

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

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BRUCE CORKER d/b/a RANCHO ALOHA;
COLEHOUR BONDERA and MELANIE
BONDERA, husband and wife d/b/a
KANALANI OHANA FARM; ROBERT SMITH
and CECELIA SMITH, husband and
wife d/b/a SMITHFARMS, and SMITHFARMS,
LLC on behalf of themselves and others similarly
situated,

Plaintiffs,

v.

Mulvadi Corporation,

Defendant.

CASE NO. 2:19-CV-00290-RSL

**MOTION FOR FINAL APPROVAL
BRIEF AND MEMORANDUM IN
SUPPORT**

The Honorable Robert S. Lasnik

Noted for consideration: November 30,
2023

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1 **I. Introduction**

2 Plaintiffs are pleased to move for final approval of their class settlement with Mulvadi
3 Corporation (“Mulvadi”). This settlement brings this litigation, filed more than four years ago
4 against more than twenty defendants, to a successful close. The settlement adds \$7.775 million to
5 the more than \$33 million in cash settlements obtained from previously settling defendants, and
6 includes the strongest injunctive terms of any settlement, terms that bind both Mulvadi and its
7 owner to business practices that will help strengthen and protect the reputation of Kona coffee.
8 And like each of the settlements previously approved and implemented, this settlement elicited
9 **no objections and no opt-outs** from the class of coffee farmers in the Kona region. This is
10 especially noteworthy because class members have been repeatedly notified of settlements and
11 received their checks from multiple prior settlements: they are familiar with the litigation, have
12 seen the results, and continue to offer their support to the very end.

13 This Court granted preliminary approval to this settlement, finding that it was likely to be
14 able to approve the proposed settlement applying the criteria set out in Rule 23(e)(2), and to
15 certify the class for purposes of settlement, and directed notice to issue to the class. *See* Dkt. 884.
16 Following the same process that it carried out with respect to prior settlements, the Settlement
17 Administrator then effectuated the notice plan approved by this Court, including both direct
18 notice (via mail and email) and publication in the *West Hawaii Daily*, and it updated the
19 settlement website and toll-free number for class members. The opt-out and objection deadline of
20 October 20, 2023 passed, again with *zero* opt-outs and objections.

21 Plaintiffs now seek final approval, so that the benefits promised in this settlement can
22 flow to class members. As set out below, this settlement represents an extraordinary result for the
23 Settlement Class and satisfies all criteria for final approval under Ninth Circuit law.

24 **II. Background and Procedural History**

25 Class Counsel detailed the procedural history of this litigation most recently in the
26 motion for preliminary approval of this settlement. *See* Dkt. 883. That motion, and the

1 declaration that accompanied it, recounts this case's specific challenges, the hurdles that
2 Plaintiffs have cleared at each stage of the case, and the hard-fought history of the litigation
3 through discovery, class certification, expert discovery, dispositive motions, and trial preparation.
4 It specifically recounted the particularly intense battles that Plaintiffs fought with Mulvadi, and
5 which Plaintiffs and their counsel continued to fight in Mulvadi's bankruptcy proceeding. That
6 work made possible and led to the arms-length negotiations, including with the assistance of a
7 mediator, that produced this settlement. Plaintiffs reference and incorporate that motion and its
8 supporting materials herein.

9 **III. Summary of Settlement Terms**

10 Plaintiffs' motion for preliminary approval also summarized the terms of the Mulvadi
11 settlement. *See* Dkt. 872-1. Plaintiffs again provide a brief summary here for the sake of
12 completeness.¹

13 First, Mulvadi's insurance carrier will pay \$7,775,000, a sum greater than the total limits
14 available under the implicated primary policies.

15 Second, Mulvadi and its owner in his personal capacity have agreed to stop doing
16 business with certain questionable suppliers, to obtain proof that any coffee they purchase is
17 genuine Kona, to print what is called the lot number on every bag of coffee that they sell (this
18 will more easily allow buyers and competitors to confirm the coffees' authenticity), and to pay
19 all fees and costs for any future action to enforce the settlement.

