

1 SINNOTT, DITO, MOURA & PUEBLA, P.C.

2 Blaise S. Curet, #124983

3 bcuret@sdmp.com

4 Stephen R. Wong, #186187

5 swonog@sdmp.com

555 Montgomery Street, Suite 720

4 San Francisco, California 94111-3910

4 Tel.: (415) 352-6200; Fax: (415) 352-6224

5 Attorneys for Zurich American Ins. Co.
6 and Steadfast Ins. Co.

7

8 **UNITED STATES DISTRICT COURT**

9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

10

11 St. Paul Fire & Marine Ins. Co.,
12 Plaintiff,

13 v

14 Evanston Insurance Company,
15 Defendant.

16 **AND RELATED COUNTER-CLAIM**

17 Evanston Insurance Company,
18 Third Party Plaintiff,

19 vs.

20 Zurich American Insurance Company
21 and Steadfast Insurance Company,
22 Third Party Defendants.

11 CASE NO. C08-05705 PJH

12 STIPULATION AND [PROPOSED]
13 ORDER RE: STAY

23

24

25 **STIPULATION**

26 WHEREAS, the above-captioned case is an equitable action between insurance
27 carriers regarding the responsibility for and allocation of defense fees and costs incurred
28 on behalf of two common insureds, the Olympic Club and Plant Construction, in an

1 underlying action entitled, *Academy of Art University, et al., v. San Francisco Olympic*
2 *Club, et al.*, Superior Court of California, City and County of San Francisco, Case No.
3 CGC-03-427640 (the "Underlying Action");

4 WHEREAS, the court in the Underlying Action awarded fees and costs in favor of
5 the Olympic Club and Plant and against the underlying plaintiffs;

6 WHEREAS, the plaintiffs in the Underlying Action had indicated that they would
7 appeal the award of fees and costs;

8 WHEREAS, the parties in the Underlying Action negotiated a settlement that might
9 allow the parties in the present action to amicably resolve their disputes and dismiss their
10 claims;

11 WHEREAS, the parties in the present action do not wish to unnecessarily incur fees
12 and costs prosecuting and defending this action pending final resolution of the Underlying
13 Action and while they explore a possible resolution of the above-captioned action that
14 could result in a dismissal;

15 WHEREAS, on August 3, 2009, the Court stayed this action for 90 days to allow
16 the parties in the Underlying Action to finalize their settlement and to allow the parties in
17 the present action to explore a possible settlement;

18 WHEREAS, on October 23, 2009, the Court stayed this action for another 60 days
19 to allow the parties in the Underlying Action to finalize their settlement and to allow the
20 parties in the present action to explore a possible settlement;

21 WHEREAS, on January 19, 2009, the Court stayed this action for another 60 days
22 to allow the parties in the Underlying Action to finalize their settlement and to allow the
23 parties in the present action to explore a possible settlement;

24 WHEREAS, the parties in the Underlying Action have now finalized their
25 settlement and the settlement payments have been made;

26 WHEREAS, the parties in the present action agree that they need an additional 60
27 days to finalize their settlement negotiations;

28 WHEREFORE, the parties stipulate to the following:

1 1. This action be STAYED for 60 days to allow the parties to conduct further
2 settlement discussions;

3 2. The Early Neutral Evaluation session pending before Michael Lee be
4 CONTINUED until after the stay is lifted.

5 It is so STIPULATED:

7 DATED: March 30, 2010

MELENDEZ & ASSOCIATES

9 By: /s/

10 MICHAEL W. MELENDEZ
11 Attorneys for Defendant and Third-Party
12 Claimant EVANSTON INSURANCE
13 COMPANY

14 DATED: March 30, 2010

MORALES, FIERRO & REEVES

16 By: /s/

17 WILLIAM C. REEVES
18 Attorneys for Plaintiff ST. PAUL FIRE &
19 MARINE INSURANCE COMPANY

20 DATED: March 30, 2010

SINNOTT, DITO, MOURA & PUEBLA, P.C.

22 By: /s/

23 BLAISE S. CURET
24 STEPHEN R. WONG
25 Attorneys for Zurich American Insurance
26 Company and Steadfast Insurance
27 Company

GENERAL ORDER 45(X)(B) CERTIFICATION

I, Stephen R. Wong, hereby attest, pursuant to this Court's General Order 45(X)(B), that each of the other counsel identified above have authorized the submission of this Stipulation and [Proposed] Order Re: Stay on that counsel's behalf.

7 DATED: March 30, 2010 SINNOTT, DITO, MOURA & PUEBLA, P.C.

SINNOTT, DITO, MOURA & PUEBLA, P.C.

By: /s/

STEPHEN R. WONG

Attorneys for Zurich American Insurance Company and Steadfast Insurance Company

ORDER

It is hereby ORDERED that:

1. This action IS STAYED for 60 days to allow the parties to conduct further settlement discussions;

2. The Early Neutral Evaluation session pending before Michael Lee IS

CONTINUED until after the stay is lifted.

DATED: March 31, 2010

By:

Phyllis J. Hamilton
Judge Phyllis J. Hamilton

