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6 Attorneys for Plaintiff
INDIAN HARBOR INSURANCE COMPANY

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 INDIAN HARBOR INSURANCE
COMPANY, a North Dakota
12 corporation,

13 Plaintiff,

14 vs.

15 CALABASAS FUNDING
CORPORATION dba CFC
16 MORTGAGE BANKERS, a California
corporation,

17 Defendant.
18

CASE NO. C 08 03272 PVT

STIPULATION AND [PROPOSED]
ORDER RE: CONTINUANCE OF
INITIAL CASE MANAGEMENT
CONFERENCE

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19 WHEREAS, the Initial Case Management Conference (“CMC”) is
20 scheduled in this case for October 28, 2008 in Courtroom 5, 4th Floor, before the
21 Honorable Magistrate Judge Patricia V. Trumbull;

22 WHEREAS, on September 16, 2008, counsel for plaintiff Indian Harbor
23 Insurance Company (“Indian Harbor”) and counsel for CFC Mortgage Brokers
24 (“CFC”) commenced an early meeting of counsel pursuant to FRCP 26(f)(2);

25 WHEREAS, during the conference on September 16, 2008, counsel for the
26 parties agreed to re-schedule the early meeting of counsel because it appeared that
27 the underlying action (*First Franklin Financial Corp. v. Brian Troop, et al.*, Santa
28 Clara County Superior Court Case No. 107CV099104) giving rise to the present

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1 insurance coverage action was on the verge of settling and a settlement would
2 obviate the need for any further litigation between Indian Harbor and CFC;

3 WHEREAS, on September 23, 2008, counsel for First Franklin and CFC
4 understood that an agreement of settlement terms had been reached in the
5 underlying action;

6 WHEREAS, on or about Tuesday, October 7, 2008, counsel for CFC learned
7 that the plaintiff in the underlying action would no longer agree to settle on terms
8 previously discussed and, instead, would be amending the complaint in the
9 underlying action;

10 WHEREAS, in light of the change in circumstances regarding the
11 underlying action, Indian Harbor and CFC agree that CMC in the instant coverage
12 action should be continued because the claims in the underlying action will now
13 likely be changing in a manner that may significantly affect the instant insurance
14 coverage litigation;

15 NOW, THEREFORE, Indian Harbor and CFC, by and through their counsel
16 of record, hereby agree and stipulate that the CMC scheduled in this case for
17 October 28, 2008 should be continued at least 30 days so that the parties can
18 determine whether the anticipated changes in the underlying action will materially
19 affect the instant insurance coverage litigation.

20 IT IS SO STIPULATED.

21 Dated: October 10, 2008

GORDON & REES LLP

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24 By: 
25 PETER SCHWARTZ
26 CHRISTOPHER WAGNER
27 Attorneys for Plaintiff
28 INDIAN HARBOR INSURANCE
COMPANY

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Dated: October 10, 2008


DON E. LANSON
Attorneys for CFC MORTGAGE
BROKERS

GOOD CAUSE APPEARING, the CMC presently scheduled for October 28, 2008 is continued to December 9, 2008 at 2 P.M. in Courtroom 5.

DATED: October 14, 2008


MAGISTRATE JUDGE PATRICIA V.
TRUMBULL

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