

**SUPREME COURT OF THE STATE OF NEW YORK  
BRONX COUNTY**

FREDERICK MCKINLEY and  
LISA VIZCARRA, individually and on  
behalf of all others similarly situated,

Plaintiffs,

– against –

CONOPCO INC. and  
UNILEVER UNITED STATES, INC.,

Defendants.

Index No. 805260/2024E

Motion 2

**DECISION AND ORDER  
GRANTING FINAL CERTIFICATION OF THE SETTLEMENT CLASS;  
GRANTING FINAL APPROVAL OF CLASS ACTION SETTLEMENT;  
GRANTING PAYMENT OF ATTORNEYS FEES AND EXPENSES TO CLASS COUNSEL  
AND PAYMENT OF SERVICE AWARDS TO THE CLASS REPRESENTATIVES;  
AND ENTERING FINAL JUDGMENT**

**WHEREAS:**

A. On July 3, 2024, Plaintiffs applied to the Court pursuant to Civil Practice Law and Rules (“CPLR”) Article 9 for an order preliminarily approving the settlement of this litigation (the “Action”) in accordance with the Settlement Agreement dated July 2, 2024, that was filed with the Court on July 3, 2024 (NYSCEF Doc. No. 7) (the “Settlement”);

B. The Settlement, together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement of this Action and a related matter (collectively, “the Actions”) and for a judgment dismissing with prejudice the First Amended Class Action Complaint filed with the Court on June 26, 2024 (NYSCEF Doc. No. 5) (the “Complaint”) by the Plaintiffs;

C. In the Preliminary Approval Order of the Settlement of the Class Action, dated August 14, 2024 (NYSCEF Doc. No. 20) (the “Preliminary Approval Order”), this Court (i) certified the Settlement Class defined as:

All persons who, from April 21, 2016 to August 14, 2024 purchased one or more Breyers Natural Vanilla ice cream products in the United States for personal or household use and not for resale. Excluded from the Settlement Class and Settlement Class Members are: the Released Parties; any government entities; persons who made such purchase for the purpose of resale; persons who made a valid, timely request for exclusion; the presiding judges in the Actions; and mediator Peter Woodin of JAMS.

(ii) appointed Michael R. Reese and Sue J. Nam of Reese LLP and Spencer Sheehan of Sheehan & Associates, P.C. as co-lead counsel for the Class (“Class Counsel”); (iii) preliminarily approved the Settlement; (iv) scheduled a hearing for November 21, 2024 (the “Settlement Hearing”) to consider whether (a) to approve the Settlement as being fair, reasonable, and adequate, and to enter final judgment thereon and (b) to approve payment of attorneys’ fees and expenses to Class Counsel and payment of service awards to the Class Representatives; and (v) directed that notice be given of the pendency of the Actions, the Settlement, and the Settlement Hearing.

D. Class Counsel has submitted affirmations from the Claims Administrator appointed by the Preliminary Approval Order attesting that the Notice was disseminated in accordance with the Preliminary Approval Order. (*See* NYSCEF Doc. Nos. 24 and 25) (Affirmation and Supplemental Affirmation of Cameron R. Azari of Epiq Class Action and Claims Solutions, Inc. Regarding Implementation and Adequacy of Notice Plan).

E. Class Counsel has submitted a list of all Class Members who properly and timely requested exclusion from the Class, a copy of which is attached as Exhibit 1 hereto.

F. The Court held a Settlement Hearing on November 21, 2024 and has considered all prior proceedings in the Action, the Settlement and the exhibits annexed thereto, any submissions made in connection with the proposed Settlement, and all proceedings in the Action.

**NOW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

1. To the extent not defined herein, this Order and Final Judgment incorporates by reference the definitions in the Settlement, and all terms not otherwise defined herein shall have the same meanings as set forth in the Settlement.

**APPROVAL OF NOTICE**

2. The Court hereby determines that the Notice Plan complied with the requirements of CPLR §§ 904, 907, and 908 and due process, was the best notice practicable under the circumstances, and constituted due and sufficient notice to all persons entitled thereto. The Notice Plan provided due and adequate notice of these proceedings, the Settlement, the application of Class Counsel for the payment of attorney fees and reimbursement of expenses to Class Counsel, the application for payment of Service Awards to the Class Representatives, and the other matters set forth therein, to all persons entitled to such notice.

