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9 TWAIN HARTE COMMUNITY SERVICES DISTRICT
10 **PUBLIC ENTITY-FILING FEE WAIVED**

11 UNITED STATES DISTRICT COURT

12 EASTERN DISTRICT OF CALIFORNIA

13 YVONNE HILTON ,) **Case No. 1:12-cv-01360-LJO-SMS**
14)
15 Plaintiff,) **STIPULATION AND ORDER FOR**
16) **DISMISSAL OF PUNITIVE DAMAGES**
17 vs.) **ALLEGATIONS**
18)
19 TWAIN HARTE COMMUNITY)
20 SERVICES DISTRICT, and DOES ONE)
21 THROUGH TWENTY, Inclusive,)
22)
23 Defendants,)
24)
25)
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27)
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29 IT IS HEREBY STIPULATED by Plaintiff, YVONNE HILTON, by and through her
30 attorneys, and Defendant, TWAIN HARTE COMMUNITY SERVICES DISTRICT, by and
31 through its attorneys, that Plaintiff shall be allowed to dismiss and strike from the Complaint the
32 following allegations regarding punitive damages:

33 1. **First Cause of Action**, paragraph 41, page 8, lines 12 through 14: entire paragraph
34 which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action
35 under the FEHA. Plaintiff requests an award of punitive damages as a result of the acts of
36 Defendants as set forth below.
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1 2. **Second Cause of Action**, paragraph 53, page 10, lines 5 through 7: entire paragraph
2 which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action
3 under Title VII. Plaintiff requests and award of punitive damages as a result of the acts of
4 Defendants as set forth below.”

6 3. **Third Cause of Action**, paragraph 61, page 11, lines 14 through 16: entire paragraph
7 which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action
8 under the FEHA. Plaintiff requests an award of punitive damages as a result of the acts of
9 Defendants as set forth below. “

11 4. **Paragraphs 63 and 64**, page 11, line 22 through page 12, line 16: “CLAIM FOR
12 PUNITIVE DAMAGES ¶ Plaintiff incorporates by reference Paragraphs 1 through 62 inclusive,
13 as though set forth here in full, and as a claim for Punitive damages against all Defendants
14 further alleges: ¶ The acts taken toward Plaintiff were despicable and carried out by managerial
15 employees acting in a deliberate, cold, callous, fraudulent, and intentional manner in order to
16 injure and damage Plaintiff. Plaintiff therefore requests the assessment of Punitive damages
17 against Defendants, and each of them, in an amount according to proof. Defendants’ conduct was
18 malicious in that Defendants, and each of them, intentionally discriminated against Plaintiff with
19 full knowledge that Defendants, and each of them, were violating Plaintiff’s rights and that she
20 would suffer actual personal injuries. Defendants’ conduct was oppressive because Defendants,
21 and each of them, knew or should have known that Plaintiff was and is entirely dependent on her
22 employment and wages to support herself and her family, and the unfair, discriminatory, and
23 unlawful treatment would create a cruel and unjust hardship for Plaintiff. Defendants’ conduct
24 was fraudulent in that it seeks to offer false pretexts for the wrongful and unlawful tortious
25 conduct of Defendants, and each of them. Defendants knew of United States and California law
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1 governing discrimination, harassment, and retaliation for complaining about discrimination and
2 harassment, and then did nothing while Plaintiff endured discrimination from her supervisors and
3 co-workers of Defendant. Defendant Employer finally terminated Plaintiff for a discriminatory
4 and retaliatory purpose. Defendants, and each of them, had actual knowledge of their conduct as
5 well as the outrageous nature of the conduct of Defendant's managerial employees. Further,
6 Defendant authorized its managerial employees' wrongful acts. Defendant Employer's callous
7 disregard for Plaintiff's life, safety, and interests entitles Plaintiff to an award of Punitive and
8 exemplary damages, according to proof at trial."
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11 **5. Prayer at number 7**, page 13, line 7 which states: "Punitive damages in the sum
12 according to proof."

