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9 **Attorneys for the Plaintiffs and Class**

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 **Jacob Petersen, et al.**, individually, and on
13 behalf
14 of all others similarly situated,
15
16 Plaintiffs,

CASE NO. 8:13-cv-01292 DOC (JCGx)

Assigned To: Hon. David O. Carter – Dept.
9D

17 v.

ORDER AND FINAL JUDGMENT [416]

18 **Costco Wholesale Co., Inc.** a Washington
19 corporation doing business in California,
20 **Townsend Farms, Inc.**, an Oregon corporation
21 doing business in California, **Fallon Trading**
22 **Co., Inc.**, a Pennsylvania corporation doing
23 business in California, and **United Juice Corp.**,
24 a New Jersey corporation doing business in
25 California,
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27 Defendants.

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WHEREAS, this matter came before the Court for hearing on September 23, 2019 (the
“Final Approval Hearing”), on the application of Lead Plaintiff Jacob Petersen (“Lead Plaintiff”) and Costco Wholesale Corp., Townsend Farms, Inc., and Fallon Trading Co. (collectively “the TFI Defendants”), to determine (i) whether the terms and conditions of the Agreement of

1 Settlement, dated as of January 23, 2019, (the “Settlement”), annexed hereto as Exhibit A, and
2 the proposed settlement embodied therein are fair, reasonable, and adequate and should be
3 approved by the Court; and (ii) whether a Judgment providing, among other things, for the
4 dismissal with prejudice of the claims of the Settlement Class Members, against the TFI
5 Defendants as provided for in the Settlement, should be entered; and

6 WHEREAS, the Court, in its Order dated January 17, 2019 (the “Preliminary Approval
7 Order”), directed that the Notice Postcard and Class Action Notice Claim Form (“Notice
8 Package”), will be mailed by first-class mail, postage pre-paid, to all potential Settlement Class
9 Members at the address of each such potential Settlement Class Member as set forth in Costco’s
10 records, or who otherwise could be identified through reasonable effort, and that the Claims
11 Administrator will establish a website where Claimants may submit a Proof of Claim Form
12 online where each Claimant must swear under oath the Eligibility Requirements, are met; and
13 that the Notice Package and Proof of Claim Form be posted to a website dedicated to the
14 administration of the Settlement; and

15 WHEREAS, the provisions of the Preliminary Approval Order and the Court’s Order
16 dated January 17, 2019 as to notice were complied with; and

17 WHEREAS, the Notice Package advised Settlement Class Members of the date, time,
18 place and purpose of the Final Approval Hearing, and further advised that any requests for
19 exclusion from the Settlement Class were required to be made within 21 days of receiving the
20 Notice Package, and no later than 30 days from its mailing date; and

21 WHEREAS, the Notice Package advised Settlement Class Members that any objections
22 to the Settlement must be filed with the Court and served on counsel for all Settling Parties by
23 the date set forth in the Preliminary Approval Order;

24 WHEREAS, on September 5, 2019, Lead Plaintiff, joined by Defendants, moved for final
25 approval of the Settlement, as set forth in the Court’s Order dated August 29, 2019;

1 WHEREAS, the Final Approval Hearing was duly held before this Court on September
2 23, 2019, at which time all interested persons were afforded the opportunity to be heard; and

3 WHEREAS, this Court has considered all matters submitted to it at the Final Approval
4 Hearing and all papers filed and proceedings had herein and otherwise being fully informed in
5 the premises and good cause appearing therefor;

6 NOW THEREFORE, IT IS HEREBY ORDERED:

7 1. This Judgment hereby incorporates by reference the definitions in the Settlement
8 Agreement, and all capitalized terms, unless otherwise defined herein, shall have the same
9 meanings as set forth in the Settlement Agreement.

10 2. This Court has jurisdiction over the subject matter of the Action and over all
11 Settling Parties to the Action, including all Settling Class Members and the Claims
12 Administrator.