20 Third, Mulvadi and its owner in his personal capacity agree that "any coffee product that
21 it sells labeled as 'Kona' or 'Kona Blend' will accurately and unambiguously state on the front
22 label of the product the minimum percentage of authentic Kona coffee beans the supplier of the
23 product states are contained in the product in compliance with the labeling standards set forth in
24 the "Hawaii grown roasted or instant coffee; labeling requirements" law (Hawaii Revised Statute

25 _____
26 ¹ The settlement agreement itself was attached to the declaration of counsel accompanying the preliminary approval motion, at Docket 865-1.

1 § 486- 120.6) as it currently exists today, or as it may be modified in the future, and regardless of
2 whether any such product is sold in Hawaii or elsewhere.” Dkt. 872-1 ¶ 12(a).

3 The injunctive relief afforded to the Class by the Mulvadi settlement is far-reaching and
4 further enhances the benefits of the agreements of the previously settling defendants that increase
5 and improve the information found on Kona-labeled products in the marketplace.

6 **IV. The Class Notice Plan Was Successfully Implemented.**

7 This Court’s Preliminary Approval Order directed that the parties effectuate a multi-
8 faceted notice plan, including direct notice by mail and email to Settlement Class Members, and
9 the update and/or establishment of a dedicated settlement website, post office box, and toll-free
10 telephone number. The parties, in consultation with the Settlement Administrator, have carried
11 out the notice plan. Consistent with the Court’s orders, the Settlement Administrator will provide
12 a declaration on November 16, 2023 (two weeks before the final approval hearing) confirming
13 its implementation of the notice plan. That affidavit will also confirm whether any of the more
14 than 700 Settlement Class Members who were sent direct notice have elected to opt out of or
15 object to the settlements. Not a single opt-out or objection has been received. Following final
16 approval, the Settlement Administrator will effectuate the claims and payment process to class
17 members, which is described in more detail below, and which resembles and builds on the
18 successful notice and claims campaign carried out in connection with previous settlements in this
19 case.

20 **V. Final Approval is Warranted.**

21 **A. Settlement Approval Process**

22 Federal Rule of Civil Procedure 23(e) provides that class actions “may be settled ... only
23 with the court’s approval.” Rule 23(e) governs a district court’s analysis of the fairness of a
24 proposed class action settlement and creates a multistep process for approval. This Court has
25 already taken the first two steps. First, it has determined that it is likely to (i) approve the
26 proposed settlement as fair, reasonable, and adequate, after considering the factors outlined in

1 Rule 23(e)(2), and (ii) certify the settlement class after the final approval hearing. *See* Fed. R.
2 Civ. P. 23(e)(1)(B). Second, it has directed notice to the class, approving notice that describes the
3 terms of the proposed settlement and the definition of the proposed class, and explains how class
4 members can object to or opt out of the proposed settlement. *See* Fed. R. Civ. P. 23(c)(2)(B);
5 Fed. R. Civ. P. 23(e)(1), (5). Plaintiffs now ask that this Court take the third and final step, which
6 is to grant final approval of this settlement with Mulvadi. *See* Fed. R. Civ. P. 23(e)(2).

7 **B. The Settlement Is Fair, Reasonable, and Adequate.**

8 All of the factors set forth in Fed. R. Civ. P. 23(e)(2) weigh strongly in favor of final
9 approval. In granting preliminary approval, the Court already observed that the proposed
10 Settlement appeared “fair, reasonable, and adequate,” so that notice was appropriate. Dkt. 884 ¶
11 6. The Court can and should reach the same conclusion here at final approval.

12 **1. Rule 23(e)(2)(A): Class Counsel and the Settlement Class**
13 **Representatives Have and Will Continue to Zealously Represent the**
14 **Class.**

15 The Court’s preliminary determination, under Rule 23(e)(2)(A), that Class Counsel and
16 the Plaintiffs have zealously advanced the interests of the Plaintiffs and the proposed Settlement
17 Class, was correct. As the motion for preliminary approval detailed, Class Counsel and Plaintiffs
18 have worked tirelessly to advance this case, from the extensive pre-filing investigation through
19 challenges to the pleadings, intensive discovery against over twenty defendants and from
20 numerous third parties, through class certification, expert discovery, dispositive motions, and
21 through the negotiations of each of the settlements, up to and including this one. The class
22 representatives themselves have devoted countless hours to representing the class, even as they
23 have continued to operate their small coffee farms through the pandemic and beyond. Their
24 commitment to this case has not wavered through the implementation of the all of settlements
25 and through the litigation that continued this final settlement with Mulvadi.
26

2. **Rule 23(e)(2)(B): The Settlement Is the Result of Arms-Length, Informed Negotiations.**

Rule 23(e)(2)(B) directs the Court to determine if a class action settlement was negotiated at arm’s-length. Here, too, the Court’s preliminary determination was correct.

