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7 Attorneys for Defendant,
8 **BOSTON MARKET CORPORATION**
(erroneously sued herein as **BOSTON MARKET**
9 **CORPORATION dba BOSTON MARKET-**
10 **ROSEVILLE**)

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**

13 LULA J. SWEIS,

14 Plaintiff,

15 v.

16 **BOSTON MARKET CORPORATION dba**
BOSTON MARKET - ROSEVILLE; and
DOES 1 to 100,

17 Defendants.

Case No. 2:16-CV-02213-KJN

STIPULATION AND ORDER TO
REMAND CASE TO PLACER COUNTY
SUPERIOR COURT

Action Removed September 16, 2016

18 Plaintiff, Lula J. Sweis ("Plaintiff") and Defendant Boston Market Corporation
19 (erroneously sued herein as Boston Market Corporation dba Boston Market-Roseville)
20 ("Defendant") (herein, collectively, "the Parties"), by and through their respective counsel, hereby
21 stipulate as follows:

22 **STIPULATION:**

- 23 1. On June 23, 2016, Plaintiff commenced an action in the Superior Court of
24 California in and for the County of Placer, titled *Lula Sweis v. Boston Market Corporation dba*
25 *Boston Market – Roseville* (Placer County Superior Court Case No. SCV0037976) ("the Action").
26 2. On or about September 16, 2016, Defendant filed a Notice of Removal of the
27 Action to this Court pursuant to 28 U.S.C. §§ 1332 and 1441, on the grounds that this matter was
28 understood to be a civil action between citizens of different states, with an amount in controversy

1 exceeding \$75,000.00, exclusive interests and costs.

2 3. Defendant has discovered the identities of indispensable third-parties with the legal
3 responsibility of managing, operating, controlling and/ or indemnifying for damages incurred in
4 the parking lot where plaintiff's accident occurred.

5 4. Specifically, Defendant has identified the following indispensable third parties:

6 a. Ethan Conrad Properties, which, on information and belief, is a California
7 Corporation.

8 b. Carl Karcher Enterprises, Inc., which, on information and belief, is a
9 California Corporation.

10 c. Realty Income Properties, Inc., which, on information and belief, is a
11 Maryland Corporation, doing business in California.

12 d. Other indispensable non-diverse third-parties, the identities of which are
13 currently unknown to the Parties.

14 5. Joinder of the aforementioned indispensable third-parties will destroy diversity of
15 citizenship in this Action, and eliminate this Court's Jurisdiction pursuant to 28 U.S.C. §§ 1332.

16 6. THEREFORE, the Parties hereby stipulate that this action should immediately be
17 remanded to Placer County Superior Court.

18 7. The Parties further stipulate that Defendant shall be permitted to file a Cross-
19 Complaint against the indispensable third-parties without leave of court, pursuant to California
20 Code of Civil Procedure Section 428.10, *et seq.*

21 8. Each Party shall bear his/her/its own attorney's fees and costs with respect to the
22 removal and subsequent remand of this Action pursuant to this Stipulation and Order.

23 9. The Stipulation moots all pending deadlines and hearings before this Court, and all
24 deadlines and hearings in this case should be taken off the Court's calendar.

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Respectfully Submitted,

DATED: March ____, 2017

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP

By: _____
David Roth
Gregory J. Lewis
Attorneys for Defendant,
BOSTON MARKET CORPORATION.

DATED: March ____, 2017

ANDREW E. BAKOS & ASSOCIATES, PC

By: _____
Andrew E. Bakos
Attorneys for Plaintiff,
Lula J. Sweis.

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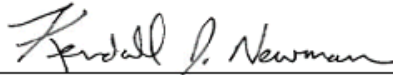
ORDER

Pursuant to the parties' stipulation (ECF No. 12), IT IS ORDERED THAT:

1. This action is REMANDED to the Placer County Superior Court.
2. Each Party shall bear his/her/its own attorney's fees and costs with respect to the removal and subsequent remand of this Action.
3. The Stipulation moots all pending deadlines and hearings before this Court, and all deadlines and hearings in this case are VACATED.
4. Defendant shall be permitted to file a Cross-Complaint against the indispensable third-parties pursuant to California Code of Civil Procedure Section 428.10, *et seq.*
5. The Clerk of Court shall close this case.

IT IS SO ORDERED

Dated: March 10, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE