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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 WESTERN DIVISION
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15 KIMBERLY BANKS and CAROL
16 CANTWELL, individually, and on
behalf of all others similarly situated,

17 Plaintiffs,

18 v.

19 R.C. BIGELOW, INC., a corporation;
20 and DOES 1 through 10, inclusive,

21 Defendants.
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CASE NO.: 2:20-cv-06208-SVW
(RAOx)

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

1 Plaintiffs Kimberly Banks and Carol Cantwell (“Plaintiffs”) and Defendant
2 R.C. Bigelow, Inc. (“Defendant” or “Bigelow”) have entered into a Settlement
3 Agreement, which, together with the exhibits attached thereto, sets forth the terms
4 and conditions for a proposed settlement and dismissal of the Action with prejudice
5 as to Bigelow upon the terms and conditions set forth therein (the “Settlement
6 Agreement”).

7 The Court has before it Plaintiffs’ Unopposed Motion for Preliminary
8 Approval of Class Action Settlement (“Motion”). After reviewing the Motion, the
9 Settlement Agreement and exhibits thereto, and good cause appearing, the Court
10 hereby grants the Motion.

11 IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

12 1. Terms and phrases in this Order shall have the same meaning as
13 ascribed to them in the Settlement Agreement, unless otherwise defined herein.

14 2. Plaintiffs, with Bigelow’s consent, have moved the Court for an order
15 approving the Settlement of the Action in accordance with the Settlement
16 Agreement, which, together with the documents incorporated therein, sets forth the
17 terms and conditions for a proposed settlement and dismissal of the Action with
18 prejudice, and the Court having read and considered the Settlement Agreement and
19 having heard the Parties, hereby preliminarily approves the Settlement subject to the
20 Final Approval Hearing referred to in Paragraph 24 of this Order.

21 3. The Court has jurisdiction over the subject matter of this Action and
22 over all Parties to the Action.

23 4. The Court finds that, subject to the Final Approval Hearing, the
24 Settlement Agreement is fair, reasonable, and adequate, within the range of possible
25 approval, and in the best interests of the Settlement Class defined below. The Court
26 further finds that the Settlement Agreement substantially fulfills the purposes and
27 objectives of the class action and provides substantial relief to the Class without the
28 risks, burdens, costs, or delay associated with continued litigation. The Court also

1 finds that the Settlement Agreement: (a) is the result of arm's-length negotiations
2 between experienced class action attorneys; (b) is sufficient to warrant notice of the
3 Settlement and the Final Approval Hearing to be disseminated to the Settlement
4 Class; (c) meets all applicable requirements of law, including Federal Rule of Civil
5 Procedure 23 and the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1715, and
6 the U.S. Constitution; and (d) is not a finding or admission of liability by Bigelow or
7 any other person(s), nor a finding on the merits of any claims asserted in the Action.

8 **Certification of the Settlement Class**

9 5. The Court previously certified a Class. ECF No. 83. The Court now
10 reaffirms its class certification determination in the context of the Parties'
11 settlement.

12 6. For purposes of settlement: (a) Aubry Wand of the Wand Law Firm,
13 P.C. and Todd M. Schneider and Jason H. Kim of Schneider Wallace Cottrell Kim
14 LLP are appointed Class Counsel for the Settlement Class; and (b) Plaintiffs are
15 appointed Class Representatives for the Settlement Class. The Court finds that these
16 attorneys are competent and capable of exercising the responsibilities of Settlement
17 Class Counsel and that Plaintiffs will adequately protect the interests of the
18 Settlement Class defined below.

19 7. For purposes of settlement, the Court conditionally certifies the
20 following Settlement Class as defined in the Settlement Agreement:

21 All natural persons who purchased at least one 18/20 count box of Bigelow
22 Earl Grey Black Tea Caffeine, Green Tea Caffeine, Constant Comment Black
23 Tea Caffeine, Green Lemon Tea Caffeine, Vanilla Chai Black Tea Caffeine,
24 English Tea Time Black Tea Caffeine, Spiced Chai Black Tea Caffeine,
25 French Vanilla Black Tea Caffeine, or Vanilla Caramel Black Tea Caffeine,
26 labeled as "Manufactured in the USA 100% American Family Owned," at a
retail store in the state of California, at any time from October 17, 2017 to
July 31, 2023.

