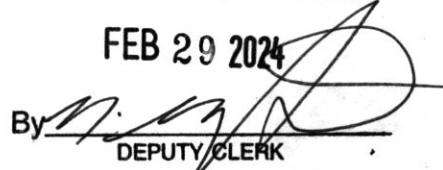


FILED

Clerk of the Superior Court

FEB 29 2024

By 
DEPUTY CLERK

N. WASHINGTON

Received JAN 30 2024
Clerk of the Superior Court

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SOLANO

GRANT DIAZ, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

ARDAGH METAL BEVERAGES USA, INC.,
a Delaware Corporation; and DOES 1-50,
inclusive.

Defendant.

CASE NO.: FCS057518

Assigned to the Hon. Tim P. Kam

the
**~~PROPOSED~~ ORDER GRANTING
FINAL APPROVING OF CLASS
ACTION SETTLEMENT AND FINAL
JUDGEMENT**

HEARING INFO

Date: February 27, 2024

Time: 9:00 a.m.

Dept.: Fairfield, Room 2

1 This matter came for hearing on February 27, 2024, regarding Plaintiff Anicia Cisneros'
2 ("Plaintiff") unopposed Motion for Final Approval of Class Action Settlement on the terms set forth
3 in the Class Action and PAGA Settlement Agreement (the "Settlement" or the "Settlement
4 Agreement"). In conformity with California Rules of Court, rule 3.769, with due and adequate notice
5 having been given to Class Members (as defined in the Settlement), and having considered the
6 Settlement, all of the legal authorities and documents submitted in support thereof, all papers filed
7 and proceedings had herein, all oral and written comments received regarding the Settlement, and
8 having reviewed the record in this litigation, and good cause appearing, the Court GRANTS final
9 approval of the Settlement and orders and makes the following findings and determinations and enters
10 final judgment as follows:

11 1. All terms used in this order shall have the same meaning as those terms used and/or
12 defined in the parties' Settlement Agreement and Plaintiff's Motion for Order Granting Final
13 Approval of Class Action Settlement. A copy of the Settlement is attached to the Declaration of
14 Mehrdad Bokhour in Support of the Plaintiff's Motion for Final Approval of Class Action and is
15 made a part of this order.

16 2. The Court has personal jurisdiction over the Parties to this litigation and subject matter
17 jurisdiction to approve this Settlement and all exhibits thereto.

18 3. For settlement purposes only, the Court finally certifies the Settlement Class, as
19 defined in the Settlement and as follows: "all current and former non-exempt employees who worked
20 for any Defendant within the State of California at any time during the Class Period," which is the
21 period from December 6, 2017, through April 26, 2023. The PAGA Members include "all current
22 and former non-exempt employees who worked for any Defendant within the State of California at
23 any time during the PAGA Period," which is the period from December 6, 2020, through April 26,
24 2023. "Defendant" means and refers to defendant Ardagh Metal Packaging USA Corp. (formerly
25 known as "Ardagh Metal Beverage USA Inc.").

26 4. The Court deems this definition sufficient for the purpose of rule 3.765(a) of the
27 California Rules of Court and solely for the purpose of effectuating the Settlement.

28

1 5. The Court finds that an ascertainable class of 186 class members exists and a well-
2 defined community of interest exists on the questions of law and fact involved because in the context
3 of the Settlement: (i) all related matters predominate over any individual questions; (ii) the claims of
4 the Plaintiff is typical of claims of the Class Members; and (iii) in negotiating, entering into and
5 implementing the Settlement, Plaintiff and Class Counsel have fairly and adequately represented and
6 protected the interest of the Class Members.

