

Michael Fuller, OSB No. 09357

OlsenDaines
US Bancorp Tower
111 SW 5th Ave., Suite 3150
Portland, Oregon 97204
michael@underdoglawyer.com
Direct 503-222-2000

Kelly D. Jones, OSB No. 074217

kellydonovanjones@gmail.com
Direct 503-847-4329

Daniel J. Nichols, OSB No. 101304

dan@jurislawyer.com
Direct 503-334-0611

Of Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

VIRGINIA SIMONIN
individually, and on behalf of
others similarly situated

Plaintiff

Case No. 3:19-cv-02094-AR

**UNOPPOSED MOTION FOR
FINAL APPROVAL OF
CLASS SETTLEMENT**

vs

WINCO FOODS, LLC

Defendant

TABLE OF CONTENTS

TABLE OF AUTHORITIES3
L.R. 7-1 CERTIFICATION5
MOTION.....5
INTRODUCTION6
ARGUMENT SUPPORTING FINAL APPROVAL.....10
 1. The notice plan was successfully implemented10
 2. Claims submissions were robust and CPT’s extensive claims verification procedures have weeded out many suspected fraudulent and invalid submissions14
 3. No class members have timely opted out or objected.19
 4. The settlement is fair, reasonable, and adequate and should be granted final approval.....19
 4.1 Adequacy of representation21
 4.2 Arm’s-length negotiations.....22
 4.3 Adequacy of class relief.....22
 4.4 Equal treatment27
 4.5 Reaction of the class members to the settlement and the views of counsel28
 5. The agreed upon *cy pres* recipients should be approved.....29
CONCLUSION30

TABLE OF AUTHORITIES

Cases

Aquino v. 99 Cents Only Stores LLC,
 No. 2:22-cv-01966-SPG-AFM, 2024 U.S. Dist. LEXIS 6950 (C.D.
 Cal. Jan. 2, 2024).....27

Baker v. Seaworld Entm’t, Inc.,
 No. 14-cv-02129-MMA-AGS, 2020 WL 4260712, 2020 U.S. Dist.
 LEXIS 131109 (S.D. Cal. July 24, 2020)23

Balderas v. Massage Envy Franchising, LLC,
 No. 12-cv-06327, 2014 U.S. Dist. LEXIS 99966, 2014 WL
 3610945 (N.D. Cal. July 21, 2014)25

Churchill Vill., L.L.C. v. GE, 361 F.3d 566 (9th Cir. 2004).....20

Hardy v. Embark Tech., Inc.,
 No. 3:22-cv-02090-JSC, 2024 WL 1354416, 2024 U.S. Dist.
 LEXIS 58266 (N.D. Cal. Mar. 29, 2024)25

Harrison v. Harry & David Operations, Inc.,
 No. 1:18-cv-00410-CL, 2022 U.S. Dist. LEXIS 178196 (D. Or.
 Sept. 29, 2022)24

In re Mego Fin. Corp. Sec. Litig.,
 213 F.3d 454 (9th Cir. 2000)25

Marshall v. Northrop Grumman Corp.,
 No. 16-CV-6794 AB (JCx), 2020 WL 5668935, 2020 U.S. Dist.
 LEXIS 177056 (C.D. Cal. Sept. 18, 2020).....27

Martinelli v. Johnson & Johnson,
 No. 2:15-cv-01733-MCE-DB, 2022 WL 4123874, 2022 U.S. Dist.
 LEXIS 163471 (E.D. Cal. Sept. 8, 2022)28

Nachshin v. AOL, LLC,
 663 F.3d 1034 (9th Cir. 2011)29

Officers for Justice v. Civil Serv. Comm’n,
 688 F.2d 615 (9th Cir. 1982)25

Peterson v. BSH Home Appliances Corp.,
 No. 2:23-cv-00543-RAJ, 2024 U.S. Dist. LEXIS 105624 (W.D.
 Wash. June 13, 2024)9, 20, 21

Rivera v. W. Express Inc.,
 No. EDCV 18-1633 JGB (SHKx), 2022 U.S. Dist. LEXIS 76533
 (C.D. Cal. Apr. 25, 2022)13

Stovall-Gusman v. W.W. Granger, Inc.,
 No. 13-cv-2540, 2015 U.S. Dist. LEXIS 78671, 2015 WL 3776765
 (N.D. Cal. June 17, 2015).....25

Statutes

Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b)13
 Unlawful Trade Practices Act6, 18, 23, 29
 ORS 646.638(8)23

Rules

FRCP 23(a)9
 FRCP 23(b)9
 FRCP 23(b)(3)10
 FRCP 23(c)(2)10, 11
 FRCP 23(e) passim
 FRCP 23(e)(1)9, 10
 FRCP 23(e)(2)9, 19, 21
 FRCP 23(e)(2)(A)-(D)20
 FRCP 23(e)(2)(B)22
 FRCP 23(e)(2)(C)22,23
 FRCP 23(e)(2)(D)28
 FRCP 23(e)(3)20, 22, 27
 FRCP 23(h)26

Other Authorities

Jashayla Pettigrew, *Portland WinCo Shoppers Could Receive \$200 Due to Class Action Suit*, Koin6 News (May 14, 2024), <https://www.koin.com/local/portland-winco-shoppers-could-receive-200-due-to-class-action-suit-05142024>13
 Kristine de Leon, *Portland WinCo Customers Have July Deadline to Claim \$200 Payment in Class Action Settlement*, The Oregonian (May 14, 2024), <https://www.oregonlive.com/business/2024/05/portland-winco-customers-have-july-deadline-to-claim-200-payment-in-class-action-settlement.html>13

L.R. 7-1 CERTIFICATION

Defendant WinCo Foods, LLC (defendant or WinCo) does not oppose the relief sought in this motion.

MOTION

Pursuant to FRCP 23(e), class representative plaintiff Virginia Simonin moves the Court for final approval of the preliminarily approved Class Settlement Agreement (Agreement) (Doc. 19-1) and class certification for settlement purposes only, by entering an order substantially in the same form as the proposed final approval order attached and filed with the Agreement as Exhibit 6 (Doc. 91-1 at 51-56).

In addition to the following memorandum, this motion is supported by the Declaration of Kelly D. Jones (Jones Decl.), the Declaration of Julie Green of the court-appointed class administrator CPT, Group, Inc. (CPT) (Green Decl.), the exhibits attached to or filed with those declarations, and the documents and submissions previously filed, and orders entered, in this case.

INTRODUCTION

An extensive summary of the factual and procedural background and the key terms of the preliminarily approved class action settlement and Agreement are set forth in plaintiff's motion for preliminary approval. *See* Doc. 91 at 8-15. As a brief recap, this putative class action was initially filed in Oregon state court, alleging that WinCo violated Oregon's Unlawful Trade Practices Act (UTPA) by adding surcharges to the price class members paid for non-grocery goods at WinCo's Portland store registers that were not disclosed in the advertised shelf prices for those goods. Doc. 1.

After WinCo's removal to this Court, a failed motion to dismiss by WinCo, multiple amendments to the pleadings, substitution and dismissal of multiple proposed class plaintiffs, leaving only Ms. Simonin as the remaining class representative plaintiff, extensive discovery including depositions and expert reports, the filing and full briefing of a contested motion for class certification by plaintiff and a second motion to dismiss by WinCo, and unsuccessful settlement negotiations with two different mediators, the parties reached a proposed classwide settlement with the assistance of a third mediator, senior Multnomah County Circuit Court Judge Henry Kantor. Docs. 4-95.

As to the key terms of the settlement, in exchange for the non-opt-out class members releasing any claims that they could have been

brought in this action, WinCo will fund a common settlement fund in the amount of \$3,365,000 and will separately pay up to \$235,000 for CPT's settlement administration costs. Doc. 91-1 ¶¶ 2.1, 2.9(d), 4.2(a). The Agreement also provides that class counsel would request 30% of the common settlement fund for their fees and no more than \$150,000 for incurred costs and expenses, and that plaintiff would request no more than \$10,000 for a class representative plaintiff service award. *Id.* at ¶¶ 2.9(a) & (b).¹

Critically, under no circumstances will any portion of the settlement fund revert to WinCo. Instead, any remainder after distribution to the class members, plaintiff, and class counsel will be paid to appropriate nonprofits recommended by the parties and to be approved by the Court: 50% to Oregon Food Bank, 25% to Oregon Consumer Justice, and 25% to Oregon Consumer League. *Id.* at ¶ 3.4(e).

On March 29, 2024, plaintiff filed an unopposed motion for preliminary approval of class settlement and class certification, along with supporting declarations from class counsel and CPT and the various exhibits filed with those declarations, including proposed class

¹ The to-be-requested amounts for these items were only agreed to after securing agreement on the comprehensive amount of the class settlement fund, and the Agreement or settlement is in no way conditioned upon these specific amounts being approved or awarded by the Court. *See* Doc. 91-1 at ¶ 2.9(a)-(d); Doc. 93 at ¶ 4. On April 26, 2024, plaintiff filed a separate Fee, Expense, and Service Award Application, along with supporting declarations and exhibits filed in support. *See* Docs. 99-103.

notice and claim forms and proposed orders. Docs. 91-95. The class is defined as:

All persons who, between June 1, 2019 and May 8, 2022, purchased certain non-grocery items from a WinCo store located within the City of Portland, Oregon and paid to WinCo a surcharge on certain non-grocery items related to the Clean Energy Surcharge enacted by the City of Portland, effective January 1, 2019.

Excluded from the Settlement Class are: (1) any Judge presiding over this Action and members of their families; (2) persons who properly execute and file a timely request for exclusion from the Settlement Class; (3) David Maingot; and (4) the legal representatives, successors, or assigns of any such excluded persons.

Doc. 91-1 ¶ 1.8; Doc. 91 at 11-12; Doc. 98 at 3.

On April 5, 2024, the Court entered an order² granting preliminary approval of the class settlement and certification of the class for settlement purposes, appointing CPT as the class administrator, and directed CPT to give notice to the class and initiate and oversee the claims process, as set forth in the Agreement and using the court-approved class notice and claim forms and notice plan designed by CPT and the parties. Doc. 98.

Plaintiff now files this motion, seeking final approval of the preliminarily approved class settlement, after the final fairness hearing scheduled for August 8, 2024, now that the class has been provided

² The parties have given full consent to jurisdiction by a U.S. Magistrate Judge. Docs. 88-90.

notice and had opportunity to submit claims, opt out of the settlement, and object. The propriety of class certification for settlement purposes under FRCP 23(a) and (b),³ the sufficiency of class notice under FRCP 23(e)(1), the reasonableness of plaintiff's and class counsel's fee, expense, and service award requests, and detailed arguments as to why the settlement is fair, reasonable, and adequate under FRCP 23(e)(2) have already been set forth in the motion for preliminary approval and plaintiff's fee, expense, and service award application—with extensive and relevant caselaw and evidentiary support. *See* Doc. 91; Doc. 99.

Accordingly, and appropriately, the central focus of this motion is providing an update to the Court regarding the class notice and claims process and the overall reaction of the class members to the settlement, to show that the Court's preliminary findings that the settlement is fair, reasonable, and adequate should be extended to an order granting final approval.

³ Because nothing has changed since preliminary approval that would affect the propriety of granting settlement class certification, plaintiff does not belabor this issue in this motion. *See, e.g., Peterson v. BSH Home Appliances Corp.*, No. 2:23-cv-00543-RAJ, 2024 U.S. Dist. LEXIS 105624, at *6 (W.D. Wash. June 13, 2024) (“In the Preliminary Approval Order the Court preliminarily found that the . . . requirements of Rule 23 of the Federal Rules of Civil Procedure were satisfied. Since the Court's Preliminary Approval Order, the deadline for opt-outs and objections have passed. Upon review of the declarations of the notice and claims administrator, CPT Group, Inc. (‘CPT’) and Settlement Class Counsel, no opt-outs or objections were made by Settlement Class Members. Additionally, no material changes have occurred since that Order that would alter this ruling. The Court now finally approves certification of the Settlement Class and the Settlement Agreement.” (internal citation to the record omitted)).

