

THE HONORABLE ROSANNA MALOUF PETERSON

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

HAROLD MAPLE, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

COSTCO WHOLESALE
CORPORATION, a Washington
corporation; NIAGARA BOTTLING,
LLC, a California limited liability
company; and DOES 1-100, inclusive,

Defendants.

NO. 2:12-cv-5166-RMP

NOTICE OF APPEAL

Defendant Niagara Bottling, LLC cross-appeals to the United States Court of Appeals for the Ninth Circuit from the final judgment dated November 1, 2013 (“Judgment”) (ECF No. 103) and the Order Granting Defendants’ Motion to Dismiss Plaintiff’s Second Amended Complaint dated November 1, 2013 (“Dismissal Order”) (ECF No. 102), insofar as the Judgment and the Dismissal Order dismissed Plaintiff’s Second Amended Complaint “without prejudice” instead of with prejudice. Niagara further cross-appeals from the Order Denying

1 Defendants' Motion to Amend Judgment dated January 7, 2014 (ECF No. 114),
2 which denied Defendants' motion to amend the Judgment to be a dismissal with
3 prejudice.

4 This cross-appeal is related to the appeal noticed by Plaintiff on November
5 19, 2013 (ECF No. 106) and the cross-appeal noticed by Costco on January 16,
6 2014 (ECF No. 116). Niagara has noticed this cross-appeal within 14 days after
7 Costco's filing of its cross-appeal. RAP 4(a)(3).

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10 RESPECTFULLY SUBMITTED this 23rd day of January, 2014.

11
12 s/ John A. Safarli

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that on the date noted below, a true and correct copy of the foregoing was delivered and/or transmitted in the manner(s) noted below:

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12 DATED this 23rd day of January, 2014.

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