

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

4 BRUCE CORKER, *et al.*, on behalf of
5 themselves and others similarly situated,

6 Plaintiff,

7 v.

8 COSTCO WHOLESALE
9 CORPORATION, *et al.*,

10 Defendants.

Case No. 2:19-CV-00290-RSL

**ORDER GRANTING MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENTS AND DIRECTING
ISSUANCE OF NOTICE**

- 11 1. Upon review and consideration of Plaintiffs' Motion for Preliminary Approval of Three
12 Class Action Settlements ("Motion"), and briefing, declarations, exhibits, and other evidence
13 submitted in support thereof, including the Settlement Agreements¹ executed by Bruce
14 Corker d/b/a Rancho Aloha, Melanie Bondera and Melanie Bondera, husband and wife, d/b/a
15 Kanalani Ohana Farm, and Robert Smith and Cecilia Smith, husband and wife, d/b/a
16 Smithfarms, and Smithfarms LLC ("Plaintiffs"), Gold Coffee Roasters, Inc., Costa Rican
17 Gold Coffee Company, Inc., and John Parry ("Gold"), Costco Wholesale Corporation
18 ("Costco"), and The TJX Companies, Inc. and Marshalls of MA, Inc. (together, "TJX")
19 (collectively "Parties"), for the purposes of the subject settlements, this Court finds that it has
20 subject matter jurisdiction over this matter pursuant to 15 U.S.C. § 1125(a) and federal
21 question jurisdiction under 28 U.S.C. § 1331.
- 22 2. The Court grants preliminarily approval of the Settlement Agreements based on the terms set
23 forth in the Settlement Agreements.

24
25 ¹ Capitalized terms not otherwise defined herein shall have the same meaning as set for in the Settlement
26 Agreements.

- 1 3. Pursuant to Fed. R. Civ. P. 23(e), the Court finds that the proposed Settlement Class,
2 composed of all persons and entities who farmed Kona coffee in the Kona District and then
3 sold their coffee from February 27, 2015 to the present, likely meets the requirements for
4 class certification under Fed. R. Civ. P. 23(a) and 23(b)(3) as follows:
- 5 a. The Settlement Class is so numerous that joinder of all members in a single
6 proceeding would be impracticable;
 - 7 b. Resolution of the claims will involve common questions of law and fact;
 - 8 c. The named Plaintiffs' claims are typical of those of the Settlement Class Members;
 - 9 d. The named Plaintiffs and Settlement Class Counsel have fairly and adequately
10 represented the interests of the Settlement Class and will continue to do so; and
 - 11 e. Questions of law and fact common to the Settlement Class predominate over the
12 questions affecting only individual Settlement Class Members, and certification of the
13 Settlement Class is superior to other available methods to the fair and efficient
14 adjudication of this controversy.
- 15 4. The Court finds, pursuant to Fed. R. Civ. P. 23(e)(1)(B)(i), that the proposed Settlement
16 Agreements are likely fair, reasonable, and adequate, entered into in good faith, and free
17 from collusion; that Class Counsel have ably represented the Class; and, that the relief,
18 monetary and injunctive, provided for in the Settlement Agreements outweighs the
19 substantial costs, the delay, and risks presented by further prosecution of issues during pre-
20 trial, trial, and possible appeal. Additionally, the proposed allocation plan treats the class
21 members equitably in proportion to their sales to provide Class Members with adequate
22 relief. Based on these factors, the Court concludes that, pursuant to Fed. R. Civ. P. 23(e), the
23 Settlement Agreements meet the criteria for preliminary settlement approval and are deemed
24 fair, reasonable, and adequate, such that notice to the Settlement Class is appropriate.
- 25 5. The Court appoints Paul Richard Brown and Nathan Paine, of Karr Tuttle Campbell, and
26 Jason Lichtman, Daniel Seltz, and Andrew Kaufman, of Lief Cabraser Heimann &

1 Bernstein, LLP as Settlement Class Counsel upon consideration of the factors set forth in
2 Fed. Riv. Civ. P. 23(g).

3 6. Pursuant to Fed. R. Civ. P. 23(e)(1)² and 23(c)(2)(B), the Court approves, as to form and
4 content:

5 a. The proposed Notice (“Notice”), in substantially the form attached as Exhibit 4 to the
6 Declaration of Jason L. Lichtman, Dkt. # 412-4. The Court finds that Notice is a
7 reasonable method calculated to reach members of the Settlement Class who would
8 be bound by the Settlement Agreements. The Notice will be sent via First Class U.S.
9 Mail and email to all members for whom address information is available, and posted
10 on the Settlement Website, www.KonaCoffeeSettlement.com.

