

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

**[PROPOSED] ORDER GRANTING  
MOTION FOR ATTORNEYS' FEES,  
REIMBURSEMENT OF EXPENSES, AND  
SERVICE AWARDS**

The Honorable Robert S. Lasnik

11 Upon review and consideration of Plaintiffs' Motion for Attorneys' Fees, Reimbursement  
12 of Expenses, and Service Awards ("Motion"), and all declarations and exhibits submitted in  
13 support thereof, the Court GRANTS the motion and finds as follows:

14 1. Unless otherwise provided, all capitalized terms shall have the same meaning as  
15 set forth in the Motion.

16 2. Plaintiffs have presented a class action settlement with Defendant MNS, Ltd.  
17 ("MNS") for the Court's approval. The settlement includes monetary relief totaling  
18 \$12,000,000.00, and injunctive provisions that institute labeling changes for the products labeled  
19 as Kona coffee sold by MNS, and places obligations on all of MNS's suppliers with respect to  
20 such products.

21 3. The settlement with MNS brings the total amount of the settlements reached in  
22 this case to \$33.4 million. Plaintiffs have also provided a declaration from an expert economist  
23 who estimates that the value of the injunctive provisions of the settlements with MNS and other  
24 defendants to Kona farmers is more than \$81.2 million over the next five years. The Court has  
25 reviewed the declaration and finds that the value of the injunctive relief provided for in the  
26

1 settlements is quantifiable, and that the expert has presented a reliable methodology for  
2 calculating that value.

3 **2. Attorneys' Fees**

4 4. Class Counsel have requested attorneys' fees in the amount of \$5.837 million.  
5 Together with previously awarded fees, this will amount to approximately 12.2 percent of the  
6 total economic value of the settlements reached to date.

7 5. The requested fees, which fall below the Ninth Circuit benchmark for successful  
8 cases, are fair and reasonable under the circumstances and for purposes of Rule 23. The Court  
9 reaches this conclusion upon consideration of the results achieved, the complexity of the case  
10 and risks involved in prosecuting it, especially on a contingent basis, the benefits to the class  
11 beyond the immediate generation of a cash fund, fees awarded in similar cases, and a lodestar  
12 cross-check. *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1048-52 (9th Cir. 2002).

13 6. First, the results obtained by Class Counsel are excellent. In addition to the  
14 substantial monetary component, the settlement provides for meaningful injunctive relief in the  
15 form of practice changes on the part of MNS.

16 7. Second, the Court finds that the complexity of this case presented unusual risks,  
17 particularly in a contingent fee case. Class Counsel conducted an exceptionally extensive pre-  
18 filing investigation, including the identification and retention of scientific experts who could test  
19 hundreds of coffee samples to support the allegations in the complaint. The sheer number of  
20 defendants presented its own complexities, as did pursuing Lanham Act claims on a class basis,  
21 particularly in the onset of and through the global pandemic. These circumstances weigh in favor  
22 of the requested fee.

23 8. Third, the Court has considered the benefits to the Settlement Class beyond the  
24 cash component of the settlement. The Court finds that the injunctive relief provisions of the  
25 settlement support the requested fee.

1           9.       Fourth, the Court has considered other cases involving the creation of both a cash  
2 fund and valuable injunctive relief, and finds that the requested fee is consistent with awards in  
3 analogous cases.

4           10.       The Court also exercises its discretion to perform a lodestar cross-check. *See*  
5 *Vizcaino*, 290 F.3d at 1050. The Court finds that the hours and rates used to generate the overall  
6 lodestar figure are reasonable. Taking into account fees previously awarded in connection with  
7 prior settlements, that cross-check reveals a slightly negative multiplier of 0.99, which confirms  
8 the reasonableness of the requested fee.

9           11.       The Court grants Class Counsel’s request of a fee of \$5,837,000 to be paid from  
10 the Settlement Funds generated by the settlement.

11                   **3.       Costs and Expenses**

12           12.       Class Counsel has also requested reimbursement of litigation expenses in the  
13 amount of \$662,443.

14           13.       The Court has reviewed Class Counsel’s costs and finds that they were reasonably  
15 incurred, and accordingly grants reimbursement of \$662,443 from the Settlement Funds.

16                   **4.       Service Awards**

17           14.       Class Counsel requests service awards of \$2,500 for each farm whose owners  
18 have served as class representatives in this litigation: Rancho Aloha, Kanalani Ohana Farm, and  
19 Smithfarms.

20           15.       The requested awards are fair and reasonable. Each class representative invested  
21 substantial amounts of time in this case and have made significant contributions to the case on  
22 behalf of the members of the Settlement Class. *See Rodriguez v. West Publ’g Corp.*, 563 F.3d  
23 948, 958 (9th Cir. 2009). The Court accordingly awards each farm the requested service awards  
24 of \$2,500.

25           DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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

---

The Honorable Judge Robert S. Lasnik  
United States District Court Judge

Presented by:

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

/s/ Daniel E. Seltz

Jason L. Lichtman (pro hac vice)

Daniel E. Seltz (pro hac vice)

250 Hudson Street, 8th Floor

New York, NY 10013

Telephone: 212-355-9500

Email: dseltz@lchb.com

KARR TUTTLE CAMPBELL

Nathan T. Paine, WSBA #34487

Daniel T. Hagen, WSBA #54015

Joshua M. Howard, WSBA #52189

701 Fifth Avenue, Suite 3300

Seattle, Washington 98104

206.223.1313

npaine@karrtuttle.com