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3 **UNITED STATES DISTRICT COURT**
4 **NORTHERN DISTRICT OF CALIFORNIA**
5 **SAN JOSE DIVISION**

6 **WHOLE LEAF USA, LLC, et al.,**
7 **Plaintiffs,**

8 **v.**

9 **UNITED SECURITY BANK, et al.,**
10 **Defendants.**

Case No. 13-cv-03833-BLF

**ORDER DENYING WITHOUT
PREJUDICE STIPULATED DISMISSAL**

[Re: ECF 171]

11 Defendant United Security Bank (“USB”) has filed a stipulation of dismissal, purporting to
12 voluntarily dismiss all claims against it by Plaintiff MKM Farms. USB filed along with this
13 stipulation a proposed order to grant the stipulated dismissal. However, the stipulation fails to
14 comply with multiple requirements of Fed. R. Civ. P. 41(a)(1), under which the dismissal is sought.

15 In particular:

- 16 1. A defendant may not voluntarily dismiss claims against it, even with a stipulation. Only
17 a plaintiff may dismiss the plaintiff’s claims against a defendant by filing a stipulation
18 of dismissal. *See* Fed. R. Civ. P. 41(a)(1)(A).
- 19 2. A stipulation of voluntary dismissal filed by a plaintiff must be signed by all remaining
20 parties who have appeared. *See* Fed. R. Civ. P. 41(a)(1)(A)(ii).

21 Accordingly, **IT IS HEREBY ORDERED** that:

22 Defendant’s motion is **DENIED**. This is **WITHOUT PREJUDICE** to Plaintiff MKM
23 Farms’ filing a stipulation of dismissal that complies with all requirements Fed. R. Civ. P.
24 41(a)(1)(A)(ii). The court also notes that this stipulation of dismissal need not be filed as a motion,
25 as no action is required on the part of the court to effect a dismissal under Fed. R. Civ. P. 41(a)(1).

26 Dated: 2/5/2015

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28 **BETH LABSON FREEMAN**
United States District Judge