

HONORABLE MARY E. ROBERTS

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

JULIUS TERRELL, as an individual and as a  
representative of the class,

Plaintiff,

v.

COSTCO WHOLESALE CORP.,

Defendant.

NO. 16-2-19140-1 SEA

~~PROPOSED~~ ORDER GRANTING  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT

CLERK'S ACTION REQUIRED

Plaintiff Julius Terrell has moved for preliminary approval of a class action settlement with Costco Wholesale Corporation. The terms of the settlement are set forth in the Class Action Settlement Agreement and Release attached as Exhibit A to the Declaration of E. Michelle Drake in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement.

The Court has read and considered the Settlement Agreement, the exhibits attached thereto, and the briefing submitted in support of preliminary approval of the settlement and is fully advised.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The Court preliminarily approves the Settlement Agreement between Plaintiff and Costco.

1           2.     The settlement appears to be the product of serious, informed, non-collusive  
2 negotiations, has no obvious deficiencies and does not improperly grant preferential treatment  
3 to any class members, and falls within the range of possible judicial approval. *See William B.*  
4 *Rubenstein, Newberg on Class Actions* § 13:10 (5th ed. 2016).

5           3.     For purposes of settlement only, the Court finds that the Settlement Class  
6 satisfies the requirements of CR 23(a) and (b)(3) and grants preliminary certification of the  
7 following Settlement Class:

8                   All individuals on whom Costco Wholesale Corp. obtained a  
9 background report for employment purposes who were given a  
10 disclosure form that was substantially similar to the disclosure  
11 form attached to the Complaint as Exhibit A. Class membership  
12 begins on August 10, 2014 and continues through April 17, 2017.

13           4.     The numerosity requirement is satisfied because Costco estimates that the  
14 Settlement Class consists of 113,839 individuals. *See Miller v. Farmer Bros. Co.*, 115 Wn.  
15 App. 815, 821, 64 P.3d 49 (2003).

16           5.     The commonality requirement is satisfied because there are overarching  
17 questions of law and fact common to the class, including whether Costco's disclosure form  
18 violated the FCRA's stand-alone disclosure requirement and whether Costco's conduct was  
19 willful. *See Smith v. Behr Process Corp.*, 113 Wn. App. 306, 320, 54 P.3d 665 (2002).

20           6.     The typicality requirement is satisfied because Plaintiff's claim arises from the  
21 same course of conduct that gives rise to the claims of other Settlement Class Members and is  
22 based on the same legal theory. *See Pellino v. Brink's Inc.*, 164 Wn. App. 668, 684, 267 P.3d  
23 383 (2011).

24           7.     The adequacy requirement is satisfied because Plaintiff has no interests  
25 antagonistic to the other Class Members and is represented by qualified counsel. *See Hansen v.*  
26 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

1           8.       The predominance requirement is satisfied because there is a “common nucleus  
2 of operative facts” to each Settlement Class Member’s claim, and all Class Members were  
3 subject to the same conduct by Costco. *See Behr*, 113 Wn. App. at 323.

4           9.       The superiority requirement is satisfied because the resolution of approximately  
5 113,839 claims in one action is far superior to individual lawsuits and promotes consistency  
6 and efficiency of adjudication, particularly in a case like this one with modest statutory  
7 damages. *See Singleton v. Domino’s Pizza, LLC*, 976 F. Supp. 2d 665, 678 (D. Md. 2013).

8           10.      For the purposes of settlement, the Court appoints Julius Terrell as the Class  
9 Representative.

10          11.      The Court appoints E. Michelle Drake and Joe Hashmall of Berger & Montague,  
11 P.C. and Beth Terrell of the Terrell Marshall Law Group PLLC as Class Counsel.

12          12.      The Court appoints JND Legal Administration as the Settlement Administrator.  
13 The Settlement Administrator shall disseminate notice to Class Members, by mail and email,  
14 calculate settlement payments, mail settlement payments and tax forms, and create a settlement  
15 website.

16          13.      The Court approves, as to form and content, the notice documents that are  
17 attached to the Settlement Agreement as Exhibits A, B, and C. The notices provide all of the  
18 information Class Members need to evaluate and respond to the settlement, including the nature  
19 of the litigation, the general terms of the proposed settlement, their rights under the settlement,  
20 an explanation of how they can object to or exclude themselves from the settlement, the  
21 identity of Class Counsel and that Class Counsel will request attorneys’ fees from the  
22 settlement fund, and the date and time of the final approval hearing. The notices also direct  
23 Class Members to a website that will provide additional information about the settlement, as  
24 well as a toll-free number that Class Members can call with questions about the settlement.

25          14.      The Court also approves the parties’ plan for disseminating notice, which will  
26 ensure that Settlement Class Members receive “the best notice practicable under the  
circumstances.” *See* CR 23(c)(2). Issuance of notice substantially in the manner set forth in this

1 paragraph satisfies the requirements of due process and applicable law and constitutes due and  
2 sufficient notice to all members of the Settlement Class.

3 15. Within ten calendar days of this order, Costco will provide the Settlement  
4 Administrator with a class list containing the names and contact information for the Settlement  
5 Class Members, including social security numbers. The Settlement Administrator shall keep the  
6 class data strictly confidential and use it only for the purposes of administering this settlement.

7 16. Within 14 days of this order, the Settlement Administrator shall distribute notice  
8 to all Settlement Class Members as provided in the Settlement Agreement.

9 17. Costco has identified 1,510 Class Members who, according to a reasonable  
10 review of Costco's records, were denied employment or otherwise not hired based on  
11 background reports Costco obtained through use of the disclosure form at issue in this case.  
12 These "Class Members Entitled to Autopay" do not need to submit a claim form to participate  
13 in the settlement. All other Settlement Class Members who wish to participate in the settlement  
14 must submit a claim form no later than 60 days after distribution of notice.

15 18. Any Settlement Class Member may exclude himself or herself from the  
16 settlement by submitting a written request to the Settlement Administrator no later than 60 days  
17 after distribution of notice. The opt-out request must include the following information: (1) the  
18 Class Member's full name and current mailing address, (2) the last four digits of the Class  
19 Member's social security number, and (3) an express statement that the Class Member wishes  
20 to be excluded from the terms of the Settlement Agreement. Any Class Member who opts out  
21 may not submit an objection, shall participate in the settlement, and shall not be bound by the  
22 releases in the Settlement Agreement. Each Class Member who does not submit a timely, valid  
23 request for exclusion shall be bound by the releases in the Settlement Agreement.

24 19. Any Settlement Class Member may object to the settlement by submitting a  
25 written statement to the Settlement Administrator by 60 days after the distribution of notice.  
26 The statement must include (1) the objector's full name and current mailing address, (2) the last  
four digits of the objector's social security number, (3) the specific reasons for the objection,

1 (4) all evidence and supporting papers (including, without limitation, all briefs, written  
2 evidence, and declarations) for the Court to consider, and (5) identification of all counsel  
3 representing or assisting the objector, if any. Objectors must be available for deposition if either  
4 party wishes to take their deposition. Any objector who fails to appear for a duly noticed  
5 deposition shall be deemed to have withdrawn the objection.

6 20. If a Class Member submits both a request for exclusion and an objection, the  
7 request for exclusion will be valid and will invalidate the objection.

8 21. Class Counsel shall file their motion for attorneys' fees and reimbursement of  
9 costs and for a service payment to the Class Representative no later than 44 days after the  
10 distribution of notice. The motion shall be posted on the settlement website.

11 22. The Settlement Administrator shall provide the parties with a declaration of due  
12 diligence and proof of distribution of notice, including information as to any inability to deliver  
13 notice because of invalid addresses, the number of claims, the number of any requests for  
14 exclusion, and the number of any objections, no later than 67 days after the distribution of  
15 notice. The parties shall provide the declaration to the Court.

16 23. Class Counsel shall file their response to any objections no later than 74 days  
17 after the distribution of notice and 7 days after the Settlement Administrator's report.

18 24. Class Counsel shall file their motion for final approval of the settlement no later  
19 than June 4, 2018

20 25. A final approval hearing shall be held before this Court on June 15,  
21 2018, at 1:30 PM ~~a.m.~~ in the courtroom of the Honorable Mary E. Roberts at King County  
22 Superior Court, 516 3rd Avenue, Room C-203, Seattle, Washington 98104-2386. At the  
23 hearing, the Court will consider whether the prerequisites for class certification and treatment  
24 under CR 23(a) and (b)(3) are satisfied and whether the settlement is fair, reasonable, and  
25 adequate, and should be approved by the Court. The Court will also consider Class Counsel's  
26 motion for attorneys' fees and costs and for a service payment to the Class Representative, and  
rule on any other matters that the Court deems appropriate.

1           26. Any interested person who has not opted out of the Settlement Class may appear  
2 at the final approval hearing to address whether the proposed settlement should or should not  
3 be approved as fair, reasonable, and adequate. No Class Member shall be heard or entitled to  
4 contest the approval of the settlement unless he or she has filed with the Court a valid and  
5 timely written objection. The Court will consider all properly submitted objections. Any Class  
6 Member who does not submit a timely and valid objection shall be deemed to have waived any  
7 objection to the settlement and shall forever be foreclosed from making any objection to  
8 preliminary class certification, to the fairness, adequacy or reasonableness of the settlement,  
9 and to any attorneys' fees, cost reimbursements, or service payment to the Class Representative  
10 approved by the Court

11           27. The Court retains jurisdiction over the action and all matters arising out of or  
12 connected with the proposed settlement. The Court reserves the right to adjourn or continue the  
13 date of the final approval hearing without further notice to Class Members and retains  
14 jurisdiction to consider all further applications arising out of or connected with the settlement.  
15 The Court may approve or modify the settlement without further notice to Class Members.