13 3. The notice of the pendency of the proposed Settlement, including the Notice
14 Package, was given to all Settlement Class Members who could be identified with reasonable
15 effort, consistent with the terms of the Preliminary Approval Order. The form and method of
16 notifying the Settlement Class of the terms and conditions of the proposed Settlement met the
17 requirements of Rule 23 of the Federal Rules of Civil Procedure; the Constitution of the United
18 States (including the due process clause); and all other applicable laws. Such notice constituted
19 the best notice practicable under the circumstances and constituted due and sufficient notice to
20 all persons and entities entitled thereto.

21 4. Pursuant to and in compliance with Rule 23 of the Federal Rules of Civil
22 Procedure, the Court hereby finds that due and adequate notice of these proceedings was directed
23 to all persons and entities who are Settlement Class Members, advising them of their right to
24 seek to exclude themselves from the Settlement Class, of the Settlement and of their right to
25 object thereto, and a full and fair opportunity was accorded to all persons and entities who are
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1 Settlement Class Members to be heard with respect to the Settlement. Thus, it is hereby
2 determined that all Settlement Class Members who did not timely and properly elect to exclude
3 themselves from the Settlement Class by written communication postmarked or otherwise
4 delivered on or before the date set forth in the Court's Order dated January 17, 2019, and the
5 Notice are bound by this Judgment. Those persons and entities who timely and properly
6 requested to be excluded from the Settlement Class are set forth on Exhibit B annexed hereto.

7 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court finds that
8 the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class
9 Members, including Lead Plaintiff. This Court further finds that the Settlement is the result of
10 arm's length negotiations between experienced counsel representing the interests of the Settling
11 Parties and that it was negotiated with the assistance of an experienced mediator. Accordingly,
12 the Settlement is hereby approved in all respects and shall be consummated in accordance with
13 the terms and provisions of the Settlement Agreement.

14 6. The Court finds and concludes that the Settling Parties and their respective
15 counsel have complied in all respects with the requirements of Rule 11 of the Federal Rules of
16 Civil Procedure in connection with the commencement, maintenance, prosecution, defense and
17 settlement of the claims of the Settlement Class Members.

18 7. The Claims of the Settlement Class Members are dismissed with prejudice. The
19 Settling Parties are to bear their own costs, except for the payments expressly provided for in the
20 Settlement Agreement.

21 8. Upon the Effective Date, Lead Plaintiff and each Settlement Class Member, on
22 behalf of themselves, their heirs, beneficiaries, trustees, executors, administrators, predecessors,
23 successors and assigns, and any other person claiming by, through or on behalf of them, shall be
24 deemed by operation of law to (a) have released, resolved, relinquished, waived, discharged and
25 dismissed each and every one of the Released Claims against the Released Parties; (b) forever be
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1 enjoined from commencing, instituting or prosecuting any or all of the Released Claims against
2 any of the Released Parties; and (c) forever be enjoined from instituting, continuing, maintaining
3 or asserting, either directly or indirectly, whether in the United States or elsewhere, on their own
4 behalf or on behalf of any class or any other person, any action, suit, cause of action, claim or
5 demand against any person or entity who may claim any form of contribution or indemnity from
6 any of the Released Parties in respect of any Released Claim or any matter related thereto.

7 9. Notwithstanding any of the releases above, nothing in this Judgment shall bar any
8 action by any of the Settling Parties to enforce or effectuate the terms of the Settlement
9 Agreement, the Preliminary Approval Order, or this Judgment.