As explained below, class members' desire to participate in the settlement has far exceeded the parties' and CPT's expectations and their reaction to the settlement has been overwhelmingly positive. No class member has decided to opt out of, and no class member has validly or timely objected to, the settlement. For the reasons that follow, and those already expressed in the preliminary approval motion, the Court should grant final approval to the parties' Agreement and settlement.

ARGUMENT SUPPORTING FINAL APPROVAL

1. The notice plan was successfully implemented.

FRCP 23(b)(3) class actions such as the case at hand must satisfy the notice provisions of FRCP 23(c)(2) and, upon settlement of such cases, “[t]he court must direct notice in a reasonable manner to all class members who would be bound by the proposal.” FRCP 23(e)(1). FRCP 23(c)(2) requires that “the best notice that is practicable under the circumstances.”

As the Court already knows, a diverse media publication notice campaign and a claims process were required to effectuate this settlement, because the class members were not identifiable through WinCo's records, given that WinCo is largely a cash operation that does not accept credit cards and because WinCo did not have a system in place to track the collection of a surcharge with a particular debit card transaction. The class members are all customers of WinCo's three

Portland stores, located within a few miles apart, where the undisclosed surcharges at issue were collected.

To meet these needs and the circumstances and needs of this case, the parties and CPT designed a modern, online-focused notice and claims administration plan that satisfied FRCP 23(c)(2) and constitutional due process and was approved by the Court as “sufficient to inform Settlement Class Members of the terms of the Settlement, their rights under the Settlement, their rights to object to the Settlement, their right to make a claim to receive a payment under the Settlement or elect not to participate in the Settlement and the processes for doing so, and the date and location of the Final Approval Hearing.” Doc. 98 at 6; *see also* Doc. 91 at 35-38; 91-1 at 39-46; Doc. 92 at 5-11.

As Ms. Green explains in detail in her declaration filed in support of this motion, the notice plan, which sought to “reach approximately 75% of the” class “through targeted digital internet banner advertisements, paid keyword search on Google & Bing, and social media advertisement campaign on Facebook, Instagram, and Reddit, supplemented by a press release, settlement website, email and call center support . . . was successfully and timely implemented on May 10, 2024, and completed on July 8, 2024, in compliance with the parties’

Settlement Agreement and the Court’s Preliminary Approval Order.”

Green Decl. ¶¶ 14-15. Moreover,

- The 24-hour, toll-free support line, which went live on May 10, 2024, received 154 calls. *Id.* at ¶ 7.
- CPT’s case-dedicated email address received 530 email inquiries. *Id.* at ¶ 8.
- The settlement website, which went live on May 10, 2024, includes a page called “Court Documents” that contains links to downloadable versions of the important case documents including the Agreement, preliminary approval motion and order, plaintiff’s fee, expense, and service award application.
- During the notice and claims filing period the settlement website provided a link to file a claim form electronically. *Id.* at ¶ 9.
- As of the date of Ms. Green’s declaration, there have been approximately 6,474,013 views of the website’s various pages, and approximately 4,875,920 unique visitors to the site. *Id.* at ¶ 10.
- The digital media portion of the notice program that concluded on July 8, 2024, served a total of 3,907,694 viewable impressions on mobile and desktop display prompting 36,304 link clicks to view the settlement website. *Id.* at ¶ 12.
- CPT’s May 10, 2024 PR Newswire Oregon Newswire press release had the potential to reach approximately 106 million individuals

through interactions with the content by 254 media outlets or influencers, resulting in 6,761 views and 1,504 click-throughs.

As a result of CPT's media campaign, and with the additional efforts of class counsel to publicize the settlement, the proposed settlement received widespread local television and news coverage.⁴ CPT has also confirmed that, on April 8, 2024, it sent notification to the U.S. Attorney General, and the Attorneys General in all 50 states and U.S. territories, in compliance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b). Green Decl. ¶ 5.

“The Court previously approved the form of the proposed class notice. As discussed above, the Settlement Administrator implemented the notice procedure. Based on CPT's Declaration, the Court [should] find[] that the Class Notice and notice procedure fairly and adequately informed the Class Members of the nature of the action, the terms of the proposed settlement, the effect of the action and release of claims, the Class Members right to exclude themselves from settlement, and their right to object to the proposed settlement.” *Rivera v. W. Express Inc.*, No.

⁴ See, e.g.:

- Jashayla Pettigrew, *Portland WinCo Shoppers Could Receive \$200 Due to Class Action Suit*, Koin6 News (May 14, 2024), <https://www.koin.com/local/portland-winco-shoppers-could-receive-200-due-to-class-action-suit-05142024>.
- Kristine de Leon, *Portland WinCo Customers Have July Deadline to Claim \$200 Payment in Class Action Settlement*, The Oregonian (May 14, 2024), <https://www.oregonlive.com/business/2024/05/portland-winco-customers-have-july-deadline-to-claim-200-payment-in-class-action-settlement.html>.

EDCV 18-1633 JGB (SHKx), 2022 U.S. Dist. LEXIS 76533, at *12-13 (C.D. Cal. Apr. 25, 2022) (internal citations omitted).

2. Claims submissions were robust and CPT's extensive claims verification procedures have weeded out many suspected fraudulent and invalid submissions.

As is well documented throughout this litigation, given the circumstances, a claims process was necessary to ascertain the identities, as well as the number, of class members. Using their combined data, including the opinions of experts retained by the parties to assist in making these complex analytical assessments, the parties reached a good-faith estimate of the class membership as approximately 120,000 individuals who had purchased at least one non-grocery item and paid at least one of WinCo's undisclosed surcharges during that transaction within the class period. *See* Doc. 91 at 13, 18; Doc. 93 ¶ 6; Doc. 92 ¶ 9. Based on the unique factors of this case, and extensive experience in similar class settlement administrations, CPT estimated its notice plan would result in a valid claims rate of approximately 7%. Doc. 92 at 27.

To encourage the greatest amount of class member participation and to get settlement payments to the greatest number of class members possible, CPT and the parties designed and implemented a modernized, targeted, efficient claims filing and distribution process, for class members to verify their class membership, to opt out of the settlement

if they so chose, and to receive payments electronically, if desired. Doc. 91-1 at 46-51.

The deadline for class members to submit a claim was July 9, 2024. During the claims period—May 10, 2024, through July 9, 2024—CPT received a total of 1,516,276 claim submissions, of which the majority were submitted online through the website. Green Decl. ¶ 16.

The sheer number of claims submissions is alone indicative of potential fraud in the claims process. The upside of the success of the notice plan and the efficiency and convenience of providing class members with the ability to submit claims online (and receive distributions electronically) has some downsides. Unfortunately, class settlements with claims processes have become an attractive target for criminals or others who see it as an opportunity to exploit. As explained by CPT, “bot-like and/or otherwise suspicious claim submissions are not uncommon in cases with no (or minimal) class list and where the claim form is open to the public,” and this is “typical in other claims administrators’ experience on similar cases.” *Id.* at ¶ 17.

To address this current reality, CPT has developed various tactics to both limit and identify suspicious claims and steps to discourage fraudulent submissions, which it employed in this case early on, in consultation with the parties, including:

- Utilizing Google’s reCAPTCHA during submission, interaction monitoring, and detailed logging to help distinguish between humans and bots, enhancing website security against spam and abuse.
- Gathering and analyzing various data points, including IP addresses, submission timestamps, and contact information (name, email address, mailing address), which assist in identifying patterns that can indicate automated or high-risk submissions.
- Designing the claim form to gather unique information to provide additional data points for validation. *Id.*

Utilizing these comprehensive tactics, described in detail in Ms. Green’s declaration, CPT was able to invalidate 17,489 claim submissions based on nonconforming purchase date criteria; 90,936 claim submissions based on nonconforming store addresses; 146 claim submissions based on inapplicable non-grocery item descriptions; 635,000 claim submissions based on suspicious email address patterns; 144,500 claim submissions based suspicious IP addresses; 573,500 claim submissions based on “digital identity” indicators associated with a high or likely risk of fraud; and 10,000 claim submissions based digital payment vendor record-based fraud indicators—resulting in the invalidation of over 1,471,000 online submissions to date. *Id.* at ¶¶ 18-26.

Currently, this leaves 43,990 remaining claim submissions classified as valid. *Id.* at ¶ 26. However, continuing until the distribution date, CPT will further review the claim submissions, and although “it is impossible to eliminate every suspicious claim, [CPT] will ensure to the best of [its] ability that the final list of valid claimants is limited to the submissions for which [CPT and the parties] have a high degree of confidence are from verified class members.” *Id.* at 26. CPT anticipates that after employing additional review, the final count of valid claims eligible for payment will be reduced from the current 43,990. *Id.*

In summary, the notice plan and claims process was designed and implemented so successfully that CPT’s estimated 7% claims rate was far exceeded, as applied to the parties’ 200,000-person class size estimate. Fortunately, given the clear presence of fraudsters, CPT’s claims validation tools have proven to be highly effective: reducing the total claims submissions count of over 1.5 million to a current valid class member count of just less than 44,000, with further reductions anticipated.

Based on multiple hypothetical scenarios relating to CPT’s continued claims verification processing, CPT estimates⁵ per-class member recovery as follows based on the final count of valid claims:

⁵ As also utilized by plaintiff below, CPT calculated these projected per-class member estimations using the following formula, presuming plaintiff’s and class counsel’s awards are granted in the amounts requested in their application (Doc. 99), to determine the remainder of the common settlement fund to be distributed to the class:

- 25,000 verified class members: \$89.97
- 30,000 verified class members: \$74.98
- 35,000 verified class members: \$64.26
- 40,000 verified class members: \$56.23
- 44,000⁶ verified class members: \$51.12

Id. at ¶ 27.

Although per-class member distributions will be less than the \$200 per-class-member cap that was anticipated using CPT’s single-digit projected claims rate at the preliminary approval stage, class members will receive no less than 25% of the maximum damages they could have received *if* successful on the merits of the class UTPA claim at trial, and an amount equating to approximately 500 times their actual out-of-pocket economic losses.⁷

Arguably more important, the higher than anticipated claims rate satisfies the utilitarian goal underpinning consumer class actions: to provide relief to the greatest number of injured consumers. The claims administration procedures adopted and implemented here have effectually counterbalanced the goal of making the process accessible enough to encourage very significant class member participation with

\$3,365,000 - \$1,009,500 - \$96,240.35 - \$10,000 = \$2,249,259.65—rounded up to \$2,249,260.

⁶ This is slightly more than the current valid claim count.

⁷ See Doc. 64-11 at 20 ¶ 56 (“The average (mean) surcharge per transaction was 14 cents; the median surcharge was 9 cents.”).

the objective to weed out fraudsters and other invalid claimants, so that equal shares of the common settlement fund can be distributed to as many valid, injured class members as possible.

3. No class members have timely opted out or objected.

The class notices approved by the Court, and the class website, unambiguously provided that the deadline for class members to request exclusion (opt out) from the settlement or to object to any part of the settlement was July 9, 2024, and adequately explained what those terms mean and how to do so. *See* Green Decl. ¶ 10, Exhibit A.

As of this date, neither CPT nor class counsel is aware of any timely or valid requests for exclusions from, or objections to, the settlement. Green Decl. ¶ 29; Jones Decl. ¶ 3

4. The settlement is fair, reasonable, and adequate and should be granted final approval.

A court may not finally approve a settlement that is binding on non-excluded class members until “after a hearing and only on finding that it is fair, reasonable, and adequate.” FRCP 23(e)(2). The codified considerations for this assessment are whether:

(A) the class representatives and class counsel have adequately represented the class; (B) the proposal was negotiated at arm’s length; (C) the relief provided for the class is adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and, (iv) any agreement

required to be identified under Rule 23(e)(3); and (D) the proposal treats class members equitably relative to each other.

