

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

4 BRUCE CORKER d/b/a RANCHO ALOHA;  
5 COLEHOUR BONDERA and MELANIE  
6 BONDERA, husband and wife d/b/a  
7 KANALANI OHANA FARM; ROBERT  
8 SMITH and CECELIA SMITH, husband and  
9 wife d/b/a SMITHFARMS, and SMITHFARMS,  
10 LLC on behalf of themselves and others  
11 similarly situated,

12 Plaintiffs,

13 v.

14 COSTCO WHOLESALE CORPORATION, a  
15 Washington corporation; AMAZON.COM,  
16 INC., a Delaware corporation; HAWAIIAN  
17 ISLES KONA COFFEE, LTD., LLC, a  
18 Hawaiian limited liability company; COST  
19 PLUS/WORLD MARKET, a subsidiary of BED  
20 BATH & BEYOND, a New York corporation;  
21 BCC ASSETS, LLC d/b/a BOYER'S COFFEE  
22 COMPANY, INC., a Colorado corporation;  
23 L&K COFFEE CO. LLC, a Michigan limited  
24 liability company; MULVADI  
25 CORPORATION, a Hawaii corporation;  
26 COPPER MOON COFFEE, LLC, an Indiana  
limited liability company; GOLD COFFEE  
ROASTERS, INC., a Delaware corporation;  
CAMERON'S COFFEE AND DISTRIBUTION  
COMPANY, a Minnesota corporation; PACIFIC  
COFFEE, INC., a Hawaii corporation; THE  
KROGER CO., an Ohio corporation;  
WALMART INC., a Delaware corporation; BED  
BATH & BEYOND INC., a New York  
corporation; ALBERTSONS COMPANIES  
INC., a Delaware Corporation; SAFEWAY  
INC., a Delaware Corporation; MNS LTD., a  
Hawaii Corporation; THE TJX COMPANIES  
d/b/a T.J. MAXX, a Delaware Corporation;  
MARSHALLS OF MA, INC. d/b/a  
MARSHALLS, a Massachusetts corporation;  
SPROUTS FARMERS MARKET, INC. a  
Delaware corporation; COSTA RICAN GOLD  
COFFEE CO., INC., a Florida Corporation; and  
KEVIN KIHNKE, an individual,

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

**DECLARATION OF JASON L.  
LICHTMAN IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
ATTORNEYS' FEES,  
REIMBURSEMENT OF EXPENSES,  
AND SERVICE AWARDS**

The Honorable Robert S. Lasnik

1  
2 Defendants.

3 I, Jason L. Lichtman, declare as follows:

4 1. I am a partner in the law firm of Lief Cabraser Heimann & Bernstein, LLP  
5 (“LCHB”). I am Plaintiffs’ counsel of record in this litigation, along with Karr Tuttle Campbell. I  
6 am a member in good standing of the bars of Illinois, New York, and the District of Columbia. I  
7 respectfully submit this declaration in support of Plaintiffs’ Motion for Attorneys’ Fees,  
8 Reimbursement of Expenses, and Service Awards. Except as otherwise noted, I have personal  
9 knowledge of the facts set forth in this declaration and could testify competently to them if called  
10 upon to do so.

11 2. I have been involved in all aspects of this litigation since March 2019.

12 3. On April 21, 2021, I submitted a declaration in support of Class Counsel’s request  
13 for attorneys’ fees, reimbursement of expenses, and service awards in connection with  
14 settlements reached earlier in this case. *See* Dkt. 416. That declaration set forth LCHB’s work in  
15 this matter, the experience and expertise we brought to this case, the core team at LCHB  
16 assigned to this litigation, our assessment of the case-specific risks present in this litigation, and  
17 LCHB’s lodestar and expenses up to that point. I stand by and incorporate all of the statements I  
18 made in that prior declaration, and provide updated information about this case that is relevant to  
19 the accompanying Motion.

