

**FILED**  
ALAMEDA COUNTY

JAN 18 2022

CLERK OF THE SUPERIOR COURT

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KIMBERLEE FACIANE

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ALAMEDA  
10 UNLIMITED JURISDICTION

12 KIMBERLEE FACIANE, on behalf of herself,  
all others similarly situated,

13 *Plaintiff,*

14 v.

15 SAFEWAY INC., a Delaware corporation and  
16 DOES 1 through 50, inclusive,

17 *Defendant.*

Case No.: RG18913668

Assigned for All Purposes to the Honorable  
Evilio Grillo, Department 21

**~~PROPOSED~~ ORDER GRANTING  
PRELIMINARY APPROVAL OF CLASS  
ACTION SETTLEMENT AND  
CERTIFICATION OF SETTLEMENT CLASS**

Date: December 3, 2021

Time: 10:00 a.m.

Place: Department 21

**Reservation ID: 712853564909**

Complaint filed: July 20, 2018

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 Plaintiff KIMBERLEE FACIANE (“Plaintiff”) and Defendant SAFEWAY, INC. (“Defendant”)  
3 (Plaintiff and Defendant, collectively, the “Parties”) have reached terms of settlement for a putative class  
4 action.

5 Plaintiff has filed a motion for preliminary approval of a class action settlement of the claims  
6 asserted against Defendant in this action, memorialized in the Stipulation of Class Action Settlement  
7 and Settlement Agreement (*see* Declaration of Shaun Setareh In Support of Motion for Preliminary  
8 Approval of Class Action Settlement and Certification of Settlement Class (“Setareh Declaration”) ¶ 12,  
9 Exhibit 1) and the Stipulation to Modify Settlement Procedures (*see* Setareh Declaration, ¶ 22, Exhibit  
10 4). These Stipulations, together, are referred to hereinafter as the “Agreement” or “Settlement.”

11 After reviewing the Agreement, the Notice of Class Action Settlement, and other related  
12 documents, and having heard the argument of Counsel for respective Parties, **IT IS HEREBY**  
13 **ORDERED AS FOLLOWS:**

14 1. The Court preliminarily finds that the terms of the proposed class action Settlement are  
15 fair, reasonable, and adequate, pursuant to California Code of Civil Procedure § 382. In granting  
16 preliminary approval of the class action Settlement, the Court has considered the factors identified in  
17 *Dunk v. Ford Motor Co.* (1996) 48 Cal.App.4th 1794, as approved in *Wershba v. Apple Computer, Inc.*  
18 (2001) 91 Cal.App.4th 224 and *In re Microsoft I-V Cases* (2006) 135 Cal.App.4th 706.

19 2. The Court finds that the Settlement has been reached as a result of intensive, serious, and  
20 non-collusive arm’s-length negotiations. The Court further finds that the Parties have conducted  
21 thorough investigation and research, and the attorneys for the Parties are able to reasonably evaluate  
22 their respective positions. The Court also finds that settlement at this time will avoid additional  
23 substantial costs as well as avoid the delay and risks that would be presented by the further prosecution  
24 of the action. The Court finds that the risks of further prosecution are substantial.

25 3. The Parties’ Settlement is granted preliminary approval as it meets the criteria for  
26 preliminary settlement approval. The Settlement falls within the range of possible approval as fair,  
27 adequate, and reasonable, and appears to be the product of arm’s-length and informed negotiations and  
28 to treat all Class Members fairly. The Court finds that it is appropriate to notify the members of the

1 proposed Settlement Class of the terms of the proposed Settlement.

2 4. The Parties' proposed notice plan is constitutionally sound because individual notices  
3 will be mailed to all Class Members whose identities are known to the Parties, and such notice is the  
4 best notice practicable. The individual notices will also be sent to Class Members via email where an  
5 email address is available. The Parties' proposed Notice of Class Action Settlement (Exhibit A to the  
6 Settlement) are sufficient to inform Class Members of the terms of the Settlement, their rights under the  
7 Settlement, the need to submit a dispute if a Class Member disputes the total number of events worked  
8 during the class period, their right to object to the Settlement, their right to receive a payment under the  
9 Settlement or to elect not to participate in the Settlement as well as the processes for doing so, and the  
10 date and location of the final approval hearing. Therefore, the Notice of Class Action Settlement is  
11 approved.

