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 8 *Attorneys for Defendant Executive Risk Specialty  
 Insurance Company*

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

12 LENSRAFTERS, INC., and EYEXAM OF  
 CALIFORNIA, INC.,

No. C07-02853 SBA

[Related Case No. C 04-01001 SBA]

13 Plaintiffs,

14 v.

**STIPULATION AND [ORDER  
 EXTENDING TIME FOR  
 EXECUTIVE RISK SPECIALTY  
 INSURANCE COMPANY TO  
 RESPOND TO UNITED STATES FIRE  
 INSURANCE COMPANY’S  
 COUNTERCLAIM**

15 LIBERTY MUTUAL FIRE INSURANCE  
 16 COMPANY; EXECUTIVE RISK SPECIALTY  
 INSURANCE COMPANY; UNITED STATES  
 17 FIRE INSURANCE COMPANY; MARKEL  
 AMERICAN INSURANCE COMPANY and  
 18 WESTCHESTER FIRE INSURANCE  
 COMPANY,

19 Defendants.

20 AND RELATED CROSS ACTIONS  
 21

22 WHEREAS, on July 31, 2008, Defendant and Counter-Claimant United States Fire  
 23 Insurance Company (“U.S. Fire”) filed its Answer and Counterclaim in response to the Cross-  
 24 Claim of Defendant and Cross-Claimant Executive Risk Specialty Insurance Company  
 25 (“ERSIC”).

26 WHEREAS, pursuant to Fed. R. Civ. P. 12(a)(1)(B), ERSIC’s response to U.S. Fire’s  
 27 Counterclaim was initially due August 20, 2008;  
 28

1 WHEREAS, ERSIC was granted an extension of time to and including September 19,  
2 2008 in which to respond to the Counterclaim;

3 WHEREAS, ERSIC and U.S. Fire have reached an agreement in principle that will result  
4 in the dismissal without prejudice of U.S. Fire's Counterclaim against ERSIC and ERSIC's  
5 Cross-Claim against U.S. Fire;

6 WHEREAS, U.S. Fire has agreed to grant an additional extension of time for ERSIC to  
7 answer or otherwise respond to the Counterclaim while the aforementioned agreement is  
8 documented and the stipulation of dismissal is prepared;

9 NOW THEREFORE, ERSIC and U.S. Fire hereby STIPULATE to and REQUEST that  
10 the Court grant an extension of time, to and including October 17, 2008, for ERSIC to answer or  
11 otherwise respond to U.S. Fire's Counterclaim.

12 Date: September 19, 2008

Respectfully submitted,

13 ROSS, DIXON & BELL, LLP

14 /s/ Terrence R. McInnis

15 Terrence R. McInnis  
16 Attorneys for Defendant Executive Risk  
Specialty Insurance Company

17 SQUIRE, SANDERS & DEMPSEY L.L.P.

18 /s/ David A. Gabianelli

19 David A. Gabianelli  
20 Attorneys for Defendant United States Fire  
21 Insurance Company

22 **IT IS SO ORDERED:**

23  
24 Date: October 7, 2008

25   
26 Hon. Sandra Brown Armstrong  
27 United States District Court Judge  
28