13 IT IS FURTHER STIPULATED by the parties that upon execution of the order filed
14 herewith, the Court will dismiss without prejudice Defendant's Motion to Strike Plaintiff's
15 Complaint (currently scheduled for November 1, 2012 at 8:30 a.m. in Department 4) because it is
16 moot.
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18 IT IS SO STIPULATED.

19 Dated: October 1, 2012

EVANS, WIECKOWSKI & WARD, LLP

20 /s/ James K. Ward

21
22 JAMES K. WARD
23 DANIEL JAY
24 Attorneys for Defendant TWAIN HARTE
COMMUNITY SERVICES DISTRICT

25 Dated: October __, 2012

LAW OFFICES OF RAND L. STEPHENS

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28 RAND L. STEPHENS
Attorneys for Plaintiff YVONNE HILTON

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2 Dated: October __, 2012

LAW OFFICES OF RICHARD N. KOSS

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RICHARD N. KOSS
Attorney for Plaintiff YVONNE HILTON

[PROPOSED] ORDER

Based upon the stipulation of the parties and good cause appearing, the Court orders that the following allegations are stricken from the Complaint:

1. **First Cause of Action**, paragraph 41, page 8, lines 12 through 14: entire paragraph which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action under the FEHA. Plaintiff requests an award of punitive damages as a result of the acts of Defendants as set forth below.

2. **Second Cause of Action**, paragraph 53, page 10, lines 5 through 7: entire paragraph which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action under Title VII. Plaintiff requests and award of punitive damages as a result of the acts of Defendants as set forth below.”

3. **Third Cause of Action**, paragraph 61, page 11, lines 14 through 16: entire paragraph which states, “Plaintiff alleges that punitive damages are available to a plaintiff in a civil action under the FEHA. Plaintiff requests an award of punitive damages as a result of the acts of Defendants as set forth below. “

4. **Paragraphs 63 and 64**, page 11, line 22 through page 12, line 16: “CLAIM FOR PUNITIVE DAMAGES ¶ Plaintiff incorporates by reference Paragraphs 1 through 62 inclusive, as though set forth here in full, and as a claim for Punitive damages against all Defendants further alleges: ¶ The acts taken toward Plaintiff were despicable and carried out by managerial

1 employees acting in a deliberate, cold, callous, fraudulent, and intentional manner in order to
2 injure and damage Plaintiff. Plaintiff therefore requests the assessment of Punitive damages
3 against Defendants, and each of them, in an amount according to proof. Defendants' conduct was
4 malicious in that Defendants, and each of them, intentionally discriminated against Plaintiff with
5 full knowledge that Defendants, and each of them, were violating Plaintiff's rights and that she
6 would suffer actual personal injuries. Defendants' conduct was oppressive because Defendants,
7 and each of them, knew or should have known that Plaintiff was and is entirely dependent on her
8 employment and wages to support herself and her family, and the unfair, discriminatory, and
9 unlawful treatment would create a cruel and unjust hardship for Plaintiff. Defendants' conduct
10 was fraudulent in that it seeks to offer false pretexts for the wrongful and unlawful tortious
11 conduct of Defendants, and each of them. Defendants knew of United States and California law
12 governing discrimination, harassment, and retaliation for complaining about discrimination and
13 harassment, and then did nothing while Plaintiff endured discrimination from her supervisors and
14 co-workers of Defendant. Defendant Employer finally terminated Plaintiff for a discriminatory
15 and retaliatory purpose. Defendants, and each of them, had actual knowledge of their conduct as
16 well as the outrageous nature of the conduct of Defendant's managerial employees. Further,
17 Defendant authorized its managerial employees' wrongful acts. Defendant Employer's callous
18 disregard for Plaintiff's life, safety, and interests entitles Plaintiff to an award of Punitive and
19 exemplary damages, according to proof at trial."
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24 **5. Prayer at number 7**, page 13, line 7 which states: "Punitive damages in the sum
25 according to proof."
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1 It is further ordered that the Defendant's Motion to Strike Plaintiff's Complaint set for
2 November 1, 2012 at 8:30 a.m. in Department 4 is VACATED given that this order renders
3 Defendant's motion moot.
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6 IT IS SO ORDERED.

7 Dated: October 12, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE