

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
SETTLEMENT AND DIRECTING
ISSUANCE OF NOTICE**

11 Upon review and consideration of Plaintiffs' Corrected Motion for Preliminary Approval
12 of Class Action Settlement (Dkt. # 706), and all briefing, arguments, exhibits, and other evidence
13 submitted in support thereof, including the Settlement Agreement, executed by Bruce Corker
14 d/b/a Rancho Aloha, Melanie Bondera and Melanie Bondera, husband and wife, d/b/a Kanalani
15 Ohana Farm, and Robert Smith and Cecilia Smith, husband and wife, d/b/a Smithfarms
16 ("Plaintiffs"), L&K Coffee Company, LLC dba Magnum Coffee Roastery ("L&K") (collectively
17 "Parties"), THE COURT HEREBY FINDS, CONCLUDES, AND ORDERS THE
18 FOLLOWING:

- 19 1. Capitalized terms not otherwise defined herein shall have the same meaning as set for in the
20 Settlement Agreement.
- 21 2. This Court has subject matter jurisdiction over this matter pursuant to 15 U.S.C. § 1125(a)
22 and federal question jurisdiction under 28 U.S.C. § 1331.
- 23 3. The Motion is GRANTED.
- 24 4. The Court hereby preliminarily approves the Settlement Agreement and the terms embodied
25 therein. The Court finds that the proposed Settlement Class, composed of all persons and
26 entities who commercially farmed Kona coffee in the Kona District and then sold their coffee

1 from February 27, 2015 to the present, likely meets the requirements for class certification
2 under Fed. R. Civ. P. 23(a) and 23(b)(3) as follows:

- 3 a. The Settlement Class is so numerous that joinder of all members in a single
4 proceeding would be impracticable;
- 5 b. The members of the Settlement Class share common questions of law and fact;
- 6 c. The Plaintiffs' claims are typical of those of the Settlement Class Members;
- 7 d. The Plaintiffs and Class Counsel have fairly and adequately represented the interests
8 of the Settlement Class and will continue to do so; and
- 9 e. Questions of law and fact common to the Class predominate over the questions
10 affecting only individual Class Members, and certification of the Class is superior to
11 other available methods to the fair and efficient adjudication of this controversy.

12 5. The Court finds, pursuant to Fed. R. Civ. P. 23(e)(1)(B)(i), that the proposed Settlement
13 Agreement is likely fair, reasonable, and adequate, entered into in good faith, and free from
14 collusion. The Court finds Class Counsel have ably represented the Class as they conducted a
15 thorough investigation of the facts and law prior to filing suit, extensive discovery, and they
16 are knowledgeable of the strengths and weaknesses of the case. The involvement of Judge
17 Edward Infante (Ret.) and Mark LeHocky, two highly-qualified mediators, in the settlement
18 process supports this Court's finding that the Settlement Agreement was reached at arm's
19 length and is free from collusion. The relief, monetary and injunctive, provided for in the
20 Settlement Agreement outweighs the substantial costs, the delay, and risks presented by
21 further prosecution of issues during pre-trial, trial, and possible appeal. Additionally, the
22 proposed allocation plan treats the class members equitably in proportion to their sales to
23 provide Class Members with adequate relief. Based on these factors, the Court concludes that
24 the Settlement Agreement meets the criteria for preliminary settlement approval and is
25 deemed fair, reasonable, and adequate, such that notice to the Settlement Class is appropriate.

26 6. The Court appoints Plaintiffs as class representatives for the Settlement Class.