11 b. The Publication Notice, in substantially the form attached as Exhibit 5 to the
12 Declaration of Jason L. Lichtman, Dkt. # 412-5, which will be published in the West
13 Hawaii Daily. The Court approves, as to form and content, the proposed Notice and
14 Publication Notice because they concisely state in plain, easily understood language,
15 *inter alia*: (1) the nature of the *Corker* case and the Settlement Agreements, including
16 the terms thereof; (2) the definition of the Settlement Class; (3) the Plaintiffs’
17 applications for service awards; (4) that a Settlement Class Member may enter an
18 appearance on their own behalf or through an attorney and the procedures for filing
19 an objection to the Settlement Agreements; (5) contact information for Settlement
20 Class Counsel, and a toll-free number to ask questions about the Settlement
21 Agreements; (6) the address of the case-specific website (the “Settlement Website”)
22 maintained by the Settlement Administrator that links to important case documents,
23

24 ² Specifically, pursuant to 23(e)(1)(B), the Court finds that notice can be directed “in a reasonable manner to all
25 class members who would be bound by the proposal if giving notice is justified by the parties’ showing that the court
26 will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of
judgment on the proposal.”

1 including motion for preliminary approval papers, and instructions on how to access
2 the case docket via PACER or in person; (7) important dates in the settlement
3 approval process, including the date of the Final Approval Hearing (as described
4 below); (8) the binding effect of a class judgment on Settlement Class Members; and
5 (9) Settlement Class Counsel's forthcoming Attorneys' Fees Motion.

6 7. The Court appoints JND Legal Administration as Settlement Administrator.

7 8. The Court finds that the Notice meets the requirements of due process under the U.S.
8 Constitution and Fed. R. Civ. P. 23.

9 9. The Court directs:

10 a. The mailing and emailing of the Settlement Class notice by First Class U.S. Mail and
11 publication in the *West Hawaii Today*, shall begin within 21 days of the entry of this
12 Order.

13 b. No later than 21 days after entry of this Order, the Settlement Administrator shall
14 create and maintain a Settlement Website until at least 30 days after the effective date
15 of the Settlement Agreements. The Settlement Website shall (1) post the Second
16 Amended Complaint, the Settlement Agreements, and Notice; (2) notify Settlement
17 Class Members of their rights to object or opt-out; (3) inform Settlement Class
18 Members that they should monitor the Settlement Website for developments; and (4)
19 notify Settlement Class Members that no further notice will be provided to them once
20 the Court enters the Final Order and Judgment, other than updates on the Settlement
21 Website.

22 c. The Settlement Administrator shall establish an email account and P.O. Box to which
23 Settlement Class Members may submit questions regarding the Settlement
24 Agreements. The Settlement Administrator will monitor the email account and P.O.
25 Box and respond promptly to administrative inquiries from Settlement Class
26 Members and direct new substantive inquiries to Settlement Class Counsel.

1 d. No later than 21 days after entry of this Order, the Settlement Administrator shall
 2 establish a toll-free telephone number that Settlement Class Members can call to
 3 receive additional information about the Settlement Agreements. The toll-free number
 4 shall be operational until at least the effective date of the Settlement Agreements.

5 10. All costs associated with implementing Notice, including fees and costs of the Settlement
 6 Administrator, shall be paid out of the Settlement Funds.

7 11. No later than 63 days after entry of this Order, Settlement Class Counsel shall file its
 8 application for attorneys' fees and Plaintiffs' request for service awards. The motions shall
 9 be noted on the Court's calendar for the Friday before the Final Approval Hearing.

10 12. No later than 14 days before the Final Approval Hearing, the Settlement Administrator shall
 11 file an affidavit with the Court confirming its implementation of Notice in accordance with
 12 this Order.

13 13. Any Settlement Class Member may comment on, or object to, the Settlement Agreements,
 14 Settlement Class Counsel's application for attorneys' fees and costs, and/or the request for
 15 Plaintiffs' service awards.

16 14. The following chart summarizes the dates and deadlines set by this Order:

Event	Date
Notice of Settlement to be Mailed and emailed to Settlement Class Members, and published in the <i>West Hawaii Today</i> .	March 30, 2021
Creation and Maintenance of Settlement Website	March 30, 2021
Creation and Maintenance of Toll-Free Number	March 30, 2021
Deadline for Settlement Class Counsel's application for attorneys' fees and Plaintiffs' requests for service awards	May 11, 2021
Settlement Administrator affidavit of compliance with notice requirements	June 4, 2021

Event	Date
Deadline to have postmarked and/or filed a written objection to the Settlements or request for an exclusion.	May 25, 2021
Final Approval Hearing	June 18, 2021, at 1:30 pm

Dated this 9th day of March, 2021.

Robert S. Lasnik
 Robert S. Lasnik
 United States District Judge

Presented by:

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

/s/ Daniel E. Seltz

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