

1 **SEYFARTH SHAW LLP**  
William J. Dritsas (SBN 97523)  
2 *wdritsas@seyfarth.com*  
560 Mission Street, 31st Floor  
3 San Francisco, CA 94105-2930  
Telephone: (415) 397-2823  
4 Facsimile: (415) 397-8549

5 **SEYFARTH SHAW LLP**  
Michael W. Kopp (SBN 206385)  
6 *mkopp@seyfarth.com*  
400 Capitol Mall, Suite 2350  
7 Sacramento, California 95814  
Telephone: (916) 448-0159  
8 Facsimile: (916) 558-4839

9 Attorneys for Defendants Safeway Inc., Albertsons  
Companies, Inc.

10 **THE MATIASIC FIRM, P.C.**  
11 Paul A. Matiasic (SBN 226448)  
*matiasic@mjlawoffice.com*  
12 Hannah E. Mohr (SBN 294193)  
44 Montgomery Street, Suite 3850  
13 San Francisco, California 94104  
Telephone: (415) 675-1089  
14 Facsimile: (415) 675-1103

15 Attorneys for Plaintiff Norma Zuniga

16 **UNITED STATES DISTRICT COURT**  
17 **NORTHERN DISTRICT OF CALIFORNIA**

18  
19 *NORMA ZUNIGA, individually, and as*  
20 *successor-in-interest to PEDRO ZUNIGA,*  
*Deceased,*

21 Plaintiff,

22 v.

23 **SAFEWAY, INC.; ALBERTSONS'**  
24 **COMPANIES, INC.; and DOES 1 through**  
100 inclusive,

25 Defendants.  
26  
27  
28

Case No. 4:20-cv-04440-YGR

**JOINT REPORT REGARDING  
COMPLETION OF MEDIATION AND  
REQUEST FOR CASE MANAGEMENT  
CONFERENCE**

Complaint Filed: May 13, 2020

1 On July 28, 2020, the Court granted the parties' request for a stay of the action for all purposes to  
2 permit the parties to conduct mediation, with the stay effective through October 22, 2020. (Dkt. 13.)  
3 The Court's order set a compliance deadline for 9:01 a.m. on October 23, 2020, and directed that "no  
4 later than 5 days prior to the deadline, the parties shall file a joint statement regarding the status of the  
5 mediation and need for a case management conference." (Id.)

6 Pursuant to that order, the parties report that they completed a private mediation before the  
7 Honorable George Hernandez on August 11, 2020 with all parties and their counsel present, but were  
8 unable to resolve the action.

9 Pursuant to the Court's July 28, 2020 Order, the parties also request the Court set a Case  
10 Management Conference. Pursuant to the Local Rules and this Court's standing order, the parties will  
11 submit a Joint Case Management Conference Statement seven days prior to the date of that case  
12 management conference.

13 Matters that the parties wish to address include the following:

14 **Stipulation Regarding Plaintiff's State-Court Filed Amended Complaint.** It is Defendants'  
15 position that Plaintiff's July 7, 2020 filing of an Amended Complaint in State Court is without effect  
16 because it was filed five days after Defendants' July 2, 2020 Notice of Removal (Dkt. 1), and was  
17 instead filed on the same day as Defendants' July 7, 2020 Notice to State Court of Removal, and was not  
18 served on Defendants until July 16, 2020. It is Plaintiff's position that the Amended Complaint is the  
19 current operative pleading because as reflected on the Alameda County Superior Court docket, it was  
20 filed before Defendants' July 7, 2020 Notice to State Court of Removal. The parties have agreed to  
21 resolve this dispute by Defendants' stipulation to treat Plaintiff's Amended Complaint as the presently  
22 operative pleading, and the parties will file a stipulation to that effect, attaching the Amended  
23 Complaint.

24 **Briefing Schedules for the Parties' Initial Motions:**

25 **(1) Motion to Remand:** Plaintiff intends to file a motion to remand the action, which  
26 Defendants will oppose. The parties propose that the motion to remand be filed by November 20, 2020  
27  
28

1 (within 30 days of the lifting of the stay), with the briefing schedule for opposition and reply to follow  
2 local rules.

3 **Motion to Transfer Venue:** Defendants intend to file a motion to transfer venue to the Eastern  
4 District of California pursuant to 28 USC § 1404 for the convenience of parties and witnesses, in the  
5 interest of justice, which Defendants propose to file concurrently on the same day as Plaintiff's motion  
6 to Remand, on November 20, 2020. If the Court prefers to stagger the motions and to take up the issue  
7 of remand first, Defendants are also amenable to filing the motion to transfer venue within fourteen days  
8 of the Court's order on the motion to remand.

9 **Motion to Dismiss:** Defendants previously filed a Motion to Dismiss (Dkt 8), which the Court's  
10 Order Granting a Stay deemed withdrawn, subject to re-noticing. *See* Dkt. 13 ("The motion to dismiss  
11 (Dkt. No. 8) is DEEMED WITHDRAWN without prejudice to re-noticing.") Because the parties have  
12 agreed that Plaintiff's Amended Complaint will serve as the currently operative pleading, Defendants  
13 intend to file a revised Motion to Dismiss directed to the Amended Complaint. The parties propose that  
14 Defendants' Motion to Dismiss be filed within fourteen days of the Court's order on the motion to  
15 remand. Defendants further request that the Court defer ruling on the Motion to Dismiss pending any  
16 ruling on the Motion to Transfer Venue, whereas Plaintiff requests that the Motion to Dismiss be heard  
17 prior to any ruling on a Motion to Transfer Venue.

1 DATED: October 16, 2020

Respectfully submitted,

2 SEYFARTH SHAW LLP

3  
4 By: /s/ Michael W. Kopp

5 William J. Dritsas  
6 Michael W. Kopp  
7 Attorneys For Defendants  
8 SAFEWAY INC.; ALBERTSONS COMPANIES, INC.

9 DATED: October 16, 2020

THE MATIASIC FIRM, P.C.

8 By: /s/ Paul A. Matiasic

9 Paul A. Matiasic  
10 Attorneys for Plaintiff NORMA ZUNIGA

11 **SIGNATURE ATTESTATION (Civ. L.R. 5.1(i)(3))**

12 I hereby attest that I have obtained the concurrence in the filing of the document from the other  
13 signatory.

14 DATED: October 16, 2020

/s/ Michael W. Kopp

15 Michael W. Kopp  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28