16           28. If the Court does not enter judgment in accordance with the Settlement  
17 Agreement, or if the Court's judgment is vacated or reversed, then the action shall proceed,  
18 unless the parties jointly agree to seek reconsideration or a renegotiated settlement. Costco  
19 retains the right to contest whether any aspect of the action should be maintained as a class,  
20 collective action, or representative action, and to contest the merits of the claims asserted in the  
21 action.

22  
23 IT IS HEREBY ORDERED.

24 DATED this 1st day of March, 2018.

25  
26   
\_\_\_\_\_  
HONORABLE MARY E. ROBERTS  
KING COUNTY SUPERIOR COURT JUDGE

1 *Presented by:*

2  
3 TERRELL MARSHALL LAW GROUP PLLC

4  
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21 *Attorneys for Plaintiff and the Proposed Settlement Class*





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**EXHIBITS**

Notice of Settlement (to be posted on settlement website)..... A  
Notice of Settlement to Class Members Entitled to Autopay (postcard) ..... B  
Notice of Settlement and Claim Form to Class Members not Entitled to Autopay (postcard) ..... C

1 **1. Definitions**

2 The following definitions apply to this Agreement. Each defined term appears throughout in  
3 initial capital letters.

4 **1.1. Action.** “Action” means the lawsuit entitled *Terrell v. Costco Wholesale Corp.*,  
5 filed August 10, 2016, in the Superior Court of the State of Washington in and for the County of King as  
6 Case No. 16-2-19140-1 SEA, and all complaints filed therein.

7 **1.2. Administrative Costs.** “Administrative Costs” means all amounts owed to the  
8 Settlement Administrator for administering this Agreement.

9 **1.3. Agreement.** “Agreement” means this Class Action Settlement Agreement and  
10 Release, which includes all its Recitals and all the attached Exhibits.

11 **1.4. Class Members Entitled to Autopay.** “Class Members Entitled to Autopay”  
12 refers to the approximately 1,510 Class Members who, based upon records procured for mediation,  
13 Costco believes were denied employment or otherwise not hired based on background reports Costco  
14 obtained through use of The Challenged Disclosure Form.

15 **1.5. Challenged Disclosure Form.** “The Challenged Disclosure Form” refers to a  
16 document, substantially in the form of Exhibit A to the Complaint filed in this Action, that Defendant  
17 used for employment purposes before obtaining background reports on Class Members during the  
18 Settlement Period.

19 **1.6. Claim Form.** “Claim Form” refers to a postcard that a Class Member may sign  
20 and submit to the Settlement Administrator to seek an Individual Settlement Payment. Class Members  
21 Entitled to Autopay need not submit a Claim Form to obtain a payment.

22 **1.7. Claimant.** “Claimant” refers to all Class Members who timely submit a proper  
23 claims form to the Settlement Administrator as described in Section 7 of this Agreement.

24 **1.8. Class Counsel.** “Class Counsel” refers to E. Michelle Drake and Joe Hashmall of  
25 Berger & Montague, P.C., and to Beth E. Terrell of the Terrell Marshall Law Group PLLC. For purposes  
26 of providing notice under this Agreement, Class Counsel shall refer to E. Michelle Drake,  
27 emdrake@bm.net, Joe Hashmall, jhashmall@bm.net, and Beth E. Terrell, bterrell@terrellmarshall.com.  
28

1           **1.9. Class Counsel Fees.** “Class Counsel Fees” refers to the amount of attorney’s fees  
2 and costs that the Court awards in connection with resolving the Action in accordance with this  
3 Agreement.

4           **1.10. Class Members.** “Class Members” refers to those approximately 113,839  
5 individuals who for purposes of this Agreement will be certified as members of the Settlement Class,  
6 defined as follows: all individuals on whom Defendant obtained a background report for employment  
7 purposes through use of the Challenged Disclosure Form during the Settlement Period.

8           **1.11. Class Period.** See “Settlement Period.”

9           **1.12. Class Representative.** “Class Representative” refers to the Plaintiff, Julius  
10 Terrell.

11           **1.13. Class Representative Service Payment.** See “Service Payment.”

12           **1.14. Complaint.** “Complaint” refers to any and all complaints filed in the Action.

13           **1.15. Consideration Period.** “Consideration Period” refers to the 60 calendar days  
14 following initial mailing of the Postcard Notice and direction to the Notice of Settlement, during which  
15 a Class Member may submit (a) a Claim Form, (b) an Objection, or (c) a Request for Exclusion.

16           **1.16. Court.** “Court” refers to the judge presiding over this Action (currently The Hon.  
17 Mary Rogers) in the Washington Superior Court for the County of King.

18           **1.17. Defendant.** “Defendant” refers to Costco Wholesale Corporation.

19           **1.18. Defense Counsel.** “Defense Counsel” refers to Seyfarth Shaw LLP and  
20 Winterbauer & Diamond PLLC. For purposes of providing any notices required under this Agreement,  
21 Defense Counsel shall refer to Pamela Devata (pdevata@seyfarth.com), Courtney Stieber  
22 (cstieber@seyfarth.com), David Kadue (dkadue@seyfarth.com), and Steven H. Winterbauer  
23 (steven@winterbauerdiamond.com).

24           **1.19. Effective Date.** “Effective Date” is the date 14 days after the last of the following  
25 dates: (i) if no Objection has been submitted, then the date in which the Court signs the Final Approval  
26 Order, (ii) if an Objection has been submitted, then the date on which there is a Judgment subject to no  
27 further appeal.



1           **1.20. Fairness Hearing.** “Fairness Hearing” is the hearing at which the Court decides  
2 whether the terms of the Agreement are fair, reasonable, and adequate and meet all requirements for Final  
3 Approval.

4           **1.21. Final Approval Order.** “Final Approval Order” is the order the Court issues, in  
5 connection with the Fairness Hearing, that approves this Agreement.

6           **1.22. Gross Settlement Amount.** “Gross Settlement Amount” refers to the total  
7 payment Defendant is obligated to make in connection with the Agreement: \$2,490,000. This sum  
8 includes all Individual Settlement Payments, any Service Payment, all Administrative Costs, and the  
9 Class Counsel Fees.

10           **1.23. Individual Settlement Payment.** “Individual Settlement Payment” refers to the  
11 amount the Settlement Administrator distributes from the Net Settlement Amount to each Settlement  
12 Class Member Entitled to Autopay and each Claimant.

13           **1.24. Judgment.** “Judgment” refers to the final judgment entered by the Court in this  
14 Action after approving the Agreement.

15           **1.25. Net Settlement Amount.** “Net Settlement Amount” refers to the portion of the  
16 Gross Settlement Amount that remains after accounting for any Service Payment, Administrative Costs,  
17 and the Class Counsel Fees.

18           **1.26. Notice of Settlement.** “Notice of Settlement” means a notice of the terms of the  
19 Agreement, substantially in the form attached as *Exhibit A*. The Settlement Administrator will post the  
20 Notice of Settlement on a settlement website. The website address of this Notice will be provided to all  
21 Class Members in the Postcard Notice.

22           **1.27. Objection.** “Objection” refers to a written statement timely submitted to the  
23 Settlement Administrator that contains (1) the Objector’s full name and current mailing address, (2) the  
24 last four digits of the Objector’s social security number, (3) the specific reason(s) for the Objection, (4) all  
25 evidence and supporting papers (including, without limitation, all briefs, written evidence, and  
26 declarations) for the Court to consider, and (5) identification of all counsel representing or assisting the  
27 Objector, if any.

28           **1.28. Objector.** “Objector” refers to a Class Member who has submitted an Objection.

1           **1.29. Parties.** “Parties” refers collectively to (1) Plaintiff and (2) Defendant.

2           **1.30. Plaintiff.** “Plaintiff” refers to the Class Representative, Julius Terrell.

3           **1.31. Postcard Notices.** “Postcard Notices” refers to postcards summarizing the Notice  
4 of Settlement that the Settlement Administrator will mail to all Class Members. One version of the  
5 Postcard Notice (*Exhibit B*) will go to Class Members Entitled to Autopay and a different version of the  
6 Postcard Notice (*Exhibit C*) will go to the remaining Class Members (along with the Claims Form  
7 described in 1.6 above).

8           **1.32. Preliminary Approval.** “Preliminary Approval” refers to the court order granting  
9 Preliminary Approval of this Agreement.

10          **1.33. Qualified Settlement Fund.** “Qualified Settlement Fund” means a qualified  
11 settlement fund established pursuant to U.S. Treasury Regulation section 468B-1, 29 C.F.R. § 468B-1.

12          **1.34. Released Claims.** “Released Claims” means all claims that this Agreement will  
13 extinguish as to all Class Members who do not submit a Request for Exclusion.

14          **1.35. Released Parties.** “Released Parties” refers to Defendant and each and all of its  
15 current or former subsidiaries, parents, affiliates, predecessors, insurers, agents, employees, successors,  
16 assigns, officers, officials, directors, attorneys, personal representatives, executors, and shareholders,  
17 including their respective pension, profit sharing, savings, health, and other employee benefits plans of  
18 any nature, the successors of such plans, and those plans’ respective current or former trustees and  
19 administrators, agents, employees, and fiduciaries. “Released Parties” does not include any background  
20 check company, consumer reporting agency, or similar entity from whom Defendant procured consumer  
21 reports on Class Members.

22          **1.36. Request for Exclusion.** “Request for Exclusion” refers to a timely, written, opt-  
23 out request signed by a Class Member and submitted to the Settlement Administrator with the following  
24 information: (1) the Class Member’s full name and current mailing address, (2) the last four digits of the  
25 Class Member’s social security number, and (3) an express statement that the Class Member wishes to  
26 be excluded from the terms of the Agreement.

27          **1.37. Service Payment.** “Service Payment” refers to any payment that the Court awards  
28 for service as a Class Representative.