12 5. The following persons are certified as Class Members solely for the purpose of entering  
13 a settlement in this matter:

14 "Class," "Class Members," or "Settlement Class" shall mean "All the current and former  
15 employees of Safeway Inc. in the State of California during the period from July 13, 2014  
through December 31, 2019 who worked in a retail store."

16 (Settlement, ¶ 1(c).)

17 6. Plaintiff Kimberlee Faciane is appointed the Class Representative. The Court finds  
18 Plaintiff's counsel are adequate, as they are experienced in wage and hour class action litigation and  
19 have no conflicts of interest with absent Settlement Class Members, and that they adequately  
20 represented the interests of absent class members in the Litigation. Shaun Setareh and Thomas Segal of  
21 Setareh Law Group are appointed Class Counsel.

22 7. The Court appoints KCC Class Action Services, LLC to act as the Settlement  
23 Administrator, pursuant to the terms set forth in the Agreement.

24 8. Class Members will be bound by the Agreement unless they submit a timely and valid  
25 written request to be excluded from the Settlement within 60 days after mailing of the Class Notice by  
26 the Settlement Administrator or in accordance with the terms of the Agreement.

27 9. Prior to the Final Approval Hearing, Plaintiff shall file a motion for final approval of the  
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1 settlement, for attorneys' fees and costs, and for any class representative service or enhancement award  
2 for Plaintiff.

3 10. Defendant is directed to provide the Claims Administrator not later than 15 days after  
4 the date of this Order, the following information regarding each Class Member (the "Class List"): the  
5 (1) name, (2) last known home address, (3) last known telephone number, (4) the dates of employment  
6 with Defendant during the Covered Period (i.e., July 13, 2014 through December 31, 2019), (5) Social  
7 Security Number, and any other information required in accordance with the Agreement.

8 11. The Administrator is directed to mail the approved Class Notice by first-class mail to the  
9 Class Members in accordance with the Agreement not later than 15 days after receipt of the Class List  
10 from Defendant.

11 12. The Claims Administrator will create a settlement website which contains copies of all  
12 papers and orders filed in connection with preliminary and final approval, including the final Settlement  
13 Agreement and Complaint. These documents will be posted not later than the mailing of the Notice  
14 Materials and will remain posted until the date of final approval.

15 13. A final approval hearing will be held on TBD, at \_\_\_\_\_ a.m./p.m.,  
16 in Department 21 of the above-entitled Court, to determine whether the Settlement should be granted  
17 final approval as fair, reasonable, and adequate as to the Class Members, and whether and to what extent  
18 attorneys' fees, costs, and an enhancement award will be awarded. At that time, the Court will hear all  
19 evidence and arguments necessary to evaluate the Settlement. Class Members and their counsel may  
20 support or oppose the Settlement, if they so desire, in accordance with the procedures set forth in the  
21 Class Notice, Event Dispute Form, and this Order.

22 14. The Parties shall submit a declaration from the Claims Administrator as to the status of  
23 administration of the Class Notice no later than TBD.

24 15. As set forth in the Agreement, any Class Member may appear at the final approval  
25 hearing in person or by his or her own attorney and show cause why the Court should not approve the  
26 settlement, or object to the motion for awards of the Class Representative Enhancement Award and  
27 Attorney's Fees and Costs. For any written comments or objections to be considered at the hearing, the  
28 Class Member must submit a written objection in accordance with the deadlines set forth in the Class

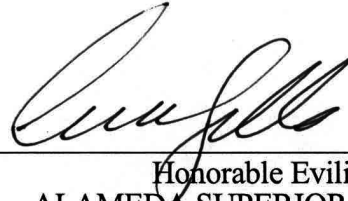
1 Notice, or as otherwise permitted by the Court.

2 16. The Court reserves the right to continue the date of the final approval hearing without  
3 further notice to Class Members. The Court retains jurisdiction to consider all further applications  
4 arising out of, or in connection with, the Settlement.

5 **IT IS SO ORDERED.**

6 JAN 18 2022

7 DATED: \_\_\_\_\_



8 Honorable Evilio Grillo  
ALAMEDA SUPERIOR COURT JUDGE

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