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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA  
 10 SAN FRANCISCO DIVISION  
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12 WRI GOLDEN STATE, LLC, a Delaware  
 limited liability company,

13 Plaintiff,

14 v.

15 SAVE MART SUPERMARKETS, d/b/a  
 16 FOOD MAXX,

17 Defendant.

Case No. C07-1480-(MMC) WWS

~~PROPOSED~~ AMENDED JUDGMENT

Trial date: July 15, 2008

Judge: Honorable William W Schwarzer

18 AND RELATED CROSS-ACTION  
 19

20 On July 15, 2008, this action came on for trial before the Honorable William W  
 21 Schwarzer. The Court considered the matter and in accordance with the findings of fact and  
 22 conclusions of law filed <sup>July 31, 2008,</sup> ~~concurrently herewith~~, and pursuant to Rule 58 of the Federal Rules of  
 23 Civil Procedure,

24 IT IS ADJUDGED THAT:

25 1. Plaintiff WRI Golden State, LLC, is awarded a declaratory judgment against Save  
 26 Mart Supermarkets, d/b/a Food Maxx ("Save Mart"). Specifically, the Court declares that Save  
 27 Mart has fully exercised any and all approval rights with respect to the building alterations  
 28 proposed for the Wal-Mart store in the Stony Point Plaza Shopping Center located at Stony Point

~~PROPOSED~~ AMENDED JUDGMENT

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1 Road and California State Highway 12 in Santa Rosa, California. The Court finds that on  
2 November 20, 2003, Save Mart approved in writing the exterior design, color, elevation, site and  
3 building alterations in connection with the proposed Wal-Mart store and that WRI's acceptance of  
4 Save Mart's consent on January 20, 2004 constitutes an agreement and the approval of Save Mart  
5 with respect to the exterior design, color, elevation, site and building alterations in connection  
6 with the proposed Wal-Mart store. In addition, the Court declares that Save Mart has approved or  
7 is deemed to have approved minor modifications to the Wal-Mart store front required by the City  
8 of Santa Rosa, which modifications were sent by WRI to Save Mart on or about August 30, 2006.

9 2. Save Mart's counterclaim for declaratory relief is dismissed without prejudice,  
10 because it does not present a genuine case or controversy.

11 3. Plaintiff WRI shall recover its costs of suit on the complaint, pursuant to Rule  
12 54(d) of the Federal Rules of Civil Procedure. Plaintiff WRI is, however, not entitled to its costs  
13 of suit on the counterclaim. (*See Miles v. State of California*, 320 F.3d 986, 988 (9th Cir. 2003.)

14 4. On October 21, 2008, Plaintiff's Motion for Attorneys' Fees and Expenses and  
15 Amended Bill of Costs came on for hearing before this Court. After considering Plaintiff's  
16 Motion for Attorneys' Fees and Expenses, the Court granted WRI's Motion for Attorneys' Fees  
17 and Expenses on the Complaint, and denied fees and expenses on the Counterclaim for reasons  
18 stated on the record on October 21, 2008. Plaintiff is awarded \$223,068.00 in attorneys' fees and  
19 expenses on the Complaint. Plaintiff is also awarded its costs of \$ 8,645.10 as claimed on  
20 its Amended Bill of Costs filed August 22, 2008. Accordingly, Plaintiff WRI shall recover from  
21 Defendant Save Mart a total of \$ 231,713.10 in costs, attorneys' fees and expenses.

22 IT IS SO ORDERED.

23 Dated: November 14, 2008

24 /s/ William W Schwarzer

25 WILLIAM W SCHWARZER  
26 SENIOR U.S. DISTRICT JUDGE