1           **1.38. Settlement Administrator.** “Settlement Administrator” refers to the entity  
2 selected in accordance with Section 7 of this Agreement.

3           **1.39. Settlement Class.** “Settlement Class” refers to all Class Members who do not file  
4 a timely and valid Request for Exclusion.

5           **1.40. Settlement Period.** “Settlement Period” refers to the period of August 10, 2014  
6 through April 17, 2017.

7 **2. Recitals and Procedural History**

8           **2.1. Business of Defendant.** Costco is engaged in the business of selling high-value  
9 product and services to its members, and who, in that connection, has accepted applications for  
10 employment from Class Members in the State of Washington and throughout the United States.

11           **2.2. Allegations in Complaint.** On or about August 10, 2016, Plaintiff, for himself and  
12 a putative class, filed the Action, alleging that Costco violated the Fair Credit Reporting Act (“FCRA”),  
13 15 U.S.C. § 1681b(b)(2), by using The Challenged Disclosure Form to obtain consumer background  
14 reports on job applicants. The Complaint alleged that this violation was willful and entitled Plaintiff and  
15 the putative class to statutory damages, punitive damages, attorney’s fees, and costs.

16           **2.3. Defendant’s Denials.** Defendant denies (1) all the material allegations in this  
17 Action, (2) that Defendant violated the FCRA or any other law, (3) that Defendant is liable for damages,  
18 penalties, interest, restitution, attorneys’ fees, or costs, or for any other remedy on account of the claims  
19 asserted in the Action, and (4) that class certification is appropriate as to any claim in the Action.  
20 Defendant contends that its policies, procedures, and practices comply with the FCRA and all other  
21 applicable laws. Defendant has agreed to settle the Action solely to avoid the burden, expense, and  
22 uncertainty of litigation. Any statements in this Agreement are made for settlement purposes only.

23           **2.4. Prolonged Litigation.** Defendant removed the Action to federal court because the  
24 Action invoked a federal statute, creating the basis for federal jurisdiction. In federal court, Costco filed  
25 multiple motions attacking Plaintiff’s standing to proceed. The federal district court ultimately remanded  
26 the case to Washington Superior Court. Once the case returned to state court, Costco filed a motion to  
27 dismiss for lack of standing and a motion for summary judgment on the ground that The Challenged  
28

1 Disclosure Form was valid as a matter of law. Plaintiff filed a cross-motion, seeking partial summary  
2 judgment on the ground that The Challenged Disclosure Form was unlawful.

3 **2.5. Class Counsel’s Investigation.** Class Counsel has investigated the facts relating  
4 to the claims alleged in the Action and also has analyzed all defenses.

5 **2.6. Negotiation of Settlement.** Class Counsel has engaged in arms-length  
6 negotiations with Defendant with a view toward achieving substantial benefits while avoiding the cost,  
7 delay, and uncertainty of further litigation. The Parties reached a settlement after jointly retaining the  
8 services of an experienced mediator, Rodney Max, Esq., and engaging in an adversarial day-long  
9 mediation in Seattle, Washington, on January 26, 2018.

10 **2.7. Contemplated Motion for Approval of this Agreement.** Plaintiff will urge that  
11 the Court approve this Agreement after considering (1) the factual and legal defenses to the claims  
12 asserted, which render uncertain the ultimate outcome of the Action, (2) the potential difficulties Plaintiff  
13 would encounter in establishing his claims and maintaining class treatment, (3) the substantial benefits  
14 produced by this Agreement, (4) that this Agreement provides relief in an expeditious and efficient  
15 manner, compared to any manner of recovery possible after litigation and potential appeal, and (5) that  
16 this Agreement allows Class Members to opt out of the Action and individually pursue the claim alleged  
17 in the Action.

18 **2.8. Certification for Settlement Purposes.** This Agreement is contingent upon  
19 approval of class certification under Washington law for settlement purposes only. Defendant expressly  
20 reserves the right to challenge the propriety of class certification for any other purpose should the Court  
21 not approve the Agreement.

22 **3. The Gross Settlement Amount**

23 **3.1. Establishment of Amount.** The Gross Settlement Amount is \$2,490,000. In no  
24 event shall Defendant, absent its further agreement, be obligated to pay more than that amount. No  
25 portion of the Gross Settlement Amount will revert to Defendant. The Gross Settlement Amount includes  
26 all Individual Settlement Payments, any Service Payment, the Class Counsel Fees, and Administrative  
27 Costs.  
28

1           **3.2. Estimate of Class Members.** The Gross Settlement Amount was calculated on  
2 the basis of Costco’s reasonable review of records procured for mediation, which resulted in an estimate  
3 that there are 113,839 Class Members.

4           **4. The Net Settlement Amount**

5           **4.1. Calculation of the Amount.** The Net Settlement Amount is the portion of the  
6 Gross Settlement Amount that remains after deducting amounts for any Service Payment, Administrative  
7 Costs, and the Class Counsel Fees.

8           **4.2. Calculation of Estimated Individual Settlement Amounts.** The payment per  
9 person will be a function of the Gross Settlement Amount divided by the sum of (a) the number of Class  
10 Members Entitled to Autopay and (b) the number of Claimants, less amounts attributable to any Service  
11 Payment, Administrative Costs, and Class Counsel Fees. Individual Settlement Payments could be as  
12 much as \$400 per person, under the formula described in Section 7 of this Agreement.

13           **5. Selection of Settlement Administrator and Notice of Settlement**

14           **5.1. Selection of Settlement Administrator.** Class Counsel will seek competitive bids  
15 from at least two reputable settlement administrators. Class Counsel will select the Settlement  
16 Administrator, subject to Defendant’s consent, which shall not be unreasonably withheld.

17           **5.2. Settlement Administration.** The Settlement Administrator will, as necessary,  
18 print, copy, format, and translate materials, and mail one version of the Postcard Notice (*Exhibit B*) to  
19 Class Members Entitled to Autopay and another version of the Postcard Notice (*Exhibit C*), with a Claim  
20 Form, to the remaining Class Members. The Settlement Administrator will also perform a skip trace for  
21 undeliverable addresses, establish and maintain a Qualified Settlement Fund, obtain appropriate tax  
22 identification numbers, calculate Individual Settlement Payments, file all required IRS Forms, mail  
23 Individual Settlement Payments and tax forms, create a mutually approved interactive settlement website  
24 to house such materials as the long-form Notice of Settlement (*Exhibit A*), remit all required  
25 documentation to taxing authorities, implement the process for any uncashed settlement checks, and  
26 perform all other duties associated with settlement administration, including, but not limited to, all those  
27 specified in this Agreement. Any dispute relating to settlement administration shall, after good-faith  
28 efforts by the Parties to resolve the dispute, be referred to the Court.

1                   **5.3. Posting of Long Form Notice of Settlement.** Before mailing the Postcard Notice,  
2 the Settlement Administrator will post on the settlement website a mutually agreed and court-approved  
3 long-form Notice of Settlement, substantially in the form appearing as *Exhibit A* hereto.

4                   **5.4. Confidential Class Data for the Settlement Administrator.** Within 10 calendar  
5 days of Preliminary Approval, Defendant will give the Settlement Administrator, in Excel or other  
6 agreed-upon format, a confidential class list containing the names and contact information for the Class  
7 Members. Defendant shall also provide, when needed, social security numbers to facilitate the  
8 administration of this Agreement. The Settlement Administrator shall keep the class data provided by  
9 Defendant strictly confidential and shall use the class data only for the purposes described in this  
10 Agreement, and shall return the class data to Defendant or confirm the destruction of same upon  
11 completing the work called for by this Agreement.

12                   **5.5. Emailing or Mailing Postcard Notices to Class Members.** The Settlement  
13 Administrator will make reasonable efforts to update and verify Class Member contact data before any  
14 emailing or mailing, including use of the national change-of-address website to update mailing addresses.  
15 Within 14 calendar days of receipt of the class list from Defendant, the Settlement Administrator shall  
16 send the mutually and court-approved Postcard Notices (substantially in the form of *Exhibits B and C*  
17 hereto) via email (if available) and First Class U.S. mail if email is not available, using the last-known  
18 email or mailing address for each Class Member (the “Initial Notice”). For any Class Member whose  
19 Initial Notice email is returned as undeliverable or is still unopened after seven days, a follow-up notice  
20 will be sent by First Class U.S. mail, using the last known mailing address for each such Class Member.  
21 In addition to the Initial Notice, a second “Reminder Notice” will be issued, using email (if available)  
22 and First Class U.S. Mail if email is not available, 30 calendar days before Claim Forms are due. Up to  
23 two additional “Reminder Notices” may be sent at the discretion of Class Counsel with Guidance from  
24 the Settlement Administrator.

25                   Any physical mailing returned as undeliverable shall be sent within five calendar days via First  
26 Class U.S. Mail to any available forwarding address, using publicly available databases as practical to  
27 update mailing addresses. If no forwarding address is available, then the Settlement Administrator shall  
28 attempt to determine the correct address by using a computer-based skip-trace search, and shall then

1 perform, if feasible, a re-mailing via First Class U.S. Mail within five calendar days. If no current address  
2 is available for a Class Member, then the Postcard Notice for that Class Member will be deemed  
3 undeliverable. Only one re-mailing is required. If a Class Member cannot be located within two attempts  
4 at mailing, then the Postcard Notice for that Class Member will be deemed undeliverable. The Settlement  
5 Administrator will also use email addresses of Class members to the extent they are available.

6 **5.6. Proof of Mailing.** At least 67 days after distribution of notice , the Settlement  
7 Administrator shall provide a declaration of due diligence and proof of mailing with regard to mailing of  
8 the Postcard Notice to Class Counsel and Defense Counsel, which they shall in turn provide to the Court.

