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SC # 935297

Appellate Court No. 72731-1-1

SUPREME COURT OF THE STATE OF WASHINGTON

Safeway Inc., Respondent

Hatsuyo Harbord, Petitioner
Pro se/immigrant

FILED

AUG 30 2016

WASHINGTON STATE
SUPREME COURT

Motion For Discretionary Review

Hatsuyo Harbord
Pro se / Immigrant / Appellant
P O Box 112
Sequim, WA
98382

A. Identity of Petitioner: Hatsuyo Harbord / Petitioner

Hatsuyo Harbord asks SUPREME COURT to accept review of the decision designated in Part B this motion.

B Decision

1) Identify the decision which the party wants reviewed by the type of decision.

(a) 1/16 Three Judges Panel's decision

(b) 7/25/16 "Unpublished opinion"

(c) 8/10/16 "Order Denying Motion for Reconsideration"

(d) 8/14/16 Appellant filed for "Reconsideration"

(2) King County Superior Court Case # B-2-2/008-8 SEA

#35 on 6/13/14 "Order Granting Motion to change Trial Date, revoking stay, and denying without Prejudice all other records for Relief."

#56 on 7/10/14 Judge Ken Schubert case event

#82 on 8/8/14 "Order denying, PLA's motion for reconsideration.

on 10/24/14 Summary Judgment

on 8/1/14 "order"

C. Issues Presented For Review — New trial

Due to RAP 13.5(b)(2) IF the Court of Appeals has committed probable error and decision of the court of Appeals substantially alters the status or substantially limits the freedom

Due to RAP 13.5(b)(3) IF the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by a trial court and Appellate court administrative agency, as to call for the exercise of revisory jurisdiction by the Supreme Court.

I Introduction

After Ex-PLA's attorney left, PLA brought back this case to King County Superior

Court. DEF's attorney filed many his documents to the Court without mailing

to PLA. Especially "Notice of Summary Judgment", "DEF's motion for Summary

Judgment", PLA demanded these documents three (3) days before the hearing

date. PLA does NOT E-File to the Court, she handed to the Court,

PLA demanded for "Certified Questions" to DEF, but he did NOT response her

questions. At Appellate Court DIV [I], Appellant filed Appellant's preliminary

Brief without evidence. Appellant file motion to enter her Appellant's Brief.

with evidence, Appellate Court case manager told her that her case is under Three Judges Panel. The case manager told her that she could not file Appellant's Brief. Then Appellant's spouse became medical problems. Appellant file to the Court. Appellant's spouse became more medical problems.

On January 2016, Three judges Panel order Respondent to enter Respondent's Brief. Due was February 29, 2016, Respondent filed on 2/29/16, except 10 pages over the limit. Respondent resubmitted on March 01, 2016, except Respondent did not mail a copy of Respondent's Brief to Appellant. This is Default and should have judgment. Appeals Court order to Reply due: 3/31/2016, then 4/4/2016, then 5/1/2016. Appellant Filed "STRIKE" against Respondent's Brief. Appellate Court put "Note: Strike" to the case, Appellant asked the Court to enter Appellant's Brief, if Respondent allowed his Brief. Appeals Court send Appellant for a copy of Respondent's brief about TWO month later. Appellant filed for Sanction. Appellant filed for "Amicus Curie Brief" to support Appellant's preliminary Brief. Appeals Court put "Amicus Curie Brief" as Reply Brief. Appeals Court DENIED Appellant to enter Appellant's Brief. Appellate Court ALLOWED only Appellant's preliminary Brief.

II Statement of the facts and procedures relevant to the issues:

- Petitioner is Pro se, immigrant.
- Appellate Court DENIED Appellant to have "Certify Japanese Translator due to "Language Barrier,"
- Petitioner requested to have preliminary injunction due to Respondent improper service on 2/29/2016 and 3/1/2016. Appellate Court refused to give any hearings.
- Appellate Court Refused to Petitioner to remove this case to Tacoma.
- Appellate Court refused to change Judge and/or Commissioner.
- "must identify evidence establishing a genuine factual issue for trial."

(iv) DEF filed the "DEF's motion to Summary Judgment" to the Court, but DEF did Not mail a copy of his documents to Petitioner. Petitioner demanded to DEF's office Three (3) days before Summary Judgment.

(v) Petitioner's case is Prema-faisa as a bookkeeper with/or without title.

Safeway Inc. has Patterns of Wrongful termination to employees who has seniority,

When employees became 5 yrs benefit, 10 yrs benefit, 15 yrs benefit, and so on,

Mike LaGrange and upper management tried desparate treatments to seniority

employees. Mike LaGrange told a employee to take one lunch time and break

time at same time and adjusted his time card. Then Mike LaGrange told this

employee that he failed to follow Safeway Inc. company policy. Mike LaGrange told completely opposite of the company policy to employees, then Mike LaGrange filed "Failed to follow Company's policy." This kind of business practices allowed Safeway Inc's management to fire seniority employees. Petitioner has many witnesses to show Petitioner's side of stories.

(C) Desparate treatment with age discrimination, Forien accent discrimination,

Former head bookkeeper was fired (?), just after Former 2nd Bookkeeper left.

Petitioner was hired as 2nd Bookkeeper, former 2nd Bookkeeper left about one month later after training Petitioner, Then about one month later, Ex-head bookkeeper was fired (?). during November through December, 2004.

Petitioner became a head bookkeeper in November 2004 (less than two months after hired). When New 2nd Bookkeeper's father was terminal ill, she took her medical leave for two months. When she came back, she lost all of benefit by one of management who did not file her medical leave during November through December. Many seniority employees leave in this time of year.

Minutes, New 2nd Bookkeeper left, Mike LaGrange demoted Petitioner with 150 transactions errors without any evidence.

September 2004 - November 2004 2nd Bookkeeper on the records.
November 2004 - December 2008 Head Bookkeeper
January 2009 - May 2011 2nd Bookkeeper without title.

If Petitioner was so poor job performance to do the job, Petitioner was gone by the way. Desperate treatments → Bookkeepers' important tool

10 Key adding machine to do the job. In February 2008 through December 2008,

Petitioner used "Japanese abacus" to calculate all of her job performance as head of bookkeeper. This is desperate treatment, Harassment, retaliation,

Forced Petitioner to quit. Normal bookkeepers can not do the job without 10-key adding machine. After Petitioner demoted, Mike LaGrange put New bookkeeper

without experience, without accounting skill. This person got paid \$17.50⁺ per hour. Petitioner has accounting experience, has accounting skills with college degrees

but Petitioner earned \$14.50 after working at Safeway Inc. for six and eight months

Safeway Inc. did Not provide Petitioner's personal files without signing GAG order.

(d) Work-related injuries:

Mike LaGrange put more and more tasks in less shift hours. In 2004, Petitioner had 8 hr shift, in 2008 6 hrs to 4 hrs to finish. Work-related injuries —

Mike LaGrange told Petitioner to "NOT to file to L+I", because he would

get penalize to pay \$7,000, Doctor Mike LaGrange told Petitioner to get ice when Petitioner get home. Petitioner wants to see his medical degree, Petitioner had multiple workrelated injuries from 2008 through 2011 due to Desperate treatment from Safeway Inc. management.

(E) On 7/1/2011, Mike LaGrange Refused Petition to go to the bathroom, he told Petitioner to "Wait", "Wait", "Wait". Other manager told Petitioner for some "wait", "wait", and "wait," Petitioner waited for more than 2 1/2 hours

to go to the bathroom, Petitioner had work related injury by Desperate treatment. Emergency room. Violated L&I. Refused to give this record.

(F) Management did NOT give Petitioner to go to the bathroom every shift until 2 1/2 to 3 hrs later. Management did this practice to other employees who have some medical problems. (witnesses)

(G) Procedures relevant to the issues. → Safeway Inc. refused to show the VIDEO,

Exhibit J (Declaration on Sue Bonnett) #129

Mike LaGrange suspended Petitioner for Stalking someone (?) on 4/5/2011. Petitioner asked to bring her attorney. He refused.

On 4/6/2016, Mike LaGrange and Ken Burnes watched the security video and COERCED Petition to write a letter to Sue Bonnett.

Petitioner asked to look the security camera, so she can "show what is going on the camera." They refused, Petitioner requested to look the security camera. They refused, "You are doing this XXX," "You are doing that XXX." Petitioner demanded to have her letter which faxed to Ken Burne, No Response, Sue Bennett told Petitioner to write 2nd letter to Sue Bennett. Petitioner demanded her file from Sue Bennett, Refused. Sue Bennett only show her evidence from Petitioner's attorney. Mike LaGrange, Ken Burnes, Sue Bennett, and Safeway Inc accused Petitioner ^① for stalking someone, ^② for stealing Company's information, and ^③ for suspicious act. Why they can not show the Security camera to Petitioner. They refused to show to Petitioner.

C) Procedures relevant to the issues:

Mike LaGrange (store manager) did NOT give any corrective action between September 2004 through December 2007, then 2nd Bookkeeper quit, then Resparate treatment started. Exhibit K (#130 Exhibit A-1):

Mike LaGrange told Petitioner that Petitioner filed Work related injury form was Two (2) months late. (6/13/08). Petitioner filed when

management was capable to finish the paperwork.

• Exhibit D (6/13/2008) says "she has been ^(?) corrected and retrained^(?)"

"she averaged 42 hours for the 3 weeks," Petitioner demanded to show the evidence. Mike LaGrange Refused. When Petitioner was ready to leave employees came to pick up their pay checks and these employees told Petitioner that "ok by mike."

Question is Why Mike LaGrange did NOT replace long time ago?

Question is Why Petitioner was "Bookkeeper with and without title for September 2008 through May 2011?" IF Petitioner was so inept, why Mike LaGrange did Not remove instead of Six years + later?

• Exhibit E (12/27/08)

Laura Dietrich did not finish the paperwork and did not talk to me on 12/27/2008. And Petitioner had to leave on time, or get into

trouble from Mike LaGrange. Always put into a position two choices

but both of them are wrong, and get into the trouble. Only Petitioner

can do is Quit. This is wrong, (Discrimination, Harassment, retali-

ation, Desparate treatment), This is against Law and nobody wants to do anything about.

Manipulating evidence

- Exhibit F (#130 5/27/09 or 5/28/09) Mike LaGrange suspended More than 3 days.
- Mike LaGrange, Sue Bonnett, Ken Burnes, Safeway Inc. Refused to show accusing Petitioner's records, Safeway can accuse the employees with No reasons because Law allowed them to Desparate treatment. (Harassment, retaliation, discrimination against Petitioner)
- Petitioner has move to say
- Petitioner's benefit was cut, Safeway Inc. Refused to talk to Petitioner
- 401k reports — Refused to show.
- Retirement — Refused to show
- Wage stub w/tax and etc — Refused to show
- Work related injuries reports — Refused to show
- Safeway Inc. Refused all of Petitioner's records
- #35 Order granting motion to change Trial date
- #29 Exhibit L-1 Tampered evidence by Someone.
- #31 Exhibit Tampered evidence by someone

• Exhibit D Fabricated evidence March 11, 2014 letter from Kdl Gates and Documents produced 2 page. Petitioner did not receive these.

• #29-91 Fabricated evidence by Daniel Hurley

#29-92

#29-93

#29-94

• Exhibit E Order denying PLA's motion for reconsideration by Judge Ken Schubert without his signature on the record.

• Exhibit F New Case Events #56-2 Only received from Judge Ken Schubert.

III Statement of the Case

• DEF/Daniel Hurley and Jody Duvall did NOT mail "Deposition and They claimed that Petitioner did not show Demand for "Certify-Questioner"

• DEF/Daniel Hurley and Jody Duvall did Not mail "ADR conference" when Petitioner agreed meet, then they cancelled.

IV Summary of Argument

• DEF/Daniel Hurley and Jody Duvall Filed many documents to the Court, but they did Not mail their copy of the documents to Petitioner.

Is this improper service.

- Petitioner could Not file many responses, because DEF did not mail to Appellant. DEF and the Court were doing procedure without Appellant. Improper service, Improper civil procedure
- Petitioner is Not under CR 26(c). DEF/Daniel Hurley did NOT Vacate CR 26(c) at U S District Court on time,

Conclusion

- Petitioner has Rights to have New Trial because DEF/did not mail a copy of many documents to Appellant and proceeding themselves without Petitioner.
- DEF hide Petitioner's evidence. DEF
- This case is Not Fully adjudicated. CR 56(d)

• Evidences - Attached ^{Appendix}

Respect Fully submitted

H. Harbard

Prose/Immigrant

P O Box 112

Sequim, WA

98382



A series of horizontal lines for writing, consisting of approximately 30 lines spaced evenly down the page.

Exhibit A.

- Unpublished Opinion (7/25/2016)
- Order Denying Motion For Reconsideration (8/10/2016)
- Appellant Filed Reconciliation (8/14/2016)

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IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

HATSUYO "SUE" HARBORD,)	No. 72731-1-1
Appellant,)	DIVISION ONE
v.)	
SAFEWAY, INC.,)	UNPUBLISHED OPINION
Respondent.)	FILED: July 25, 2016

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2016 JUL 25 AM 10:18

BECKER, J. — To defeat a properly supported motion for summary judgment, the nonmoving party may not rely on the allegations set forth in the complaint, but must identify evidence establishing a genuine factual issue for trial. In response to Safeway’s motion for summary judgment, Harbord failed to submit or identify any admissible evidence supporting her claims of discriminatory discharge. Moreover, throughout the entire proceedings in the trial court, Harbord refused to respond to Safeway’s discovery requests or to appear for a deposition, claiming that she had no obligation to comply with discovery rules. The trial court dismissed Harbord’s claims on summary judgment and, in the alternative, for her violation of a discovery order. We affirm and award Safeway attorney fees for a frivolous appeal.

Video surveillance showed only what Safeway Inc. wanted to show

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Safeway Inc. refused to show earlier that day when evidence

As 2nd Bookkeeper when Safeway Inc. hired.

in 2004 was only 2nd Bookkeeper

FACTS

objection

Safeway hired Harbord as an office clerk and bookkeeper for its Port Angeles store in September 2004. Harbord's duties included the customer service desk, processing money orders and lottery tickets, filling coin changers, providing cash to the check stand registers, and balancing daily income with total store sales. Over time, Safeway determined that Harbord was unable to perform her duties in an acceptably efficient and timely manner. In 2009, an audit noted various errors, inaccuracies, and discrepancies in Harbord's accounting of the store's daily receipts. Safeway issued multiple disciplinary notices to Harbord in 2008 and 2009, pointing out specific deficiencies. Despite multiple meetings and

retraining. Safeway concluded that Harbord's work performance remained unacceptable.

one of retraining person took 8 hour to teach 4 hours Bookkeeping, it should be on video.

In 2010 and 2011, Safeway continued to cite Harbord for poor work performance, including the failure to complete her duties in an acceptable amount of time and carelessness in performing office procedures. The store

manager also discovered that Harbord was spending a significant amount of time during her shift writing notes to herself and copying proprietary and confidential

financial information. Harbord later told a Safeway investigator that she took the notes to "protect herself" but provided no further explanation. Video surveillance

recordings showed that Harbord was moving her computer terminal during her

This is fabricated statement by Ken Burnes.

Fabrications. Appellant asked Safeway Inc. to show to Appellant. Safeway Inc. refused.

Safeway Inc put white female without any experience Person as head Bookkeeper and pay her more money per hour \$17.00 /hr.

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shift for no apparent reason

continued to move the computer terminal.

In early 2011, Safeway suspended Harbord for three days for multiple incidents involving carelessness and inaccuracy. The store manager observed that Harbord was continuing to spend up to 30 minutes of her shift writing notes to herself.

In March 2011, Harbord completed a \$150 money order for which no customer was present. Harbord initially claimed that she did not print out the money order because the transaction was cancelled. Despite Safeway's repeated requests at the time, Harbord provided no further explanation.

In April 2011, Safeway suspended Harbord pending an investigation of her job performance. After concluding that Harbord failed to provide acceptable responses to the investigator's questions, Safeway terminated Harbord's employment on May 6, 2011, for repeated failure to follow instructions, refusal to perform assigned tasks, violations of Safeway's policies regarding confidential information, and inadequate job performance.

On May 24, 2013, Harbord filed this action against Safeway. Harbord, who was represented by counsel, alleged wrongful termination in violation of public policy and violations of the Washington Law Against Discrimination (WLAD), chapter 49.60 RCW.

**** Safeway Inc Violated Appellant's civil rights on 7/1/2010. Appellant injured by workplace and refused Appellant to seek medical attention.**

Appellant demanded Safeway Inc to show the evidence which they complained about Appellant. They refused to discuss, refused to show. Violated Appellant civil rights. Age discrimination. Desperate treatment.

Mike Labranga needs to explain more detail. Harbord's violation order more detail to explain by Mike Labranga.

desperate treatments by management

objection.

*** Mike Labranga implicated this incident**

objection.

objection.

implication.

Yes Appellant provided to Sue Bonnett

Yes Appellant provided to Ken Durvas and Sue Bonnett

objections.

Appellant followed

Orders by Mike

during 2004 through 2011 Appellant duties were bookkeeping

of Harbord's work order to quit her job

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Safeway Inc. tried to put Gag Order / Rule 26 (c) stipulated Protective Order which favored to Safeway Inc. Images!

Safeway removed the action to federal district court on the basis of diversity jurisdiction. At some point, Harbord fired her attorney, and the district court granted her motion to proceed pro se. The court later remanded the case back to King County Superior Court after Harbord asserted that her claims involved less than \$75,000.

to Matthew Beare,

While the case was proceeding in federal court, Safeway served Harbord with initial discovery requests. On March 11, 2014, after asserting that it made repeated unsuccessful attempts to communicate with Harbord about the discovery requests, Safeway moved to compel. Harbord did not file a response to the motion to compel, and the district court remanded the case to state court

Respondent/Daniel Hurley refused to talk to Harbord (Appellant)
Respondent/Daniel Hurley refused to give information to Appellant

without ruling on the motion. After the remand, Safeway again attempted to contact Harbord about the discovery requests.

Respondent/Daniel Hurley refused to talk to Appellant.
Respondent/Daniel Hurley filed many documents, except he did not mail to Appellant.

At the trial court's CR 16 conference on August 8, 2014, Harbord claimed that Safeway's failure to provide her with her "personnel file" was "holding" everything up. The trial court noted that Harbord had raised this claim before and had not provided the court with any proof that she ever made a formal discovery request.

Judge Kimberly Prochnow handed "signal to wait."
Judge was discriminated Appellant.

When?

Counsel for Safeway explained that he originally provided Harbord's former counsel with the requested documents in searchable PDF format. After Harbord's counsel withdrew, Safeway provided Harbord with hard copies.

Recently, Safeway had sent a box containing a third set of the requested

Respondent/Daniel Hurley's office to get an appointment to talk to him. Receptionist did not have any appointment book, Daniel Hurley's legal assistant Refused to talk to set up an appointment. It was Harassment during U.S District Court and King County Superior Court. Daniel Hurley did NOT Respond, "my certified Questions" by Appellant.

Respondent/Daniel Hurley did not respond Appellant's questions and did not provide any information.

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Identified day and time.

documents, comprising more than 1,000 pages, to Harbord's post office box.

Harbord refused the shipment.

who says?

Harbord asserted that she rejected the box because counsel for Safeway had not provided an inventory log of the contents on the outside of the box.

Counsel for Safeway then offered the still-sealed box to Harbord in court and explained that there was a cover sheet in the box setting forth the contents of the box. The court informed Harbord that she would be unable to determine if any documents were missing unless she opened the box and reviewed the contents.

At the conclusion of the hearing, the court entered an order directing Harbord to accept the discovery documents that Safeway offered. Although Harbord apparently took the box of documents with her when she left the hearing, she later returned it to Safeway's counsel and informed the court that "Plaintiff does NOT want Rule 26, 33, and 34."

