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3 **UNITED STATES DISTRICT COURT**  
4 **NORTHERN DISTRICT OF CALIFORNIA**

5 **SENECA INSURANCE COMPANY, INC.,**

6 **PLAINTIFF,**

7 **v.**

8 **CYBERNET ENTERTAINMENT, LLC, ET AL.,**

9 **DEFENDANTS.**

CASE No. 16-cv-06554-YGR

**ORDER GRANTING RULE 54(B)  
CERTIFICATION AND JUDGMENT FOR STATE  
COMPENSATION INSURANCE FUND**

DKT. No. 103

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11 **CYBERNET ENTERTAINMENT, LLC,**

12 **THIRD PARTY PLAINTIFF,**

13 **v.**

14 **STATE COMPENSATION INSURANCE FUND,**

15 **THIRD PARTY DEFENDANT.**

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17 In an order dated November 27, 2017, this Court denied third party plaintiff Cybernet  
18 Entertainment, LLC's ("Cybernet") motion for partial summary judgment and granted third party  
19 defendant State Insurance Compensation Fund's ("State Fund") cross motion for summary  
20 judgment. (Dkt. No. 102.) Pursuant thereto, this Court held that no duty to defend Cybernet  
21 exists with regard to the three lawsuits filed by plaintiffs John Doe, Cameron Adams, and Joshua  
22 Rodgers against Cybernet in San Francisco Superior Court. (*Id.*) Three days later, Cybernet filed  
23 a motion for leave to file a motion for reconsideration, which this Court denied. (Dkt. Nos. 103,  
24 107.)

25 Now before the Court is State Fund's motion for certification of final judgment under Fed.  
26 R. Civ. Pro. 54(b). Cybernet does not oppose the motion. (Dkt. No. 109.) Pursuant to Rule 54(b),  
27 "when more than one claim for relief is presented in an action, whether as a claim, counterclaim,  
28 cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the

1 entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an  
2 express determination that there is no just reason for delay and upon an express direction for the  
3 entry of judgment.”

4 The parties agree that the Court’s order dated November 27, 2017, constitutes a final  
5 judgment for purposes of Rule 54(b). In granting State Fund’s motion for summary judgment, the  
6 Court disposed of all causes of action which Cybernet pleaded in its complaint against State Fund.  
7 Thus, certification under Rule 54(b) is appropriate unless there “just reason for delay” exists.  
8 Whether a “just reason for delay” exists turns on two factors, namely, (i) whether certification  
9 would serve the “judicial administrative interest” and (ii) “the equities involved.” *Curtiss-Wright*  
10 *Corp. v. General Elec. Co.*, 446 U.S. 1, 8 (1980).

11 Regarding the first factor, consideration of the judicial administrative interest “is necessary  
12 to assure that application of [Rule 54(b)] effectively preserves the historic federal policy against  
13 piecemeal appeals.” *Id.* (Internal quotations omitted.) Here, the remaining claims asserted by  
14 Seneca Insurance Company, Inc. against Cybernet are separate and distinct from those claims  
15 asserted by Cybernet against State Fund which were resolved by this Court’s November 27, 2017  
16 Order. Thus, no risk of duplicative appeals exists. *Id.* at 6.

17 The second factor which considers “the equities involved” also weighs in favor of granting  
18 State Fund’s motion. Delaying resolution of the duty to defend issue until after the underlying  
19 lawsuits in state court are resolved would be unduly prejudicial to State Fund because resolution  
20 of the underlying plaintiffs’ claims against Cybernet is not relevant to the issue of State Fund’s  
21 duty to defend Cybernet.

22 For the reasons discussed above, State Fund’s motion for Rule 54(B) certification is  
23 **GRANTED**. Given the foregoing, it is hereby **ORDERED, ADJUDGED, and DECREED** that Cybernet  
24 shall take nothing by way of its Third Party Complaint against State Fund. State Fund will be  
25 entitled to costs.

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This terminates Dkt. No. 103.

**IT IS SO ORDERED.**

Dated: December 20, 2017



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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**