9 **6. Responses to Notice of Settlement**

10 **6.1. Consideration Period.** Within the Consideration Period, Class Members may, as  
11 provided below, submit to the Settlement Administrator (a) a Claim Form, (b) a Request for Exclusion,  
12 or (c) an Objection. Except as specifically provided herein, no response postmarked after the  
13 Consideration Period shall be considered.

14 **6.2. Claims.** Class members will have the opportunity to seek Individual Settlement  
15 Payments by timely submitting a valid Claim Form. Class Members Entitled to Autopay need not submit  
16 any Claim Form in order to be entitled to an Individual Settlement Payment. A Claim Form, to be valid,  
17 must be signed by the Class Member making the claim.

18 **6.3. Requests for Exclusion and Opt Out Rights.** Class Members will have the  
19 opportunity to opt out by timely submitting a Request for Exclusion.

20 **6.3.1. Opt Out Procedure.** Class Members may opt out of this Agreement by  
21 mailing the Settlement Administrator a Request for Exclusion. A Request for Exclusion, to be valid, must  
22 be signed and dated by the Class Member, must provide the Class Member's full name (and former  
23 names, if applicable), current address, current telephone number, and the last four digits of the Class  
24 Member's social security number, and must include an express statement that the Class Member wishes  
25 to be excluded from the terms of the Agreement. Any Request for Exclusion that does not include all of  
26 the required information or that is not submitted in a timely manner will be deemed ineffective.

27 **6.3.2. Effect of Opting Out.** Any Class Member who opts out of this Agreement  
28 may not submit an Objection and shall not receive any Individual Settlement Payment, and shall not be

1 bound by the releases that this Agreement entails. If a Class Member submits both a Request for  
2 Exclusion and an Objection, then the Request for Exclusion will be valid and will invalidate the  
3 Objection. Each Class Member who does not submit a timely, valid Request for Exclusion shall be bound  
4 by the releases that this Agreement entails.

5 **6.4. Objections.** Unless otherwise provided in this Agreement, only those Class  
6 Members who do not submit a Request for Exclusion shall be entitled to object to the terms of the  
7 Agreement. No payment under this Agreement will go to anyone submitting an Objection.

8 **6.4.1. Objection Procedure.** Any Objection must be made timely using the  
9 procedures set forth in the Notice of Settlement, and must contain (1) the Objector's full name and current  
10 mailing address, (2) the last four digits of the Objector's social security number, (3) the specific reason(s)  
11 for the Objection, (4) all evidence and supporting papers (including, without limitation, all briefs, written  
12 evidence, and declarations) for the Court to consider, and (5) identification of all counsel representing or  
13 assisting the Objector, if any.

14 **6.4.2. Obligations of Individuals Who Object.** Objectors must be available for  
15 deposition if a Party chooses to take their deposition. Any Objector who fails to appear for a duly noticed  
16 deposition shall be deemed to have withdrawn the Objection. Objectors can appear at the Fairness  
17 Hearing either in person or through counsel, but must state their intent to do so at the time they submit  
18 their Objection. An Objection may be withdrawn at any time.

19 **6.4.3. Waiver of Objections.** Class Members who fail to submit an Objection in  
20 the manner specified in the Notice of Settlement shall be deemed to have waived any objection and shall  
21 be foreclosed from objecting to this Agreement, whether by appeal or otherwise.

22 **6.5. Proof of Responses.** At least 67 days after distribution of notice, the Settlement  
23 Administrator will prepare a declaration to submit to the Court regarding responses to the Notice of  
24 Settlement, including such information as to any inability to deliver mailings because of invalid  
25 addresses, the number of any Claims, the number of any Requests for Exclusion, and the number of any  
26 Objections.

27 **6.6. Binding Effect of Settlement.** Although a Class Member might not timely submit  
28 a Claim or an Objection or a Request for Exclusion because of inability to locate the Class Member's



1 current address, or for other reasons beyond the Class Member's control, that Class Member shall  
2 nonetheless be bound by this Agreement.

3 **6.7. No Interference with Class Member Responses.** Each Party agrees not to  
4 encourage any Class Member to submit an Objection or a Request for Exclusion and agrees not to retaliate  
5 against any Class Member for submitting a Claim Form or otherwise participating in this Agreement.

6 **7. Administration of Settlement Proceeds**

7 **7.1. Final Funding of Gross Settlement Amount.** Within 10 business days of the  
8 Effective Date, Defendant will deposit the Gross Settlement Amount into the Qualified Settlement Fund.

9 **7.2. Administrative Costs.** The Parties agree to obtain a reasonable estimate of  
10 Administrative Costs and seek approval of same to be drawn from the Gross Settlement Amount.

11 **7.2.1. Approval of Administrative Costs Not Material.** The amount of  
12 Administrative Costs is not a material term: if the Court approves a lesser amount, then the other terms  
13 of this Agreement shall remain in effect.

14 **7.3. Class Counsel Fees.** Class Counsel intend to request a payment from the Gross  
15 Settlement Amount for (a) attorney's fees and (b) reasonable out-of-pocket expenses in representing the  
16 interests of the Class, supported by adequate documentation. Class Counsel may seek fees not to exceed  
17 one-third of the Gross Settlement Amount, plus reasonable out-of-pocket expenses.

18 **7.3.1. Approval of Class Counsel Fees Not Material.** Approval of Class  
19 Counsel Fees is not a material term. If the Court approves only a lesser amount, then the other terms of  
20 this Agreement shall remain in effect.

21 **7.3.2. Timing of Class Counsel Fees.** The Settlement Administrator shall issue  
22 the Class Counsel Fees by 13 business days after the Effective Date. Within two business days after the  
23 Effective Date, Class Counsel shall instruct the Settlement Administrator as to how the Class Counsel  
24 Fee may be paid. The Settlement Administrator shall issue an appropriate Internal Revenue Service Form  
25 1099 to Class Counsel. Class Counsel shall be solely responsible for paying all applicable taxes on any  
26 Class Counsel Fee and shall indemnify and hold harmless Defendant from any claim or liability for taxes,  
27 penalties, or interest arising as a result of the Class Counsel Fees.

1                   **7.4. Service Payment.** Class Counsel intends to request a Service Payment for  
2 Plaintiff. Class Counsel may seek a service payment not to exceed \$3,500. Plaintiff agrees to submit a  
3 Claim Form to participate in the Class Settlement. Any Service Payment would be in addition to the  
4 Class Representative's Individual Settlement Payment.

5                   **7.4.1. Approval of Service Payment Not Material.** Approval of a Service  
6 Payment is not a material term. If the Court does not approve a Service Payment or approves only a lesser  
7 amount than that requested, then the other terms of this Agreement shall remain in effect.

8                   **7.4.2. Timing of Service Payment.** The Settlement Administrator shall pay any  
9 Service Payment within 10 business days of the Effective Date, and shall issue an IRS Form 1099 to the  
10 Plaintiff. The Plaintiff shall be solely responsible for paying all applicable taxes on any Service Payment  
11 and shall indemnify and hold harmless Defendant from any claim or liability for taxes, penalties, or  
12 interest arising as a result of the Service Payment.

13                   **7.5. Individual Settlement Payments.** Each Settlement Class Member shall be  
14 entitled to one Individual Settlement Payment consisting of a pro rata share of the Net Settlement  
15 Amount, calculated as described below. Defendant's records regarding the number of Class Members  
16 shall control for purposes of calculation.

17                   **7.5.1. Number of Class Members.** Defendant estimates that there are 113,839  
18 Class Members. Defendant will confidentially identify to the Settlement Administrator the Class  
19 Members on whom Defendant obtained a background report for employment purposes by using The  
20 Challenged Disclosure Form.

21                   **7.5.2. Payments to Settlement Class Members.** To determine each Settlement  
22 Class Member's payment, the Settlement Administrator will divide the Net Settlement Amount by the  
23 number of participating Class Members, i.e. the sum of (a) the number of the Settlement Class Members  
24 Entitled to Autopay and (b) the number of Claimants. The Parties do not anticipate that amount would  
25 exceed \$400 to each Class Member. If the calculated amount exceeds \$400 to each participating Class  
26 Member, then the Settlement Administrator will send up to two additional notices to non-claimants, to  
27 increase participation in the claims process. If the calculated amount still exceeds \$400 per Class  
28 Member, then each Settlement Class Member will receive a payment of \$400. The amount of the Net

1 Settlement Amount representing a per-person payment exceeding \$400 will be donated to the Legal  
2 Foundation of Washington.

3 **7.6. Timing of Individual Settlement Payments.** The Settlement Administrator shall  
4 issue Individual Settlement Payments no later than 30 business days after the Effective Date.

5 **7.7. Tax Allocation of Individual Settlement Payments.** Each Individual Settlement  
6 Payment will be allocated for tax purposes as income for statutory damages. The Settlement  
7 Administrator shall issue any necessary IRS Form 1099 to Settlement Class Members for their respective  
8 Individual Settlement Payments.

9 **7.7.1. Responsibility for Taxes.** Class Members shall be solely responsible for  
10 paying all taxes due on their respective Individual Settlement Payments and shall indemnify and hold  
11 harmless Defendant and the Released Parties from any claim or liability for taxes, penalties, or interest  
12 arising as a result of Individual Settlement Payments.

13 **7.7.2. Approval of Tax Allocations Not Material.** Approval of the allocations  
14 of Individual Settlement Payments set forth above is not a material term. If the Court approves a different  
15 tax allocation of the Individual Settlement Payments, then the other terms of this Agreement shall remain  
16 in effect.

17 **7.8. Undeliverable or Uncashed Checks.** All Individual Settlement Payment checks  
18 will remain negotiable for 180 days from the date of their mailing. The Settlement Administrator shall  
19 notify Class Counsel and Defense Counsel of any undeliverable and uncashed checks. After 180 days  
20 from the mailing, the amount of any settlement checks from the Net Settlement Amount that has not been  
21 cashed will be treated as residual funds that, subject to Washington Rule 23(f), will be distributed to the  
22 Class Members Entitled to Autopay, unless the amount to be redistributed is so small that it would not  
23 be economically feasible to do so, in which case the remaining funds will be donated to the Legal  
24 Foundation of Washington to support activities and programs that promote access to the civil justice  
25 system for low income residents of Washington State less additional administration fees.

