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Attorney for Defendant TIM BIRMINGHAM

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

SUSI MCFARLAND, )  
)  
Plaintiff, )  
)  
vs. )  
)  
ALMOND BOARD OF CALIFORNIA; )  
TIM BIRMINGHAM, an individual; and )  
DOES 1-100, inclusive, )  
)  
Defendants. )  
)

**Case No. 2:12-CV-02778-JAM-CKD**

**ORDER RE DEFENDANTS ABC AND  
TIM BIRMINGHAM'S MOTIONS FOR  
SUMMARY JUDGMENT**

**FILED**

DEC 30 2014

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_  
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1 Pursuant to the hearing and proceedings held before Judge John A. Mendez on December 17,  
2 2014 wherein the Court heard Defendant Almond Board of California's (Defendant ABC) motion  
3 for summary judgment [Doc. # 65] and Defendant Tim Birmingham's (Defendant Birmingham)  
4 motion for summary judgment [Doc. # 64], the Court ruled as follows:

5 The Court GRANTED Defendant ABC's motion for summary judgment with regard to  
6 Plaintiff's third cause of action for age discrimination.

7 The Court DENIED Defendant ABC's motion for summary judgment with regard to  
8 Plaintiff's first and second causes of action for sexual harassment and discrimination in violation of  
9 Title VII and FEHA, as well as Plaintiff's fourth cause of action for failure to prevent discrimination,  
10 Plaintiff's fifth cause of action for constructive termination, and Plaintiff's claim for punitive  
11 damages.

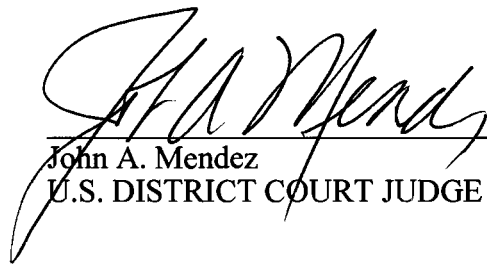
12 The Court DENIED Defendant Birmingham's motion for summary judgment with regard to  
13 Plaintiff's first cause of action for sexual harassment in violation of FEHA.

14 The Court GRANTED Defendant Birmingham's motion for summary judgment with regard  
15 to Plaintiff's claim for sexual harassment in violation of Title VII, in light of *Miller v. Maxwells Int'l*  
16 *Inc.*, 991 F.2d 584, 587 (9th Cir. 1993).

17 The Court GRANTED Defendant Birmingham's motion for summary judgment with regard  
18 to Plaintiff's claims for sexual discrimination in violation of Title VII and FEHA.

19 **IT IS SO ORDERED.**

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21  
22 Dated: 12-30-2014

  
\_\_\_\_\_  
John A. Mendez  
U.S. DISTRICT COURT JUDGE

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