

1 On September 1, 2009, Plaintiff Melinda Kimsey and Defendants Bellflower Unified School
2 District and Larry Costa appeared regularly for a mandatory settlement conference in Department 45
3 of the Los Angeles County Superior Court, located at 111 North Hill Street, Los Angeles, California,
4 the Honorable Mel Red Recana, Judge presiding. Trial was scheduled to commence in Department
5 45 on September 8, 2009.

6 Plaintiff Melinda Kimsey (also referred to herein as "Plaintiff") was represented by David
7 Klehm and Ronald L. Zambrano of the Law Offices of Carlin & Buchsbaum. Defendant Bellflower
8 Unified School District (also referred to herein as "BUSD") and Defendant Larry Costa (also referred to
9 herein as "Costa") were represented by Robert M. Newell, Jr. and Robert J. Roché of Newell,
10 Campbell & Roché LLP. Defendant BUSD, who appeared through its representative Marcy Delgado,
11 was present on September 1 and 2, 2009. Defendant Larry Costa appeared on September 1, 2009
12 only.

13 At the conclusion of the first day of the settlement conference on September 1, 2009, and in
14 open court, Plaintiff Melinda Kimsey affirmed the oral motion made by her counsel David Klehm to
15 consent to the entry of judgment against Plaintiff Melinda Kimsey and in favor of Defendant Larry
16 Costa pursuant to Code of Civil Procedure section 998. Plaintiff also agreed that within 10 days (i.e.
17 by September 11, 2009,) she would (1) provide Defendant Larry Costa with a check for \$100.00,
18 which shall be made payable to "Larry Costa;" and, (2) provide Larry Costa with a letter signed by
19 Plaintiff stating:

20 "It is with great sincerity that I regret filing my lawsuit against Larry Costa. In hindsight, I
21 now realize that my lawsuit against Larry Costa should not have been filed, and there is no
22 evidentiary basis to support my allegations against him."

23 Plaintiff and Costa agreed to mutual general releases of any and all claims they each may
24 have, including a waiver of Code of Civil Procedure section 1542, which in turn includes any claim
25 that Costa has or may have had against Plaintiff for malicious prosecution. The court approved these
26 terms and retained jurisdiction pursuant to Code of Civil Procedure section 664.6.

27 At the conclusion of the second day of the settlement conference on September 2, 2009, and
28 in open court, Plaintiff Melinda Kimsey through her counsel David Klehm, made an oral motion to

1 dismiss with prejudice her entire complaint against Defendant BUSD which consisted of two causes
2 of action. Defendant BUSD was the prevailing party and was permitted to submit its Memorandum
3 of Costs per statute and Plaintiff Melinda Kimsey was allowed to file her motion to tax costs per
4 statute. On December 29, 2009, BUSD filed its Amended Memorandum of Costs. On January 14,
5 2010, Plaintiff Melinda Kimsey filed her Motion to Tax Costs. On March 22, 2010, the Court
6 awarded BUSD costs in the amount of \$19,961.72;

7 **NOW THEREFORE, IT IS HEREBY ORDERED** that judgment be entered against
8 Plaintiff Melinda Kimsey by which she takes nothing and in favor of Defendant Larry Costa.

9 **IT IS HEREBY FURTHER ORDERED** that judgment of dismissal be entered against
10 Plaintiff Melinda Kimsey and in favor of Defendant Bellflower Unified School District.


11 **IT IS HEREBY FURTHER ORDERED** that Defendant Bellflower Unified School District
12 be, and is hereby declared, the prevailing party and entitled to its costs in the amount of \$19,961.72;

13 **IT IS HEREBY FURTHER ORDERED** that with respect to the resolution of Plaintiff
14 Melinda Kimsey's claims against her and in favor of Defendant Larry Costa and the agreement of the
15 Parties, Kimsey and Costa, Plaintiff Melinda Kimsey to the extent not already provided shall
16 forthwith:

- 17 (1) provide Larry Costa with a check for \$100.00, made payable to "Larry Costa;" and,
18 (2) provide Larry Costa with a dated letter signed by Melinda Kimsey and stating only:
19 "It is with great sincerity that I regret filing my lawsuit against Larry Costa. In
20 hindsight, I now realize that my lawsuit against Mr. Costa should not have been filed,
21 and there is no evidentiary basis to support my allegations against him."

22 **IT IS HEREBY FURTHER ORDERED** that this Court shall retain jurisdiction over this
23 matter under Code of Civil Procedure section 664.6 pending the full and satisfactory performance of
24 the terms of this judgment.

25
26 Dated: May 27, 2010


Melinda Kimsey

JUDGE OF THE SUPERIOR COURT

28

1 **PROOF OF SERVICE**

2 I, Laura A. Morales, am employed in the County of Los Angeles, State of California. I am
3 over the age of 18 and not a party to the within action. My business address is 520 South Grand
4 Avenue, Suite 390, Los Angeles, California 90071-2600.

4 On May 18, 2010, I served the foregoing document described as

5 **[PROPOSED] JUDGMENT**

6 on the interested party(ies) in this action by placing ___ the original X a true copy thereof,
7 enclosed in sealed envelope(s) addressed as follows:

8 Gary R. Carlin, Esq.
9 David Klehm, Esq.
10 Ronald L. Zambrano, Esq.
11 Law Offices of Carlin & Buchsbaum, LLP
12 555 East Ocean Boulevard, Suite 818
13 Long Beach, CA 90802
14 Tel: (562) 432-8933
15 Fax: (562) 435-1656
16 **Attorneys for Plaintiff Melinda Kimsey**

13 X **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing
14 correspondence for mailing. Under that practice, it would be deposited with the United States Postal
15 Service on that same day with postage thereon fully prepaid at Los Angeles, California in the
16 ordinary course of business. I am aware that on motion of the party served, service is presumed
17 invalid if postal cancellation date or postage meter date is more than one day after date of deposit for
18 mailing in affidavit.

17 ___ **BY MAIL:** I deposited such envelope(s) in the mail at Los Angeles, California. The
18 envelope(s) were mailed with postage thereon fully prepaid.

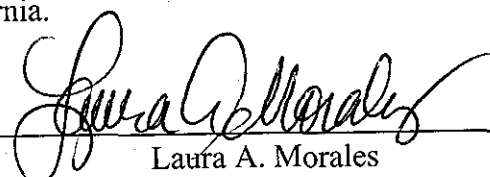
19 ___ **BY OVERNIGHT COURIER:** I caused such envelope(s) to be served by overnight
20 courier, next day service to the offices of the addressee(s).

21 ___ **VIA FACSIMILE:** I caused the above-referenced document to be served by facsimile
22 transmission to the addresses at the fax numbers listed above.

23 [X] (STATE) I declare under penalty of perjury that the above is true and correct.

24 Executed on May 19, 2010, Los Angeles, California.

25 By _____

26 
Laura A. Morales

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