27 Excluded from the Settlement Class are: (a) Bigelow and Released Parties, (b)
28 distributors and retailers of the Class Products, (c) the Court and its staff, (d)

1 the Mediator and his staff, (e) counsel of record for the Parties and their
2 immediate family members, and (f) all Persons who timely and properly
3 exclude themselves from the Settlement Class.

4 8. The Court finds, subject to the Final Approval Hearing referred to in
5 Paragraph 24 below, that, within the context of and for the purposes of settlement,
6 the Settlement Class satisfies the requirements of Rule 23 of the Federal Rules of
7 Civil Procedure in that: (a) the Settlement Class is so numerous that joinder of all
8 members is impracticable; (b) there are questions of fact and law common to the
9 Settlement Class; (c) the claims of the Class Representatives are typical of the
10 claims of the members of the Settlement Class; (d) the Class Representatives and
11 Class Counsel will fairly and adequately protect the interests of the members of the
12 Settlement Class; (d) common questions of law or fact predominate over questions
13 affecting individual members; and (e) a class action is a superior method for fairly
14 and efficiently adjudicating the Action.

15 **Notice and Administration**

16 9. The Court approves the Notice Plan set forth in the Settlement
17 Agreement, and finds that it is reasonably calculated to, under all circumstances,
18 apprise members of the Settlement Class of the pendency of this Action, the terms
19 of the Settlement, and the right to object to the Settlement and to exclude themselves
20 from the Settlement Class. The Court also finds that the Notice Plan is the best
21 notice practicable under the circumstances and that it complies fully with the
22 requirements of the Federal Rules of Civil Procedure and Due Process.

23 10. The Parties have jointly selected a reputable settlement administration
24 company, JND Legal Administration (“JND”), to serve as the Settlement
25 Administrator. The Court hereby appoints JND to be the Settlement Administrator
26 and authorizes it to perform and execute the notice and administration
27 responsibilities set forth in the Settlement Agreement.
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1 11. The Court approves as to form and content the Electronic and Paper
2 Claim Forms and all forms of Notice to the Settlement Class (Direct Notice, Long
3 Form Notice, and Summary Notice), attached as Exhibits to the Settlement
4 Agreement.

5 12. The Parties, without further approval from the Court, are permitted to
6 revise the Claim Forms and forms of Notice to the Settlement Class identified in
7 Paragraph 11 above in ways that are appropriate to update those documents for
8 purposes of accuracy or formatting, so long as they are consistent in all material
9 respects with the Settlement Agreement and this Order.

10 **Submission of Claims**

11 13. Class Members who wish to receive benefits under the Settlement
12 Agreement must complete and submit a timely and valid Claim Form in accordance
13 with the instructions contained therein and as described in the Notice and Settlement
14 Agreement. All Claim Forms must be postmarked or electronically submitted on or
15 before the Claim Deadline.

16 14. Any Class Member who does not submit a timely and valid Claim
17 Form shall be barred from receiving any monetary payment under the Settlement.

18 **Requests for Exclusion**

19 15. Class Members may exclude him or herself or “opt out” from the
20 Settlement Class by submitting a Request for Exclusion on or before the
21 Objection/Exclusion Deadline that complies with the exclusion procedures set forth
22 in the Settlement Agreement.

23 16. Class Members who fail to submit a valid and timely Request for
24 Exclusion shall be bound by the provisions of the Settlement Agreement and all
25 proceedings, determinations, orders and judgments in the Action relating thereto,
26 including the Final Judgment (if issued) and the Release provided for therein,
27 regardless of whether they submitted a Claim Form.
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1 perjury as to the Person's purchase of a Class Product); (d) a clear and concise
2 statement of the factual and legal grounds for the Objection; (e) whether the
3 Objection applies only to the Class Member, to a specific subset of the Settlement
4 Class, or to the entire Settlement Class; (f) whether the Class Member, or his/her
5 counsel, intends to appear at the Final Approval Hearing; and (g) the Class
6 Member's signature, in addition to the signature of his/her attorney, if any.

