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20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA
 22 OAKLAND DIVISION

23 VICTOR FELIX, an individual on behalf
 of himself and all others similarly situated,

24 Plaintiffs,

25 v.

26 SAFEWAY, INC., a Delaware corporation;
 and DOES 1 to 100, inclusive,

27 Defendants.
 28

Case No. C 11 05005 SBA

**STIPULATION AND ORDER RE:
 DISMISSAL WITH PREJUDICE
 PURSUANT TO FRCP 41(A)(1)**

1 IT IS HEREBY STIPULATED by and between the parties to this action, Plaintiff
2 Victor Felix and Defendant Safeway Inc., and by and through their designated counsel pursuant to
3 Rule 41(a) of the Federal Rules of Civil Procedure, that:

4 1. Following the filing of the Complaint in this action, the Parties have engaged
5 in discovery and exchanged information pertaining to the Plaintiff's claims in this case;

6 2. Counsel for Plaintiff have diligently investigated the claims made in the
7 Complaint, both by evaluating the information provided by Defendant and by conducting an
8 independent investigation. The evidence provided by Defendant included written discovery, the
9 production of documents, and 30(b)(6) witness testimony on Plaintiff's time and pay records,
10 Plaintiff's time punches, as well as the structure and operation of Defendant's timekeeping and
11 payment calculation systems;

12 3. After a thorough investigation of the facts and review of the law, Plaintiff's
13 counsel believes that further prosecution of this case is not warranted. Specifically, an analysis of
14 data produced by Defendant's counsel for a sampling of the putative class and performed by an
15 expert retained by Plaintiff's counsel has not shown the existence of damages to Plaintiff or other
16 members of the sample population contained in the data provided arising from Defendant's rounding
17 practices. As a result, the Parties have agreed to resolve this case without seeking certification of a
18 class. The Parties hereby stipulate to dismiss this action with prejudice as to Plaintiff Victor Felix
19 and agree that such a dismissal will be without prejudice as to the putative class.

20 4. Each party shall bear its own fees and costs.

21 Dated: _____, 2012

22 _____
23 MICHAEL F. McCABE
24 LITTLER MENDELSON, P.C.
A Professional Corporation
Attorneys for Defendant SAFEWAY INC.

25 Dated: _____, 2012

26 _____
27 JOSEPH ANTONELLI
28 JANELLE CARNEY
LAW OFFICE OF JOSEPH ANTONELLI
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Attorneys for Plaintiff VICTOR FELIX

1.

Case No. CV 11-05005 SBA

STIPULATION AND ORDER RE: DISMISSAL WITH PREJUDICE

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ORDER

Based upon the above stipulation, the Court hereby orders this case dismissed with prejudice, each party to bear its own fees and costs.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: __11/8/12



SAUNDRA BROWN ARMSTRONG
United States District Court Judge

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