

United States District Court
For the Northern District of California

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

TRAVELERS INDEMNITY COMPANY OF)	Case No. 11-CV-03638-SC
CONNECTICUT; and ST. PAUL FIRE)	
AND MARINE INSURANCE COMPANY,)	ORDER OVERRULING PLAINTIFFS'
	<u>OBJECTION</u>
Plaintiffs,)	
)
v.)	
)
CENTEX HOMES; and CENTEX REAL)	
ESTATE CORPORATION,)	
)
Defendants.)	
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On October 7, 2015, the Court issued an order granting Defendants' motion for reconsideration, holding that

its April 2013 Order as to Travelers' right to control Centex's defense in the Acupan and Conner actions was inconsistent with a case decided by the California Court of Appeal in May 2013, J.R. Mktg., L.L.C. v. Hartford Cas. Ins. Co., 216 Cal. App. 4th 1444 (2013), and affirmed in relevant part by the California Supreme Court in August 2015, Hartford Cas. Ins. v. J.R. Mktg., 61 Cal. 4th 988 (Aug. 10, 2015)."

ECF No. 235 at 1. Subsequently, Plaintiffs filed an objection to Defendants' citation of the California Court of Appeal's decision in J.R. Marketing. ECF No. 236. Plaintiffs argue that the citation is improper because the Court of Appeal's decision was not

1 certified for publication. However, neither the Defendants in
2 their filings nor the Court in its October 7, 2015 Order cited the
3 Court of Appeal decision directly. The California Supreme Court
4 affirmed the Court of Appeal's decision and reasoning on whether a
5 breach of the duty to defend causes an insurer to lose the right to
6 control the defense of an insured. Hartford Cas. Ins., 61 Cal. 4th
7 at 997. Accordingly, the Court of Appeal's decision and reasoning
8 on that issue was incorporated into the California Supreme Court's
9 decision.

10 Plaintiff's objection is OVERRULED.

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12 IT IS SO ORDERED.

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14 Dated: October 8, 2015



UNITED STATES DISTRICT JUDGE

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