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Attorneys for Defendant

HARDER MECHANICAL CONTRACTORS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

LINDA TERRELL,

Plaintiff,

vs.

HARDER MECHANICAL CONTRACTORS
INC., a corporation, FLUOR
CONSTRUCTION, a corporation, and GENE
ARCENEUX, an individual,

Defendants.

Case No.: CV 10 1080 CW

ACTION FILED: March 12, 2010

TRIAL DATE: October 3, 2011

**NON-OPPOSITION TO DEFENDANT
GENE ARCENEUX'S MOTION FOR
PARTIAL SUMMARY JUDGMENT OF
HARDER MECHANICAL
CONTRACTORS, INC.'S CROSS CLAIM,
PURSUANT TO STIPULATION OF THE
PARTIES**

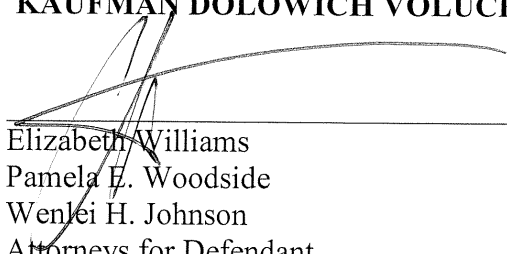
Now comes Defendant HARDER MECHANICAL CONTRACTORS, INC., in response to Defendant GENE ARCENEUX's Motion for Partial Summary Judgment, and based on the Stipulation and [Proposed] Order Amending and Dismissing Defendant Harder's Cross-Claim Against Defendant Arceneaux, filed herewith, advises this Court that it will not oppose Defendant Arceneaux's Motion for Partial Summary Judgment. Defendant HARDER MECHANICAL CONTRACTORS, INC. does not intend to argue the Motion for Partial Summary Judgment, set for hearing on June 23, 2011, and pursuant to Stipulation and

**NON-OPPOSITION TO DEFENDANT GENE ARCENEUX'S MOTION FOR PARTIAL SUMMARY
JUDGMENT OF HARDER'S CROSS CLAIM, PURSUANT TO STIPULATION OF THE PARTIES**

1 [Proposed] Order Amending and Dismissing Defendant Harder's Cross-Claim Against
2 Defendant Arceneaux, filed herewith, agrees to the vacating of said hearing date on this motion.

3
4 DATED: 5/12/11

KAUFMAN DOLOWICH VOLUCK & GONZO LLP



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HARDER MECHANICAL CONTRACTORS, INC.

11 4848-4933-5561, v. 1

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13 HARDER MECHANICAL CONTRACTORS, INC.

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 SAN FRANCISCO DIVISION

17 LINDA TERRELL,

18 Plaintiff,

19 vs.

20 HARDER MECHANICAL CONTRACTORS
21 INC., a corporation, FLUOR
22 CONSTRUCTION, a corporation, and GENE
23 ARCENEUX, an individual,

24 Defendants.

) Case No.: CV 10 1080 CW

) ACTION FILED: March 12, 2010

) TRIAL DATE: October 3, 2011

) **STIPULATION AND ORDER
AMENDING AND DISMISSING
DEFENDANT HARDER'S CROSS-
CLAIM AGAINST DEFENDANT
ARCENEUX; FRCP 41(a)(2))**

25 1. Defendant HARDER MECHANICAL CONTRACTORS, INC. and Defendant
26 GENE ARCENEUX, through their attorneys of record, hereby stipulate as follows:

27 2. Defendant GENE ARCENEUX hereby withdraws his Motion for Partial
28 Summary Judgment of Harder Mechanical Contractors, Inc.'s Cross Claim, filed on April 28,
2011.

3. Defendant HARDER MECHANICAL CONTRACTORS, INC. hereby provides
the following clarifications and requests the dismissal as indicated in paragraph 5 below of its

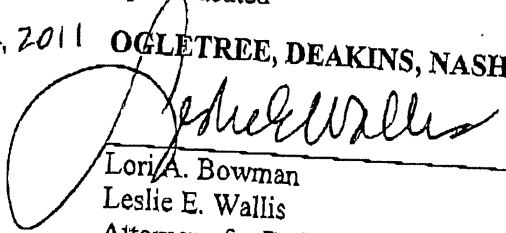
1 Cross-Claim against Defendant Gene Arceneaux ("Harder's Cross-Claim"), originally filed with
2 this court on May 24, 2010:

3 4. Defendant Harder's Cross-Claim is asserted against Defendant Arceneaux with
4 respect to the following causes of action of Plaintiff's Complaint for Damages: (1) Assault, (2)
5 Battery; (3) Sexual Harassment - FEHA; and (10) Sexual Battery. Otherwise, Defendant
6 Harder does not seek indemnification and/or contribution from Defendant Arceneaux in relation
7 to any other causes of actions within Plaintiff's Complaint for Damages.

8 5. Harder and Arceneaux hereby stipulate through their designated counsel pursuant
9 to FRCP 41(a)(2) and 41(c) that the court enter an order dismissing the indemnity and/or
10 contribution claim against Defendant Gene Arceneaux with prejudice relating to (1) all Title VII
11 claims, including but not limited to Plaintiff's claim for sexual harassment under Title VII; (2)
12 Plaintiff's discrimination and retaliation claims under the Fair Employment and Housing Act
13 ("FEHA") alleged in the Complaint and (3) Plaintiff's claims for failure to prevent harassment
14 and discrimination. Harder and Arceneaux shall bear their own fees and costs with respect to
15 those claims being dismissed.

16 6. Based on the dismissal of these claim, Defendants do not intend to argue the
17 Motion for Partial Summary Judgment, set for hearing on June 23, 2011, and agree that the
18 hearing date on this motion may be vacated

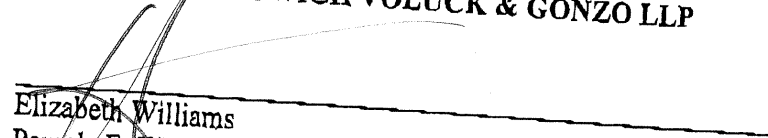
19 DATED: May 12, 2011 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.



Lori A. Bowman
Leslie E. Wallis
Attorneys for Defendant
GENE ARCENEUX

24 DATED: May 12, 2011

KAUFMAN DOLOWICH VOLUCK & GONZO LLP


Elizabeth Williams
Pamela E. Woodside
Wenlei H. Johnson
Attorneys for Defendant
HARDER MECHANICAL CONTRACTORS, INC.

28 STIPULATION

1 **ORDER**

2
3 Having considered the stipulation between Defendants Harder Mechanical Contractors,
4 Inc. and Gene Arceneaux, and finding good cause therefore;

5 IT IS HEREBY ORDERED that pursuant to Federal Rule of Civil Procedure 41(a)(2)
6 and 41(c) that Harder’s cross claim for indemnity and/or contribution against Defendant Gene
7 Arceneaux is dismissed with prejudice relating to (1) all Title VII claims, including but not
8 limited to Plaintiff’s claim for sexual harassment under Title VII; (2) Plaintiff’s discrimination
9 and retaliation claims under the Fair Employment and Housing Act (“FEHA”) alleged in the
10 Complaint and (3) Plaintiff’s claims for failure to prevent harassment and discrimination. Harder
11 and Arceneaux shall bear their own fees and costs with respect to those claims being dismissed.

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14 Dated: 5/19/2011

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17 Honorable Claudia J. Wilken

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