26 **7.9. Certification of Completion.** Upon fully administering this Agreement, the  
27 Settlement Administrator will certify the completion to the Court and counsel for all Parties in a  
28 declaration, summarizing the total money paid and the status of any uncashed checks.

1 **8. Releases and Agreement Not to Apply for Employment**

2 **8.1. Released Claims.** By operation of the Final Approval and Judgment, and except  
3 as to rights that this Agreement creates, each Class Member—and each Class Member’s executors,  
4 administrators, representatives, agents, heirs, successors, assigns, trustees, spouses, or guardians—will  
5 release each Released Party from any claim of liability that was or could have been asserted in the Action,  
6 including, in particular, any claim that Costco violated the FCRA or any analogous state law through the  
7 use of The Challenged Disclosure Form. More specifically, on the Effective Date of this Agreement, for  
8 consideration the sufficiency of which is hereby acknowledged, all Class Members who have not timely  
9 and properly opted out of the Settlement Class—and all those acting or purporting to act on their behalf—  
10 fully and forever release, waive, acquit, and discharge the Released Parties from any and all claims the  
11 Settlement Class has arising out of or relating to, directly or indirectly, in any manner whatsoever, to the  
12 acts that were alleged or that could have been alleged in the Action, including any claim under 15 U.S.C.  
13 § 1681b(b)(2) of the Fair Credit Reporting Act and any analogous state law claims. This release of claims  
14 explicitly includes claims for actual damages, statutory damages, and punitive damages, as well as for  
15 attorneys’ fees and costs. The parties agree that the payments made hereunder are meant to compensate  
16 Class Members for all harms allegedly incurred as set forth in the Action. Each Class Member waives all  
17 rights provided by any Washington rule that states a release does not extend to claims that the creditor  
18 does not know or suspect to exist at the time of the release, which if known must have materially affected  
19 the settlement with the debtor.

20 **8.2. No Application for Employment by Plaintiff.** Plaintiff is not currently employed  
21 by Defendant and agrees not to apply for or accept employment with Defendant, or with any of  
22 Defendant’s parents, subsidiaries, or affiliates, and agrees that this provision itself is a complete defense  
23 to any claim arising out of any denial of any such employment.

24 **9. Settlement Approval Procedure**

25 **9.1. Motion for Preliminary Approval.** Plaintiff will obtain a hearing to request  
26 preliminary approval of this Agreement, to obtain entry of an order that would (i) conditionally certify a  
27 class for settlement purposes only, (ii) grant preliminary approval of this Agreement, (iii) approve a  
28 Notice of Settlement, (iv) enjoin Class Members from initiating or prosecuting any claim to be released

1 under the Settlement Agreement, unless they first submit a Request for Exclusion, and (v) set a date for  
2 a Final Approval hearing.

3 **9.1.1. Contents of Motion.** The motion for preliminary approval shall include  
4 the bases for demonstrating that conditional certification of a settlement class is appropriate, that the  
5 settlement amounts are reasonable in light of the facts and law pertaining to the claims alleged.

6 **9.2. Motion for Final Approval.** Class Counsel will obtain a hearing for a Motion for  
7 Final Approval, to obtain an order to (a) approve this Agreement, (b) adjudge its terms to be fair,  
8 reasonable, and adequate, (c) recite the Released Claims, (d) direct that the terms of the Agreement be  
9 carried out, and (e) retain jurisdiction to oversee enforcement of this Agreement.

10 **9.3. Motion for Class Counsel Fees.** In connection with a Motion for Final Approval,  
11 Class Counsel may move for approval of attorneys' fees in the amount of up to one-third of the Gross  
12 Settlement Amount, plus reasonable litigation expenses, supported by adequate documentation. This  
13 motion shall be filed at least 74 days after distribution of notice, and shall be promptly posted on the  
14 settlement website, so that Class Members will have the opportunity to review it.

15 **9.4. Motion for Service Payment.** In connection with Class Counsel Fees, Class  
16 Counsel may move for approval of a Service Payment in an amount of up to \$3,500.

17 **9.5. Entry of Judgment.** Upon Final Approval, the Parties shall request that the Court  
18 (a) enter Judgment in accordance with this Agreement, without further fees or costs, (b) enter an order as  
19 to the Class Counsel Fees, (c) enter an order as to any Service Payment, and (d) enter an order  
20 permanently enjoining all members of the Settlement Class from pursuing or seeking to reopen claims  
21 that have been released by this Agreement.

22 **9.5.1. Notice of Final Judgment.** Notice of Judgment will be posted on the  
23 Settlement Administrator's website.

24 **9.5.2. Effect of Failure to Obtain Final Judgment.** If the Court fails to enter  
25 Judgment in accordance with this Agreement, or if the Judgment is vacated or reversed, then the Action  
26 shall proceed, unless the Parties jointly agree to seek reconsideration or a renegotiated settlement.  
27 Defendant retains the right to contest whether any aspect of the Action should be maintained as a class,  
28 collective action, or representative action, and to contest the merits of the claims asserted in the Action.

1                   **9.6. Schedule of contemplated events.** These are the events this Agreement  
 2 contemplates. The Parties may agree to adjust these deadlines, after Preliminary Approval, if the  
 3 adjustments do not materially affect filing and hearing dates set by the Court.

4                   Deadline for Defendant to provide current 5                   class list to Settlement Administrator	10 calendar days after Preliminary Approval Order
6                   Deadline for Settlement Administrator to mail 7                   Notice of Settlement	14 calendar days after provision of class list to Settlement Administrator
8                   Deadline to move for fees and costs, and for 9                   Service Payment	44 calendar days after distribution of notice
10                  Last day to submit Claims, Requests for 11                  Exclusion, or Objections	60 calendar days from the first date that Postcard Notices are initially emailed and/or mailed
12                  Settlement Administrator to report on 13                  Requests for Exclusion, Objections and other 14                  results of class notice	67 calendar days after distribution of notice
15                  Deadline to respond to Objections	7 calendar days from Settlement Administrator's report
16                  Deadline to move for Final Approval	To be set by the Court, but no fewer than 74 days after distribution of notice/94 days after Preliminary Approval Order is signed
17                  Fairness hearing on Final Approval and on 18                  motion for Class Counsel Fees and Service 19                  Payment	To be set by Court, but no fewer than 80 days after distribution of notice/100 days after Preliminary Approval Order is signed
20                  Deadline for Defendant to Fund the Gross 21                  Settlement Amount	10 calendar days after the Effective Date

22  
23  
24  
25 **10. Miscellaneous**

26                   **10.1. Execution of this Agreement.**

27                   **10.1.1. Parties' Authority.** The signatories hereto represent that they are fully  
 28 authorized to bind the Parties to all the terms of this Agreement. The Parties agree that Class Members

1 are so numerous that it is impossible or impractical to have each Class Member execute this Agreement.  
2 This Agreement may be executed on behalf of Class Members by a Class Representative.

3 **10.1.2. Counterparts.** This Agreement may be executed in counterparts, and all  
4 signed and delivered counterparts together may constitute one Agreement binding upon the Parties.

5 **10.1.3. Facsimile or Scanned Signatures.** A Party may sign and deliver this  
6 Agreement by signing on the designated signature block and transmitting that signature page via facsimile  
7 or as an attachment to an email to counsel for the other Party. Any such signature shall be deemed an  
8 original for purposes of this Agreement and shall be binding upon the Party who transmits the signature  
9 page.

10 **10.2. Construction.**

11 **10.2.1. Materiality of Terms.** Except as otherwise stated herein, each substantive  
12 term of this Agreement is a material term that the Parties have relied upon in making this Agreement. If  
13 the Court does not approve any substantive term, or if the Court effects a material change to the  
14 Agreement—such as increasing any amount that Defendant must pay—then the entire Agreement will  
15 be, at Defendant’s sole discretion, void and unenforceable. Where this Agreement states that a term is  
16 not material, then the Court’s refusal to approve that term leaves all the other terms of the Agreement in  
17 effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

18 **10.2.2. No Construction Against the Author.** Each Party participated in drafting  
19 this Agreement, and its terms shall not be construed against any Party by virtue of draftsmanship.

20 **10.2.3. Exhibits Incorporated by Reference.** This Agreement include the terms  
21 set forth in any attached exhibit. Any exhibit to this Agreement is an integral part of it.

22 **10.2.4. Headings.** The headings within this Agreement appear for convenience of  
23 reference only and shall not affect the construction or interpretation of any part of this Agreement.

24 **10.2.5. Invalidity of Any Provision.** Before declaring any provision of this  
25 Agreement invalid, the Court shall first attempt to construe the provision valid to the fullest extent  
26 possible so as to render all provisions of this Agreement enforceable.

1                   **10.2.6. Parties’ Entire Agreement.** This Agreement, with its Definitions,  
2 Recitals, and Exhibits, constitutes the entire agreement on its subject matter, and supersedes all prior and  
3 contemporaneous negotiations and understandings between the Parties.

4                   **10.2.7. Waivers and Modifications to Be in Writing.** No waiver, modification,  
5 or amendment of this Agreement shall be valid unless it appears in a writing signed by or on behalf of all  
6 Parties, and then shall be valid subject to any required Court approval. Any failure to insist upon the strict  
7 performance of any provision shall not be deemed a waiver of future performance of that provision or of  
8 any other provision of this Agreement.

9                   **10.2.8. Governing Law.** All terms of this Agreement shall be governed by and  
10 interpreted according to Washington law.

