

1 Steven M. Zadravec (State Bar No. 185676)
2 JONES DAY
3 3161 Michelson Drive, Suite 800
4 Irvine, CA 92612.4408
5 Telephone: +1.949.851.3939
6 Facsimile: +1.949.553.7539
7 Email: szadravec@jonesday.com

8 Liat L. Yamini (State Bar No. 251238)
9 JONES DAY
10 555 South Flower Street, Fiftieth Floor
11 Los Angeles, CA 90071
12 Telephone: +1.213.489.3939
13 Facsimile: +1.213.243.2539
14 Email: lyamini@JonesDay.com

15 Allison E. Crow (State Bar No. 279078)
16 JONES DAY
17 555 California Street, 26th Floor
18 San Francisco, CA 94104
19 Telephone: +1.415.626.3939
20 Facsimile: +1.415.875.5700
21 Email: acrow@jonesday.com

22 Attorneys for Defendants
23 R.J. REYNOLDS TOBACCO COMPANY;
24 REYNOLDS AMERICAN, INC.; STACI MEYER;
25 WILLIAM ROTH; DANIEL HARRINGTON; ELIJAH
26 WISE; and KEVIN FEIZKHAH

27 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
28 **COUNTY OF ORANGE, CIVIL COMPLEX CENTER**

29 NICHOLE KEC and HOPETON DIAS
30 individually and on behalf of all current and
31 former similarly situated employees in the
32 State of California,

33 Plaintiff,

34 v.

35 R.J. REYNOLDS TOBACCO COMPANY;
36 REYNOLDS AMERICAN, INC.; STACI
37 MEYER, an individual; WILLIAM ROTH,
38 an individual, DANIEL HARRINGTON, an
39 individual, ELIJAH WISE, an individual;
40 KEVIN FEIZKHAH, an individual, and
41 DOES 1 to 50, inclusive,

42 Defendants.

CASE NO. 30-2018-01031808-CU-OE-CXC

Assigned for all purposes to
Judge Randall J. Sherman, Dept. CX 105

**NOTICE OF ENTRY OF ORDER ON
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on July 8, 2022 the Honorable Randall J. Sherman entered the Final Approval of Class Action Settlement and Final Judgment. The Order is attached hereto as Exhibit A.

Dated: July 14, 2022

JONES DAY

By: 

Steven M. Zadavec

Attorneys for Defendants
R.J. REYNOLDS TOBACCO COMPANY;
REYNOLDS AMERICAN, INC.; STACI
MEYER; WILLIAM ROTH; DANIEL
HARRINGTON; ELIJAH WISE; and KEVIN
FEIZKHAH

EXHIBIT A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CIVIL COMPLEX CENTER**

NICHOLE KEC and HOPETON DIAS
individually and on behalf of all current and
former similarly situated employees in the
State of California,

Plaintiffs,

v.

R.J. REYNOLDS TOBACCO COMPANY;
REYNOLDS AMERICAN, INC.; STACI
MEYER, an individual; WILLIAM ROTH,
an individual, DANIEL HARRINGTON, an
individual, ELIJAH WISE, an individual;
KEVIN FEIZKHAH, an individual, and
DOES 1 to 50, inclusive,

Defendants.

CASE NO. 30-2018-01031808-CU-OE-CXC

Assigned for all purposes to
Judge Randall J Sherman; Dept. CX105

**[PROPOSED] ORDER GRANTING
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT AND
FINAL JUDGMENT**

Date: July 8, 2022
Time: 10:00 a.m.
Courtroom: CX-105

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 The parties have submitted their Class and Private Attorneys General Act Settlement and
2 Release Agreement, inclusive of Addendum (“Settlement Agreement” or “Settlement”), which this
3 Court preliminarily approved in its March 4, 2022 Order for Preliminary Approval of Class Action
4 Settlement (the “Preliminary Approval Order”). In accordance with the Preliminary Approval
5 Order, the Class Members have been provided adequate notice of the terms of the Settlement
6 Agreement and their right to participate in, object to, or opt out of the Settlement.

7 Having received and considered the Settlement Agreement, the supporting papers filed by
8 the parties in support of the motions for preliminary approval and final approval of the Settlement,
9 the application for Class Counsel’s attorneys’ fees and reimbursement of costs, the application for
10 an incentive award for the Plaintiff Nicole Kec, and the evidence and argument presented at the
11 Final Approval Hearing on July 8, 2022, the Court **GRANTS** the final approval of the Settlement,
12 makes the following findings and therefore, **ORDERS, ADJUDGES AND DECREES AS**
13 **FOLLOWS:**

14 **ORDER AND JUDGMENT**

15 1) This Order and Judgment incorporates by reference the definitions in the parties’
16 Settlement Agreement (ROA 356 (Settlement Agreement), ROA 375 (Addendum)), attached as
17 Exhibit “1” to the Declaration of Natalie Mirzayan, and all terms defined therein shall have the
18 same meaning in this Order as set forth in the Settlement Agreement unless otherwise defined;

