

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

EXECUTIVE RISK SPECIALITY )  
INSURANCE COMPANY, )  
 )  
Plaintiff(s), )  
 )  
v. )  
 )  
CROCKER SECURITIES LLC, et )  
al., )  
 )  
Defendant(s). )  
\_\_\_\_\_ )

No. C09-1840 PJH (BZ)  
**BRIEFING ORDER**

Plaintiff’s motion for default judgment has been referred to me. In reviewing the papers, it appears that plaintiff is entitled to a declaration of no coverage. However, in California, the duty to defend is separate from and broader than the duty to indemnify. See Gray v. Zurich Insurance Co., 65 Cal. 2d 263, 276-277 (1966); Montrose Chemical Corp. v. Superior Court, 6 Cal. 4th 287, 295 (1993)); Amato v. Mercury Casualty Co., 53 Cal. App. 4th 825 (2d Dist. 1997). There do not appear to be any factual allegations in the complaint nor any authority in the moving papers to support the request for a declaration that the plaintiff had no obligation to defend

1 Mr. Green in the proceedings at issue. If the plaintiff  
2 wishes to obtain a declaratory judgment to this effect, it  
3 shall file by **December 24, 2009** a supplemental brief of up to  
4 5 pages explaining why it believes it is entitled to such  
5 relief.

6 Dated: December 18, 2009

7   
8 

---

 Bernard Zimmerman  
United States Magistrate Judge

9  
10 G:\BZALL\REFS\EXECUTIVE RISK V. CROCKER SEC\BRIEFING ORDER.wpd

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