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18 Attorneys for Defendant  
 19 WINCO FOODS, LLC

20 UNITED STATES DISTRICT COURT  
 21 NORTHERN DISTRICT OF CALIFORNIA

22 MANDI HOVATER, individually and on behalf )  
 23 of all similarly situated current and former )  
 24 employees of WINCO FOODS, LLC, and )  
 25 WINCO FOODS, INC., )

26 Plaintiffs, )

27 v. )

28 WINCO FOODS, LLC, WINCO FOODS, INC. )  
 and DOES 1 through 10, inclusive, )

Defendants. )

Case No. 3:11-cv-00557-CRB

**STIPULATION AND ORDER RE  
 DISMISSAL OF CLASS ACTION  
 ALLEGATIONS**

Judge: Hon. Charles R. Breyer

Date:

Time:

Complaint filed: February 18, 2010

Trial Date: None Set

**STIPULATION**

**WHEREAS** Plaintiff Mandi Hovater’s (“Plaintiff”) First Amended Complaint alleges that she was misclassified as an exempt employee and seeks to represent a class of “[a]ll current and former California night shift assistant store managers of WinCo who were not paid for wages for overtime hours worked and penalties for meal and rest breaks for the period February 9, 2006 to the present”;

1           **WHEREAS**, the related matter *Stephen Gales v. WinCo Foods et al.*, Case No. 3:09-cv-  
 2 05813-CRB pending in this Court. Gales alleges, like Hovater, that he was misclassified as an  
 3 exempt employee and is owed compensation for unpaid overtime wages. Gales seeks to  
 4 represent a class of “persons employed in California by WinCo as an assistant manager, both  
 5 night and day, for the four year period preceding the filing of this Complaint to the present.” The  
 6 Gales class seeks to represent a class of individuals that encompasses Hovater’s proposed class.  
 7 Plaintiff has therefore determined that it is in her best interest and the interests of the potential  
 8 class not to pursue the class action allegations and to continue only individually on behalf of  
 9 herself for claims against Defendants. The interests of the class will be protected by the  
 10 continued litigation on its behalf in the *Gales* matter.

11           **THEREFORE, IT IS HEREBY STIPULATED** by and between Plaintiff and  
 12 Defendants, through their attorneys or record, that Plaintiff will not pursue the class action  
 13 allegations on behalf of the class and any references to the class action allegations are deemed to  
 14 be stricken from the First Amended Complaint. Plaintiff will continue to pursue her individual  
 15 claims against Defendants. The Parties stipulate to the dismissal of the class allegations without  
 16 prejudice.

17  
 18  
 19 DATED: May 11, 2011

SEYFARTH SHAW LLP

20  
 21 By           /s/ Alfred L. Sanderson, Jr.            
 Alfred L. Sanderson, Jr.  
 Brandon R. McKelvey  
 Jason D. Glenn  
 Attorneys for Defendant  
 WINCO FOODS, LLC

22  
 23  
 24 DATED: May 11, 2011

GRACE HOLLIS LLP

25  
 26 By           /s/ Marta Manus                    
 Graham S.P. Hollis  
 Marta Manus  
 Attorneys for Plaintiff  
 MANDI HOVATER

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**ORDER**

Pursuant to the parties' stipulation, it is hereby ORDERED that all references to the class action allegations are deemed to be stricken from the First Amended Complaint and Plaintiff's class action allegations be dismissed without prejudice.

IT IS SO ORDERED.

DATED: May 16, 2011