FRCP 23(e)(2)(A)-(D).

Prior to codification of these considerations in the rule, the Ninth Circuit instructed courts to balance the following factors: “(1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of the class members to the proposed settlement.” *Churchill Vill., L.L.C. v. GE*, 361 F.3d 566, 570 (9th Cir. 2004).

It appears that at least some in-circuit courts still apply both the FRCP 23(e)(2)(A)-(D) considerations and the “Churchill” factors in assessing final approval, although these factors are largely congruous and therefore overlap. *See, e.g., Peterson v. BSH Home Appliances Corp.*, No. 2:23-cv-00543-RAJ, 2024 U.S. Dist. LEXIS 105624, at *10-20 (W.D. Wash. June 13, 2024). Plaintiff takes a blended approach here, applying the relevant factors of both lists, but with emphasis on FRCP 23(e)(2). As explained (and reconfirmed) below, in evaluating these considerations that are applicable, or under any applicable measure,

granting final approval of the Agreement and settlement as fair, reasonable, and adequate under FRCP 23(e)(2) is warranted.

4.1 Adequacy of representation

The adequacy of class counsel, generally and in the context of litigating this case and securing the settlement on behalf of the class, and the adequacy of Ms. Simonin as the class representative, has been discussed thoroughly in the motion for preliminary approval and in the fee, expense, and service award application. *See* Doc. 91 at 21-23; Docs. 93-95; Doc. 99 at 14-16; Docs. 100-103. And the Court has already recognized class counsel's and plaintiff's adequacy in the preliminary approval order. Doc. 98 at 4; *see also Peterson*, 2024 WL 2978216, 2024 U.S. Dist. LEXIS 105624, at *11 ("This Court sees no reason to alter its previous finding [as to adequacy] and thus Rule 23(e)(2)(A) is satisfied.").

Nothing has occurred since to suggest the Court should deviate from its findings regarding adequacy of class counsel and Ms. Simonin. To the contrary, beyond the above-referenced submissions and a review of the docket in this matter, plaintiff and class counsel hope that further evidence of their adequacy and continued commitment to securing just relief for the class has been demonstrated by their subsequent efforts to field inquiries from potential class members and in working closely with CPT (and defense counsel) to make decisions regarding the claims

process and to combat fraudsters' attempts to commandeer the settlement fund.

4.2 Arm's-length negotiations

As has also been extensively covered elsewhere, the settlement and Agreement were negotiated with the assistance of a respected judge with significant consumer class action experience, Judge Kantor, only after two previous settlement attempts—a judicial settlement conference with Judge Kasubhai and a private mediation with retired Judge Hogan—were unsuccessful. There should be no question that this settlement resulted from intensive, informed, non-collusive, and arm's-length negotiations satisfying FRCP 23(e)(2)(B).

4.3 Adequacy of class relief

In assessing the adequacy of the class relief provided by the settlement, FRCP 23(e)(2)(C) instructs courts to take into account the “(i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims; (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and, (iv) any agreement required to be identified under Rule 23(e)(3).”

The FRCP 23(e)(2)(C) factors, including the costs, risks, and delay of trial and appeal, have also already been addressed at length in the preliminary approval motion. To briefly reiterate, a court “balance[s]

the continuing risks of litigation (including the strengths and weaknesses of [p]laintiffs' case), with the benefits afforded to members of the Class, and the immediacy and certainty of a substantial recovery.” *Baker v. Seaworld Entm't, Inc.*, No. 14-cv-02129-MMA-AGS, 2020 WL 4260712, 2020 U.S. Dist. LEXIS 131109, at *21-22 (S.D. Cal. July 24, 2020).

As is evident from a review of the many briefings by plaintiff in this matter, plaintiff and class counsel are confident that the class UTPA claim is strong. With that said, it has become equally clear that WinCo believes, not without any merit, in the strength of its defenses. And for the class members to be awarded \$200 each after trial, plaintiff must establish that WinCo engaged in its alleged UTPA violations with a heightened reckless or knowing scienter. *See* ORS 646.638(8). There are also potentially relevant private remedy UTPA issues that are currently in flux and pending review in the Oregon appellate courts, increasing the likelihood of an appeal in this matter, if plaintiff does succeed on the merits of the claim in the absence of this settlement. In any event, it cannot be denied that “there remains considerable risk, expense, and delay for both sides prior to the conclusion of this case absent a settlement.” *See Harrison v. Harry & David Operations, Inc.*, No. 1:18-cv-00410-CL, 2022 U.S. Dist. LEXIS 178196, at *3-4 (D. Or. Sept. 29, 2022).

As to time and expense, this case has already been litigated for approximately 4.5 years, and has resulted in substantial costs, including the retention of experts. *See* Doc. 99. Advancing the case to trial—assuming contested certification and summary judgment motions are overcome—will of course dramatically increase the costs for all parties.

Especially when considering the uncertainties, risks, and time involved with proceeding toward trial if the settlement is not approved, the substantial \$3,365,000 common settlement fund—which does not include the additional \$235,000 WinCo will separately pay to cover CPT’s administration costs and will provide approximately \$2,249,260 for pro rata class member payment distributions—should be considered fair, reasonable, and adequate. As detailed above, after extensive, effective, and ongoing tactics to root out and invalidate fraudulent and suspicious claims, the valid claims rate still far surpassed CPT’s 7% estimation. Although that means the per-class-member distributions will not reach the \$200 threshold⁸ allowed by the Agreement (and the UTPA), and estimated at preliminary approval based on the 7% valid claims rate that was used, many more injured class members will be provided relief than was anticipated.

⁸ Through the class notices, the class members were always clearly informed that, if they filed a claim and if the settlement was approved, they would receive a pro rata distribution of the settlement fund up to \$200. *See* Doc. 91-1 at 39 (“Those individuals included in the Settlement will be eligible to make a claim to receive up to \$200 cash payment.”); *id.* at 41 (“You may be entitled to receive a cash payment up to \$200.00”); Green Decl., Exhibit A.

Moreover, that relief is still comparatively and relatively substantial. Using the current valid claims/class member numbers, class member distributions will be more than \$50: at least 25% of the maximum damages they could receive *if* they were successful at trial, and approximately 500 times the amount of the out-of-pocket loss in the form of the undisclosed surcharges paid to WinCo. *See* Doc. 64-11 at 20 ¶ 56. This percentage of recovery is well beyond amounts found to be adequate in the caselaw. *See, e.g., Officers for Justice v. Civil Serv. Comm'n*, 688 F.2d 615, 628 (9th Cir. 1982) (“It is well-settled law that a cash settlement amounting to only a fraction of the potential recovery does not per se render the settlement inadequate or unfair.”); *In re Mego Fin. Corp. Sec. Litig.*, 213 F.3d 454, 459 (9th Cir. 2000) (accord); *Stovall-Gusman v. W.W. Granger, Inc.*, No. 13-cv-2540, 2015 U.S. Dist. LEXIS 78671, 2015 WL 3776765, at *4 (N.D. Cal. June 17, 2015) (approving settlement where net amount represented 7.3% of plaintiffs’ estimated trial award); *Balderas v. Massage Envy Franchising, LLC*, No. 12-cv-06327, 2014 U.S. Dist. LEXIS 99966, 2014 WL 3610945, at *5 (N.D. Cal. July 21, 2014) (granting preliminary approval of a net settlement amount representing 5% of the projected maximum recovery at trial); *Hardy v. Embark Tech., Inc.*, No. 3:22-cv-02090-JSC, 2024 WL 1354416, 2024 U.S. Dist. LEXIS 58266, at *14 (N.D. Cal. Mar. 29, 2024)

(settlement equating to approximately 1% of the estimated aggregate damages considered adequate).

Consideration of the effectiveness of any proposed method of distributing relief to the class and processing class-member claims has been well covered *supra*. The Court-approved claims process was efficiently front loaded into the class notice, opt-out, and objection period. The claim filing options provided a modernized, online-based option and a traditional mail option, for class members to accomplish their desired actions—whether to submit a claim, opt out of the settlement, or lodge an objection to all or part of the settlement. Distribution of payments to the class will offer the same options and exhibits the same efficiency: most verified class members have chosen one of the electronic payment options made available, while others have preferred the traditional check-in-the-mail option.

The terms and timing of any proposed award of attorney fees have also been extensively addressed, including in plaintiff's separately filed fee, expense, and service award application under FRCP 23(h). Doc. 99. As stated in the Agreement, which is in no way contingent upon any such award being approved by the Court, class counsel stated their intent to apply for a reasonable, routinely awarded⁹ 30% allocation of

⁹ See *Aquino v. 99 Cents Only Stores LLC*, No. 2:22-cv-01966-SPG-AFM, 2024 U.S. Dist. LEXIS 6950, at *28 (C.D. Cal. Jan. 2, 2024) (“The average percentage of the fund award in class actions is approximately one-third.”); *Marshall v. Northrop Grumman Corp.*, No. 16-CV-6794 AB (JCx), 2020 WL 5668935, 2020 U.S. Dist. LEXIS 177056, at

the common settlement fund they helped secure for the benefit of the class. Doc. 91-1 ¶ 2.9(a). The attorney fee and expense award will be distributed to class counsel at the same time as the class member distributions. *Id.* at ¶ 4.3. Lastly, no class member has objected to class counsel's fee and expense request, which was communicated clearly in the class notices, the Agreement, and the fee and expense application, and which was posted on the class website during the entire 60-day notice and objection period. *See* Doc. 99; Green Decl. ¶ 9.

Regarding any agreement required to be identified under FRCP 23(e)(3), the only agreement made in connection with this settlement is the Agreement, which has been publicly filed in this case and has been available on the settlement website since the website went live and the notice period commenced. *See* Doc. 91-1; Green Decl. ¶ 9; *see also* <https://www.oregonclassactionsettlement.com/Documents>.

4.4 Equal treatment

Distribution to the class will be made on a pro rata basis, dividing the settlement fund remainder, after deducting the fee, expense, and service awards, by the amount of the final valid claimants/class members tally. In other words, the settlement structure has been designed to treat the class members equally. *See Martinelli v. Johnson*

*23 (C.D. Cal. Sept. 18, 2020) (“An attorney fee of one third of the settlement fund is routinely found to be reasonable in class actions.”).

& *Johnson*, No. 2:15-cv-01733-MCE-DB, 2022 WL 4123874, 2022 U.S. Dist. LEXIS 163471, at *17 (E.D. Cal. Sept. 8, 2022) (finding the pro rata distribution methods in the settlement agreement to be equitable under FRCP 23(e)(2)(D) even where class members who could not show proof of purchase would receive less relief than those that could do so).

4.5 Reaction of the class members to the settlement and the views of counsel

That no class members have formally objected to the settlement is an important consideration in granting final approval to a class settlement that has already been preliminarily approved by this Court because “[t]he absence of a large number of objectors supports the fairness, reasonableness, and adequacy of the settlement.” *Id.* at *20 (internal quotation marks and citation omitted). Here there are none.

Also relevant, at least to some courts, is whether class counsel supports the settlement as fair, reasonable, and adequate under the circumstances, because counsel (for both parties) “are most closely acquainted with the facts of the underlying litigation . . . are better positioned than courts to produce a settlement that fairly reflects each party’s expected outcome in the litigation.” *Id.* (cleaned up). To the extent this Court finds it meaningful, as further documented in this and plaintiff’s other briefings and supporting declarations, class counsel strongly recommends granting final approval to this settlement as it

represents the best chance for these consumers to receive a fair and adequate recovery for the injuries that they suffered.

