

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

FILED
Superior Court of California
County of Los Angeles

JAN 29 2020

Sherry R. Carter, Clerk
By Alfredo Morales deputy
ALFREDO MORALES

MATIN SHALIKAR and ALEXANDER
PANVINI, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

ASAHI BEER U.S.A., INC.,

Defendant.

Case No. BC702360

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT; GRANTING AWARD OF
ATTORNEYS' FEES, COSTS, AND
EXPENSES; FINAL ORDER AND
JUDGMENT**

Judge: Honorable Amy D. Hogue
Department: 007

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1 On January 14, 2020, this Court heard the motion for final approval of the class action
2 settlement between Plaintiffs Matin Shalika and Alexander Panvini and Defendant Asahi Beer
3 U.S.A., Inc. (collectively, "the Parties"). The Court has (1) reviewed and considered the terms and
4 conditions of the proposed Settlement as set forth in the Settlement Agreement; (2) reviewed and
5 considered Class Counsel's Motion for Final Approval of the Settlement, final certification of the
6 Settlement Classes, and final appointment of the Class Representatives and Class Counsel; (3)
7 reviewed and considered the petition of Class Counsel for an award of attorneys' fees, costs,
8 expenses, and class representative service awards; (4) taken into account the presentations and
9 other proceedings at the Preliminary Approval hearing and the Final Approval Hearing; and (5)
10 considered the Settlement in the context of all prior proceedings had in this Action.

11 The Court enters the following FINDINGS:

12 A. The Settlement is the product of good faith, arm's-length negotiations between the
13 Class Representatives and Class Counsel, on the one hand, and Defendant and Defendant's
14 Counsel, on the other hand, assisted by an experienced, professional impartial mediator, John B.
15 Bates, Jr., Esq and the Hon. James R. Dunn.

16 B. The Settlement Agreement is fair, reasonable, and adequate in all respects, and is
17 hereby approved without modification;

18 C. This Court adopts all defined terms set forth in the Settlement Agreement,
19 including but not limited to all defined terms set out in Section II of the Settlement Agreement, for
20 purposes of this Order. Additionally, the Court supplements the foregoing defined terms with all
21 additional defined terms set forth herein;

22 D. The Parties adequately performed all obligations under the Agreement due as of the
23 date of this Order;

24 E. The Court's conditional certification for settlement purposes in the Preliminary
25 Approval Order of both the Settlement Class and the California Settlement class was, and is,
26 appropriate. Matin Shalika and Alexander Panvini (together, the "Class Representatives") and
27 Class Counsel have fairly and adequately represented the Settlement Classes for purposes of

1 entering into and implementing the Settlement;

2 F. Defendant provided notice to class members in compliance with Paragraphs X and
3 XI of the Settlement Agreement, due process, and California Rules of Court Rules 3.766 and
4 3.769. The notice: (i) constituted the best notice practicable under the circumstances; (ii) was
5 reasonable and constituted due, adequate, and sufficient notice to all persons entitled to be
6 provided with notice; (iii) fully and accurately informed class members about the lawsuit and
7 settlement; (iv) provided sufficient information so that class members were able to decide whether
8 to accept the benefits offered, opt out and pursue their own remedies, or object to the proposed
9 settlement; (v) provided procedures for class members to file written objections to or the proposed
10 settlement, to appear at the hearing, and to state objections to the proposed settlement; and (vi)
11 provided the time, date and place of the final fairness hearing;

12 G. The Court has subject matter jurisdiction over this Action and all acts within this
13 Action, and over all Parties to this Action, including all members of the Settlement Classes;

14 H. Willis Johnson has submitted a timely and valid Request for Exclusion and is
15 therefore excluded from the Settlement Class and is not bound by the Settlement Agreement;

16 I. Incentive awards to Matin Shalika and Alexander Panvini in the amounts set forth
17 below is fair and reasonable; and

18 J. An award of attorneys' fees and costs to Class Counsel in the amounts set forth
19 below is fair and reasonable in light of the nature of this case, class counsel's experience and
20 efforts in prosecuting this action, and the benefits obtained for the class members.

21 On the basis of the foregoing findings and conclusions, as well as the submissions and
22 proceedings referred to above, NOW, THEREFORE, THE COURT ORDERS, ADJUDGES,
23 AND DECREES:

24 **Certification of Class and Approval of Settlement**

25 1. The Court approves the Settlement and the Settlement Agreement as fair,
26 reasonable, adequate, and in the best interests of both the Settlement Classes, and the Court holds
27 that the requirements of due process, the California Rules of Court, and the California Code of

1 Civil Procedure have been satisfied. The Court orders and directs the Parties to comply with the
2 terms and provisions of the Settlement Agreement.

3 2. Having found that, for Settlement purposes only, the requirements of Cal. Code
4 Civ. Pro. § 382 are satisfied, the Court permanently certifies the Settlement Class pursuant to Cal.
5 Code Civ. Pro. § 382 on behalf of: All consumers who purchased Asahi Beer in the United States,
6 its territories, or at any United States military facility or exchange, for personal, family, or
7 household purposes and not for re-sale, during the Class Period. Excluded from the Settlement
8 Class are all persons who validly opt out of the settlement in a timely manner (for purposes of
9 damages claims only); counsel of record (and their respective law firms) for the Parties; Defendant
10 and any of its parents, affiliates, subsidiaries, and all of its respective employees, officers, and
11 directors; and the presiding judge in the Action or judicial officer presiding over the matter, and all
12 of their immediate families and judicial staff.

