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8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA**

10 ERGON ASPHALT & EMULSIONS, INC., a) Case No.: 2:13-CV-01683-GMN-NJK
 11 Mississippi corporation,)

12 Plaintiff,)

13 vs.)

14 CAPRIATI CONSTRUCTION CORP. INC., a)
 Rhode Island corporation; ZURICH)
 15 AMERICAN INSURANCE COMPANY, a)
 New York corporation; and FIDELITY AND)
 16 DEPOSIT COMPANY OF MARYLAND a)
 Maryland corporation,)

17 Defendants.)

18 _____)
 19 AND RELATED MATTERS.)

**STIPULATION AND
 [PROPOSED] ORDER TO
 DISMISS CASE**

20 Plaintiff Ergon Asphalt & Emulsions, Inc. (“Ergon”), by and through its counsel of record,
 21 Lewis Roca Rothgerber Christie LLP and Defendants Capriati Construction Corp., Inc., by and
 22 through its counsel of record Carbajal & McNutt, LLP; and Defendants, Zurich American Insurance
 23 Company and Fidelity and Deposit Company of Maryland, by and through their counsel of record,
 24 The Faux Law Group (collectively “Defendants”), hereby stipulate as follows:

25 Whereas this Court previously entered a final judgment for Ergon (ECF No. 66); and

26 Whereas the only matter remaining for this Court to determine is Ergon’s motion for attorney
 27 fees (ECF No. 68); and
 28

1 Whereas the parties have entered into a separate settlement agreement resolving Ergon’s
2 motion for attorney fees (ECF No. 68) and the parties’ notices of appeal (see ECF Nos. 71 and 76),

3 Now therefore, the parties stipulate to withdraw Ergon’s motion for attorney fees (ECF No.
4 68) and papers related to that motion, namely the Defendants’ opposition (ECF No. 75) and Ergon’s
5 reply (ECF No. 78), and the parties stipulate to dismiss this action with prejudice. Each party will
6 bear its own attorney fees and costs in accordance with the terms of the Settlement Agreement
7 entered into between the parties on April 12, 2016.

8 Dated August 16, 2016

Dated August 16, 2016

9 CARBAJAL & MCNUTT, LLP

LEWIS ROCA ROTHGERBER CHRISTIE LLP

10
11 /s/Matthew C. Wolf

/s/John E. Bragonje

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20 Attorneys for Defendants / Counter-

21 Claimant

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Dated August 16, 2016

THE FAUX LAW GROUP

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Fidelity and Deposit Company of Maryland

ORDER

Good cause appearing, IT IS SO ORDERED.



DISTRICT COURT JUDGE

DATED this 17 day of August, 2016.