

1 James R. Hawkins, Esq. SBN192925
Isandra Fernandez, Esq. SBN220482
2 Lance Dacre, Esq. SBN190305
3 JAMES HAWKINS, APLC
9880 Research Drive, Suite 200
4 Irvine, CA 92618
TEL: (949) 387-7200
5 FAX: (949) 387-6676

6 Attorneys for Plaintiff, BENJAMIN FERNANDO MARTINEZ
7 On behalf of himself and all others similarly situated
8
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 BENJAMIN FERNANDO MARTINEZ,

13 Plaintiff,

14 v.

15 COSTCO WHOLESALE CORPORATION,

16 Defendant.
17

Case No.: 19-cv-05624-EMC

**DECLARATION OF BRYN BRIDLEY
ON DISTRIBUTION OF THE GROSS
SETTLEMENT AMOUNT**

18
19 I, Bryn Bridley declare as follows:

20 1. I am the Director of Project Management at Atticus Administration, LLC
21 (“Atticus”), a firm providing class action and claims administration services. I have extensive
22 experience with class action notice and claims administration. I am fully familiar with the facts
23 contained herein based upon my personal knowledge and involvement with the above-captioned
24 action.

25 2. Atticus was the Court appointed Settlement Administrator for the above-captioned
26 action and is responsible for carrying out the terms of the *Class Action Settlement Agreement*
27 (“Settlement Agreement”) pursuant to the Court’s *Order Preliminarily Approving Settlement and*
28 *Providing for Notice* (“Preliminary Approval Order”) dated July 25, 2022 and the *Order Granting*

1 *Final Approval of Class Action Settlement Agreement, and Granting Attorney's Fees* ("Final
2 Approval Order") dated January 27, 2023.

3 3. I submit this declaration to inform the Parties and the Court of the distribution
4 activities completed with respect for this action. This declaration describes: (i) the receipt and
5 allocation of the Gross Settlement Amount, (ii) the distribution of Settlement Class Payments to
6 Class Members, and (iii) the residual settlement funds.

7 **I. RECEIPT AND ALLOCATION OF SETTLEMENT FUNDS**

8 4. On February 16, 2023, Defendant funded the Qualified Settlement Fund ("QSF")
9 established by Atticus with the \$2,250,000 Gross Settlement Amount contemplated by § 3. ¶ 3.1
10 of the Settlement Agreement. An additional \$60,347.78 was funded for employer taxes. The
11 \$2,250,000 Gross Settlement Amount was allocated as follows:

- 12 a) \$6,000.00 Enhancement Payment to Class Representative Benjamin
- 13 Fernando Martinez, sent by U. S. Certified mail on February 24, 2023,
- 14 b) \$577,259.83 to James Hawkins APLC as the Class Counsel Award, sent
- 15 by wire on February 22, 2023,
- 16 c) \$94,159.80 to Atticus for Administrative Costs, and a
- 17 d) \$1,572,580.37 Net Settlement Amount for Settlement Class Payments. Of
- 18 this amount, \$146,078.40 was used for employee taxes and \$1,426,501.97
- 19 was distributed to participating Settlement Class Members

20 **II. DISTRIBUTION OF SETTLEMENT CLASS PAYMENTS**

21 5. Atticus calculated the Settlement Class Payments in accordance with § 7 ¶ 7.5 of
22 the Settlement Agreement. Each Settlement Class Member received a proportionate share of the
23 Net Settlement Amount based on the number of Extra Check Paid Hours that they were paid
24 during the Settlement Period. Each individual Settlement Class Member's Extra Check Hours
25 were divided by the Total Extra Check Paid Hours worked by the Settlement Class as a whole,
26 the result of which was multiplied by the Net Settlement Amount to calculate their Settlement
27 Class Payment. Settlement Class Payments ranged from \$0.02 to \$93.95, and the average net
28 payment amount was \$44.95.

1 6. On February 24, 2023, Settlement Class Payments were sent to 31,735 Settlement
2 Class Members via U.S. first class mail. The check expiration date was August 23, 2023, which
3 was 180 days after the checks were mailed. Payments were allocated 25% to wages and 75% to
4 interest and penalties and the checks were mailed with IRS Forms W-2 and 1099. A true and
5 correct copy of the check template is attached hereto as **Exhibit A**.

6 7. Of the 31,735 settlement payments mailed, 680 were returned to Atticus as
7 undeliverable. Of the undeliverable pieces received, 198 included forwarding information and the
8 checks were promptly remailed to the forwarding addresses. Four hundred seventy-nine (479) of
9 the remaining 482 undeliverable records were sent to a professional service for address tracing.
10 New addresses were obtained for 317 undeliverable records and were not obtained for the other
11 162 records. Payments were promptly remailed to the 317 addresses received through trace.
12 Forty-three (43) of the checks remailed to addresses received through trace were returned as
13 undeliverable a second time. Three (3) undeliverable records were not traced because they were
14 returned after the check expiration date. Thus, 31,527 or 99.34% of the checks sent were
15 successfully mailed.