11                   **10.3. Inadmissibility of Settlement Documents.** The Parties agree that this Agreement  
12 and all exhibits thereto shall be inadmissible in any proceeding, except a proceeding to approve or enforce  
13 this Agreement. This Agreement will operate as a complete defense to—and may be used as the basis for  
14 an injunction against—any proceeding attempted in breach of this Agreement.

15                   **10.4. No Tax Advice.** Nothing in this Agreement is advice by Class Counsel or Defense  
16 Counsel regarding taxes or taxability, and no Party is relying upon Class Counsel or Defense Counsel for  
17 such advice. Each Party instead is relying exclusively on the Party’s own independent tax counsel in  
18 connection with this Agreement.

19                   **10.5. No Impact on Employee Benefits.** This Agreement does not affect any right or  
20 obligation under any benefits plan. No payment made under this Agreement shall be considered as  
21 compensation or hours worked or hours paid for purposes of determining eligibility, vesting,  
22 participation, or contributions with respect to any employee benefit plan. For purposes of this Agreement,  
23 the term “employee benefit plan” means every “employee benefit plan,” as defined in the Employee  
24 Retirement and Income Security Act of 1974, 29 U.S.C. section 1002(3). The term also includes any  
25 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing,  
26 retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation,  
27 or any other similar benefit plan, practice, program, or policy, regardless of whether any such plan is  
28 considered an employee benefit plan.



1                   **10.6. No Prior Assignments or Undisclosed Liens.** Each Class Representative and the  
2 Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise disposed of any  
3 Released Claim or claim to attorneys' fees and costs to be paid under this Agreement. Each Class  
4 Representative and the Class Counsel further represent and warrant that there are not any liens or claims  
5 against any amount that Defendant is to pay under this Agreement. Each Class Representative and Class  
6 Counsel agree to defend, to indemnify, and to hold Defendant harmless from any liability, losses, claims,  
7 damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of these  
8 representations or from any lien or assignment.

9                   **10.7. Cooperation of the Parties.** The Parties will comply with the covenants of good  
10 faith and fair dealing and otherwise cooperate as follows.

11                   **10.7.1. Affirmative Duty to Cooperate.** Each Party, upon the request of another,  
12 agrees to perform such acts and to execute and to deliver such documents as are reasonably necessary to  
13 carry out this Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid  
14 unnecessary Administrative Costs.

15                   **10.7.2. Language of Settlement Documents.** All documents filed with the Court  
16 or sent to Class Members in connection with this Agreement must be approved by all Parties before being  
17 filed or sent.

18                   **10.7.3. Refraining from New Proceedings.** The Parties agree to refrain from  
19 further litigation with respect to the Action, except any proceeding needed to obtain Preliminary  
20 Approval, Final Approval, or Judgment.

21                   **10.7.4. No Solicitation of Objections or Opt Outs.** The Parties represent that  
22 they have not solicited, encouraged, or assisted—and will not solicit, encourage, or assist—Objections  
23 or Requests for Exclusion.

24                   **10.7.5. Waiver of Right to Object by Class Representative.** Each Class  
25 Representative, by signing this Agreement, agrees not to object to any term of this Agreement.

26                   **10.8. Confidential Information.** Class Counsel will destroy all confidential documents  
27 and information provided by Defendant within 60 calendar days of the Effective Date. Class Counsel  
28

1 further agree that no information provided by Defendant shall be used for any purpose other than  
2 prosecution of this Action.

3 **10.9. No Media Announcements or Other Undue Publicity.** Until the Effective Date,  
4 no Party shall make any public statement to the news, print, electronic, or Internet media concerning this  
5 Agreement, and the Parties shall decline to respond to media inquiries concerning this Agreement. Class  
6 Counsel shall not publicize the settlement in their marketing materials, website, or other advertising  
7 media. Nothing in this Agreement prevents Class Counsel from placing in their marketing materials,  
8 website, or other advertising media a comment that Class Counsel secured payment for their clients in  
9 this Action, so long as any such comment does not mention the name of this case, the name of any Party  
10 or Class Member, or the identity of Defense Counsel. Costco may enforce this provision through an  
11 action for injunctive relief. Plaintiff waives any obligation to post a bond in connection with any such  
12 action. The Parties will agree on a neutral statement that Class Counsel can post on their website  
13 regarding this Agreement, after the Effective Date, as well as a neutral statement that Class Counsel can  
14 provide to the press if contacted by the media.

15 **10.10. Disputes.** If the Parties dispute the interpretation of this Agreement, then they will  
16 attempt to resolve the dispute informally. If those efforts fail, they will mediate the dispute. The Parties  
17 will split the costs of the mediator, and the Parties will bear their own fees and costs. The Court shall  
18 retain jurisdiction over enforcement and implementation of this Agreement, and can require specific  
19 performance, although the Court lacks jurisdiction to modify the terms of this Agreement. If a Party  
20 institutes legal action to enforce this Agreement, then the prevailing Party will be entitled to recover  
21 attorney's fees and costs incurred in vindicating that Party's position.

22 **SO AGREED:**

23 DATED: February \_\_\_\_, 2018

Costco Wholesale Corporation

24 By: \_\_\_\_\_  
25 Its Corporate Counsel

26 DATED: February \_\_\_\_, 2018

SEYFARTH SHAW LLP


27 By: \_\_\_\_\_  
28 Attorneys for Defendant Costco

1 specific performance, although the Court lacks jurisdiction to modify the terms of this Agreement. If a  
2 Party institutes legal action to enforce this Agreement, then the prevailing Party will be entitled to  
3 recover attorney's fees and costs incurred in vindicating that Party's position.

4 **SO AGREED:**


5 DATED: February 16, 2018

Costco Wholesale Corporation

6 By:   
7 Its Corporate Counsel

8 DATED: February \_\_, 2018

SEYFARTH SHAW LLP

9 By:   
10 Attorneys for Defendant Costco

11 DATED: February \_\_, 2018

Julius Terrell, Plaintiff

12 \_\_\_\_\_

13 DATED: February \_\_, 2018

BERGER & MONTAGUE, P.C.

14 By: \_\_\_\_\_  
15 Attorneys for Plaintiff

16 DATED: February \_\_, 2018

TERRELL MARSHALL LAW GROUP  
17 PLLC

18 By: \_\_\_\_\_  
19 Attorneys for Plaintiff

20 44089149v.4

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DATED: February \_\_, 2018

SEYFARTH SHAW LLP

By: \_\_\_\_\_  
Attorneys for Defendant Costco

DATED: February 16, 2018

Julius Terrell, Plaintiff

*Julius Terrell*

DATED: February 20, 2018

BERGER & MONTAGUE, P.C.

By: *E. Michelle D.*  
Attorneys for Plaintiff

DATED: February \_\_, 2018

TERRELL MARSHALL LAW GROUP  
PLLC

By: \_\_\_\_\_  
Attorneys for Plaintiff

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DATED: February \_\_\_\_, 2018

SEYFARTH SHAW LLP

By: \_\_\_\_\_  
Attorneys for Defendant Costco

DATED: February 16, 2018

Julius Terrell Plaintiff

*Julius Terrell* \_\_\_\_\_

DATED: February \_\_\_\_, 2018

BERGER & MONTAGUE, P.C.

By: \_\_\_\_\_  
Attorneys for Plaintiff

DATED: February 20, 2018

TERRELL MARSHALL LAW GROUP  
PLLC

By: *Beth Levell* \_\_\_\_\_  
Attorneys for Plaintiff

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# **Exhibit A**

This is a court-authorized website notice of a proposed settlement in a class action lawsuit regarding background reports that Costco Wholesale Corporation obtained on certain job applicants. Payments to participating Class Members are likely to be between \$25 and \$175 each, but could be as large as \$400 each, as explained in paragraph 6 below. Approximately 1,510 Class Members Entitled to Autopay will automatically get paid, unless they exclude themselves, as explained in paragraph 6 below. Other Class Members, to get paid, must return a Claim Form, as explained in paragraph 5 below.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Submit a Claim Form</b>	If you want a payment, you need to return a Claim Form, unless you are a Class Member Entitled to Autopay. You should have received a Claim Form in the mail. You may also go to <a href="http://www.URL.com">www.URL.com</a> to complete a Claim Form.
<b>Do Nothing</b>	If you are not a Class Member Entitled to Autopay, and if you don't return the Claim Form, you will receive no monetary recovery and will lose your right to sue Costco over related matters in the future.
<b>Exclude Yourself</b>	This is the only option that allows you to be part of any other lawsuit against Costco about the matters being resolved in this Settlement. But by excluding yourself you will not receive payment in this Settlement.
<b>Object</b>	Ask for an opportunity to tell the Court why you object to the Settlement.

Your rights and options—and the deadlines to exercise them—are explained in this Notice.

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, you may view the Settlement Agreement at [www.URL.com](http://www.URL.com). You may also contact the Settlement Administrator at [1-800-XXX-XXXX](tel:1-800-XXX-XXXX).

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## Basic Information

### 1. Why am I seeing this Notice?

The Court in this case has approved the posting of this Notice on a website so that it could be viewed by Class Members, who may become members of the Settlement Class. The Class Members are:

All persons on whom Costco obtained a consumer report for employment purposes for a U.S. location during the period from August 10, 2014 through April 17, 2017.

Class membership is determined on the basis of Costco's records and investigation. If you are unsure of whether you are a Class Member, you can contact the Settlement Administrator at **XX**.

This Notice has been posted because Class Members have a right to know about a proposed settlement of a lawsuit in which they are class members, and about all their options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after objections or appeals relating to that Settlement are resolved, the benefits provided for by the Settlement will be available to members of the Settlement Class. Class Members become members of the Settlement Class by submitting a Claim Form. If you were denied employment by Costco because of a consumer report being challenged in this Litigation, then you are considered one of the Class Members Entitled to Autopay, as explained in paragraph 5 below, and need not submit a Claim Form to receive a payment.

