

1 GREGORY P. O'HARA, CA BAR NO. 131963  
 gpohara@thelen.com  
 2 DANIEL J. MULLER, CA BAR NO. 193396  
 dmuller@thelen.com  
 3 KARIN M. COGBILL, CA BAR NO. 244606  
 kcogbill@thelen.com  
 4 THELEN LLP  
 225 West Santa Clara Street, 12<sup>th</sup> Floor  
 5 San Jose, CA 95113  
 Telephone: (408) 292-5800  
 6 Facsimile: (408) 287-8040

7 Attorneys for Plaintiff  
 SAVE MART SUPERMARKETS

8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

SAVE MART SUPERMARKETS, d/b/a  
 FOOD MAXX, a California Corporation

Plaintiff,

vs.

WAL-MART REAL ESTATE BUSINESS  
 TRUST, a Delaware Statutory Trust, WAL-  
 MART STORES, INC., a Delaware  
 Corporation

Defendants.

Case No.: 08-03885 JL

**STIPULATION AND [PROPOSED]  
 ORDER DISMISSING CASE WITHOUT  
 PREJUDICE**

1 IT IS HEREBY STIPULATED by and between the parties to this action, through their  
2 designated counsel, that the above entitled action be and hereby is dismissed without prejudice  
3 pursuant to Federal Rule of Civil Procedure 41(a)(1).  
4

5 Dated: October 30, 2008

THELEN LLP

7  
8 By Karin Cogbill  
Gregory P. O'Hara  
Daniel J. Muller  
Karin M. Cogbill  
Attorneys for Plaintiff Save Mart Supermarkets  
10  
11

12 Dated: October 30, 2008

SHOOK, HARDY & BACON L.L.P.

14  
15 By [Signature]  
Alicia J. Donahue  
Gabrielle Handler Marks  
Attorneys for Defendant Wal-Mart Real Estate  
Business Trust and Defendant Wal-Mart Stores Inc.  
18  
19

20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21 Dated: October 31, 2008

HONORABLE SAM  
United States District