On August 20, 2014, Safeway filed a second motion to compel Harbord to respond to discovery requests. Harbord filed a response asserting, among other things, that the parties did not have an "agreement [with the defendant] . . . under rule 26, 33, and 34," that she had a "right to have privilege information/evidence until trial" and "does not need to release information until trial date," that she "is NOT doing this case with rule 26 discovery . . . rule 33 interrogatories, rule 34 producing documents," that she did not ask for interrogatories, and that she returned the box of documents because "Plaintiff does not agree with rule 26, 33,

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and 34." Harbord also claimed that the trial court was unfair to her during the August 8, 2014, hearing.

On September 8, 2014, the trial court granted the motion to compel, finding that Safeway had made repeated good faith efforts to obtain the requested discovery without court action. The court directed Harbord to respond within 10 days to the discovery requests that Safeway had served more than 10 months earlier and ordered Harbord to pay Safeway's reasonable costs, including attorney fees, incurred in preparing the motion to compel. The order informed Harbord that the failure to comply could result in dismissal of the action. The court later awarded Safeway reasonable costs, including attorney fees, of \$2,600.

In a separate order, the court found that despite having time to file more than 75 motions in federal and state court, Harbord had refused to confer in good faith with Safeway about its discovery requests. The court also emphasized that Harbord's apparent belief that she was not subject to discovery rules was incorrect.

On September 19, 2014, Safeway moved for summary judgment, contending that Harbord had failed to submit any evidence supporting crucial elements of her discrimination and wrongful termination claims. Safeway also moved to dismiss the action as a sanction under CR 37(b) for Harbord's ongoing refusal to respond to discovery requests, her failure to appear for a deposition,

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and her refusal to comply with the court's September 8 order compelling a response to discovery requests.

Harbord did not comply with the order compelling discovery or file a response addressing the merits of Safeway's summary judgment motion. Rather, she continued to file multiple documents insisting that she had no obligation to comply with discovery rules and that she had a right to a jury trial. See, e.g., "an open refusal based on an assertion that no valid obligation exists for discovery," filed September 23, 2014; "Pro se Plaintiff did not agree with summary judgment . . . Pro se has rights to go to trial," filed September 25, 2014; "Pro se asks the court for new trial without Rule 26-37," filed October 13, 2014; and "Pro se did not have any obligation for discovery," filed October 21, 2014.

On October 24, 2014, the day of the summary judgment hearing, Harbord filed several documents, including a purported declaration containing allegations about her employment with Safeway. The trial court noted that the documents were untimely, unsworn, lacked any declaration that they were made under penalty of perjury, included irrelevant and inadmissible allegations, and contained no admissible evidence that would create a material issue of fact. See CR 56(c).

At the conclusion of the hearing, the trial court granted Safeway's motion for summary judgment. In the alternative, the court dismissed Harbord's claims under CR 37(b) as a sanction for her complete failure to participate in discovery. The court denied Harbord's motion for reconsideration on November 18, 2014.

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Standard of Review

When reviewing a grant of summary judgment, an appellate court undertakes the same inquiry as the trial court. Wilson v. Steinbach, 98 Wn.2d 434, 437, 656 P.2d 1030 (1982). We consider the evidence and the reasonable inferences therefrom in the light most favorable to the nonmoving party. Schaaf v. Highfield, 127 Wn.2d 17, 21, 896 P.2d 665 (1995). Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." CR 56(c); White v. State, 131 Wn.2d 1, 9, 929 P.2d 396 (1997).

The moving party can satisfy its initial burden under CR 56 by demonstrating the absence of evidence supporting the nonmoving party's case. Young v. Key Pharms., Inc., 112 Wn.2d 216, 225 n.1, 770 P.2d 182 (1989). The burden then shifts to the nonmoving party to set forth specific facts demonstrating a genuine issue for trial. Kendall v. Douglas, Grant, Lincoln & Okanogan Counties Pub. Hosp. Dist. No. 6, 118 Wn.2d 1, 8-9, 820 P.2d 497 (1991).

Discriminatory and Retaliatory Discharge

Although Harbord makes no coherent legal argument on appeal, her primary contention appears to be that Safeway fired her in violation of the WLAD.

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RCW 49.60.180(2) makes it unlawful for employers to discharge any person from employment because of age, sex, marital status, race, creed, color, or national origin.

In examining such claims, courts in Washington consider the three-part burden of proof test established in McDonnell Douglas Corp. v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed. 2d 668 (1973). See Hill v. BCTI Income Fund-I, 144 Wn.2d 172, 180, 23 P.3d 440 (2001), overruled on other grounds by McClarty v. Totem Elec., 157 Wn.2d 214, 137 P.3d 844 (2006). First, the plaintiff bears the burden of proving a prima facie case of discrimination. McDonnell Douglas, 411 U.S. at 802. Second, if the plaintiff establishes a prima facie case, the burden shifts to the defendant to articulate a legitimate, nondiscriminatory reason for its action. McDonnell Douglas, 411 U.S. at 802. Third, if the defendant satisfies this burden, the plaintiff must prove that the defendant's proffered reasons are, in fact, pretextual. McDonnell Douglas, 411 U.S. at 804. If the plaintiff fails to establish a prima facie case, the defendant is entitled to summary judgment. Callahan v. Walla Walla Hous. Auth., 126 Wn. App. 812, 819, 110 P.3d 782 (2005).

The nature of a prima facie case necessarily depends on the particular form of discrimination alleged. Generally, to establish a prima facie case of discrimination, the plaintiff must demonstrate that he or she (1) is in a protected class, (2) suffered an adverse employment action, (3) was doing satisfactory

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work, and (4) was replaced by or treated differently than someone in a nonprotected class. See Kirby v. City of Tacoma, 124 Wn. App. 454, 468, 98 P.3d 827 (2004), review denied, 154 Wn.2d 1007 (2005).

Safeway satisfied its initial burden on summary judgment by submitting evidence that Harbord's job performance had not been satisfactory for several years. When the moving party has met its initial burden on summary judgment by demonstrating the absence of evidence to support the nonmoving party's case, the nonmoving party

may not rely on the allegations in the pleadings but must set forth specific facts by affidavit or otherwise that show a genuine issue exists. Additionally, any such affidavit must be based on personal knowledge admissible at trial and not merely on conclusory allegations, speculative statements or argumentative assertions.

Las v. Yellow Front Stores, Inc., 66 Wn. App. 196, 198, 831 P.2d 744 (1992) (footnote omitted).

In response to the motion for summary judgment, Harbord submitted no admissible evidence supporting her claim of discriminatory discharge. Nor has she identified any evidence in the record indicating that she was performing satisfactory work or that Safeway acted in a manner supporting an inference of discrimination.

Harbord's appellate brief contains numerous conclusory factual allegations about her employment at Safeway, none of which are supported by a reference to admissible evidence in the record. See RAP 10.3(a)(5) (party must include

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reference to the record for each factual statement in brief); RAP 9.12 (when reviewing order granting summary judgment, appellate court "will consider only evidence and issues called to the attention of the trial court"). Although we are mindful that Harbord is acting pro se, we will hold self-represented litigants to the same standard as an attorney. In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

Because Harbord failed to establish a prima facie case of discrimination, the trial court properly dismissed her claims on summary judgment.

Harbord's complaint also alleged claims of retaliation and wrongful discharge in violation of public policy.

To establish a prima facie case of retaliation under RCW 49.60.210(1), a plaintiff must show that "(1) he or she engaged in statutorily protected activity, (2) he or she suffered an adverse employment action, and (3) there was a causal link between his or her activity and the other person's adverse action." Currier v. Northland Servs., Inc., 182 Wn. App. 733, 742, 332 P.3d 1006 (2014); review denied, 182 Wn.2d 1006 (2015). To prevail on a claim of wrongful discharge in violation of public policy, the plaintiff must prove (1) the existence of a clear public policy, (2) that discouraging the conduct in which the plaintiff engaged would jeopardize the public policy, (3) that the plaintiff's public-policy related conduct caused the dismissal, and (4) that the defendant has not offered an

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overriding justification for the dismissal. Rickman v. Premera Blue Cross, 184 Wn.2d 300, 310, 358 P.3d 1153 (2015).

Because Harbord failed to identify any supporting evidence, the trial court properly dismissed her claims of retaliation and wrongful termination in violation of public policy on summary judgment.

Discovery Sanction

The trial court also dismissed Harbord's claims as a sanction for her complete refusal to participate in discovery. CR 37(b)(2) authorizes the trial court to impose sanctions, including dismissal of the action, if a party fails to comply with a court order compelling discovery. The trial court necessarily has broad discretion in choosing sanctions for violation of a discovery order, and we will not overturn the court's ruling on appeal absent a manifest abuse of discretion.

Burnet v. Spokane Ambulance, 131 Wn.2d 484, 494, 933 P.2d 1036 (1997). The trial court abuses its discretion if its ruling is "manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons." Associated Mortg. Inv'rs v. G.P. Kent Constr. Co., 15 Wn. App. 223, 229, 548 P.2d 558, review denied, 87 Wn.2d 1006 (1976).

When imposing severe sanctions for violation of a discovery order, such as dismissal, the trial court must consider, on the record, (1) whether the discovery violation was willful, (2) whether the violation substantially prejudiced the other party's ability to prepare for trial, and (3) whether a lesser sanction

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would suffice. Burnet, 131 Wn.2d at 494. Here, the trial court expressly considered all three factors, and the record supports the trial court's determination.

For nearly a year before the trial court entered the order compelling discovery, Harbord refused to respond to any of Safeway's discovery requests or cooperate with Safeway's attempts to schedule a deposition. In the September 8, 2014, order compelling discovery, the trial court warned Harbord that the failure to comply could result in the dismissal of the action. The court also expressly informed Harbord that she had no lawful basis for her apparent belief that she was not subject to the discovery rules. But Harbord ignored the discovery order and continued to flood the trial court, as she had throughout the proceedings, with documents claiming that she had no obligation to comply with the discovery rules. The record clearly establishes that Harbord's failure to comply with the discovery order was willful and deliberate. See Rivers v. Wash. State Conf. of Mason Contractors, 145 Wn.2d 674, 686-87, 41 P.3d 1175 (2002) ("A party's disregard of a court order without reasonable excuse or justification is deemed willful").

Harbord's failure to comply with the discovery order was also prejudicial. Harbord provided *no* responses to Safeway's discovery requests and refused to schedule a deposition, severely limiting Safeway's ability to make meaningful trial preparations.

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No. 72731-1-1/14

The trial court expressly warned Harbord that she was subject to the discovery rules and that the failure to comply with a court order could result in dismissal. The court also awarded Safeway its reasonable expenses, including attorney fees, for having to bring the motion to compel. Nonetheless, Harbord ignored the trial court's order and repeatedly denied any obligation to comply with discovery rules. The record amply supports the trial court determination that a lesser sanction was not sufficient.

The trial court did not abuse its discretion in dismissing Harbord's action as a sanction for violating the discovery order.

Remaining Issues

In her brief, Harbord asserts that Safeway filed a stipulated protective order in federal court without her knowledge, that Safeway failed to serve all documents by certified mail, and that she did not receive Safeway's summary judgment motion in a timely manner. But Harbord fails to support these conclusory allegations with any legal arguments or citation to authority. Accordingly, we decline to consider them. See Saunders v. Lloyd's of London, 113 Wn.2d 330, 345, 779 P.2d 249 (1989) (appellate court will decline to consider issues unsupported by cogent legal argument and citation to relevant authority).

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Pending Motions

Harbord filed her notice of appeal on November 21, 2014. On August 8, 2015, after multiple extensions of time, Harbord filed an untimely "preliminary brief," which this court is treating as her opening brief. Despite several extensions of time, Harbord failed to file a reply brief. Nonetheless, Harbord has found time to file dozens of various documents and motions.

We have reviewed all of the documents that are briefly summarized in the Appendix to this opinion. To the extent these filings can be construed as motions, including motions to modify commissioners' rulings, the motions are all denied.

Attorney Fees on Appeal

Safeway requests an award of attorney fees for a frivolous appeal. See RAP 18.9(a). An appeal is frivolous "if the appellate court is convinced that the appeal presents no debatable issues upon which reasonable minds could differ and is so lacking in merit that there is no possibility of reversal." In re Marriage of Foley, 84 Wn. App. 839, 847, 930 P.2d 929 (1997). That standard is satisfied here. Harbord's complete failure to identify supporting evidence in the record or present any meaningful legal argument addressing the summary judgment standard and discovery sanctions precludes any arguable challenge to the trial court's decision. Safeway is awarded reasonable attorney fees on appeal, subject to compliance with RAP 18.1(d).

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No. 72731-1-I/16

Appellant did not receive the appendix?"

The motions identified in the appendix are denied. The trial court's

dismissal of Harbord's claims is affirmed.

Becker, J.

WE CONCUR:

Schuldes, J.

Appelwick, J.

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24/8

The Court of Appeals
of the
State of Washington

RICHARD D. JOHNSON,
Court Administrator/Clerk

DIVISION I
One Union Square
600 University Street
Seattle, WA
98101-4170
(206) 464-7750
TDD: (206) 587-5505

August 10, 2016

Daniel Philip Hurley
K&L Gates LLP
925 4th Ave Ste 2900
Seattle, WA 98104-1158
daniel.hurley@klgates.com

Hatsuyo Harbord
PO Box 112
Sequim, WA 98382

CASE #: 72731-1-1
Hatsuyo Harbord, Appellant v. Safeway, Inc., Respondent

Counsel:

Enclosed please find a copy of the order entered by this court in the above case today.

Sincerely,



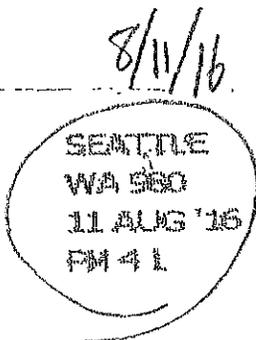
Richard D. Johnson
Court Administrator/Clerk

lls

enclosure

N DAYS TO
APPEALS

ARE
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198101-4170



8/11/2016

Hatsuyo Harbord
PO Box 112
Sequim, WA 98382

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

HATSUYO "SUE" HARBORD,

Appellant,

v.

SAFEWAY, INC.,

Respondent.

No. 72731-1-1

ORDER DENYING MOTION
FOR RECONSIDERATION

Appellant, Hatsuyo Harbord, has filed a motion for reconsideration of the opinion filed on July 25, 2016. Respondent, Safeway Inc., has not filed an answer to appellant's motion. The court has determined that said motion should be denied. Now, therefore, it is hereby

ORDERED that appellant's motion for reconsideration is denied.

DATED this 10th day of August, 2016.

FOR THE COURT:

Becker, J.

Judge

2016 AUG 10 AM 9:52
COURT OF APPEALS DIV 1
STATE OF WASHINGTON

Exhibit B
Appeals Court letters

King Co. Superior Court
Exhibit C
Deposition
ADR conference.

Exhibit D

- Order granting Motio. to change Trial date.
Revoking stay, and denying without
Prejudice all other requests for Relief.
- Tampered PLA's documents
 - # 29 Exhibit L-1
 - # 31-1
- Fabricated evidence.
 - March 11, 2014 letter 2 pages
 - Documents produced 2 pages
- King Co. Superior Court document #154 10/1/2014
Demand for Inventory list.

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KING COUNTY
SUPERIOR COURT CLERK
E-FILED

CASE NUMBER: 13-2-21008-8 SEA

#35-1

THE HONORABLE KEN SCHUBERT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HATSUYO "SUE" HARBORD,

..... Plaintiffs,

v.

SAFEWAY, INC., a Delaware Corporation,

..... Defendant.

NO. 13-2-21008-8 SEA

ORDER GRANTING MOTION TO
CHANGE TRIAL DATE, REVOKING
STAY, AND DENYING WITHOUT
PREJUDICE ALL OTHER
REQUESTS FOR RELIEF

THIS MATTER comes before the Court upon *Pro se* Plaintiff's Motion to Change Case
Schedule and Continue Trial Date. The Court has reviewed and considered the following:

1. *Pro se* Plaintiff's Motion to Change Case Schedule and Continue Trial Date, dated
June 4, 2015;
2. *Pro se* Plaintiff's Correction RE: *Pro se* Plaintiff's Motion to Change Case Schedule
and Continue Trial Date with LCR 4(d) its Own Initiative Without LCR 26 and
general Rule, dated June 6, 2014;
3. Defendant Safeway, Inc.'s Response to (1) *Pro Se* Plaintiff's Motion to Change Case

ORDER GRANTING MOTION TO CHANGE TRIAL DATE, REVOKING STAY, AND
DENYING WITHOUT PREJUDICE ALL OTHER REQUESTS FOR RELIEF - 1

JUDGE KEN SCHUBERT
KING COUNTY SUPERIOR COURT
516 3RD AVE, SEATTLE, WA 98104
(206) 477-1567

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#35-2

Schedule and Continue Trial Date (2) Other recent filing by *Pro se* Plaintiff (Dockets Nos. 16,17,24,25), dated June 6, 2014;

4. Declaration of Daniel p. Hurley in Support of Defendant Safeway Inc.'s Response to (1) *Pro Se* Plaintiff's Motion to Change Case Schedule and Continue Trial Date (2) Other recent filing by Plaintiff (Dockets Nos. 16,17,24,25); and

5. *Pro Se* Plaintiff's Reply in Support of Motion to Change Case Schedule and Continue Trial Date, dated June 10, 2014.

I. INTRODUCTION

Plaintiff's initial motion asks this Court to move the trial date from August 25, 2014 to May 18, 2015, or failing that, to November 17, 2014. Defendant agrees that extraordinary circumstances exist and that a change of the trial date is necessary, but asks that this Court impose additional obligations in granting Plaintiff's motion. Plaintiff also seeks relief from LCR 4(d) and 26(c)(2). As explained below, this Court grants the parties' request to change the trial date to November 17, 2014, but otherwise denies their various requests for relief.

II. SUMMARY OF RELEVANT FACTS

On May 24, 2013, Plaintiff filed this lawsuit in King County Superior Court. At that time, the Court issued a standard Case Schedule providing an August 25, 2014 trial date and a corresponding May 19, 2014 deadline to change that trial date. In July 2013, Defendant successfully petitioned to remove this matter to United States District Court, Western District of Washington. On July 31, 2014, this Court issued an order staying this lawsuit due to that removal. On May 7, 2014, United States District Judge John Coughenour remanded this matter to King County Superior Court. Within two weeks of the May 19, 2014 deadline to change the trial date, plaintiff moved without representation to ask for a change of the trial date.¹

¹ On May 15, 2014, plaintiff's counsel filed a Notice of Withdrawal indicating that he had withdrawn from this

#35-3

III. LEGAL ANALYSIS

1
2 Plaintiff's initial motion does not address Local Civil Rule (LCR) 40(c)(2), which
3 applies to motions to change a trial date brought after the deadline. After that deadline passes
4 "the motion will not be granted except under extraordinary circumstances where there is no
5 alternative means of preventing a substantial injustice."² Although she asked for a continuance
6 to May 18, 2015, she suggests in the alternative that this Court set a trial date of November 17,
7 2014 – the same trial date that was set for this case in federal court. Defendant agrees that "the
8 recent remand from federal court provides a sufficient basis to justify the change . . ."³ This
9 Court likewise agrees that the remand from Judge Coughenour to this Court just two weeks
10 before the deadline to change the trial date and only three months prior to the trial date presents
11 extraordinary circumstances that warrant changing the trial date. Accordingly, this Court
12 changes the trial date to November 17, 2014 and revokes the stay entered on July 31, 2013.

13 Plaintiff also filed a "correction" and "supplemental information" five days before the
14 hearing of her motion. As Defendant notes, LCR 7(b)(4)(A) requires a party to file motions no
15 later than six court days before the date the party wishes the Court to consider it. In addition, CR
16 6(e) adds three days to any prescribed period when service is by mail rather than by hand-
17 delivery. As applied to Plaintiff's motion, those rules require that she mail her motion to
18 Defendant at least nine days before or hand-deliver them at least six days before the date she
19 notes for hearing of her motion.
20
21

22 matter on January 6, 2014, while it was pending in federal court.