3. Due and adequate notice having been given to the Class Members, and a full opportunity having been offered to the Class Members to object to the proposed Settlement, to participate in the Settlement Hearing thereon, or to request exclusion from the Class, it is hereby determined that all Class Members who have not requested exclusion are bound by this Order and Final Judgment and are barred from contesting the Settlement or this Order and Final Judgment.

4. Those persons identified in Exhibit 1 hereto shall be excluded from the Class and any benefits under the Settlement and shall not be bound by the Settlement.

#### **CERTIFICATION OF THE SETTLEMENT CLASS**

5. Paragraphs 2, 3, 4 and 8 of the Preliminary Approval Order pertaining to the certification of the Settlement Class; appointment of the Class Representatives; appointment of Class Counsel; and appointment of the Claims Administrator are hereby confirmed and made a part of this Order and Final Judgment.

#### **APPROVAL OF THE SETTLEMENT**

6. Pursuant to CPLR §§ 907 and 908, the Court finds that the Settlement is in all respects fair, reasonable, and adequate to each of the Releasing Parties and each Class Member. The Settlement is hereby approved by the Court. In making this determination, the Court has considered, among other things, the benefits conferred on the Class by the Settlement, the risks faced by the Class in establishing class certification, liability, and damages, and the value of settlement now in comparison to the likely probable duration, complexity, and further expense of this litigation in the absence of a settlement. The Court further finds that the Settlement has been the product of arm's-length negotiations and has been entered into in good faith. The Parties thereto are directed to consummate the Settlement in accordance with the terms and conditions of the Settlement Agreement.

7. In determining that the Settlement is in all respects fair, reasonable and adequate to each of the Releasing Parties and each member of the Class, and in approving the Settlement, the Court has considered that no objections have been raised by any Class Members to the Settlement.

8. The Complaint against Defendants in this Action is dismissed on the merits and with prejudice, with each party to bear his, her, their, or its own costs, except for: the payment of valid claims to the Class Members; the payment of fees and costs of the Claims Administrator; the payment of the attorney fees and reimbursement of expenses to Class Counsel; and the payment of the service awards to the Class Representatives, as provided for below and in the Settlement.

**PAYMENT OF ATTORNEY FEES AND  
REIMBURSEMENT OF EXPENSES TO CLASS COUNSEL**

9. The application by Class Counsel for the payment of \$2,950,000 in attorney fees, which constitutes one-third of the \$8,850,000 Settlement Amount, and to which there was no objection, is hereby granted. Class Counsel's application for \$200,954.98 in reimbursement of expenses, to which there was no objection, is also hereby granted. Said fees and expenses shall be deducted from the Settlement Amount in the manner prescribed in the Settlement Agreement.

**PAYMENT OF SERVICE AWARDS TO THE CLASS REPRESENTATIVES**

10. The application by Class Counsel for payment of a \$5,000 service award to each of the two Class Representatives (for a total of \$10,000) for their efforts in connection with the prosecution of the Actions, and to which no objection was filed, is hereby granted.

**FINAL EFFECT AND IMPLEMENTATION OF SETTLEMENT**

11. All Class Members who have not requested exclusion and all Plaintiffs are barred and enjoined from commencing, prosecuting, instigating or in any way participating in the commencement or prosecution of any action asserting any claims asserted in the Actions against Defendants, either directly, representatively, derivatively, or in any other capacity.

12. Neither the Settlement nor any proceedings taken in accordance with the terms set forth therein shall be construed or deemed to be evidence, or any presumption, admission or concession, either (a) on the part of Plaintiffs, of the lack of merit of the Actions, or (b) on the part of Defendants, of any violation of any statute or regulation or principle of common law, or of any fault, liability, or wrongdoing as to any facts or claims alleged or asserted in the Actions, or any other action or proceeding, or that any person or entity has suffered any damages as a result of any matter that underlies any of the allegations or claims that were or could have been brought in the Actions, and shall not be interpreted, construed, deemed, invoked, offered, or received in evidence or otherwise used by any person in the Actions or in any other action or proceeding, whether civil, criminal, or administrative, except for any litigation or judicial proceeding arising out of or relating to the enforcement of the Settlement. Any such evidence, admission or concession is expressly denied and disclaimed by each of the Plaintiffs and each of the Defendants.


