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 ALBERTSON'S, LLC

11 UNITED STATES DISTRICT COURT
 12 EASTERN DISTRICT OF CALIFORNIA
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 14 FRESNO DIVISION

15 SAVE MART SUPERMARKETS,
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 Plaintiff,
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 v.
 18 ALBERTSON'S, LLC,
 19
 Defendant.

Case No. 1:07-cv-01572-LJO-SMS

**STIPULATION AND ORDER FOR
 DISMISSAL WITHOUT PREJUDICE**

21 IT IS HEREBY STIPULATED by and between the parties to this action, through their
 22 designated counsel, that the above entitled action be dismissed without prejudice pursuant to
 23 Federal Rule of Civil Procedure 41(a)(1).

24 IT IS SO STIPULATED.

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Dated: January 27, 2009

SCHULTE ROTH & ZABEL LLP

/s/ Michael E. Swartz

Michael E. Swartz
Attorneys for Defendant
Albertson's, LLC

Dated: January 27, 2009

FOLGER LEVIN & KAHN LLP

/s/ Roger B. Mead

Roger B. Mead
Attorneys for Defendant
Albertson's, LLC

Dated: January 27, 2009

NIXON PEABODY LLP

/s/ Daniel J. Muller

Daniel J. Muller
Attorneys for Plaintiff
Save Mart Supermarkets

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. THE CLERK IS ORDERED TO
CLOSE THIS CASE IN ITS ENTIRETY.

Dated: January 28, 2009

/s/ LAWRENCE J. O'NEILL _____
HONORABLE LAWRENCE J. O'NEILL
UNITED STATES DISTRICT JUDGE