10 10. The fact and terms of the Settlement Agreement, including the exhibits thereto,
11 this Judgment, all negotiations, discussions, drafts and proceedings in connection with the
12 Settlement Agreement, and any act performed or document signed in connection with the
13 Settlement Agreement:

14 a. Shall not be offered or received against the Released Parties, Lead
15 Plaintiff or the other Settlement Class Members as evidence of, or be deemed to be evidence of,
16 any presumption, concession or admission by any of the Released Parties or by Lead Plaintiff or
17 the other Settlement Class Members with respect to the truth of any fact alleged by Lead Plaintiff
18 or the validity, or lack thereof, of any claim that has been or could have been asserted in the
19 Action or in any litigation, or the deficiency of any defense that has been or could have been
20 asserted in the Action or in any litigation, or of any liability, negligence, fault or wrongdoing of
21 the Released Parties;

22 b. Shall not be offered or received against the Released Parties as evidence of
23 a presumption, concession or admission of any fault, misrepresentation or omission with respect
24 to any statement or written document approved or made by any Released Party, or against Lead
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1 Plaintiff or any of the other Settlement Class Members as evidence of any infirmity in the claims
2 of Lead Plaintiff and the other Settlement Class Members;

3 c. Shall not be offered or received against the Released Parties, Lead
4 Plaintiff or the other Settlement Class Members as evidence of a presumption, concession or
5 admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to
6 for any other reason as against any of the foregoing parties, in any arbitration proceeding or other
7 civil, criminal or administrative action or proceeding, other than such proceedings as may be
8 necessary to effectuate the provisions of this Settlement Agreement; provided, however, that if
9 the Settlement Agreement is approved by the Court, the Released Parties may refer to this
10 Settlement Agreement to effectuate the protection from liability granted them hereunder;

11 d. Shall not be construed against the Released Parties, TFI Defendants'
12 Counsel, Lead Plaintiff's Counsel or Lead Plaintiff or the other Settlement Class Members as an
13 admission or concession that the consideration to be paid hereunder represents the amount which
14 could be or would have been recovered after trial; and

15 e. Shall not be construed as or received in evidence as an admission,
16 concession or presumption against Lead Plaintiff or the other Settlement Class Members or any
17 of them that any of their claims are without merit or that damages recoverable under the
18 Complaint would not have exceeded the Settlement Amount.

19 11. No Settlement Class Member shall have any claim against Lead Plaintiff, Lead
20 Plaintiff's Counsel, or against any of the TFI Defendants, the Released Parties or the TFI
21 Defendants' Counsel based on the investments, costs, expenses, administration, allocations,
22 payments, and distributions that are made substantially in accordance with the Settlement, this
23 Judgment or further order of the Court.

24 12. The Court reserves jurisdiction, without affecting in any way the finality of this
25 Judgment, over: (a) implementation and enforcement of the Settlement; (b) the allowance,
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1 disallowance or adjustment of any Settlement Class Member's Claim on equitable grounds and
2 any award to Authorized Claimants; (c) enforcing and administering this Judgment, including the
3 releases entered herein; (d) enforcing and administering the Settlement; and (e) any other matters
4 related or ancillary to the foregoing.

5 13. In the event that the Effective Date of the Settlement does not occur or the
6 Settlement Agreement is terminated pursuant to its terms, then this Judgment shall be rendered
7 null and void to the extent provided by and in accordance with the Settlement Agreement, and
8 shall be vacated to the extent provided by the Settlement Agreement and, in such event: (a) all
9 Orders entered and releases delivered in connection herewith shall be null and void to the extent
10 provided by and in accordance with the Settlement Agreement; and (b) the fact of the Settlement
11 shall not be admissible in any trial of this Action and the Settling Parties shall be deemed to have
12 reverted to their respective status in this Action immediately prior to October 10, 2018.

13 14. Without further Order of the Court, the Settling Parties may agree to reasonable
14 extensions of time or other reasonable modifications necessary to carry out any of the provisions
15 of the Settlement Agreement.

16 15. There is no just reason for delay in the entry of this Judgment and immediate
17 entry by the Clerk of the Court is expressly directed.

18 IT IS SO ORDERED.

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20 Dated: September 26, 2019

David O. Carter

DAVID O. CARTER
U.S. District Judge