

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

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FLINTKOTE COMPANY, et al.,  
Plaintiffs,  
v.  
AVIVA PLC, et al.,  
Defendants.

Case No. [15-cv-01638-SI](#)

**THIRD ORDER ON BOND**

Re: Dkt. Nos. 156, 161, 164, 167

On May 16, 2016, following multiple rounds of briefing on the issue, the Court ordered defendants to post a total bond amount of \$2.442 million (USD) “with all deliberate haste.” Dkt. No. 164. Defendants were additionally ordered to “timely notify the Court of the posting of the bond.” *Id.* No bond has been posted. On July 20, 2016, defendants were ordered to show cause why no bond had been posted, or, if the bond had been posted, why no notice was provided to the Court. Dkt. No. 167. Defendants were additionally ordered to show cause as to why they should not be sanctioned for failure to comply with the Court’s order. *Id.*

The parties filed a joint statement explaining that “[n]o bond had been posted because the Parties are working to finalize a settlement of this matter[.]” Dkt. No. 168 at 2. The parties “hope to conclude settlement negotiations in the next few weeks” and state that they “will advise the Court when final settlement documents are executed.” *Id.* at 3.

As noted in prior order of this Court, the clear language of California Insurance Code section 1616 mandates that defendants post a bond to secure the payment of any final judgment which may be rendered in the present action. *See, e.g.,* Dkt. No. 161; *see also* Cal. Ins. Code § 1616 (“Before any nonadmitted foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, the insurer *shall* . . . give a bond in

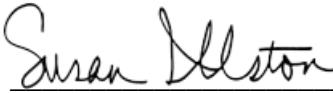
1 the action, suit or proceeding in an amount to be fixed by the court sufficient to secure the  
2 payment of any final judgment which may be rendered in the action, suit, or proceeding.”  
3 (emphasis added)).

4 In light of this, the parties are ORDERED file a joint status update advising the Court of  
5 the progress they have made concluding these settlement discussions **by August 19, 2016**. Should  
6 the matter not settle by this date the Court ORDERS the parties to file a status update every 14  
7 days until the matter has settled. The Court retains the authority to ORDER defendants to  
8 immediately post the bond.

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS SO ORDERED.**

Dated: July 27, 2016



---

SUSAN ILLSTON  
United States District Judge