20 **II. LCHB’s Work in this Matter**

21 4. My previous declaration explained that LCHB, along with co-Class Counsel Karr  
22 Tuttle Campbell, have actively litigated this case since its inception in February 2019. At the  
23 time, this Court had adjudicated motions to dismiss filed by all defendants (Dkt. 100, 106, 107),  
24 a motion for summary judgment (Dkt. 121), a motion to strike (Dkt. 179), several motions to  
25 compel or for a protective order (Dkt. 180, 188, 206, 211, 222, 227, 252, 257, 294, 300, 304,  
26

1 317, 330, 355, 372, 433, 621), a motion for sanctions (Dkt. 319), and several motions to amend  
2 the pleadings to add new defendants (Dkt. 71, 268, 344). The pace of activity has not relented.  
3 Since then, Plaintiffs have filed additional motions to compel, successfully defended a motion to  
4 dismiss for lack of personal jurisdiction, filed for class certification against non-settling  
5 defendants, moved for default sanctions against one defendant (Mulvadi), and worked with  
6 numerous experts in preparation of the upcoming expert disclosure deadline of May 12, 2022.

7 5. Fact discovery only recently ended on March 11, 2022. In April 2021, Plaintiffs  
8 had served 781 requests for production and 177 interrogatories. To date, Plaintiffs have received  
9 and reviewed more than 106,000 documents including 341,000 pages (including large  
10 spreadsheets of data). Plaintiffs have now taken twelve depositions, including two experts.

11 6. The parties also engaged in extensive third-party discovery, collectively serving  
12 52 subpoenas, which have yielded 7,248 documents and more than 123,000 pages.

13 7. Attorneys from LCHB (principally myself, Daniel Seltz, and Andrew Kaufman)  
14 have continued to play a significant and active role in virtually every aspect of this case,  
15 including:

16 a. Authored or edited the briefs and motions that have been presented in the  
17 litigation to date, including oppositions to motions to dismiss and discovery motions;

18 b. drafted and propounding dozens of requests for production,  
19 interrogatories, and requests for admissions;

20 c. oversaw the production of tens of thousands of documents;

21 d. assisted with the preparation of the depositions of five named plaintiffs;

22 e. identified and worked with numerous consulting experts in preparation for  
23 mediation and litigation, on issues such as damages, marketing, consumer behavior, and  
24 accounting;

1 f. developed numerous settlement proposals and negotiated extensively with  
2 Defendants, including with the assistance of the mediators who have assisted with settlements in  
3 this case;

4 g. drafted class certification papers; and

5 h. worked with numerous experts in connection with class certification and  
6 upcoming expert disclosure.

7 **III. LCHB's Lodestar Cross-Check Submission**

8 8. Attached as **Exhibit A** is a true and correct summary by individual of the hours,  
9 billing rate, and lodestar for each biller's work on this matter from its inception to April 15,  
10 2022. The time for any billers who submitted fewer than 40 hours has been removed. During this  
11 period of time, the firm expended **7,540.20** hours on this matter, with work still continuing.  
12 Calculated at current rates and taking into consideration excluded time, for purposes of the cross-  
13 check, the lodestar invested in this case by LCHB during this period comes to **\$4,031,365**.

14 9. The rates set forth in **Exhibit A** are my firm's current billing rates for 2022. The  
15 hourly rates charged by timekeepers are the firm's regular rates for contingent cases and those  
16 generally charged to clients for their services in non-contingent/hourly matters. While LCHB  
17 principally works on contingency, our rate structure is occasionally paid to our firm by hourly-  
18 paying clients.