5. The agreed upon *cy pres* recipients should be approved.

The *cy pres* doctrine is utilized to distribute unclaimed or non-distributable portions of a class action settlement fund to the “next best” class of beneficiaries, typically a nonprofit organization that has an objective that relates to the subject of the underlying statute and is in the interests of the silent class members. *See Nachshin v. AOL, LLC*, 663 F.3d 1034, 1036-39 (9th Cir. 2011).

Because no amount of the settlement will revert back to defendant, the Agreement provides that, as approved by the Court, any unclaimed funds after distribution (from uncashed checks, etc.) should be given as *cy pres* awards: 1/2 to Oregon Food Bank (OFB), 1/4 to Oregon Consumer Justice (OCJ), and 1/4 to Oregon Consumer League (OCL). Doc. 91-1 ¶¶ 2.10 (e), 3.4(e). Given the class claim at issue here is under Oregon’s chief consumer protection statute, the UTPA, and the allegations of wrongdoing relate to overcharges assessed on customers of a low-cost grocery chain, all three proposed nonprofit entities are appropriate and worthy recipients of any unclaimed funds resulting from this settlement. OFB’s mission is “to eliminate hunger and its root causes ... because no one should be hungry.” Jones Decl., Exhibit 1 at 1. OCJ’s mission is to build “a future where financial and business

transactions can be relied upon as safe and where all Oregonians know and have recourse to exercise their consumer rights.” *Id.*, Exhibit 2 at 5. “For over 58 years, [OCL] has worked to protect Oregonians’ rights through education, policy development and advocacy.” *Id.*, Exhibit 3 at 2.

CONCLUSION

For the foregoing reasons, the reasons set forth in the motion for preliminary approval (Doc. 91) and in plaintiff’s fee, expense, and service award application (Doc. 99), plaintiff respectfully requests that the Court grant the relief requested above and enter an order in substantially similar form to the proposed final approval order filed as Exhibit 6 to the Agreement (Doc. 91-1 at 51-56).

August 3, 2024

RESPECTFULLY FILED,

s/ Kelly D. Jones

Kelly D. Jones, OSB No. 074217

Of Attorneys for Plaintiff

Law Office of Kelly D. Jones

819 SE Morrison St., Suite 255

Portland, Oregon 97214

kellydonovanjones@gmail.com

Direct 503-846-4329

CERTIFICATE OF SERVICE

I certify that this document was served on all necessary parties through this Court's ECF system.

August 3, 2024

s/ Kelly D. Jones
Kelly D. Jones, OSB No. 074217
Of Attorneys for Plaintiffs
The Law Office of Kelly D. Jones
819 SE Morrison St., Suite 255
Portland, Oregon 97214
kellydonovanjones@gmail.com
Direct 503-846-4329

Kelly D. Jones, OSB No. 074217

Law Office of Kelly D. Jones
819 SE Morrison St.
Suite 255
Portland, Oregon 97214
kellydonovanjones@gmail.com
Direct 503-847-4329

Of Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

VIRGINIA SIMONIN
individually, and on behalf of
others similarly situated

Plaintiff

Case No. 3:19-cv-02094-AR

**DECLARATION OF
KELLY D. JONES**

vs

WINCO FOODS, LLC

Defendant

DECLARATION

I, Kelly D. Jones, declare the following under penalty of perjury:

1. I am one of the attorneys for plaintiff, appointed as co-class counsel, in this action and make this declaration based on my personal knowledge and if called to testify to the following facts I could and would competently do so.
2. I submit this declaration in support of the Unopposed Motion For Final Approval of Class Settlement.
3. After a diligent review of my records and the docket in this case and consulting with fellow class counsel, I am unaware of any potential class member, beyond the expressly excluded former plaintiff David Maingot, who has requested to be excluded from the proposed class settlement. Nor am I aware of any potential class member who has timely and validly filed or asserted any objection to the proposed settlement.
4. Attached as Exhibit 1 is a true and correct copy of the “About Us” website page downloaded from the website of the Oregon Food Bank, available at <https://www.oregonfoodbank.org/about-us>.
5. Attached as Exhibit 2 is a true and correct copy of the main website page downloaded from the website of Oregon Consumer Justice, available at <https://ocj.org/about>.

6. Attached as Exhibit 3 is 1 is a true and correct copy of the “About Us” website page downloaded from the website of Oregon Consumer League, available at <https://oregonconsumerleague.org/>.

7. I know the facts I am testifying about based on my personal knowledge. Under 28 U.S.C. § 1746, I declare under penalty of perjury that this declaration is true and correct.

August 3, 2024

s/ Kelly D. Jones
Kelly D. Jones, OSB No. 074217

CERTIFICATE OF SERVICE

I caused this document to be served on all parties through the CM/ECF system.

August 3, 2024

/s/ Kelly D. Jones
Kelly D. Jones, OSB No. 074217
Of Attorneys for plaintiff
Law Office of Kelly D. Jones
819 SE Morrison St.
Suite 255
Portland, Oregon 97214
kellydonovanjones@gmail.com
Direct 503-847-4329

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

VIRGINIA SIMONIN
individually and on behalf
of others similarly situated

Plaintiff

vs

WINCO FOODS, LLC

Defendant

Case No. 3:19-cv-02094-AR

**DECLARATION OF
JULIE N. GREEN
REGARDING THE
SETTLEMENT
ADMINISTRATION
AND IN SUPPORT OF
MOTION FOR FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT**

I, Julie N. Green, declare and state as follows:

1. I am the Senior Vice President of Operations, Class Action Services of CPT Group, Inc. ("Settlement Administrator" or "CPT"). The following statements are based on my personal knowledge, the information provided to me by Counsel for the parties and other CPT employees working on this matter, and records of CPT generated and maintained in the usual course of its business. If called on to do so, I could and would testify competently thereto.

2. CPT is located at 50 Corporate Park, Irvine, CA 92606.

3. I have been employed by CPT for 19 years, managing the operations department and supervising multiple notice and

claims administration programs. As Senior Vice President of Operations, I am responsible for the oversight, supervision, and evaluation of all departments and positions related to the administration of class action matters to ensure superior quality and successful execution of each component required to complete the settlement process. In my career at CPT, I have been responsible for the design and/or implementation of hundreds of class action administration plans. I submit this declaration at the request of Counsel in support of the parties' Motion for Final Approval of Class Action Settlement and to attest to CPT's compliance with the Notice Plan as detailed in my declaration filed in support of preliminary approval titled, Declaration of Julie N. Green Regarding Notice Plan, dated March 29, 2024.

4. As the Settlement Administrator in this matter, CPT was charged with providing notice and claims administration services as provided in the parties' Settlement Agreement and Release ("Settlement Agreement"), including but not limited to the following:

- a. Implementing the Notice Plan preliminarily approved by the Court on April 5, 2024.
- b. Disseminating targeted digital banner advertisement, paid search (Google/Bing) and social media campaign (Facebook, Instagram, and Reddit).
- c. Distributing a press release over PR Newswire Oregon Newswire.
- d. Establishing a dedicated settlement website, www.OregonClassActionSettlement.com, that includes links to the Court-approved documents, allows online

submission of claims, and provides up-to-date information regarding the case.

- e. Reviewing and determining the validity of submitted claim forms.
- f. Receiving/processing other communications about the Settlement such as questions about the claims process, requests for exclusion, and objections.
- g. Preparing reports and summaries regarding the notice and claims process for the Parties and the Court.
- h. Performing such other tasks as set forth in the Settlement Agreement, or as the Parties mutually agree to or that the Court orders.

CAFA NOTICE

5. On April 8, 2024, in compliance with the Class Action Fairness Act of 2005, 28 U.S.C. § 1715(b), CPT sent notification to the United States Attorney General, and the Attorney Generals in all 50 states and US territories.

QUALIFIED SETTLEMENT FUND

6. Following entry of the Order Granting Preliminary Approval, CPT established a Qualified Settlement Fund (“QSF”) and corresponding bank account to receive the settlement funds. On May 8, 2024, CPT, on behalf of the QSF, received a payment from Defendant for the immediate notice costs (\$56,033.00). Subsequently, on May 8, 2024, CPT issued itself payment for applicable Notice and Administration costs incurred to date in the amount of \$56,033.00.

TOLL-FREE PHONE NUMBER

7. CPT established a dedicated, 24-hour, toll free support line with Interactive Voice Response ("IVR") capabilities (1-888-272-3064) that went live on May 10, 2024. Through this number, callers are provided with general and detailed information about the Action; answers to frequently asked questions, information relating to a settlement class members' options under the terms of the settlement, and live, bilingual class member support during normal business hours. This toll-free telephone number is listed in several locations on the settlement website, including the footer section and Contact Us page. As of the date of this declaration, there have been 154 calls made to the case support line.

CASE-SPECIFIC EMAIL ADDRESS

8. CPT established and has maintained a case-dedicated email address titled WincoSurchargeSettlement@cptgroup.com throughout the course of this administration. The email address is listed in several locations on the settlement website, including the footer section and Contact Us page. Settlement Class Members¹ can use this email address to communicate with CPT if they have questions about the case. As of the date of this declaration, there have been 530 email inquiries received from Settlement Class Members.

///

¹ Pursuant to the Court's Order Granting Preliminary Approval of Class Settlement and Certification, the "Settlement Class" includes all persons who, between June 1, 2019, and May 8, 2022, purchased certain non-grocery items from a WinCo store located within the City of Portland, Oregon and paid to WinCo a surcharge on certain non-grocery items related to the Clean Energy Surcharge enacted by the City of Portland.

SETTLEMENT WEBSITE

9. CPT also established a dedicated settlement website at Domain/URL (www.OregonClassActionSettlement.com) that went live on May 10, 2024. The Settlement Website includes a page called Court Documents that contains links to downloadable versions of the Class Action Complaints, Unopposed Motion for Preliminary Approval of Class Settlement and Certification, Class Action Settlement Fee Expense and Service Award Application, Preliminary Approval Order, Settlement Agreement and Release, Long Form Notice, Short Form Notice, and Claim Form. In addition, during the active notice and claims period (between May 10, 2024, and July 9, 2024) the website provided a link to file a claim form electronically through the website. True and correct copies of the Long Form Notice and Claim Form that are posted to the website are attached hereto as **Exhibits A** and **B**, respectively.

10. In addition to what is described above, the settlement website also contains Frequently Asked Questions (“FAQs”) and an Important Dates page that lists the case deadlines for submitting a claim form, filing a request for exclusion, or filing an objection, as well as the date of the Final Approval Hearing. As of the date of this declaration, in aggregate there have been approximately 6,474,013 views of the website’s various pages, and approximately 4,875,920 unique visitors to the site.

11. CPT will continue to maintain and update the settlement website with relevant documents, including the Final Approval Order and Judgment once entered by the Court, and other information or updates as they become available, or requested by the parties or required by the Court.

SUPPLEMENTAL MEDIA CAMPAIGN

12. **Digital Notice Program:** On May 10, 2024, CPT, in collaboration with its strategic partner, implemented a 60-day digital advertising campaign. This campaign included programmatic display advertising on a DSP accessible through desktop and mobile devices. It also featured paid search ads using sponsored links on Google AdWords and Bing Ads. Additionally, a social media campaign delivered advertisements through Facebook, Instagram, and Reddit Ad Exchange platforms. The banner ads contained an embedded hyperlink that provided access to the Settlement Website when clicked. The digital media portion of the notice program concluded on July 8, 2024, and served a total of 3,907,694 viewable impressions on mobile and desktop display prompting 36,304 link clicks to view the settlement website. This rate was consistent with and met the expectations of the supplemental notice plan. Attached hereto as **Exhibit C** are true and correct copies of the final banner advertisements.

13. **Press Release:** On May 10, 2024, CPT distributed an informative press release via PR Newswire Oregon Newswire. It reached a wide audience, with distribution to 76 associated press outlets and 452 influencers. The press release had the potential to reach approximately 106 million individuals through interactions with the content by 254 media outlets or influencers. This resulted in 6,761 views of our release and 1,504 click-throughs to our website. The press release prominently featured the toll-free number and the settlement website address. Attached as **Exhibit D** is a true and correct copy of the Press Release.

