

1 DEBORAH KOCHAN (S.B. #152089)
 dkochan@kochanstephenson.net
 2 MATHEW STEPHENSON (S.B. #154330)
 mstephenson@kochanstephenson.net
 3 **KOCHAN & STEPHENSON**
 260 California Street, Suite 803
 4 San Francisco, California 94111
 Telephone: (415) 392-6200
 5 Facsimile: (415) 392-6242

6 Attorneys for Plaintiff
 7 **DEREK KERR**

8 DENNIS J. HERRERA (S.B. #139669)
 9 City Attorney
 ELIZABETH S. SALVESON (S.B. #83788)
 10 Chief Labor Attorney
 JONATHAN C. ROLNICK (S.B. #151814)
 11 Deputy City Attorney
 12 1390 Market Street, Fifth Floor (Fox Plaza)
 San Francisco, CA 94102-5408
 13 Telephone: (415) 554-3930
 14 Facsimile: (415) 554-4248
 E-mail: Jonathan.Rolnick@sfgov.org

15 Attorneys for Defendants
 16 CITY AND COUNTY OF SAN FRANCISCO, ET AL.

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 18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20 DEREK KERR,
 21 Plaintiff,
 22 v.
 23 THE CITY AND COUNTY OF SAN
 FRANCISCO, MITCHELL H. KATZ, MIVIC
 24 HIROSE, COLLEEN RILEY,
 25 Defendants.

Case No. CV 10 5733 CW

**STIPULATION RE DISCOVERY DISPUTE
 RE 30(b)(6) DEPOSITION RE FINAL
 POLICY MAKING AUTHORITY**

1 Whereas the parties had a dispute regarding certain timely discovery propounded by plaintiff,
2 discovery that plaintiff contends is necessary to oppose, in part, defendants' pending motion for
3 summary judgment;

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5 Whereas at the direction of the court, the parties met and conferred regarding the scope of
6 plaintiff's noticed 30(b)(6) deposition relating to the custom and/or practice of the San Francisco
7 Health Commission, the Director of Health, the Executive Administrator of Laguna Honda Hospital,
8 and the Medical Director of Laguna Honda Hospital with respect to making decisions regarding the
9 layoff, termination, rehire and/or reassignment of physicians at Laguna Honda Hospital.

10 The parties have agreed to resolve this discovery dispute as follows:

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12 Defendants will produce a 30(b)(6) witness to describe in general terms, for the period
13 January 1, 2005 to December 31, 2010, the custom and/or practice, if any, of the Director of Health
14 for making decisions regarding the layoff, termination, rehire, and/or reassignment of physicians at
15 Laguna Honda Hospital; the review, approval, disapproval, modification, or delegation of such
16 responsibilities for such decisions, the review of the Director's decisions by any individual or entity
17 (including in general terms the nature of such reviews), as well as the sources of authority supporting
18 the Director of Health's exercise of such authority.

19 Defendants will produce a 30(b)(6) witness to describe in general terms, for the period
20 January 1, 2005 to December 31, 2010, the custom and/or practice, if any, of the Executive
21 Administrator of Laguna Honda Hospital for making decisions regarding the layoff, termination,
22 rehire, and/or reassignment of physicians at Laguna Honda Hospital; the review, approval,
23 disapproval, modification, or delegation of such responsibilities for such decisions, the review of the
24 Executive Administrator's decisions by any individual or entity (including in general terms the
25 nature of such reviews), as well as the sources of authority supporting the Executive
26 Administrator's exercise of such authority.
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1 Defendants will produce a 30(b)(6) witness to describe in general terms, for the period
2 January 1, 2005 to December 31, 2010, the custom and/or practice, if any, of the Medical Director
3 for Laguna Honda Hospital for making decisions regarding the layoff, termination, rehire, and/or
4 reassignment of physicians at Laguna Honda Hospital; the review, approval, disapproval,
5 modification, or delegation of such responsibilities for such decisions, the review of the Medical
6 Director's decisions by any individual or entity (including in general terms the nature of such
7 reviews), as well as the sources of authority supporting the Medical Director's exercise of such
8 authority.

9 Defendants will produce a 30(b)(6) witness to describe in general terms, for the period
10 January 1, 2005 to December 31, 2010, the custom and/or practice, if any, of the San Francisco
11 Health Commission for making decisions regarding the layoff, termination, rehire, and/or
12 reassignment of physicians at Laguna Honda Hospital; the review, approval, disapproval,
13 modification, or delegation of such responsibilities for such decisions, the review of the San
14 Francisco Health Commission's decisions by any individual or entity (including in general terms the
15 nature of such reviews), as well as the sources of authority supporting the Commission's exercise of
16 such authority.

17 Defendants and Plaintiff stipulate that they will not seek to introduce evidence that predates
18 January 1, 2005 relating to any practice and/or custom of the individuals, positions and/or entities
19 described above, nor will defendants argue that the time period from January 1, 2005 through
20 December 31, 2010 is, based on the brevity of the time period, insufficient to establish the existence
21 of any practice and/or custom of said individuals, positions and/or entities.

22 This agreement is not intended to limit either parties' reference to or reliance on any legal
23 authority, despite the fact that said legal authority may predate, or the facts referenced therein may
24 relate to events occurring before, January 1, 2005.
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1 By use of the terms "practice" or "custom" herein, Defendants do not concede the existence
2 of any "practice" or "custom" for purposes of municipal liability under *Monell v. Dept. of Social*
3 *Services*, 436 U.S. 658, 694 (1978).

4 Said 30(b)(6) deposition will not be in excess of one half day (3.5 hours) in length and will
5 be completed on or before July 12, 2012.

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8 Dated: July 16, 2012

KOCHAN & STEPHENSON

9 /s/ Deborah Kochan

10 Deborah Kochan
11 Attorneys for Plaintiff
12 DEREK KERR

13 Dated: July 16, 2012

DENNIS J. HERRERA, City Attorney
ELIZABETH S. SALVESON, Chief Labor Attorney
JONATHAN C. ROLNICK, Deputy City Attorney

17 /s/ Jonathan C. Rolnick

18 Jonathan C. Rolnick
19 Attorneys for Defendants
20 CITY AND COUNTY OF SAN FRANCISCO

21 Dated: July 17, 2012