13. Without in any way affecting the finality of this Order and Final Judgment, this Court shall retain continuing jurisdiction over this Action and the Parties to the Settlement and the Class Members in order to: (a) effectuate the implementation of the Settlement; (b) enforce the terms of the Settlement including, but not limited to, the releases provided therein; (c) hear all claims, defenses, and counterclaims relating to the interpretation and enforcement of this Settlement before and after the Effective Date as the Court deems appropriate; (d) determine all other matters relevant to this Settlement; (f) to enter any further orders as may be necessary or appropriate to effectuate the Settlement and the provisions of this Order and Final Judgment.

14. The Court hereby enters this Final Order and Final Judgment and Dismissal with prejudice. The Court fully and finally dismisses this matter and this litigation in its entirety and with prejudice.

Accordingly, motion sequence 2 is granted and the action is settled. The clerk shall mark motion sequence 2 decided and the action disposed in all court records.

This constitutes the decision and order of the court.

**SO ORDERED this 21 day of November, 2024:**

HON.   
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**Honorable Veronica G. Hummel**  
**Justice of Supreme Court of the State of New York**

X Motion 2 granted X Action disposed

**EXHIBIT 1**  
**(LIST OF PERSONS WHO REQUESTED EXCLUSION FROM THE SETTLEMENT)**

THOMAS BIGGINS  
CHARLES FIRESTONE  
MARY JO DONAHUE  
LIZETTE HERNANDEZ  
HAYDEE CANTORAL  
MICHELLE LOKUTA  
KELVI MOLINA CANALES  
GILDA ANDERSON  
DEBBIE L MERRILL  
KELVI MOLINA  
BENJAMIN ASCONE  
HAOI TRAN  
PAUL PETROSKI  
THOMAS NGUYEN  
ALICIA SMITH  
KRISTEN A SUTHERLAND  
DORA MARAMAG  
ZAK M AATEF  
FLORA OLANDER  
DARREL J DWIGHT  
LEVERGNE FRIDAY  
ROBERT MESITI  
VINNE S VALENTINE  
VIVIAN L CLARK  
MARY JOINER  
CHRISTAN WATTS  
ANNA PARASKEVOPOULOS  
CYNTHIA R HOLMES  
MARK MCHUGH  
SANDRA M GATES  
LACRISHA MOORE  
MARRISSA D ALVAREZ  
TRISH PERRY  
DEBRA VALENTINE  
CYNTHIA TOWNSEND  
KATARZYNA GANLEY  
JOHN P PELTZER  
LATRICIA WOOTEN  
YANIRA SOTO



MYRTLE PERRY  
ZHE XIE  
HALINA BUCHCAR  
GARLAND PERRY  
PAMELA PUTRICH  
WAHID AZIZI  
JOSEPH BARRATIERE  
KIMBERLY CRAVER  
MARITZA AGUILAR  
SAMUEL M STEFFEN  
MICHAEL KNAPP  
MELISSA TRINH  
LINGRU KONG  
GRACE C BERGER  
ALICIA F POUNCY  
KEVIN CHONG  
ALICIA ROWLAND  
IVAN D MORRIS  
ALINA DZIECIOL  
CARMEL B MANLAPAZ  
MONICA MEISTER  
MICHELE M ALLEN  
JEFF RAPOSO  
SILVER CARROLL  
HERBERT WILLIAMS  
JENNIFER ANDERSON  
LUBNA YUSUF  
ISEMANA JEAN  
MICHIKO IACUZIO  
STEVEN DEMOOR  
ELIZABETH M JAMES  
KAROLYN R BROCKMEYER  
KAYLA R BRUENING  
ERIC B MOORE  
JENNIFFER ARGUETA  
JAMES K LAWSON  
NICOLE SAGGIO  
ABRIA OSSMAN  
MARIO F GUERRERO  
JESUS JIMENEZ  
ANDRE O SCOTT  
JOHN F WHITE  
MARIANA E ROMAN

