

E-Filed 10/21/10

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 19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN JOSE DIVISION

22 SKY CHEFS, INC.,
 23 Plaintiffs,
 24 v.
 25 CITY OF SAN JOSE, CALIFORNIA, et al.,
 26 Defendants.

Case Number: C09-03735 RS

**STIPULATION AND [PROPOSED]
 ORDER VACATING AMENDED CASE
 MANAGEMENT ORDER AND
 SETTING CASE MANAGEMENT
 CONFERENCE**

1 **STIPULATION**

2 The undersigned parties, by and through their counsel of record, herewith
3 stipulate to the following:

4 1. This action by Plaintiff Sky Chefs, Inc. ("Sky Chefs") seeks injunctive and
5 declaratory relief that would halt the efforts of Defendant City of San Jose (the "City") to
6 apply its Airport Living Wage Ordinance (the "LWO") to Sky Chefs' operations at Norman
7 Y. Mineta San Jose International Airport (the "Airport"). Sky Chefs contends that the LWO
8 is preempted by federal law, and violates the Equal Protection Clauses of the United State
9 and California Constitutions. The City contends that Sky Chefs' arguments are meritless,
10 and that Sky Chefs is contractually bound to comply with the LWO.

11 2. The parties worked cooperatively to complete much of the discovery needed
12 in this case, submit a proposed schedule for resolution of the case in their joint case
13 management statement, and ask the court to refer the matter to a magistrate for an early
14 settlement conference. Thereafter, on July 1, 2010, the court issued its Amended Case
15 Management Plan which, among other things, required that all pretrial motions be heard by
16 December 16, 2010, scheduled the case to commence trial on April 11, 2011, and referred
17 the matter to Magistrate Judge Howard R. Lloyd to conduct a settlement conference.

18 3. Despite the diligent efforts of the parties and Magistrate Judge Lloyd, the
19 early settlement conference did not result in a resolution of the case. Unless the case
20 resolves by some other means, the parties intend to bring cross motions for summary
21 judgment, and expect that one of those motions will result in adjudication of the case at the
22 trial court level.

23 4. Coincidental to the litigation, City staff are in the process of developing a
24 proposed Airport competitiveness strategic plan for consideration by the City Council early
25 next year. The Airport LWO is one of several things being analyzed by staff, and the
26 proposed strategic plan ultimately submitted for Council action may include recommended
27 adjustments to the ordinance.

1 ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

2 I attest that concurrence in the filing of this document by the signatories, Steven B.
3 Dippell and Norman A. Quandt, has been obtained, and that a record of the concurrence
4 shall be maintained at the Office of the City Attorney.

5
6 Date: October 20, 2010

By: /s/ Steven B. Dippell
STEVEN B. DIPPELL

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11 **ORDER**

12 Having read and considered the stipulation set forth above, and finding good cause
13 for the actions requested therein, it is ordered that:

14 1. The Amended Case Management Plan entered by the court on July 1, 2010,
15 including all deadlines and other dates specified therein, is vacated; and

16 2. The parties are to submit an updated joint case management statement to
17 the court by March 3, 2011, that includes a new proposed schedule for resolution of
18 this case.

19
20 Dated: 10/21/10



HON. RICHARD SEEBORG
Judge of the United States District Court