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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SUSI MCFARLAND, Plaintiff, vs. ALMOND BOARD OF CALIFORNIA; TIM BIRMINGHAM, an individual; and DOES 1-100, inclusive, Defendants.	**Case No. 2:12-CV-02778-JAM-CKD** **ORDER RE DEFENDANTS ABC AND TIM BIRMINGHAM'S MOTIONS FOR SUMMARY JUDGMENT**

Pursuant to the hearing and proceedings held before Judge John A. Mendez on December 17, 2014 wherein the Court heard Defendant Almond Board of California's (Defendant ABC) motion for summary judgment [Doc. # 65] and Defendant Tim Birmingham's (Defendant Birmingham) motion for summary judgment [Doc. # 64], the Court ruled as follows:

The Court GRANTED Defendant ABC's motion for summary judgment with regard to Plaintiff's third cause of action for age discrimination.

The Court DENIED Defendant ABC's motion for summary judgment with regard to Plaintiff's first and second causes of action for sexual harassment and discrimination in violation of Title VII and FEHA, as well as Plaintiff's fourth cause of action for failure to prevent discrimination, Plaintiff's fifth cause of action for constructive termination, and Plaintiff's claim for punitive damages.

The Court DENIED Defendant Birmingham's motion for summary judgment with regard to Plaintiff's first cause of action for sexual harassment in violation of FEHA.

The Court GRANTED Defendant Birmingham's motion for summary judgment with regard to Plaintiff's claim for sexual harassment in violation of Title VII, in light of *Miller v. Maxwells Int'l Inc.*, 991 F.2d 584, 587 (9th Cir. 1993).

The Court GRANTED Defendant Birmingham's motion for summary judgment with regard to Plaintiff's claims for sexual discrimination in violation of Title VII and FEHA.

IT IS SO ORDERED.

Dated: 12-30-2014

John A. Mendez
U.S. DISTRICT COURT JUDGE