

1 **DILLINGHAM & MURPHY, LLP**

2 WILLIAM F. MURPHY, ESQ. (SBN 082482)

3 J. CROSS CREASON, ESQ. (SBN 209492)

4 225 Bush Street, 6th Floor

5 San Francisco, California 94104-4207

6 Telephone: (415) 397-2700

7 Facsimile: (415) 397-3300

8 Attorneys for Defendant

9 SAFEWAY INC.

10 **LAW OFFICE OF BOWMAN & ASSOCIATES**

11 ROBERT C. BOWMAN, JR., ESQ. (SBN 232388)

12 KARA DANELLE KEISTER, ESQ. (SBN 250260)

13 2151 RIVER PLAZA DRIVE, SUITE 105

14 SACRAMENTO, CA 95833

15 TELEPHONE: (916) 923-2800

16 FACSIMILE: (916) 923-2828

17 Attorneys for Plaintiff

18 DAWN KRUIZE

19 UNITED STATES DISTRICT COURT

20 EASTERN DISTRICT OF CALIFORNIA – SACRAMENTO DIVISION

21 DAWN KRUIZE,

22 Plaintiff

23 v.

24 SAFEWAY INC., et al.,

25 Defendant.

26 Case No. 2:11-cv-00299-GEB -GGH

27 **STIPULATION FOR AN ORDER
DISMISSING CERTAIN CLAIMS
WITH PREJUDICE, CLARIFYING
PLAINTIFF’S REMAINING CLAIMS,
AND REMANDING ACTION TO
PLACER COUNTY SUPERIOR
COURT.**

28 Plaintiff DAWN KRUIZE (“Plaintiff”) and Defendant SAFEWAY INC. (“Safeway”)

hereby stipulate that the Court may enter an Order:

1. Dismissing, with prejudice, Plaintiff’s Sixth Claim for Relief [Breach of Employment Contract], her Seventh Claim for Relief [Breach of the Implied Covenant of Good Faith and Fair Dealing], her Eighth Claim for Relief [Negligent Hiring and Retention], and her Ninth Claim for Relief [Intentional Infliction of Emotional Distress]. The foregoing dismissal

1 with prejudice of Plaintiff's Sixth, Seventh, Eighth and Ninth Claims is binding in this and in
2 any other forum in which Plaintiff would or could seek to pursue such claims.

3 2. Confirming that Plaintiff's Fifth Claim for Relief for Wrongful Termination in
4 Violation of Public Policy is premised entirely on the violation of public policy or public
5 policies alleged in her First Claim for Relief [Age Discrimination in Violation of Government
6 Code §§ 12900 et seq. and 12940 et Seq.], her Second Claim for Relief [Disability
7 Discrimination in Violation of Government Code §§ 12900 et seq. and 12940 et seq.], her
8 Third Claim for Relief [Gender Discrimination in Violation of Government Code §§ 12900 et
9 Seq. and 12940 et Seq.], and her Fourth Claim for Relief [Retaliation in Violation of the
10 California Family Rights Act], and on no other public policy, and that Plaintiff's Fifth Claim
11 for Relief for Wrongful Termination in Violation of Public Policy is in no way based upon any
12 alleged breach of any term of any collective bargaining agreement or other employment
13 contract with Safeway, whether written, oral or implied in fact or in law. This stipulation shall
14 be binding in any and all Courts or other forums in which this action may be heard.

15 3. Remanding the action to the Superior Court of the State of California, County of
16 Placer, based upon the dismissal with prejudice of Plaintiff's Sixth, Seventh, Eighth and Ninth
17 Claims for Relief, and the stipulation regarding the scope of her Fifth Claim for Relief set
18 forth in Paragraph 2 above, which stipulations eliminate the claims upon which original
19 subject matter jurisdiction in this Court (federal question jurisdiction; 28 U.S.C. § 1331) was
20 based under § 301 of the Labor-Management Relations Act, 29 U.S.C. § 185 ("§ 301").
21 Accordingly, the parties hereby stipulate to the remand of this action and the un-dismissed
22 claims asserted herein to the court in which it was originally filed, the Superior Court of the
23 State of California for the County of Placer.

24 The parties believe there is good cause for the entry of an Order by the Court as
25 stipulated to by the parties, in that the foregoing will reduce the number of claims to be
26 addressed in discovery and in motion practice, and will eliminate a situation where the Court
27 would be asked to continue to exercise its supplemental jurisdiction over the remaining claims
28 pursuant to 28 U.S.C. § 1367, despite the removal of all federal claims from the action and the
fact that this action is in its early stage.

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Dated: May 24, 2011

DILLINGHAM & MURPHY, LLP
WILLIAM F. MURPHY, ESQ.
J. CROSS CREASON, ESQ.

By: /s/ J. Cross Creason
Attorneys for Defendant
Safeway Inc.

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Dated: May 24, 2011

BOWMAN & ASSOCIATES
KARA KEISTER, ESQ.

By: /s/ Kara Keister
Attorneys for Plaintiff Dawn Kruize

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1 ORDER

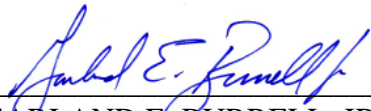
2 Based on the foregoing stipulation of the parties, the Court makes the following
3 ORDER:

4 Plaintiff's Sixth Claim for Relief [Breach of Employment Contract]; Seventh Claim for
5 Relief [Breach of the Implied Covenant of Good Faith and Fair Dealing]; Eighth Claim for
6 Relief [Negligent Hiring and Retention]; and Ninth Claim for Relief [Intentional Infliction of
7 Emotional Distress] are hereby dismissed WITH PREJUDICE.

8 The remainder of Plaintiff's action, including her Fifth Claim for Relief subject to the
9 Stipulation set forth in Paragraph 2 above, is hereby remanded to the Superior Court of the
10 State of California for the County of Placer. The parties shall bear their own attorneys fees and
11 costs associated with the dismissal and remand.

12 IT IS SO ORDERED

13 **Date:** 5/25/2011

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15 GARLAND E. BURRELL, JR.
16 United States District Judge
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