HOMES and DOES 1 through   )
     10 inclusive,   )
17   )
)
18   ───────────────────────────────────)
)
19   CENTEX HOMES,   )
)
20   Counterclaimant,   )
)
21   v.   )
)
22   )
)
23   TRAVELERS PROPERTY CASUALTY   )
     COMPANY OF AMERICA, et al.,   )
24   )
              Counterdefendant.   )
25   )
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1   Now before the Court is Defendant Centex Homes' ("Centex")

2 motion for leave to file a motion for reconsideration. ECF No. 183

3 ("Mot."). Centex asks the Court to reconsider its April 8, 2013

4 Order on the Centex and Travelers Property Casualty Company of

5 America's ("Travelers") cross-motions for summary judgment, ECF No.

6 170 ("April 2013 Order"). The April 2013 Order vacated in part a

7 May 10, 2012 Order, ECF No. 56 ("May 2012 Order"), which granted

8 prior motions by Centex for partial summary judgment and judgment

9 on the pleadings.

10   Centex argues that the Court inadvertently vacated its prior

11 ruling on Centex's motion for partial judgment on the pleadings.

12 Mot. at 5-6. The Court did not intend to vacate that aspect of its

13 May 2012 Order, but the conclusion of the April 2013 Order could be

14 read that way. Accordingly, the Court hereby clarifies that its

15 May 2012 ruling on Centex's motion for judgment on the pleadings

16 remains in effect.

17   In the May 2012 Order, the Court held that Travelers waived

18 its right to control Centex's defense in the Adkins and Garvey

19 actions when it initially declined to participate in the defense of

20 those actions. The April 2013 Order vacated that aspect (and only

21 that aspect) of the May 2012 Order. Centex argues that this

22 holding was in error. The Court GRANTS Centex's motion for leave

23 to file a motion for reconsideration on this issue.

24   Centex shall file and notice its motion for reconsideration in

25 accordance with Civil Local Rule 7. The parties' briefing on the

26 motion should address the California Court of Appeal's holding in

27 Stalberg v. Western Title Insurance Company, 282 Cal. App. 3d 1223

28 (1991), as well as any relevant distinctions among Travelers'

responses to the tenders of the <u>Acupan</u>, <u>Adkins</u>, <u>Conner</u>, and <u>Garvey</u> actions.

IT IS SO ORDERED.

Dated: May 29, 2013

UNITED STATES DISTRICT JUDGE