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7
8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 MARIA KARLA TERRAZA, individually and
12 on behalf of the SAFEWAY 401(k) Plan,

13 Plaintiff,

14 vs.

15 SAFEWAY INC., et al.,

16 Defendants.

Related Cases:

No. 4:16-cv-03994-JST

No. 4:16-cv-04903-JST

**DECLARATION OF MONIQUE
OLIVIER IN SUPPORT OF PLAINTIFF'S
MOTION FOR ATTORNEYS' FEES,
REIMBURSEMENT OF EXPENSES,
AND NAMED PLAINTIFFS' INCENTIVE
AWARDS**

Date: April 26, 2021

Time: 2:00 p.m.

Courtroom: 6, 2nd floor

Judge: Hon. Jon Tigar

1 I, Monique Olivier, declare as follows:

2 1. I am a member of the State Bar of California and admitted to practice law in all
3 the courts of the State of California and in the United States District Court for the Northern
4 District of California. I am in good standing with the Bar and with this Court. I am a partner in
5 the law firm Olivier Schreiber & Chao LLP (“OSC”). I and my partner Katharine Chao are co-
6 counsel for Plaintiff and the Class in this action with Shepherd Finkelman Miller & Shah LLP
7 (collectively “Class Counsel”).

8 2. The facts contained in this declaration are within my personal knowledge, and I
9 could and would testify truthfully to these facts if called to do so under oath. I submit this
10 declaration in support of Plaintiff’s Motion for Attorneys’ Fees, Expenses and Incentive Award.

11 **EXPERIENCE OF CLASS COUNSEL**

12 3. I am a partner of Olivier Schreiber & Chao LLP, a San Francisco-based firm
13 representing individuals and classes in civil litigation and appeals. OSC specializes in
14 employment, consumer, and civil rights matters. All of OSC’s partners are leaders in their fields
15 and are widely recognized as experienced and capable litigators on behalf of plaintiffs. Christian
16 Schreiber and Katharine Chao graduated from the University of California at Los Angeles Law
17 School and the University of California at Berkeley Law School, respectively, in 2006, and each
18 has over thirteen years of experience practicing law, with Mr. Schreiber focusing his practice on
19 complex class actions and Ms. Chao focusing her practice on complex employment matters.
20 More information on our firm is available at www.osclegal.com.

21 4. Prior to forming OSC in 2018, I was a partner at Duckworth Peters Lebowitz
22 Olivier LLP. DPLO (now dissolved) was a San Francisco-based firm specializing in individual
23 and complex litigation and appeals in the areas of employment, civil rights and consumer
24 protection. All of DPLO’s founding partners were named “Northern California Super Lawyers”
25 by their peers, in recognition of their outstanding legal achievements and high ethical standards,
26 every year since 2011.

27 5. I have been practicing law since 1997. Since that time, my practice has been
28 devoted in substantial part to complex litigation and class actions. In particular, I have

1 significant experience as lead counsel in employment, civil rights, and consumer class actions as
2 well as appeals involving class action issues. Every year since 2015, I have been recognized by
3 Northern California Super Lawyers as one of the top women lawyers in Northern California. In
4 2016 and 2017, the Daily Journal named me as one of the leading labor and employment lawyers
5 in California. In 2019 and 2020 I was recognized by Northern California Super Lawyers as one
6 of the top 100 lawyers in Northern California and one of the top 50 women lawyers in Northern
7 California.

8 6. I am also an Appellate Specialist certified by the California State Bar Board of
9 Legal Specialization. In 2016, I was the recipient of the California Lawyer of the Year (CLAY)
10 Award for my appellate work.

11 7. I serve as a Mediator and an Early Neutral Evaluator for the U.S. District Court,
12 Northern District of California's ADR Program and am a member of the Northern District's Pro
13 Bono Panel. I am also the San Francisco Treasurer for the Federal Bar Association's Northern
14 California Chapter, a member of the Board of Directors of the National Association of Consumer
15 Advocates, and a former member of the Lawyer Representative Committee for the Northern
16 District. I am regularly invited to speak on class action and appellate issues, and have co-chaired
17 the Federal Bar Association Northern District Chapter's Class Action Symposium since 2015.

18 8. I received my J.D. (Order of the Coif) from the U.C. Davis King Hall School of
19 Law and my B.A. from Boston College. I served as a judicial extern to the Hon. Lawrence K.
20 Karlton, Eastern District of California. Prior to founding DPLO and then OSC, I was the
21 managing attorney at The Sturdevant Law Firm where I litigated employment, civil rights and
22 consumer class actions nationally.

