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Attorneys for Plaintiff and the Class

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

TESSA FRANKE, as an individual and on behalf
of all others similarly situated, and as a private
attorney general,

Plaintiff,

vs.

WHOLE FOODS MARKET CALIFORNIA,
INC., a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. CGC-20-586827

[Hon. Ethan P. Schulman, Department 304]

**DECLARATION OF LARRY W. LEE IN
SUPPORT OF PLAINTIFF'S MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 26, 2023
Time: 11:00 a.m.
Department: 304

Complaint Filed: September 28, 2020

1 I, Larry W. Lee, declare as follows:

2 1. I am an attorney admitted to practice in the State of California and, with the law firm
3 Diversity Law Group, P.C., am counsel of record for Plaintiff. I make this declaration on the basis of my
4 own personal knowledge, except as to those matters stated on information and belief and, as to those
5 matters, I believe them to be true. If called as a witness, I could testify competently as to the facts stated
6 in this declaration.

7 2. The Notice of Class Action Settlement (“Class Notice”) provided Class Members with
8 my office’s contact information, where they could further seek information regarding the class
9 settlement, leave questions for the Administrator, and update their address.

10 3. There were no objections to the amount of attorneys’ fees or litigation costs that Class
11 Counsel seek in this case and for which Plaintiff asks the Court for final approval.

12 4. Class Counsel engaged in extensive factual investigation before settling, including the
13 exchange of formal and informal discovery and class data. This allowed Plaintiff to conduct a full
14 damage analysis. The Agreement was the product of negotiation between highly able and experienced
15 attorneys on both sides who possessed the relevant data and extensive legal research which they had
16 carefully analyzed.

17 5. The settlement in the case at bar warrants approval and carries a presumption of fairness.
18 As previously noted in the application for Preliminary Approval, this current settlement was negotiated
19 at arm’s length. I support the settlement as fair, reasonable, and adequate, and in the best interest of the
20 Class Members as a whole.

21 6. My firm has a great deal of experience in wage and hour class action litigation and has
22 been approved as class counsel in a number of class actions.

23 7. I am one of the primary attorneys on this matter. My qualifications are as follows: I
24 received my J.D. from Arizona State University College of Law in 2003. During law school, I was a
25 summer associate at the law firm of Brobeck, Phleger & Harrison. I graduated cum laude from Arizona
26 State University College of Law in the top 10% of my class. While I was in law school, I was the
27 Associate Managing Editor of the Arizona State University College of Law, Law Journal. Upon
28 graduation, I practiced law as an associate at the Los Angeles County offices of Ogletree Deakins Nash

1 Smoak & Stewart, P.C., a national employment defense law firm that represents a significant number of
2 Fortune 500 companies, including wage and hour class actions.

3 8. My firm's primary focus is employment law. I have handled a number of wage and hour
4 matters including class actions and individual actions, on both plaintiff and defense sides. I have a
5 practice that encompasses cases throughout the State of California, including but not limited to the Los
6 Angeles Superior Courts, the Orange County Superior Courts, the San Francisco County Superior
7 Courts, the San Diego County Superior Courts, and the United States District Courts for the Central,
8 Eastern, Northern, and Southern Districts of California. I have been named as Class Counsel in a
9 number of class actions that have been granted final approval by the Superior Courts of Los Angeles
10 County, Orange County, San Francisco County, Alameda County, Contra Costa County, Monterey
11 County, San Bernardino County, Santa Clara County, Sonoma County, and the United States District
12 Court for the Central, Eastern, and Northern Districts of California.

13 9. My firm has incurred costs in the amount of \$12,350.32. The costs are all litigation
14 related costs, including filing fees and mediation fees. Attached hereto as **Exhibit A** is copy of the costs
15 my firm has incurred in connection with prosecution of this lawsuit.

