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11
12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15
16 MICHAEL KOSTA and STEVE BATES,
individually and on behalf of all others
17 similarly situated,

18 Plaintiffs,

19 v.

20 DEL MONTE FOODS, INC.,

21 Defendant.

Case No. 4:12-cv-01722-YGR
**ORDER GRANTING
STIPULATION AND PROPOSED ORDER
DISMISSING ACTION WITH PREJUDICE**

1 The parties hereby stipulate to request dismissal of the above-captioned case with
2 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). Defendant enters into this
3 stipulation without prejudice as to any rights or contentions that it may have had in the action on
4 the merits. Plaintiffs will appeal the dismissal in order to appeal the denial of class certification.
5 See *Berger v. Home Depot USA, Inc.*, 741 F. 3d 1061, 1064-66 (9th Cir. 2014). The parties
6 stipulate to this dismissal with each party to bear its own costs.

7 The parties therefore request that the Court enter the Proposed Order lodged concurrently
8 herewith.

9 Dated: September 4, 2015

Respectfully submitted,

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11 By: /s/ Brian K. Herrington
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18 MICHAEL KOSTA and STEVE BATES

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20 Attorneys for Defendant
21 DEL MONTE FOODS, INC.


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~~PROPOSED~~ ORDER

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED THAT:

The above-captioned case is dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2), with each side to bear their own costs.

Date: September 8, 2015.


Honorable Judge Yvonne Gonzalez Rogers
UNITED STATES DISTRICT JUDGE