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6 *Attorneys for Plaintiff and the Plan*  
 7 [Additional Counsel Listed On Signature Page]

8 **IN THE UNITED STATES DISTRICT COURT**  
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

10 MARIA KARLA TERRAZA, )  
 Individually and On Behalf of the )  
 11 SAFEWAY 401(K) PLAN, )  
 )  
 12 Plaintiff, )  
 )  
 13 v. )  
 )  
 14 SAFEWAY INC., BENEFIT PLANS )  
 COMMITTEE SAFEWAY INC. n/k/a )  
 15 ALBERTSONS COMPANIES )  
 RETIREMENT BENEFITS PLANS )  
 16 COMMITTEE, PETER J. BOCIAN, )  
 DAVID F. BOND, MICHAEL J. )  
 17 BOYLAN, ROBERT B. DIMOND, )  
 LAURA A. DONALD, DENNIS J. )  
 18 DUNNE, ROBERT L. EDWARDS, )  
 BRADLEY S. FOX, BERNARD L. )  
 19 HARDY, RUSSELL M. JACKSON, )  
 PEGGY JONES, SUZ-ANN KIRBY, )  
 20 ROBERT LARSON, MELISSA C. )  
 PLAISANCE, PAUL ROWAN, )  
 21 ANDREW SCOGGIN, and AON )  
 HEWITT INVESTMENT )  
 22 CONSULTING, INC., )  
 )  
 23 Defendants. )

CASE NO. 3:16-cv-03994-JST  
  
**STIPULATION AND  
~~PROPOSED~~ ORDER GRANTING  
 PLAINTIFF'S ADMINISTRATIVE  
 MOTION FOR LEAVE TO FILE SUR-  
 REPLY IN OPPOSITION TO  
 AON HEWITT INVESTMENT  
 CONSULTING, INC.'S MOTION TO  
 DISMISS SECOND AMENDED  
 COMPLAINT**

24  
 25  
 26  
 27  
 28 ADMINISTRATIVE MOTION FOR LEAVE TO FILE SUR-REPLY IN OPP. TO MOTION TO DISMISS  
 Case No: 3:16-cv-03994 JST

1 Plaintiff, Maria Karla Terraza (“Plaintiff”), individually and on behalf of the Safeway  
2 401(k) Plan, and Defendant, Aon Hewitt Investment Consulting, Inc. (“Aon”), by and through  
3 their respective counsel, hereby consent and stipulate as follows:

4 WHEREAS, Plaintiff filed the initial Complaint on July 14, 2016 [Dkt. No. 1];

5 WHEREAS, Plaintiff filed the operative Second Amended Complaint (“SAC”) on March  
6 31, 2017 [Dkt. No. 72], adding Aon as a defendant;

7 WHEREAS, Aon filed its Motion to Dismiss Second Amended Complaint on June 22,  
8 2017 [Dkt. No. 83] (“Motion to Dismiss”), with a hearing date noticed for August 24, 2017, at  
9 2:00 p.m. before the Honorable Jon S. Tigar;

10 WHEREAS, pursuant to the parties’ stipulation on July 5, 2017 and the Court’s Order  
11 that same day, Plaintiff’s response to Aon’s Motion to Dismiss was extended from July 6, 2017  
12 to August 3, 2017; Aon’s reply was extended to August 24, 2017; and the hearing date was  
13 continued to September 12, 2017 [Dkt No. 87];

14 WHEREAS, Plaintiff filed her Opposition to the Motion to Dismiss on August 3, 2017  
15 [Dkt. No. 89];

16 WHEREAS, Aon filed its Reply in support of the Motion to Dismiss on August 24, 2017  
17 [Dkt. No. 90];

18 WHEREAS, Aon’s Reply in support of the Motion to Dismiss identified that Plaintiff’s  
19 Opposition to the Motion to Dismiss had double-counted the expenses for some of the Plan’s  
20 investment options;

21 WHEREAS, Plaintiff’s counsel seek to briefly acknowledge that oversight, apologize to  
22 the Court, and clarify the relevant argument in Plaintiff’s Opposition to the Motion to Dismiss;  
23 and

24 WHEREAS, counsel for Aon agreed that Aon would not oppose Plaintiff’s request to file  
25 a Sur-Reply provided that Plaintiff limits the Sur-Reply to those points;

26 IT IS THEREFORE STIPULATED AND AGREED AS FOLLOWS:

1 On or before September 5, 2017, Plaintiff may file a short Sur-Reply in the form of the  
2 attached Exhibit A to briefly address the double-counting error.

3 In accordance with Civil L.R. 5-1(i), the filer of this document hereby attests that  
4 concurrence in the filing of this document has been obtained from the other signatory hereto.

5 **IT IS SO STIPULATED:**

6  
7 Dated: September 5, 2017

Respectfully submitted,

8 SHEPHERD, FINKELMAN, MILLER  
9 & SHAH, LLP

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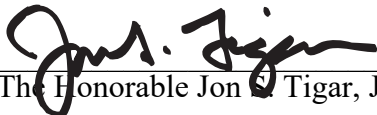
17 Dated: September 5, 2017

18 /s/ Randall W. Edwards  
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*Attorneys for Defendant,  
Aon Hewitt Investment Consulting, Inc.*

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: September 5, 2017

  
The Honorable Jon Tigar, J.