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18 Attorneys for Defendant,
 19 TOTAL VEIN SOLUTIONS, LLC

20 **UNITED STATES DISTRICT COURT**
 21 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
 22 **SAN FRANCISCO DIVISION**

23 TYCO HEALTHCARE GROUP LP d/b/a
 24 VNUS MEDICAL TECHNOLOGIES,
 25 Plaintiff/Counter-defendants,

26 v.

27 TOTAL VEIN SOLUTIONS, LLC, d/b/a
 28 TOTAL VEIN SYSTEMS,
 Defendants/Counter-Plaintiffs.

Case No. C08-3129-MMC
 (Consolidated Case No. C08-04234
 MMC)

ORDER GRANTING

JOINT STIPULATED MOTION AND
~~**PROPOSED ORDER BY VNUS AND**~~
~~**TVS FOR DISMISSAL OF TVS AND**~~
~~**PARTIAL VACATUR OF VERDICT**~~
 Judge: The Hon. Maxine M. Chesney

29 WHEREAS, Plaintiff Tyco Healthcare Group LP d/b/a VNUS Medical Technologies
 30 (“VNUS”) and Defendant Total Vein Solutions, LLC (“TVS”) have entered into a Settlement
 31 Agreement resolving, *inter alia*, all claims asserted by VNUS against TVS and all
 32 counterclaims asserted by TVS against VNUS in the above-captioned action; and

33 WHEREAS the Settlement Agreement expressly contemplates the dismissal and
 34 vacatur provided for herein, so that dismissal and vacatur will resolve all pending litigation
 35 between VNUS and TVS, including those matters contained in the Settlement Agreement.

36 NOW THEREFORE, VNUS and TVS hereby jointly stipulate and respectfully move
 37 the Court for a confirmatory order as follows:

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- 1) The portions of the December 8, 2010 verdict (D.I. 441) corresponding specifically to TVS (i.e., questions 4, 5, 6, 9a & 9b) are hereby VACATED pursuant to Fed. R. Civ. P. 60(b). *See Thomas v. City of Tacoma*, 410 F.3d 644, 647 n.2 (9th Cir. 2005); *Click Entm't, Inc. v. JYP Entm't Co.*, 2009 WL 3030212, at *1 (D. Haw. 2009);
- 2) TVS is dismissed with prejudice from this action pursuant to Federal Rule of Civil Procedure 41(a)(2);
- 3) The counterclaims asserted by TVS against VNUS are dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(c);
- 4) Each party will bear its own fees, costs and expenses; and
- 5) The caption shall be amended in all subsequent pleadings to reflect this dismissal.

[Remainder of page intentionally left blank.]

1 Dated: November 9, 2011

ATTORNEYS FOR DEFENDANT
TOTAL VEIN SOLUTIONS, LLC
d/b/a TOTAL VEIN SYSTEMS,

2
3 By: /s/ John K. Buche
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20 Dated: November 9, 2011

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28 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: November 15, 2011


THE HON. MAXINE M. CHESNEY
United States District Judge