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4/26/2010

10 Attorneys for Defendant
Gordon Trucking, Inc.

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA
 13 SAN JOSE DIVISION

14 COLUMBIA CASUALTY COMPANY,
 an Illinois corporation,
 15
 Plaintiff,
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 v.
 17 GORDON TRUCKING, INC., a
 Washington corporation, and DOES 1
 18 through 10,
 19 Defendants.

Case No.: CV-09-05441-JW

**STIPULATION AND [PROPOSED]
 ORDER TO SHORTEN TIME ON
 DEFENDANT AND
 COUNTERCLAIMANT GORDON
 TRUCKING, INC.'S NOTICE OF MOTION
 AND MOTION FOR AN ORDER
 DISMISSING ITS CLAIMS AGAINST
 AMERICAN INTERNATIONAL
 SPECIALTY LINES INSURANCE
 COMPANY PURSUANT TO FEDERAL
 RULE OF CIVIL PROCEDURE 41(a)(2)**

21 GORDON TRUCKING, INC., a
 Washington corporation,
 22
 Counterclaimant,
 23
 v.
 24 COLUMBIA CASUALTY COMPANY,
 25 an Illinois corporation; AMERICAN
 INTERNATIONAL SPECIALTY LINES
 26 INSURANCE COMPANY, an Alaska
 corporation; GREAT WEST CASUALTY
 27 COMPANY, a Nebraska corporation; and
 DOES 1 through 10,
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Counterdefendants.

WHEREAS, on November 10, 2009, Columbia Casualty Company (“COLUMBIA”) sued its insured Gordon Trucking, Inc. (“GORDON TRUCKING”) in California state court for declaratory relief, seeking a declaration that it is not responsible for paying any amount as a result of a jury verdict and settlement in an underlying litigation *Bianchi v. Salazar Equipment Company, Inc., et al.* Civil Case No. 1-08-CV-104548, filed in the Superior Court of California, County of Santa Clara.

WHEREAS, on November 17, 2009, GORDON TRUCKING removed this action from California state court to this Court (DKT #1).

WHEREAS, on December 22, 2009, GORDON TRUCKING filed Defendant and Counterclaimant Gordon Trucking, Inc.’s First Amended Answer to Columbia Casualty Company’s Complaint, Affirmative Defenses and Counterclaims (DKT #9), alleging claims against COLUMBIA, Great West Casualty Company (“GREAT WEST”)¹, and American International Specialty Lines Insurance Company (“AISLIC”).

WHEREAS, GORDON TRUCKING represents that it and AISLIC have reached a settlement whereby GORDON TRUCKING has agreed to dismiss its claims against AISLIC with prejudice and without costs to either party.

WHEREAS, COLUMBIA declined to stipulate to GORDON TRUCKING's request pursuant to FRCP 41(a)(1) for a voluntary dismissal of GORDON TRUCKING's claims against AISLIC.

WHEREAS, GORDON TRUCKING represents that concurrently with this Stipulation, it will be filing Defendant and Counterclaimant Gordon Trucking, Inc.’s Notice of Motion and Motion For an Order Dismissing its Claims Against American International Specialty Lines Insurance Company Pursuant to Federal Rule of Civil Procedure 41(A)(2) (“Motion”), requesting

¹ GREAT WEST is no longer a party to the action, as all claims brought by and against Great West have been dismissed. DKT #34

1 that the Court enter an order dismissing GORDON TRUCKING's claims against AISLIC with
2 prejudice and without costs to either party, per the parties' settlement agreement.

3 WHEREAS, COLUMBIA has indicated that it will oppose GORDON TRUCKING's
4 Motion.

5 WHEREAS, pursuant to Local Rule 6-2(a), GORDON TRUCKING and COLUMBIA
6 nevertheless stipulate and request that the Court rule on GORDON TRUCKING's Motion
7 without a hearing pursuant to the following shortened briefing schedule: (1) Any Opposition to
8 the Motion is due 14 days after the Court enters an order shortening time on the Motion; (2)
9 Gordon Trucking's Reply is due 21 days after the Court enters said order shortening time; (3)
10 Thereafter, the matter is deemed submitted by the Court for a ruling with no hearing

11 **IT IS SO STIPULATED.**

12
13 DATED: April 20, 2010

PERKINS COIE LLP

14
15 By: /s/ Brian Hennessy
16 Brian Hennessy (SBN 226721)
17 BHennessy@perkinscoie.com

18 Attorneys for Defendant and Counterclaimant
19 Gordon Trucking, Inc.

20 DATED: April 20, 2010

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21 By: /s/ Frank Kaplan
22 Frank Kaplan (SBN 50859)
23 Frank.kaplan@bingham.com

24 Attorneys for Counterdefendant and
25 Crossclaimant American International
26 Specialty Lines Insurance Company
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DATED: April 20, 2010

**ADORNO YOSS ALVARADO & SMITH
LLP**

By: /s/ Patrick Cathcart
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Attorneys for Plaintiff, Counterdefendant and
Crossdefendant COLUMBIA CASUALTY
COMPANY

I, Brian Hennessy, hereby attest, pursuant to N.D. Cal. General Order No. 45, that the
concurrence to the filing of this document has been obtained from each signatory hereto.

DATED: April 20, 2010

PERKINS COIE LLP

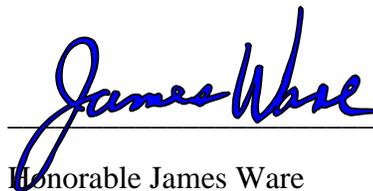
By: /s/ Brian Hennessy
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Attorneys for Defendant and Cross-
Complainant Gordon Trucking, Inc.

PURSUANT TO STIPULATION, IT IS ORDERED AS FOLLOWS:

In light of the Court's highly impacted calendar, the stipulation to shorten time for hearing on
Defendant's Motion is DENIED. The hearing remains as previously set for September 27, 2010
at 9:00 AM. Briefing shall occur in accordance with the local rules.

Dated: April 26, 2010



Honorable James Ware