7 6. The Court is satisfied that ILYM Group, Inc., appointed as the Settlement
8 Administrator, completed the distribution of the Class Notice to the Class in a manner that complies
9 with California Rule of Court 3.766. The Class Notice informed 186 prospective Class Members of
10 the Settlement terms, their rights under the settlement and their settlement share, their rights to submit
11 a request for exclusion, their rights to comment on or object to the Settlement, and their rights to
12 appear at the Final Approval and Fairness Hearing and be heard regarding approval of the Settlement.
13 Each of these procedures provided a sufficient period of time to respond and to act. No Class
14 Members filed a written objection to the Settlement as part of this notice process, no Class Members
15 filed a written statement of intention to appear at the Final Approval and Fairness Hearing, and no
16 individual submitted a request for exclusion.

17 7. The Court hereby approves the terms set forth in the Settlement Agreement and finds
18 that the Settlement Agreement is, in all respects, fair, adequate, reasonable, consistent, and compliant
19 with all applicable requirements of the California Code of Civil Procedure, the California and United
20 States Constitutions, including the Due Process clauses, the California Rules of Court, and any other
21 applicable law, and in the best interests of each of the Parties and Class Members.

22 8. The Court directs the Parties to effectuate the Settlement Agreement according to its
23 terms and declares the Settlement Agreement to be binding on all 186 Participating Class Members.

24 9. The Court finds that the Settlement Agreement has been reached as a result of
25 informed and non-collusive arm's-length negotiations. The Court further finds that the Parties have
26 conducted extensive investigation and research, and their attorneys were able to evaluate their
27 respective positions reasonably.

28

10. The Court also finds that the Settlement now will avoid additional and potentially substantial litigation costs, as well as delay and risks to the Parties, if they continue to litigate the case. Additionally, after considering the monetary recovery provided as part of the Settlement in light of the challenges posed by continued litigation, the Court concludes that Class Counsel secured significant relief for Class Members.

11. The Settlement Agreement is not an admission by any Defendant, nor is this order a finding of the validity of any allegations or of any wrongdoing by any Defendant.

12. The Court appoints Plaintiff ~~Anicia Cisneros~~ **GRANT DIAZ** as Class Representative and finds her to be adequate. **TK** him **TK**

13. The Court appoints Joshua Falakassa of Falakassa Law, P.C. and Mehrdad Bokhour of Bokhour Law Group, P.C. as Class Counsel and finds each of them to be adequate, experienced, and well-versed in class action litigation.

14. The terms of the Settlement Agreement, including the Gross Settlement Amount of \$2,100,000 and the individual settlement shares, are fair, adequate, and reasonable to the Class and each Class Member, and the Courts grants final approval of the Settlement set forth in the Settlement Agreement, subject to this order:

15. The Court approves the following allocations, which fall within the ranges stipulated by and through the Settlement Agreement:

A. The Court awards \$5,950.00 in Administration Costs to ILYM Group, Inc., the Settlement Administrator, and finds this amount to be fair and reasonable. The Court grants final approval of it and orders the Parties to make the payment to the Settlement Administrator in accordance with the Settlement Agreement. **\$ 598,000 TK**

B. The Court awards ~~\$700,000~~ **\$598,000** to Class Counsel as attorneys' fees and finds this amount fair and reasonable in light of the benefit obtained for the Class. The Court grants final approval of awards and orders the Class Counsel Attorney Fees payment to be made in accordance with the Settlement Agreement.

1 C. The Court awards \$18,312.41 to the Bokhour Law Group, P.C. in litigation
2 costs, an amount which the Court finds to be reflective of the reasonable costs
3 incurred. The Court grants final approval of and orders the Class Counsel
4 Costs in this amount to be made in accordance with the Settlement
5 Agreement.

6 D. The Court awards \$10,000 to the class representative as payment requested
7 by Plaintiff and finds this amount to be fair and reasonable. The Court grants
8 final approval of and orders the Service Payment to be made in accordance
9 with the Settlement Agreement.

10 E. The Court approves the \$25,000 allocation for penalties under the Labor Code
11 Private Attorneys General Act of 2004 and orders 75% thereof (i.e., \$18,750)
12 to be paid to the California Labor and Workforce Development Agency in
13 accordance with the terms of the Settlement Agreement and the remainder
14 (\$6,250) to the PAGA Members.

