

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

THE IMPACT FUND  
Brad Seligman (SBN: 83838)  
Jocelyn D. Larkin (SBN: 110817)  
125 University Avenue  
Berkeley, Ca 94710  
Telephone: (510) 845-3473  
Facsimile: (510) 845-3654  
jlarkin@impactfund.org

LEWIS, FEINBERG, LEE,  
RENAKER & JACKSON, P.C.  
Bill Lann Lee (SBN: 108452)  
Lindsay Nako (SBN: 239090)  
476 9th Street  
Oakland, CA 94607  
Telephone: (510) 839-6824  
Facsimile: (510) 839-7839  
blee@lewisfeinberg.com

[Additional Counsel Listed on  
Signature Page]  
  
Attorneys for Plaintiffs and Certified Classes

SEYFARTH SHAW LLP  
Kenwood C. Youmans (SBN: 68258)  
David D. Kadue (SBN: 113578)  
2029 Century Park East, Suite 3500  
Los Angeles, California 90067-2901  
Telephone: (310) 201-5211  
Facsimile: (310) 201-5219  
dkadue@seyfarth.com

SEYFARTH SHAW LLP  
Gerald L. Maatman (*Admitted Pro Hac Vice*)  
Annette Tyman (*Admitted Pro Hac Vice*)  
131 South Dearborn Street  
Chicago, Illinois 60603  
Telephone: (312) 460-5965  
Facsimile: (312) 460-7965  
gmaatman@seyfarth.com

SEYFARTH SHAW LLP  
Thomas J. Wybenga (*Admitted Pro Hac Vice*)  
c/o Costco Wholesale Corporation  
999 Lake Drive  
Issaquah, WA 98027-5367  
Telephone: (425) 313-6794  
Facsimile: (425) 313-6922  
twybenga@seyfarth.com

Attorneys for Defendant Costco Wholesale  
Corporation

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHIRLEY "RAE" ELLIS, et al.,  
  
Plaintiffs,  
  
v.  
  
COSTCO WHOLESALE CORPORATION  
  
Defendant.

) Case No. C04 3341 EMC  
)  
) **STIPULATION AND PROPOSED**  
) **ORDER REGARDING**  
) **COMMUNICATIONS WITH CLASS**  
) **MEMBERS**  
)  
)  
)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 2. No attorney acting on behalf of Costco may communicate with any Class Member during the Opt-Out period or thereafter, if the Class Member is represented by Plaintiffs' Counsel, about her individual claim or her decision whether to participate in the case, without the permission of Class Counsel, which will not be unreasonably withheld.
- 3. Costco will not use any instruction, threat, or promise to encourage any Class Member to request exclusion, to support Costco's position in this litigation, or to refuse to communicate with Class Counsel.
- 4. During the Opt-Out Period, Costco will not disclose to Class Members the number or identity of Class Members who have or have not opted out, or the number or identity of those who have agreed to cooperate with Costco in this case.
- 5. Costco will not disclose to its Assistant Managers, Warehouse General Managers, District and Regional Managers and Vice Presidents, Senior Vice Presidents and members of the Operations or Executive Committee whether a particular Class Member has opted out or not, or whether the class member is cooperating with Costco or Class Counsel in this case, except (i) where the status of a Class Member is disclosed in preparing Costco's defense to that Class Member's claim, to persons necessary to the preparation of that defense, (ii) where the status of a Class Member as a witness for Costco is disclosed to persons necessary to the preparation of a defense that the Class Member would support, or (iii) where the disclosure is otherwise necessary to prepare Costco's defense. As to disclosures within category (iii), Costco's Counsel will maintain a record of such disclosures, including the date and the identity of the Class Member, and the identity of the Costco managers to whom such disclosures are made.
- 6. The parties will reach agreement as to an internal communication to Costco's managers regarding how to respond to inquiries from Class Members concerning the case (Communications Protocol). Should the parties be unable to reach agreement on the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Communications Protocol before the Class Notice is scheduled to be sent, they will submit the matter for resolution by the Court.

- 7. Costco will provide the Communications Protocol to each Regional and Operations Manager, Warehouse Manager and Assistant Warehouse Manager within Costco's U.S. warehouse operations. To ensure that newly appointed managers receive this Order, every four months Costco shall provide a copy of this Communications Protocol to newly-appointed managers.
- 8. Costco will provide to Class Counsel any written communication that Costco directs on the subject of this case to any group of Costco employees that includes Class Members, within three business days of directing the communication.
- 9. The parties each agree that, during the Opt-Out Period, they will not direct any mass communications to the Classes concerning the case. This agreement would not limit the right of Class Counsel to communicate with individual Class Members concerning the case or their rights.

IT IS SO STIPULATED.

DATED: November 20, 2012

THE IMPACT FUND

By     /s/Jocelyn D. Larkin      
Jocelyn D. Larkin  
Attorneys for Plaintiffs

DATED: November 20, 2012

SEYFARTH SHAW LLP

By     /s/ David D. Kadue      
\_\_\_\_\_  
David D. Kadue  
Attorneys for Defendant  
COSTCO WHOLESALE CORPORATION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IT IS SO ORDERED.



Dated:

1 Additional Counsel for Plaintiffs:

2 LIEFF, CABRASER, HEIMANN  
3 & BERNSTEIN, LLP  
4 Kelly Dermody (SBN: 171716)  
5 Daniel Hutchinson (SBN: 239458)  
6 Embarcadero Center West  
7 275 Battery Street, 30th Floor  
8 San Francisco, Ca 94111-3339  
9 Telephone: (415) 956-1000  
10 Facsimile: (415) 956-1008  
11 kdermody@lchb.com

12 DAVIS, COWELL & BOWE, LLP  
13 Steve Stemerman (SBN: 067690)  
14 Elizabeth A. Lawrence (SBN: 111781)  
15 595 Market Street, #1400  
16 San Francisco, CA 94105  
17 Telephone: (415) 597-7200  
18 Facsimile: (415) 597-7201  
19 eal@dcbsf.com

20 ALTSHULER BERZON LLP  
21 James M. Finberg (SBN: 114850)  
22 177 Post Street, Suite 300  
23 San Francisco, CA 94108  
24 Telephone: (415) 421-7151  
25 Facsimile: (415) 362-8064  
26 jfinberg@altshulerberzon.com

27 Additional Counsel for Defendant  
28 SEYFARTH SHAW LLP  
David B. Ross (*Admitted Pro Hac Vice*)  
620 8th Avenue  
32nd Floor  
New York, New York 10018  
(212) 218-5500  
dross@seyfarth.com  
15038612v.1