First, as Plaintiffs explained, the involvement of an experienced mediator in the negotiations creates a presumption of fairness. *See* Joseph M. McLaughlin, *McLaughlin on Class Actions* (8th ed. 2011); *see also* *Sandoval v. Tharaldson Emp. Mgmt., Inc.*, No. 08-482, 2010 WL 2486346, at *6 (C.D. Cal. June 15, 2010) (“The assistance of an experienced mediator in the settlement process confirms that the settlement is non-collusive.”); *Free Range Content, Inc. v. Google, LLC*, No. 14-02329, 2019 WL 1299504, at *6 (N.D. Cal. Mar. 21, 2019) (holding that a “presumption of correctness” attaches where, as here, a “class settlement [was] reached in arm’s-length negotiations between experienced capable counsel after meaningful discovery”). Here, proposed Settlement Class Counsel negotiated this settlement after full discovery was complete, after they had successfully moved for class certification against all other defendants,² and after the close of expert discovery, when only trial preparation remained. Mulvadi, its insurer, and Plaintiffs participated in a mediation with Mark LeHocky of ADR Services, who served as mediator in prior settlements and thus had a deep familiarity with the litigation, on May 10, 2023, continuing on June 21, 2023. At the close of that second all-day mediation, Mr. LeHocky made a mediator’s proposal, which all three parties accepted. Dkt. 872 ¶ 6.

Second, Class Counsel negotiated the settlement with a full understanding of the legal claims and its factual basis. The parties reached this settlement after the close of extensive fact discovery, after class certification had been briefed and decided, after expert discovery was complete, and after dispositive motion briefing was complete. Where extensive information has been exchanged, “[a] court may assume that the parties have a good understanding of the

² Because the Court decided the motion for class certification after Mulvadi petitioned for bankruptcy, the Court reserved ruling on certification with respect to Mulvadi.

1 strengths and weaknesses of their respective cases and hence that the settlement's value is based
 2 upon such adequate information.” William B. Rubenstein, et al., *Newberg on Class Actions* §
 3 13:49 (5th ed. 2012); *see also In re Anthem, Inc. Data Breach Litig.*, 327 F.R.D. 299, 320 (N.D.
 4 Cal. 2018) (concluding that the “extent of discovery” and factual investigation undertaken by the
 5 parties gave them “a good sense of the strength and weaknesses of their respective cases in order
 6 to ‘make an informed decision about settlement’”) (quoting *In re Mego Fin. Corp. Sec. Litig.*,
 7 213 F.3d 454, 459 (9th Cir. 2000)). Class Counsel were preparing for trial; there is no question
 8 that they understood the risks and benefits of settlement.

9 **3. Rule 23(e)(2)(C): The Settlements Provide for Substantial**
 10 **Compensation.**

11 The Court may also find for purposes of final approval that the relief provided for the
 12 class is “adequate.” Fed. R. Civ. P. 23(e)(2)(C). This subsection asks the Court to take into
 13 account: “(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed
 14 method of distributing relief to the class, including the method of processing class-member
 15 claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment;
 16 and (iv) any agreement required to be identified under Rule 23(e).” *Id.* The Court can readily
 17 adhere to and confirm its preliminary determination that the settlement is adequate upon review
 18 of these factors.

19 **a. The Settlement delivers excellent monetary and injunctive**
 20 **relief.**

21 This settlement delivers (1) immediate monetary relief and (2) far-reaching and detailed
 22 practice changes. It provides for \$7.775 in monetary relief alone, the largest payment from a
 23 single supplier defendant and remarkably, *more* than the total limits available under Mulvadi’s
 24 implicated primary insurance policies. Further, Plaintiffs previously presented evidence that
 25 similar practice changes by defendants who settled earlier in the case would mitigate millions of
 26 dollars in market-price damages, *see* Dkt. 428 (sealed Schreck Declaration), and presented an
 updated calculation to account for additional settlements and promised practice changes,

1 including this one. *See* Dkt. 879-3. That calculation confirmed that the practice changes are
2 worth tens of millions of dollars to the class in the next five years alone. Mulvadi's practice
3 changes go yet further, and also apply to its owner.

