

**FILED**

FEB 24 2011

RICHARD W. WIEKING  
CLERK U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

1 THOMAS E. FRANKOVICH (State Bar #074414)  
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5 Attorneys for Plaintiff  
6 CRAIG YATES, an individual

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10 CRAIG YATES, an individual;  
11 Plaintiffs,

12 v.

13 CLEMENT RESTAURANTS, INC., a  
14 California corporation; CLEMENT  
15 INVESTMENT LLC, a limited liability  
16 company; and WELLS FARGO BANK  
NATIONAL ASSOCIATION TRUST,

17 Defendants.

CASE NO. CV-09-3978-SI

STIPULATION OF DISMISSAL AND  
~~PROPOSED~~ ORDER THEREON

18  
19 The parties, by and through their respective counsel, stipulate to dismissal of this action  
20 in its entirety with prejudice pursuant to Fed.R.Civ.P.41(a)(1). Outside of the terms of the  
21 Settlement Agreement and General Release ("Agreement") herein, each party is to bear its own  
22 costs and attorneys' fees. The parties further consent to and request that the Court retain  
23 jurisdiction over enforcement of the Agreement. See Kokonen v. Guardian Life Ins. Co., 511  
24 U.S. 375 (1994) (empowering the district courts to retain jurisdiction over enforcement of  
25 settlement agreements).

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1           Therefore, IT IS HEREBY STIPULATED by and between parties to this action through  
2 their designated counsel that the above-captioned action be and hereby is dismissed with  
3 prejudice pursuant to Federal Rules of Civil Procedure section 41(a)(1).

4           This stipulation may be executed in counterparts, all of which together shall constitute  
5 one original document.

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9 Dated: January 31, 2011

THOMAS E. FRANKOVICH,  
A PROFESSIONAL LAW CORPORATION

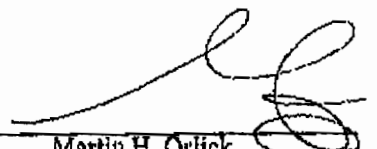
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13 By:                   /s/                    
14       Thomas E. Frankovich  
Attorney for CRAIG YATES, an individual

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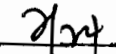
Dated: 2/24, 2011

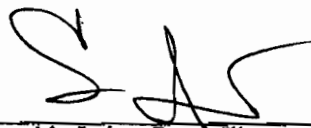
Jeffer Mangels Butler & Mitchell LLP

By:   
Martin H. Orlick  
Attorneys for. CLEMENT RESTAURANTS, INC.,  
a California corporation; CLEMENT  
INVESTMENT LLC, a limited liability company;  
and WELLS FARGO BANK NATIONAL  
ASSOCIATION TRUST,

**ORDER**

IT IS HEREBY ORDERED that this matter is dismissed with prejudice pursuant to Fed.R.Civ.P.41(a)(1). IT IS FURTHER ORDERED that the Court shall retain jurisdiction for the purpose of enforcing the parties' Settlement Agreement and General Release should such enforcement be necessary.

Dated: , 2011

  
Honorable Judge. Susan Ilston