23 ² LCR 40(c)(2).

24 ³ Def.'s Resp. to Plt.'s Mtn. to Amend Case Sched., 12:4-5. Defendant also seems to suggest that LCR 40(e)(2)'s
extraordinary circumstances requirement may not apply "where the parties are stipulating to a change in that date
..."^{Id.}, 12:4. This Court is not aware of anything in that rule that excludes its applications to stipulations by
counsel.

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#35-4

1 Putting the service issue aside, Plaintiff's correction/supplementation references a
2 protective order, which was apparently filed in the federal court proceeding. Although not clear
3 to this Court, she addresses that protective order in a request to make LCR 26 inapplicable to
4 this case. Plaintiff provides no authority for making that rule inapplicable to this case and this
5 Court denies her request.

6 Finally, Defendant moves in its response that this Court to grant it affirmative relief.⁴
7 Defendant asks that this Court add to the Case Schedule a July 15 deadline for Plaintiff to
8 provide her responses and documents responsive to unspecified document requests.⁵ To support
9 that request, Defendant cites LCR 4(d). That rule allows for the *modification* or *amendment* of
10 the Case Schedule. This Court interprets that rule as allowing for revisions to the standard
11 deadlines set forth in the Case Schedule.⁶ While the Court has the authority to customize the
12 deadlines in a Case Schedule for a particular case, this Court does not believe that LCR 4(d)
13 allows for the *addition* of one-sided deadlines relating to a specific discovery request, especially
14 when there are rules that set forth the deadlines to respond to the specific discovery sought.⁷

15 Defendant also asks that this Court advise Plaintiff that she is obligated "to appear for
16 her deposition pursuant to CR 30 when and if Safeway properly notes her deposition to that
17 rule."⁸ Courts hold self-represented parties, like Plaintiff, to the same standards as attorneys and
18 *pro se* parties, must comply with all procedural rules.⁹ When and if Defendant properly notes

19 ⁴ Defendant should make its request for affirmative relief in a motion in order to provide the opposing party
20 sufficient time to respond. See CR 7(b)(1) ("An application to the court for an order shall be by motion . . .").
21 ⁵ This Court reviewed the 24 exhibits attached to Defendant's response for the discovery requests, but was unable
22 to find the discovery requests that Defendant essentially asks that this Court compel Plaintiff to respond by July 15,
23 2014.
24 ⁶ See LCR 4(e)(2) (setting forth general deadlines for a Case Schedule).
⁷ See e.g., CR 33(a) ("The party upon whom the interrogatories have been served shall serve a copy of the answers,
and objections, if any, within 30 days after the service of the interrogatories . . ."); CR 34(b) ("The party upon whom
the request is served shall serve a written response within 30 days after the service of the request . . ."); CR
36(a) ("The matter is admitted, unless, within 30 days after service of the request, or within such shorter or longer
time as the court may allow . . .").
⁸ Def.'s Resp., 12:21-13:1.

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1 Plaintiff's deposition, when and if she fails to appear, when and if the parties confer (or she
2 willfully refuses to do so), and when and if Defendant files a properly noted motion, this Court
3 will issue an appropriate order.

4 Finally, Defendant asks that this Court "impose an early settlement deadline of August
5 15, 2014 and identify a judge or other neutral third party, neutral to conduct the settlement
6 conference."¹⁰ Modifying the Case Schedule to provide an earlier deadline to engage in
7 alternative dispute resolution (ADR) is the kind of relief that LCR 4(d) allows. Considering that
8 the parties have been actively litigating this matter in either this or federal court since its filing in
9 May 2013, and that the original ADR deadline was July 28, 2014, this Court believes that an
10 earlier deadline to engage in ADR would be beneficial to the parties and in the interests of a just,
11 speedy, and inexpensive resolution of this matter. Accordingly, this Court will modify the
12 deadline for the parties to engage in ADR to August 15, 2014 – by which date, the parties must
13 have engaged in ADR. But this Court will not now unilaterally name a specific mediator for the
14 parties to use; it will assist them when and if they are unable to reach agreement.

15 **IV. CONCLUSION**

16 This Court grants the parties' request to change the trial date to November 17, 2014, but
17 denies all other requests for relief set forth in their respective submissions.

18 Dated this 13th day of June, 2014.

19
20 **HONORABLE KEN SCHUBERT**
21 **KING COUNTY SUPERIOR COURT JUDGE...**

22 ⁹ *In re Marriage of Olson*, 69 Wn.App. 621, 626, 850 P.2d 527 (1993); *see also In re Marriage of Wherley*, 34
23 Wn.App. 344, 349, 651 P.2d 155 (1983). ("[T]he law does not distinguish between one who elects to conduct his or
her own legal affairs and one who seeks assistance of counsel—both are subject to the same procedural and
substantive laws.")

24 ¹⁰ Def.'s Resp., 13:17-19.

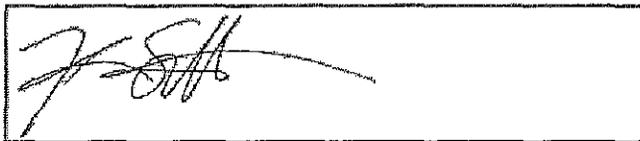
40 of

King County Superior Court
Judicial Electronic Signature Page

Case Number: 13-2-21008-8
Case Title: HARBORD VS SAFEWAY INC

Document Title: ORDER GRANTING MTN TO CHANGE TRIAL DATE

Signed by Judge: Ken Schubert
Date: 6/13/2014 2:59:14 PM



Judge Ken Schubert

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: B3CCC17BEB9A4E74398B810537AC5D3A185E71B8

Certificate effective date: 7/29/2013 12:37:57 PM

Certificate expiry date: 7/29/2018 12:37:57 PM

Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA, O=KCDJA,
CN="Ken Schubert:rumaiXr44hGoUkM4YYhwmw=="

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Exhibit L-1

Honorable John C.oughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

Tampered evidence

HATSUYO "SUE" HARBORD,)
)
 Plaintiff)
 V)
 SAFEWAY INC., a Delaware corporation,)
)
 Defendant)

No. 2:13-cv-01127-JCC
Motions: two extensions of times before remand to Ki
(1) extension of time to give back confidential PDF
file before remove my case to King County Superior
Court which I filed the documents about rule 26.
(2) extension of time to add individual defendants'
names which I filed the documents before amend to
King County Superior Court.

(1) Motion to confidential material PDF file(s) : Hatsuyo Harbord, the plaintiff comply to return confidential material which defendant Safeway, Mr. Hurley gave me misleading information for returning confidential material(s) which would cause me to tamper and destroy the evidences. I believe, I found the solution to return the confidential material(s), PDF file(s), before remanding (to go back) to King County Superior Court. I will print them and certify the confidential material to defendant Safeway, Mr. Hurley if this is the way to return the confidential material(s) [acceptable and approve] by Court to vacate rule 26. OR the rule 26 is automatically vacated because of NO JURISDICTION BY FEDERAL COURT which defendant brought my case to federal Court without Federal jurisdiction.

(2) For extension of time to add defendants' names before remanding (to go back) to King County Superior Court.

H. Harbord
HATSUYO HARBORD
Plaintiff, Pro se
22nd of April, 2014.

CERTIFICATE OF SERVICE

I hereby certify that 22nd of April, 2014. I handed and filed "Motions: two extension of time before remand to King County Superior Court" with foregoing with the Clerk of the United States District Court, Western District of Washington at Seattle, Washington which will send notification of such filing to:
Mr. Daniel P. Hurley
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158
Telephone: (206) 623-7580
Attorney for defendant

DATED this 22nd day of April, 2014.

H. Harbord
Hatsuyo Harbord P.O. Box 112 Sequim, WA. 98382 (Pro se, Plaintiff)

RECEIVED
APR 29 2014
K&L GATES LLP

FILED
14 JUN -6 PM 1:49
KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

Tampered evidence

#31-1

The Honorable Ken Schubert
Hearing Date: June 11, 2014

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HATSUYO "SUE" HARBORD

Plaintiff

v

SAFEWAY Inc., A Delaware corporation

Defendant

) No. 13-2-21008-8 SEA
) DECLARATION OF PRO SE, PLAINTIFF,
) HATSUYO "SUE" HARBORD
)
) RETURNED CONFIDENTIAL MATERIAL TO
) DEFENDANT SAFEWAY, MR. HURLEY
) COMPLIED WITH FEDERAL DISTRICT
) COURT JUDGE'S ORDER
)

I, Hatuyo "Sue" Harbord, certify and declare under the penalty of perjury of the laws of the United States, I that the following is true and correct and based upon personal knowledge to the best of my ability.

1. I am over the age of eighteen years and competent to testify to the matters herein.
2. I am a Pro se and Plaintiff in the above captioned matter.
3. Plaintiff returned confidential material to defendant Safeway, Mr. Hurley on April 28, 2014.
4. I contacted Mr. Hurley's office after mailing confidential material to him. I left many voice mails to defendant Safeway, Mr. Hurley, one message to his office receptionist, and tried to contact to his assistant to leave him my messages. I tried to leave more messages to Mr. Hurley through his receptionist, but she could not take my messages because of Mr. Hurley's instruction during business hours. I could not talk to Mr. Hurley's assistant because of she is not a lawyer and Mr. Hurley's instruction. I did not receive any response.

DATED this 6th day of June, 2014.

By

H. Harbord

Hatsuyo Harbord
Pro se, Plaintiff
P.O.Box 112
Sequim, Washington 98382

#31-2

Tampered
evidence

CERTIFICATE OF SERVICE

I hereby certify that on 6th of June 2014. I handed "DECLARATION OF PRO SE,
PLAINTIFF" with the foregoing with the Clerk of the King County Superior Court at Seattle,
Washington which will handed notification of such filing to:

Mr. Daniel P. Hurley
925 Fourth Avenue, Suite 2900
Seattle, Washington 98104-1158
Telephone: (206) 623-7580
Attorney for Defendant

DATED 6th day of June, 2014

H. Harbord
Hatsuyo Harbord
P.O. Box 112
Sequim, WA 98382

K&L GATES

K&L GATES LLP
929 FOURTH AVENUE
SUITE 2900
SEATTLE, WA 98104-1198
T +1 206 623-7500 F +1 206 623-7022 kgates.com

29-91
fabricated
evidence

March 11, 2014

Daniel P. Hurley
Attorney at Law
D (206) 370-8172
F (206) 370-6286
daniel.hurley@kgates.com

VIA U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
P.O. Box 112
Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

As we discussed last Thursday, March 6, please find attached a list of the files and documents that Safeway Inc. previously produced in response to *Plaintiff's First Interrogatories and Requests for Production*. I am providing this list in the hope that it will resolve your repeated requests for an "Inventory Log" of the documents produced by Safeway. Please also see Safeway's written responses to these discovery requests, as they also refer to and provide detail regarding the documents Safeway has produced.

As a courtesy, I am also providing you with this letter a hard copy set of the documents that have been produced by Safeway. These documents were previously produced to your former attorney in the electronic format he requested and it was both his and your responsibility to see that those documents were transferred to you in a way in which you could use them. However, given my understanding that you have been unable to fully access the documents your former attorney provided to you (evidently in PDF form), as a good faith gesture, I am producing these documents again to you in hard copy. Please note, however, that certain documents that were marked "Confidential" when they were originally produced to your attorney have either been removed from this hard copy production or redacted to remove the confidential information, as identified in the attached list. Other than the "Confidential" documents that have been redacted or removed, this hard copy production is identical to the electronic document production previously provided to your former attorney.

Now that you have this hard copy production, I presume it will be easier for you to satisfy your obligation to return all "Confidential" documents to Safeway without worrying about PDFs from your attorney which I understand from you may include "Confidential" pages mixed in with non-confidential pages within a single PDF. Please review again my letter dated January 8, 2014, in which I identify the "Confidential" documents you need to return or destroy. As soon

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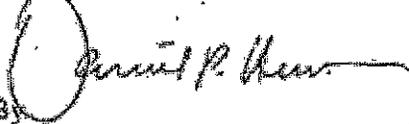
Ms. Hatsuyo "Sue" Harbord
March 11, 2014
Page 2

29-92
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evidence

as you send me a written statement stating that you have deleted any electronic copies of those documents and destroyed any paper copies, I will provide notice of that to the Court and the Court will lift the Stipulated Protective Order (which you are completely misunderstanding as some sort of restriction on your ability to present your case to the Court).

Very truly yours,

K&L GATES LLP



By
Daniel P. Hurley

Enclosures

Exhibit K #29-93

March 11, 2014

fabricated evidence

DOCUMENTS PRODUCED by SAFEWAY INC.
Harbord v Safeway, Inc., No. 2:23-cv-01127 (W.D. Wash.)

DOCUMENTS PRODUCED	BATES NUMBERS
HR Employee File	Safeway000001-000179 NOTE: Safeway00052-00058, 00068, 00071, 00072, 00075, 00076, 00078, 00079, and 00081 were labeled as "Confidential" when previously produced and are thus being re-produced with this hard copy production with redactions of potentially sensitive information pertaining to non-parties and/or sensitive transactional/financial information related to Safeway. Safeway00082-00085 are "Transaction Summaries" that were labeled as "Confidential" when previously produced and thus are not being re-produced here because redaction of the sensitive information is not feasible. Pursuant to the Court's Order dated January 6, 2014, any copies of the pages from Safeway's prior production that are identified above should be returned to Safeway pursuant to that Order or otherwise destroyed.
Collective Bargaining Agreement	Safeway000180-000243
Time Keeping Reports	Safeway000244-000302
Unemployment Insurance Claim File	Safeway000303-000458
Pay History	Safeway000459 (placeholder number) NOTE: This is an Excel spreadsheet document that has too many columns to allow for easy readability when printed, so this document was previously produced in its original/native form. As a courtesy, a print out of the spreadsheet has been included in this hard copy re-production of documents.
Safeway Privacy and Information Protection Reference Manual	Safeway000466-000475. NOTE: This document was previously produced and marked as "Confidential." Accordingly, pursuant to the Court's Order dated January 6, 2014, Safeway has not included a copy of this document with this hard copy re-production. Any copy in Plaintiff's possession should be returned to Safeway pursuant to that Order or otherwise destroyed.
Grievance Files	Safeway000476-000518
Labor Relations File	Safeway000519-000607

#29-94

DOCUMENTS PRODUCED	BATES NUMBERS	<i>Fabricated evidence</i>
Loss Prevention Files	Safeway000608-000649	
HR File	Safeway000650-000710	
Leave of Absence File (1)	Safeway000711-000727	
Leave of Absence File (2)	Safeway000728-000742	
Industrial Insurance (Worker's Compensation) Claim Files	Safeway000743-001141	
Additional and/or Duplicative Documents Pertaining to Termination and Discipline	Safeway001142-001164	
Video files	Safeway001165-001171 (placeholder numbers).	

NOTE: This video content was previously produced and labeled as "Confidential." Accordingly, pursuant to the Court's Order dated January 6, 2014, Safeway has not included another copy of this content with this hard copy reproduction. Any copy of Plaintiff's possession should be returned to Safeway pursuant to that Order.

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Exhibit E

- Order denying PLA's motion For Reconsideration

FILED

14 AUG 08 AM 10:50

KING COUNTY
SUPERIOR COURT CLERK
E-FILED

CASE NUMBER: 13-2-21008-8 SEA

82-1

THE HONORABLE KEN SCHUBERT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HATSUYO "SUE" HARBORD,

NO. 13-2-21008-8 SEA

..... Plaintiff,

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

v.

SAFEWAY, INC., a Delaware Corporation,

..... Defendant.

THIS MATTER comes before the Court upon *Pro se* Plaintiff's Motion to Reconsider Judge Ken Schubert's Order on 6/13/14, Amended Case Event Order on 7/10/14 and Reassignment on 7/14/14. In order to be timely, Plaintiff's respective motions for reconsideration had to be both filed and served within 10 days of June 13, 2014, July 10, 2014, and July 14, 2014 respectively.¹

¹ CR 59(b); *Schaefer, Inc. v. Columbia River Gorge Comm.*, 121 Wn.2d 366, 367-68, 349 P.2d 1225 (1993) ("Here, Schaefer filed the motion for reconsideration within 10 days of the Superior Court's July 2 order. However, it did not serve the motion on the Commission until July 16—4 days past the allowable time limit. Because Schaefer's motion for reconsideration was not timely, it did not extend the 30-day limit for filing the notice of appeal."); *Brower v. Pierce County*, 96 Wn.App. 559, 562-63, 984 P.2d 1036 (1999) (denying motion to dismiss appeal where motion for reconsideration was served and filed within ten days so as to toll the deadline to file a notice of appeal).

ORDER GRANTING MOTION TO CHANGE TRIAL DATE, REVOKING STAY, AND DENYING WITHOUT PREJUDICE ALL OTHER REQUESTS FOR RELIEF -1

JUDGE KEN SCHUBERT
KING COUNTY SUPERIOR COURT
5163RD AVE, SEATTLE, WA 98104
(206) 477-4567

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82-2

1 Plaintiff filed her motion for reconsideration on July 23, 2014, and her certificate of
2 service appears to indicate that she anticipated the King County Superior Clerk would hand-
3 deliver her motion for reconsideration on defendant's counsel. Based on the date of filing,
4 Plaintiff's motion is undeniably too late to ask this Court to reconsider its June 13, 2014 and
5 July 10, 2014 orders. Putting aside that the undersigned judge did not sign the July 14, 2014
6 Order of Reassignment, Plaintiff's certificate of service of her motion does not comply with the
7 service requirements set forth in CR 5.² Accordingly, Plaintiff's motion for reconsideration is
8 untimely. Because this Court simply cannot extend the time period for filing a motion for
9 reconsideration, it must deny her motion for reconsideration.³

10 Dated this 8th day of August, 2014.

11 _____
12 HONORABLE KEN SCHUBERT
13 KING COUNTY SUPERIOR COURT JUDGE...
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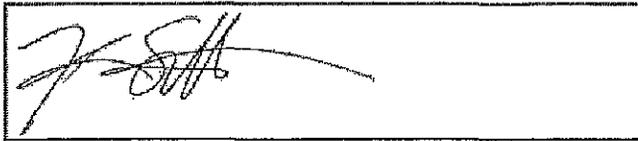
23 ² CR 5 identifies several methods of service. In this case, defendant has filed a notice of appearance. Under CR 5,
24 plaintiff must serve defendant by mail or hand-delivery directly to defendant's counsel, not to the court clerk.
³ CR 6(b); *Moore v. Wentz*, 11 Wn.App. 796, 799, 525 P.2d 290 (1974).

King County Superior Court
Judicial Electronic Signature Page

Case Number: 13-2-21008-8
Case Title: HARBORD VS SAFEWAY INC

Document Title: ORDER DENYING MOTION FOR RECONSIDERATION

Signed by: Ken Schubert
Date: 8/8/2014 10:50:07 AM



Judge/Commissioner: Ken Schubert

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: B3CCC17BEB9A4E74398B810537AC5D3A185E71B8
Certificate effective date: 7/29/2013 12:37:57 PM
Certificate expiry date: 7/29/2018 12:37:57 PM
Certificate Issued by: C=US, E=kcsceffiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Ken
Schubert:rumaiXr44hGoUkM4YYhwmw=="

Exhibit F

- New Case Events (7/10/14)
#56-2.

#56-2

Case Events	Amended Due Date
Disclosure of Possible Additional Witnesses	7/28/2014
Change of Trial Date	8/11/2014
Filing Jury Demand	8/11/2014
Discovery Cutoff	9/29/2014
Deadline for Engaging in Alternative Dispute Resolution	10/20/2014
Deadline to file Joint Confirmation of Trial Readiness	10/27/2014
Exchange of Witness & Exhibit Lists & Documentary Exhibits	10/27/2014
Advise Court on Settlement	10/28/2014
Inspect Exhibits	11/3/2014
Deadline for hearing Dispositive Pretrial Motions	11/3/2014
Trial Brief	11/7/2014
Motions in Limine	11/7/2014
Jury Instructions	11/7/2014
Proposed Findings of Fact & Conclusions of Law	11/7/2014
Use of Discovery/Depositions at Trial	11/7/2014
Joint Statement of Evidence	11/10/2014
Trial	11/17/2014

Pursuant to King County Local Rules, IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in the King County Local Rules, may be imposed for failure to comply.