4 **a. The costs, risks, and delay of trial and appeal weigh in favor of**
5 **final approval.**

6 The amount obtained is reasonable in light of the risks, delays, and costs attendant to the
7 Court's disposition of the parties' summary judgment motions, trial, and appeals. Plaintiffs have
8 previously explained some of those risks in connection with the prior set of settlements. *See* Dkt.
9 416 ¶¶ 10-16. Success at each stage can never be assured, but delay and costs would be certain.
10 The settlement is an outstanding outcome under any measure, but particularly in light of the risks
11 and delay that would inevitably come with trial and appeals.

12 **b. The method of distributing relief is simple and fair.**

13 The proposed method of distributing relief to the class, including claims processing, is
14 straightforward, simple, and designed to maximize participation in the settlement. As the
15 Settlement Administrator has previously attested, it has been able to work effectively to
16 distribute checks to hundreds of class members. *See* Dkt. 600. The distribution of money will be
17 even more streamlined for this final round of distribution. Claims and distributions will be
18 combined with the funds from the MNS settlement, saving administrative and transactions costs
19 and class members' time. Any Settlement Class Member who did not previously submit a claim
20 will have the opportunity to do so for this combined distribution, but those who submitted claims
21 in connection with any of the first three distributions will not have to do so again. Instead, the
22 Settlement Administrator will use the information previously submitted to calculate their pro rata
23 share of the settlement funds.

24 As the experience with previous settlements showed, notice and claims here are
25 straightforward and easily implemented. First, the Settlement Class is defined by a reference to a
26 discrete geographic area (the Kona region), such that direct notice was feasible, with publication

1 notice acting as informational reinforcement, making it easier to identify and reach the class.
2 Settlement Class Members will again be sent a straightforward, two-page claim form that asks
3 for basic information about their farm and the acreage used to produce coffee over the relevant
4 time period. Those who previously filled this out will not have to do so again; the Settlement
5 Administrator has their information. As Plaintiffs have explained, and as experience has now
6 borne out, the information requested is that which coffee farmers typically maintain and keep
7 accessible, and will allow for a fair and efficient distribution of the net settlement proceeds. *See,*
8 *e.g., Hefler v. Wells Fargo & Co.*, No. 16- 05479, 2018 WL 6619983, at *12 (N.D. Cal. Dec. 18,
9 2018) (approving pro rata settlement distribution based on the purchase and sales data provided
10 by class members); *Thomas v. MagnaChip Semiconductor Corp.*, No. 14-01160, 2017 WL
11 4750628, at *8-9 (N.D. Cal. Oct. 20, 2017) (same).

12 Class Counsel developed the claim form in consultation with the Settlement
13 Administrator, which has extensive experience designing plain-English forms and implementing
14 claims processes, and solicited input from class members to ensure that the form will be
15 intelligible and stimulate claims. Class members will be able to make claims by returning hard
16 copy forms by mail or by obtaining the form through the settlement website. The Settlement
17 Administrator will then calculate class members' pro rata share of the net settlement funds at the
18 end of the claims period and promptly send checks to class members who made valid claims.

19 **c. The request for attorneys' fees is reasonable and supported.**

20 As explained in the separately-filed motion for attorneys' fees, Class Counsel have
21 sought a percentage of the total economic value of the settlements reached to date, a request that
22 is consistent with fee awards in other cases involving significant and valuable injunctive relief,
23 and reasonable for all of the reasons described in that motion. *See* Dkt. 898. Class Counsel's
24 request was consistent with what was described in the notice, and no class member has objected
25 to the request. The application itself was made sufficiently prior to the expiration of the opt-out
26 and objection deadlines, consistent with *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d

1 988, 992 (9th Cir. 2010).

2 **d. There are no agreements bearing on final approval.**

3 Rule 23(e)(2)(C)(iv) requires that the proponents of the settlement identify any agreement
4 (other than the settlement agreement) entered into in connection with the proposed settlement.