This Notice explains the Litigation, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. A full copy of the Settlement Agreement may be reviewed at the Settlement Website: **www.URL.com**. This Notice contains only a summary of the Settlement Agreement.

The Court in charge of this case is the Washington Superior Court in and for the County of King, The Honorable Mary Rogers presiding. The Litigation is called *Julius Terrell v. Costco Wholesale Corporation*, Case No. 16-2-19140-1 SEA (the "Litigation"). Julius Terrell, the person who filed this Litigation, is called the Plaintiff, and Costco is called the Defendant.

### 2. What is the Litigation about?

Plaintiff alleges that Costco violated the Fair Credit Reporting Act ("FCRA") when it obtained background reports on job applicants by using a disclosure form that allegedly was not a stand-alone form as required by the FCRA. Plaintiff alleges that the use of an allegedly non-compliant disclosure form (the "Challenged Disclosure Form") caused him harm and violated the law.

Costco disputes the Plaintiff's claim and denies all liability to Plaintiff and the Class, and has raised a number of defenses to the claims asserted. In particular, Costco maintains that the Challenged Disclosure Form fully complied with the FCRA and did not harm anyone.

The Parties are settling the Litigation to avoid further risk and expense. No court has found Costco to have violated the law in any way. No court has found that the Plaintiff or the Class could recover any certain amount in this Litigation.

Although the Court has authorized notice to be given of the proposed Settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side in the Litigation.

### 3. Why is this case a class action?

Class actions are lawsuits in which the claims and rights of many people are decided in a single proceeding. In a class action, a representative Plaintiff is called a “Class Representative.” That Plaintiff seeks to assert claims on behalf of all similarly situated people. The Plaintiff can thus conserve resources by asserting all the claims in one lawsuit. Class actions often involve circumstances where claimed individual damages are too small for people to proceed on their own, but where the defendant’s conduct affected a number of people in the same way.

Lawyers who represent people who file class actions are called “class counsel.” The lawyers who brought this case (“Class Counsel”) have not yet been paid any money for their work and have paid all their expenses out of pocket. They will be paid only if they win the Litigation or if the Court approves the Settlement.

#### **4. Why is there a settlement?**

The Court did not decide this case in favor of the Plaintiff or in favor of Costco. If approved, the Settlement will stop the Litigation from being litigated any more. If the Litigation continued, there is a possibility that the Settlement Class would receive nothing. There is also the possibility that Costco would be required to pay more than it has agreed to pay as a result of the Settlement.

Class Counsel investigated the facts and law regarding the Plaintiff’s claims and Costco’s defenses. The Parties engaged in lengthy and arms-length negotiations to reach this Settlement. Plaintiff and Class Counsel believe that the proposed Settlement is fair, reasonable, and adequate and in the best interests of the Settlement Class.

Both sides agree that, by settling, Costco is not admitting any liability or that it did anything wrong. Both sides want to avoid the uncertainties and expense of further litigation.

#### **Who Is In The Settlement**

#### **5. How do I know if I am part of the Settlement?**

You are part of the Settlement if you applied for U.S. employment with Costco at any time from August 10, 2014, through April 17, 2017, authorized a background report, and Costco conducted a background check about you. Plaintiff alleges that Costco, to obtain background reports on job applicants, used a disclosure form that was not a stand-alone form (as the FCRA requires), but that instead contained additional information not permitted by law. If you were among the 1,510 individuals who were denied employment after review of your background report, you are considered one of the Class Members Entitled to Autopay, which means that you will get paid automatically, so long as you do not opt out of the class or object to this Settlement. If you instead were hired by Costco, you are not one of the Class Members Entitled to Autopay and, to receive a payment, you must submit a Claim Form alleging that you were harmed by the Challenged Disclosure Form.

If you have received the Postcard Notice, Costco’s records indicate you are a member of the Settlement Class. The Postcard Notice will tell you if you are a Class Members Entitled to Autopay (in which case you don’t need to submit a Claim Form) or are not a Class Members Entitled to Autopay (in which case you do need to submit a Claim Form if you want a payment). If you are not certain as to whether you are a Class Member, you may contact the Settlement Administrator to find out. The Administrator can be reached at **1-800-XXX-XXXX**. The question of class membership will be determined based on Costco’s records and investigation.

#### **The Settlement Benefits—What You Get**

#### **6. What does the Settlement provide?**

The Settlement provides money for Settlement Class Members. Costco will provide a settlement fund of \$2,490,000. This money will be available for payment to about 113,839 Class Members, and will also be used to pay for any court-approved attorneys' fees, Class Representative service payment, and administration costs.

The exact amount each Class Member will receive will depend on the amount of fees, service payments and costs, as well as the number of Claim Forms returned. If Costco's records indicate that a Class Member was denied employment because of the background check conducted based on the Challenged Disclosure Form, the Class Member will be a Class Members Entitled to Autopay and will receive a payment even without submitting a Claim Form. Although the exact amount of payment will vary depending on the amount of attorneys' fees, Class Representative Service payment, administration costs, and the number of Claim Forms submitted, it is expected that Settlement Class Members will receive between \$25 and \$175 each, but possibly as much as \$400. Class Members Entitled to Autopay would receive at least the same amount as those who submit a Claim Form and, depending on the amount of claims and uncashed checks, could possibly receive more.

The Postcard Notice you received will tell you if you are Class Members Entitled to Autopay, in which case you don't need a Claim Form. The Postcard Notice will also tell you if you are not Class Members Entitled to Autopay, in which case you need to submit a Claim Form in order to get money from the settlement.

#### **7. How can I get a benefit?**

If you are a Class Members Entitled to Autopay (you were denied employment after use of Costco's Challenged Disclosure Form), you do not need to do anything to get a payment. If you are not a Class Members Entitled to Autopay, you need to return the Claim Form that was mailed to you, postmarked on or before **DATE**. The completed Claim Form must be signed and dated.

Your interest as a Class Member will be represented by the Plaintiff and Class Counsel. You will be bound by any judgment arising from the Settlement. If the Settlement is approved, and you timely return the Claim Form, the Settlement Administrator will send you a check for any money you're entitled to under the Settlement.

If you change your address, you must mail a notification of your new address to the Settlement Administrator or submit a change of address online at [www.URL.com](http://www.URL.com).

#### **8. When would I get my money?**

The Court will hold a final approval hearing on **DATE** at **TIME** to decide whether to approve the Settlement. If the Settlement is approved, there may be appeals. Payments to members of the Settlement Class will be made only if the Settlement is finally approved. This may take some time, so please be patient.

#### **9. What am I giving up if I stay in the Class?**

Upon the Court's approval of the Settlement, all Class Members (whether or not they have timely submitted a properly completed Claim Form) who have not timely and properly opted out of the Settlement Class (as well as their spouses, heirs, and others who may possess rights on their behalf), will fully release Costco from any and all claims arising out of or relating directly or indirectly in any manner whatsoever to the facts alleged or that could have been alleged or asserted in the Litigation, including but not limited to any and all claims under 15 U.S.C. § 1681b, and any analogous state law claims. This release explicitly includes claims for actual damages, statutory damages, and punitive damages, as well as for attorneys' fees and costs.

This release may affect your rights, and may carry obligations, in the future. To view the full terms of this release, which are contained in the Settlement Agreement, please visit [www.URL.com](http://www.URL.com).

### 10. How do I get out of the Settlement?

If you choose to be excluded from the Settlement (or “opt out”), you will not be bound by any judgment or other final disposition of the Litigation and you will not receive any settlement payment. You will retain any claims against Costco you might have. To opt out, you must state in writing your desire to be excluded from the Settlement Class. **Your request for exclusion must be sent by first class mail, postmarked on or before DATE**, addressed to:

*Terrell v. Costco Wholesale Corp.*  
c/o Settlement Administrator

ADDRESS  
ADDRESS

**If the request is not postmarked on or before DATE, your request for exclusion will be invalid**, and you will be bound by the terms of the Settlement approved by the Court, including the judgment ultimately rendered in the case, and you will be barred from bringing any claims that arise out of or relate in any way to the claims in the Litigation as specified in the release referenced in paragraph 9 above.

### 11. If I don’t exclude myself, can I sue Costco for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Costco for the claims that this Settlement resolves, even if you do not submit a Claim Form. If you have a pending lawsuit, speak to your lawyer in that case immediately.

### 12. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you are not part of the Settlement.

### The Lawyers Representing You

### 13. Do I have a lawyer in this case?

The Court has appointed Berger & Montague, P.C., and Beth Terrell as Class Counsel:

E. Michelle Drake  
Berger & Montague, P.C.  
43 SE Main Street, Suite 505  
Minneapolis, MN 55414

Beth Terrell  
Terrell Marshall Law Group PLLC  
936 North 34th Street, Suite 300  
Seattle, WA 98103

You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney’s fees.

### 14. How will the lawyers and Class Representatives be paid?

Class Counsel have not been paid anything for their representation of the Settlement Class to date. They have paid all the expenses of litigation out of their own pockets. If they were to lose the case, they would be paid nothing.

In connection with this Settlement, Class Counsel intend to apply to the Court for payment of attorneys' fees and costs, in an amount not to exceed one-third of the total Gross Settlement Amount. The Court will evaluate whether this fee request is reasonable in light of Class Counsel's skill and the risk they undertook in bringing the Litigation. The Court may award less.

The Court has appointed the Plaintiff, Julius Terrell, as the Class Representative. Class Counsel also will seek compensation for his services to the Class Members, in an amount not to exceed \$5,000. This compensation is intended to pay the Class Representative for the time and effort put into bringing this Litigation on behalf of everyone in the Settlement Class.

The costs of settlement administration are expected to be approximately \$XX. If awarded by the Court, all of these amounts will be paid directly out of the settlement fund.

