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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DEE HENSLEY-MACLEAN and SARA DUNCAN, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

SAFEWAY, INC.,

Defendant.

Case No. 11-cv-01230-RS (MEJ)

DISCOVERY ORDER

Re: Dkt. No. 155

Pending before the Court is the parties' joint discovery letter, filed December 19, 2014, regarding Plaintiffs' Interrogatories, Set Three, served on Defendant Safeway, Inc. on June 11, 2014. Dkt. No. 155, Ex. A. Interrogatory No. 20 asks for the number of units and total retail sales prices of recalled products that Safeway sold. Safeway objected to Interrogatory No. 20 on grounds that it is overbroad in that it seeks information on all Class I recalls and not just the recalls of the named Plaintiffs. However, the Court previously found that Plaintiffs' Complaint is not limited to recalls involving the named Plaintiffs, and the presiding judge has made no determination that such a limitation is appropriate based on Plaintiffs' standing or for any other reason. See Dkt. No. 153. Accordingly, at this stage, Plaintiffs are entitled to discovery that includes all recalled products.

Safeway also argues that it cannot determine from its systems the unit and sales revenue of recalled products because neither Safeway's Club Card system nor its point of sale system captures such lot and plant information. Safeway notes that in 2011, Plaintiffs took the deposition of Valerie Lewis, Safeway's Senior Corporate Attorney, and she explained that Safeway Club Card data, for instance, captures a UPC code, but the UPC code "does not limit you to the

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purchase of the recall[ed] item." Plaintiffs do not respond to this argument, and they have failed
to show how Safeway can produce what it does not have. However, it is possible that Safeway
could reasonably produce at least part of the requested information in a different format.
Accordingly, the Court ORDERS the parties to meet and confer in person and make a good faith
effort to determine whether this is possible. If the parties are unable to resolve the matter on their
own and resort to further briefing, they shall include a description of the alternatives proposed by
both sides.
IT IS SO ORDERED.
Dated: December 19, 2014 MARIA-ELENA JAMES United States Magistrate Judge