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 LIBERTY MUTUAL INSURANCE COMPANY

10
 11 **UNITED STATES DISTRICT COURT**
 12 **DISTRICT OF NEVADA**

13
 14 SCOTTSDALE INSURANCE COMPANY
 Plaintiff/Counter-Defendant,
 15 v.
 16 LIBERTY MUTUAL INSURANCE
 COMPANY,
 17 Defendant/Counter-Plaintiff.

CASE NO. 2:12-cv-01328-GMN-CWH

**STIPULATED MOTION TO DISMISS WITH
 PREJUDICE ALL REMAINING CLAIMS
 AND COUNTERCLAIMS IN THIS CASE,
 INCLUDING CLAIMS FOR COSTS AND
 ATTORNEYS FEES, AND STIPULATION
 TO WAIVE ANY APPEAL OF THIS
 COURT’S SEPTEMBER 3, 2015 ORDER
 AND FINAL JUDGMENT**

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 22 Plaintiff, Scottsdale Insurance Company (“Scottsdale”) and Defendant Liberty Mutual
 23 Insurance Company (“Liberty Mutual”), by and through their counsel, stipulate and move as
 24 follows:

25 1. In light of the Court’s September 3, 2015 Order and Final Judgment, Defendant
 26 Liberty Mutual could file a motion seeking the award of its costs and attorney’s fees based on an
 27 offer of judgment that it served on Scottsdale on December 18, 2013.

1 2. Plaintiff Scottsdale could pursue an appeal to the U.S. Court of Appeals for the Ninth
2 Circuit of the Court's September 3, 2015 Order and Final Judgment.

3 3. To avoid the cost and uncertainty of further litigation on those issues, Liberty Mutual
4 has agreed to waive any claim against Scottsdale for costs or attorney's fees, in exchange for
5 Scottsdale waiving its right to appeal the Order and Final Judgment.

6 4. Therefore the parties hereby stipulate and move that the Court enter an order
7 dismissing with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims and counterclaims in
8 this action, including any claims for costs and attorney's fees, with each party to bear its own costs
9 and attorney's fees.

10 5. In addition, the parties stipulate that Scottsdale will waive its right to appeal any of
11 the Court's orders in this case including the September 3, 2015 Order and Final Judgment.

12
13 WHEREFORE, Plaintiff and Defendant respectfully request that the Court grant this
14 stipulated motion and dismiss with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims and
15 counterclaims in this action, including any claims for costs and attorney's fees, with each party to
16 bear its own costs and attorney's fees, in recognition of Scottsdale's agreement to waive any appeal
17 in this case.

18 Dated: September 14, 2015.

19 Respectfully submitted,

20 KOELLER, NEBEKER, CARLSON & HALUCK,
21 LLP

22 */s/ Ian P. Gillan*

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1 CHRISTIAN, KRAVITZ, DICHTER,
2 JOHNSON & SLUGA, LLC

3 /s/ Martin J. Kravitz

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5 Tyler Watson, Esq.
6 8985 S. Eastern Avenue, Suite 200
7 Las Vegas, Nevada 89123
8 *Attorneys for Plaintiff*

9 Based on the parties' Stipulated Motion set forth above:

- 10 1. The Court hereby grants that Stipulated Motion.
- 11 2. The Court hereby dismisses with prejudice under Fed. R. Civ. P. 41(a)(2) all remaining claims
12 and counterclaims in this action, including any claims for costs and attorney's fees, with each party to
13 bear its own costs and attorney's fees, in recognition of Scottsdale's agreement to waive any appeal
14 in this case.
- 15 3. This case is now terminated.

16 **IT IS SO ORDERED.**

17 **November 4th, 2015**

18 ~~Dated: September __, 2015.~~

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Gloria M. Navarro, Chief Judge
21 United States District Judge

1 **CERTIFICATE OF MAILING**

2 The undersigned hereby certifies that on the 14th day of September, 2015, I served a copy of
3 the foregoing STIPULATED MOTION TO DISMISS WITH PREJUDICE ALL REMAINING
4 CLAIMS AND COUNTERCLAIMS IN THIS CASE, INCLUDING CLAIMS FOR COSTS AND
5 ATTORNEYS FEES, AND STIPULATION TO WAIVE ANY APPEAL OF THIS COURT'S
6 SEPTEMBER 3, 2015 ORDER AND FINAL JUDGMENT on counsel listed below through the
7 Court's ECF system:

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17 *Attorneys for Plaintiff, Scottsdale Insurance Company*

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s/ Gregory J. Kerwin
of Gibson, Dunn & Crutcher LLP