## **Objecting To The Settlement**

### **15. How do I tell the Court that I don't like the Settlement?**

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a larger settlement; the Court can only approve or deny the Settlement as is. If the Court denies approval, then no settlement payments will be sent out and the Litigation will continue. If that is what you want to happen, you must object.

You may object to the proposed Settlement in writing. You may also appear at the final approval hearing, either in person, or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*Terrell v. Costco Wholesale Corp.*, Case No. 16-2-19140-1 SEA (King County Superior Court)), (b) contain the basis for and an explanation of the objection, (c) contain your name, address, telephone number, and email address (if you have one), (d) include a statement of whether you intend to appear at the final approval hearing, either with or without an attorney, and (e) be submitted to the Settlement Administrator, [address]. Your objection must be submitted with a postmark on or before **DATE**.

Any member of the Settlement Class who does not submit an objection in the time and manner described above will not be permitted to raise that objection later.

No payments under the Settlement will go to any objector, or any objector's counsel.

### **16. What's the difference between objecting and excluding?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement. Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you have no basis to object because the Litigation no longer affects you.

### **17. Where and when will the Court decide whether to approve the Settlement?**

There will be a final approval hearing to consider approval of the proposed Settlement on **DATE** at **TIME** in King County Superior Court at [address] in Seattle, Washington. The hearing may be postponed to a later date without further notice. Settlement Class Members should check **www.URL.com** regularly for any changes to this date. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of Settlement; whether the Settlement Class is adequately represented by the Class Representatives and Class Counsel; and whether an order and Final Judgment should be entered approving the proposed Settlement. The Court also will consider Class Counsel's application for payment of attorneys' fees and expenses and Class Representatives' compensation.

You will be represented at the final approval hearing by Class Counsel, unless you choose to enter an appearance in person or through your own counsel. The appearance of your own attorney is not necessary to participate in the hearing.

#### **18. Do I have to come to the hearing?**

No. Class Counsel will represent the Settlement Class at the final approval hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to come to Court to talk about it, but you may if you wish. As long as you timely submitted your written objection, the Court will consider it. You may also pay your own lawyer to attend, if you wish.

#### **19. May I speak at the hearing?**

You may ask the Court for permission to speak at the final approval hearing. To do so, you must send with your objection a notice of intention to appear at the hearing as described in Paragraph 15 above. You cannot speak at the hearing if you excluded yourself.

#### **Getting More Information**

#### **20. Are there more details about the Settlement?**

This Notice is only a summary. For a more detailed statement of the matters involved in the Litigation or the Settlement, you may refer to the papers filed in this case during regular business hours at the office of the Clerk of the Court, King County Superior Court, 516 Third Avenue, Room E-609, Seattle, Washington, 98104, File: *Terrell v. Costco Wholesale Corp.*, Case No. 16-2-19140-1 SEA. The full Settlement Agreement and certain pleadings filed in the case are also available at **www.URL.com** or can be requested, in writing or by phone, from the Settlement Administrator.

#### **21. How do I get more information?**

You can visit **www.URL.com** or contact the lawyers representing the Settlement Class, identified in Paragraph 13 above. **Please do not contact the Court for information.**

# **Exhibit B**

**COURT ORDERED  
NOTICE**

*Terrell v. Costco Wholesale  
Corporation*

**Class Action Notice &  
Claim Form Inside**

**Claim Filing Deadline:**

**XX/XX/XXXX**

*Terrell v. Costco Wholesale.*  
c/o ADMINISTRATOR  
ADDRESS  
ADDRESS

FIRST CLASS  
MAIL  
US POSTAGE  
PAID  
Permit#\_



Postal Service: Please do not mark barcode

ABC-1234567-8

First Last  
Address1  
Address2  
City, State, Zip Code

WASHINGTON SUPERIOR COURT  
KING COUNTY  
Case No. 16-2-19140-1 SEA

**Claim Form & Release**

*Terrell v. Costco Wholesale*  
c/o ADMINISTRATOR  
ADDRESS



Claim #: ABC-1234567-8

Name/Address Changes:

«First1» «Last1»

«CO»

«Addr1» «Addr2»

«City», «St» «Zip» «Country»

IF YOU MOVE, send your CHANGE OF ADDRESS to ADMINISTRATOR at the above address.

**To Receive A Payment You Must Sign And Mail This Claim Form, Postmarked On Or Before DATE**

If the Court approves the Settlement and all requested attorneys' fees, costs, administration expenses, and service payments, your estimated settlement payment is likely to be between \$25 and \$175, but could be as much as \$400. Your payment will vary with the number of Claim Forms received. To receive that payment, you must sign and return this Claim Form by **DATE**. By signing below, you certify that you applied for employment with Costco Wholesale Corporation at some time between August 10, 2014 and April 17, 2017, a background report was conducted about you, and you believe that the disclosure you received from Costco describing its intent to obtain a background report about you caused you harm in some way.

Further details appear at [www.URL.com](http://www.URL.com).

The undersigned agrees to be bound to the Release and other terms of the settlement.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_



A settlement has been reached in a class action lawsuit, called *Terrell v. Costco Wholesale Corporation*, claiming statutory damages against Costco for alleged violations of the Fair Credit Reporting Act. Plaintiff claims that Costco failed to use a legally required disclosure before obtaining background checks on job applicants. Costco vigorously denies that it violated any law, but has agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the Litigation. This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, see the longer Notice of Settlement and review the Settlement Agreement, available at [www.URL.com](http://www.URL.com).

**Am I a Class Member?** Costco's records indicate you are a Class Member. The records also indicate that you are *not* a member of what the Settlement Agreement calls the Class Members Entitled to Autopay. That means that, to get any money, you must submit the attached Claim Form to the Settlement Administrator.

**What Can I Get?** If the Settlement is approved by the Court and you return a Claim Form within the deadline, you will receive money. The amount will depend on the total Claim Forms filed, and the amount of attorneys' fees, Class Representative payment, and administration costs approved by the Court. Class Counsel estimates that those who return the attached Claim Form will receive an amount that will depend on the claims rate and is likely to be between \$25 and \$175, but could be as much as \$400.

**How Do I Get a Payment?** You must submit a timely and properly completed Claim Form postmarked no later than **DATE**. You may use the Claim Form attached to this Notice.

**What Are My Other Options?** You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator by **Date**. If you exclude yourself, then you cannot receive a settlement payment, but you keep any rights you may have to sue Costco over the legal issue in this Litigation. You can also object. If you do not exclude yourself, then you or your lawyer can appear before the Court and object to the Settlement. Your written objection must be filed with the Court no later than **Date**. Specific instructions on how to object to or exclude yourself from the Settlement are available at [www.URL.com](http://www.URL.com).

**Who Represents Me?** The Court has appointed a team of lawyers from Berger & Montague, P.C., and Terrell Marshall Law Group PLLC to serve as Class Counsel. They will petition to be paid legal fees from the settlement fund, and will also petition for their reasonable legal expenses in pursuing the lawsuit. But you may hire your own lawyer at your expense if you so choose.

**When Will the Court Consider the Settlement?** The Court will hold a final approval hearing on **DATE at TIME** at [address], Seattle, Washington. At that hearing, the Court will hear any objections concerning the fairness of the Settlement, decide whether to approve the requested attorneys' fees, Class Representative payment, and administration costs, and determine the final fairness of the Settlement.

**How Do I Get More Information?** For more information, go to [www.URL.com](http://www.URL.com), or contact the Settlement Administrator at **1-800-XXX-XXXX**.

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\_\_\_\_\_  
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Business Reply Mail  
Artwork

# **Exhibit C**

**COURT ORDERED  
NOTICE**

*Terrell v. Costco Wholesale  
Corporation*

**Class Action Notice Opt**

**Out Deadline:**

**XX/XX/XXXX**

*Terrell v. Costco Wholesale Corporation*

c/o ADMINISTRATOR

ADDRESS

ADDRESS

FIRST CLASS  
MAIL  
US POSTAGE  
PAID  
Permit#\_



Postal Service: Please do not mark barcode

ABC-1234567-8

First Last

Address1

Address2

City, State, Zip Code



A settlement has been reached in a class action lawsuit, called *Terrell v. Costco Wholesale Corporation*, alleging violations of the Fair Credit Reporting Act. Plaintiff claims that Costco failed to use a proper disclosure before obtaining background checks on job applicants. Costco vigorously denies that it violated any law, but has agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the Litigation. This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, see the longer Notice of Settlement and review the Settlement Agreement, both of which are available at [www.URL.com](http://www.URL.com).

**Am I a Class Member?** Costco's records indicate that you are a Class Member and that you are also a member of what the Settlement Agreement calls the Class Members Entitled to Autopay. That means that you will automatically get paid money under the Settlement, unless you opt out of the Settlement Class.

**What Can I Get?** If the Settlement is approved by the Court, you will receive money, unless you first opt out. The amount will depend on the total Claim Forms filed, and the amount of attorneys' fees, Class Representative payment, and administration costs approved by the Court. Class Counsel estimates that payments could be as much as \$400.

**How Do I Get a Payment?** You need simply wait and not exclude yourself from the Settlement Class.

**How Would I Exclude Myself?** You may exclude yourself from the Settlement Class by mailing a written notice to the Settlement Administrator by **Date**. If you exclude yourself, then you cannot receive a settlement payment, but you keep any rights you may have to sue Costco over the legal issue in this Litigation. You can also object. If you do not exclude yourself, then you or your lawyer can appear before the Court and object to the Settlement. Your written objection must be filed with the Court no later than **Date**. Specific instructions on how to object to or exclude yourself from the Settlement are available at [www.URL.com](http://www.URL.com).

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**How Do I Get More Information?** For more information, go to [www.URL.com](http://www.URL.com), or contact the Settlement Administrator at **1-800-XXX-XXXX**.

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