5 There are no such agreements.

6 **4. Rule 23(e)(2)(D): The Settlement Treats All Class Members Equitably**
7 **Relative to One Another.**

8 Finally, Rule 23(e)(2)(D) directs the Court to consider whether the proposed settlement
9 treats class members equitably. This subsection of Rule 23(e) determines “whether the
10 apportionment of relief among class members takes appropriate account of differences among
11 their claims, and whether the scope of the release may affect class members in different ways
12 that bear on the apportionment of relief.” Fed. R. Civ. P. 23(e)(2)(D), Advisory Committee’s
13 Note to 2018 amendments. As explained in previous preliminary approval motions, each member
14 of the proposed Class will receive a pro rata share of the settlement based on their coffee
15 production during the claims period, such that class members will receive meaningful
16 compensation directly proportional to the harm they suffered based on their actual sales.
17 Additionally, Plaintiffs have requested service awards for each plaintiff farm (three in total), as
18 are commonly awarded in class actions, and are justified here by Plaintiffs’ efforts in prosecuting
19 the litigation, as explained in Plaintiffs’ motion for approval of those awards and in the
20 supporting declarations filed with the motion. *See* Dkt. 898.

21 **5. The Settlement Satisfies the Ninth Circuit’s Additional Factors for**
22 **Final Approval.**

23 The Ninth Circuit has identified a number of additional factors for courts to consider
24 when evaluating the fairness, reasonableness, and adequacy of a class action settlement. Those
25 factors include: (1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and
26 likely duration of further litigation; (3) the risk of maintaining class action status throughout the

1 trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of
2 the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental
3 participant; and (8) the reaction of the class members of the proposed settlement. *In re Bluetooth*
4 *Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). Many of these—*e.g.*, the strength
5 of plaintiffs’ case, the risk and duration of further litigation, and the amount offered—overlap
6 with the Rule 23(e)(2)(C) factors and are addressed above. The remaining relevant factors favor
7 final approval as well.

8 Most significant is the “reaction of the class to the proposed settlement.” Yet again, the
9 class has voted with its feet: Not a single class member has objected to the settlement, or the
10 requests for fees, costs, and service awards. Not a single class member has opted out. This
11 universal support strongly favors approval. *See, e.g., Hanlon v. Chrysler Corp.*, 150 F.3d 1011,
12 1027 (9th Cir. 1998) (“[T]he fact that the overwhelming majority of the class willingly approved
13 the offer and stayed in the class presents at least some objective positive commentary as to its
14 fairness.”); *Gaudin v. Saxon Mort. Servs., Inc.*, No. 11-1663, 2015 WL 7454183, at *7 (N.D. Cal.
15 Nov. 23, 2015) (“[T]he absence of a large number of objections to a proposed class settlement
16 raises a strong presumption that the terms of a proposed class settlement are favorable to the
17 class members.”) (citation and alteration omitted); *id.* (finding that “opt-out rate [] less than 1%
18 ... favors approval of settlement”); *McLeod v. Bank of Am., N.A.*, No. 16-CV-03294-EMC, 2019
19 WL 1170487, at *3 (N.D. Cal. Mar. 13, 2019) (holding that absence of objections or opt-outs
20 indicates “overwhelming” class member support and “weighs strongly in favor of approval”).

21 Other factors also weigh in favor of final approval. First, there is a risk of “maintaining
22 class action status through trial.” As explained in prior counsel declarations, any class action
23 carries risks of denial of certification or later de-certification. Dkt. 416 ¶ 14. This case is no
24 exception. Second, the “experience and views of counsel” support approval. Counsel are
25 experienced in both complex class actions and Lanham Act litigation, and well-versed in
26 particular with the issues in this case, having investigated it thoroughly and litigated it

1 extensively. See Dkt. 416 ¶¶ 4-9; Dkt. 417 ¶¶ 4-13; Dkt. 603, Dkt. 655, Dkt. 656; Dkt. 702; Dkt.
2 879, Dkt. 880. Counsel unreservedly support the settlement.

3 **C. The Settlement Class Should be Finally Certified.**

4 As the Court concluded in granting preliminary approval and directing notice to the
5 Class, the Settlement Class “likely meets the requirements under Fed. R. Civ. P. 23(a) and
6 23(b)(3).” Dkt. 884 ¶ 5. This remains true, and the Settlement Class should be certified.

7 **VI. Conclusion**

8 For the foregoing reasons, Plaintiffs respectfully request that the Court grant final
9 approval to the proposed settlement.

