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14 **UNITED STATES DISTRICT COURT**
 15 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

17 LACHLAN WATERBURY, KEN)	Case No.: C 06 02072 JL
18 FAROTTE, individually, and on behalf)	
18 of all others similarly situated,)	<u>CLASS ACTION</u>
19)	
19 Plaintiffs,)	<u>STIPULATED PROPOSED ORDER</u>
20)	<u>DISMISSING CASE WITHOUT</u>
20 vs.)	<u>PREJUDICE AND REMOVING PENDING</u>
21)	<u>HEARING DATES</u>
21 SAFEWAY, INC., and DOES 1 through)	
22 25, inclusive,)	
22)	Judge: Hon. James Larson
22 Defendants.)	
23 _____)	

24
 25 **WHEREAS** Plaintiffs Lachlan Waterbury and Ken Farotte (“Plaintiffs”) and Defendant
 26 Safeway, Inc. (“Safeway”) have agreed to litigate all of Plaintiffs’ individual claims in the pending
 27 Alameda County Superior Court case entitled *Farotte v. Safeway, Inc.* (Case Number RG05205915);
 28

1 **WHEREAS** on February 9, 2009, Plaintiffs Lachlan Waterbury and Ken Farotte filed a
2 Motion for Dismissal Without Prejudice of the current matter, setting the same for hearing on March
3 18, 2009 at 9:30 a.m.;

4 **WHEREAS** neither party is requesting a hearing on Plaintiffs’ Motion for Dismissal
5 Without Prejudice and Defendant does not oppose said motion or the relief Plaintiffs requested
6 therein;

7 **WHEREAS** there is currently a Case Management Conference scheduled to take place in
8 this matter on February 18, 2009;

9
10 **IT IS THEREFORE STIPULATED AND AGREED**, by and between the parties hereto
11 through their attorneys of record, and subject to the approval of the Court pursuant to Local Rule
12 6-2, as follows:

- 13 1. This action is dismissed without prejudice;
- 14 2. No notice to putative class members is required;
- 15 3. The parties shall bear their own costs;
- 16 4. The February 18, 2009 Case Management Conference and the March 18, 2009
17 hearing for Plaintiffs’ Motion for Dismissal Without Prejudice shall both be removed from the
18 Court’s calendar.

19
20 **IT IS SO STIPULATED, THROUGH COUNSEL.**

21
22 Dated: February 11, 2009

23 By: /s/ Kevin R. Allen
 Kevin R. Allen, Esq.
 SCOTT COLE & ASSOCIATES, APC
 Attorneys for Plaintiffs

24
25
26 Dated: February 11, 2009

27 By: /s/ Laura E. Hayward
 Laura E. Hayward, Esq.
 LITTLER MENDELSON, APC
 Attorneys for Defendant Safeway, Inc.

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: February 12, 2009

By:



Honorable James Larson
United States Magistrate Judge

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