- 1 7. The Court appoints Nathan Paine, of Karr Tuttle Campbell, and Jason Lichtman, Daniel
2 Seltz, and Andrew Kaufman, of Lief Cabraser Heimann & Bernstein, LLP, as Class Counsel
3 upon consideration of the factors set forth in Fed. Riv. Civ. P. 23(g).
- 4 8. Pursuant to Fed. R. Civ. P. 23(e)(1) and 23(c)(2)(B), the Court approves the proposed Notice
5 (“Notice”), attached as Exhibit 2 to Plaintiffs’ Motion. The Notice is a reasonable method
6 calculated to reach members of the Settlement Class who would be bound by the Settlement
7 Agreement. The Notice will be sent via first class U.S. Mail and email to all members for
8 whom address information is available, and posted on the Class Settlement Website. The
9 Court also approves the Publication Notice, attached as Exhibit 3, which will be published in
10 the West Hawaii Daily. The Court approves, as to form and content, the proposed Notice
11 and Publication Notice because they concisely state in plain, easily understood language,
12 *inter alia*: (1) the nature of the case and the Settlement Agreement, including the terms
13 thereof; (2) the definition of the Settlement Class; (3) the Class Representatives’ applications
14 for service awards; (4) that a class member may enter an appearance through an attorney and
15 the procedures for filing an objection to the Settlement Agreement; (5) contact information
16 for Class Counsel, and a toll-free number to ask questions about the Settlement Agreement;
17 (6) the address of the case-specific website (the “Class Settlement Website”) maintained by
18 the Settlement Administrator that links to important case documents, including motion for
19 preliminary approval papers, and instructions on how to access the case docket via PACER
20 or in person; (7) important dates in the settlement approval process, including the date of the
21 Final Approval Hearing (as described below); (8) the binding effect of a class judgment on
22 Settlement Class Members; and (9) Class Counsel’s forthcoming Attorneys’ Fees Motion.
- 23 9. The Court appoints JND Legal Administration as Settlement Administrator.
- 24 10. The Court finds that the form and method of Notice, as set forth in paragraphs 8 and 11,
25 meets the requirements of due process under the U.S. Constitution and Fed. R. Civ. P. 23.
- 26 11. Notice Program: Notice to Class Members shall include delivery of Notice by first class U.S.

1 Mail, email, and publication in the West Hawaii Today, which shall begin within 42 days of
2 the entry of this Order.

3 12. Settlement Website: As soon as practicable, the Settlement Administrator shall update the
4 Class Settlement Website. The Class Settlement Website shall (1) post, without limitation,
5 the Third Amended Complaint, the Settlement Agreement, and Notice; (2) notify Class
6 Members of their rights to object or opt-out; (3) inform Class Members that they should
7 monitor the Class Settlement Website for developments; and (4) notify Class Members that
8 no further notice will be provided to them once the Court enters the Final Order and
9 Judgment, other than updates on the Class Settlement Website. Furthermore, the Settlement
10 Administrator shall establish an email account and P.O. Box to which Class Members may
11 submit questions regarding the Settlement Agreement. The Settlement Administrator will
12 monitor the email account and P.O. Box and respond promptly to administrative inquiries
13 from Class Members and direct new substantive inquiries to Class Counsel.

14 13. No later than 21 days after entry of this Order, the Notice Administrator shall update the toll-
15 free telephone number that Class Members can call to receive additional information about
16 the Settlement Agreement. The toll-free number shall be operational until at least the
17 effective date of the Settlement Agreement.

18 14. As provided for in the Settlement Agreement, all costs associated with implementing Notice,
19 including fees and costs of the Settlement Administrator, will be paid out of the Settlement
20 Fund.

21 15. No later than 84 days after entry of this Order, Class Counsel shall file its application for
22 attorneys' fees and Class Representatives' request for service awards.

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

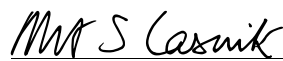
26 17. Any Class Member may comment on, or object to, the Settlement Agreement, Class

1 Counsel's application for attorneys' fees and costs, and/or the request for Plaintiffs' service
2 awards.

3 18. The following chart summarizes the dates and deadlines set by this Order:

4 Event	5 Date
6 Notice of Settlement to be Disseminated	7 November 18, 2022
8 Update of Settlement Website	9 October 25, 2022
10 Update of Toll-Free Number	11 October 25, 2022
12 Deadline for Class Counsel's application for attorneys' fees and Class Representatives' request for service awards	13 December 20, 2022
14 Notice Administrator affidavit of compliance with notice requirements	15 February 2, 2023
16 Deadline to have postmarked and/or filed a written objection to the Settlement or request exclusion.	17 January 10, 2023
18 Final Approval Hearing	19 February 16, 2023, at 11:00 am

20 DATED this 4th day of October, 2022.

21 

22 Robert S. Lasnik
23 United States District Judge