

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**If you are a woman and are or were employed by  
Costco in a warehouse management position, a  
class action lawsuit may affect your rights.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

- Female employees have sued Costco Wholesale Corporation, alleging that women have been denied promotions to Assistant General Manager and General Manager.
- The Court has allowed the lawsuit to proceed as a class action on behalf of all current and former female employees employed by Costco in the United States (including Puerto Rico) at any time on or after January 3, 2002, who have ever been Staff Managers or Assistant General Managers.
- The Court has not decided whether Costco did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are affected, and you have a choice to make now:

<b>DO NOTHING</b>	<p><b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b></p> <p>By doing nothing, you keep the possibility of getting money, benefits or a promotion that may come from the trial proceedings <del>participating in</del> <ins>(which may include an individual hearing)</ins> or settlement. But, you give up any rights to sue Costco separately about the same legal claims in this lawsuit.</p>
<b>ASK TO BE EXCLUDED</b>	<p><b>Get out of this lawsuit. Get no benefits from it. Keep rights.</b></p> <p>If you ask to be excluded, you keep any right to sue Costco separately about the same legal claims in this lawsuit. <del>You also will not lose your right to speak with Costco or Costco's counsel about this case without the involvement of the Plaintiffs or their counsel.</del></p>

- Your options are explained in this notice. To ask to be excluded, you must act before \_\_\_\_\_, \_\_\_\_\_.
- No relief will be provided unless the lawyers prove the claims against Costco or the parties reach a settlement.

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## BASIC INFORMATION

### 1. Why did I get this notice?

Costco's records show that you currently work, or previously worked, for Costco Wholesale Corporation. This notice explains that the Court has permitted, or "certified" a class action that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the claims being made against Costco, on behalf of you and other women, are correct. Judge Edward Chen of the United States District Court for the Northern District of California in San Francisco is overseeing this class action. The lawsuit is known as *Ellis, et al. v. Costco Wholesale Corp.*, Case No. C04-3341-EMC.

### 2. What is this lawsuit about?

This lawsuit is about whether Costco discriminated against female employees based on their gender, by denying them opportunities for promotions.

### 3. What is a class action and who is involved?

In a class action lawsuit, one or more people called "Class Representatives" (in this case Shirley Rae Ellis, Leah Horstman, and Elaine Sasaki) sue on behalf of other people who may have similar claims. The people together are a "Class" or "Class Members." The three women who sued on behalf of the class are called the Plaintiffs. The company they sued (in this case Costco Wholesale Corporation) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### 4. Why is this lawsuit a class action?

The Court decided that this lawsuit can be a class action and move toward a trial because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

- There are more than 700 women who are or were employed by Costco as Staff Managers (i.e., Merchandise Manager, Receiving Manager, Front End Manager, or Administrative Manager) and Assistant General Managers;
- There are legal questions and facts that are common to each of them;
- Shirley Rae Ellis's, Leah Horstman's, and Elaine Sasaki's claims are typical of the claims of the rest of the Class;
- Ms. Ellis, Ms. Horstman, Ms. Sasaki, and the lawyers representing the Class will fairly and adequately represent the Class's interests;

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## **THE CLAIMS IN THE LAWSUIT**

### **5. What does the lawsuit complain about?**

In the lawsuit, the Plaintiffs say that Costco discriminated against women managers. They claim that Costco fails to promote qualified women managers at an equal rate to men. You can read the Plaintiffs' Third Amended Class Action Complaint at [genderclassactionagainstcostco.com](http://genderclassactionagainstcostco.com), which is a website set up by the Plaintiffs.

### **6. How does Costco answer?**

Costco denies that it did anything wrong and says that opportunities for promotion are equally available to women and men. Costco says that its policies do not allow or condone discrimination against women. Costco says that during the relevant time qualified women have been promoted as often as qualified men to the two warehouse positions in question: Assistant General Manager and General Manager. You can read Costco's Answer to the lawsuit at [genderclassactionagainstcostco.com](http://genderclassactionagainstcostco.com).

### **7. Has the Court decided who is right?**

The Court has not decided whether the Plaintiffs or Costco are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case.

### **8. What are the Plaintiffs asking for?**

The Plaintiffs are asking for changes to Costco's policies to ensure that women are treated fairly and equally in the workplace. They want Costco to post promotion opportunities for the Assistant General Manager and General Manager positions and develop a standard, objective procedure to evaluate promotion candidates. The Plaintiffs also want the Class Members to receive promotions, lost wages and money for emotional distress and punitive damages.

### **9. Is there any money available now?**

No money is available now because the Court has not yet decided whether Costco did anything wrong, there has been no trial, and the two sides have not settled the case. There is no guarantee that money ever will be obtained.

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## **WHO IS IN THE CLASS?**

You need to decide whether you are affected by this lawsuit.

### **10. Am I part of this Class?**

All current or former female Costco employees employed by Costco in the United States (including Puerto Rico) at any time on or after January 3, 2002 who have ever been Staff Managers or Assistant General Managers are Class Members.

### **11. Are Former Employees Included?**

Yes. Former employees are in the Class as long as they were employed by Costco anytime on or after January 3, 2002.

### **12. Are any women who worked at Costco not included in the Class?**

If you never worked at Costco as a Staff Manager or Assistant General Manager at any time since January 3, 2002, then you are NOT a Class Member.

### **13. Can I Stay in the Class if I provided a declaration for Costco earlier in the case?**

Yes. Some class members signed statements related to the case, which Costco submitted to the Court in 2006. The Court has ordered that those statements cannot be used against you and have no effect on your right to participate in the case. If you are still not sure whether you are included, you can get free help at [genderclassactionagainstcostco.com](http://genderclassactionagainstcostco.com), or by calling or writing to the lawyers in this case, at the phone number or address listed in the answer to question 24.

