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15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**

17 **GOTT BROTHERS DEVELOPMENT, )**  
 18 **LLC, a limited liability company )**  
 19 **Plaintiff, )**

**Case No. CV 09-00807 PJH**  
**JOINT STIPULATION OF DISMISSAL**  
**AND [~~PROPOSED~~] ORDER**

20 **vs.**

21 **JEAN NICHOLSON and DEAN )**  
 22 **NICHOLSON, individually and as Trustees )**  
 23 **of the DEAN AND JEAN T. NICHOLSON )**  
 24 **FAMILY TRUST; VIRGINIA TOOGOOD, )**  
 25 **individually and as the Trustee of the )**  
 26 **VIRGINIA TOOGOOD FAMILY TRUST, )**  
 27 **COMPRISING VIRGINIA T. TOOGOOD )**  
 28 **AND DOES 1-20, INCLUSIVE, )**

**JUDGE: Hon. Phyllis J. Hamilton**

**Defendants.**

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Whereas Plaintiff and Counter-Defendants GOTT BROTHERS DEVELOPMENT, LLC, a California limited liability company. JOEL GOTT, an individual and DUNCAN GOTT,

1 an individual (“GOTT”), and Defendants and Counter-Complainants JEAN NICHOLSON and  
2 DEAN NICHOLSON, individually and as Trustees of the DEAN AND JEAN T. NICHOLSON  
3 FAMILY TRUST and VIRGINIA TOOGOOD, individually and as the Trustee of the  
4 VIRGINIA TOOGOOD FAMILY TRUST COMPRISING VIRGINIA T. TOOGOOD  
5 (“NICHOLSON/TOOGOOD”) (collectively the “Parties”) reached a settlement before the  
6 Honorable Magistrate Judge Ryu, the terms of which were put on the record on January 9,  
7 2012. Accordingly, the above matter may now be dismissed. As part of the settlement put on  
8 the record on that date, Judge Ryu retained jurisdiction, and shall continue to retain such  
9 jurisdiction after filing of this stipulation and dismissal, to resolve any dispute concerning the  
10 drafting of settlement documents by binding and non-appealable decision. Further, as the  
11 settlement included installment payments from GOTT to NICHOLSON/TOOGOOD, the last  
12 of which is due and payable on June 1, 2014, the Court shall retain jurisdiction on application  
13 of NICHOLSON/TOOGOOD to set aside this dismissal and enter judgment upon the  
14 settlement on the record or instead pursuant to subsequent written settlement agreement  
15 executed by the Parties.

16 IT IS HEREBY STIPULATED by the Parties and their attorneys of record that the  
17 Court respectfully confirm the dismissal of the above action without prejudice pursuant to Rule  
18 41(a)(1)(ii) of the Federal Rules of Civil Procedure.

19 WHEREFORE, the Parties stipulate that this case be dismissed without prejudice  
20 pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure upon the terms set forth  
21 herein.

22 Jointly stipulated this \_\_\_\_ day of February, 2012.

23  
24 THE LAW OFFICES OF JAMES R. ROSE

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27 JAMES R. ROSE  
28 Attorneys for Plaintiff and Counter-Defendants

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THE LAW OFFICES OF PATRICK  
MCGOVERN

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PATRICK MCGOVERN  
Attorneys for Defendants and Counter-Claimaints

**ORDER**

The Joint Stipulation of Dismissal having been submitted by the parties, and good cause appearing therefore,

**IT IS HEREBY ORDERED**

1. The case is dismissed without prejudice pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure;

2. Magistrate Judge Donna M. Ryu to resolve any dispute concerning the drafting of settlement documents by binding and non-appealable decision; and

3. The Court retains jurisdiction upon application of NICHOLSON/TOOGOOD to set aside this dismissal and enter judgment upon the settlement on the record or instead pursuant to subsequent written settlement agreement executed by the Parties.

**IT IS SO ORDERED**

Dated: February <sup>28</sup>\_\_, 2012