23 9. My partner, Katharine Chao, also has performed significant work in this case.
24 She has been practicing law for thirteen years. She obtained my J.D. from Berkeley Law
25 (formerly known as Boalt Hall) in 2006, where she served as a Senior Articles Editor for the
26 Berkeley Journal of Employment and Labor Law. From 2006 to 2007, Ms. Chao served as
27 judicial law clerk to the Hon. Jeffrey T. Miller, United States District Judge for the Southern
28 District of California. She then worked as an associate in the complex commercial litigation

1 division at Paul Hastings LLP, where her practice included defending consumer class actions and
2 other complex litigation in California federal and state courts. She subsequently worked as an
3 associate in the San Francisco office of Nossaman LLP, where she was involved in multidistrict
4 antitrust litigation. She began her own firm in 2012, where she focused on plaintiff-side work in
5 employment law, until she co-founded OSC with me and our partner Christian Schreiber. Ms.
6 Chao's practice is focused on representing employees in individual employment litigation, as
7 well as in class actions.

8 10. Erica Heath, who was of counsel to my former firm, Duckworth Peters Lebowitz
9 Olivier, LLP, also performed significant work in the early phases of this case. She is a civil
10 litigator with over ten (10) years of experience, specializing in consumer and employment
11 matters. For ease of reference, Ms. Heath's time is included in OSC's time detailed below.

12 **OSC'S WORK IN THIS ACTION**

13 11. As of November 20, 2020, the total lodestar for OSC is \$539,675 representing
14 667.1 hours of time. All of OSC's time is documented in contemporaneous time records. This
15 lodestar also reflects our careful exercise of billing judgment to remove any inefficient or
16 duplicative time.

17 12. To provide the Court with review of the work done by Class counsel in this case,
18 without requiring the review of our detailed time records themselves, please refer to **Exhibit A**.
19 **Exhibit A** are charts indicating (a) the names of the timekeepers from my firm who billed time
20 to this case for which recovery is sought; (b) the monthly total number of hours each timekeeper
21 billed, by category of work; (c) the current hourly rate of each timekeeper; (d) the total number
22 of hours each timekeeper billed, by category of work; and (e) the total lodestar for each
23 timekeeper and for the firm. These charts were prepared based upon the records created
24 contemporaneously during the pendency of the litigation. My firm (and my former firm, DPLO)
25 maintains contemporaneous time records reflecting the time spent on cases, including the date
26 and amount of time spent on a task to one-tenth of an hour and a description of the work
27 performed.
28

1 13. The work we did over the course of this litigation was necessitated by the
2 difficulty and complexity of the case, Defendant’s staunch defense of the case, the skill and
3 sophistication of defense counsel in opposing the claims, and the proceedings culminating in the
4 extensive settlement negotiations.

5 14. OSC’s work in this case primarily included: engaging in informal and formal
6 written discovery and depositions; document review; legal research; expert discovery;
7 communicating with Plaintiff and Plan participants throughout the course of the litigation;
8 opposing Defendants’ motions to dismiss and motions for summary judgment; preparing
9 Plaintiff’s motion for partial summary judgment; preparing for and attending two days of
10 mediation; engaging in extensive post-mediation negotiations to reach agreement on all
11 settlement terms; preparing and negotiating class notice, a class notice plan, and a distribution
12 plan; and preparing preliminary approval papers.

13 15. I have reviewed my firm’s records of all time that was billed to this matter. We
14 made every effort to litigate this action in an efficient and cost-effective manner by reducing
15 duplication of effort and assigning work to maximize efficiency and quality. All of the work was
16 reasonably split among all firms. For each major task, we would determine who would take the
17 lead, and then the other firm would provide support and review. Further, tasks were delegated
18 appropriately among attorneys and staff according to their complexity. By nature, contingency
19 arrangements cause counsel to be cognizant of the amount of time required by tasks on the case.
20 Efficiency and economy are a necessary practice in such cases, as results, and not hours billed,
21 are the focus. This is particularly the case with small firms such as ours.

22 16. I exercised billing judgment by deleting time that was inefficient, duplicative or
23 purely administrative. I did not include any time for timekeepers who billed less than twenty
24 (20) hours of time, which includes my partner Christian Schreiber, our legal assistants Angie
25 Fayed and Ernie Eastham, and our law clerk Sarah Madan. Additional attorney and staff time
26 will continue to be incurred to prepare the final approval papers, attend the final approval
27 hearing, and work with Defendants and the settlement administrator to monitor notice,
28 communicate to the Class, and distribute the settlement.