16 10. To date, I have incurred approximately 100.4 hours in the prosecution of this matter, with
17 an hourly rate of \$800.00 per hour. I anticipate spending an additional 15.0 hours through final approval
18 and post-approval, including conferring with class members, defense counsel, and the administrator, as
19 well as appearing for the hearing of the Motion for Final Approval. The total lodestar for my hours will
20 be approximately \$92,320.00. Attached as **Exhibit B** is a summary of my hours and tasks on this matter.
21 Since at least 2020, I have been approved at an hourly rate of \$750.00 per hour by various Courts,
22 including this Court. Examples of these Courts include the following cases: *Hernandez v. Wells Fargo*
23 *Bank*, Santa Clara County Superior Court Case No. 16CV299319, *Carrillo v. New Balance Athletics,*
24 *Inc.*, Santa Clara County Superior Court Case No. 19CV352469; *Ramirez v. Walgreen Co.*, United
25 States District Court, Northern District of California Case No. 18-cv-03921-EJD, *Chavez v. Converse,*
26 *Inc.*, United States District Court, Northern District of California Case No. 15-cv-03746-NC; *Foster v.*
27 *Schindler Elevator Corporation*, Alameda County Superior Court Case No. RG19029640; *Foaad Hanna*
28 *v. Equinix, LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven*

1 *LLC*, Los Angeles County Superior Court Case No. BC720144; *Mary Della Maggiora v. Watsonville*
2 *Community Hospital*, Santa Cruz County Superior Court Case No. 18CV00191; *Pittman v. Martinez*
3 *Steel Corporation*, San Bernardino County Superior Court Case No. CIVDS1823132; *Michael Randolph*
4 *v. Pacific Racing Association*, Alameda County Superior Court Case No. RG18908139; *Markham v.*
5 *Quik Stop Markets, Inc.*, Santa Clara Superior Court Case No. 19CV341582; *Siron v. Raypak, Inc.*,
6 Ventura Superior Court Case No. 56-2019-005279959-CU-OE-VTA; *Carter v. Kline Services, Inc.*, San
7 Bernardino Superior Court Case No. CIVDS1828867, and *Prexxie Pascual and Arturo Fonseca v.*
8 *Satellite Healthcare, Inc.*, Santa Clara Superior Court Case No. 19CV345211.

9 11. On February 27, 2023, Plaintiff uploaded the Order Granting Plaintiff's Motion for
10 Preliminary Approval of Class Action Settlement to the LWDA's website. Concurrent with the filing of
11 this motion, Plaintiff also has uploaded the final approval motion to the LWDA.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing is
13 true and correct. Executed this 31st day of May 2023, at Los Angeles, California.

14 

15 _____
Larry W. Lee

EXHIBIT A

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DIVERSITY LAW GROUP
Slip Listing

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Selection Criteria

Slip Classification Open
Client (hand select) Include: Franke, Tess v. Whol
Slip.Transaction Ty 2 - 2

Rate Info - identifies rate source and level

Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
64148	EXP	Olympia	1	75.00	75.00
9/22/2020		Court fees			
WIP		Franke, Tess v. Whol			
LWDA					
64372	EXP	Olympia	1	1647.45	1647.45
9/25/2020		Atty Service			
WIP		Franke, Tess v. Whol			
Attorney Service - Complaint					
64515	EXP	Olympia	1	6.90	6.90
9/30/2020		Postage			
WIP		Franke, Tess v. Whol			
Postage					
64754	EXP	Olympia	1	86.00	86.00
10/15/2020		Atty Service			
WIP		Franke, Tess v. Whol			
Attorney Service - Complaint Service					
64449	EXP	Olympia	1	35.75	35.75
10/16/2020		Court fees			
WIP		Franke, Tess v. Whol			
OneLegal - Application for Complex Designation					
64492	EXP	Olympia	1	71.93	71.93
10/22/2020		Court fees			
WIP		Franke, Tess v. Whol			
OneLegal - Application for Complex					
64623	EXP	Olympia	1	9.95	9.95
10/28/2020		Court fees			
WIP		Franke, Tess v. Whol			
OneLegal - POS					
65404	EXP	Olympia	9	0.25	2.25
11/30/2020		Photocopies			
WIP		Franke, Tess v. Whol			
Photocopies					