19 10. Over its nearly five decades, LCHB's rate structure has been approved by  
20 countless courts, sometimes as the basis for a lodestar fee, other times on cross-check. The  
21 following are a small sample of more recent matters:

- 22 • *Nashville Gen. Hosp. v. Momenta Pharms., Inc.*, No. 15-1100, Dkt. 520 (M.D.  
23 Tenn. May 29, 2020);  
24 • *In re Samsung Top-Load Washing Machine Marketing, Sales Practices &*  
25 *Products Liability Litig.*, No. 17-2792, Dkt. 256 (W.D. Okla. June 11, 2020);  
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- 1 • *Seaman v. Duke Univ.*, No. 15-462, 2019 WL 4674758, at \*1 (M.D.N.C. Sept. 25,  
2 2019);
- 3 • *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-660, 2018 WL 6606079, at \*13-14  
4 (S.D. Ill. Dec. 16, 2018)
- 5 • *In re Volkswagen “Clean Diesel” Mktg., Sales Practices, & Prods. Liab. Litig.*,  
6 No. 2672 CRB (JSC), 2017 WL 1047834, at \*5 (N.D. Cal. Mar. 17, 2017);
- 7 • *Allaga v. BP Solar Int’l, Inc.*, No. 14-560, Dkt. 201 (N.D. Cal. Dec. 22, 2016);
- 8 • *In re: Sears, Roebuck & Co. Front-Loading Washer Prods. Liab. Litig.*, No. 06-  
9 7023, Dkt. 598 (N.D. Ill. Sept. 13, 2016)
- 10 • *In re High-Tech Emp. Antitrust Litig.*, No. 11-CV-02509-LHK, 2015 WL  
11 5158730, at \*9 (N.D. Cal. Sept. 2, 2015);
- 12 • *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. M 07-1827 SI, 2013 WL 149692  
13 (N.D. Cal. Jan. 14, 2013);
- 14 • *In re Bank of Am. Credit Prot. Mktg. & Sales Practices Litig.*, No. 11-MD-2269  
15 TEH, 2013 WL 174056 (N.D. Cal. Jan. 16, 2013);
- 16 • *Brazil v. Dell Inc.*, No. C-07-01700 RMW, 2012 WL 1144303, at \*1 (N.D. Cal.  
17 Apr. 4, 2012);
- 18 • *White v. Experian Info. Sols., Inc.*, No. SACV 05-1070 DOC, 2011 WL 2971957,  
19 at \*3 (C.D. Cal. July 15, 2011);
- 20 • *Lonardo v. Travelers Indem. Co.*, 706 F. Supp. 2d 766, 793–94 (N.D. Ohio 2010);
- 21 • *Pelletz v. Weyerhaeuser Co.*, 592 F. Supp. 2d 1322, 1326–27 (W.D. Wash. 2009);
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- 1 • *Grays Harbor Adventist Christian Sch. v. Carrier Corp.*, No. 05-05437 RBL,  
2 2008 WL 1901988, at \*3 (W.D. Wash. Apr. 24, 2008);
- 3 • *Fleming v. Kemper Nat'l Servs., Inc.*, 373 F. Supp. 2d 1000, 1012 (N.D. Cal.  
4 2005).

5

6 11. LCHB attorneys and staff enter their time contemporaneously. The *Firm Policy*  
7 *Manual*, “Time-Keeping Policy,” requires timekeepers to keep time sheets on a daily basis, and  
8 to submit them by the close of each business week. LCHB’s accounting department runs a  
9 regular time report that lists timekeepers without time in the system for any given week. Kelly  
10 M. Dermody, managing partner of the San Francisco office of the firm, receives that report and  
11 personally follows up with tardy attorney timekeepers, and instructs staff managers to follow up  
12 with any tardy staff. The firm does not abide late timekeeping, and we advise employees,  
13 “Failure to comply with the Firm’s timekeeping policy may be taken into account in connection  
14 with promotions, raises, and bonuses, and may subject the delinquent timekeeper to discipline,  
15 up to and including termination.”

16 12. LCHB has devoted, and will continue to devote, its time and resources to  
17 prosecute the class action claims in this matter on a contingent-fee basis.


