

1 **LAW OFFICES OF PAUL L. REIN**
 2 PAUL L. REIN, ESQ. (SBN 43053)
 3 CELIA MCGUINNESS, ESQ. (SBN 159420)

4 200 Lakeside Drive, Suite A
 5 Oakland, CA 94612
 6 Telephone: (510) 832-5001
 7 Facsimile: (510) 832-4787
 8 reinlawoffice@aol.com

9 **THE DERBY LAW FIRM P.C.**
 10 STEVEN L. DERBY, ESQ. (SBN 148372)
 11 1255 Treat Blvd. Suite 300
 12 Walnut Creek, CA 94597
 13 Telephone: (925) 472-6640
 14 Facsimile: (925) 933-3964
 15 derby@derbydisabilitylaw.com

16 Attorneys for Plaintiffs KELLY TOPPING and MAX
 17 WADMAN

18 * *Counter-Defendant's and Defendants' counsel listed after the caption.*

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA

21 MAX WADMAN and KELLY TOPPING,
 22
 23 Plaintiffs,
 24
 25 v.
 26 DISCOVERY BAY YACHT HARBOR,
 27 LLC and KEN HOFMANN,
 28
 Defendants.

Case No. C14-5035 WHA

JOINT REQUEST FOR ORDER OF
 CONDITIONAL DISMISSAL; AND
~~PROPOSED~~ ORDER THEREON

DISCOVERY BAY YACHT HARBOR,
 LLC,
 Counter-Claimant,
 v.
 KELLY TOPPING,
 Counter-Defendant.

COX, WOOTTON,
 LERNER, GRIFFIN
 HANSEN, LLP

900 FRONT STREET,
 SUITE 350
 SAN FRANCISCO, CA
 94111
 TEL: 415-438-4600
 FAX: 415-438-4601

DBYH.Topping

1 **STRATMAN, PATTERSON & HUNTER**
2 ROBERT M. MALTZ, ESQ. (SBN 143078)
3 505 14th Street, Suite 400
4 Oakland, CA 94612-1913
5 Phone: (510) 457-3440
6 Fax: (510) 238-8968

7 Attorneys for Counter-Defendant KELLY TOPPING

8 **COX WOOTTON LERNER GRIFFIN & HANSEN LLP**
9 RUPERT P. HANSEN (SBN 082302)
10 CHRISTOPHER S. KIELIGER (SBN 209121)
11 JULIETTE B. McCULLOUGH (SBN 278929)
12 900 Front Street, Suite 350
13 San Francisco, CA 94111
14 Telephone: (415) 438-4600
15 Facsimile: (415) 438-4601
16 rhansen@cwlfirm.com
17 ckieliger@cwlfirm.com
18 jmccullough@cwlfirm.com

19 Attorneys for Defendant/Counterclaimant
20 DISCOVERY BAY YACHT HARBOR, LLC,
21 and Defendant KEN HOFMANN, individually

22 **JOINT REQUEST FOR CONDITIONAL DISMISSAL OF CASE; AND**
23 **[PROPOSED] ORDER THEREON**

24 COMES NOW Plaintiff/Counter-Defendant Kelly Topping, Plaintiff Max Wadman,
25 Defendant/Counter-Claimant Discovery Bay Yacht Harbor, LLC, and Defendant Kenneth Hofmann,
26 being all of the parties to the above captioned litigation, appearing by and through their respective
27 counsel of record, and hereby confirm that this matter and all the claims made herein or which could
28 have been made herein have been settled between the parties, that the Settlement was placed on the
record before Magistrate Judge Elizabeth Laporte on Friday, March 11, 2016, and that all that
remains to complete the settlement is for the defendants to pay the settlement amounts agreed on the
record in three separate checks made payable respectively to “Kelly Topping”, “Max Wadman, and
“The Law Offices of Paul L. Rein” on or before April 11, 2016. The parties jointly request that
unless any party notifies the Court by 5:00 PM, April 18, 2016 that such settlement consideration has

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

not been so paid as agreed or settlement checks have not cleared, that the Court dismiss this case in its entirety, with prejudice, with each party to bear their own fees and costs.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: March 18, 2016

LAW OFFICES OF PAUL L. REIN
Attorneys for Plaintiff/Counterdefendant
KELLY TOPPING and Plaintiff MAX
WADMAN

By: /s/ Celia McGuinness
Celia McGuinness

Dated: March 18, 2016

STRATMAN, PATTERSON & HUNTER
Attorneys for Counterdefendant
KELLY TOPPING

By: /s/ Robert M. Maltz
Robert M. Maltz

Dated: March 18, 2016

COX, WOOTTON, LERNER,
GRIFFIN & HANSEN, LLP
Attorneys for Defendant/Counterclaimant
DISCOVERY BAY YACHT HARBOR LLC, and
Defendant KEN HOFMANN

By: /s/ Christopher S. Kiegler
Christopher S. Kiegler

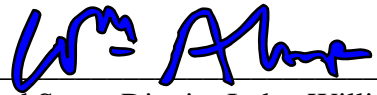
Pursuant to Local Civil Rule 5.1, this ECF filer hereby attests that he has on file all holographic signatures corresponding to any signatures indicated by a conformed signature (/S/) within this e-filed document.

Pursuant to stipulation and for Good Cause appearing, IT IS HEREBY ORDERED:
That in light of the settlement of this matter that was placed on the record before Magistrate Judge Elizabeth Laporte on Friday, March 11, 2016, and based on the representation of all counsel of record that all that remains to complete the settlement is for the defendants to pay the settlement

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

amounts that were agreed on the record, by means of three separate checks made payable respectively to “Kelly Topping”, “Max Wadman, and “The Law Offices of Paul L. Rein” on or before April 11, 2016:

1. The Court hereby conditionally dismisses this action, and unless any party notifies the Court by 5:00 PM, April 18, 2016 that the agreed upon settlement consideration has not been so paid as agreed, or settlement checks have not cleared, then this conditional dismissal shall become a final dismissal of this case in its entirety, with prejudice, and with each party to bear their own fees and costs;
2. The March 31, 2016 hearing for plaintiffs’ motion for partial summary adjudication is hereby vacated;
3. The April 6, 2016 pre-trial conference in this matter is hereby vacated; and
4. The April 11, 2016 trial date in this matter is hereby vacated.

DATED: March 21, 2016.  _____
United States District Judge William Alsup