16 8. On July 24, 2023, a check cashing reminder postcard was sent to 6,931
17 participating Class Members who had been mailed checks that had not yet been negotiated at that
18 time. The postcard advised recipients of the check expiration date and how to contact Atticus to
19 request a payment reissue if necessary. A true and correct copy of the reminder mailing is attached
20 hereto as **Exhibit B**.

21 9. Twenty-five thousand six hundred sixty-five (25,665) of the 31,735 total
22 settlement payments were negotiated. The value of the cashed awards was \$1,256,501.64 or
23 88.08% of the Net Settlement Amount dispersed. Six-thousand seventy (6,070) checks totaling
24 \$170,000.33 were not claimed. Forty-four (44) of the uncashed checks, however, were remailed
25 to requesting Class Members and have not yet expired. The net sum of these 44 payments total
26 \$1,186.37, all or a portion of which may still be claimed. The latest check expiration date is
27 September 22, 2023.

28 **III. RESIDUAL SETTLEMENT FUNDS**

1 10. Currently, the balance in the QSF account is \$170,000.60, which is \$0.27 more
2 than the sum of uncashed payments. The \$0.27 discrepancy is the result of employer taxes being
3 less the amount funded. This amount will be reverted to Defendant.

4 11. Pursuant to § 7 ¶ 7.7 of the Settlement Agreement, all uncashed checks for Class
5 Members with California addresses are to be transferred to the State of California Controller's
6 Office Unclaimed Property Division in the names of the Settlement Class Members whose checks
7 were voided. A total of \$157,346.79 in unclaimed Settlement Class Payments allocated to Class
8 Members whose last known address is in the State of California will be remitted to the California
9 State Controller's Office in the names of the designated Class Members. As a class action
10 settlement administration firm in good standing, Atticus is permitted to remit unclaimed funds to
11 the State of California in advance of the otherwise required holding period described in the
12 Unclaimed Property regulations and will proceed with the transfer of all remaining California
13 unclaimed funds upon expiration of the final September 22, 2023 check expiration date.

14 12. The other \$12,653.54 in unclaimed funds, apportioned to Class Members in 42
15 states other than California, will be held by Atticus in a designated escheatment fund in
16 accordance with the holding period requirements defined by the unclaimed property regulations
17 set forth in the states of residence of the Class Members with unclaimed funds. Atticus will reissue
18 payments as requested from Class Members and send a due diligence letter to each Class Member
19 at the last known address of record in a final attempt to reach them during the holding periods.
20 Unclaimed funds thereafter will be remitted to each applicable state upon fulfillment of the state's
21 holding period.
22

23 **I declare under penalty of perjury under the laws of the State of California and the**
24 **United States that the forgoing is true and correct to the best of my knowledge. This**
25 **declaration was executed on this the 13th day of September, 2023.**

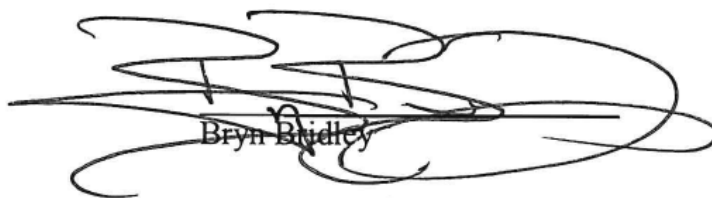
26
27
28 
Bryn Bradley

EXHIBIT A

CHECK DATE: 2/24/2023
CHECK NUMBER: «CheckNum»
CHECK AMOUNT: «CheckAmountT»
CHECK EXPIRATION: 8/23/2023
CLAIMANT ID: «clmnt_id»

«clmnt_id»-«SEQ»
«Name1»
«addr1»
«city», «st» «Zip»

Dear «Name1»,

This check is issued pursuant to the terms of the class action settlement in *Benjamin Fernando Martinez v. Costco Wholesale Corporation*, Case No. 3:19-cv-05624-EMC.

Please be advised that you have 180 days from the date of issue to deposit, cash, or otherwise convert this check. If you do not deposit, cash, or otherwise convert your check within 180 days, it will become void.

If you need to request re-issuance of your check, please write "VOID" on this check and mail it with a letter providing your name update or correction to: Martinez v Costco Settlement, c/o Atticus Administration, PO Box 64053, Saint Paul, MN 55164 or call 1-800-587-6525.