18 **IV. LCHB’s Expenses Submission**

19 13. LCHB has to date incurred \$1,061,022.80 in expenses in connection with the  
20 investigation, prosecution, and settlement of this case, as set forth in the table attached as  
21 **Exhibit B**, of which **\$641,022.80** is unreimbursed. The expenses listed in **Exhibit B** are reflected  
22 in the books and records LCHB maintains in the ordinary course of business, which books and  
23 records are prepared from expense vouchers and check records. It also reflects partial  
24 reimbursement of costs received in connection with the Court’s prior order concerning fees and  
25 costs.  
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14. These costs were reasonable and necessary to prosecute this matter, and include typical litigation costs such as expert work, filing fees, electronic database research, and travel.

I declare under penalty of perjury that the forgoing is true and correct. Executed this 18th day of April 2022, in New York, New York.

  
\_\_\_\_\_  
Jason L. Lichtman

# **EXHIBIT A**



<b>LIEFF CABRASER HEIMANN &amp; BERNSTEIN, LLP</b>
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From: Inception

To: 04/18/2022

**Matter Number: 4013-0001****PARTNER**

NAME	HOURS	RATE	TOTAL
MICHAEL SOBOL	122.00	1,025.00	125,050.00
ANDREW KAUFMAN	302.60	585.00	177,021.00
JASON LICHTMAN	1,299.30	690.00	896,517.00
DANIEL SELTZ	1,211.00	755.00	914,305.00
	<b>2,934.90</b>		<b>2,112,893.00</b>

**ASSOCIATE**

NAME	HOURS	RATE	TOTAL
ANDREW KAUFMAN	163.30	510.00	83,283.00
FRANK WHITE	149.80	485.00	72,653.00
	<b>313.10</b>		<b>155,936.00</b>

**STAFF ATTORNEY**

NAME	HOURS	RATE	TOTAL
BRITT CIBULKA	92.90	415.00	38,553.50
KELLY GRALEWSKI	1,332.20	415.00	552,863.00
KAREN JONES	202.80	415.00	84,162.00
ELLA KRAINSKY	475.00	415.00	197,125.00
PHIANH NGUYEN	108.50	415.00	45,027.50
ALIX PUSTILNIK	1,176.40	415.00	488,206.00
PETER ROOS	136.90	415.00	56,813.50
RYAN STURTEVANT	80.70	415.00	33,490.50
	<b>3,605.40</b>		<b>1,496,241.00</b>

**LAW CLERK**

NAME	HOURS	RATE	TOTAL
NICHOLAS LEE	67.70	370.00	25,049.00
	<b>67.70</b>		<b>25,049.00</b>

**PARALEGAL/CLERK**

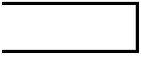
NAME	HOURS	RATE	TOTAL
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JANE BALKOSKI	187.10	360.00	67,356.00
EMILY LOVELL	44.40	395.00	17,538.00
HANNAH SELHORST	257.60	395.00	101,752.00
	<u>489.10</u>		<u>186,646.00</u>

**LITIGATION SUPPORT / RESEARCH**

<b>NAME</b>	<b>HOURS</b>	<b>RATE</b>	<b>TOTAL</b>
RICHARD ANTHONY	71.50	420.00	30,030.00
MARGIE CALANGIAN	58.50	420.00	24,570.00
	<u>130.00</u>		<u>54,600.00</u>

**MATTER TOTALS                      7,540.20                                      4,031,365.00**



# **EXHIBIT B**

**Lieff Cabraser Heimann & Bernstein, LLP**  
**Costs Summary**

<b>Costs</b>	<b>Total to Date</b>
In-House Copies	\$95.00
Print	\$1,085.40
Telephone	\$1,061.41
Computer Research	\$8,353.32
Deposition/Transcripts	\$4,546.10
Electronic Database	\$165,015.69
Experts/Consultants	\$750,721.99
Federal Express/Messenger	\$937.09
Mediation Expenses	\$43,056.52
Research sources	\$1,468.24
Postage	\$85.57
Process Service	\$782.00
Supplies	\$759.50
Travel	\$83,055.17
Previous reimbursement	(\$420,000)
<b>Net Total</b>	<b>\$641,023.00</b>