

LEPISCOPO & ASSOCIATES LAW FIRM

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 10 INTERNATIONAL FIDELITY INSURANCE COMPANY

11 **UNITED STATES DISTRICT COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

13 **UNITED STATES OF AMERICA** for the
 14 Use and Benefit of **PENN AIR CONTROL,**
 15 **INC.,**

16 Plaintiff,

17 v.

18 **BILBRO CONSTRUCTION COMPANY,**
 19 **INC. and INTERNATIONAL FIDELITY**
 20 **INSURANCE COMPANY,**

21 Defendants.

22 Case No. **15-CV-03327-NC**

23 **STIPULATION RE: WITHDRAWAL OF**
 24 **MOTION TO DISMISS AND CONTINUE**
 25 **CASE MANAGEMENT CONFERENCE;**
 26 **ORDER THEREON**

27 **COURTROOM: 7**
 28 **JUDGE: HON. NATHANAEL COUSINS**
TRIAL DATE: None Set

THE PARTIES HEREBY STIPULATE, by and through their undersigned counsel of record, pursuant to Federal Rules of Civil Procedure (“FRCP”), Rules 12 & 26 as follows:

1. Defendants, Bilbro Construction Company, Inc. and International Fidelity Insurance Company (collectively “Defendants”) hereby withdraw their motion to dismiss presently scheduled to be heard by the court on October 28, 2015, and will contact the court’s calendar clerk to take said motion off-calendar;

**STIPULATION RE: WITHDRAWAL OF MOTION TO DISMISS AND CONTINUE CASE
 MANAGEMENT CONFERENCE; ORDER THEREON**

2. Pursuant to FRCP 12(a)(1)(A), on or before October 19, 2015, Defendants shall file and serve their answer to the complaint filed by plaintiff Penn Air Control, Inc. ("Plaintiff") and shall file counterclaims against Plaintiff and/or any other person or entity not yet a party to this action;

3. Pursuant to FRCP 26(d)(1) any party may commence discovery ten (10) days after Defendants file their answer to Plaintiff's complaint;

4. The parties stipulate that the Case Management Conference ("CMC") presently scheduled for October 21, 2015, be continued: December 9, 2015, at 10:00 a.m. in Courtroom 7;

5. The parties stipulate that compliance with all time limits imposed by FRCP 26(a)-(g) are extended relative to and triggered by the continued CMC date, December 9, 2015.

Dated: October 8, 2015.

LEPISCOPO & ASSOCIATES LAW FIRM

By: [Signature]
Peter D. Lepiscopo, Esq.,

Attorneys for Defendants, BILBRO CONSTRUCTION COMPANY, INC. and INTERNATIONAL FIDELITY INSURANCE COMPANY

Dated: October 8, 2015.

THEODORE A. ANDERSON LAW CORPORATION

By: [Signature]
Theodore A. Anderson, Esq.,

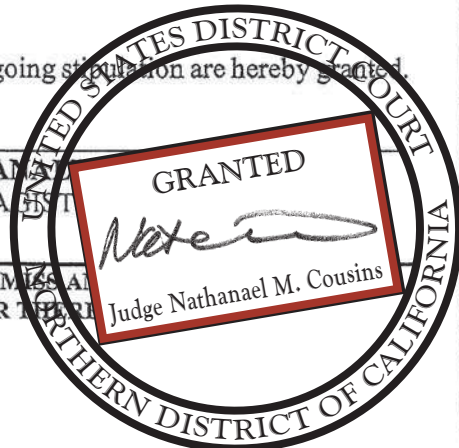
Attorneys for Plaintiff, PENN AIR CONTROL, INC.

ORDER

IT IS HEREBY ORDERED that the terms of the foregoing stipulation are hereby granted.

Date: October 8, 2015

NATHANAEL M. COUSINS
U.S. MAGISTRATE JUDGE



STIPULATION RE: WITHDRAWAL OF MOTION TO DISMISS AND
MANAGEMENT CONFERENCE; ORDER TO REOPEN