

1 William D. Marler, Admitted *Pro Hac Vice*
2 Denis W. Stearns, Admitted *Pro Hac Vice*
3 MARLER CLARK LLP., P.S.
4 1012 First Avenue, Fifth Floor
5 Seattle, WA 98104
6 Phone: 206-346-1888 / Fax: 206-346-1898
7 Email: bmarler@marlerclark.com
8 dstearns@marlerclark.com

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6 **Attorneys for the Plaintiffs and Class**

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 **Jacob Petersen**, *et al.*, individually, and on
10 behalf
11 of all others similarly situated,
12
13 Plaintiffs,

CASE NO. 8:13-cv-01292 DOC (JCGx)
Assigned To: Hon. David O. Carter

14 v.

ORDER AND FINAL JUDGMENT [432]

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

24 WHEREAS, this matter came before the Court for hearing on August 21, 2020 (the “Final
25 Approval Hearing”), on the application of Gayle Prather, on behalf of herself and each of the
26 Arizona Class Members; Suzanne Faber, on behalf of herself and each of the Colorado Class
27 Members; Leslie Lee, on behalf of herself and each of the Idaho Class Members; Thomas Fiore,

1 on behalf of himself and each of the Nevada Class Members; Leslie Straka, on behalf of herself
2 and each of the Oregon Class Members; David Troutman, on behalf of himself and each of the
3 New Mexico Class Members; Andrea Medrano, on behalf of herself and each of the Hawaii Class
4 Members; and Aerol and Amy Paden, on behalf of themselves and each of the Washington Class
5 Members (collectively the “Settlement Class Members”) and Costco Wholesale Corp., Townsend
6 Farms, Inc., and Fallon Trading Co. (the “TFI Defendants,” and collectively with the Settling Class
7 Members, the “Settling Parties”), to determine (i) whether the terms and conditions of the
8 Agreement of Settlement, (the “Settlement”), annexed hereto as Exhibit A, and the proposed
9 settlement embodied therein are fair, reasonable, and adequate and should be approved by the
10 Court; and (ii) whether a Judgment providing, among other things, for the dismissal with prejudice
11 of the claims of the Settlement Class Members, against the TFI Defendants as provided for in the
12 Settlement, should be entered; and

13 WHEREAS, the Court, in its Order dated November 27, 2019 (the “Preliminary Approval
14 Order”), directed that the Notice Postcard and Class Action Notice Claim Form (“Notice
15 Package”), will be mailed by first-class mail, postage pre-paid, to all potential Settlement Class
16 Members at the address of each such potential Settlement Class Member as set forth in Costco’s
17 records, or who otherwise could be identified through reasonable effort, and that the Claims
18 Administrator will establish a website where Claimants may submit a Proof of Claim Form online
19 where each Claimant must swear under oath the Eligibility Requirements, are met; and that the
20 Notice Package and Proof of Claim Form be posted to a website dedicated to the administration
21 of the Settlement; and

22 WHEREAS, the provisions of the Preliminary Approval Order and the Court’s Order dated
23 November 27, 2019 as to notice were complied with; and

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

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

6 WHEREAS, on July 7, 2019, Lead Plaintiffs, joined by Defendants, moved for final
7 approval of the Settlement;

8 WHEREAS, the Final Approval Hearing was duly held before this Court on July 13, 2020,
9 at which time all interested persons were afforded the opportunity to be heard; and

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

13 NOW THEREFORE, IT IS HEREBY ORDERED:

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

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

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

3 4. Pursuant to and in compliance with Rule 23 of the Federal Rules of Civil Procedure,
4 the Court hereby finds that due and adequate notice of these proceedings was directed to all persons
5 and entities who are Settlement Class Members, advising them of their right to seek to exclude
6 themselves from the Settlement Class, of the Settlement and of their right to object thereto, and a
7 full and fair opportunity was accorded to all persons and entities who are Settlement Class
8 Members to be heard with respect to the Settlement. Thus, it is hereby determined that all
9 Settlement Class Members who did not timely and properly elect to exclude themselves from the
10 Settlement Class by written communication postmarked or otherwise delivered on or before the
11 date set forth in the Court's Order dated November 27, 2019, and the Notice are bound by this
12 Judgment. Those persons and entities who timely and properly requested to be excluded from the
13 Settlement Class are set forth on Exhibit B annexed hereto.

14 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court finds that
15 the Settlement is fair, reasonable, and adequate, and in the best interests of the Settlement Class
16 Members, including Lead Plaintiffs. This Court further finds that the Settlement is the result of
17 arm's length negotiations between experienced counsel representing the interests of the Settling
18 Parties and that it was negotiated with the assistance of an experienced mediator. Accordingly, the
19 Settlement is hereby approved in all respects and shall be consummated in accordance with the
20 terms and provisions of the Settlement Agreement.

21 6. The Court finds and concludes that the Settling Parties and their respective counsel
22 have complied in all respects with the requirements of Rule 11 of the Federal Rules of Civil
23 Procedure in connection with the commencement, maintenance, prosecution, defense and
24 settlement of the claims of the Settlement Class Members.
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1 7. The Claims of the Settlement Class Members are dismissed with prejudice. The
2 Settling Parties are to bear their own costs, except for the payments expressly provided for in the
3 Settlement Agreement.

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

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

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

22 a. Shall not be offered or received against the Released Parties, Lead Plaintiffs
23 or the other Settlement Class Members as evidence of, or be deemed to be evidence of, any
24 presumption, concession or admission by any of the Released Parties or by Lead Plaintiffs or the
25 other Settlement Class Members with respect to the truth of any fact alleged by Lead Plaintiffs or
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1 the validity, or lack thereof, of any claim that has been or could have been asserted in the Action
2 or in any litigation, or the deficiency of any defense that has been or could have been asserted in
3 the Action or in any litigation, or of any liability, negligence, fault or wrongdoing of the Released
4 Parties;

5 b. Shall not be offered or received against the Released Parties as evidence of
6 a presumption, concession or admission of any fault, misrepresentation or omission with respect
7 to any statement or written document approved or made by any Released Party, or against Lead
8 Plaintiffs or any of the other Settlement Class Members as evidence of any infirmity in the claims
9 of Lead Plaintiffs and the other Settlement Class Members;

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

18 d. Shall not be construed against the Released Parties, TFI Defendants'
19 Counsel, Lead Plaintiffs' Counsel or Lead Plaintiffs or the other Settlement Class Members as an
20 admission or concession that the consideration to be paid hereunder represents the amount which
21 could be or would have been recovered after trial; and

22 e. Shall not be construed as or received in evidence as an admission,
23 concession or presumption against Lead Plaintiffs or the other Settlement Class Members or any
24 of them that any of their claims are without merit or that damages recoverable under the Complaint
25 would not have exceeded the Settlement Amount.
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1 11. No Settlement Class Member shall have any claim against Lead Plaintiffs, Lead
2 Plaintiffs' Counsel, or against any of the TFI Defendants, the Released Parties or the TFI
3 Defendants' Counsel based on the investments, costs, expenses, administration, allocations,
4 payments, and distributions that are made substantially in accordance with the Settlement, this
5 Judgment or further order of the Court.

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

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

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

23 15. There is no just reason for delay in the entry of this Judgment and immediate entry
24 by the Clerk of the Court is expressly directed.
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IT IS SO ORDERED.

DATED: September 11, 2020

David O. Carter

THE HONORABLE DAVID O. CARTER
UNITED STATES DISTRICT JUDGE

ORDER AND FINAL JUDGMENT [432]

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