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United States District Court
For the Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

Plaintiff,

No. C 13-0957 PJH

v.

**ORDER SETTING FURTHER CASE
MANAGEMENT CONFERENCE**

MIXT GREENS, INC., et al.,

Defendants.

AND RELATED COUNTER-CLAIMS
_____ /

PLEASE TAKE NOTICE that the court will conduct a further case management conference in the above-entitled action, on Thursday, June 4, 2015, at 2:00 p.m. The court chooses not to wait until September 2015 as the parties have requested in their most recent status statement, dated May 12, 2015.

The parties shall submit a Joint Case Management Conference Statement no later than May 28, 2015. In the statement, they shall provide further explanation of their respective positions, which they described as follows in the May 12, 2015, status statement:

- Travelers contends that the Court’s partial summary judgment order “fully adjudicates” all claims “based on the duty to defend.” Travelers further contends that “the remaining claims regarding the duty to indemnify” are now moot, because Mixt Greens or Hines/NOP were not held liable in the Underlying Action.
- NOP and Hines contend that the remaining claims, including breach of contract and reach of the implied covenant of good faith and fair dealing, are

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not moot, that they include questions relating to the duty to defend which remain unresolved, and that the duty to defend is not retroactively extinguished by declaratory relief. NOP and Hines further contend that certain duty to indemnify issues remain notwithstanding NOP and Hines' successful defense of the Underlying Action.

The parties must clarify which claims (if any) remain at issue. In particular, if Travelers' position is that NOP/Hines' counterclaims for breach of contract and breach of the implied covenant of good faith and fair dealing are not viable, it should explain the basis for that view; and NOP/Hines should explain the reference to "questions relating to the duty to defend which remain unresolved" and the reference to "duty to indemnify issues."

The case management conference statement should also include a proposed schedule for discovery and motion deadlines, and other pretrial and trial deadlines.

IT IS SO ORDERED.

Dated: May 18, 2015



PHYLLIS J. HAMILTON
United States District Judge