SUMMARY OF NOTICE PLAN

14. The Notice Plan sought to reach approximately 75% of the target audience (i.e., the potential Settlement Class) through targeted digital internet banner advertisements, paid keyword search on Google & Bing, and social media advertisement campaign on Facebook, Instagram, and Reddit, supplemented by a press release, settlement website, email and call center support.

15. In summary, the Notice Plan was successfully and timely implemented on May 10, 2024, and completed on July 8, 2024, in compliance with the parties' Settlement Agreement and the Court's Preliminary Approval Order.

CLAIMS ADMINISTRATION AND ANALYSIS

16. The deadline for Settlement Class Members to submit a Claim Form was July 9, 2024. During the claims period (May 10, 2024, through July 9, 2024), CPT received a total of 1,516,276 claim submissions, of which the majority were submitted online through the website. Specifically, 1,515,998 were submitted online and 278 were submitted by mail or email.

17. Fraudulent, bot-like and/or otherwise suspicious claim submissions are common in cases with no (or minimal) class list and where the claim form is open to the public. We also know this to be typical in other claims administrators' experience on similar cases. To address this, CPT has developed various tactics to both limit and identify suspicious claims. We take steps to discourage fraudulent submissions, such as utilizing Google's reCAPTCHA during submission, interaction monitoring, and detailed logging to help

distinguish between humans and bots, enhancing website security against spam and abuse. On the backend, we gather and analyze various data points, including IP addresses, submission timestamps, and contact information (name, email address, mailing address), that assist in identifying patterns that can indicate automated or high-risk submissions. The design of the claim form is also critical, as gathering more unique information from claimants provides additional data points for validation.

18. Based on the “Settlement Class” definition, we have invalidated claims that did not provide a valid date of purchase. This review ensured that only claims with purchase dates falling within the specified class period (June 1, 2019, to May 8, 2022) were considered. As a result, 17,489 claim submissions were invalidated based on the purchase date criteria.

19. The claim form also required claimants to specify the address location where their purchase was made to ensure that valid claims listed one of the three qualifying store locations. Analysis of the store locations provided on the claim submissions resulted in the invalidation of 90,936 claim submissions.

20. The claim form also required that the claimant provide a description of the non-grocery item they purchased during the class period where they paid a surcharge. Our analysis of the non-grocery item claim form field resulted in the invalidation of an additional 146 claim submissions based on inapplicable non-grocery item description.

21. Upon review of the claim submissions for suspicious anomalies, we identified a significant number of email addresses that were similar, differing only by variation in the placement of

periods throughout the username (e.g., john.doe@example.com vs. johndoe@example.com, vs. john.d.oe@example.com). Removing the periods revealed a substantial number of claims that were likely generated by the same individual or group. Based on a threshold of ten (meaning we allowed up to 10 same or similar email addresses) we were able to invalidate approximately 635,000 claim submissions based on suspicious email address patterns as described above.

22. Further, we “blacklisted” the IP addresses associated with the records where a suspicious email address was identified and further invalidated approximately 144,500 claim submissions.

23. In addition to the efforts described above, we also analyzed results from our fraud detection processes that help us identify fraud in the context of someone’s “digital identity” (based on data points like name, email address, email domain location, IP address, and mailing address, among other things). Using these results, we invalidated approximately 573,500 claim submissions based on indicators associated with a high or likely risk of fraud.

24. Further, CPT utilized the analysis from our digital payment vendor of records where a digital payment was selected and flagged as suspicious for reasons like foreign IP Address, international PayPal account, or IP state does not match the address state. Using their fraud indicators, we invalidated approximately 10,000 claim submissions.

25. Lastly, we compared the claim submissions against a database we maintain of “frequent filers” and invalidated claims from repeat offenders, where necessary.

26. Using all tactics described above, we have invalidated over 1,471,000 online submissions. This leaves 43,990 remaining claim submissions. CPT will further review these submissions and while it is impossible to eliminate every suspicious claim, we will ensure to the best of our ability that the final list of valid claimants is limited to the submissions for which we have a high degree of confidence are from verified class members. We anticipate that after employing additional review, our final count of valid claims eligible for payment will be reduced from the counts reported above.

27. Based on a few hypothetical scenarios, the estimated recovery for Settlement Class Member with valid claims would be as follows based on the following final count of valid claims:

Valid Claims Count	Estimated Recovery Per Claimant
25,000	\$89.97
30,000	\$74.98
35,000	\$64.26
40,000	\$56.23
44,000	\$51.12

28. CPT will continue to work on the claims validation as described above over the coming days and is prepared to provide supplemental reporting to Counsel and to the Court as to our progress before, and at, the final approval hearing.

///

///

REQUESTS FOR EXCLUSION AND OBJECTIONS

29. The deadline for Settlement Class Members to request exclusion (opt-out) from the class, or object to the settlement was July 9, 2024. As the date of this declaration, CPT has not received any Opt-Outs or Objections to the Settlement.

ADMINISTRATION FEES

30. CPT initially estimated the costs for notice and claims administration of this Settlement to be \$185,500.00 based on an estimated class size of 120,000 and a 7% response rate. As described above, the actual number of claim submissions exceeded our expectations which has required additional efforts to review and validate. As of the date of this declaration, it is currently estimated that CPT's fee for completing the administration of this settlement will be approximately \$235,000.00, the amount to be paid by Defendant as allocated in the parties' Settlement Agreement.

CONCLUSION

31. Based on CPT's experience, the outreach efforts of the notice plan described above in paragraphs 12-15 reflect an appropriate, highly targeted and contemporary way to provide notice to the class. This approach, primarily relying on digital notices distributed via social and mobile media, successfully reached the projected percentage of potential Settlement Class Members. Our efforts align with the most current communication standards, were diligently designed to ensure ample notice to the class and are fully in line with the best and most practicable court-

approved notice programs employed in similar cases, thereby meeting all due process requirements.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on August 2, 2024, at Irvine, California.


JULIE N. GREEN

EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON
SIMONIN V. WINCO FOODS, LLC, CASE NO. 3:19-CV-02094-AR

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a class action settlement.

An Oregon federal court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

- A settlement has been reached in a class action lawsuit with WinCo Foods, LLC (“WinCo”), the Defendant in this case (the “Settlement”). Plaintiff Virginia Simonin (the “Class Representative”) alleges that WinCo improperly collected a surcharge by omitting the amount of the surcharge as itemized on its customer receipts in its advertised prices, at its point-of-sale registers at its stores located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022. WinCo denies these allegations.
- You may be a Settlement Class Member if you purchased certain non-grocery items at a WinCo store located within the City of Portland, Oregon and paid a surcharge on those non-grocery items between June 1, 2019 and May 8, 2022.
- Those individuals included in the Settlement will be eligible to make a claim to receive up to \$200 cash payment.
- You have to take action on or before July 9, 2024 in order to exercise certain legal rights and options in the Settlement, which are set forth in this Notice. Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
FILE A CLAIM BY JULY 9, 2024	<ul style="list-style-type: none"> • The only way to receive a cash payment is to submit a timely and valid Claim.
EXCLUDE YOURSELF BY JULY 9, 2024	<ul style="list-style-type: none"> • Excluding yourself means you will get no payment from this Settlement, but you will retain any rights you currently have to sue the Defendant about the claims in this case.
OBJECT TO THE SETTLEMENT BY JULY 9, 2024	<ul style="list-style-type: none"> • If you do not exclude yourself, you may write to the Court about why you do not like this Settlement.
GO TO THE FINAL APPROVAL HEARING ON AUGUST 8, 2024	<ul style="list-style-type: none"> • Ask to speak in Court about your opinion of this Settlement.
DO NOTHING	<ul style="list-style-type: none"> • If you do nothing, you will get no payment from this Settlement and will give up your rights to sue the Defendant about the claims in this case.

BASIC INFORMATION

1. Why did I get this Notice?

You are receiving this Notice because your rights may be affected by the settlement of a class action lawsuit.

A Court authorized this notice because you have a right to know about a proposed settlement of this class action lawsuit and about all of your options, before the Court decides to give final approval to the Settlement. This Notice explains the lawsuit, the Settlement and your legal rights.

The lawsuit is *Simonin v. WinCo Foods, LLC*, Case No. 3:19-cv-02094-AR (the “Lawsuit”), currently pending in U.S. District Court for the District of Oregon. The Court has granted preliminary approval of the Settlement and has conditionally certified the Settlement Class for purposes of settlement only.

2. What is this lawsuit about?

The Class Representative alleges that WinCo improperly collected a surcharge by omitting the amount of the surcharge as itemized on its customer receipts in its advertised prices, at its point-of-sale registers at its stores located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022. WinCo denies all allegations of wrongdoing, and the Court has not determined who is right. Rather, the Parties have agreed to settle the Lawsuit to avoid the uncertainties and expenses associated with ongoing litigation.

3. Why is this lawsuit a class action?

In a class action lawsuit, one or more people, called “Class Representatives” (in this case, Plaintiff Virginia Simonin), sue on behalf of people who have similar claims. All these people together are a “Class” or “Class Members.” In a settlement of a class action, one court resolves the issues for all Class Members, except for those who choose to exclude themselves from the Class.

4. Why is there a settlement?

The Court has not determined who is right. Rather, both sides have agreed to settle the Lawsuit to avoid the uncertainties and expenses of continuing the Lawsuit. By agreeing to settle, both sides avoid the cost and risk of a trial, and Settlement Class Members will get a chance to receive benefits sooner rather than, if at all, after the completion of a trial. The Class Representative and her attorneys think this Settlement is best for all Settlement Class Members. This Settlement does not mean that WinCo did anything wrong.

WHO IS IN THE SETTLEMENT

5. How do I know if I am part of this Settlement?

If you purchased certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, and were charged a surcharge on non-grocery items, then you may be member of the Settlement Class.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

6. What does this Settlement provide?

If approved, a Settlement Fund will be created totaling up to \$3,365,000. Settlement Class Member cash payments will come out of this Settlement Fund. The Defendant will also pay up to \$235,000 for the costs to administer the Settlement and to inform people about the Settlement. Any additional costs to administer the Settlement and to inform people about the Settlement will be paid from the Settlement Fund. Class Counsel’s attorney’s fees, up to \$1,009,500 (30% of the Settlement Fund) and costs, up to \$150,000, and a service award to the Class Representative, up to \$10,000, will be paid from the Settlement Fund, as approved by the Court.

A detailed description of the settlement benefits can be found in the Settlement Agreement, a copy of which is accessible on the Settlement Website at www.OregonClassActionSettlement.com.

In exchange for these benefits, Settlement Class Members will release (i.e., discharge) WinCo from all claims of liability relating to the surcharge that were made or could have been made in the Lawsuit or in other legal proceedings or forums. These releases are set forth in specific detail in the Settlement Agreement.

7. How will payments be calculated?

You **must** submit a Claim Form (see instructions below) to receive a share of the Settlement Fund. You may be entitled to receive a cash payment up to \$200, if you paid a surcharge at least once on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022. This cash payment may be subject to a pro rata adjustment depending on the number of valid claims that are filed.

If the Settlement is approved by the Court, then, in accordance with the settlement terms set forth in the Settlement Agreement and summarized above, each Settlement Class Member who makes a timely and valid claim is entitled to a cash payment.

8. How much will my payment be?

The exact amount of cash payments cannot be calculated until: (a) the Court approves the Settlement; (b) the number of valid Claims are determined; and (c) amounts are deducted from the Settlement Fund for attorney's fees and costs and any additional notice and administration costs.