Regards,
Office of the Settlement Administrator

| | |
|---|---|
| 1 Wages, tips, other compensation «GROSS_WAGEST» | 2 Federal income tax withheld «FITT» |
| 3 Social security wages «GROSS_WAGEST» | 4 Social security tax withheld «FICAT» |
| 5 Medicare wages and tips «GROSS_WAGEST» | 6 Medicare tax withheld «FICAMT» |
| Employee's social security number «SSN» | |
| Employer identification number (EIN) 92-2133559 | |
| Employer's name, address, and ZIP code Martinez v Costco Settlement Fund 1250 Northland Dr, Suite 240 Saint Paul, MN 55120 | |
| Employee's name and address «Name1» «addr1» «city», «st» «Zip» | |
| 15 State Employer's state ID Number «TS» «StateID» | 14 Other SDI «SDIT» |
| 16 State wages, tips, etc. «GROSS_WAGEST» | 17 State income tax «SITT» |
| Copy B To Be Filed With Employee's FEDERAL Tax Return | |

| |
|---|
| 3 Other Income «NET_PENALTY_PAYMENTT» |
| 4 Federal income tax withheld |
| Recipient's social security number «SSN» |
| Payer identification number (EIN) 92-2133559 |
| Payer's name, address, and ZIP code Martinez v Costco Settlement Fund 1250 Northland Dr, Suite 240 Saint Paul, MN 55120 |
| Recipient's name «Name1» «addr1» «city», «st» «Zip» |
| Copy B For Recipient This is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported |

1099-Misc Instructions for Recipient
Recipient's taxpayer identification number. For your protection, this form may show only the last four digits of your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN). However, the issuer has reported your complete identification number to the IRS.
Account number. May show an account or other unique number the payer assigned to distinguish your account.
Amounts shown may be subject to self-employment (SE) tax. If your net income from self-employment is \$400 or more, you must file a return and compute your SE tax on Schedule SE (Form 1040). See Pub. 334 for more information. If no income or social security and Medicare taxes were withheld and you are still receiving these payments, see Form 1040-ES (or Form 1040-ES(NR)). Individuals must report these amounts as explained in the box 7 instructions on this page. Corporations, fiduciaries, or partnerships must report the amounts on the proper line of their tax returns.
Form 1099-MISC incorrect? If this form is incorrect or has been issued in error, contact the payer. If you cannot get this form corrected, attach an explanation to your tax return and report your income correctly.
Box 3. Generally, report this amount on the "Other income" line of Schedule 1 (Form 1040) and identify the payment. The amount shown may be payments received as the beneficiary of a deceased employee, prizes, awards, taxable damages, Indian gaming profits, or other taxable income. See Pub. 525. If it is trade or business income, report this amount on Schedule C or F (Form 1040).

Earned income credit (EIC). You may be able to take the EIC for 2023 if your adjusted gross income (AGI) is less than a certain amount. The amount of the credit is based on income and family size. Workers without children could qualify for a smaller credit. You and any qualifying children must have valid social security numbers (SSNs). You can't take the EIC if your investment income is more than the specified amount for 2023 or if income is earned for services provided while you were an inmate at a penal institution. For 2023 income limits and more information, visit www.irs.gov/EITC. Also see Pub. 596, Earned Income Credit. **Any EIC that is more than your tax liability is refunded to you, but only if you file a tax return.**

Instructions for Employee
Box 1. Enter this amount on the wages line of your tax return.
Box 2. Enter this amount on the federal income tax withheld line of your tax return.
Box 5. You may be required to report this amount on Form 8959, Additional Medicare Tax. See the Form 1040 instructions to determine if you are required to complete Form 8959. Box 6. This amount includes the 1.45% Medicare Tax withheld on all Medicare wages and tips shown in box 5, as well as the 0.9% Additional Medicare Tax on any of those Medicare wages and tips above \$200,000.

Form W-2 2023
Wage and Tax Statement
Department of the Treasury – Internal Revenue Service

Form 1099-MISC 2023
Miscellaneous Income
OMB No. 1545-0115

Martinez v Costco Settlement Fund
PO Box 64053
Saint Paul, MN 55164

Platinum Bank
7667 10th Street North
Oakdale, MN 55128
(844) 200-6440

check# «CheckNum»

Date 2/24/2023

Pay to the
Order Of «Name1»
«SpellAmt»

\$ «CheckAmountT»
Dollars

«Name1»
«addr1»
«city», «st» «Zip»

CASH PROMPTLY – VOID AFTER 8/23/2023

EXHIBIT B

Benjamin Fernando Martinez v. Costco Wholesale Corp.

U.S. DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA

Case No. 3:19-cv-05624-EMC

On February 24, 2023, a check related to the above captioned Settlement was mailed to you. Our records indicate that you have not yet cashed your Settlement Class Payment. Please note that Settlement Class Payments must be cashed by **August 23, 2023**. Checks will be void after that date and if you attempt to cash a voided check you may incur bank fees.

If you need your check reissued, please contact the Settlement Administrator by phone: 1-800-587-6525.

Sincerely,
Office of the Settlement Administrator

Martinez v. Costco Settlement
c/o Atticus Administration
PO Box 64053
St. Paul, MN 55164



<<BARCODE_TEXT>>

Claimant ID: <<Claimant ID>>
<<first name>> <<last name>>
<<address1>> <<address2>>
<<city>>, <<state>> <<zip>>