

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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

Plaintiff,

v.

COSTCO WHOLESALE
CORPORATION, *et al.*,

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

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

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

2. Plaintiffs have presented a class action settlement with Defendant Mulvadi Corporation. ("Mulvadi") for the Court's approval. The settlement includes monetary relief totaling \$7,775,000, and injunctive provisions that institute labeling changes for the products labeled as Kona coffee places obligations on Mulvadi and its owner in connection with any future sales of such coffee.

3. The settlement with Mulvadi brings the total amount of the settlements reached in this case to \$41.175 million. Plaintiffs have also provided a declaration from an expert economist who estimates that the value of the injunctive provisions of the settlements with Mulvadi and other defendants to Kona farmers is more than \$81.2 million over the next five years. The Court has reviewed the declaration and finds that the value of the injunctive relief provided for in the

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 \$3.7 million.
5 Together with previously awarded fees, this will amount to approximately 14.46 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 Mulvadi.

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 barely positive multiplier of 1.2, which confirms the
8 reasonableness of the requested fee.

9 11. The Court grants Class Counsel's request of a fee of \$3,700,000 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, including
13 certain anticipated expenses associated with the implementation of this and prior settlements, in
14 the amount of \$170,000.

15 13. The Court has reviewed Class Counsel's costs and finds that they were reasonably
16 incurred and reasonably anticipated, and accordingly grants reimbursement of \$170,000 from the
17 Settlement Funds.

18 **4. Service Awards**

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

22 15. The requested awards are fair and reasonable. Each class representative invested
23 substantial amounts of time in this case and have made significant contributions to the case on
24 behalf of the members of the Settlement Class. *See Rodriguez v. West Publ'g Corp.*, 563 F.3d
25 948, 958 (9th Cir. 2009). The Court accordingly awards each farm the requested service awards
26 of \$2,500.

1 DATED this _____ day of _____, 2023.

2
3 The Honorable Judge Robert S. Lasnik
4 United States District Court Judge

5
6 Presented by:

7 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

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