

Trucker + Huss
A Professional Corporation
100 Montgomery Street, 23rd Floor
San Francisco, California 94104

1 Robert F. Schwartz, SBN 227327
rschwartz@truckerhuss.com
2 Clarissa A. Kang, SBN 210660
ckang@truckerhuss.com
3 Michelle L. Schuller, SBN 255787
mschuller@truckerhuss.com
4 TRUCKER + HUSS
A Professional Corporation
5 100 Montgomery Street, 23rd Floor
San Francisco, California 94104
6 Telephone: (415) 788-3111
Facsimile: (415) 421-2017
7

8 Attorneys for Plaintiff
AETNA LIFE INSURANCE COMPANY,
ON BEHALF OF LEHMAN BROTHERS
9 HOLDINGS, INC.

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 AETNA LIFE INSURANCE COMPANY,
ON BEHALF OF LEHMAN BROTHERS
13 HOLDINGS, INC.,

14 Plaintiff,

15 vs.

16 THOMAS KOHLER and DIANE KIMSEU
17 KOHLER,

18 Defendants.

Case No. C-11-00439-CW

**STIPULATION AND [PROPOSED]
ORDER REGARDING WAIVER OF
RESPECTIVE RIGHTS TO APPEAL
AND TO MOVE FOR ATTORNEY'S
FEES AND NONTAXABLE COSTS**

19 This Stipulation is made and entered into by and among Plaintiff Aetna Life Insurance
20 Company (the "Plaintiff") and Defendants Thomas Kohler and Diane Kimseu Kohler
21 ("Defendants") (collectively, "Parties") regarding their respective rights to (a) move for attorney's
22 fees and nontaxable costs and (b) seek reconsideration of or relief from, or appeal the Order
23 Granting Plaintiff's Motion for Summary Judgment (Docket #50) (the "MSJ Order") and the
24 Judgment (Docket #51) (the "Judgment"). The Parties stipulate and agree to the following:

- 25 1. Defendants shall not, and forever waive all rights to: (a) move for
26 reconsideration of, (b) move for relief from, (c) appeal, or (d) in any other
27 manner, challenge or contest the validity of, the MSJ Order and/or the
28

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

Judgment.

2. In exchange for Defendants' waiver in paragraph 1, Plaintiff forever waives all rights to move for attorney's fees and nontaxable costs incurred by Plaintiff up to the date of this Stipulation;

3. Should Defendants breach the terms of this Stipulation in any way, Defendants shall be responsible for all attorney's fees and costs that are incurred by Plaintiff to enforce this Stipulation, as well as the reasonable attorney's fees and costs incurred in obtaining the MSJ Order and/or the Judgment.

The Parties request that the Court close its file for this matter.

IT IS SO STIPULATED.

DATED: November 29, 2011

TRUCKER ♦ HUSS

By: /s/Clarissa A. Kang
Clarissa A. Kang
Attorneys for Plaintiff
Aetna Life Insurance Company, on behalf of
Lehman Brothers Holdings, Inc.

DATED: November 29, 2011

THE DOLAN LAW FIRM

By: /s/Christopher Dolan
Christopher Dolan
Attorneys for Defendants
Thomas Kohler and Diane Kimseu Kohler

I attest that my firm has obtained Mr. Dolan's concurrence in the filing of this document.

DATED: November 29, 2011

TRUCKER ♦ HUSS

By: /s/Clarissa A. Kang
Clarissa A. Kang

PROPOSED ORDER

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

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: December 2, 2011



Hon. Claudia Wilken
Judge of the United States District Court

Trucker + Huss
A Professional Corporation
100 Montgomery Street, 23rd Floor
San Francisco, California 94104