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and all others similarly situated

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

REBECCA DE BENNING, on behalf of
herself and all others similarly situated,

Plaintiff,

v.

COSTCO WHOLESALE CORPORATION,
a Washington Corporation; and Does 1
Through 10, Inclusive,

Defendants.

Case No. 34-2021-00309030
ASSIGNED FOR ALL PURPOSES TO:
The Honorable Jill H. Talley
Department 25

CLASS ACTION

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: October 28, 2022
Time: 9:00 a.m.
Dept: 25
Judge: Honorable Jill H. Talley
Reservation: #2667995

Complaint filed: September 30, 2021
Trial date: Not set

1 This matter came on for hearing on October 28, 2022 in Department 25 of the above-
2 captioned Court on Plaintiff's Motion for Order Granting Preliminary Approval of Class Action
3 Settlement ("Motion"). Having fully reviewed the Motion, supporting memorandum of Points
4 and Authorities and Declarations, the Class and PAGA Action Settlement Agreement
5 ("Agreement") and the proposed Notice of Settlement attached as Exhibit A to the Agreement,
6 having carefully analyzed the Agreement and the Notice of Settlement, and in recognition of the
7 Court's duty to make a preliminary determination as to the reasonableness of any proposed class
8 action settlement, and if preliminarily determined reasonable, to ensure proper notice is provided
9 to Class Members in accordance with due process requirements, and to set a Final Approval
10 Hearing to consider the good faith, fairness, adequacy and reasonableness of the proposed
11 Settlement, THE COURT MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

12 1. The Court conditionally finds, for purposes of approving this settlement only,
13 the proposed Class meets the requirements for certification under section 382 of the California
14 Code of Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all
15 members of the Class is impracticable; (b) there are questions of law or fact common to the
16 proposed Class, and a well-defined community of interest among members of the proposed Class
17 with respect to the subject matter of the class action; (c) the claims of the Class Representative
18 are typical of the claims of the members of the proposed Class; (d) the Class Representative has
19 and will fairly and adequately protect the interests of the Members of the Class; (e) a class action
20 is superior to other available methods for an efficient adjudication of this controversy in the
21 context of settlement; and (f) counsel of record for Class Representative are qualified to serve as
22 Counsel for the Class.

23 2. The Court finds on a preliminary basis the Agreement, attached to the Declaration
24 of Jeff Geraci as Exhibit 1, incorporated, and made a part of this Order of preliminary approval,
25 appears to be within the range of reasonableness of a settlement which could ultimately be given
26 final approval by this Court.

27 3. It appears to the Court on a preliminary basis: (a) the Gross Settlement Amount is
28 fair and reasonable to Class Members when balanced against the probable outcome of further

1 litigation relating to class certification, liability and damages, and potential appeals; (b)
2 significant investigation, research, and informal discovery, were conducted and counsel for the
3 Parties are able to reasonably evaluate their positions; (c) settlement will avoid substantial costs,
4 delays, and risks of further prosecution of the case; and (d) the proposed Settlement was reached
5 through serious, non-collusive negotiations facilitated by an experienced mediator.

6 4. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
7 Approval of Class Action Settlement is GRANTED, and the Court incorporates the Agreement
8 in this Order.

9 5. For purposes of this Settlement, Class Members are defined as:

10 “individuals who, as non-exempt Costco Wholesale Corporation employees
11 in California during the Settlement Period of September 30, 2017 through
12 July 6, 2022, (a) earned wages at more than one rate during a week when they
13 took paid sick leave, (b) took paid sick leave at any time during the period
14 March 2, 2020 through February 28, 2021, or (c) took sick leave at any time
15 during the six-month measuring period prior to receiving an Extra Check.
16 Provided, however, that an individual who would otherwise be a Class
Member is *not* a Class Member if that individual has sued Defendant Costco
Wholesale Corporation on any claim to be released or precluded as part of
this Agreement, or to the extent that the individual worked at any of Costco’s
distribution centers, known as Depots, in Tracy and Mira Loma, California.”

17 6. The Court finds the proposed Notice of Settlement fairly and adequately advises
18 Class Members of (a) pendency of the Class Action Settlement; (b) conditional Class certification
19 for settlement purposes only; (c) preliminary Court approval of the proposed Settlement; (d) the
20 date, time and place of the Final Approval Hearing; (e) the terms of the proposed Settlement and
21 the benefits available to Class Members under the Settlement; (f) their right to receive a
22 proportionate share of the Net Settlement Amount without returning a claim form; (g) their right
23 to request exclusion, and procedures and deadline for doing so; (h) their right to object to the
24 Settlement, and the procedures and deadline for doing so; and, (i) their right to file documents in
25 opposition to the Settlement, and appear at the Hearing.