7 22. Class Members who fail to file a valid and timely Objection in
8 compliance with the requirements of the foregoing paragraph and the Settlement
9 Agreement shall be deemed to have waived any objections and shall be foreclosed
10 from making any objections (whether by appeal or otherwise) to any aspect of the
11 Settlement.

12 23. The Parties shall file any response to any Objection no later than 7
13 calendar days prior to the Final Approval Hearing.

14 **Final Approval Hearing**

15 24. The Final Approval Hearing shall be held before this Court in
16 Courtroom 10A at the Felicitas and Gonzalo Mendez United States Courthouse,
17 located at 350 W 1st St, Los Angeles, CA 90012, to determine: (a) whether the
18 proposed Settlement Agreement is fair, reasonable, and adequate and should be
19 given final approval by the Court; (b) whether a final judgment and order of
20 dismissal with prejudice should be entered; (c) whether to approve the payment of
21 the Fee Award to Class Counsel; (d) whether to approve the payment of the Class
22 Representative Service Awards to the Class Representatives; (e) whether to approve
23 the payment of the Settlement Notice and Administration Costs to the Settlement
24 Administrator; and (f) whether to approve distribution of the Settlement Benefits to
25 the Class.

26 25. Plaintiffs shall file their Motion for Final Approval no later than 28
27 calendar days before the Final Approval Hearing and they shall file any
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1 supplemental briefing in support of their Fee Application no later than 35 calendar
2 days before the Objection/Exclusion Deadline. Plaintiffs shall file a declaration from
3 the Settlement Administrator attesting to its final costs no later than 7 calendar days
4 prior to the Final Approval Hearing.

5 26. All further proceedings in the Action are ordered stayed until Final
6 Judgment or termination of the Settlement, whichever occurs earlier, except for
7 those matters necessary to obtain and/or effectuate final approval of the Settlement.

8 **Related Orders**

9 27. The Court retains jurisdiction to consider all further applications arising
10 out of or connected with the proposed Settlement. The Court may approve the
11 Settlement, with such modifications as may be agreed to by the Parties, if
12 appropriate, without further notice to the Class.

13 28. If the Settlement Agreement is not approved by the Court in accordance
14 with its material terms, each Party will have the option of having the Action revert
15 to its status as if the Settlement Agreement had not been negotiated, made, or filed
16 with the Court. In such event, the Parties will retain all rights as if the Settlement
17 Agreement was never agreed upon and all negotiations, proceedings, documents
18 prepared, and statements made in connection therewith shall be without prejudice to
19 any person or party hereto, shall not be deemed or construed to be an admission by
20 any party of any act, matter, or proposition, and shall not be used in any manner or
21 for any purpose in any subsequent proceeding in this Action or in any other action in
22 any court or other proceeding.

23 **Implementation Schedule**

24 29. The Court sets the following settlement implementation schedule:

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Event	Date
Deadline to commence Notice to the Class	October 27, 2026 (21 days after preliminary approval)

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1	Completion of Notice Plan	<u>December 8, 2026</u> (6 weeks after Notice commences)
2		
3	Deadline to File Fee Application	<u>December 3, 2026</u> (35 days before Objection/Exclusion Deadline)
4	Objection/Exclusion Deadline	<u>January 7, 2027</u> (30 days after Notice Plan is completed)
5		
6	Claim Deadline	<u>February 8, 2027</u> (60 days after Notice Plan is completed)
7		
8	Deadline to Complete Claim/Fraud Review	<u>March 10, 2027</u> (30 days after Claim Deadline)
9	Deadline to File Motion for Final Approval	<u>April 19, 2027</u> (28 days before Final Approval Hearing)
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11	Deadline to file declaration from Settlement Administrator attesting to its final costs / Deadline to Respond to Any Objections	<u>May 10 2027</u> (7 days before Final Approval Hearing)
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14		
15	Hearing on Motion for Final Approval	<u>May 17, 2027</u> at <u>1:30</u> p.m. (28 days after filing of Motion for Final Approval)
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IT IS SO ORDERED.

DATED: October 5, 2026


Honorable Stephen V. Wilson
United States District Judge