Dated: 9/10/14


Honorable Judge Ken Schubert

54 05

Exhibit G
fabricated evidence

1/21/14

2/2/14

3/11/14

4/2/14

4/3/14

5/2/14

5/9/14

5/30/14

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29-115

January 21, 2014

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VIA U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
P.O. Box 112
Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

It is my understanding that you called the main telephone number of K&L Gates LLP last Friday, January 17, 2014, and left a message with a receptionist indicating that I needed to send you "inventory logs," because "the material I sent earlier was incomplete," or words to that effect. Frankly, I do not know what you are referring to by the term "inventory logs" and I do not understand your message. In the future, please communicate with me either in written correspondence mailed to my K&L address on this letterhead or by reaching me at my direct telephone number (206-370-8172) if you do not have a functioning email address. Confusion is certain to result if you continue to attempt to communicate by leaving messages with the firm receptionists.

If your most recent message regarding "inventory logs" pertains to your obligation pursuant to the Court's Order on January 7, 2014 (the "Order") to return all documents produced by Safeway Inc. that were labeled by Safeway as "Confidential," I fully explained that obligation in my prior letter to you dated January 8, 2014. Regardless, my understanding based on representations made by your former attorney, Matthew Bean, is that you likely do not have personal copies of any of the "Confidential" documents, and Mr. Bean has destroyed the copies that were in his possession. If that is the case, then you should be able to sign and return to me the certification form I provided with my last letter. Regardless, I cannot answer questions about what documents you were given by Mr. Bean, because I simply do not know. While Mr. Bean is no longer your attorney, should you have any questions about what documents you received from him, and what documents he needs to transfer to you since he is no longer your attorney (if he has not already done so), you will need to speak directly to Mr. Bean. In any case, as soon as

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Ms. Hatsuyo "Sue" Harbord
January 21, 2014
Page 2

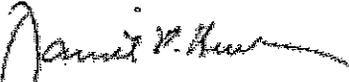
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possible, please return the "Confidential" documents (if you have any) and sign and return the certification form I provided with my last letter (or, if that certification is unacceptable to you for some reason, provide a written explanation as to what you have done to comply with your obligation to return any "Confidential" documents).

As requested in my letter dated January 8, 2014, please also promptly: (1) provide the overdue responses and document productions for Defendant Safeway Inc.'s First Interrogatories and Request for Production to Plaintiff Hatsuyo "Sue" Harbord; and (2) provide a response in writing to my questions regarding the mediation required by order of the Court pursuant to Local Civil Rule 39.1(c).

Very truly yours,

K&L GATES LLP



By

Daniel P. Hurley

K&L GATES

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29-118
29-118

February 7, 2014

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VIA U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
P.O. Box 112
Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

I still have not received any response from you to my prior letters dated January 8, 2014 and January 21, 2014. Please understand that, given your decision to move forward *pro se* (representing yourself without the assistance of a lawyer), we have a mutual obligation to communicate directly regarding your case. You cannot ignore my efforts to communicate with you and refuse to respond to Safeway's requests for information and documents, while at the same time repeatedly filing unnecessary motions with the Court. The lines of communication are open on my end. I can be reached by email (daniel.hurley@klgates.com), telephone (206-370-8172), fax (206-623-7022) and regular mail.

At the present time, I need you to respond promptly in writing to the issues and concerns identified below in this letter. Given that you evidently have the time and ability to prepare numerous and lengthy documents to file with the Court, I assume you are capable of providing a written response to my letter. If for some reason you cannot provide a written response in a letter or email, please call me so we can establish a time to discuss these issues over the phone.

Mediation by March 14, 2014

As noted in the Court's Order dated January 6, 2014 (Document 44), we must complete mediation by March 14, 2014, as required by Local Civil Rule 39.1 (copy attached). Your filing today with the Court (Document 57) indicates that you do not understand the function or purpose of mediation. Mediation is a process by which a person who is not involved in this case will meet with the parties (you and a representative of Safeway, along with me, as Safeway's counsel) and attempt to help the parties reach a mutual agreement that will resolve this lawsuit.

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#29-119

The purpose is to try to assist the parties in reaching a settlement that saves the parties and the Court the time and significant expense associated with civil litigation. See LCR 39.1(a). A mediator would not "decide" who wins or loses this case. Rather, the mediator would just attempt to help the parties reach a settlement (in most cases like this, a settlement typically involves a monetary payment in exchange for a resolution of the lawsuit, a release of claims, and other terms necessary to bring the matter to a close). The parties are not obligated to reach an agreement and settle a case in mediation, but they are obligated to participate in good faith. Where mediation does not result in a settlement, the case simply continues to move forward before the Court. Your recent filing (Document 57) indicates that you are not open to engaging in good faith negotiations to possibly reach a settlement agreement in this case in order to avoid further costs of litigation of this matter, despite the fact that, early on in this litigation when you were represented by counsel, initial settlement offers were exchanged between the parties. If it is your position that you will not participate in mediation in an effort to reach a settlement of this case, despite the current requirement of the Court that the parties do so, please confirm that to me in writing as soon as possible.

If you are prepared to engage in mediation in good faith, I suggest you consider the following mediators: Bruce W. Hilyer (a former King County Superior Court Judge), Terence Pennington Lukens (a former King County Superior Court Judge), Clifford Freed, Marcella Fleming Reed, and Katrin E. Frank.³ Please let me know as soon as possible whether you will agree to any or all of these individuals as potential mediators and please list your choices in order of your preference. Given that we have just over a month to get the mediation scheduled and completed, we may have to try a few different individuals until we find one who can be available during this time period. If you are prepared to engage in good faith mediation, I request that you provide me with your list of acceptable mediators by February 12, along with a list of dates between February 24 and March 13 when you would be available to participate in the mediation.

Safeway's Discovery Requests

I attached to my January 8 letter a copy of *Safeway Inc.'s First Interrogatories and Request for Production to Plaintiff Hatsuyo "Sue" Harbord* (the "Discovery Requests"). In that letter I explained that your responses to these Discovery Requests were due on December 9, 2013, and requested that you promptly answer the questions and provide the documents requested in those Discovery Requests, or at least inform me when I could expect your responses. You have not done so. If you do not intend to provide your responses and documents to me by February 17, I request that you identify a time on February 10, February 11 (between 7 a.m. and noon), or February 17 for us to have a telephone conference to discuss why you are not providing the responses and documents. As noted in my January 8 letter, if you fail to confer with me regarding the Discovery Requests, and/or if you fail to meet your obligation to respond to the Discovery Requests, I will bring a motion to compel your responses and will seek

³ You can find information about each mediator on the Court's website at <http://www.waoud.uscourts.gov/attorneys/adr-neutrals-by-area> (see the names listed for "Employment").

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Ms. Hatsuyo "Sue" Harbord
February 7, 2014
Page 3

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available remedies pursuant to Federal Rule of Civil Procedure 37(a)(5) (including your payment of Safeway's attorney's fees and other expenses in bringing the motion to compel) and Local Civil Rules 37(a)(1) and 11(c).² As soon as possible, please let me know how you intend to proceed with regard to this issue.

I need to obtain your complete answers and document productions in response to the Discovery Requests so that I can proceed with your deposition before a court reporter pursuant to Federal Rule of Civil Procedure 30. Your deposition will take place in the offices of K&L Gates in Seattle. Please identify some possible dates for your deposition during the last two weeks of March and the first two weeks in April that would work with your schedule. If you plan to refuse to participate in mediation of this case, please also identify any possible dates for your deposition during the first two weeks of March.

Return of Confidential Information

Your return of any documents labeled "Confidential" by Safeway is not a complicated matter, and there is no attempt on my part to engage in any "bait and switch," as you unfairly suggested in one of your recent Court filings. All you need to do is return the documents produced by Safeway that have the word "Confidential" in the bottom right hand corner. In my January 8 letter I clearly identified those specific documents, as well as the video files that are "Confidential." Either you have these materials or you do not. If you have not contacted your prior attorney, Mr. Bean, to request and obtain a copy of your case file from him, I presume you will be doing so promptly. Mr. Bean has already confirmed to me that he has returned or destroyed all "Confidential" materials from Safeway that were in the files in his office, so you need not be concerned that you will receive any of these documents from Mr. Bean. Additionally, some of your confusion in this case might be resolved if you have access to, and are able to review, your full case file, which presumably will include all documents Mr. Bean filed with the Court and/or served on Safeway on your behalf, all documents Safeway filed with the Court and/or served on your attorney, and all non-confidential documents that Safeway produced with Bates numbers (which appear in the bottom right hand corner of each page produced by Safeway and start with the number "Safeway000001") in response to discovery requests your attorney served on Safeway many months ago.

Your "Demand for Twelve Juries" (Documents 56, 57)

You already filed a jury demand in this case through your attorney (Document 8, July 2, 2013) and the Court has set the trial date as November 17, 2014 (Document 17). A review of your case file would have confirmed that and removed any need for any further filings on that topic. Regardless, please understand that, if Safeway is not able to reach a settlement with you through mediation or otherwise, Safeway will file a motion for summary judgment pursuant to

² The Local Civil Rules are available at <http://www.wa.gov.uscourts.gov/local-rules-and-orders> and the Federal Rules of Civil Procedure are available at <http://www.uscourts.gov/uscourts/rules/civil-procedure.pdf> from the U.S. Court's website at <http://www.uscourts.gov/RulesAndPolicies/rules/current-rules.aspx>



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Fabricated evidence

#29. Ex K-1

March 11, 2014

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VIA U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
 P.O. Box 112
 Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
 United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

As we discussed last Thursday, March 6, please find attached a list of the files and documents that Safeway Inc. previously produced in response to *Plaintiff's First Interrogatories and Requests for Production*. I am providing this list in the hope that it will resolve your repeated requests for an "Inventory Log" of the documents produced by Safeway. Please also see Safeway's written responses to these discovery requests, as they also refer to and provide detail regarding the documents Safeway has produced.

As a courtesy, I am also providing you with this letter a hard copy set of the documents that have been produced by Safeway. These documents were previously produced to your former attorney in the electronic format he requested and it was both his and your responsibility to see that those documents were transferred to you in a way in which you could use them. However, given my understanding that you have been unable to fully access the documents your former attorney provided to you (evidently in PDF form), as a good faith gesture, I am producing these documents again to you in hard copy. Please note, however, that certain documents that were marked "Confidential" when they were originally produced to your attorney have either been removed from this hard copy production or redacted to remove the confidential information, as identified in the attached list. Other than the "Confidential" documents that have been redacted or removed, this hard copy production is identical to the electronic document production previously provided to your former attorney.

Now that you have this hard copy production, I presume it will be easier for you to satisfy your obligation to return all "Confidential" documents to Safeway without worrying about PDFs from your attorney which I understand from you may include "Confidential" pages mixed in with non-confidential pages within a single PDF. Please review again my letter dated January 8, 2014, in which I identify the "Confidential" documents you need to return or destroy. As soon

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Ms. Hatsuyo "Sue" Harbord

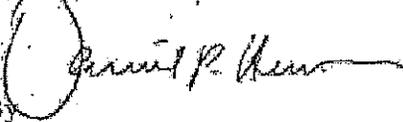
March 11, 2014

Page 2

as you send me a written statement stating that you have deleted any electronic copies of those documents and destroyed any paper copies, I will provide notice of that to the Court and the Court will lift the Stipulated Protective Order (which you are completely misunderstanding as some sort of restriction on your ability to present your case to the Court).

Very truly yours,

K&L GATES LLP



By

Daniel P. Hurley

Enclosures

DOCUMENTS PRODUCED by SAFEWAY INC.
Harbord v. Safeway, Inc., No. 2:23-cv-01127 (W.D. Wash.)

DOCUMENTS PRODUCED	BATES NUMBERS
HR Employee File	<p>Safeway000001-000179</p> <p>NOTE: Safeway00052-00058, 00068, 00071, 00072, 00075, 00076, 00078, 00079, and 00081 were labeled as "Confidential" when previously produced and are thus being re-produced with this hard copy production with redactions of potentially sensitive information pertaining to non-parties and/or sensitive transactional/financial information related to Safeway. Safeway00082-00085 are "Transaction Summaries" that were labeled as "Confidential" when previously produced and thus are not being re-produced here because redaction of the sensitive information is not feasible. Pursuant to the Court's Order dated January 6, 2014, any copies of the pages from Safeway's prior production that are identified above should be returned to Safeway pursuant to that Order or otherwise destroyed.</p>
Collective Bargaining Agreement	Safeway000180-000243
Time Keeping Reports	Safeway000244-000302
Unemployment Insurance Claim File	Safeway000303-000458
Pay History	<p>Safeway000459 (placeholder number)</p> <p>NOTE: This is an Excel spreadsheet document that has too many columns to allow for easy readability when printed, so this document was previously produced in its original/native form. As a courtesy, a print out of the spreadsheet has been included in this hard copy re-production of documents.</p>
Safeway Privacy and Information Protection Reference Manual	<p>Safeway000466-000475.</p> <p>NOTE: This document was previously produced and marked as "Confidential." Accordingly, pursuant to the Court's Order dated January 6, 2014, Safeway has not included a copy of this document with this hard copy re-production. Any copy in Plaintiff's possession should be returned to Safeway pursuant to that Order or otherwise destroyed.</p>
Grievance Files	Safeway000476-000518
Labor Relations File	Safeway000519-000607

TRK-4

DOCUMENTS PRODUCED	BATES NUMBERS
Loss Prevention Files	Safeway000608-000649
HR File	Safeway000650-000710
Leave of Absence File (1)	Safeway000711-000727
Leave of Absence File (2)	Safeway000728-000742
Industrial Insurance (Worker's Compensation) Claim Files	Safeway000743-001141
Additional and/or Duplicative Documents Pertaining to Termination and Discipline	Safeway001142-001164
Video files	Safeway001165-001171 (placeholder numbers). NOTE: This video content was previously produced and labeled as "Confidential." Accordingly, pursuant to the Court's Order dated January 6, 2014, Safeway has not included another copy of this content with this hard copy reproduction. Any copy of Plaintiff's possession should be returned to Safeway pursuant to that Order.

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#29-123

April 2, 2014

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VIA REGULAR U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
 P.O. Box 112
 Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
 United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

I write to address several issues.

Remand to State Court

In light of the federal court's decision to remand this matter to King County Superior Court, I expect we will see a communication from the state court soon with regard to a possible new case schedule and trial date and/or a scheduling conference for the parties to discuss the status of this case. While it was my preference for this matter to have remained in federal court due to the resources available to that court (including more clerk support to assist judges in reviewing documents filed by parties, compared with the heavy workloads of the state court judges), I nevertheless view the remand to state court as an opportunity for a fresh start in our effort to communicate with each other respectfully and in good faith, and I hope you will take the same approach. Moreover, as this matter proceeds in state court, I expect you will also be communicating with my colleague, Jody Duval, who will separately introduce himself to you.

"Confidential" Documents of Safeway

With regard to any documents Safeway previously produced to you and your former attorney that Safeway labeled as "Confidential" pursuant to the Stipulated Protective Order that was still in effect in federal court prior to the remand to state court, I simply request that you not disclose those documents to any other person and that you take reasonable steps to protect them from

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such disclosure.¹ Should you have any reason to file any "Confidential" document with the state court, I request that you first give me notice of such filing so that Safeway has an opportunity to argue that the document should be protected from public disclosure (while still allowing the Court and/or any jury to review the document). The purpose of this is to prevent information that is sensitive and confidential (some of which is personal and/or financial information regarding people and entities that are not parties to this lawsuit) from being disclosed to persons who have no legitimate reason to see it.

For the sake of clarity, these "Confidential" documents include the documents produced by Safeway that are labeled as "Confidential" in the bottom left hand corner of each page and which have the following Bates numbers in the bottom right hand corner of each page:

- Safeway000052 through Safeway000056
- Safeway000068
- Safeway000071 through Safeway000072
- Safeway000075 through Safeway000076
- Safeway000078
- Safeway000081
- Safeway000082 through Safeway000085
- Safeway000173
- Safeway000466 through Safeway000475
- Safeway001165 through Safeway001170 (These are the numbers assigned to copies of security videos that were produced on CD-Rom.)

The "Confidential" documents also include the "Confidential" table found at page 2 of *Defendant Safeway Inc.'s Supplemental Response to Interrogatory No. 2 of Plaintiff's First Discovery Requests*.

Your Direct Communications to, and Requests for Documents from, Safeway

It has come to my attention that you have been directly contacting Safeway Inc. and making requests for information and documents, including without limitation by sending the attached letters to (1) Sue Bennett, Safeway Labor Relations Manager, (2) Denise Comer, Safeway HR Administrator, (3) Ken Barnes, Safeway Loss Prevention Investigator, and (4) Kimberly Stewart

¹ Since I do not know what you received from your former attorney, I do not know if you have any of the "Confidential" documents in your possession. If you do, I am asking you to treat them in the manner I have set forth in this letter.

Ms. Hatsuyo "Sue" Harbord
April 2, 2014
Page 3

#29-125

of Safeway Risk Management— Workers' Compensation Section. Since Safeway Inc. is represented by K&L Gates LLP in this lawsuit, individual Safeway administrators, managers and/or divisions will not be responding to any requests you make to them. Instead, those requests will be forwarded to me as Safeway's counsel. Accordingly, I request that you direct any further requests to me, and discontinue further efforts to communicate with Safeway directly.

As a general matter, unless a specific state or federal law requires Safeway to provide particular records or other information to you, any requests you have for information and/or documents should be served upon me as Safeway's counsel in accordance with the Federal Rules of Civil Procedure. See [Washington State Rules for Superior Court] Civil Rule 5(b)(1) (when rules require service "to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court"). For example, if you are requesting documents from Safeway, you must serve your document requests on me in a manner consistent with Civil Rule 34, which requires, among other things, that you "describe each item and category [of documents you wish to have produced] with reasonable particularity." CR 34(b)(2)(A). Please also note that Civil Rule 34 also gives the party to whom a request for documents is directed 30 days to respond to the request. Civil Rule 34(b)(3)(A).

With regard to the requests you are making directly to Safeway, and complaints you repeatedly made to the federal court regarding allegedly insufficient document productions from Safeway, please review in detail the following: (1) "Plaintiff's First Interrogatories and Requests for Production and Defendant's Answers, Responses and Objections Thereto"; (2) my letter to you dated March 18, 2014 and its attachment, "Plaintiff Hatsuyo 'Sue' Harbord's 'Demand for Material from Defendant Safeway in Order to Finish Discovery and Defendant's Responses and Objections Thereto'"; (3) the over 1,100 pages of documents that have been produced by Safeway both to your former attorney and to you (as hard copies); and (4) my March 11, 2014, letter, which included a production log and accompanied a hard copy production of documents (duplicating the production previously provided to you and your former attorney, but with certain "Confidential" documents redacted or otherwise excluded, as explained in the production log). These documents have already addressed and resolved the concerns you have raised regarding documents for which a request was appropriately served on Safeway's counsel pursuant to Civil Rule 34. However, in a good faith effort to provide further information, I also address below the requests you have been making directly to Safeway.

With regard to your apparent request to Ms. Bonnett for documents related to your employment with Safeway that were in her possession or control as Labor Relations Manager for Safeway, such documents have already been produced to you (including those Bates labeled as Safeway000476-00518 and Safeway000519-000607), both in soft copy to your former attorney and

Ms. Hatsuyo "Sue" Harbord
April 2, 2014
Page 4

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recently again to you in hard copy, as described in my March 11, 2014, letter to you accompanying those hard copies.