10 Dated: November 2, 2023

11 KARR TUTTLE CAMPBELL

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WORD COUNT CERTIFICATION

I certify that this memorandum contains 3,505 words, in compliance with the Local Civil Rules.

/s Daniel E. Seltz
Daniel E. Seltz

CERTIFICATE OF SERVICE

I, Daniel E. Seltz, certify that on November 2, 2023, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to those attorneys of record registered on the CM/ECF system.

/s Daniel E. Seltz
Daniel E. Seltz

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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 CORP., et al.,

Defendants.

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

**FINAL JUDGMENT AND
ORDER OF DISMISSAL**

The Honorable Robert S. Lasnik

THIS MATTER comes before the Court upon the unopposed “Motion for Final Approval of the Class Settlement” filed by Plaintiffs. The Court, being fully advised of the premises of the Motion, FINDS:

1. Plaintiff commenced this action by filing their Complaint on February 27, 2019, and ultimately filed a Third Amended Complaint on April 30, 2020 (Dkt. 381) (“Complaint”). Plaintiffs alleged that the defendants violated the Lanham Act, 15 U.S.C. § 1125, by misleadingly labeling and selling coffee not from the Kona region as “Kona” coffee. On November 12, 2019, this Court denied motions to dismiss Plaintiffs’ original complaint (Dkt. 155), and discovery began.

2. Plaintiffs have negotiated a class action settlement with defendant Mulvadi Corporation (“Mulvadi”). The Settlement Agreement was attached as Exhibit 1 to the declaration of counsel accompanying the Motion for Preliminary Approval of Class Action Settlement, filed on April 23, 2023 (Dkt. 872).

3. Through the Settlement Agreement, Mulvadi will fully and completely satisfy the claims of Class Members relating to the claims alleged by Plaintiffs in the Third Amended

1 Complaint by paying Class Members a total payment of \$7,775,000, and provide injunctive relief
2 relating to the labeling of the Kona coffee products at issue. Attorneys' fees and costs of Class
3 Counsel and administrative costs will be paid from the Settlement Fund. By entering into the
4 Settlement Agreement, Mulvadi made no admissions relating to the claims raised in this lawsuit,
5 nor did Plaintiffs make admissions relating to Mulvadi's Defenses.
6

7 4. The Settlement Class, as defined in each of the Settlement Agreements, includes
8 the following: All persons and entities who, between February 27, 2015, and the date of Court's
9 order granting preliminary approval to the settlement (July 31, 2023), farmed Kona coffee in the
10 Kona District and then sold their Kona coffee. Excluded from the Settlement Class are any
11 defendants to the action, as well as any judge assigned to the action, and the judge's immediate
12 family and staff.
13

14 5. The Settlement Agreement describes the claims that are being settled on behalf of
15 the Class (defined as the "Settled Claims"). The Settlement Agreement and its terms, including
16 the definitions, are incorporated into this Final Judgment And Order of Dismissal (the "Final
17 Judgment") as if fully set forth herein. The Settlement Agreement and Final Judgment shall be
18 referred to collectively herein as the "Settlement."
19

20 6. This Court entered an Order dated July 31, 2023, directing that notice of the
21 proposed Settlement be effectuated as to the Settlement Class (Dkt. 884) ("Preliminary Approval
22 Order"). The Preliminary Approval Order set a hearing for November 30, 2023 to determine
23 whether the proposed Settlement should be approved as fair, reasonable and adequate.
24

25 7. In accordance with the Court's Preliminary Approval Order, the Settlement
26 Administrator caused to be mailed and emailed to potential members of the Settlement Class for
whom addresses could be located, a notice (the "Settlement Notice") in the form approved by the

1 Court in the Preliminary Approval Order. Also in accordance with the Court’s Preliminary
2 Approval Order, the Settlement Administrator caused the publication notice to be placed in the
3 *West Hawaii Today*. The Court finds that the Settlement Notice, along with the publication
4 notice, provided to potential members of the Settlement Class constituted the best and most
5 practicable notice under the circumstances, thereby complying fully with due process and Rule
6 23 of the Federal Rules of Civil Procedure. The Court did not receive any objections to the
7 Settlement from class members.
8

9 8. Mulvadi caused to be mailed to the appropriate federal and state officials the
10 materials required to be submitted by the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.*
11 (“CAFA”). The Court finds that CAFA’s notice requirements have been satisfied.
12

