

Oct-27-2006 10:13 From-

T-021 P.002/004 F-004

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FILED

OCT 31 2006

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 (SAN FRANCISCO DIVISION)**

18 SHIRLEY "RAE" ELLIS, LEAH HORSTMAN)
 19 and ELAINE SASAKI, on behalf of themselves)
 and all others similarly situated,)
 20)
 Plaintiffs,)
 21)
 v.)
 22)
 23 COSTCO WHOLESAL E CORPORATION,)
 24)
 Defendant.)

Case No. C04 3341 MIIP
 Assigned to: Hon. Marilyn Hall Patel
**STIPULATION AND [PROPOSED]
 ORDER REGARDING PLAINTIFFS'
 MOTION TO STRIKE
 DECLARATIONS SUBMITTED BY
 COSTCO**

STIP, [PROPOSED] ORDER RE MOTION TO STRIKE DECLARATIONS
 CASE NO. 04-3341 MHP

1 In opposition to plaintiffs' motion for class certification, Costco has submitted declarations
2 from individuals who are members of the class plaintiffs seek to have certified. Plaintiffs have
3 moved to strike these declarations and Costco has filed a motion requesting clarification of the
4 Court's order issued after a telephonic conference call held on October 10, 2006 and a further
5 conference call with the Court's clerk held on October 12, 2006.

6 The parties hereby stipulate as follows:

7 1. Language in putative class member declarations (including the heading "NO
8 GENDER DISCRIMINATION") stating the conclusion that the declarant or anyone else has
9 never experienced or observed gender discrimination or that Costco has never discriminated
10 against women or words to this effect is withdrawn and will not be considered by the Court.

11
12 2. Language in putative class member declarations that plaintiffs do not represent
13 the declarant's interests or that she does not wish to be represented by plaintiffs or their counsel
14 or words to that effect is withdrawn and will not be considered by the Court.

15 3. The remainder of the declarations may be cited for Rule 23 purposes only, and
16 neither side waives the right to argue the weight to be given to said declarations. In particular,
17 the declarations may not be used to impeach the testimony of any class member or to limit her
18 remedies or representation in this case.

19
20 4. A notice of this stipulation and order shall promptly be mailed to each affected
21 declarant once the Court approves it.

22 5. Plaintiffs withdraw their motion to strike and Costco withdraws its motion to
23 clarify.

24 6. The Court's minute order of October 10, 2006 is vacated as moot. Costco shall
25 not be required to produce any declarant for examination at the class certification hearing. The
26

27 -2-

28 **STIP, [PROPOSED] ORDER RE MOTION TO STRIKE DECLARATIONS**
CASE NO. 04-3341 MHP

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T-021 P.004/004 F-004

1 hearings on plaintiffs' motion for class certification and Costco's motions to strike plaintiffs'
2 expert declarations shall be held on November 7, 2006 at 9:00 a.m.

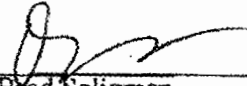
3 7. This stipulation is the product of negotiation. No adverse inference may be drawn
4 from the withdrawal of the parties' motions or this stipulation.

5 8. The declaration of Joni Hammer may be filed nunc pro tunc to September 29,
6 2006, subject to the provisions of this stipulation and order.

8 IT IS SO STIPULATED.


9 DATED: October 27, 2006

THE IMPACT FUND

11 By 
12 Brad Seligman
13 Attorneys for Plaintiffs

14 DATED: October 27, 2006

SEYFARTH SHAW LLP


15 By 
16 David D. Kadue
17 Attorneys for Defendant

18 ORDER

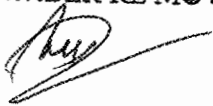
19
20 GOOD CAUSE APPEARING, it is hereby ORDERED that the Parties shall comply with
21 the provisions of the above Stipulation regarding the compromise on Plaintiffs' motion to strike
22 declarations. *except that after the hearing the court may request*

23 IT IS SO ORDERED. *Understand that as a result of this*

24 DATED: October 31, 2006

25 Hon. 
UNITED STATES DISTRICT JUDGE

26 *stipulation so Rule 30(b)(6) witnesses will be*
27 *deposed with respect to preparation of a matter*
28 *related to the defendant's declarations in opposition*
to this motion, except as may be ordered by

STIP, [PROPOSED] ORDER RE MOTION TO STRIKE DECLARATIONS
28 *Recmt.*  CASE NO. 04-3341 MHP

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