With regard to your request to Denise Comer, HR Administrator, for "Official Wage Stubs", Safeway does have copies of "wage stubs" to produce to you. However, in response to Requests for Production Nos. 3 and 7 of Plaintiff's First Interrogatories and Requests for Production, Safeway has previously produced a spreadsheet providing detailed payroll information. This spreadsheet was produced to your former attorney in its native Excel format, and was again recently produced to you in hardcopy (Bates labeled as Safeway000459). Nevertheless, in further response to those requests and in a good faith effort to provide detail regarding pay deductions, please find enclosed an additional report from Safeway's records (Bates labeled as Safeway001172-001188). With regard to your request to Ms. Comer for payroll information earlier than 2008, such information is not within the scope of any prior discovery request served on Safeway's counsel. Accordingly, if you wish to issue a request for production for such information, you must do so in a manner consistent with Civil Rule 34 of Washington State's Rules for Superior Court and you must serve that request on me, as Safeway's counsel. The same holds true for your confusing request of Ms. Comer for "a copy of my Safeway stocks' reports from 2004 to when my Safeway stock was cashed out."

With regard to your request to Safeway Risk Management - Workers' Compensation Section, for documents related to your prior worker's compensation claims (including medical records), complete copies of Safeway's files for these claims have already been produced to you (Bates labeled as Safeway000743-001141), both in soft copy to your attorney and again in hard copy to you with my March 11, 2014, letter.

With regard to your apparent request to Mr. Ken Barnes for documents relating to you that were in his possession or control as Safeway Loss Prevention Investigator, such documents have already been produced to you (including those Bates labeled as Safeway000608-000649), both in soft copy to your former attorney and recently again to you in hard copy, as described in my March 11, 2014, letter to you accompanying those hard copies).

While I have in good faith attempted to address your direct requests to Safeway, please note I will seek appropriate relief from the Court if you persist in contacting Safeway employees to request documents (including those that have already been produced to you in this litigation) and/or if you continue to misrepresent to the Court that certain documents have not been provided to you when I have expressly explained to you that those documents have been produced (for example, files of Ms. Bonnett, Mr. Burns, Ms. Bridgeman, and Mr. LaGrange that pertain to you, as well as medical records from worker's compensation files).

Ms. Hatsuyo "Sue" Harbord
April 2, 2014
Page 5

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#29-127

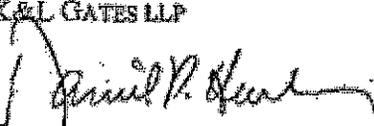
Your Failure to Respond to Safeway's Discovery Requests

As you know, I have raised in multiple letters and attempted to discuss with you during our prior phone conversations (including on March 7, 2014) the complete absence of any responses from you to *Defendant Safeway Inc.'s First Interrogatories and Request for Production to Plaintiff Hatsuyo "Sue" Harbord* (the "Discovery Requests"). These Discovery Requests were first served on your attorney on October 10, 2013, nearly six months ago. You have never explained why you have not responded to these Discovery Requests, as you are required to do under Civil Rules 33 and 34. As a result, unless I receive sufficient responses to these Discovery Requests by April 17th, I anticipate filing a motion in the state court similar to the motion I previously filed in federal court (Document No. 75, *Defendant Safeway's Motion to Compel Responses to Discovery*) seeking an order compelling you to respond to Safeway's discovery requests and requiring you to pay Safeway's reasonable expenses incurred in obtaining that order, pursuant to Civil Rule 37(a). If you have no intention of responding to these Discovery Requests by this date, I request that you please contact my colleague, Jody Duvall, at 206-370-7662, to discuss the reason(s) for your refusal to respond to the Discovery Requests.

Very truly yours,

K&L GATES LLP

By


Daniel P. Hurley

Enclosures

cc: Sue Bonnett, Safeway Labor Relations Manager
Denise Comer, Safeway HR Administrator
Ken Barnes, Safeway Loss Prevention Investigator
Kimberly Stewart, Safeway Risk Management - Workers' Compensation Section



K&L GATES LLP
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#29-128

April 3, 2014

Daniel P. Hurley
 Attorney at Law
 D (206) 370-6172
 F (206) 370-6286
 daniel.hurley@klgates.com

VIA REGULAR U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
 P.O. Box 112
 Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*
 United States District Court Case No. 2:13-cv-1127-JCC

Dear Ms. Harbord,

I write to correct two points made in the letter I mailed to you yesterday, which is dated April 2, 2014 and attached hereto.

First, to clarify the point made in the second paragraph on page 3 of the letter, under both the Federal Rule of Civil Procedure 5(b)(1) (which applied prior to the remand of this case to state court), and the state Civil Rule 5(b)(1) (which currently applies), you should serve me, as counsel for Safeway, when you are making requests for documents or information from Safeway in this lawsuit. If you fail to follow this process when making requests for documents or information that you have no legal right to obtain independent of your lawsuit, Safeway has no obligation to respond to your requests. Even if you are attempting to assert that a state or federal law requires Safeway to provide documents to you outside the process of your lawsuit against Safeway, I nevertheless request that you direct any such requests to me, given that I represent of Safeway. Moreover, as noted previously, even if you attempt to make requests directly to Safeway, such requests will nevertheless be forwarded to me to respond in the appropriate manner.

Second, the first sentence in the second paragraph on page 4 should read: With regard to your request to Denise Comer, HR Administrator, for "Official Wage Stubs", Safeway does not have copies of such "wage stubs" to produce to you. Safeway simply does not have such documents. The exclusion of the underlined word "not" in my April 2 letter was a typo. However, the

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Ms. Hatsuyo "Sue" Harbord
April 3, 2014
Page 2

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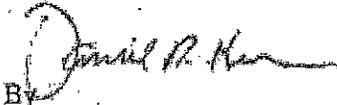
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Information you appear to be seeking from "wage stubs" is available in other documents that Safeway has produced to you, as noted in my April 2 letter and in prior correspondence.

I apologize for any confusion caused by these corrections.

Very truly yours,

K&L GATES LLP



By
Daniel P. Hurley

Enclosures

April 2,

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#29

#29-131

May 2, 2014

Daniel P. Harley
Attorney at Law
D (206) 370-8172
F (206) 370-6286
daniel.harley@klgates.com

VIA REGULAR U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
P.O. Box 112
Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*

Dear Ms. Harbord,

I am writing in reference to your unannounced visit at my office on the afternoon of Wednesday, April 30th. As you know, I was unable to meet with you for this unscheduled meeting. However, I would be more than happy to meet with you at a prearranged and established time to discuss anything pertinent to your case. If you would like to schedule a meeting, please call either Jody Duvall (206-370-7662) or me (206-370-8172) and identify what matters you wish to discuss.

I have also received your mailing and your multiple messages regarding your return of Safeway documents that were labeled "Confidential" pursuant to the District Court for the Western District of Washington's Protective Order Regarding the Handling of Confidential Material (the "Protective Order"). As far as Safeway is concerned, given the remand of this matter from federal court to state court, and presuming you have returned and/or destroyed all documents of Safeway in your possession that were labeled "Confidential," the Court's Protective Order no longer has any effect or application and you may disregard it.

I trust you understand at this point, however, that the Western District Court (the federal court) no longer has any jurisdiction over this matter and the Court is no longer receiving any filings regarding this case. As such, it is neither necessary nor appropriate for Safeway (or you) to file anything further with that court regarding the vacation of the Protective Order. Provided you have returned the "Confidential" documents, Safeway considers you to be released from any obligations under that Protective Order, to the extent any remained after remand of this case by the federal court.

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Ms. Hatsuyo "Sue" Harbord
May 2, 2014
Page 2

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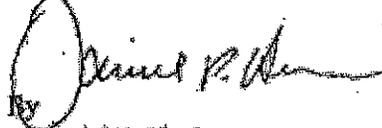
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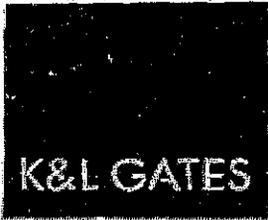
Ms. Harbor, on a separate topic, you still have not responded to Safeway's First Interrogatories and Requests for Production to Plaintiff Hatsuyo "Sue" Harbord that were first served on your former attorney on October 13, 2013 (and were again mailed to you on January 8, 2014. As I have informed you repeatedly, your responses to these discovery requests are many months overdue, and I am planning to file a motion in state court (as I did in federal court) to compel you to respond to these discovery requests and to seek Safeway's reasonable costs (including attorney's fees) pursuant to Civil Rule 37(a) for being forced to bring such a motion to obtain your responses. Please advise me or my colleague, Jody Duvall, as soon as possible whether you have any intention of responding to these request, as you are obligated to do pursuant the Civil Rules 26, 33 and 34.

We are also awaiting you response to the settlement offer Safeway made to you via the April 3 letter from Mr. Duvall. Please extend us the basic courtesy of responding to that offer.

Very truly yours,

K&L GATES LLP


By
Daniel P. Hurley



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#29-134

#29-134

May 9, 2014

Daniel P. Hurley
 Attorney at Law
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 daniel.hurley@klgates.com

VIA REGULAR U.S. MAIL

Ms. Hatsuyo "Sue" Harbord
 P.O. Box 112
 Sequim, WA 98382

Re: *Hatsuyo "Sue" Harbord v. Safeway Inc.*

Dear Ms. Harbord,

Please find enclosed a copy of a letter I received today from King County Superior Court noting that the case of *Harbord vs. Safeway Inc.*, Case No. 13-2-21008-8 SEA, has been reinstated following the remand of the case from the U.S. District Court for the Western District of Washington. I am sending you a copy of this letter, as it appears that King County Superior Court (the "Court") is unaware of your *pro se* status and thus sent this letter to your former attorney, Mr. Bean, rather than sending it you directly. I presume you will provide the Court (and serve on me) as soon as possible (1) notice of your *pro se* status and (2) your contact information.

Overdue Responses to Discovery Requests

Given the August 23, 2014 trial date and the earlier deadlines for completion of discovery pursuant the Court's Case Schedule (copy attached), we need to move this litigation forward in earnest. Accordingly, I again request that you promptly provide responses and document productions in answer to Safeway's First Interrogatories and Requests for Production to Plaintiff Hatsuyo "Sue" Harbord ("Discovery Requests") that were first served on your former attorney on October 13, 2013 (with additional copies mailed to you on two separate occasions). I have made countless requests for you to respond to these Discovery Requests, both in writing and during our prior telephone conversations (and I even filed a motion in the federal court to compel you to respond, which the Court did not rule upon due to its intervening decision to remand this matter back to state court), yet you have persisted in your failure to respond to the Discovery Requests, as you are obligated to do pursuant to Civil Rules 33 and 34. At this point, I have no

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Ms. Hatsuyo "Sue" Harbord

May 9, 2014

Page 2

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#29-135

choice but to assume that you are refusing to respond to the Discovery Requests. Accordingly, unless I receive sufficient responses to the Discovery Requests within one week of the date of this letter (or some firm commitment in writing from you that such responses will be provided within three weeks of the date of this letter), I anticipate filing a motion to compel your responses in which I will also request an order requiring you to pay Safeway's reasonable expenses (including attorney fees) incurred in bringing that motion pursuant to Civil Rule 37(a)(4).

I need you to finally provide the answers and documents requested in those Discovery Requests, because I need to move forward with your deposition (pursuant to Civil Rule 30) in June. Please provide me with several alternative dates in June that would be convenient for you for your deposition in the Seattle offices of K&L Gates. If you do not provide any suggested dates, I will simply note your deposition on a date of my choosing. By this letter, I am also providing you notice, pursuant to Civil Rule 30(b)(8), that I will be making arrangements for your deposition to be recorded on videotape. Once your deposition is complete, I will prepare and file a motion for summary judgment pursuant to Civil Rule 56, which I am confident will lead to the dismissal of your lawsuit.

Communications

From my perspective, our prior attempts to communicate via telephone conference have been entirely counterproductive. You filed countless documents in federal court attacking me personally and misrepresenting and mischaracterizing what I said during our prior conversations, as well as making unfounded accusations of misconduct. Giving you the benefit of the doubt, I am left to assume that these attacks were the result of your failure to understand what I was saying to you, as well as your lack of understanding of the legal process and applicable rules we are both required to work within. You also seemed unwilling and/or incapable of understanding and responding to concerns that I raised during our telephone calls. Regardless, to avoid misunderstandings and mischaracterizations in the future, I believe it is best that we engage only in written communications, except when applicable court rules and/or the legal process requires us to speak directly. This should largely eliminate any potential mischaracterizations or misrepresentations regarding our communications. When we are required to communicate directly, I suggest we consider using a court reporter to document what is actually said.

Given the need to engage in written communication, I again ask that you provide an email address so that we can communicate much more efficiently. Without that, I am left to continue sending hardcopy letters to the post office box address you provided to the federal court. I am aware of your residential address, but understand that you do not want documents to be sent to that address. If that is the case, it is your responsibility to monitor your post office box for documents related to this case.

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Ms. Hatsuyo "Sue" Harbord
May 9, 2014
Page 3-

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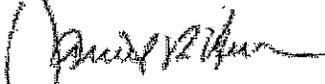
Settlement Offer

I again request the basic courtesy of a response to the most recent settlement offer that was extended to you via a letter from my colleague, Jody Duvall. Please keep in mind that if we are unable to reach a reasonable settlement in this matter, I am confident that Safeway will ultimately prevail in this matter and you will receive nothing.

I look forward to your prompt written response to this letter.

Very truly yours,

K&L GATES LLP



By Daniel P. Hurley

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6
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Daniel P. Hurley
daniel.hurley@kkgates.com
DD 206.370.8172
Fax 206.623.7022

May 30, 2014

Ms. Hatsuyo Harbord
P.O. Box 112
Sequim, WA 98382

Re: Hatsuyo Harbord v. Safeway, Inc., King County
Superior Court Case No. 13-2-21008-8 SEA

Dear Ms. Harbord,

During our phone call today, you repeatedly and wrongly complained that Safeway had not produced documents showing your prior payroll deductions, such as your 401(k) and union dues deductions. If you review my letters from April 2 (on page 4) and April 3, those letters discuss and attach documents showing these deductions. Please also review my March 11, 2014 letter (and its attachments), which accompanied a hard copy production of documents previously produced to your attorney and outlines the categories of documents that have been produced to you.

Ms. Harbord, you continue to refuse my requests that we communicate in writing whenever possible so that we can avoid any miscommunications as well as the unnecessary and unpleasant disagreements that always result from our direct communications. Instead, you continue to go through phases where you shower me and my office with phone calls (often needlessly attempting to leave messages and/or engage in substantive communications with the receptionist and my assistant). As was demonstrated yet again during today's call, your approach to a telephone conversation is to continually repeat things to me over and over again without giving me the opportunity to speak. When I begin to speak, you continually interrupt me, and claim that everything I say is not true. These exchanges are pointless and extremely frustrating for both of us. I request again that you communicate with me via written correspondence or (more efficiently) email. I also request that you actually read the correspondence I send to you, as I have gone to significant effort in my letters to address your concerns and to explain my positions on various issues. From our telephone discussions, it is clear that you either do not read the correspondence I send to you, or you make no effort to understand it.

As is always the case when we speak over the phone, you hung up on me again today without allowing me to raise my questions to you. While you wrongly claim that Safeway has not produced information to you, despite the fact that Safeway has produced over 1,100 pages in response to *Plaintiff's First Interrogatories and Requests for Production*, you simultaneously ignore the fact that you have not produced a single document or any written responses to

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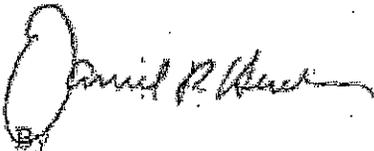
29-13

Safeway's Defendant Safeway Inc.'s First Interrogatories and Requests for Production to Plaintiff Hatsuyo "Sue" Harbord (the "Discovery Requests"), despite the fact that your responses to these requests have been overdue for more than six months. I am attaching yet again another copy of these Discovery Requests and ask you to please inform me in writing as to whether you have any intention of meeting your obligation to respond to these requests, and if not, to please explain why. As I have noted previously, you are obligated to respond to these Discovery Requests in accordance with Civil Rules 26, 33 and 34, and we plan to file a motion to compel your responses and to seek our reasonable expenses pursuant to Civil Rule 37(a) for being forced to file that motion.¹ You cannot simply ignore these obligations.

I also again request that you extend the simple courtesy of responding to Safeway's settlement offer, which was set forth in the letter to you from my colleague, Jody Duvall, dated April 3, 2014. If that offer is not acceptable to you, please set forth a reasonable counter settlement offer for Safeway to consider. This litigation is wasteful and extremely counterproductive. If it is possible to reach a settlement amount that will enable us to resolve this matter without further dispute, we should fully explore that possibility.

Very truly yours,

K&L GATES LLP



By
Daniel P. Hurley

¹ Please note that these Discovery Requests reference in various places the Federal Rules of Civil Procedure. Given that this case has been remanded to state court, all references to the Federal Rules of Civil Procedure should be read as referring to the equivalent state Civil Rules of the same numbers, and the reference to Federal Rule of Evidence 1001 on page 3 should be read as referring to Washington State Rule of Evidence 1001, subsections (a) through (c).

8/05

Exhibit H
Order staying Action

FILED

13 JUL 31 PM 3:27

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

#9-1

SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY

HARBORD,

Plaintiff,

vs.

SAFEWAY INC.

Defendant.

NO: 13-2-21008-8 SEA

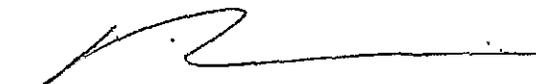
ORDER STAYING ACTION

The court has been advised that this action was removed to the United States District Court.

NOW THEREFORE, THE COURT ORDERS AS FOLLOWS:

This matter is stayed pending further court order. For case management purposes only, this matter is scheduled for review for 12/15/13. Parties should provide a status report prior to that date.

DATED: 7/16/13


JUDGE KIMBERLEY PROCHNAU

ORIGINAL

Exhibit I
order 8/1/14
#78

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KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HATSUYO HARBORD

Plaintiff,

No. 13-2-21008-8 SEA

v.

SAFEWAY INC.

Defendant.

ORDER

I. INTRODUCTION

This matter came before the Court as a motion by Plaintiff Harbord to continue the trial date to May 18, 2015, to extend the deadlines for various case schedule events such as participation in alternative dispute resolution, disclosure of witnesses, and discovery cut-off, and to compel defendant to provide records in response to alleged discovery requests. This matter was apparently first noted for July 11, defendant objected to the hearing date on the basis of timeliness of the notice. It appears that plaintiff then renoted motion for July 25 and also provided some new materials and briefing in support of her motion. Defendant has filed responses to both sets of motions, and the Court is prepared to address the requests for relief.

From a review of Ms. Harbord's paperwork, it appears she is working very hard on her case. However, her paperwork is very confusing and voluminous. One simple thing that

ORDER

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ORIGINAL

Judge Kim Prochnau
King County Superior Court
516 Third Avenue, C-0201
Seattle, WA 98104
(206) 477-1367
Prochnau.Court@Kingcounty.Gov

1 would help the Court understand her paperwork and ensure compliance with GR 14 would be
2 if she used a minimum of 12 point font in her paperwork. (The court appreciates that she has
3 provided with her motion an exhibit list, has paginated her motion paperwork and has provided
4 headings for her motion.) Since she is not an attorney, it is not surprising if she is having
5 trouble understanding the complex rules and procedures in place for civil matters in Superior
6 Court. The court is however required to apply the same rules and orders to plaintiff whether
7 she has an attorney or not. The court urges her to attempt to find an attorney to represent her;
8 lawyers and judges go to three years of law school and then undertake a great deal of study and
9 work to understand how to successfully conduct themselves in trial. While this court tries to
10 be clear in its rulings and orders, this court cannot teach Ms. Harbord how to handle a trial and
11 can't "help" either side in their presentation of the evidence. (This court also cannot allow a
12 non-lawyer sit with a self-represented party at trial to advise them on trial practice; to do so
13 would assist others in violating state laws on practicing law without a license). King County
14 Bar Association's lawyer referral number is (206) 267-7010.