15 16. The Court orders the Parties to comply with and carry out all terms and provisions of
16 the Settlement, to the extent that the terms thereunder do not contradict this Order, in which case the
17 provisions of this order shall take precedence and supersede the Settlement.

18 17. Nothing in the Settlement or this order purports to extinguish or waive Defendant's'
19 rights to continue to oppose the merits of the claims in this Action or class treatment of these claims
20 in this case if the Settlement fails to become final or effective, or in any other case without limitation.
21 If the Settlement Agreement does not become final and effective in accordance with the terms of the
22 Settlement, then this Order Granting Final Approval and Entry of Judgment, and all orders entered in
23 connection herewith, shall be rendered null and void and shall be vacated, and the parties shall revert
24 to their respective positions as of before entering into the Settlement Agreement, and expressly
25 reserve their respective rights regarding the prosecution and defense of this Action, including all
26 available defenses and affirmative defenses, and arguments that any claim in the Action could not be
27 certified as a class action and/or managed as a representative action. The Settlement Agreement is
28 not an admission by Defendant, nor is this Order Granting Final Approval and Entry of Judgment a

1 finding of the validity of any claims in the Action or of any wrongdoing by Defendant or that this
2 Action is appropriate for class or representative treatment (other than for settlement purposes).
3 Neither this Order Granting Final Approval and Entry of Judgment, the Settlement Agreement, nor
4 any document referred to herein, nor any action taken to carry out the Settlement is, may be construed
5 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability. The
6 entering into or carrying out of the Settlement Agreement, and any negotiations or proceedings related
7 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
8 concession with regard to the denials or defenses by Defendant. Notwithstanding these restrictions,
9 Defendant may file in the Action or in any other proceeding this Order Granting Final Approval and
10 Entry of Judgment, the Settlement Agreement, or any other papers and records on file in the Action
11 as evidence of the Settlement to support a defense of *res judicata*, collateral estoppel, release, or other
12 theory of claim or issue preclusion or similar defense as to the released claims.

13 18. The Settlement shall bind all 186 Participating Class Members and this order,
14 including the release of claims (including Released Class Claims, Released PAGA Claims, and
15 General Release by Plaintiff) as set forth in the Settlement Agreement.

16 19. The Parties shall bear their respective attorneys' fees and costs except as otherwise
17 provided in this order and the Settlement Agreement.

18 20. All checks mailed to the Class Members must be cashed within one hundred and eighty
19 (180) days after mailing. If a Class Member fails to cash his/her check by the deadline, then the
20 Settlement Administrator shall send the remaining funds to California Unclaimed Property Fund in
21 the name of the Settlement Class Member.

22 21. Within ten days of this order, the Settlement Administrator shall give notice of
23 judgment to Settlement Class Members pursuant to California Rules of Court, rule 3.771(b), by
24 posting a copy of this order and final judgment on its website.

25 22. The Court retains continuing jurisdiction over the Action and the Settlement, including
26 jurisdiction pursuant to rule 3.769(h) of the California Rules of Court, solely for purposes of
27 (a) enforcing the Settlement Agreement, (b) addressing settlement administration matters, and
28 (c) addressing such post-judgment matters as may be appropriate under court rules or applicable law.

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2 23. Plaintiff shall file a report regarding the distribution status with the Court within one
3 hundred and twenty (120) days after all funds have been distributed. qdm

4 24. The Court hereby sets a hearing date of 2/10/2025, 2024, at 9:00 a.m. for a
5 hearing on the final accounting and distribution of the settlement.

6 25. This final judgment is intended to be a final disposition of the above-captioned action
7 and is intended to be immediately appealable. This final judgment resolves and extinguishes all
8 claims released by the Settlement Agreement against the Defendant and the Released Parties as set
9 forth in the Agreement.

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11 IT IS SO ORDERED.

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13 DATED: 2/27/2024, 2024

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 Tim P. Kam

HONORABLE TIM P. KAM