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6 Attorneys for Plaintiffs and Counter-Defendants
 7 KAUFMAN & BROAD MONTEREY BAY, a
 California corporation; and KB HOME SOUTH
 8 BAY, INC., a California corporation

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10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

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13 KAUFMAN & BROAD MONTEREY
 BAY, a California corporation; KB HOME
 14 SOUTH BAY, INC., a California
 corporation,

15 Plaintiffs,

16 vs.

17 TRAVELERS PROPERTY CASUALTY
 COMPANY OF AMERICA; and DOES 1
 18 through 100, inclusive,

19 Defendants.

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21 TRAVELERS PROPERTY CASUALTY
 COMPANY OF AMERICA; and DOES 1
 22 through 100, inclusive,

23 Counter-Claimant,

24 vs.

25 KAUFMAN & BROAD MONTEREY
 BAY, a California corporation; KB HOME
 26 SOUTH BAY, INC., a California
 corporation,

27 Counter-Defendants.

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CASE NO.: 5:10-cv-02856-EJD
 JUDGE: Edward J. Davila
 COURTROOM: 4
 MAGISTRATE JUDGE: Howard R. Lloyd

**STIPULATION AND ~~PROPOSED~~ ORDER
 CONTINUING TRIAL DATE, PRE-TRIAL
 DATES, AND ALL HEARINGS PENDING
 FURTHER MANDATORY SETTLEMENT
 CONFERENCE**

[Civil L.R. 7-1(a)(5), 7-12, and 40-1]

State Court Action Filed: May 27, 2010
 Removed to USDC Northern Dist.: June 28, 2010

Trial Date: February 26, 2013
 Final Pretrial Conference: January 18, 2013

NEWMEYER & DILLION LLP

1 Plaintiffs and Counter-Defendants Kaufman & Broad Monterey Bay and KB Home South
2 Bay, Inc. (collectively “KB Home”) and Defendant and Counterclaimant Travelers Property
3 Casualty Company of America (“Travelers”), by their respective undersigned attorneys, hereby
4 stipulate and agree to the following:

5 WHEREAS, on September 5, 2012, the parties attended an all-day Mandatory Settlement
6 Conference before Magistrate Judge Paul S. Grewal where the parties made significant progress
7 toward settlement;

8 WHEREAS, the parties initially scheduled a further Mandatory Settlement Conference
9 with Magistrate Judge Grewal on October 24, 2012, but Magistrate Judge Grewal required that
10 the Mandatory Settlement Conference be continued until November 21, 2012 or later;

11 WHEREAS, Travelers is not available on November 21, 2012, and Judge Grewal has
12 offered alternate dates of December 17 or December 19, 2012;

13 WHEREAS, the parties are working diligently to schedule a further Mandatory Settlement
14 Conference and will proceed to attempt to settle this matter at the further Mandatory Settlement
15 conference if the Court is amenable to a brief continuance of approximately ninety (90) days of
16 the trial, related pre-trial dates, and pending hearing dates;

17 WHEREAS, the parties request the continuances to: (1) avoid incurring unnecessary fees
18 and costs and Court time on motion work and trial preparation in advance of a potential
19 settlement; and (2) to avoid undertaking activities that might alter the status quo and thereby
20 undermine settlement negotiations;

21 WHEREAS, the Court issued the Pretrial Order (Docket No. 237) setting the trial date and
22 other pretrial dates;

23 WHEREAS, on June 1, 2012, Travelers filed the following four motions for partial
24 summary judgment re: (1) Reasonableness of Travelers’ Coverage Determination in Light of KB
25 Home’s Position Taken in the SB800 Proceedings; (2) Armstrong Election; (3) KB Home’s
26 Eighth, Ninth, Fourteenth, and Nineteenth Affirmative Defenses; and (4) Brandt Fees
27 (collectively “Partial Summary Judgment Motions”) (Docket Nos. 169, 174, 178, and 182,
28 respectively);

1 WHEREAS, the hearing on the Partial Summary Judgment Motions is scheduled for
2 October 26, 2012;

3 WHEREAS, on July 23, 2012, KB Home filed its Motion for Leave to File Supplemental
4 Expert Report of Charles M. Miller (“Miller Motion”) (Docket No. 221);

5 WHEREAS, the Miller Motion is fully briefed and the hearing is scheduled for October
6 26, 2012;

7 WHEREAS, the parties respectfully request that all dates set forth in the Pretrial Order,
8 including the trial date, be continued approximately ninety (90) days to allow the parties
9 additional time to pursue settlement during the further Mandatory Settlement Conference;

10 WHEREAS, the parties respectfully request that the hearing date on the Partial Summary
11 Judgment Motions and the hearing date on the Miller Motion be continued approximately ninety
12 (90) days to allow the parties additional time to pursue settlement during the further Mandatory
13 Settlement Conference;

14 WHEREAS, the parties respectfully request that any dates not specifically continued
15 herein be governed by pretrial deadlines set forth in the Federal Rules of Civil Procedure and the
16 Northern District Local Rules, and calculated from any newly set trial date and final pretrial
17 conference date, where applicable;

18 NOW THEREFORE, in consideration of the foregoing and the promises exchanged
19 herein, the parties agree and stipulate as follows, upon approval of the Court:

20 1. The hearing on Travelers’ Partial Summary Judgment Motions shall be continued
21 approximately ninety (90) days or to the Court’s next available hearing date thereafter;

22 2. The hearing on KB Home’s Miller Motion shall be continued approximately
23 ninety (90) days or to the Court’s next available hearing date thereafter;

24 3. The dates set forth in the Court’s Pretrial Order, including the trial date, shall be
25 continued approximately ninety (90) days or to the Court’s next available dates thereafter;

26 4. Any dates not specifically continued herein shall be governed by pretrial deadlines
27 set forth in the Federal Rules of Civil Procedure and the Northern District Local Rules, and
28 calculated from the newly set trial date and final pretrial conference date, where applicable; and

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5. This Stipulation may be executed in counterparts, by facsimile signature, each of which shall together be construed as a single original document, and which may be used in lieu of the original for all purposes.

IT IS SO STIPULATED.

Dated: October 17, 2012

BOHM, MATSEN, KEGEL & AGUILERA
LLP

By: /s/ A. Eric Aguilera
A. Eric Aguilera
Attorneys for Defendant/Counterclaimant
TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA

Dated: October 17, 2012

LEATHER & ASSOCIATES, PLLC

By: /s/ Thomas Lether
Thomas Lether, *Pro Hac Vice*
Attorneys for Defendant/Counterclaimant
TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA

Dated: October 17, 2012

NEWMAYER & DILLION LLP

By: /s/ C. Kendie Schlecht
C. Kendie Schlecht
Attorneys for Plaintiffs and Counter-
Defendants KAUFMAN & BROAD
MONTEREY BAY, a California
corporation; and KB HOME SOUTH BAY,

ORDER

The stipulation is GRANTED as follows:

1. The motion hearings on Docket Item Nos. 169, 174, 178 and 182 and 221 are CONTINUED from October 26, 2012, to **January 11, 2013, at 9:00 a.m.**
2. The Final Pretrial Conference is CONTINUED from January 18, 2013, to **February 22, 2013, at 11:00 a.m.** All other pretrial deadlines are adjusted accordingly pursuant to this court's standing order re: pretrial preparation.
3. The trial dates shall remain as currently set.

DATED: October 19, 2012


EDWARD J. DAVILA
United States District Judge