15 II. FINDINGS OF FACT AND CONCLUSIONS OF LAW PERTINENT TO THESE
16 MOTIONS

- 17 1. The court file indicates that plaintiff Ms. Harbord filed this action in May of
18 2013, and that a case schedule was initially issued with a discovery cut off in
19 July of 2014 and a trial date in August 2014. This court entered a stay of
20 proceedings in July of 2013 because there had been a request to remove the
21 action to federal court. The matter was remanded to King County Superior
22 Court in May of 2014. Plaintiff moved in May 2014 to extend the case

23 ORDER

24
86 of
Judge Kim Prochnau
King County Superior Court
516 Third Avenue, C-0201
Seattle, WA 98104
(206) 477-1367
Prochnau.Court@Kingcounty.Gov

1 schedule and continue the trial date to May 18, 2015, or failing that, to
2 November 17, 2014. Plaintiff also tendered a demand for trial by jury in May
3 2014.

4 2. Judge Schubert (who temporarily handled this case while the undersigned was
5 on leave) entered a very detailed order on June 13, 2014 granting Plaintiff's
6 request for a trial continuance but denying her "first choice" of a trial date in
7 May of 2015 but rather continuing trial to her second choice of November 17,
8 2014.

9 3. Defendant apparently did not object to a trial date of November 17 but
10 requested additional relief which was not granted.

11 4. On July 10, 2014, Judge Schubert issued an amended case schedule advancing
12 case event deadlines including disclosure of witnesses, participation in
13 alternative dispute resolution, and discovery cut-off.

14 5. On July 14, this case was once again assigned to the undersigned court.
15 (Department 7-Judge Prochnau).

16 6. On July 23, plaintiff filed a motion for reconsideration; on July 25, she
17 calendared that matter for August 1, 2014. (Although it does not appear that
18 the motion is timely, if the motion is to be heard, it would be heard by Judge
19 Schubert as it is his order which the plaintiff wants to be reconsidered. All
20 other matters should however come before Department 7- Judge Prochnau's
21 court..)

22 7. To the extent that the plaintiff is seeking the same relief that was sought in her
23 motion heard by Judge Schubert or was the subject of his order, the court denies

24 ORDER

Judge Kim Prochnau
King County Superior Court
516 Third Avenue, C-0201
Seattle, WA 98104
(206) 477-1367
Prochnau.Court@Kingcounty.Gov

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1 such relief as untimely and an improper request to reconsider another judge's
2 order.

3 8. Plaintiff apparently is also moving to compel discovery of her "personal files"
4 (personnel files?) from defendant. However, in support of that motion she
5 merely attaches letters to various Safeway employees requesting this
6 information. She does not identify and authenticate any specific discovery
7 requests that were properly served on defendant's counsel in accordance with
8 CR 34, CR 33, and CR 5 nor does she set forth facts certifying that, she has met
9 the requirements for a discovery conference under CR 26.

10 III. ORDER

11 NOW, THEREFORE this Court ORDERS as follows:

- 12 1. The motion for a continuance of trial date and a change in the
13 deadlines for various case events, including disclosure of witnesses
14 and discovery cut off is **denied**. This Order does not address the
15 pending Motion for Reconsideration of Judge Schubert's Order.
- 16 2. The motion to compel discovery is **denied**.
- 17 3. Plaintiff is ordered in all future motions and briefs to use a minimum
18 of 12 point font for all typed and computer-processed paperwork.
- 19 4. Plaintiff is ordered in all future motions to properly caption her
20 paperwork. For example, she needs to identify in the caption (below
21 the case number) the type of pleading she is filing, i.e. "Motion" or
22 "Brief" and a brief description of the relief she is requesting i.e.
23 "Compel Discovery".

24 ORDER

25 *KS AF*

Judge Kim Prochnau
King County Superior Court
516 Third Avenue, C-0201
Seattle, WA 98104
(206) 477-1367
Prochnau.Court@Kingcounty.Gov

FILED

14 SEP 19 AM 11:53

KING COUNTY
SUPERIOR COURT CLERK
HONORABLE KIMBERLEY PROCHNAU
E-FILED

CASE NUMBER: 13-2-21008-8 SEA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

HATSUYO "SUE" HARBORD,

Plaintiff,

v.

SAFEWAY INC.,

Defendant.

No. 13-2-21008-8 SEA

DECLARATION OF SUE BONNETT

I, SUE BONNETT, hereby state and declare:

1. My name is Sue Bonnett and I am submitting this Declaration in connection with the lawsuit that Hatsuyo "Sue" Harbord has filed against Safeway, Inc. ("Safeway"). I am over the age of eighteen and have personal knowledge of the facts set forth herein.

2. I have been employed by Safeway for 10 years and have been in my current position as labor relations manager for all 10 years. As part of my duties, I work with local unions to administer labor agreements and help store managers deal with employee discipline issues. I have personal knowledge of the matters stated in this Declaration based upon my personal involvement in them. I am familiar with corporate and local policies, as well as the disciplinary practices at the Store.

3. In early March 2011, Mike Lagrange, store manager at one of Safeway's Port Angeles, Washington stores, contacted me about various disciplinary issues regarding

DECLARATION OF SUE BONNETT - 1

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K&I GATES LLP
925 FOURTH AVENUE
SUITE 2900
SEATTLE, WASHINGTON 98104-3158
TELEPHONE: (206) 621-7580
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Plaintiff's poor work performance and refusal to follow instructions. Specifically, he contacted me regarding Plaintiff's note-writing activity and copying of Safeway's confidential financial information and asked that I contact Ken Barnes, a Safeway loss prevention investigator, to assist in investigating Plaintiff's misconduct, which I did soon thereafter. I contacted Mr. Barnes again on April 3 and requested that he assist in conducting an interview with Plaintiff regarding her conduct. Mr. Barnes interviewed Plaintiff on April 6, 2011, after which he contacted me on April 12 and was concerned that Plaintiff had failed to address certain issues being investigated that he had asked her about during the interview. After our discussion, Mr. Barnes drafted a set of specific questions for Plaintiff to answer relating to issues he was investigating, which I forwarded to Mylc Dahlke, Plaintiff's union representative, for Plaintiff to answer.

4. On April 20, 2011, I received a copy of Plaintiff's responses to Mr. Barnes's questions from the office of Plaintiff's former attorney, Curtis G. Johnson. Attached hereto as **Exhibit A** and incorporated herein by reference is a true and correct copy of a letter I received dated April 18, 2011, from the offices of Plaintiff's former attorney.

5. After receiving Plaintiff's responses, which did not address or alleviate Safeway's concerns, I engaged in a collaborative decision-making process with Mr. Lagrange during which we decided to terminate Plaintiff's employment with Safeway. Plaintiff was terminated for her repeated failures to follow instructions and violations of policies and procedures regarding confidential information, compounded by her refusal to perform assigned tasks, inadequate job performance, and obstinate manner in dealing with her superiors. On May 6, 2011, I informed Ms. Dahlke that Plaintiff's employment was terminated.

6. Plaintiff filed a grievance with her union regarding her termination. Subsequently, I was informed on December 7, 2011 by Plaintiff's union that it had decided to withdraw the grievance.

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7. I have no knowledge that Plaintiff ever made complaints regarding discriminatory treatment in the workplace during her employment with Safeway.

I declare under penalty of perjury of the laws of the state of Washington that the foregoing is true and correct:

EXECUTED this 17th day of September, 2014, at Bellevue, Washington.

K&L GATES LLP

By 
Sue Bonnett

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LAW OFFICE OF
CURTIS G. JOHNSON, P.S.

A PROFESSIONAL SERVICES CORPORATION
230 E. 5th Street
Port Angeles, WA 98362

#129-5
Exhibit A

Curtis G. Johnson
Gerard A. Johnson (Retired)

(360) 452-3895
Fax (360) 452-3897

April 18, 2011

Sent via e-mail: Sue.Bonnett@safeway.com
Hard copy to follow

Sue Bonnett
Manager, Labor Relations
Safeway, Inc.
P. O. Box 85001
Bellevue, WA 98015-8501



Re: *Sue Harbord and Safeway, Inc. No. 1492 - Port Angeles*

Dear Ms. Bonnett:

Please be advised that I represent Sue Harbord at what appears to be a continuing course of employee discipline being alleged against her. On April 12, 2011, correspondence was forwarded to Sue Harbord from Myle Dahlke. The e-mail did not include the statement of Mrs. Harbord that was provided to Mr. Barnes on April 8, 2011. The e-mail from you to Myle Dahlke indicated a date of Monday, April 18, 2011 for clarification of her answers to Mr. Barnes inquiry.

Response to Factual Scenario #1 (in reference to an incident dated February 27, 2011). The scenario is based upon assumption and speculation. Certain allegations are set forth as undisputed facts when in fact there is a question of accuracy as to the factual assertions/ interpretation or intent. It is presumed that written statements, other documentation or security camera tape will be preserved by Safeway in the event future action is necessary.

1. Mike LaGrange, Safeway Store Manager, complained about the till audit, only. Sue's till audit on the same register between 1-4. Other employee did till audit in different till. Mike LaGrange was incorrect.
2. My corrective action showed shortages for \$600.00 that night. I could not find the shortage for \$600.00, which Mr. LaGrange had claimed. I was seeking to find the over/short report information in order to defend the allegation made against her by the store manager.
3. I was going to complain to Sue Bonnett because I believe this claim was false.

Safeway000514

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EXA

Sue Bonnett
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4. I was protecting myself from Mike LaGrange's accusations. Mr. LaGrange has written me for several corrective actions and this is not a true statement. I do not take any of the company's vital information.

Response to Factual Scenario #2 (\$150.00 money order). On a different date, there was \$250.00 short and she received different orders from her supervisors. I wrote a note to Laura (was working in the office at the time). Laura had my note. She was in and out a couple of times. In the past, when she left the office, Sue noted that the note/information would disappear or be misplaced by other employees who had access. That is why she said she put it in her pocket, so she would not have to go back and re-do where she had left off.

Sue Harbord complains that she is being given orders by the accounting department and the store manager that are at variance with each other. Accounting will have her perform certain tasks and then Mr. LaGrange will countermand her earlier instructions. Her position is that she has to do what Mike tells her. The \$150.00 money order discrepancy should be a bookkeeper's job. Sue Harbord is the video cashier. If some employee made a mistake on till #23, Mr. LaGrange told Sue that she had to investigate it and fix it. She contends this is outside of her job function.

Response to Factual Scenario #3: Several factual assertions are incorrect according to my client. She was not at the store at 8:30 p.m. She stated that she was at the store at approximately 9:00 and for a period of 19 minutes. Her purpose in being at the store was to submit a request to change her personal holiday from Tuesday to Friday. Incidentally, she bought a bagel around the same time for which she has a receipt for the purchase and then left the store.

It is noted that on April 5, 2011, she got a suspension. She stated that Mike LaGrange verbally mentioned that the suspension was for "stalking behavior".

Sue Harbord indicated that on her paycheck, she was entitled to 20 hours of vacation pay, but was only provided 16 hours. She inquired to the night manager as to why it was short. She did not get a written response or a phone call.

On Friday, she asked the night manager (Nick) and he did not know the reason or the accuracy of the shortage issue on her vacation pay. No response was received from anyone in management or payroll on Saturday. She came to Port Angeles to take care of other errands she had in the city and stopped by the store to make an inquiry regarding the loss of four hours vacation pay. Since she reported that she had other errands in Port Angeles, she felt that this was a convenient time for her to accomplish this task and therefore, merely coincidental. On Saturday, April 2, she had went to the store to ask Jason about the discrepancy of her vacation pay since no one answered her inquiry. She was told by him that he did not work on Friday. He told her that he did not know the answer to her question and would get back to her. Sue Harbord said no ever contacted her to rectify the issue.

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EXA

Sue Bonnett
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In relation to March 29, 2011, she was not there at 8:30 p.m., nor was she there for five consecutive at 8:30 on April 2 or for 45 minutes as asserted in the factual scenario. Sue Harbord disputes the accuracy of this allegation. Sue Harbord took her three-week vacation commencing on March 13 through April 2, 2011. On March 29, 2011, at 9:00 p.m. she was in the Port Angeles Safeway Store for approximately 19 minutes to change her personal holiday from Tuesday to Friday. That change was her primary reason to be at the store. Incidentally, she bought a bagel around the same time for which she has a receipt purchase.

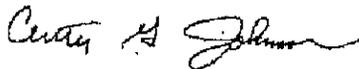
The other visit was approximately 25 minutes. On April 2, 2011, she reports that she was at aisle 3 looking for fruit cocktail. She was not in the particular area asserted in that factual scenario. Her primary purpose was to talk to the closing manager. She was only incidentally purchasing grocery items to take home while she was there. Aisle 3 and the video aisle are in close proximity to each other. The assumption in the scenario is incorrect.

Sue Harbord's complaint is accusations of shortages in the till of \$600.00 without allowing her to review the videotape to establish the same. She is being forced to accept the word of the store manager when she has no idea of what was wrong. She believes that she is forced to take them at their word.

With regard to the till, she is doing the same as other employees are doing it. She feels she is being singled out. She is looking for register numbers. Mike LaGrange did not exhibit to her the shortage so she looked at the cash over/short report. She believes that it would not show or support his claim that it was short and believes video-surveillance tape would exonerate her. Sue reported that Mr. LaGrange told her to stop completely. She stated that she recorded the till number so she did not duplicate tills. Sue Harbord is looking forward to exonerate herself.

Vary truly yours,

Law Office of Curtis G. Johnson, P.S.



Curtis G. Johnson

CGJ:sh

Exhibit K.

Corrective Action Notice

Mike LaGrange.

#130
Exhibit A-1

CORRECTIVE ACTION NOTICE

<input checked="" type="checkbox"/> Written <input type="checkbox"/> Verbal	Employee Number: #9535858	Hire Date:	JOB TITLE: officer
Name: Sue Harbord	Department: Front End	Union Local:	
Store/Facility: 1492			

- SUBJECTS OF EMPLOYEE PROBLEM**
- | | | | |
|--|--|---|---|
| <input type="checkbox"/> Action Deficient to Monitor | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check out Procedure | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/ Grooming | <input type="checkbox"/> Intimidation | <input checked="" type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Careless Campaign | <input type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input type="checkbox"/> Working Time |
| <input type="checkbox"/> Discourtesy | <input type="checkbox"/> Failure to Follow Instructions | <input type="checkbox"/> Quantity of Work | <input type="checkbox"/> W/C Violation |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to work Scheduled Shift | <input type="checkbox"/> Tardiness | <input type="checkbox"/> (Other: _____) |
| <input type="checkbox"/> Other: | | | |

Specific behavior or action that is leading to the discipline, include date, time and description.	On 3-18-08 Sue suffered an on-the-job injury. She did not report the accident until 5-14-08.
What policy, procedure or practice was violated? Please be specific.	Immediate reporting policy
What was the impact of the behavior or action on the department, division or company?	
What is the desired behavior or action? Please be specific.	She needs to report all injuries to management within 24 hrs of injury.
Describe further disciplinary action if a similar nature occurs. "Similar Nature is defined as: actions or behaviors that violate Safeway policy and procedure." Manager's Statement:	Further instances will result in suspension and/or termination.

Has this employee been counseled previously for a similar behavior? If so, please give reason(s), for counseling and date(s).	Prior Counseling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has this employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):

Corrective action required for permanent incident. (Action includes suspension, length of suspension is required.)
 Written Verbal Suspension/Other: _____
 Length of suspension: _____

*Please understand that the purpose of the Corrective Action is to provide feedback and assist you in meeting the performance/behavior standards of Safeway. Future incidents of a similar nature will result in progressive discipline, up to and including suspension and/or termination.

Employee Signature: _____
 Department Mgr./Facility Mgr.: _____
 Employee Signature (Supervisor indicates receipt only): _____

Managerial Supervisor: _____
 Date: 5/12/08

RECEIVED
JUL 21 2008
LABOR RELATIONS
7/18/08

Distribution: 1 copy to D.D. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

11-007 (REVISED) (08/01/03)

#130
Exhibit D

CORRECTIVE ACTION NOTICE

Written Verbal

Name: <u>Sue Hubbard</u>	Employee Number: <u>8535858</u>	New Date:	Job Title: <u>Office Clerk</u>
Store/Facility: <u>1492</u>	Department: <u>Front End</u>	Union Local:	

- SUBJECT(S) OF EMPLOYER PROBLEM**
- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Action Deleterious to Member | <input type="checkbox"/> Obedient for Established Rules | <input type="checkbox"/> Improper Check-out Procedure | <input type="checkbox"/> Unauthorised Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/Grooming | <input type="checkbox"/> Integrity | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input type="checkbox"/> Working Time |
| <input type="checkbox"/> Discourtesy | <input checked="" type="checkbox"/> Failure to Follow Instructions | <input checked="" type="checkbox"/> Quantity of Work | <input type="checkbox"/> WVC Violation: |
| <input type="checkbox"/> Obedient for Safety | <input type="checkbox"/> Failure to work Scheduled Shift | <input type="checkbox"/> Timeliness | (With appropriate form) |
| <input type="checkbox"/> Other: | | | |

Specific behavior or action that is leading to the discipline. Include date, time and description.	Sue has been counseled and retrained multiple times to improve her speed. She has been unwilling to change her habits and has not shown any improvement in her speed. From WK 446, 5-3 and 5-4 she was scheduled 32.5 hrs. She averaged 4.8 hours for the 3 weeks.
What policy, procedure or practice was violated? Please be specific.	Sue needs to follow directions in order to improve her productivity and finish her tasks in the assigned time.
When was the impact of the behavior or action on the department, division or company?	The store needs to cut hours and impact other employees to make up for Sue's extra time.
What is the desired behavior or action? Please be specific.	Sue needs to complete her daily tasks in the time allotted.
Describe further disciplinary action if extent of a similar nature occurs. "Written Notice is defined as: "Notice of behavior and violation Safety policies and procedures." Manager's Signature:	Further instances will result in progressive discipline starting with a written corrective action.

Has this employee been counseled previously for a similar behavior? If so, please give reason(s) for counseling and date(s).	Prior Counseling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):
Has this employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):

Corrective action required to prevent incident. If action includes suspension, length of suspension is required.

Documented Verbal Written Suspension-Date: _____ Length of suspension: _____

*Please understand that the purpose of this Corrective Action is to provide feedback and assist you in meeting the performance/behavior standards of Safeway. However, future incidents of a similar nature will result in progressive discipline, up to and including suspension and/or termination.

*Employee Statement:

30
 Department/Store/Shift Manager
H. Hubbard
 Employee Signature (Signature included receipt only)

RECEIVED
 JUL 2 2008
 LABOR RELATIONS
 6/13/08
 Date

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

14700 Decision-Making (1/08)

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#130
Exhibits

CORRECTIVE ACTION NOTICE

Written Verbal

Name: Sue Harbord	Employee Number: 8535858	Hire Date:	Job Title: Video Clerk
Store/Facility: 1492	Department: Video office	Union Local:	

- SUBJECT(S) OF EMPLOYEE PROBLEM**
- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Action Debatmental to Morale | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check out Procedure | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/Grooming | <input type="checkbox"/> Profanity | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input checked="" type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input type="checkbox"/> Wasting Time |
| <input type="checkbox"/> Disciplinary | <input checked="" type="checkbox"/> Failure to Follow Instructions | <input type="checkbox"/> Quantity of Work | |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to work Scheduled Shift | <input type="checkbox"/> Tardiness | |
| <input type="checkbox"/> Other: | <input type="checkbox"/> WIC Violation: Select | | |

Specific behavior or action that is leading to the Discipline. <u>Includes date, time and description.</u>	Refused to follow direction Dec 22, 2008 I asked Sue to do an office call and change a changer
What policy, procedure or practice was violated? <u>Please be specific.</u>	Following a supervisors direction
What was the impact of the behavior or action on the department, division or company?	Taking away from Front End Checkout success by making it necessary for me to do it myself.
What is the desired behavior or action? <u>Please be specific.</u>	Follow directions given by Supervisor
Describe further disciplinary action if events of a similar nature occur. <u>*Similar Nature is defined as: actions or behaviors that violate Safety policy and procedures.*</u>	future incidents will result in further discipline up to and including suspension and/or termination
Managers Statement	

Has this employee been counseled previously for a similar behavior? If so, please give reason(s) for counseling and date(s).	Prior Counseling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):
Has this employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Date(s):

Corrective action required for present incident. If action includes suspension, length of suspension is required. Documented Verbal Written Suspension-Dates: _____ Length of suspension: _____

**Please understand that the purpose of the Corrective Action is to provide feedback and assist you in meeting the performance/behavior standards at Safeway. However, future incidents of a similar nature will result in progressive discipline, up to and including suspension and/or termination.*

*Employee Statement:

Department Mgr./Facility Mgr.

