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10 Attorneys for Plaintiff  
 11 ROLANDA TAYLOR

12 IN THE UNITED STATES DISTRICT COURT  
 13 IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 ROLANDA TAYLOR,  
 16 Plaintiff,

CASE NO. C09-4490 JL  
Civil Rights

17 v.

**STIPULATION AND  
~~[PROPOSED]~~ ORDER FOR  
 LEAVE OF COURT TO FILE  
 FIRST AMENDED COMPLAINT**

18 BARNES AND NOBLE  
 19 BOOKSELLERS, INC.;  
 20 STARBUCKS CORPORATION;  
 21 CITY OF OAKLAND; AND DOES  
 22 1-10, INCLUSIVE,

Pursuant to FRCP Rule 15 (a)(2)

21 Defendants.

23 Plaintiff ROLANDA TAYLOR filed her Complaint September 23,  
 24 2009, naming as defendants BARNES AND NOBLE BOOKSELLERS, INC.;  
 25 STARBUCKS CORPORATION; CITY OF OAKLAND; and DOES 1-10,  
 26 INCLUSIVE, based on information obtained from public records and Westlaw  
 27 databases. Defendants BARNES AND NOBLE BOOKSELLERS, INC. and  
 28 STARBUCKS CORPORATION were subsequently served with the Complaint,

1 and on November 2, 2009, defense counsel for BARNES AND NOBLE  
2 BOOKSELLERS, INC. and STARBUCKS CORPORATION filed an Answer on  
3 their behalf. Defendant CITY OF OAKLAND was served with the Complaint  
4 but has yet to file an Answer to the Complaint.

5 In correspondence dated October 5, 2009, counsel for defendant  
6 STARBUCKS CORPORATION first advised plaintiff's counsel that  
7 STARBUCKS CORPORATION does not own, operate, or control the café that is  
8 the subject of this lawsuit (hereinafter the "Café"). Counsel further corresponded  
9 on this issue in written correspondence and via telephone.

10 In correspondence dated October 16, 2009, counsel for defendant  
11 CITY OF OAKLAND first advised plaintiff's counsel that the property that is the  
12 subject of plaintiff's Complaint falls within the jurisdiction of the Port of  
13 Oakland, which operates as an entity separate from defendant CITY OF  
14 OAKLAND. Counsel further corresponded on this issue in written  
15 correspondence and via telephone.

16 In a November 3, 2009 email thread to plaintiff's counsel's office,  
17 counsel for the Port of Oakland confirmed that the CITY OF OAKLAND  
18 ACTING BY AND THROUGH ITS BOARD OF PORT COMMISSIONERS is  
19 the governmental agency with title interest to the property at issue in this lawsuit.  
20 In this November 3, 2009 email thread, counsel for the Port of Oakland also  
21 confirmed that the Port of Oakland has a lease for the subject property with an  
22 entity named "CEP-JLS I LLC." Counsel for the Port of Oakland subsequently  
23 forwarded plaintiff's counsel a copy of the lease for the subject property. The  
24 lease identifies "CITY OF OAKLAND ACTING BY AND THROUGH ITS  
25 BOARD OF PORT COMMISSIONERS " as the named party to the lease with  
26 CEP-JLS I LLC.

27 Upon information and belief, defendant BARNES AND NOBLE  
28 BOOKSELLERS, INC. has its lease for the retail space that is at issue in this case

1 with CEP-JLS I LLC.

2 Defendant STARBUCKS CORPORATION has provided  
3 satisfactory evidence that it has nothing to do with the ownership or operation of  
4 the Café beyond its provision of products and that it has nothing to do with the  
5 maintenance or repair of the lift at issue in this lawsuit.

6 In order to facilitate resolution of plaintiff's claims, and in the  
7 interests of justice, plaintiff believes it is necessary that the following  
8 amendments are made to the Complaint: (1) all claims against defendant  
9 STARBUCKS CORPORATION be dismissed with prejudice; (2) the appropriate  
10 entity at issue in this case, CITY OF OAKLAND, A MUNICIPAL  
11 CORPORATION ACTING BY AND THROUGH ITS BOARD OF PORT  
12 COMMISSIONERS, be substituted for CITY OF OAKLAND as a defendant in  
13 this action; and (3) the master lease holder for the property at issue in this case,  
14 CEP-JLS I LLC be named as a defendant in this action.

15 Plaintiff has prepared a First Amended Complaint making the  
16 changes noted above. These changes are the only amendments to the Complaint,  
17 and the First Amended Complaint otherwise remains unchanged from the  
18 original.

19 Plaintiff seeks leave of the Court to amend the Complaint pursuant to  
20 FRCP 15 (a)(2), with the agreement of defendants BARNES AND NOBLE  
21 BOOKSELLERS, INC. and STARBUCKS CORPORATION, who have already  
22 answered as parties to this action, and also with the agreement of defendant CITY  
23 OF OAKLAND, who has not yet answered the Complaint in this matter.

24 Therefore, IT IS HEREBY STIPULATED by and between that  
25 plaintiff, BARNES AND NOBLE BOOKSELLERS, INC., STARBUCKS  
26 CORPORATION, and CITY OF OAKLAND, the only parties to have appeared  
27 in this action thus far, that plaintiff may seek leave of the court to file a First  
28 Amended Complaint, a copy of which is attached hereto as **Exhibit A**.

1 Furthermore, defendants STIPULATE that they will not, in future  
2 proceedings, allege that STARBUCKS CORPORATION is responsible for any of  
3 the actions alleged by plaintiff and/or claim that any of plaintiff's claims should  
4 be dismissed because plaintiff has dismissed STARBUCKS CORPORATION  
5 from this lawsuit.

6  
7  
8 Dated: January 11, 2010

LAW OFFICES OF PAUL L. REIN  
GEARINGER LAW GROUP

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10  
11 /s/ Paul L. Rein  
12 By PAUL L. REIN  
13 Attorneys for Plaintiff  
14 ROLANDA TAYLOR

15 Dated: January 8, 2010

EISENBERG RAIZMAN THURSTON &  
WONG LLP

*As to pages and line numbers 3:24-4:5 only*

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17  
18 /s/ David H. Raizman  
19 By David H. Raizman, Esq.  
20 Attorneys for Defendants  
21 BARNES AND NOBLE BOOKSELLERS,  
22 INC. and STARBUCKS CORPORATION

23  
24  
25 Dated: January 11, 2010

OAKLAND CITY ATTORNEY'S  
OFFICE

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28 /s/ Stephen Q. Rowell  
By Stephen Q. Rowell, Esq.  
Attorneys for Defendant  
CITY OF OAKLAND

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ORDER

Pursuant to stipulation, and for good cause shown, IT IS SO ORDERED. The attached First Amended Complaint is ordered to be filed.

Dated: January 13, 2010

  
HON. JAMES LARSON  
U.S. MAGISTRATE JUDGE