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15 UNITED STATES DISTRICT COURT  
 16 FOR THE NORTHERN DIVISION OF CALIFORNIA  
 17 San Francisco Division

18 ) Case No. CV09-3406-MMC  
 19 PETER CONLAN )  
 20 ) )  
 21 Plaintiff, ) **STIPULATION AND ORDER FOR**  
 22 ) **DISMISSAL WITH PREJUDICE**  
 23 v. )  
 24 CUTERA Inc. )  
 25 )  
 26 Defendant. )  
 27 )  
 28 )

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IT IS HEREBY STIPULATED by and between parties to this action through their designated counsel that the above-captioned action be, and hereby is, dismissed with prejudice pursuant to Fed.R.Civ.P. 41(a)(1). Provided, however, that if any party hereto shall certify to this Court, with a proof of service of a copy on opposing counsel, within 90 days from the date hereof, that the agreed consideration for the settlement has not been delivered over, this Order shall stand vacated, and the action shall be restored to the calendar to be set for trial.

Dated: January 5, 2010

McGUINN, HILLSMAN & PALEFSKY  
Cliff Palefsky  
Carolyn Leary

By: \_\_\_\_\_ /S/ \_\_\_\_\_

Attorneys for Peter Conlan

Dated: January 5, 2010

Dillingham & Murphy, LLP  
Carla Hartley  
Molly Mrowka

By: \_\_\_\_\_ /S/ \_\_\_\_\_

Attorneys for Cutera, Inc.

IT IS SO ORDERED.

  
The Honorable Maxine Chesney

Date: January 6, 2010 \_\_\_\_\_