Employee Signature (Signature indicates receipt only)

Sandra Dethrich
Manager/Supervisor
12/27/08
Date

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

(1/92, Revision 08/00, 05/01)

Safeway000635

10/05

Exhibit 9-1

SAFeway INC.
NON SUPERVISOR, RETAIL EMPLOYEE PERFORMANCE APPRAISAL

Employee Name: SAC Harbor Employee ID: 853 585X Period Covered: 2009
 Job Title: Office Ckl District #: LU Store #: 1492
 At Safeway, providing Superior Service by taking care of the customer is our most important job. Therefore, a majority of your job performance will be measured by your ability to provide superior service - service that is above and beyond what the customer expects.

Circle the appropriate rating for each characteristic	STERLING	EXCEPTIONAL	GOOD	NEEDS IMPROVEMENT	UNSATISFACTORY
1. PERSONAL CONTACT: To what extent does employee provide individual and personal attention to customers?	1	2	3	4	5
<p>Comments: She is very friendly with customers</p>					RATING: 3
2. HELPFUL RESPONSIVENESS: To what extent does employee anticipate customer needs? To what extent does employee respond to customer needs in a friendly and timely manner?	1	2	3	4	5
<p>Comments: She is helpful when the customers need additional help</p>					RATING: 3
3. PROBLEM SOLVING: To what extent does employee demonstrate an ownership of customer problems? To what extent does the employee seek the best possible solution for the customer? To what extent does the employee make good decisions despite the impact of customer complaints?	1	2	3	4	5
<p>Comments: She is good at seeking help with customer situations, would encourage her to take on more responsibility</p>					RATING: 3
4. TEAMWORK: To what extent does employee participate with others to solve customer problems? To what extent does employee work well with coworkers?	1	2	3	4	5
<p>Comments: She always helps and when asked</p>					RATING: 3
5. PRODUCT KNOWLEDGE: To what extent has employee learned the technical aspects of the job? To what extent does employee possess product knowledge to better serve customers?	1	2	3	4	5
<p>Comments: She knows most of the products she comes in contact with, but can respond in other areas of the store</p>					RATING: 3
6. DEPENDABILITY: To what extent can the employee be counted on to do a good job, work scheduled hours, come through when needed, be available to serve customers and follow through on customer requests and purchases?	1	2	3	4	5
<p>Comments: She is very dependable</p>					RATING: 3

Exhibit 9-2

Employer Name: _____ Employee ID: 8535858 Period Covered: 8

7. PRODUCTIVITY:		1	2	3	4	5
To what extent does employee complete work in assigned time period, balancing demands from customers as a 1st priority while meeting back requirements in a calm and orderly fashion?		ALWAYS completes assignments in designated time period or before. Makes customer #1 priority. Very organized and prepared.		Meets standards, works in a safe, accurate and thorough manner. Follows grooming/appearance standards.		RARELY meets standards in a timely fashion. Does not make customer #1 priority. Appears unorganized.
Comments: <u>She needs to work on minimizing overtime</u>						RATING: <u>4</u>
8. QUALITY OF WORK:		1	2	3	4	5
To what extent does the employee meet established standards (including grooming/appearance and safety/accident) for serving our customers in an accurate, thorough and professional manner?		Work is of exceptionally high quality. Is a model for grooming/appearance and safety/accident standards. Does professional and accurate work.		Meets standards, works in a safe, accurate and thorough manner. Follows grooming/appearance standards.		RARELY meets standards. Work often needs to be redone. Does not work in a safe, accurate or thorough manner. Does not follow grooming/appearance standards.
Comments: <u>She has consistent quality. Would benefit from being more organized and clearly</u>						RATING: <u>3</u>
9. ADAPTABILITY:		1	2	3	4	5
To what extent is the employee able to deal with changing situations and/or customer demands, open to new ideas, able to pick up easily, learn new skills in order to better serve our customers while keeping superior service a priority?		ALWAYS demonstrated a high degree of flexibility. Able to shift gears at a moment's notice while always keeping superior service a priority. Handles multiple customer and task demands with ease.		Displays the ability to be flexible. Shifts priorities when necessary while keeping superior service a priority.		RARELY adjusts to changing situations, very rigid. Reacts negatively to multiple demands. May keep ball on one or more tasks.
Comments: <u>She can be adaptable but is hesitant to try new things in effort to be more productive</u>						RATING: <u>4</u>
10. COMMUNICATIONS:		1	2	3	4	5
To what extent does employee give and receive information effectively in interactions with customers and coworkers?		ALWAYS speaks/presents information in an exceptionally clear, concise manner. Early permission others. Actively listens to others information.		Clear and concise. Usually able to persuade others. Listens to others.		RARELY clear and concise in presenting information. Unable to persuade others. Does not listen.
Comments: <u>She needs to work on communication before problems are presented so emotion is not an issue</u>						RATING: <u>4</u>
11. ABSENTEEISM:		1	2	3	4	5
To what extent can the employee be relied upon to be in work as scheduled? To what extent does the employee appreciate the negative impact that their absence has on the work and the customer service, the store operation and other employees?		ALWAYS in on time. Fully appreciates the negative impact of absenteeism on others. Never makes work other than for illness or unusual emergencies.		Reports in work on time. Understands the negative impact of absenteeism on others. Has missed 1-3 days over map for illness or cases of emergencies.		RARELY is on time. Does not understand the negative impact of absenteeism on others. Has missed numerous days other than for illness or unusual emergencies.
Comments: <u>She is rarely absent</u>		Days Sick: <u>1</u>		Days Absent: _____		Times Late: <u>2</u>
Overall Rating: The overall rating should reflect the supervisor's overall view of the employee's performance and shows flexibility in giving greater or lesser weight to a particular characteristic, or the nature of responsibilities or key responsibilities. While the rating scale of 1, 2, 3, 4, or 5 can apply to any individual characteristic, job objectives or key responsibilities there are no overall level 1 performance.						Overall Rating: <u>3</u>
Strengths: (Include repeating verbatim) <u>Reliable. 94% PSR</u>			Areas for Improvement: (Include repeating verbatim) <u>Reduce D.T., communication, taking directions to improve offer flow. Sales floor is an opportunity</u>			
Supervisor Signature: <u>[Signature]</u>		Date: _____		Next Level Supervisor: <u>[Signature]</u>		
Employee Signature: <u>[Signature]</u>		Date: _____		Job Title: <u>offer manager</u>		
CAREER PLANNING & DEVELOPMENT (Completed by employee)						
At Safeway/Clark, we value career advancement and believe in promoting from within. In order to do this efficiently we need to know the career goals of our employees. You are encouraged to complete the following questions and discuss with your supervisor.						
1. Are you currently qualified in your present position? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, why?			3. Have you utilized the job posting process to indicate your interest in career advancement? Yes <input type="checkbox"/> No <input type="checkbox"/>			
2. Do you presently desire a different position? Yes <input type="checkbox"/> No <input type="checkbox"/> If so, in what position(s) and why?			4. Are you interested in pursuing a career in retail store management? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, how in the future?			
<input type="checkbox"/> Check box if currently interested in pursuing a career as a Department Manager.			5. What, if any, training or education have you obtained to become qualified for the position(s) you are interested in?			

Original to Employment Coordinator for Personnel File; Copy to Employee; Copy to Store Manager *Continue on separate page if necessary.

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SAFeway INC.
NON SUPERVISOR RETAIL EMPLOYEE PERFORMANCE APPRAISAL

Exhibit A-1

Employee Name: Sue Hatzayo Employee ID: 8535857 Period Covered: 2004
Job Title: Vision Clerk District #: 24 Store #: 1492
At Safeway, providing Superior Service by taking care of the customer is our most important job. Therefore, a majority of your job performance will be measured by your ability to provide superior service - service that is above and beyond what the customer expects.

Circle the appropriate rating for each characteristic	STERLING	EXCEPTIONAL	GOOD	NEEDS IMPROVEMENT	UNSATISFACTORY
1. PERSONAL CONTACT:	1	2	3	4	5
To what extent does employee provide individual and personal attention to customers?	ALWAYS greets and makes eye contact with all customers. Uses customers' names. Thinks every customer by name. Smiles, is friendly and outgoing. Cares about customers.		Often and makes eye contact with most customers. Learns names of frequent customers. Remembers to thank customers by name. Smiles and is friendly.		RARELY greets or makes eye contact. Does not use customers' names or say thanks. Talks to other employees and ignores customer. Not friendly.
Comments: <u>Sue is very attentive to customers and their needs.</u>					RATING: <u>3</u>
2. HELPFUL/RESPONSIVENESS:	1	2	3	4	5
To what extent does employee anticipate customer needs? To what extent does employee respond to customer needs in a friendly and timely manner?	ALWAYS anticipates customer needs by being sensitive to their signals. Smiles and manager to help customer, prompt in handling customer needs. Always takes customer to the point. Gets or sends for item if needed. Promptly calls for help when needed.		Anticipates customer needs by being sensitive to their signals. Help customer when asked. Time to respond quickly. Offers help or call for help when need becomes visible.		RARELY anticipates customer needs. Avoids helping customer. Is oblivious to customer's need for help.
Comments: <u>Sue responds well to customers and their needs</u>					RATING: <u>3</u>
3. PROBLEM SOLVING:	1	2	3	4	5
To what extent does employee demonstrate an ownership of customer problems? To what extent does the employee seek the best possible solution for the customer? To what extent does the employee make good decisions considering impact on customer/customer?	Can easily and personally solve every customer's problem. Looks for item or suggest substitute. Handles all returns in a positive manner. Tells when to wait or repeat problems. Makes well thought out decisions. Takes customer to item without fail.		Tries to solve customer problems or refer to someone else. Takes customer to where item is located. Follows procedure in handling returns. Makes good decisions.		Points or directs customers to item. Does not know where items are located. Avoids helping solve customer problems. Not friendly in handling returns. Makes poor decisions.
Comments: <u>Sue is good at calling for help when she cannot solve things on her own</u>					RATING: <u>3</u>
4. TEAMWORK:	1	2	3	4	5
To what extent does employee participate with others in solve customer problems? To what extent does employee work well with coworkers?	ALWAYS works effectively with others. Eagerly seeks opportunities to help coworkers so they can better help customers willingly. Steps to help a fellow employee solve a customer request.		Helpful to others when asked. Works effectively with others and looks for opportunities to help coworkers.		RARELY helps others. Is ineffective in dealing with coworkers. Is a negative influence in work environment.
Comments: <u>Sue can improve in this area. Has struggled with following directions given to her by Pics</u>					RATING: <u>4</u>
5. JOB/PRODUCT KNOWLEDGE:	1	2	3	4	5
To what extent has employee learned the technical aspects of the job? To what extent does employee possess product knowledge to better serve customers?	ALWAYS knows technical elements of job and the key features of superior service. Has complete thorough product knowledge. Able to answer questions about products. Earns trust and confidence of customer.		Knows technical elements of job. Has a fair understanding of service attributes. Able to answer product questions or find the answers when customer ask.		HAS NOT learned technical elements of job. Does not answer customer questions. Has limited and poor understanding of service attributes. Is unfamiliar with products and does not take initiative to find the information.
Comments: <u>Sue better understands all of the service attributes. Sue is good about seeking out help if she cannot answer questions herself.</u>					RATING: <u>3</u>
6. DEPENDABILITY:	1	2	3	4	5
To what extent can the employee be counted on to do a good job, work scheduled hours, come through when needed, be available to serve customers and follow through on customer requests and problems?	EXTREMELY reliable in carrying out all assignments and tasks. Serving customers first priority. Follows through on customer requests and problems.		Reliable, works scheduled hours. Will put aside tasks to help customers. Needs only an occasional reminder to follow through.		RARELY available to serve customers. Fails to work scheduled hours. Cannot be relied upon to carry out assignments. No follow through.
Comments: <u>Due is very dependable. Rarely calls in sick and never late.</u>					RATING: <u>3</u>

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Employee Name: Sue Arbad

Employee ID: 8535858

Period Covered: 2008

Exhibit A-2

7. PRODUCTIVITY: To what extent does employee complete work in assigned time period, balancing demands from customers as a #1 priority while meeting basic requirements in a calm and orderly fashion?	1 ALWAYS completes assignments in designated time period or before. Meets customer #1 priority. Very organized and prepared.	2	3 Completes assignments in designated time. Able to balance demands of work to give priority to customers.	4	5 RARELY completes assignments in a timely fashion. Does not make customer #1 priority. Appears unorganized.
Comments: Sue can improve on productivity. The opportunity of working in another department seems to be helping. A CAN was issued for this in the last 1000s.					
RATING: 4					
8. QUANTITY OF WORK: To what extent does the employee meet established standards (including grooming/appearance and safety/cleanliness) for serving our customers in an accurate, thorough and professional manner?	1 Work is of exceptionally high quality. Is a model for grooming/appearance and safety/cleanliness standards. Does professional and accurate work.	2	3 Meets standards, works in a safe, accurate and thorough manner. Follows grooming/appearance standards.	4	5 RARELY meets standards. Work often tends to be mediocre. Does not work in a safe, accurate or thorough manner. Does not follow grooming/appearance standards.
Comments: Sue has the opportunity to improve in regards to working in a safe manner. She had a CAN on 5-14 for late reporting.					
RATING: 4					
9. ADAPTABILITY: To what extent is the employee able to deal with changing situations/multiple customer demands, open to new ideas, able to shift gears easily, learn new skills in order to better serve our customers while keeping superior service a priority?	1 ALWAYS demonstrates a high degree of flexibility. Able to shift gears as a manager's needs while always keeping superior service a priority. Handles multiple customer and task demands with ease.	2	3 Displays the ability to be flexible. Shifts priorities when necessary while keeping superior service a priority.	4	5 RARELY adjusts to changing situations, very rigid. Reacts negatively to multiple demands. May drop ball on one or more tasks.
Comments: Sue has room to improve in this area. A greater ability to change always would allow for her to handle customers more efficiently.					
RATING: 4					
10. COMMUNICATION: To what extent does employee give and receive information effectively in interactions with customers and coworkers?	1 ALWAYS speaks/presents information in an exceptionally clear, concise manner. Easily persuades others. Actively listens to obtain information.	2	3 Clear and concise. Usually able to persuade others. Listens to others.	4	5 RARELY clear and concise in presenting information. Unable to persuade others. Does not listen.
Comments: Sue can improve on communication. This includes following directions.					
RATING: 4					
11. ABSENTEEISM: To what extent can the employee be relied upon to be at work as scheduled? To what extent does the employee appreciate the negative impact that their absence from work has on customer service, the store operation and other employees?	1 ALWAYS is on time. Fully appreciates the negative impact of absenteeism on others. Never misses work other than for illness or personal emergencies.	2	3 Reports to work on time. Understands the negative impact of absenteeism on others. Has missed 1-2 days other than for illness or personal emergencies.	4	5 RARELY is on time. Does not understand the negative impact of absenteeism on others. Has missed numerous days other than for illness or personal emergencies.
Comments: Days Sick: 3, Days Absent: 0, Times Late: 0					
Overall Rating: The overall rating should reflect the supervisor's overall view of the employee's performance and allows flexibility in giving greater or lesser weight to a particular characteristic, or the results of goal/objectives or key responsibilities. While the rating scale of 1, 2, 3, 4, or 5 also apply to any individual characteristics.					
Overall Rating: 3.5					
Strengths: (Include superior service) Superior service		Areas for Improvement: (Include superior service) Good communication and follow through would definitely help her areas for improvement.			
Employee Signature: [Signature]		Date: 04/18/09	Next Level Supervisor: [Signature]		
Employee Signature: [Signature]		Date: 4/19/09	Job Title: Office Clerk		
CAREER PLANNING & DEVELOPMENT (Completed by employee) At Safeway/Cores, we value career advancement and believe in promoting from within. In order to do this efficiently we need to know the career goals of our employees. You are encouraged to complete the following questions and discuss with your supervisor.					
1. Are you currently satisfied with your present position? Yes <input type="checkbox"/> No <input type="checkbox"/> If no, why:		3. Have you utilized the job posting program to indicate your interest in career advancement? Yes <input type="checkbox"/> No <input type="checkbox"/>			
2. Do you presently desire a different position? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, what position(s) and why?		4. Are you interested in pursuing a career in retail store management? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, have you applied for the RLD program? Yes <input type="checkbox"/> No <input type="checkbox"/>			
<input type="checkbox"/> Check box if currently interested in pursuing a career as a Department Manager.		5. What, if any, training or education have you obtained to become qualified for the position(s) you are interested in?			

Original to Employment Coordinator for Personnel File; Copy to Employee; Copy to Store Manager

*Continue on separate page if necessary.

New Supervisor Rated, Employee Performance Appraisal - Revised 5-7-07 - Growth Division

Page 2 of 2

Safeway000003

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Exhibit I-1

ACKNOWLEDGEMENT OF COMPANY RETAIL POLICIES & PROCEDURES

PAGE #	POLICY AND PROCEDURE TITLE	VERSION DATE
1 - 2	General Working Rules and Regulations	03/07
3	Clocking In and Out	03/07
4	Absenteeism and Tardiness	05/05
5 - 6	Personal Appearance, Safety and Sanitation and Uniform Dress Code	03/07
7	Proper Handling of Company Money and Recording of Sales	07/01
8 - 9	Proper Handling of Women Infant & Children (WIC) Checks	02/07
10	Employee Store Purchases	03/07
11	Employee Check Cashing Policy	05/05
12	Video Department Policy	07/01
13 - 14	Sale of Tobacco Products Policy	02/08
15 - 17	Sale of Alcoholic Beverages Policy	02/08
18	Acceptance of Gifts and Entertainment	10/07
19	Safeway Club Card Policy	07/01
20	Workplace Violence Policy	01/03
21	Shoplifting Deterrence and Detention Policy	03/07
22 - 23	Sarbanes-Oxley Act Policy	09/06
24 - 26	Privacy & Protection Policy	2005
27	Safety Policy	07/01
28	Immediate Reporting Policy for Work Related Injuries or Illness	04/03
29	Personal Protective Equipment (PPE)	03/07
30 - 34	Drug and Alcohol Policy	03/08
35	Equal Employment Opportunity Policy	03/03
36 - 37	Safeway Policy on Religious Accommodation	05/05
38 - 40	Safeway Policy on Harassment	05/05
41 - 42	Safeway Policy on Employment of Relatives, Romantic Relationships and Conflict of Interest	05/05
43 - 46	Family Medical Leave Act of 1993 Fact Sheet	1995
47	Family Medical Leave Act Expansion Notice	02/08
48 - 49	Service Animal Policy	04/03

Other Information Received:

Chemical Hazards Booklet / Workers' Compensation Filing Information Sheet.

This is to certify that I have read, understand, and will comply with the policies and procedures listed above or be subject to the disciplinary action indicated.

Sue Harbird
Employee Name (Print Clearly)
8535888
Employee ID#
24 District # 147 Store #

Refused to Sign
Employee Signature (Required)
4-19-09
Today's Date
[Signature]
Store Manager's Signature

Note: Return this Acknowledgment page to the Human Resources Department. The employee is to maintain the booklet of the policies and procedures listed above for future reference.

