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 5 *The Vons Companies, Inc.*

6 **UNITED STATES DISTRICT COURT**

7 **DISTRICT OF NEVADA**

8	GUADALUPE MARTINEZ,)	Case No. 2:16-cv-02380-GMN-PAL
)	
	Plaintiff,)	STIPULATION AND ORDER FOR
)	FRCP 35 INDEPENDENT MEDICAL
9	vs.)	EXAMINATION OF PLAINTIFF
)	GUADALUPE MARTINEZ
10	THE VONS COMPANIES, INC., a foreign)	
	corporation; DOES I through X; and ROE)	Date: March 27,2017
	ENTITIES I through X)	Time: 3:00 p.m.
11)	
	Defendants.)	

12 Plaintiff, GUADALUPE MARTINEZ by and through her counsel David Tanner, Esq. and
 13 Defendant THE VONS COMPANIES, INC by and through its counsel Jack P. Burden, Esq. of the
 14 law firm BACKUS CARRANZA & BURDEN, hereby stipulate to the independent medical examination
 ("IME") of Plaintiff GUADALUPE MARTINEZ on Monday, March 27, 2017 at 3:00 p.m. The
 15 IME will be conducted by Michael Klein, M.D. of Consultants Medical Group located at 2500
 16 West Sahara, Suite 207; Las Vegas, Nevada, 89102; Telephone (702) 777-2663.

17 Plaintiff and Defendant hereby further stipulate and agree to following conditions for IME:

- 18 1. Defendant shall provide Plaintiff's counsel with any and all paperwork the
 physician requires Plaintiff to complete five to seven days prior to the examination.
- 19 2. Dr. Klein is the only Rule 35 examiner permitted to be present at Plaintiff's

1 examination.

2 3. That the examination shall last for a period of ninety (90) minutes.

3 4. Dr. Klein may inquire as to the Plaintiff's medical history and injuries involved in
4 this incident, but may not ask questions relating to liability in this matter.

5 5. The examination will focus on all areas Ms. Martinez claims she was injured as a
6 result of the subject incident at issue.

7 6. Dr. Klein may not perform invasive or painful testing and must be cognizant of the
8 Plaintiff's recent surgery(s) during the course of the examination.

9 7. No X-rays, CT scans, or MRI's of Plaintiff may be performed during the course of
10 the examination; however, in the event Plaintiff recently underwent X-rays, CT scans, or MRI's
11 that have not been disclosed to the Defendant, she must then bring said films with her to the IME.

12 8. Dr. Klein may not perform a mental or psychological evaluation.

13 9. That the parties provide Dr. Klein a copy of this Stipulation and Order prior to the
14 examination to ensure he has notice of these terms.

15 10. Dr. Klein will provide his report and findings to the Plaintiff within thirty (30) days
16 of the examination or by the initial expert disclosures deadline, whichever is first.

17 11. Dr. Klein shall not engage in any *ex parte* communication with Plaintiff's
18 companions or medical providers.

19 12. Plaintiff shall not be subject to audio or video recording.

20 13. The Rule 35 medical examination will not be used to obtain *sub rosa* video of
21 Plaintiff.

22 14. The parties agree that Dr. Klein is being retained by Defendant to provide medical
23 opinions on behalf of the defendant; said stipulation will not be used at trial to imply that Dr.
24 Klein was agreed to by the parties, is court appointed or an independent examiner.

25 15. Ms. Martinez may be asked to disrobe at the medical examination. In the event she

1 is asked to disrobe, a female staff member will be present for said portion of the examination but
2 will not participate in the examination.

3 16. Ms. Martinez is not required to provide her medical records, but will provide Dr.
4 Klein with any recent medical records not already provided to the Defendant.

5 17. Maria Peralta de Gomez, a Court approved Spanish interpreter will be present
6 during the entire examination.

7 This stipulation is entered into in good faith, in the interests of judicial economy and not
8 for the purpose of delay.

9 DATED: March 20, 2017

10 **BACKUS, CARRANZA & BURDEN**

11 Jack P. Burden, Esq.
12 3050 South Durango Drive
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Tel: 702.872-5555
Fax: 702.872-5545
*Attorneys for Defendant
Albertson's LLC*

DATED: 3/15, 2017

TANNER LAW FIRM

13 David A. Tanner, Esq.
TANNER LAW FIRM
8635 South Eastern Avenue
Las Vegas, NV 89123
Tel: 702/ 987-8888
*Attorney for Plaintiff
Guadalupe Martinez*

14 **ORDER**

15 IT IS SO ORDERED.

16 DATED: this 3rd day of April, 2017.

17 *Jerry A. Feen*
18 UNITED STATES MAGISTRATE JUDGE

CERTIFICATE OF SERVICE

I am a resident of and employed in Clark County, Nevada. I am over the age of 18 years and not a party to the within action. My business address is: 3050 South Durango Drive, Las Vegas, Nevada, 89117.

On March 20, 2017, I served this document on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

VIA FACSIMILE: by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

BY PERSONAL SERVICE: by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

BY E-MAIL: by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party who has filed a written consent for such manner of service.

BY CM/ECF SYSTEM: by transmitting via the United States District Court's CM/ECF System to the following individuals for which such service is designated on the Service List.

David A. Tanner, Esq. TANNER LAW FIRM 8635 South Eastern Avenue Las Vegas, NV 89123 Tel: 702/ 987-8888 Fax: 702/410-8070 david@tannerlawfirm.com	Plaintiff	<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service <input checked="" type="checkbox"/> Electronic Means
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I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.


An employee of BACKUS, CARRANZA & BURDEN