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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Cynthia Binkley, an individual,

Plaintiff,

v.

Safeway Inc., a Delaware Corporation,

Defendant.

No.

DECLARATION OF DANIEL P.
HURLEY

Daniel P. Hurley declares as follows:

1. I am a partner in the law firm of K&L Gates LLP (“K&L Gates”) and am primarily responsible for K&L Gates’ representation of defendant Safeway Inc. (“Safeway”) in the above-entitled matter. I am over the age of 18 and have personal knowledge of the facts set forth herein or am authorized to make the following representations.

2. Plaintiff Cynthia Binkley (“Plaintiff”) served Safeway with a Summons and Complaint for Damages for Employment Discrimination and Wrongful Termination (“Complaint”) in this action on April 29, 2011. Attached as Exhibit A is a true and correct copy of the Notice of Service of Process from Corporation Service Company, Safeway’s registered agent. Also, attached hereto are copies of the Summons (Exhibit B), the Complaint

1 (Exhibit C), and Safeway's Notice of Appearance with certificate of service on Plaintiff
2 (Exhibit D). The Complaint was the first pleading from which Safeway could ascertain that
3 the case was removable.

4 3. On May 25, 2011, Plaintiff's counsel, Patrick Reddy, emailed to me a copy of
5 the Order Setting Civil Case Schedule issued by the Superior Court of Washington for King
6 County, indicating that Plaintiff filed her Complaint in the Superior Court on that same date.
7 Attached hereto as Exhibit E is a true and correct copy of this Order Setting Civil Case
8 Schedule. I hereby certify that no other documents have been served on Safeway and, to my
9 knowledge, Plaintiff has not yet filed any other pleadings in this action.
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11 4. Attached as Exhibit F are true and correct copies of corporate information
12 pertaining to Safeway, obtained from the website of the Delaware Secretary of State (by
13 performing an entity search at <https://delecorp.delaware.gov/tin/GINameSearch.jsp>), as well
14 as the Washington Secretary of State registration data indicating that Safeway is a Delaware
15 corporation, obtained from the website of the Washington Secretary of State (by performing a
16 corporations search at http://www.sos.wa.gov/corps/corps_search.aspx).

17 5. Attached as Exhibit G is information concerning Safeway's store count by
18 state in the United States and Canada. Attached as Exhibit H is a copy of page one from
19 Safeway's 2010 Form 10-K filed with the Securities and Exchange Commission, which lists
20 Delaware as Safeway's state of incorporation and California as the location of its principal
21 executive offices. This information is publicly available at
22 http://www.nxtbook.com/nxtbooks/cc/safeway_2010annualreport/#/0. Safeway's principal
23 place of business is located in California.
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25 6. In the Complaint, Plaintiff has asserted claims for discriminatory discharge due
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1 to Plaintiff's age, sex and physical limitation in violation of the Washington Law Against
2 Discrimination, RCW 49.60.180; wrongful termination in breach of employment contract
3 and/or employment policy; failure to accommodate Plaintiff's physical limitations in violation
4 of the Washington Law Against Discrimination, RCW 49.60.180; and retaliation against
5 Plaintiff for filing a worker's compensation claim and for requesting a workplace
6 accommodation. The Complaint states that Plaintiff is seeking special damages for lost
7 wages, benefits and out of pocket expenses (including medical expenses); general damages
8 for emotional distress; reinstatement to her former position with Safeway or, in lieu or
9 reinstatement, future wage loss; and actual and reasonable attorney fees, litigation expenses
10 and costs incurred in this action under RCW 49.60.030 and/or RCW 49.48.010 to .030; and
11 prejudgment interest on lost wages and economic loss. Safeway denies that any claims or
12 damages exist; however, based on nearly nine years of experience with these types of claims,
13 I confirm that such claims, if substantiated and completely successful, typically involve
14 amounts in dispute that exceed \$75,000. In fact, successful plaintiffs in such matters often
15 recover attorney's fees in excess of the \$75,000 jurisdictional amount.
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18 7. On May 31, 2011, I caused the Notice of Removal to be served via both first
19 class mail and legal messenger on Plaintiff's counsel, Patrick B. Reddy, Emery Reddy PLLC,
20 600 Stewart Street, Suite 1100, Seattle, Washington 98101.
21

22 8. On May 31, 2011, I also caused a Notice of Filing of Notice of Removal to be
23 filed with the King County Superior Court and to be served on Plaintiff. Attached as Exhibit I
24 is a copy of that Notice, without attachments.
25

26 I declare under penalty of perjury that the foregoing is true and correct:

1 EXECUTED this 31ST day of May, 2011 at Seattle, Washington.

2 K&L GATES LLP

3
4 By s/ Daniel P. Hurley
5 Daniel P. Hurley, WSBA #32842
6 K&L Gates LLP
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12 Attorneys for Defendant Safeway Inc.
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