

1 JONATHAN ALLAN KLEIN (State Bar No. 162071)
2 ANNE F. MARCHANT (State Bar No. 154356)
3 KELLY, HOCKEL & KLEIN P.C.
4 One Sansome Street, Suite 1800
San Francisco, CA 94104
Tel.: (415) 951-0535
Fax: (415) 391-7808

5 Attorneys for Defendant
6 SAFEWAY INC.

ENDORSED FILED
SAN MATEO COUNTY

JUN 11 2010

Clerk of the Superior Court
By P. Alvarez
DEPUTY CLERK

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN MATEO
10 UNLIMITED JURISDICTION

11 ANATOLIY BOJCO,
12 Plaintiff,
13 vs.
14 SAFEWAY INC., and DOES 1 through
15 10, inclusive,
16 Defendants.

Case No. CIV 486787

**[PROPOSED] ORDER GRANTING
DEFENDANT SAFEWAY INC.'S
MOTION FOR SUMMARY
JUDGMENT**

17
18 Defendant Safeway Inc.'s Motion for Summary Judgment came on
19 regularly for hearing on May 13, 2010 at 9:0 a.m. in the Law and Motion
20 Department (Department 11, Courtroom 2D) of this Court, the Honorable John
21 L. Grandsaert presiding. Plaintiff Anatoliy Bojco appeared through his counsel,
22 Constantin V. Roboostoff, and Defendant Safeway Inc. appeared through its
23 counsel, Anne F. Marchant.

24 After consideration of the moving, opposition and reply papers, the facts
25 and evidentiary support in the separate statements, the oral arguments of
26 counsel and good cause appearing, the Court rules as follows:

27 The Motion for Summary Judgment is GRANTED.

28 Plaintiff's objections to Defendant's Evidence are OVERRULED.

1 Defendant's Objections to Plaintiff's Evidence, Objection Nos. 2 through
2 4, 6 through 11, 14 through 20, and 22 are SUSTAINED. Defendant's
3 remaining objections to Plaintiff's Evidence Nos. 5, 12, 13, and 21 are
4 OVERRULED.

5 Under California law, an owner or occupier of land is not strictly liable
6 for injuries occurring on its premises, and is not an insurer of the safety of
7 persons on its premises. (*Ortega v. Kmart Corp.* (2001) 26 Cal.4th 1200, 1205.)
8 A store owner has a duty to exercise reasonable care to keep the premises safe
9 for its patrons. (*Craddock v. Kmart Corp.* (2001) 89 Cal.App.4th 1300, 1306.) A
10 store satisfies its duty of care by making reasonable inspections of the portions
11 of the store open to customers. (*Moore v. Wal-Mart Stores, Inc.* (2003) 111
12 Cal.App.4th 472, 476; *Adams v. Dow Hotel* (1938) 25 Cal.App.2d 51, 54.)

13 Here, Defendant Safeway has met its burden establishing that it
14 exercised reasonable care in inspecting the retail floor areas on the date of
15 Plaintiff's slip and fall, including the lobby where Plaintiff fell. Plaintiff has not
16 met his burden to present competent, admissible evidence showing that a
17 triable issue of material facts exists. (Code of Civ. Proc. § 437c(p)(2).)

18
19 Dated: JUN 10 2010

20
21 JOHN L. GRANDSAERT
22 HON. JOHN L. GRANDSAERT
23 JUDGE OF THE SUPERIOR COURT
24
25
26
27
28