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
65405	EXP	Olympia	1	0.65	0.65
11/30/2020		Postage			
WIP		Franke, Tess v. Whol			
Postage					
65164	EXP	Olympia	1	22.00	22.00
12/4/2020		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Notice of Order					
Granting Complex					
65739	EXP	Olympia	18	0.25	4.50
12/31/2020		Photocopies			
WIP		Franke, Tess v. Whol			
Photocopies					
65740	EXP	Olympia	1	1.60	1.60
12/31/2020		Postage			
WIP		Franke, Tess v. Whol			
Postage					
65549	EXP	Simon Yang	1	94.00	94.00
1/11/2021		Court fees			
WIP		Franke, Tess v. Whol			
Courtcall					
67207	EXP	Simon Yang	1	94.00	94.00
5/11/2021		Court fees			
WIP		Franke, Tess v. Whol			
Courtcall					
68704	EXP	Simon Yang	1	94.00	94.00
9/9/2021		Court fees			
WIP		Franke, Tess v. Whol			
Courtcall					
69110	EXP	Olympia	1	47.30	47.30
10/4/2021		Court fees			
WIP		Franke, Tess v. Whol			
File&ServeXpress - Joint CMS					
70301	EXP	Olympia	1	53.21	53.21
12/8/2021		Atty Service			
WIP		Franke, Tess v. Whol			
Attorney Service - Chamber Copy					
70092	EXP	Simon Yang	1	94.00	94.00
12/13/2021		Court fees			
WIP		Franke, Tess v. Whol			
Courtcall					

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
70254	EXP	Olympia	1	22.00	22.00
1/5/2022		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Joint CMS					
71062	EXP	Olympia	1	88.52	88.52
2/24/2022		Atty Service			
WIP		Franke, Tess v. Whol			
Attorney Service - Joint Stip					
71076	EXP	Olympia	1	53.21	53.21
2/25/2022		Atty Service			
WIP		Franke, Tess v. Whol			
Attorney Service - Joint Status Report					
Chamber Copy					
70904	EXP	Simon Yang	1	94.00	94.00
3/2/2022		Court fees			
WIP		Franke, Tess v. Whol			
Courtcall					
70953	EXP	Olympia	1	22.00	22.00
3/7/2022		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Joint Stip Vacating					
Motion for Class Cert					
70954	EXP	Olympia	1	22.00	22.00
3/7/2022		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Joint Status Report					
71298	EXP	Olympia	1	20.00	20.00
4/4/2022		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Joint Stip Vacating					
Class Cert					
73120	EXP	Olympia	1	9000.00	9000.00
9/27/2022		Arbitrators			
WIP		Franke, Tess v. Whol			
Gig Kyriacou Mediation					
73729	EXP	Olympia	1	47.30	47.30
12/5/2022		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Joint Status Report					

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Slip ID		Timekeeper	Units	Rate	Slip Value
Dates and Time		Activity	DNB Time	Rate Info	
Posting Status		Client	Est. Time	Bill Status	
Description		Reference	Variance		
74313	EXP	Olympia	1	118.40	118.40
2/2/2023		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - MPA					
74530	EXP	Olympia	1	122.40	122.40
3/2/2023		Court fees			
WIP		Franke, Tess v. Whol			
File & ServeXpress - Supp Decl of SLY,					
Amended Supp Decl of SLY, Second Supp					
Decl of SLY					
75215	EXP	Simon Yang	1	300.00	300.00
5/23/2023		Court fees			
WIP		Franke, Tess v. Whol			
Filing Costs					
Grand Total					
			Billable	0.00	12350.32
			Unbillable	0.00	0.00
			Total	0.00	12350.32

EXHIBIT B

Time and Task Summary
for Franke v. Whole Foods Market California, Inc
Larry W. Lee

Description of Work	Hours
Review client documents and research Defendant's theories of liability; confer with client re same	6.8
Draft PAGA letter; review and revise complaint; confer with client re same	7.6
Review Defendant' answer	0.8
Review and revise application for complex designation; review order re same	1.1
Research and review Defendant's prior/pending wage/hour lawsuits/settlements	3.3
Review and revise joint CMS statements; meet and confer with counsel re same	2.9
Review and revise initial set of written discovery to Defendant; review responses to same; meet and confer re same; review documents produced by Defendant	8.6
Review Defendant's initial set of discovery to Plaintiff; review and revise draft responses to same; review documents to be produced in response to same; confer with client re same	12.2
Review and revise PMK depo notice; review depo notice to Plaintiff; review and revise objections to same; meet and confer re same	6.3
Confer with counsel re mediation and mediation data; research potential mediators	2.6
Review and revise mediation brief; legal research re liability issues; analyze data and calculate damages for same; attend mediation; review and revise MOU; confer with client re same	22.8
Review and revise long form settlement agreement; confer with counsel re same	8.3
Review and revise Motion for Preliminary Approval and supporting documents; prepare amended documents; review tentative ruling re same; confer with counsel re same	7.2
Confer with administrator and class members re settlement issues; review weekly reports	5.7
Review and revise Motion for Final Approval and supporting documents; confer with counsel re same	4.2
TOTAL	100.4