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Exhibit J-1

RETAIL POLICIES AND PROCEDURES

ACKNOWLEDGEMENT OF COMPANY POLICIES AND PROCEDURES

PAGE #	POLICY AND PROCEDURE TITLE	VERSION DATE
1	General Working Rules and Regulations	03/03
2	Clocking In and Out	03/03
3	Absenteeism and Tardiness	05/05
4	Personal Appearance and Uniform Dress Code	05/05
5	Proper Handling of Company Money and Recording of Sales	07/01
6 - 7	Proper Handling of Women Infant & Children (WIC) Checks	05/05
8	Employee Store Purchases	05/05
9	Employee Check Cashing Policy	05/05
10	Video Department Policy	07/01
11	Sale of Tobacco Products	07/01
12 - 13	Sale of Alcoholic Beverages	11/04
14	Acceptance of Gifts and Entertainment	07/01
15	Safeway Club Card Policy	07/01
16	Workplace Violence Policy	01/03
17	Shoplifting Deterrence and Detention Policy	07/01
18 - 19	Sarbanes-Oxley Act Policy	12/04
20 - 22	Privacy & Protection Policy	2005
23	Safety Policy	07/01
24	Immediate Reporting Policy for Work Related Injuries or Illness	04/03
25	Personal Protective Equipment (PPE)	03/05
26 - 28	Drug and Alcohol Policy	04/05
30	Equal Employment Opportunity Policy	03/03
31 - 32	Safeway Policy on Religious Accommodation	05/05
33 - 35	Safeway Policy on Harassment	05/05
36 - 37	Safeway Policy on Employment of Relatives, Romantic Relationships and Conflict of Interest	05/05
38 - 41	Family Medical Leave Act of 1993 Fact Sheet	1995
42 - 43	Service Animal Policy	04/03

Other Information Received:

Chemical Hazards Booklet / Workers' Compensation Filing Information Sheet

This is to certify that I have read, understand, and will comply with the policies and procedures listed above or be subject to the disciplinary action indicated.

Hatsuyo Harbord
 Employee Name (Print Clearly)
8535858
 Employee ID#
24 1492
 District # Store #

H. Harbord
 Employee Signature (Required)
4/21/07
 Today's Date
[Signature]
 Store Manager's Signature

Note: Return this acknowledgement page to the Human Resources Department. The employee is to maintain the booklet of the policies and procedures listed above for future reference.

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Exhibit 2-1

RETAIL POLICIES AND PROCEDURES

ACKNOWLEDGEMENT OF COMPANY RETAIL POLICIES & PROCEDURES

PAGE #	POLICY AND PROCEDURE TITLE	VERSION DATE
1-2	General Working Rules and Regulations	03/07
3	Clocking In and Out	03/07
4	Absenteeism and Tardiness	05/05
5-6	Personal Appearance, Safety and Sanitation and Uniform Dress Code	03/07
7	Proper Handling of Company Money and Recording of Sales	07/01
8-9	Proper Handling of Women Infant & Children (WIC) Checks	02/07
10	Employee Store Purchases	03/07
11	Employee Check Cashing Policy	05/05
12	Video Department Policy	07/01
13-14	Sale of Tobacco Products Policy	02/08
15-17	Sale of Alcoholic Beverages Policy	02/08
18	Acceptance of Gifts and Entertainment	10/07
19	Safeway Club Card Policy	07/01
20	Workplace Violence Policy	01/03
21	Shoplifting Detainment and Detention Policy	03/07
22-23	Barabara-Oxley Act Policy	09/06
24-26	Privacy & Protection Policy	2005
27	Safety Policy	07/01
28	Immediate Reporting Policy for Work Related Injuries or Illness	04/03
29	Personal Protective Equipment (PPE)	03/07
30-34	Drug and Alcohol Policy	03/08
35	Equal Employment Opportunity Policy	03/03
36-37	Safeway Policy on Religious Accommodation	05/05
38-40	Safeway Policy on Harassment	06/05
41-42	Safeway Policy on Employment of Relatives, Romantic Relationships and Conflict of Interest	05/05
43-46	Family Medical Leave Act of 1993 Fact Sheet	1995
47	Family Medical Leave Act Expansion Notice	02/08
48-49	Service Animal Policy	04/03

Other Information Received:
 Chemical Hazards Booklet / Workers Compensation Filing Information Sheet
 This is to certify that I have read, understand and will comply with the policies and procedures listed above or be subject to the disciplinary action indicated.

She Harbor
 Employee Name (Print Clearly)
8535858
 Employee ID#
14 District # 144 Store #

See Day
 Employee Signature (Required)
6-18-2010
 Today's Date
[Signature]
 Store Manager's Signature

Note: Return this signed document along to the Human Resources Department. The employee is to maintain the booklet of the policies and procedures listed above for future reference.

I received a copy
 3/3 p 4253554532

She Harbor
 3604573261 <<

2010-06-18 12:00 1492

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Exhibit M-1

CORRECTIVE ACTION NOTICE

Written Verbal

Name: <u>Sgt. Kozlov</u>	Employee Number: <u>8535951</u>	Hire Date: <u>9-5-2004</u>	Job Title: <u>SA</u>
Store/Facility: <u>74/1492</u>	Department: <u>Office/UCDO</u>	Union/Local: <u>2-1</u>	

- SUBJECTS OF EMPLOYEE PROBLEM**
- | | | | |
|--|--|---|--|
| <input type="checkbox"/> Active Delinquent in Morale | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check out Procedure | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dirty Code Bookings | <input type="checkbox"/> Intimidation | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input type="checkbox"/> Wasting Time |
| <input type="checkbox"/> Discourtesy | <input type="checkbox"/> Failure to Follow Instructions | <input type="checkbox"/> Quality of Work | |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to work Scheduled Shift | <input type="checkbox"/> Tardiness | |
| <input type="checkbox"/> Other | | <input type="checkbox"/> WMC Violation/Select | |

Specify behavior or action that is leading to this discipline. Include date, time and description.	<u>on 12/20/10, at 4:30p, Sgt cut a finger on a loose razor blade. The razor was not locked by a lock button.</u>
What policy, procedure or practice was violated? Please be specific.	<u>Disregard for safety.</u>
What was the impact of the behavior or action on the department, division or company?	<u>Unsafe actions cost the employee and occupying time & money.</u>
What is the desired behavior or action? Please be specific.	<u>Wouldn't get cut all times. If you need something, let management know.</u>
Describe further disciplinary action if levels of discipline require occur. "Similar history is defined as 3 or more occurrences within 12 months. Retention policy and procedure".	<u>Further discipline will result in progressive discipline up to and including termination.</u>
Manager's Statement	<u>This accident was totally avoidable.</u>

Has the employee been counseled previously for a similar behavior? If so, please give date(s) and details.	Prior Counseling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has the employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):

Corrective Action required for yourself: Documented Verbal Written Suspension - 1 week
 Length of suspension: _____

Please understand that the purpose of the Corrective Action is to provide feedback and assist you in meeting the performance, behavior standards of Safeway. Should a future incident of a similar nature occur, it will result in progressive discipline, up to and including suspension and/or termination.

Employee Statement: On 12/20/10 at 4:30 PM, I was in the office. I had to make a copy of a document. I had to use a razor blade to cut a piece of paper. I cut my finger on the blade. I did not see the blade until it was too late. I did not see the blade until it was too late. I did not see the blade until it was too late.

Supervisor Statement: I am documenting this incident. The employee was not following safety protocols.

 Manager/Supervisor

 Date

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

(1992, Revision: 06/00, 05/07)

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Exhibit N-1

CORRECTIVE ACTION NOTICE

Written Verbal

Name: <u>Sue Harbord</u>	Employee Number:	Area Dept:	Job Title: <u>Video clerk</u>
Plant/Facility: <u>1492</u>	Department: <u>Library</u>	Union Local:	

- SUBJECTS OF EMPLOYEE PROBLEMS**
- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Action Deleterious to Morale | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check-out Procedure | <input type="checkbox"/> Unexcused Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/Breaching | <input type="checkbox"/> Insubordination | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input type="checkbox"/> Wasting Time |
| <input type="checkbox"/> Disciplinary | <input type="checkbox"/> Failure to Follow Instructions | <input type="checkbox"/> Quantity of Work | |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to meet Scheduled Shift | <input type="checkbox"/> Timeliness | |
| <input type="checkbox"/> Other | | <input type="checkbox"/> W/C Violation/Select | |

Specific behavior or action that is leading to the discipline. Include date, time and description.

See attached

What policy, procedure or practice was violated? Please be specific.

What was the impact of the behavior or action on the department, division or company?

The store spends unnecessary resources to create tests.

What is the desired behavior or action? Please be specific.

Sue need to finish her tests in the assigned time or have a valid reason why she is not finish a time.

Describe further disciplinary action if results of a written notice occur. "Similar behavior is defined as: "Incidents or behaviors that violate: "Library policy and procedures." Manager's Statement:

Further instances will result in suspension and/or termination.

Has the employee been counseled previously for a similar behavior? Yes, please give reason(s) for counseling and date(s).	Prior Counseling? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<u>1/19/10</u>
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<u>1/19/10</u>
Has the employee successfully been retrained? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Corrective action required for current incident. If action includes suspension, length of suspension is required.

Documented Verbal Written Suspension Dates: _____ Length of suspension: _____

*Please understand that the purpose of this Corrective Action is to provide feedback and assist you in meeting the performance/behavior standards at Safeway. However, future incidences of a similar nature will result in progressive discipline, up to and including suspension and/or termination.

Employee Statement: I was being harassed at my job. Laura told me to finish my job before leaving my shift. I finished my shift. I asked Laura twice what I needed to be done. Laura told me to finish my job. I did not understand. I told her I had a 20 min grace period. She said she would call me. I called her and she said I needed to be done. I told her I was done. She said I was not done. I signed this up to protect myself.

Department Manager/Supervisor: _____ Date: 1-8-11

Employee Signature: _____ Date: _____

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

(1532, Revision 06/00; 05/01)

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Exhibit N-2

1-04-10

On 12-31-10 Sue Harbord was scheduled to work 1pm-9:30pm. She clocked out at 9:57pm. The afternoon was very busy until 5:30pm. Sue had both Laura and Xandra helping intermittently throughout the afternoon. Between 5pm and 5:20pm Xandra changed out 4 changers for Sue, picked up all excessive cash from the tills, and did a cash drop.

Starting at 7:30 pm the night was extremely slow. Sue had a total of 12 customers to help in the video department. 2 of these were employees picking up their check, 5 were for cigarettes and the other 5 were assorted items. None of these were time consuming and all told accounted for less than 25 minutes of Sue's evening.

The pharmacy till was delivered to Sue at 9:31pm (30 minutes late). It took Sue 4 minutes to count the till down.

The next morning the changers were extremely low. The only changers changed out for the day were the 4 that Xandra did and 3 more that Sue did all at 9:31pm.

Movies were not checked in (over 25 movies in the drawer) and two stacks of returned movies ready to be put back on the display racks.

Sue did not complete her tasks in the assigned time. After review Sue had adequate time to complete her tasks.

11205

CORRECTIVE ACTION NOTICE

Exhibit 0-1

Written Verbal

Name: Sue Harbord	Employee Number: 38533858	Hire Date:	Job Title: video clerk
Store/Facility: 1492	Department: video	Union Local: 21	

SUBJECT(S) OF EMPLOYEE PROBLEM

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Action Detrimental to Morale | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check out Procedure | <input type="checkbox"/> Unauthorized Absence |
| <input checked="" type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/Grooming | <input type="checkbox"/> Profanity | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input type="checkbox"/> Failure to Cooperate | <input checked="" type="checkbox"/> Quality of Work | <input type="checkbox"/> Wasting Time |
| <input type="checkbox"/> Discourtesy | <input type="checkbox"/> Failure to Follow Instructions | <input type="checkbox"/> Quantity of Work | |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to work Scheduled Shift | <input type="checkbox"/> Turdiness | |
| <input type="checkbox"/> Other: | | <input type="checkbox"/> WIC Violation: Select | |

Specific behavior or action that is leading to the Discipline. <u>Include date, time and description.</u>	Sue has made multiple errors recently. On 2-4-11 Sue loaned the SCO \$300, then picked up \$300 followed by a pickup of \$200 (which should have been a loan of \$200). This caused a \$400 shortage. The same night she left \$290 behind the currency counter, left \$100.00 in the cash drawer, left the changer key in the register and forgot to replace the stamps in #23 (4 books instead of 10). On 2-5 Sue rung up a \$30 check twice and did not correct it in her till. She seemingly tried to correct it later when she balanced the till but missed a \$40 ck that had to be added to it. That same night she put 3 books of stamps in #23 and 4 books in pharmacy (which doesn't get stamps at all). On 2-7 Sue rung up a 7.41 check as cash. She did not fix it in her register. That night when she balanced the till she added a \$20.00 check that was nonexistent to her check run. She still missed the \$7.41 check. <i>The key was inside the coin counter.</i>
What policy, procedure or practice was violated? <u>Please be specific.</u>	Accuracy
What was the impact of the behavior or action on the department, division or company?	We spend too much time every single time Sue works correcting her mistakes.
What is the desired behavior or action? <u>Please be specific.</u>	Sue needs to accurate in her job duties and functions.
Describe further disciplinary action if events of a similar nature occur. <u>"Similar Nature" is defined as: "actions or behaviors that violate Safeway policy and procedure."</u>	Further instances will result in suspension and/or termination.
Managers Statement	

Has this employee been counseled previously for a similar behavior? If so, please give reason(s) for counseling and date(s).	Prior Counseling? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):
Has this employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):

Corrective action required for current incident. If action includes suspension, length of suspension is required. Documented Verbal Written Suspension - Dates: _____ Length of suspension: _____

*Please understand that the purpose of the Corrective Action is to provide feedback and assist you in meeting the performance and behavior standards at Safeway. However, future incidents of a similar nature will result in progressive discipline, up to and including suspension and/or termination.

Employee Statement: *At Video counter I did not have a video reference pages (black book) + Video counter book for Video teaches how to do? Now Video receive is not available to look so I can do the proper task. I'm signing this with protest stuff.*

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

(1/92, Revision 08/00, 06/01)

Safeway000630

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Exhibit P

CORRECTIVE ACTION NOTICE

Written Verbal

Name: Sue Harbord	Employee Number: 58535858	Hire Date:	Job Title: Video Clerk
Store/Facility: 1492	Department: video	Union Local: 21	

SUBJECT(S) OF EMPLOYEE PROBLEM

- | | | | |
|---|--|---|--|
| <input type="checkbox"/> Action Debatmental to Morale | <input type="checkbox"/> Disregard for Established Rules | <input type="checkbox"/> Improper Check out Procedure | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Carelessness | <input type="checkbox"/> Dress Code/Grooming | <input type="checkbox"/> Profanity | <input type="checkbox"/> Violation of Policy and Procedure |
| <input type="checkbox"/> Customer Complaint | <input type="checkbox"/> Failure to Cooperate | <input type="checkbox"/> Quality of Work | <input checked="" type="checkbox"/> Wasting Time |
| <input type="checkbox"/> Discourtesy | <input type="checkbox"/> Failure to Follow Instructions | <input checked="" type="checkbox"/> Quantity of Work | |
| <input type="checkbox"/> Disregard for Safety | <input type="checkbox"/> Failure to Work Scheduled Shift | <input type="checkbox"/> Tardiness | |
| <input type="checkbox"/> Other: | | <input type="checkbox"/> WIC Violation: Select | |

Specific behavior or action that is leading to the Discipline. <u>Include date, time and description.</u>	On 2-4 Sue was 34 minutes late and on 2-5 Sue was 15 minutes late. On 2-7-11 Sue Harbord was 13 minutes late. That night she had a total of 6 customers after 7:30pm. She also only changed out 5 changers. Sue performed multiple functions that wasted time and appear to have no purpose on 2-7. For example, Sue signed on and opened till #23 8 times in her final 20 minutes. No one of these were for customers or to use the till. Another example was Sue balanced till #23 at 8:32pm. She then "re-balanced" her clean and unused till 4 minutes later and then printed another balance slip. <i>Sue has also had multiple instances where she has forgotten how to open the safe and had to spend 4-5 minutes trying to open it.</i>
What policy, procedure or practice was violated? <u>Please be specific.</u>	Finishing tasks in the assigned time.
What was the impact of the behavior or action on the department, division or company?	The store uses unnecessary wages when Sue does not complete her tasks on time.
What is the desired behavior or action? <u>Please be specific.</u>	Sue needs to complete her tasks in her allotted time unless she has a valid reason why she couldn't.
Describe further disciplinary action if events of a similar nature occur. <u>"Similar Nature is defined as: actions or behaviors that violate Safeway policy and procedure."</u> Manager's Statement	Further instances will result in termination.

Has this employee been counseled previously for a similar behavior? If so, please give reason(s) for counseling and date(s).	Prior Counseling? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Date(s): 11/19/10
Has a Corrective Action Notice previously been issued for a similar behavior? If so, give date(s).	Prior Corrective Action? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Date(s): 01/08/11
Has this employee previously been suspended? If so, when, why and for how long?	Prior Suspension? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Date(s):

I did not receive a note yet, I need a copy of

Corrective action required for current incident. If action includes suspension, length of suspension is required. Documented Verbal Written Suspension-Dates: Length of suspension: 3 days

*Please understand that the purpose of the Corrective Action is to provide feedback and assist you in meeting the performance/behavior standards at Safeway. However, future incidents of a similar nature will result in progressive discipline, up to and including suspension and/or termination.

I do not agree with this statement at all.
 *Employee Statement: *I am protesting with my A. I signed this with protest suit.*

 Department Mgr./Facility Mgr.

 Manager/Supervisor

Distribution: 1 copy to D.O. for Human Resources; 1 copy given to employee; 1 copy kept at employee's work location.

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Exhibit L
August 20, 2014 Fabricated evidence
September 2, 2014 Hearing on 9/3/14

①
IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON [DIVE]

Hatsuyo Harbord Appellant/PLA

Appeals Court No: 72731-1-1

Trial Court No: 13-2-21008-8SEA

Safeway Inc. v Respondent/DEF

Refused to pay because DEF did not mail a copy of DEF's documents to Appellant.

Pro se/Immigrant/Appellant, Hatsuyo Harbord files "Recall of Mandate" and Demanded "Certificate of Questioner" to DEF/Daniel Hurley and Jody Duvall.

H. Harbord
Pro se/Immigrant/Appellant.
PO Box 112
Sequim, WA
98382

Certificate of Service
I hereby certify that 24th day of August 2016, I handed to Appeals Court [DIVE]
Send to
Daniel Hurley 925 4th Ave Ste 2900 Seattle, WA 98104



A series of horizontal lines for writing, consisting of 28 evenly spaced lines across the page.

2

NOTICE FOR DISCRETIONARY REVIEW

SUPREME COURT OF THE STATE OF WASHINGTON

Hatsuyo Harbord Plaintiff/Petitioner

Appellate Court No: 72731-1-1

Trial Court No: 13-2-21008-8-SEA

Safeway Inc. Defendant/Respondent

Hatsuyo Harbord, Plaintiff, seeks review by the designated Supreme Court of the unpublished opinion which the party wants reviewed:

- (1) "Order Granting Motion to Change Trial Date, Revoking Stay, and denying without Prejudice all other Requests for Relief," King Co. Superior Court document #35 (4/13/14)
- (2) "Order denying PLA's motion for reconsideration" King Co. Superior Court # 82 (8/8/16)
- (3) Judge Kon Schubert Court schedule, on 7/10/14
- (4) "Unpublished Opinion" Appeals Court Div I on 7/25/16
- (5) "Summary Judgment" King Co. Superior Court on 10/24/2014

A copy of the decision is attached to this notice

August 24, 2016

H. Harbord
Hatsuyo Harbord
Pro se, Immigrant, Appellant

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Prose, Appellant

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DIVISION OF APPEALS
STATE OF WASHINGTON
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