26 7. The Court finds the proposed Notice of Settlement provides the best practicable
27 notice to the Class and comports with all constitutional requirements, including those of due
28 process. Accordingly, good cause appearing, the Court APPROVES the Notice of Settlement.

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2 8. The Court further finds mailing and emailing the Notice of Settlement to the last
3 known address and email address of Class Members with measures taken for address verification
4 and skip tracing of bad addresses, as described in the Agreement, is an effective method of
5 notifying Class Members of their rights in the class action and the Settlement. Accordingly,
6 IT IS ORDERED:

7 A. Atticus Administration, LLC be appointed the Settlement Administrator to
8 administer the Settlement of this matter as more specifically set forth in the Agreement;

9 B. Cohelan Khoury & Singer and Law Office of Sahag Majarian II be
10 appointed as Class Counsel;

11 C. Plaintiff Rebecca De Benning be appointed as Class Representative;

12 D. Within thirty (30) calendar days (or, if that date falls on a weekend or
13 holiday, the next business day) after the date the Court enters an Order Granting Preliminary
14 Approval, Defendant shall provide the Settlement Administrator the Confidential Data containing
15 the following information in a Microsoft Office Excel format for each Class Member and
16 Aggrieved Employee: (i) full name; (ii) employee ID number; (iii) last known street and email
17 address and telephone number; (iv) number of paid sick leave hours taken and the number of pay
18 periods worked; and (v) social security number.

19 E. Within twenty-one (21) calendar days (or, if that date falls on a weekend
20 or holiday, the next business day) days after receipt of the Confidential Data, and after checking
21 Class Member information against the National Change of Address Database, the Settlement
22 Administrator shall send the Notice of Settlement to Class Members via First Class U.S. mail and
23 email, using the last-known mailing address and email address for each Class Member.

24 F. On or before forty-five (45) calendar days from the date the Settlement
25 Administrator first mails the Notice Packet (or, if the 45th day falls on a Sunday or holiday), Class
26 Members who wish to exclude themselves from the Class must submit a written request for
27 exclusion in the manner set forth in the Notice of Settlement.

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1 G. On or before forty-five (45) calendar days from the date the Settlement
2 Administrator first mails the Notice Packet (or, if the 45th day falls on a Sunday or holiday, the
3 next business day), Class Members who wish to dispute the information upon which their
4 Settlement Payment will be calculated must submit a written dispute in the manner set forth in
5 the Notice of Settlement.

6 H. On or before forty-five (45) calendar days from the date the Settlement
7 Administrator first mails the Notice Packet (or, if the 45th day falls on a Sunday or holiday, the
8 next business day), Class Members who Object to the Settlement must submit a written objection
9 in the manner set forth in the Class Notice. Class Members may also appear at the Final Approval
10 Hearing to orally object, even if they have not submitted a written objection.

11 9. IT IS FURTHER ORDERED the Final Approval Hearing shall be held before the
12 undersigned at 9:00 a.m. on _____, 2023 in Department 25 of the Superior Court of
13 California, County of Sacramento, Gordon D. Schaber Courthouse located at 720 9th Street,
14 Sacramento, California, 95814, to consider the fairness, adequacy, and reasonableness of the
15 proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to
16 consider the application for Class Representative Service Award, Class Counsel's attorneys' fees,
17 and litigation expenses incurred.

18 10. IT IS FURTHER ORDERED if the Court does not enter Judgment in accordance
19 with the Agreement, or it is vacated or reversed, the Parties will retain all rights, status quo ante,
20 and this matter shall proceed.

21 11. IT IS FURTHER ORDERED that pending further order of this Court, all
22 proceedings in this matter, except those contemplated by this Order and the Agreement are stayed.

23 12. The Court reserves the right to adjourn or continue the Final Approval Hearing
24 without further notice to Class Members. If written objections are submitted, Class Counsel shall
25 notify objecting Class Members of the new date and time set for the Final Approval Hearing.

26 IT IS SO ORDERED.

27 Date: _____

The Honorable Jill H. Talley
Judge of the Superior Court