DAVE D DUFFY  
MELISSA NOLAN  
JAMES LASCO  
JOSEPH FORTE  
DOMINIQUE V MORENO  
KARLA L HEASTIE  
LISA A ROBUCCIO  
BRIGITTE ALDREDGE  
DAVID ENG  
JOHN NOON  
NICKOLAS MORRIS  
NATHAN KNIGHT  
DAVID KRONBERG  
EDWARD ROYBAL  
RETH B UNG  
HEATHER SURRENCY  
BEN LICON  
LISA HUDSPETH  
KIMBERLY J COVELLA  
LAVANGILE ECHOLS JR  
SUSAN C MALONE  
JF TRINKAUS  
HANIN KAMAL  
ENRIQUE FERNANDEZ  
WON CHO  
TARYN J HARLER  
JASON L VANANDA  
DANIEL MANGOME  
JAQUELINE M HOLNESS  
GRETCHEN M DANISH  
VALERIE LINEBERGER  
ABEL GUTIERREZ  
ED FENG  
CESAR H VILLALOBOS  
MAUREEN OWENS  
COLBY S DUNN  
GARRETT JOHNSON  
ELIZABETH VAZQUEZ GARCIA  
DENISE T FENTON  
ADRIANA BRIVIESCA  
HALENA L MEISTERS  
VANCE S SAFLEY  
PAMELA GIANNI

LUIS NICOLAS  
ANNA NGYUEN  
BARRY R GALLOWAY  
JAQUELINE R JONES  
DON J SPREEMAN  
SUSANNA ACHINNIKOV  
MICHAEL T SOWINSKI  
NAGESH ROJANALA  
JOCELYNE DILLARD  
FRANK S MAYBERRY  
BARBARA WILLIAMS  
MARILLEN D CABALLERO  
SHARRON N WHITE  
RON E COX  
SCOTT T CRUMP  
JEFFREY P KOLLING  
FRANK C GRAHAM  
ERNEST GOWER  
KELLEY G PERRIN  
MARC MILLER  
STEPHEN SIMKO  
RONGJUAN MI  
SADIA KHAN  
SYDNEY LIEBERKNECHT  
BRICE QUIGLEY  
JENNIFER R RESCHKE  
MUBARAK S MAKNOJIA  
TODD S FREEDMAN  
NOEL LOPEZ  
MADAHUSUDAN REDDY  
PAMELA G CHAFFIN  
BLANCA A VALDOVINOS  
ROBERT D MIDDLETON  
YVONNE N GALLARDO  
LORI LANGELLIER  
TANI M ODORFER  
REGINALD ROBINSON  
CURTIS INGRAM  
JAMAAR WISE  
MICHAEL MOLLOY  
ROBERT MATONAK  
JOHN PEACHEY  
JAMIE RAINWATER

ABRAHAM MATHEW  
ODETE M ALEXANDER  
YVONNE ELLER  
ROSEMONA J ANDERSON  
JILL C BACHA  
SHONA BUTLER  
DOLORES WATKINS  
RONNIE MCGEE  
ANITA L FRANCISCO  
KATAUNYA BOOMER  
RICHARD SCHAGRIN  
JAIK R BOVEE  
WALTER HERNANDEZ  
JANECE QUADE  
SHELDON H ZIVIN  
JOAN HAYES  
CHRISTINE L HEMBREE  
SUSAN I LANDSMAN  
ANDREW WOODHEAD  
MARSHA HUGHES  
MARVIN PHILIP  
DONALD GORDON  
MEHRAN BAHRANI  
SHAYNE D FISHER  
RICHARD A DUFFY  
MIKE BRADSHAW  
MARY RODRIGUEZ  
MICHELLE CARRIZOSA  
MOHAMMAD A KHILJI  
MICHAEL K GARHARTT  
MONICA LOPEZ  
BENJAMIN L SMITH  
MICHELLE N SUMMERLIN  
MELANIE J SLATER  
COLBIE LLYWELYN  
ELENA TSIMBALOV  
KAROL MENA  
HEDY S GRIMALDI  
MARY PHILBIN  
MICHAEL A HUSKEY  
MARINA ORTIZ  
CHARLIE ARGENTO  
FELISHA HUGHES

VIRGIL L MONTEMAYOR  
ANA C RUIZ RAMIREZ  
STEPHEN PERNOT  
ANGELA D SCHULTZ  
VIOLET GATLING  
ANA J GRIJALVA  
MARY G WINTERS  
JOAN FAUSZ  
DAVID W YASYSZCZUK  
TIWANA M ROLAND  
TARISHA T DOWTIN  
RENAME G HARDIE  
JOSE HEWITT  
SHFIELA VICK  
LEONOR COLON  
LAURA M HUGHES  
CARLESCIA KEYS  
VANESSA JUAREZ  
TAYLOR M TIPPIN  
RACHAEL WADDELL  
SANJAY PATEL