13 In accordance with the foregoing class definition, the Court excludes from the Settlement
14 Class putative class member Willis Johnson. Mr. Johnson shall not be entitled to any of the
15 monetary benefits that the Settlement Agreement afforded to the Class Members.

16 The Court readopts and incorporates herein by reference the preliminary conclusions that
17 the Court set forth in the Preliminary Approval Order with respect to whether both the Settlement
18 Class satisfy requirements of Cal. Code Civ. Pro. § 382.

19 3. All terms of resolution as set forth in the Settlement Agreement are hereby adopted,
20 and all executory terms thereof are hereby ordered performed by the Parties.

21 4. For purposes of Settlement only, the Court certifies the Class Representatives as
22 representatives of the Settlement Class, and the Court appoints Class Counsel as counsel for the
23 Settlement Class. The Court concludes that the Class Representatives and Class Counsel have
24 fairly and adequately represented the Settlement Class with respect to the Settlement and the
25 Settlement Agreement. If this Order is reversed on appeal and as a result only one of the classes is
26 certified or a non-material change is made, the Order shall be final and binding only as to the class
27 certified, and the Parties' and Class Administrator's obligations shall be limited to the scope of the
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1 certified class. If this Order is reversed and the Settlement Class is decertified, the foregoing
2 certification of the Settlement Class and the Settlement Agreement shall be null and void, and the
3 Parties shall revert to the position they were in prior to seeking approval for the Agreement,
4 without prejudice to any legal argument that any of the Parties to the Settlement Agreement might
5 have asserted but for the Settlement Agreement.

6 **Release and Injunctions against Released Claims**

7 5. Upon the Effective Date, Plaintiffs and each member of the Settlement Class,
8 except for Willis Johnson, shall be deemed to fully release and discharge Defendant and all its
9 present and former parent companies, subsidiaries, shareholders, officers, directors, employees,
10 agents, servants, registered representatives, attorneys, insurers, affiliates, and successors, personal
11 representatives, heirs and assigns, retailers, suppliers, distributors, endorsers, consultants, and any
12 and all other entities or persons upstream and downstream in the production/distribution channels
13 (together, the "Discharged Parties") from all claims, demands, actions, and causes of action of any
14 kind or nature whatsoever, whether at law or equity, known or unknown, direct, indirect, or
15 consequential, liquidated or unliquidated, foreseen or unforeseen, developed or undeveloped,
16 arising under common law, regulatory law, statutory law, or otherwise, whether based on federal,
17 state or local law, statute, ordinance, regulation, code, contract, common law, or any other source,
18 or any claim that Plaintiffs or Settlement Class members ever had or now have against the
19 Discharged Parties in any other court, tribunal, arbitration panel, commission, agency, or before
20 any governmental or administrative body, or any other adjudicatory body, on the basis of, arising
21 from, or relating to the claims alleged or that could have been alleged based on the facts asserted
22 in the operative complaint, including all claims related to the labeling / packaging / marketing
23 regarding the place of origin / brewing, identity of brewer, and source of ingredients for Asahi-
24 branded beer during the Class Period (the "Released Claims"). The Released Claims expressly
25 exclude claims for personal injury against the Discharged Parties.

26 **Attorneys' Fees and Expenses and Class Representative Service Awards**

27 6. The attorneys at Halunen Law, Reese LLP, and Faruqi & Faruqi, LLP, who
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1 prosecuted this case, are skilled and experienced class action consumer protection lawyers. The
2 Court grants Plaintiffs' and Class Counsel's request for an award of attorneys' fees and costs in
3 the aggregate amount of \$745,000. In accordance with the terms of the Settlement Agreement,
4 payments of attorneys' fees and costs in the followings amount shall be made as follows: 1)
5 \$186,250.00 to Halunen Law; 2) \$279,375.00 to Reese LLP; and 3) \$279,375.00 to Faruqi &
6 Faruqi, LLP. The award of fees and costs are justified by reasons stated in the Court's January 14,
7 2020 order.

8 7. The Court finds reasonable the Incentive Awards for the Class Representatives in
9 the amount of \$2,750 each for named Plaintiffs Matin Shalika and Alexander Panvini, in
10 recognition of the services they rendered on behalf of the Settlement Class, as well as the risks and
11 adverse consequences they potentially faced as a result. The Court awards the Service Awards to
12 the Class Representatives.

13 **Claims Administration Cost**

14 8. KCC shall submit a costs declaration in support of their request for the payment of
15 administrative costs on or before August 14, 2020. Contingent on the receipt of KCC's costs
16 declaration, the Court will award payment of reasonable costs up to the requested amount as
17 supported by KCC's costs declaration, but not in excess of the amount of \$475,000.

18 **Continuing Jurisdiction**

19 9. This action is hereby concluded and judgment is entered, provided however, and
20 without affecting the finality of this Order of Final Approval and Judgment in any way, that
21 pursuant to Code of Civil Procedure Section 664.6, and California Rules of Court Rule 3.769(h),
22 the Court will retain jurisdiction over this action and the parties until final performance of the
23 Settlement Agreement.

24 10. The Parties shall file a declaration from KCC confirming final payout and
25 execution of the terms of the Settlement Agreement.

26 *appearance case review re: final pay-out for 8/24/2020*
27 *10:00 a.m.*

28 *1/29/2020*