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8 Attorneys for Defendants
 EDUARDO MENDOZA, DENISE MENDOZA,
 9 and DARUKA WANIGATUNGA

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

13 Scottsdale Insurance Company,
 14 Plaintiff,
 15 v.

) Case No. CV 11 4398 DMR

) **STIPULATION AND [~~PROPOSED~~] ORDER**
) **RE: THE FILING OF AMENDED**
) **PLEADINGS**

16 Eduardo Mendoza, an individual; Denise
 17 Mendoza, an individual; Daruka Wanigatunga,
 an individual dba Café Cocomo; Abitsch &
 18 Abitsch, LLC, a corporation; and Does 1 through
 20, inclusive,
 19 Defendants.

21 EDUARDO MENDOZA, an individual;
 22 DENISE MENDOZA, an individual; and
 23 DARUKA WANIGATUNGA, an individual,

24 Counter-Claimants,

25 v.

26 SCOTTSDALE INSURANCE COMPANY, a
 corporation,

27 Counter-Defendants.

28 AND RELATED CROSS-CLAIMS &
COUNTERCLAIM

1 In an effort to address concerns and/or potential disputes arising out of the parties' respective
2 interpretations of Counter-Claimants Eduardo and Denise Mendoza (collectively "Mendoza") and
3 Daruka Wanigatunga's ("Wanigatunga") First Amended Counter Claim, and Counter-Claimants Abitsch
4 & Abitsch's Counter-Claim and Cross-Claim, IT IS HEREBY STIPULATED by and between Counter-
5 Claimants MENDOZA, WANIGATUNGA, and ABITSCH & ABITSCH ("Counter-Claimants") and
6 Plaintiff SCOTTSDALE INSURANCE COMPANY ("Plaintiff"), by and through their respective
7 counsel, as follows.

8 1. Counter-Claimants Mendoza and Wanigatunga may file a Second Amended Counter-
9 Claim on or before February 21, 2012 without a motion and upon the Court's Order based on this
10 Stipulation;

11 2. Counter-Claimants Abitsch & Abitsch may file a First Amended Counter-Claim and
12 Cross-Claim on or before February 21, 2012 without a motion and upon the Court's Order based on this
13 Stipulation;

14 3. By agreeing to the filing of the Second Amended Counter-Claim, First Amended
15 Counter-Claim and Cross-Claim without the necessity of a Motion for Leave to Amend, Plaintiff is: a)
16 not waiving any right to file a responsive pleading in any form, including a Motion to Dismiss or Strike;
17 and b) not admitting any fact or contention set forth in the above referenced amended pleadings. The
18 deadline for Plaintiff to file a responsive pleading to the proposed amended pleadings set forth in
19 numbers 1 and 2, *supra*, shall be determined by the applicable Federal Rule of Civil Procedure. Should
20 Counter-Claimants Mendoza and Wanigatunga fail to file their Second Amended Counter-Claim on or
21 before February 21, 2012, then Plaintiff shall have up to and including March 6, 2012 in which to file
22 its responses to Mendoza's and Wanigatunga's First Amended Counter-Claim currently on file.

23 Likewise, should Counter-Claimant Abitsch & Abitsch fail to file its First Amended Counter-Claim and
24 Cross-Claim on or before February 21, 2012, then Plaintiff shall have up to and including March 6, 2012

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1 in which to file its responses to Abitsch & Abitsch's Counter-Claim currently on file.

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3 **IT IS SO STIPULATED.**

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5 DATED: February 9, 2012

GUY KORNBLUM & ASSOCIATES

6
7 By s/Walter G. Crump
8 WALTER G. CRUMP
9 Attorneys for Counter-Claimants
10 Eduardo Mendoza, Denise Mendoza
11 and Wanigatunga

12 DATED: February 9, 2012

SELMAN BREITMAN LLP

13 By s/ Nick P. Honkamp
14 NICK P. HONKAMP
15 Attorney for Plaintiff Scottsdale Ins. Co.

16
17 DATED: February 9, 2012

MAYO & MAYO

18
19 By s/Terrence O. Mayo
20 TERRENCE O. MAYO
21 Attorney for Counter-Claimant
22 Abitsch & Abitsch

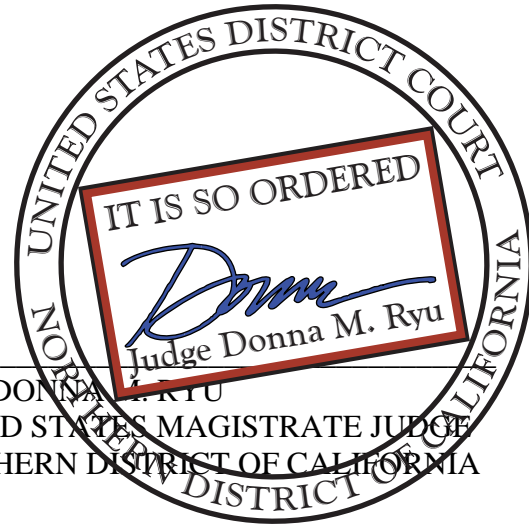
23
24 **ORDER**

25 PURSUANT TO THE PARTIES' STIPULATION SET FORTH ABOVE AND GOOD CAUSE
26 BEING SHOWN THEREFORE, IT IS HEREBY ORDERED THAT: 1) Counter-Claimants Mendoza
27 and Wanigatunga may file a Second Amended Counter-Claim on or before February 21, 2012 without a
28 motion and upon the Court's Order based on this Stipulation; 2) Counter-Claimants Abitsch & Abitsch

1 may file a First Amended Counter-Claim and Cross-Claim on or before February 21, 2012 without a
2 motion and upon the Court's Order based on this Stipulation. Further, the other terms of the above
3 Stipulation are incorporated into this order.

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5 **IT IS SO ORDERED.**

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7 Dated: February 13, 2012



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10 HON. DONNA M. RYU
11 UNITED STATES MAGISTRATE JUDGE
12 NORTHERN DISTRICT OF CALIFORNIA

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