19 2) The “Class Members” or “Settlement Class” covered by this Order is defined as:
20
21 All individuals who were employed by R.J. Reynolds Tobacco Company, RAI Trade
22 Marketing Services Company, or Reynolds Marketing Services Company as a Territory
23 Manager and performed work in California as a Territory Manager at any time during the
24 period beginning on November 7, 2014, and ending on September 19, 2021. Any individuals
who prior to the execution of the Settlement Agreement signed an individual settlement and
release agreement after asserting a wage and hour claim in a filed litigation or arbitration shall
not be considered “Class Members”.

25 3) The Settlement Agreement and the Notice to the Class are available on the Court’s
26 website <https://www.occourts.org/online-services/case-access/>, ROA 356 (Settlement Agreement),
27 ROA 375 (Addendum), ROA 378 (Order for Preliminary Approval of Class Action Settlement and
28 Provisional Class Certification for Settlement Purposes Only).

1 4) Pursuant to this Court’s Preliminary Approval Order, a Notice of Class Action Settlement
2 and Opt-Out Form were sent to the Class Members by first-class mail, which included notice of the
3 terms of the Settlement, the Class Members’ rights to participate in, object to, or opt out of the
4 Settlement, and their right to appear in person or by counsel at the Final Approval Hearing to be
5 heard regarding approval of the Settlement. Adequate periods of time were provided by each of
6 these procedures. No Class Members filed written objections to the Settlement as part of this notice
7 process or stated his or her intent to appear at the Final Approval Hearing.

8 5) Four (4) Class Members submitted a valid written request to opt-out of the Settlement.
9 Those opt out are:

- 10 • Corey Boudreux
- 11 • Brian Franck
- 12 • Rostam Jamshidi
- 13 • Eugene King

14 6) The Court finds and determines that, in accordance with this Court’s Preliminary
15 Approval Order, the notice procedure afforded adequate protections to the Class Members and
16 provides the basis for the Court to make an informed decision regarding approval of the Settlement
17 based on the responses of Class Members. The Court further finds and determines that the notice
18 provided in this case was the best notice practicable, which satisfied the requirements of law and
19 due process.

20 7) For the reasons stated in the Court’s Preliminary Approval Order (ROA 378), the Court
21 finds and determines that the proposed Settlement Class, as defined in the Settlement Agreement,
22 meets all the legal requirements for class certification, and it is hereby ordered that the Settlement
23 Class is finally approved and certified as a class for purposes of Settlement of this action.

24 8) The Court further finds and determines that the terms of the Settlement are fair,
25 reasonable, and adequate to the Settlement Class and to each Class Member. The Settlement
26 adequately compensates Plaintiffs and members of the Settlement Class for all violations that were
27 or could have been alleged in the operative First Amended and Consolidated Complaint in this
28 matter, and the release of claims to which “Eligible Class Members” (those Class Members who did
not timely opt out of the Settlement) shall be subject is reasonable in scope. Accordingly, all
Eligible Class Members shall be bound by the Settlement Agreement and the Class Member

1 Release contained therein; the four Class Members who submitted valid opt outs will still be bound
2 by the waiver and release of claims pertaining to PAGA claims and the potential recovery of PAGA
3 penalties (see Addendum, ROA 375), the Settlement is ordered finally approved, and all terms and
4 provisions of the Settlement Agreement should be and hereby are ordered to be consummated.

5 9) The Court finds and determines that the payments to be made to the Class Members as
6 provided in the Settlement Agreement are fair and reasonable. The Court hereby grants final
7 approval to and orders the payment of those amounts to be made to the Class Members out of the
8 Gross Settlement Amount of Two Million Three Hundred Seventy Thousand Dollars
9 (\$2,370,000.00), exclusive of the employer portion of payroll taxes and unemployment insurance
10 with respect to the wage portion of the Individual Settlement Payments made to Class Members, in
11 accordance with the terms of the Settlement Agreement.

12 10) The Court hereby grants and approves the application presented by Class Counsel Natalie
13 Mirzayan of Mirzayan Law, APLC for an award of attorneys' fees in the amount of Nine Hundred
14 Thousand Six Hundred Dollars (\$900,600.00), which represents 38% of the Gross Settlement, to be
15 paid in accordance with the terms of the Settlement Agreement.

16 11) The Court hereby grants and approves the application presented by Class Counsel for an
17 award of costs in the amount of \$14,842.00 to be paid in accordance with the terms of the
18 Settlement Agreement.

19 12) The Court hereby grants and approves the application presented by the Nicole Kec for an
20 Enhancement Award in the amount of Fifteen Thousand Dollars (\$15,000), to be paid in
21 accordance with the terms of the Settlement Agreement.

