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6 Attorneys for Defendants,
 CITY OF SAN JOSE, et al.

8 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 9 SAN JOSE FACILITY

11 LICKING ENTERPRISES, INC.

NO.: C07-00735 RMW

12 Plaintiff,

**STIPULATION OF DISMISSAL; AND
 [] ORDER**

13 v.

14 CITY OF SAN JOSE, a municipal
 corporation; SAN JOSE CITY COUNCIL;
 15 RON GONZALES, CINDY CHAVEZ, PAT
 DANDO, KEN YEAGER, CHUCK REED,
 16 FORREST WILLIAMS, LINDA J.
 LEZOTTE, NORA CAMPOS, GEORGE
 17 SHIRAKAWA, JR., DAVI D. CORTESE,
 JOHN DIQUISTO, sued in their official
 18 capacities,

19 Defendants.

21 **IT IS HEREBY STIPULATED AND AGREED** pursuant to Federal Rules of Civil
 22 Procedure, Rule 41(a)(1) by and between Plaintiff, LICKING ENTERPRISES, INC., and all
 23 Defendants that:

- 24 1. This action was commenced on February 5, 2007.
 25 2. The parties have settled this matter and are in the process of entering into an
 26 agreement with regard to the terms of settlement. The parties wish to dismiss this action,
 27 subject to the signing of settlement agreement by all parties.

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3. This action is hereby dismissed, in its entirety, with prejudice.

DATED: October 29, 2009 RICHARD DOYLE, City Attorney

By: CLIFFORD S. GREENBERG
Senior Deputy City Attorney

Attorneys for Defendants,
CITY OF SAN JOSE, et al.

DATED: October 29, 2009 LAW OFFICES OF STUART D. KIRCHICK

By: STUART D. KIRCHICK

Attorneys for Plaintiff,
LICKING ENTERPRISES, INC.

ORDER

Pursuant to the Stipulation of Dismissal by and between the parties to this action, through their designated counsel, the above-captioned action is hereby dismissed with prejudice pursuant to FRCP 41(a)(2). This dismissal is subject to setting aside should the settlement agreement not be executed by all parties. It is further ordered that each party shall bear their own fees and costs, except as provided otherwise by agreement of the parties.

DATED: 12/23/09

Ronald M. Whyte
THE HONORABLE RONALD M. WHYTE
UNITED STATES DISTRICT COURT JUDGE