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9 Attorneys for Defendant
 10 TIM BIRMINGHAM

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IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 SUSI MCFARLAND,

12 Plaintiff,

13 v.

14 ALMOND BOARD OF CALIFORNIA; TIM
 15 BIRMINGHAM, an individual, and DOES 1-
 100, inclusive,

16 Defendants.

CASE NO. 2:12-cv-02778-JAM-CKD

**STIPULATION OF DISMISSAL WITH
 PREJUDICE AND ORDER
 [FRCP 41(a)(1)(A)(ii)]**

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 18 Plaintiff SUSI McFARLAND and Defendant TIM BIRMINGHAM, by and through their
 19 respective attorneys of record herein, hereby stipulate as follows:

20 1. Plaintiff has agreed to dismiss, with prejudice, the following causes of action
 21 against Defendant TIM BIRMINGHAM ONLY:

- 22 • Plaintiff’s Third Cause of Action - Age discrimination/hostile work environment;
- 23 • Plaintiff’s Fourth Cause of Action – Failure to prevent discrimination;
- 24 • Plaintiff’s Fifth Cause of Action – Constructive termination in violation of public
 25 policy.

26 2. The parties agree that the sole remaining causes of action against Defendant
 27 BIRMINGHAM are Plaintiff’s First Cause of Action for sex harassment/discrimination in
 28 violation of Title VII of the Civil Rights Act; and Plaintiff’s Second Cause of action for sex

1 harassment/discrimination in violation of FEHA;

2 3. Each party agrees to bear their own attorneys' fees and costs associated with the
3 causes of action dismissed; and

4 4. Accordingly, the parties jointly request the Court to dismiss Plaintiff's Third,
5 Fourth and Fifth Causes of Action as asserted against Defendant BIRMINGHAM only.

6 DATED: October 15, 2014

LEVANGIE LAW GROUP

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8 By: /s/ Sharon B. Futerman
9 MICHAEL J. LEVANGIE
10 SHARON B. FUTERMAN
11 Attorneys for Defendant
12 TIM BIRMINGHAM

13 DATED: October 15, 2014

SHIMODA LAW CORP

14 By: /s/ Galen T. Shimoda
15 GALEN T. SHIMODA
16 JENNET F. ZAPATA
17 9401 East Stockton Blvd., Ste. 200
18 Elk Grove, CA 95624
19 Phone: (916) 525-0716
20 Fax: (916) 760-3733
21 Attorneys for Plaintiff

22 **ORDER OF DISMISSAL WITH PREJUDICE**

23 Having considered the parties Stipulation of Dismissal as to plaintiff's Third, Fourth and
24 Fifth Causes of Action against Defendant TIM BIRMINGHAM and for good cause appearing, it
25 is hereby ORDERED:

26 Plaintiff's Third, Fourth and Fifth Causes of Action asserted against Defendant TIM
27 BIRMINGHAM **only** are dismissed with prejudice as to Defendant BIRMINGHAM with each
28 party to bear their own attorney's fees and costs as to the Third, Fourth and Fifth Causes of
Action.

DATED: October 16, 2014

/s/ John A. Mendez
JOHN A. MENDEZ

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