22 13) The Court hereby approves the allocation from of the Gross Settlement Amount of One
23 Hundred Eighteen Thousand Five Hundred Dollars (\$118,500.00), pursuant to the California Labor
24 Code sections 2698, *et seq.*, the California Labor Code Private Attorneys General Act of 2004
25 ("PAGA"), for payment and release of the Class Members' PAGA claims. Eighty-Eight Thousand
26 Eight Hundred Seventy-Five Dollars (\$88,875.00) of that amount (75%) shall be paid to the
27 California Labor and Workforce Development Agency ("LWDA"); the remaining Twenty-Nine
28 Thousand Six Hundred Twenty-Five Dollars (\$29,625.00) (25%), shall become part of the Net

1 Settlement Amount and will be distributed to Class Members, as provided in the Settlement
2 Agreement. Class Members who timely opted out of the Settlement will receive only a pro rata
3 portion of the PAGA penalties to be allocated to the Net Settlement Amount, and they will receive
4 those pro rata amounts based on their Individual Work Weeks during the Class Period as provided
5 in the Settlement Agreement.

6 14) The Court hereby grants and approves the application for payment of costs of
7 administration of the Settlement in the amount of Eight Thousand Dollars (\$8,000.00) for fees and
8 expenses of Phoenix Class Action Administration Solutions, the Settlement Administrator approved
9 by the Court, to be paid from the Gross Settlement Amount (“Settlement Administration Costs”).

10 15) Upon completion of administration of the Settlement, the Settlement Administrator will
11 provide written certification indicating that settlement payments were distributed pursuant to this
12 Order and Judgment, to the Court and counsel for the parties within twenty (20) business days of
13 completing the distribution of the settlement payments.

14 16) As set forth in the Settlement Agreement, upon the date of execution of this Order and
15 Judgment, all Class Members (including Kec and Dias) whom the Settlement Administrator
16 certifies have not timely submitted full and complete Opt-Out Forms, and their respective heirs,
17 assigns, executors, administrators, and agents, past or present (collectively, the “Class Member
18 Affiliates”), fully and without limitation waive, fully release, and forever discharge RJRT, RAI,
19 RAI TMS, RMSC, RAI Services Company, British American Tobacco P.L.C., and each of their
20 respective former and present parent companies, subsidiaries, and affiliated corporations and
21 entities, and each of their respective former, present, and future officers, directors, members,
22 managers, employees, consultants, vendors, insurers, attorneys, independent contractors, partners,
23 investors, shareholders, joint ventures, third-party agents, successors, assigns, and legal
24 representatives; Staci Meyer, William Roth, Lucifer (Kevin) Feizkhah, Elijah Wise, and Daniel
25 Harrington, and each of their heirs, assigns, executors, administrators, agents, employers, and
26 successors, past and present (all of the foregoing are collectively the “**Releasees**”); both
27 individually and collectively, from any and all claims, rights, demands, liabilities, and causes of
28 action of any kind, whether known or unknown, arising from the alleged violation of any provision

1 of common law, California law, and/or federal law which was or could have been raised based on
2 the facts in any of Plaintiffs' complaints, amended complaints or in the Consolidated Complaint, or
3 letters to the Labor Workforce Development Agency, including claims based on, but not limited to,
4 California Labor Code §§ 201, 202, 203, 204, 208, 212, 215, 221, 224, 225, 225.5, 226, 226.3,
5 226.7, 233, 246, 246.5, 432.5, 450, 451, 510, 512, 558, 1174, 1194, 1198, 2699, 2800, 2802, 2804,
6 California Code of Regulations, Title 8 Section 11000 et seq., the applicable Industrial Welfare
7 Commission (IWC) Wage Orders, Business & Professions Code §§ 17200–17208, the Fair Labor
8 Standards Act, PAGA penalties under Labor Code §2698-2699.5 for violations of any of the
9 foregoing statutory sections as well as any alleged violations for the Equal Pay Act or Fair Pay Act,
10 including under California Labor Code §§ 432.3 and/or 1197.5(b), or any related damages,
11 penalties, restitution, disgorgement, interest or attorneys' fees, that arose during the Class Period
12 (the "**Class Member Release of Claims**").

13 17) The Class Member Release of Claims shall be fully binding on each and every Eligible
14 Class Member regardless of whether the Class Member receives an Individual Settlement Payment.

15 18) Notwithstanding the foregoing, any Class Member who successfully submitted an Opt-
16 Out Form will be bound by the Class Member Release of Claims to the extent that it relates to
17 claims of PAGA violations or recovery of PAGA penalties sought under California Labor Code
18 §§2689-2699.5.

19 19) The parties are hereby ordered to comply with the terms of the Settlement Agreement.

20 20) The Court approves the named plaintiffs, Hopeton Dias and Nichole Kec, as Class
21 Representatives.