## **YOUR RIGHTS AND OPTIONS**

You have to decide whether to stay in the Class or ask to be excluded before the trial, and you have to decide this now.

### **14. What happens if I do nothing at all?**

You don't have to do anything now if you want to keep the possibility of getting money or a promotion from this lawsuit. By doing nothing you are staying in the Class and can participate in the case (see Answers to Questions 20-22). Keep in mind that if you do nothing now, regardless of whether the Plaintiffs win or lose the trial, you will not be able to sue, or continue to sue, Costco—as part of any other lawsuit—about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action. It is illegal for any employer to retaliate against an employee who participates in any way in a class action, including a class member who does not

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opt out of the case. Costco's operations management will not be informed if you opt out or decide to remain in the class, except as necessary to prepare its defense.<sup>1</sup>

## 15. Why would I ask to be excluded?

You need to ask to be excluded from the Class if you are in either of two different situations: (i) you do not support this lawsuit and you do not want to ~~participate in this case lose your right to talk with Costco or Costco's counsel about it without the permission of Plaintiffs' counsel~~ or (ii) you want to bring your own discrimination suit against Costco for denial of promotion, or want to maintain that claim in your own existing suit.

~~If you already have your own discrimination lawsuit against Costco for denial of promotions and want to continue with it, you need to ask to be excluded from the Class.~~

If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting-out” of the Class—you won’t get any money from this lawsuit even if the Plaintiffs or some Class Members do obtain money through settlement ~~or by participating in individual hearings through prevailing at trial~~. However, you may then be able, on your own behalf, to sue or continue to sue Costco for employment discrimination. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

If you start your own lawsuit against Costco after you exclude yourself, you will have to hire and pay your own lawyer for the lawsuit, or represent yourself in court, and you will have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Costco, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

If you are currently employed by Costco, you will have the benefit of any court order regarding changes to Costco’s promotion policies and procedures even if you exclude yourself from the Class. That is, any changes made to Costco’s policies about the promotion of women into Assistant General Manager and General Manager would apply to current employees regardless of whether they choose to opt out.

## 16. How do I ask the Court to exclude me from the Class?

To ask to be excluded, you must send an “Exclusion Request” in the form of a letter sent by mail, stating that you want to be excluded from *Ellis v. Costco*. Be sure to include your name and address, and the case name and case number (*Ellis v. Costco*, No. C-04-3341 EMC) and sign the letter. You must mail your Exclusion Request postmarked by \_\_\_, to: [Claims Administrator

<sup>1</sup> ~~If you do not ask to be excluded and remain in this lawsuit, Costco attorneys may not speak with you without the involvement of the Plaintiffs or their counsel.~~

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mailing address]. Alternatively, you may [email or fax your request to be excluded to [email address] or [fax number] by the end of [date].

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## **THE LAWYERS REPRESENTING YOU**

### **17. Do I have a lawyer in this case?**

The Court decided that lawyers from the following firms are qualified to represent you and all Class Members and appointed them to be class counsel: Impact Fund; Davis, Cowell & Bowe LLP; Lewis, Feinberg, Lee, Renaker & Jackson; Lieff, Cabraser, Heimann & Bernstein LLP; and Altshuler Berzon LLP. Together, the lawyers are called “Class Counsel.” They are experienced in handling similar cases against other employers. More information about these lawyers, their experience, and their law firms is available at genderclassactionagainstcostco.com.

### **18. Should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

### **19. How will the lawyers be paid?**

If Class Counsel obtain relief for the Class, including changes in procedures, damages or promotions, Class Counsel may ask the Court for attorneys’ fees. You won’t have to pay these fees and expenses.

## **THE TRIAL**

The Court has scheduled the first stage of the case to start with a jury trial beginning January 21, 2014, in San Francisco. If Plaintiffs win in the first stage, then the Court can set dates for the second stage proceedings, as explained below.

### **20. How and when will the Court decide who is right?**

Class Counsel will have to prove the Plaintiffs’ claims at trial. ~~each Class Member’s claims at an individual proceeding~~ The court has decided that the trial will take place in two stages. In the first stage, a jury and the Judge will hear all of the evidence to help them reach a decision about whether the Plaintiffs or Costco are right about whether Costco violated the law. If the Plaintiffs win in the first stage, then the Court will hold individual proceedings to determine whether each Class Member is entitled to an immediate promotion and/or damages, including back wages, emotional distress, and punitive damages.

### **21. Do I have to come to the trial?**

You do not need to attend the first stage of the trial (see Question 20) unless you are subpoenaed to appear as a witness. Class Counsel will present the case for the Plaintiffs, and Costco will

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present the defenses. You or your own lawyer is welcome to come to that trial. For the second stage, you ~~will have the option of attending individual proceedings to prove you are entitled to~~  
must may be required to participate in an individual hearing if you seek a promotion or money damages. A lawyer will represent you in that proceeding at no cost to you.

## **22. Will I get money after the trial?**

That will depend on the outcome as explained in Question 20. If the Plaintiffs obtain money as a result of a settlement, you will be notified about how to participate.

## **GETTING MORE INFORMATION**

### **23. Are more details available?**

You may speak to one of the Plaintiffs' lawyers by calling 1-510-845-3473, extension 308 or by writing to Costco Class Action, c/o The Impact Fund, 125 University Ave., Suite 102, Berkeley, CA 94710. You can also e-mail [costco@impactfund.org](mailto:costco@impactfund.org)

DATE: \_\_\_\_\_

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