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12 Attorneys for Plaintiff  
 13 NICOLE GOGARTY

14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**

18 NICOLE GOGARTY  
 Plaintiff,  
 19  
 v.  
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 21 EINSTEIN NOAH RESTAURANT GROUP,  
 INC. and DOES 1 through 5, inclusive,  
 22 Defendant.

Case No. C-11-01964-SI  
**STIPULATION OF DISMISSAL**  
 Judge: Hon. Susan Illston

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 25 TO THE CLERK OF THE ABOVE CAPTIONED COURT:

26 IT IS HEREBY STIPULATED AND AGREED, pursuant to Federal Rules of Civil  
 27 Procedure, Rule 41(a)(1) by and between Plaintiffs NICOLE GOGARTY, and Defendant  
 28 EINSTEIN NOAH RESTAURANT GROUP, INC. as follows:

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1. This action was commenced on March 23, 2011.

2. The action is not a class action; a receiver has not been appointed and the action is not governed by any statute of the United States that requires an order of the court for dismissal.

3. This action is hereby dismissed, in its entirety, with prejudice.

4. The parties mutually agree to waive any and all claims for costs of suit or attorney's fees as a result of this action.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: November 16, 2011 OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

By: /s/ Sarah R. Nichols  
Sarah R. Nichols  
*Attorneys for Defendant*  
EINSTEIN NOAH RESTAURANT GROUP, INC.

DATED: November 16, 2011 THE LAW OFFICE OF RICHARD M. ROGERS

By: /s/ Richard M. Rogers   
Richard M. Rogers  
*Attorney for Plaintiff*  
NICOLE GOGARTY



11301627.1 (OGLETREE)