22 21) The Court approves Natalie Mirzayan of Mirzayan Law, APLC as Class Counsel.

23 22) The Court approves Phoenix Class Action Administration Solutions as the Class
24 Administrator.

25 23) Notice of entry of this Order and Judgment shall be given to the Class Members by
26 posting a copy of this Order and Judgement on Phoenix Class Action Administration Solutions'
27 website for a period of at least ninety (90) calendar days after the entry of this Order and
28

1 Judgement. Class Members shall be notified of the availability of the Order and Judgment on the
2 website in a statement provided with the checks mailed to Class Members.

3 24) As provided in the Settlement Agreement, Plaintiff Hopeton Dias agreed as a condition of
4 the Settlement that the Dias Individual Claims (causes of action (“COA”) 12 through 25 in the First
5 Amended and Consolidated Class and Representative Action Complaint) shall be dismissed without
6 prejudice. Accordingly, the following causes of action are hereby dismissed, without prejudice:

- 7 • 12th COA: Race/Color Discrimination In Violation Of FEHA;
- 8 • 13th COA: Sexual Orientation Discrimination In Violation Of FEHA;
- 9 • 14th COA: Race/Color-Based Harassment In Violation Of FEHA;
- 10 • 15th COA: Sexual Orientation Harassment In Violation Of FEHA;
- 11 • 16th COA: Race/Color Discrimination In Violation Of Public Policy;
- 12 • 17th COA: Sexual Orientation Discrimination In Violation Of Public Policy;
- 13 • 18th COA: Failure To Prevent Race/ Color Discrimination And Harassment In Violation
14 Of FEHA;
- 15 • 19th COA: Failure To Prevent Sexual Orientation Discrimination And Harassment In
16 Violation Of FEHA;
- 17 • 20th COA: Retaliation In Violation Of FEHA;
- 18 • 21st COA: Wrongful Termination In Violation Of Public Policy;
- 19 • 22nd COA: Intentional Infliction Of Emotional Distress;
- 20 • 23rd COA: Negligent Infliction Of Emotional Distress;
- 21 • 24th COA: Whistleblower Violation Of Cal. Lab. Code § 1102.5;
- 22 • 25th COA: Violation Of Labor Code §§ 1197.5(B), 432.3.

23 25) This document shall constitute a Judgment for purposes of California Rule of Court
24 3.769(h).

25 26) The Final Report Hearing is set for April 7 , 2023 at 10:00 a.m. in Department CX105. At
26 least 16 ~~five (5) court~~ days before the hearing, Class Counsel and the Settlement administrator shall
27 submit a summary accounting of the distribution of the settlement funds to Class Members,
28 identifying the distributions made pursuant to this Order and Judgment, and identifying the number
and value of any uncashed checks, and the status of any unresolved issues.

29 27) Without affecting the finality of this Final Order in any way, this Court retains jurisdiction
30 pursuant to California Rules of Court, Rule 3.769(h), and California Code of Civil Procedure §
31 664.6 of all matters relating to the interpretation, administration, implementation, effectuating and
32 enforcement of this Order and the Settlement Agreement and judgment for all purposes.

33 **IT IS SO ORDERED.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: **July 8, 2022**

Randall J. Sherman
HONORABLE RANDALL J. SHERMAN
JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 I, Angie Contreras, declare:

3 I am a citizen of the United States and employed in Orange County, California. I am over
4 the age of eighteen years and not a party to the within-entitled action. My business address is
5 3161 Michelson Drive, Suite 800, Irvine, California 92612.4408.

6 On July 14, 2022, I caused to be served a copy of the within document(s):

7 **NOTICE OF ENTRY OF ORDER ON MOTION FOR FINAL APPROVAL OF CLASS
8 ACTION SETTLEMENT AND FINAL JUDGMENT**

- 9 **VIA ELECTRONIC SERVICE:** I caused the above-mentioned documents to be
10 filed with the Clerk of the Court by using an e-Filing Service Provider (EFSP) for
11 the Superior Court of California, County of Orange through the Orange County
12 eFiling Portal via our attorney service, ASAP Legal. Participants in the case who
13 are registered users will be served by the system. Participants in the case who are
14 not registered users will be served by mail or by other means permitted by the
15 court rules.

13 Natalie Mirzayan, Esq. 14 LAW OFFICES OF NATALIE MIRZAYAN 15 26632 Towne Centre Drive, Suite 300 16 Foothill Ranch, California 92610 17 Telephone: (949) 285-3550 18 mirzayanlaw@outlook.com	13 <i>Attorneys for Plaintiff</i> 14 NICHOLE KEC
--	--

18 I declare under penalty of perjury under the laws of the State of California that the above
19 is true and correct. Executed on July 14, 2022, at Irvine, California.

20 

21 Angie Contreras