HOW YOU GET A PAYMENT—PARTICIPATING IN THE SETTLEMENT

9. How can I get a payment?

You must submit a Claim Form to receive a payment from the Settlement Fund. You may submit a Claim Form either electronically on the Settlement Website www.OregonClassActionSettlement.com, or by printing and mailing in a paper Claim Form, a copy of which is available for download at www.OregonClassActionSettlement.com. Claim Forms must be submitted online by 11:59 p.m. Pacific Time on July 9, 2024 or postmarked and mailed by July 9, 2024.

10. When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for August 8, 2024. If the Court approves the Settlement, Settlement Class Members who have submitted timely and valid Claims, will receive their payment after the Settlement has been finally approved and/or any appeals process is complete. The payment will be made in the form selected when submitting a Claim (e.g., paper check, Paypal/Venmo, ACH/Direct Deposit, etc.), and all forms of payment will expire and become void 180 days after they are issued.

11. What am I giving up to get benefits and stay in the Settlement?

If this Settlement receives final approval from the Court, this Settlement will be legally binding on all Settlement Class Members, including Settlement Class Members who object, unless you exclude yourself from the Settlement. This means you will not be able to sue WinCo for the claims being released in this Settlement. This Notice is only a summary. The specific claims that you are giving up against WinCo are described in detail in the Settlement Agreement. You will be "releasing" WinCo and all related entities (the "Released Parties") as described in the Settlement Agreement, regardless of whether you submit a claim or not. Again, the Settlement Agreement is available at www.OregonClassActionSettlement.com or by calling 1-888-272-3064.

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions, you can talk to Class Counsel listed below or you can, of course, talk to your own lawyer if you have questions about what this means.

12. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must mail a letter by July 9, 2024. Your letter must state that you want to be excluded from the *Simonin v. WinCo Foods, LLC*, Case No. 3:19-cv-02094-AR Settlement. Your letter must also include

your name, mailing address, and email or telephone number, must be personally signed by you and must be mailed and postmarked by July 9, 2024, to:

WinCo Surcharge Settlement
 Attention: Exclusion Requests
 c/o CPT Group, Inc.
 50 Corporate Park
 Irvine, CA 92606

13. If I do not exclude myself, can I sue the Defendant for the same thing later?

No. Unless you exclude yourself from the Settlement, you give up any right to sue the Defendant for the claims that are resolved by the Settlement.

14. If I exclude myself, can I get a payment from the Settlement?

No. If you exclude yourself from the Settlement, you will not be able to get any payments from the Settlement and you cannot object to the Settlement. You will not be legally bound by anything that happens in the Settlement.

THE LAWYERS IN THE CASE

15. Do I have a lawyer in the case?

Class Counsel

The Court has appointed the law firms listed below to represent you and other Settlement Class Members in the Settlement. These lawyers are called Class Counsel. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you want to contact Class Counsel about this Settlement, they can be reached as set out below, or through the Settlement Administrator by calling 1-888-272-3064 or sending an email to WinCoSurchargeSettlement@cptgroup.com.

Please be advised, if you decide to object, which is your right and is explained in more detail below, Class Counsel cannot assist you with your decision to object, and if that is what you choose to do, you should obtain your own lawyer.

<p>Michael Fuller OlsenDaines 111 SW 5th Avenue Suite 3150 Portland, OR 97204 Michael@underdoglawyer.com</p>	<p>Kelly Jones Law Office of Kelly D. Jones 819 SE Morrison Street Suite 255 Portland, OR 97214 kellydonovanjones@gmail.com</p>	<p>Daniel J. Nichols JurisLaw LLP Three Centerpointe Drive Suite 160 Lake Oswego, OR 97035 dan@jurislawyer.com</p>
---	--	---

16. How are Class Counsel being paid? Are the Class Representatives being paid?

Subject to approval by the Court, Class Counsel will ask the Court for an award of attorney’s fees up to a maximum of \$1,009,500 (30% of the Settlement Fund), costs up to a maximum of \$150,000, and a service award for the Class Representative up to a maximum of \$10,000 for her services in helping to bring and resolve this case.

The Court will determine the appropriate amounts to award. The Settlement is *not* conditioned upon Court approval of any of the attorneys’ fees and costs or Class Representative service award amounts.

OBJECTING TO THE SETTLEMENT

17. How do I tell the Court that I do not like the Settlement?

If you are a Settlement Class Member and you do not exclude yourself, you may object to the Settlement. To object, you must file your objection with the Court on or before July 9, 2024. The Court's address is

U.S. District Court of Oregon
Clerk of the Court- Civil Division
1000 S.W. Third Avenue
Portland, OR 97204

You must also mail a copy of your objection to the Settlement Administrator at the following address:

WinCo Surcharge Settlement
Attention: Objections
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

You must include the following information:

- Your full name, address, and telephone number;
- The word "Objection";
- To show you are a Settlement Class Member and have standing to object:
 - A statement attesting that you purchased at least one of a certain non-grocery items from a WinCo store located within the City of Portland, Oregon between June 1, 2019 to May 8, 2022, and paid a surcharge at least once on a certain non-grocery item; and
 - A statement identifying (1) the WinCo store address at which you claim you purchased certain non-grocery items and paid a surcharge at least once on non-grocery items; (2) the approximate date(s) you claim you purchased non-grocery items and paid a surcharge; and (3) a description of the non-grocery item(s) you purchased on the date provided above and were charged a surcharge;
- A description, in clear and concise terms, of the grounds for objection (what you think is wrong with the proposed settlement, etc.);
- A statement as to whether the Settlement Class Member is represented by counsel, and, if so, that counsel's full name, address and bar number;
- A statement of all other objections to class settlements submitted by the Settlement Class Member or the Settlement Class Member's counsel to any Court within the United States within the last 5 years, if any, including the total number of such objections and the case and court information in which each such objection was asserted;
- A statement indicating whether the Settlement Class Member would like to appear at the Final Approval Hearing;
- A statement identifying the name of the case and the case number (*Simonin v. WinCo Foods, LLC*, Case No. 3:19-CV-02094-AR); and
- Your personal signature.

18. What's the difference between objecting and excluding yourself?

Objecting is telling the Court that you do not like something about the Settlement. You can object to a settlement only if you stay in that settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no right to object, because the case no longer affects you. If you object, and the Court approves the Settlement anyway, you will still be legally bound by the result.

THE COURT'S FINAL APPROVAL HEARING

19. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing to decide whether to finally approve the proposed Settlement. The Final Approval Hearing will be held on **August 8, 2024, at 2:00 p.m.** before Judge Jeffrey Armistead at the U.S. District Court for District of Oregon, Courtroom 9B, 1000 S.W. Third Avenue, Portland, Oregon 97204.

If you want to attend the Final Approval Hearing, keep in mind that the date and/or time may be changed after this Notice is sent and attendance may require compliance with certain measures to maintain social distancing, so you should check the Settlement Website (www.OregonClassActionSettlement.com) before making travel plans.

At the Final Approval Hearing, the Court will consider whether the proposed Settlement and all of its terms are adequate, fair, and reasonable. If there are objections, the Court will consider them. The Court may listen to people who have asked for permission to speak at the Final Approval Hearing. The Court may also decide how much to award Class Counsel for fees and costs, and whether and how much to award the Class Representatives for representing the Settlement Class (the Service Award).

There is no set timeline for either the Court's final approval decision, or for any appeals that may be brought from that decision, so it is impossible to know exactly when the Settlement will become final.

The Court may change deadlines listed in this Notice without further notice to the Settlement Class. To keep up on any changes in the deadlines, please contact the Settlement Administrator or review the Settlement Website.

20. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions asked by the Court.

If you filed an objection with the Court, you do not have to come to Court to talk about it. So long as you filed your written objection with the Court on time and complied with the other requirements for a proper objection, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

21. May I speak at the Final Approval Hearing?

Yes. You or your lawyer may, at your own expense, come to the Final Approval Hearing and ask the Court for permission to speak. You must also file with the Court a Notice of Intention to Appear, which must also be mailed to the Settlement Administrator so that it is **postmarked no later than July 9, 2024**, and it must be **filed** with the Clerk of the Court by that same date at the address indicated above. If you intend to have a lawyer appear on your behalf, your lawyer must enter a written notice of appearance of counsel with the Clerk of the Court no later than **July 9, 2024**. *See* above for the addresses of the Court and the Settlement Administrator. You cannot speak at the Final Approval Hearing if you excluded yourself.

GETTING MORE INFORMATION

22. How do I get more information about the Settlement?

This Notice is only a summary of the proposed Settlement of this Lawsuit. More details are in the Settlement Agreement which, along with other documents, can be obtained at www.OregonClassActionSettlement.com. You can also contact the attorneys whose information is included in *Question 15* or use the resources listed below.

YOU MAY OBTAIN ADDITIONAL INFORMATION BY	
CALLING	<ul style="list-style-type: none"> • Call the Settlement Administrator toll-free at 1-888-272-3064 to ask questions and receive copies of documents.
E-MAILING	<ul style="list-style-type: none"> • Email the Settlement Administrator at WinCoSurchargeSettlement@cptgroup.com
WRITING	<ul style="list-style-type: none"> • Send your questions by mail to: WinCo Surcharge Settlement, c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606
VISITING THE SETTLEMENT WEBSITE	<ul style="list-style-type: none"> • Visit www.OregonClassActionSettlement.com, where you will find answers to common questions about the Settlement plus other information to help you.
REVIEWING LEGAL DOCUMENTS	<ul style="list-style-type: none"> • You may also review the Court’s file during regular court hours at: U.S. District Court, District of Oregon 1000 S.W. Third Avenue Portland, Oregon 97204

PLEASE DO NOT CALL THE JUDGE OR THE COURT CLERK TO ASK QUESTIONS ABOUT THE LAWSUIT, THE SETTLEMENT, OR THIS NOTICE.

THE COURT WILL NOT RESPOND TO LETTERS OR TELEPHONE CALLS. IF YOU WISH TO ADDRESS THE COURT, YOU MUST FILE AN APPROPRIATE PLEADING OR MOTION WITH THE CLERK OF THE COURT IN ACCORDANCE WITH THE COURT’S USUAL PROCEDURES.

EXHIBIT B

Simonin v. WinCo Foods, LLC

U.S. District Court, District of Oregon

Case No. 3:19-cv-02094-AR

Settlement Claim Form

If you are a Settlement Class Member and wish to receive a payment, your completed Claim Form must be postmarked on or before July 9, 2024, or submitted online at www.OregonClassActionSettlement.com on or before July 9, 2024

Please read the full notice of this settlement (available at www.OregonClassActionSettlement.com) carefully before filling out this Claim Form.

To be eligible to receive any benefits from the settlement obtained in this class action lawsuit, you must submit this completed Claim Form online or by mail:

ONLINE: Visit www.OregonClassActionSettlement.com and submit your claim online.

MAIL: WinCo Surcharge Settlement
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

PART ONE: CLAIMANT INFORMATION

Provide your name and contact information below. It is your responsibility to notify the Settlement Administrator of any changes to your contact information after the submission of your Claim Form.

FIRST NAME

LAST NAME

CURRENT STREET ADDRESS

CURRENT CITY

CURRENT STATE

CURRENT ZIP CODE

EMAIL ADDRESS

PHONE

To qualify for a cash payment, you must have purchased at least one certain non-grocery item from a WinCo store within the City of Portland, Oregon and paid a surcharge at least once on a certain non-grocery item between June 1, 2019 and May 8, 2022.

Please provide the WinCo store address at which you claim you purchased a certain non-grocery item and paid a surcharge on this non-grocery item.

STREET ADDRESS OF WINCO STORE

CITY

STATE

ZIP

Please provide the approximate date you claim you purchased non-grocery items and paid a surcharge:

DATE (MM/DD/YYYY)

Please provide a description of the non-grocery item(s) you purchased on the date provided above and paid a surcharge:

DESCRIPTION

POTENTIAL CASH PAYMENT*: You may be entitled to receive a cash payment of up to \$200.00 if you purchased at least one certain non-grocery item from a WinCo store within the City of Portland, Oregon and paid a surcharge at least once on a certain non-grocery item between June 1, 2019 and May 8, 2022.