13 9. On November 30, 2023, the Court held a hearing on the proposed Settlement, at
14 which time all interested persons were given an opportunity to be heard. Furthermore, the Court
15 has read and considered all submissions in connection with the Settlement. As explained below,
16 the Court grants the motion for final approval of the Settlement.
17

18 **Class Certification**

19 10. The first question before the Court is whether to certify the Settlement Class. *See*
20 Fed. R. Civ. P. 23(a) & (b). Class certification is proper if Plaintiffs demonstrate: (1) The
21 Settlement Class is so numerous that joinder of all members in a single proceeding would be
22 impracticable; (2) Resolution of the claims will involve common questions of law and fact; (3)
23 The named Plaintiffs’ claims are typical of those of the Settlement Class Members; (4) The
24 named Plaintiffs and Settlement Class Counsel have fairly and adequately represented the
25 interests of the Settlement Class and will continue to do so; (5) Questions of law and fact
26 common to the Settlement Class predominate over the questions affecting only individual

1 Settlement Class Members, and (6) certification of the Settlement Class is superior to other
2 available methods to the fair and efficient adjudication of this controversy. *Id.*

3 11. In its Preliminary Approval Order, the Court concluded that Plaintiffs showed that
4 they were likely to satisfy these requirements. *See* Dkt. 884. The Court now finds no reason to
5 disturb those conclusions. As such, the Court certifies the proposed Class.
6

7 **Settlement Approval**

8 12. The Court must also determine whether the Settlement is “fair, reasonable, and
9 adequate.” Fed. R. Civ. P. 23(e)(2). The Court’s Preliminary Approval Order applied these
10 standards and concluded that the Settlement appeared to be “fair, reasonable, and adequate.”
11 Dkt. 884 ¶ 6. Plaintiffs explained, and the Court determined, that approval of the Settlement
12 will bestow a substantial economic benefit on the Settlement Class, result in substantial savings
13 in time and money to the litigants and the Court and will further the interests of justice, and that
14 the Settlement is the product of good-faith arm’s length negotiations between the Settling Parties.
15 The record is even more supportive of approval now that no Settlement Class Member has
16 objected to the Settlement. The Court thus finds the Settlement to be fair, reasonable, and
17 adequate. *See* Fed. R. Civ. P. 23(e).
18

19 13. The Settlement Agreement, including all of the terms defined therein including
20 but not limited to the definitions of “Settled Claims,” is incorporated herein. Any terms used in
21 this Final Judgment are governed by their definitions in the Settlement Agreement. The Court
22 has jurisdiction over the subject matter of this litigation and all parties to this litigation, including
23 all members of the Settlement Class.
24

25 14. The certified Settlement Class is defined for purposes of the Settlement
26 Agreements and this Final Judgment as set forth in Paragraph 4 above.

1 15. Therefore, the Settlement is approved in all respects, and shall be binding upon,
2 and inure to the benefit of, all members of the Settlement Class.

3 16. All Settled Claims are hereby dismissed with prejudice.

4 17. This Final Judgment may not be used as an admission by or against Mulvadi of
5 any fact, claim, assertion, matter, contention, fault, culpability, obligation, wrongdoing or
6 liability whatsoever.
7

8 18. The Court has, by separate order, granted Class Counsel’s “Motion for Attorneys’
9 Fees and Reimbursement of Litigation Expenses.” The amount of Attorneys’ Fees and Litigation
10 Expenses awarded to Class Counsel shall be distributed to Class Counsel by the Settlement
11 Administrator from the Settlement Funds.

12 19. The Court reserves jurisdiction over this matter, the Settling Parties, and all
13 counsel herein, without affecting the finality of this Final Judgment, including over (a) the
14 implementation, administration, and enforcement of this Settlement and any award or
15 distribution from the Settlement Funds; (b) disposition of the Settlement Funds; and (c) other
16 matters related or ancillary to the foregoing.
17

18 20. Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Court finds
19 that there is no reason for delay in the entry of this Final Order and Judgment as a final order and
20 final judgment, and the Court further expressly directs the Clerk of the Court to file this Final
21 Order and Judgment as a final order and final judgment.
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Enter: _____, 2023.

BY THE COURT:

Robert S. Lasnik
United States District Court Judge