

United States District Court  
For the Northern District of California

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

OHIO CASUALTY INSURANCE CO.,

No. CV 13-00060 RS

Plaintiff,

**ORDER FOR SUPPLEMENTAL  
BRIEFING**

v.

ASHBURY GENERAL CONTRACTING  
AND ENGINEERING, et. al.,

Defendant.

This matter arises out of a General Agreement of Indemnity (“Indemnity Agreement”) related to various surety bonds. Plaintiff Ohio Casualty Fire Insurance Company (“Ohio Casualty”) brought this action for breach of contract against defendants John Kim and Kin Michelle Dea (“the Kims”) and others. Having reached a settlement with the other defendants, Ohio Casualty now moves for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. The Kims failed to oppose Ohio Casualty’s motion, which is currently under submission without oral argument pursuant to Civil Local Rule 7-1(b).

Ohio Casualty seeks to enforce the terms of the Indemnity Agreement, which the Kims entered in May of 2010. On its face, however, the Indemnity Agreement does not list Ohio Casualty as a party. (Indemnity Agreement, ECF No. 42-2, Ex. 1 at 1). It may be the case that

No. CV 13-00060 RS  
ORDER

1 there is a factual or legal basis allowing Ohio Casualty to assert rights under the Indemnity  
2 Agreement, but that basis is not apparent from the present submissions. Accordingly, Ohio  
3 Casualty is ordered within ten (10) days of the date of this order, to submit any supplemental  
4 affidavits, evidence, or additional briefing not to exceed five (5) pages, establishing its right to  
5 enforce the Indemnity Agreement. The Kims shall then have ten (10) days to file a response,  
6 limited to Ohio Casualty's supplemental submissions. At that point, the matter will be re-submitted  
7 without oral argument pursuant to Civil Local Rule 7-1(b).

8 IT IS SO ORDERED.

9  
10 DATED: 4/2/14

11   
12 RICHARD SEEBORG  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28