The cash will be sent in the form of a paper check to the address listed on page 1 of this Claim Form. Please provide updated information to the Settlement Administrator, if needed.

If you would like payment in a different form, for example, Paypal, Venmo, or Direct Deposit, please file your Claim Form electronically through the Settlement Website at www.OregonClassActionSettlement.com.

*** The cash payments set out herein represent the maximum that you can receive under the settlement. The actual cash paid may be reduced depending on the aggregate total of claims submitted by all Settlement Class Members.**

PART THREE: ATTESTATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America that: (i) I purchased at least one non-grocery item from a WinCo store located within the City of Portland, Oregon and paid a surcharge on a non-grocery item at least once between June 1, 2019 and May 8, 2022; and (ii) all of the information on this Claim Form is true and correct to the best of my knowledge. I understand that my Claim Form may be subject to audit, verification, and Court review.

SIGNATURE

DATE

Please keep a copy of your Claim Form for your records.

EXHIBIT C



Creative Workbook

Simonin v. Winco, LLC. Class Action

Date: 5/01/2024

Table of Contents

Ad Copy	page 3
Ad Designs	page 5
Paid Search Copy	page 11

Ad Copy

Ad Copy & Voiceover

Primary Text

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a Class Action Settlement.

Social Ad Creative Copy

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a Class Action Settlement.

File a Claim Today

Headline

WinCo Surcharge Settlement

Button

Learn more

Video Voice Over

Note: Voice over will be recorded and added to videos upon approval.

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a Class Action Settlement. To file a claim, visit Oregon Class Action Settlement dot com. That's Oregon Class Action Settlement dot com.

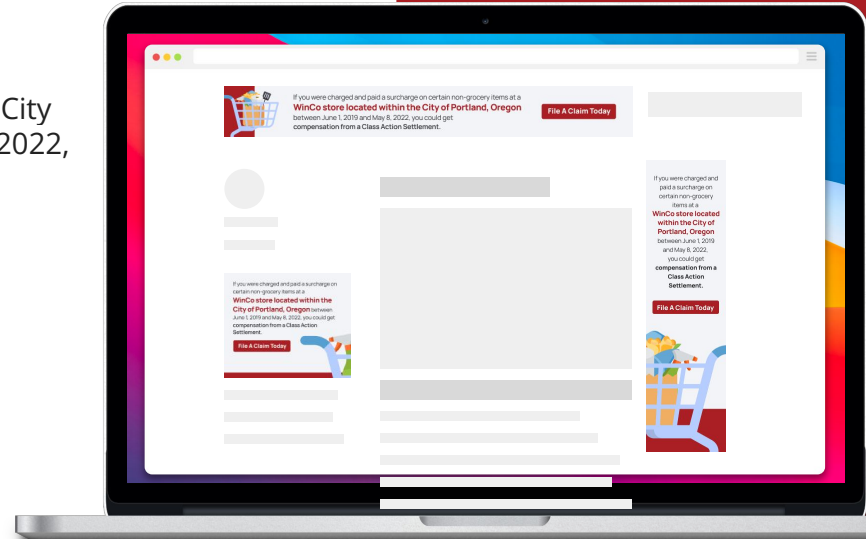
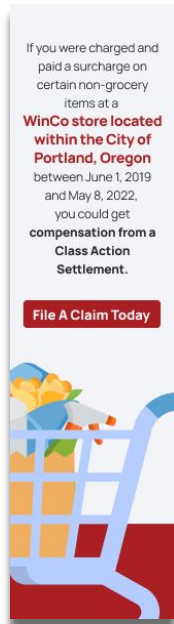
Ad Designs

Ad Designs Display

Ad Copy:

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a Class Action Settlement.

File a Claim Today



Note: All watermarks and other stock image markings will be removed upon approval.

Ad Designs **Reddit**

If you were charged and paid a surcharge on certain non-grocery items at a **WinCo store located within the City of Portland, Oregon** between June 1, 2019 and May 8, 2022, you could get **compensation from a Class Action Settlement**.

[File A Claim Today](#)



Note: All watermarks and other stock image markings will be removed upon approval.

Disclaimer

While CPT researches and plans creative and copy around platform restrictions, guidelines are subject to change. Therefore, all imagery, video, and copy are subject to change in order to satisfy the rules and regulations imposed by the applicable platform. This includes, but is not limited to, character limitations, character restrictions, imagery restrictions, etc.



WinCo Surcharge Settlement
u/WinCoSettlement

Overview

Posts

Comments

Reddit

Profile Username

u/WinCoSettlement

Display Name

WinCo Surcharge Settlement

Page Bio

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you may be eligible.

Reddit Guidelines

Reddit username **limited to 20 characters**

Reddit username **limited to 30 characters**

Reddit page "Bio" description **limited to 200 characters**

Ad Designs **Meta**

The images below reflect the various frames of the video asset.



Note: All watermarks and other stock image markings will be removed upon approval.

Disclaimer

While CPT researches and plans creative and copy around platform restrictions, guidelines are subject to change. Therefore, all imagery, video, and copy are subject to change in order to satisfy the rules and regulations imposed by the applicable platform. This includes, but is not limited to, character limitations, character restrictions, imagery restrictions, etc.



Social Pages **Meta**

Facebook

Page Name

WinCo Surcharge Settlement

Page Handle

@WinCoSurchargeSettlement

Page Intro

If you paid a surcharge on certain items at WinCo Foods in Portland, Oregon, you may be eligible.

Facebook Guidelines

Facebook "Handle" character **limit is 50 characters**

Facebook page "Intro" description **limited to 101 characters**

Instagram

Display Name

WinCo Surcharge Settlement

Handle

@WinCoSurchargeSettlement

Bio

If you paid a surcharge on certain non-grocery items at WinCo Foods in Portland, Oregon, you may be eligible.

Instagram Guidelines

Instagram handle **limited to 30 characters**

Instagram page "Bio" description **limited to 150 characters**



Note: All watermarks and other stock image markings will be removed upon approval.

Disclaimer

While CPT researches and plans creative and copy around platform restrictions, guidelines are subject to change. Therefore, all imagery, video, and copy are subject to change in order to satisfy the rules and regulations imposed by the applicable platform. This includes, but is not limited to, character limitations, character restrictions, imagery restrictions, etc.

Ad Designs Social Creative Refresh

Reddit

View Meta Refresh Ad

Deadline Approaching


If you were charged and paid a surcharge on certain non-grocery items at a **WinCo store located within the City of Portland, Oregon** between June 1, 2019 and May 8, 2022, you could get **compensation from a Class Action Settlement**.

File A Claim Today



Deadline Approaching

If you were charged and paid a surcharge on certain non-grocery items at a



Deadline Approaching

WinCo store located within the City of Portland, Oregon




Deadline Approaching

between June 1, 2019 and May 8, 2022, you could get compensation from a



Deadline Approaching

File A Claim Today




Note: All watermarks and other stock image markings will be removed upon approval.

Disclaimer
While CPT researches and plans creative and copy around platform restrictions, guidelines are subject to change. Therefore, all imagery, video, and copy are subject to change in order to satisfy the rules and regulations imposed by the applicable platform. This includes, but is not limited to, character limitations, character restrictions, imagery restrictions, etc.

Paid Search

Paid Search

Below is a sample of what the Google and Bing Paid Search advertising will look like for this class action campaign.

Google and Bing’s AI can serve the headlines provided in any combination and will optimize toward high-performing headlines. The descriptions provided are “pinned” - meaning Google or Bing will only serve **Description A** in position 1. If Google or Bing serves a second description, **Description B will only show in position 2.** **Sitelink extensions will change based on page availability on the class action website.**

Text Length Limits



Field	Max length
Headline	30 characters
Description	90 characters

Headlines

Portland WinCo Class Action	27 / 30
Clean Energy Surcharge Lawsuit	30 / 30
Simonin v. WinCo Foods, LLC	28 / 30
WinCo Surcharge Settlement	26 / 30

Multnomah County WinCo Lawsuit	30 / 30
WinCo Foods Payout	18 / 30
WinCo UTPA Violation Lawsuit	28 / 30
Oregon WinCo Class Action	25 / 30

Descriptions

A	If You Paid A Surcharge At WinCo In Portland Between 6/1/19 & 5/8/22, You May Be Eligible.	90 / 90	 1
B	Simonin v. WinCo Foods, LLC.	29 / 90	 2

Ad OregonClassActionSettlement.com (888) 272-3064

Portland WinCo Class Action | Simonin v. WinCo Foods, LLC

If You Paid A Surcharge At WinCo In Portland Between 6/1/19 & 5/8/22, You May Be Eligible. Simonin v. WinCo Foods, LLC

[Important Dates](#)

[Court Documents](#)

[FAQs](#)

EXHIBIT D

If you were charged and paid a surcharge on certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, you could get compensation from a class action Settlement.

Announced by CPT Group, Inc.

IRVINE, Calif., - CPT Group, Inc., announces a proposed Settlement in a class action lawsuit called *Simonin v. WinCo Foods, LLC* Case No. 3:19-cv-02094-AR, United States District Court for the District of Oregon (the "Settlement").

What is this about? Plaintiff alleges that WinCo Foods, LLC ("WinCo"), improperly collected a surcharge by omitting the amount of the surcharge as itemized on its customer receipts in its advertised prices, at its point-of-sale registers at its stores located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022. WinCo denies the allegations and any wrongdoing. The Court has not decided who is right.

Who is affected? Consumers who purchased certain non-grocery items at a WinCo store located within the City of Portland, Oregon between June 1, 2019 and May 8, 2022, and paid a surcharge at least once on a certain non-grocery item, may be a member of the Settlement Class.

What does the Settlement provide? The Settlement provides monetary relief.

Settlement Benefits: If approved, a Settlement Fund of up to \$3,365,000 will be established. Cash payments to Settlement Class Members will be disbursed from this Fund. Eligible individuals included in the Settlement will have the opportunity to claim up to \$200. This cash payment may be subject to a pro-rata adjustment depending on the number of valid claims that are filed.

How do I file a claim? To receive a cash payment, you must complete and submit a Claim Form, either online or via U.S. Mail by **July 9, 2024**. Claim Forms are available for download and online submission at www.OregonClassActionSettlement.com.

What are my other options? You can do nothing, exclude yourself, or object to the Settlement.

Do Nothing: If you do nothing, you will get no payment from this Settlement and will give up your rights to sue WinCo regarding any issues relating to this lawsuit.

Exclude Yourself: If you exclude yourself, you cannot get a Settlement payment, but you keep any rights you may have to sue WinCo over the legal issues in the lawsuit. Requests for Exclusion (“Opt-Outs”) must be sent to the Settlement Administrator with a postmark no later than **July 9, 2024**.

Object: If you are a Settlement Class Member and you do not exclude yourself, you may object to the Settlement. To object, you must file your objection with the Court on or before **July 9, 2024**.

What happens next? The Court will hold a hearing on August 8, 2024, at 2:00 p.m. PST before Judge Jeffrey Armistead at the U.S. District Court for District of Oregon, Courtroom 9B, 1000 S.W. Third Avenue, Portland, Oregon 97204, to consider the final approval of the Settlement, payment of attorneys’ fees to class counsel, incentive awards for the class representative, and other related issues. You may appear at the hearing in person or through your attorney at your own cost, but you are not required to do so.

How do I get more information? For more information and to view the full notice, Claim Form, a copy of the Settlement Agreement, and other documents, go to www.OregonClassActionSettlement.com. You may also contact the Settlement Administrator toll-free at 1-888-272-3064, by email at WinCoSurchargeSettlement@cptgroup.com or by writing to *WinCo Surcharge Settlement*, c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.

PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK’S OFFICE



OregonConsumerLeague

Oregon Consumer League

Protecting and informing Oregon's consumers for over 58 years

Consumer Resources



English

Our Mission

For over 58 years, the Oregon Consumer League has worked to protect Oregonians' rights through education, policy development and advocacy. Read through our primary purposes below or donate today to help strengthen consumer rights in Oregon.



ACCOUNTABILITY

To hold corporations accountable and to assist consumers who have been wronged by corporations.



ADVOCACY

To advance pro-consumer policies on the state and national level and defend against policies that harm Oregon consumers.



COORDINATION



To assist and work for the coordination of like-minded organizations and individuals interested in the protection of consumers.



EDUCATION

To make consumers more aware of their rights and to provide them with access to tools that help make them an informed consumer.



INFORMATION

To gather, exchange and disseminate information of value to consumers.



POLICY

To promote sound policy and governmental regulation in the interest of consumers and to help ensure effective enforcement.



REPRESENTATION



To provide consumers with a voice before those agencies which regulate or affect those goods and services which they purchase.

OCL on Facebook



Oregon Consumer League
Aug 3, 2024

The OCL Board taking advantage of summer weather for our July board meeting.



Oregon Consumer League
Jul 9, 2024

A key Supreme Court decision elevates the need for consumer rights advocacy.

In a major ruling (*Loper Bright Enterprises v. Raimondo*), the Supreme Court cut back sharply on the power of federal agencies to interpret the laws they administer and ruled that courts should rely on their own interpretation of ambiguous laws. The decision will have far-reaching effects.

By a vote of 6-3, the justices overruled their landmark 1984 decision in *Chevron v. Natural Resources Defense Council*, which ga...[Show more](#)





Key court decision elevates the need for consumer rights advocacy • Oregon Capital Chronicle

Committed to a safe and fair consumer environment for Oregon's great citizens.

The Oregon Consumer League (OCL) has worked to protect consumers' rights for over 58 years. We work to educate consumers, to promote fair and ethical business practices, and to advance consumer protection laws in the Oregon Legislature.



Contact Us



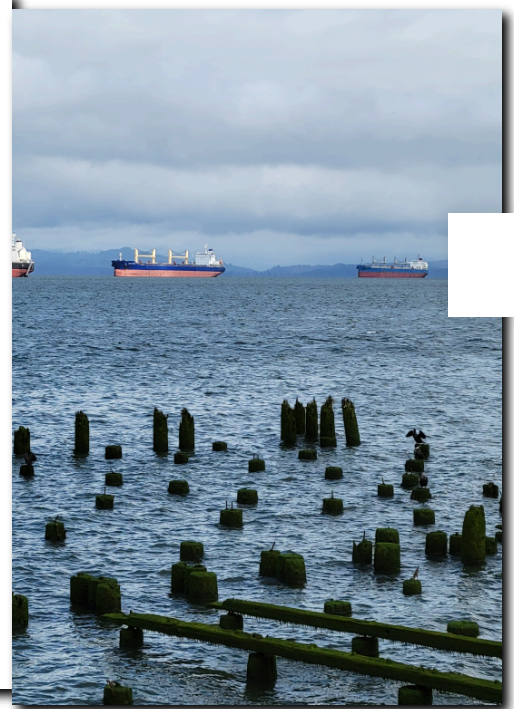
(971) 997-2590



info@oregonconsumerleague.org



PO Box 13644
Portland, OR 97213



Copyright © 2024 Oregon Consumer League
Website Proudly designed by Sessions Web Solutions





Our rights and futures deserve protection, without exception.

About Us

We deserve to experience safety and confidence in every transaction we make, from buying a car to taking out a loan, renting or purchasing a home, or making an insurance claim.



The freedom for everyone to thrive and share in our abundant resources.

We're taking on bad actors that target our communities thinking we won't notice or push back. Informed by consumer insights and strengthened through partnerships, OCJ works across policy and advocacy, community engagement, and the law, to put people first toward a more just and equitable Oregon.

Our Origin Story

Collective actions—like the landmark legal case that led to our creation—are crucial tools in the fight for consumer justice. We all have a role to play. See what's possible when we exercise our rights together:

OCJ's Origin Story



The power of collective action is at our core.

In 2015, an Oregon law ruled that unclaimed funds from class action lawsuits—sometimes in the tens of millions of dollars—should go back to the people, not the corporations who caused them harm. This change made the legal principle of *Cy Pres* (pronounced: SIGH-PRAY) the law. Before this happened, companies that lost class action lawsuits were allowed to keep unclaimed settlement money as their own.

In 2019, the first application of this new Oregon law was for the class action lawsuit, *Scharfstein v. BP West Coast Products LLC*. According to the law, half of the unclaimed settlement funds went to fund legal services for low-income Oregonians. Under the *Cy Pres* court order, the remaining half was directed to establish Oregon Consumer Justice, a new, statewide nonprofit solely focusing on protecting and expanding Oregon consumers' rights. Three founding board members were named to lead its design: Judge Henry Kantor, Justin Baxter, and Emily Reiman.

Our team, your advocates

For us, putting people first is true inside and outside our organization. We are committed to a human-centered culture that supports and values team members as human beings and in their roles to achieve our mission.

Meet our staff and board





Our Vision



We envision a vibrant Oregon where all people live with dignity and abundance and experience health, joy, and economic opportunity.

Our Mission

Oregon Consumer Justice (OCJ) organizes, advocates, and supports litigation to advance a justice movement that puts people first, ensuring all have the freedom to thrive and equitably share in our abundance of resources. For too long, flawed systems and economic policies that favor profits over people have stood in the way of this reality, with communities of color often experiencing the most significant harm. Strengthened through responsive and reciprocal community relationships, OCJ is building a future where financial and business transactions can be relied upon as safe and where all Oregonians know and have recourse to exercise their consumer rights.

Our Values

At OCJ, we value equity, abundance, interconnection, integrity, trust, and courage. We define these fundamental beliefs as follows:

Equity

Equity is the foundation of justice and liberation. Equity ensures all people have just and inclusive access to all they need to participate in society and reach their full potential.

Abundance

Abundance means acting in the knowledge that there is plenty to go around. Abundance is realized when everyone has their essential needs met and can fully live with dignity.

Interconnection

We are strengthened when we embrace our shared humanity and interdependence. By working collectively, together, we can achieve a just and equitable future.

Integrity



Integrity is showing up consistently for our values. We are accountable for our outcomes. We challenge ourselves and others to take risks, be willing to fail, and openly learn from our experiences.

Trust

Trust is rooted in safety, reliability, and consistency. Trust, coupled with integrity, is paramount to building strong relationships and advancing our movement.

Courage

Courage is taking audacious risks to effect meaningful change. Courage is required to disrupt and reimagine systems and policies rooted in justice.

Our Guiding Principles

These principles serve as the foundation for our work and reflect our values, regardless of changes in goals, strategies, or activities. They serve as a shared acknowledgment of how we approach our work.

We know that inequities based on social, racial, gender, ability, economic, and environmental characteristics are baked into every social, political, and economic system. While recognizing that we must work within oppressive and harmful systems, we are committed to the work required to achieve equity.

We recognize that we are surrounded by abundance and work to ensure all Oregonians can share in this abundance.

We center people and communities most impacted by predatory practices. We trust the wisdom of communities and elevate and support community leaders and community-led strategies to access power and resources.

We recognize that trust is earned. We strive to build authentic relationships with partners and communities. We commit to working to address the inevitable conflicts that will arise in justice work.

We focus our efforts throughout all of Oregon. We are accountable for our outcomes and aspire to be an example to other states and nationally.

We reimagine what's possible, disrupt harmful business practices to hold bad actors and flawed systems accountable, and build consumer power.



We don't go it alone.

Relationships will make the difference as we work to center consumers in policy and legal conversations.

Partners and Allies

“I'm excited and glad to see an organization taking a lead on these [consumer law] issues locally and am hopeful for more opportunities to learn/work together with OCJ and other attorneys in the field.”

OCJ Program Participant

Feedback from OCJ's Continuing Legal Education Event - March 2024

An honest accounting

We're committed to financial integrity by continuously improving our transparency and accountability. Get informed about OCJ's funding and financial management.

Financial Transparency



Quick Links



[Contact](#)

[Glossary](#)

[Site Accessibility](#)

Follow Us

[LinkedIn](#)

[Instagram](#)

[Facebook](#)

Join Our Mailing List

We send regular emails about upcoming events, news and updates, and issues impacting consumers.

Email address

Submit

© Oregon Consumer Justice. All rights reserved.

[Privacy Policy](#)

[Terms & Conditions](#)



HOME / ABOUT US

Building communities that never go hungry

We believe food is a basic human right. And we believe that ending hunger requires a clear vision and bold action, with all of us working together. Learn more about our mission, our vision and how we are working toward change.



Our mission

To eliminate hunger and its root causes... *because no one should be hungry.*

We cannot eliminate hunger without eliminating the root causes of hunger. That's why we work across systems to achieve our mission, and why we center racial and social justice in everything we do.

Every day, we work to:

Provide access to nutritious food for all. We collect and distribute food across Oregon and Southwest Washington, helping ensure free food is available to everyone experiencing food insecurity – especially those disproportionately harmed by unfair

Oregon Food Bank is looking for its next President! Click for more info.



Language **English** ▾

address the root causes of hunger and empower community power. We are building a movement that brings together advocates and donors to raise our voices for real change

Zip code **Find food**

Locations

Work across systems and within our network. Ending hunger means breaking down barriers that prevent equal access to housing, health care, employment and more. We partner with people and organizations across Oregon and southwest Washington to do this critical work together.

From Oregon Food Bank’s five main locations, we distribute food equitably across the region and work on policies and programs to address the root causes of hunger.

Our vision

We envision resilient communities throughout Oregon and Southwest Washington that never go hungry.

Hunger is not just an empty stomach or an individual experience. Hunger is a community wide symptom of exclusion, of not having enough – not having enough nutritious food, enough income, enough power, enough represented voice. Hunger is a symptom of barriers to employment, education, housing and healthcare.

We all experience the effects of hunger in our communities. But together we can build communities that never go hungry. We can build communities where every voice matters. We can build communities that share responsibility for each other and the common good. Because, when we share prosperity, we all benefit.

To achieve this bold vision, Oregon Food Bank will foster community connections to help people access nutritious food today, and we will build community power to eliminate the root causes of hunger, for good.

[Learn more](#)

Our commitment to equity and racial justice

Oregon Food Bank holds people experiencing hunger and food insecurity at the center of our actions and decisions. Our commitment to equity and racial justice shares our perspective on achieving equity and our promise to be led by people with lived experience of systemic oppression and food insecurity in a shared effort to eliminate hunger and its root causes.

We acknowledge that OFB has caused harm in the past by not fully centering people most impacted by hunger in our work and in the stories we tell. We

acknowledge this with grief and humility, and understand we have much work to do.

[Find information and resources to bring an equity lens to your organization.](#)

[Our commitments](#)

Financial statements and reports

We are committed to transparency and to sharing our journey widely. Download our impact reports, financial statements and more for an inside look at how we're working toward our vision.

[View reports](#)



"We're not just about getting people food today. We're about putting ourselves out of business and creating a world in which hunger never happens."

Susannah Morgan, CEO, Oregon Food Bank

[Donate now](#)



Stay connected

Sign up to receive emails with updates, resources and ways to get involved.

First name

Zip code

Email address

[Submit](#)



Our mission is to eliminate hunger and its root causes... *because no one should be hungry.*

English

Español

7900 NE 33rd Drive
Portland, OR 97211
503.282.0555
[Contact us](#)



[Careers](#)

[Press](#)

[Library](#)

[OFB Portals](#)

[All Locations](#)

[Board Login](#)

[Privacy Policy](#)

[OFB is an equal opportunity provider](#)

Copyright 2024 Oregon Food Bank | All Rights Reserved

