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 PHILIP MORRIS USA INC.

13 UNITED STATES DISTRICT COURT
 14 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 15 OAKLAND DIVISION

17 PHILIP MORRIS USA INC.,
 18 Plaintiff,
 19 vs.

CASE NO. C-08-4482-CW

STIPULATION OF DISMISSAL; ORDER

20 CITY AND COUNTY OF SAN
 FRANCISCO; BOARD OF
 21 SUPERVISORS OF THE CITY AND
 COUNTY OF SAN FRANCISCO; and
 22 GAVIN NEWSOM, in his official capacity
 as MAYOR of the City and County of San
 23 Francisco,
 24 Defendants.

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STIPULATION

WHEREAS on September 9, 2009, the U.S. Court of Appeals for the Ninth Circuit issued a memorandum decision affirming this Court’s denial of Philip Morris USA Inc.’s request for a preliminary injunction;

NOW THEREFORE, Philip Morris USA Inc. and Defendants, by and through their counsel, respectfully stipulate as follows:

- 1. Philip Morris USA Inc.’s Complaint is dismissed with prejudice.
- 2. Each party will bear its own costs, expenses, and attorney’s fees.

I, Daniel P. Collins, attest that I have obtained concurrence from Vince Chhabria in the filing of this “Stipulation of Dismissal; [Proposed] Order”. See N.D. Cal. General Order 45 § 10(B).

DATED: Oct. 15, 2009

MUNGER, TOLLES & OLSON LLP

By: /s/ Daniel P. Collins

Daniel P. Collins
Attorneys for Plaintiff PHILIP MORRIS USA INC.

DATED: Oct. 15, 2009

By: /s/ Vince Chhabria

Vince Chhabria

Attorney for Defendants CITY AND COUNTY OF SAN FRANCISCO; BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO; and GAVIN NEWSOM, in his official capacity as MAYOR of the City and County of San Francisco

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: Oct. 20, 2009



Hon. Claudia Wilken
United States District Judge