CLASS COUNSEL'S HOURLY RATES

1
2 17. Our lodestar for this case is based on the rates currently charged in all cases by the
3 timekeepers, except as explained below. The hourly rates range from \$200 for law clerk work up
4 to \$850 for experienced litigation partners. We charge different rates for different attorneys
5 within each category (e.g., partners, associates, etc.), based on a variety of factors, including
6 years of practice, years as at the relevant level (e.g., years as a partner, etc.), relevant experience,
7 relative expertise, court decisions approving our rates and rates of other attorneys, and rates of
8 similarly-experienced peers at our firm and other firms. We perform a similar analysis for our
9 non-attorney timekeepers. We continually monitor prevailing market rates charged by both
10 defense and plaintiffs' law firms for individuals with similar levels of skill and experience who
11 are doing comparable work as our attorneys and staff. We gather this information from surveys,
12 the review of other fee applications, and conversations with attorneys in the relevant billing
13 market. We set the billing rates for our firm to be consistent with the prevailing market rates in
14 the private sector for attorneys and staff of comparable skill, qualifications and experience.

15 18. My 2020 rate is \$850 per hour; I have 23 years of experience as a litigator, all of
16 which has been in complex, representative and class action litigation. Ms. Chao's rate is \$750
17 per hour. She has 15 years of experience as a civil litigator (including one year of a federal
18 clerkship), with significant class action experience in the last five years. Ms. Heath's rate is
19 \$525 per hour. She has over 10 years of experience as a civil litigator. These are our usual and
20 customary hourly rates. Multiple courts have approved these rates. *See, e.g., Toolajian v. Air*
21 *Methods Corp.*, Case No. 18-cv-06722-AGT (N.D. Cal.) (approving Ms. Olivier's 2020 rate of
22 \$850/hour and Ms. Chao's 2020 rate of \$750/hour); *Casteel v. Alaska Airlines, Inc.*, Case No.
23 RCG20052826 (Alameda County Superior Court) (approving Ms. Olivier's 2020 rate of
24 \$850/hour and Ms. Chao's 2020 rate of \$750/hour); *Bernstein v. Virgin America, Inc.*, 13-cv-
25 02277-JST (N.D. Cal.) (approving Ms. Olivier's 2019 rate of \$750/hour, Ms. Chao's 2019 rate of
26 \$650/hour, and Ms. Heath's 2019 rate of \$475/hour); *Bowerman v. Field Asset Services*, 13-cv-
27 00057-WHO (N.D. Cal.) (approving Ms. Olivier's 2018 rate of \$700/hour); *Ambrosio v. Cogent*
28 *Communications, Inc.*, 3:14-cv-02182-RS, (N.D. Cal.); *Balderas v. Massage Envy*, No. 12-cv-

1 06327 NC, (N.D. Cal.); *Bell v. Delta Air Lines*, No. 13-cv-01199 YGR, (N.D. Cal.); *Guifu Li v.*
2 *A Perfect Day Franchise, Inc.*, 5:10-CV-01189-LHK, 2012 WL 2236752 (N.D. Cal. June 15,
3 2012).

4 19. Based on my knowledge and experience, the hourly rates charged by OSC are
5 within the range of market rates charged by attorneys of equivalent experience, skill, and
6 expertise. Further, although the rates in the Bay Area market are typically higher than those in
7 the Washington D.C area, the hourly rates sought by Class Counsel are also at or below the
8 Adjusted Laffey Matrix, the tool that sets forth reasonable rates in the Washington D.C. area that
9 courts in that area and elsewhere have considered (<http://www.laffeymatrix.com/see.html>). For
10 example, under the Matrix, the reasonable hourly rate (not adjusted for the Bay Area or for any
11 class action expertise) for me would be \$899, while I charge \$850/hour.

12 **EXPENSES**

13 20. As reflected in **Exhibit B**, Class Counsel has also expended a total of \$3,557.21
14 in expenses in connection with the prosecution of the litigation.

15 21. We maintained all records regarding costs and expenses in this action. I have
16 reviewed the records of costs expended in this matter. The expenses for which we seek payment
17 include postage charges, delivery fees, hearing and deposition transcripts, and travel and related
18 expenses. These expenses were reasonably necessary for the continued prosecution of this
19 litigation.

20
21 I declare under penalty of perjury under the laws of the United States that the foregoing is
22 true and correct.

23 Executed this 23rd day of November, 2020 at St. Helena, California.

24
25 /s/ Monique Olivier
Monique Olivier