UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CLAUDIA NEWTON, *et al*., Plaintiffs, v. R.C. BIGELOW, INC., *et al*., Defendants.	No. 2:22-cv-05660-LDH-SIL

DECLARATION OF AUBRY WAND IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

I, Aubry Wand, declare as follows:

1. I am an attorney at law, licensed to practice in the state of California. I am admitted *Pro Hac Vice* in the above-captioned action.

2. My firm serves as co-counsel of record for Plaintiffs and the Classes.

3. I make this declaration based on personal knowledge. If called as a witness, I could and would readily and competently testify to all matters stated within.

4. I am submitting this declaration in support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion").

5. Prior to filing this Motion, I met and conferred with Valerie Haggans, counsel for Defendant R.C. Bigelow, Inc. ("Bigelow"), and Bigelow does not oppose this Motion.

BACKGROUND

6. On December 12, 2023, the Parties participated in a mediation session with Judge Morton Denlow (Ret.) of JAMS. The Parties did not reach settlement at the conclusion of this mediation.

7. On July 14, 2025, the Parties participated in another mediation session with Jed Melnick of JAMS ("the Mediator"). The Parties did not reach settlement at the conclusion of this mediation either, but they continued to engage in settlement discussions through the Mediator.

8. On June 9, 2026, the Parties accepted a proposal from the Mediator regarding the material terms of a settlement. The Parties continued to finalize the terms of the Settlement, culminating in the execution of a Settlement Agreement, a true and correct copy of which is attached hereto as **Exhibit A**.[1] There are no agreements between Plaintiffs and Bigelow other than the Settlement Agreement.

[1] Exhibits to the Settlement Agreement are numbered 1 through 5.

QUALIFICATIONS

9. I received a B.A. from the University of Pennsylvania in 2007, and I received a J.D. from UC Law San Francisco (formerly UC Hastings) in 2011. I became a member of the State Bar of California in December 2011, and I have been an active member in good standing continuously since then.

10. In 2012, I completed a judicial clerkship for the Honorable Colette Y. Garibaldi, of the First Circuit Court, State of Hawaii.

11. I have been litigating cases on behalf of consumers and employees, frequently in the class action context, for the past thirteen years.

12. I was named a "Rising Star" from 2018 to 2025 for the *Southern California Super Lawyers* magazine and a Super Lawyer in 2026.

13. On September 10, 2020, Judge Vasquez of the Sacramento County Superior Court, appointed my firm, along with one other firm, liaison counsel for the plaintiffs in the Judicial Council Coordination Proceeding, *Western Dental Wage and Hour Cases*, JCCP No. 5079.

14. My firm has also served as lead counsel or co-counsel in numerous wage-and-hour class action and/or representative action cases, some of which are set forth in the following chart:

Case Name	**Case Number**
Yee, et al. v. Wong & Lau, Inc., et al.	Los Angeles Cty. Sup. Ct. Case No. BC600087
Aguilar v. Hook Burger, LLC	Los Angeles Cty. Sup. Ct. Case No. BC608694
Morales v. OPARC	San Bernardino Cty. Sup. Ct. Case No. CIVDS1622051
Hopper-Porter, et al. v. Desert Regional Medical Center, Inc.	Riverside Cty. Sup. Ct. Case No. RIC 1610095
Matthews v. Red Hill Country Club	San Bernardino Cty. Sup. Ct. Case No.

	CIVDS1706187
Vinnitsky v. L.A. Overnight, LLC	Los Angeles Cty. Sup. Ct. Case No. BC655314
Delgado, et al. v. Cienega Medical Spa, Inc.	Los Angeles Cty. Sup. Ct. Case No. BC637702
Backus v. Schireson Bros, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVDS1809620
Carrillo v. Merchant of Tennis, Inc.	Los Angeles Cty. Sup. Ct. Case No. BC707896
Fonseca, et al. v. United Ag Personnel Management, Inc., et al.	Kern Cty. Sup. Ct. Case No. BCV-17-100791
Abelar v. American Residential Services, LLC	C.D. Cal. Case No. 19-cv-00726-JAK (JPRx)
Abbott, et al. v. Vitco Distributors, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVDS1820214
Machorro-Fernandez v. Tacos La Bufadora, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVDS1831535
Araujo v. Dealer Solution Service, Inc., et al.	Los Angeles Cty. Sup. Ct. Case No. BC720944
Arteaga, et al. v. B.W. Hotel, LLC	Los Angeles Cty. Sup. Ct. Case No. BC708551
Hurtado v. CitiStaff Solutions, Inc., et al.	Los Angeles Cty. Sup. Ct. Case No. 19STCV02853
Revels v. Bottling Group, LLC	Orange Cty. Sup. Ct. Case No. 30-2018-01031810-CU-OE-CXC
Scott, et al. v. Kuehne+Nagel, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVDS1707477
Green, et al. v. Material Supply, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVDS1928214
Western Dental Wage and Hour Cases	JCCP No. 5079
Zamarripa v. Superior Talent Resources, Inc.	Orange Cty. Sup. Ct. Case No. 30-2019-01060339-CU-OE-CXC
Villazon v. Saddleback Roofing, Inc.	San Bernardino Cty. Sup. Ct. Case No.

	CIVSB2307262
Michel v. M&M Thrift Management Co., et al.	Los Angeles Sup. Ct. Case No. 22STCV23755
Chandler, et al. v. Compass Group USA, Inc.	Stanislaus Sup. Ct. Case No. CV-23-003352
Howell v. Infinity Hospice and Palliative Care, Inc., et al.	Los Angeles Cty. Sup. Ct. Case No. 23STCV10153
Ramos v. Taqueria Milagro, Inc.	Santa Clara Cty. Sup. Ct. Case No. 23CV409955
Cervantes v. I-10 Towing and Recovery, Inc.	San Bernardino Cty. Sup. Ct. Case No. CIVSB2226791
Larios De Mancilla v. Naraghi Farms, LLC, et al.	Stanislaus Cty. Sup. Ct. Case No. CV-23-003350
Sanchez v. BSK Associates	San Bernardino Cty. Sup. Ct. Case No. CIVSB2309732
Gutierrez v. Ericsson, Inc.	U.S. Dist. Ct. C.D. Cal. No. 5:23-cv-01665-GW-SHKx
Castro v. ATBA LLC	San Joaquin Cty. Sup. Ct. Case No. STK-CV-UEO-2023-0010395
Barrios v. 2640 W Woodland, LLC	Orange Cty. Sup. Ct. Case No. 30-2024-01377367-CU-OE-CXC
Murphy v. Sabreen at 68444 Perez Road, Inc.	Riverside Cty. Sup. Ct. Case No. CVRI2402639
Diaz v. Versatile Fall Protection, LLC	Los Angeles Cty. Sup. Ct. Case No. 23STCV28559
Chamale v. Timber & Salt LLC	San Mateo Cty. Sup. Ct. Case No. 23-CIV-04722

15. I also litigate consumer class actions, some of which are summarized below.

16. On August 22, 2017, Judge Orrick of the U.S. District Court for the Northern District of California, granted final approval to, and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled, *Knapp v. Art.com, Inc.*, Case No. 3:16-cv-

00768-WHO, which involved a nationwide settlement on behalf of approximately 2 million class members, based on allegations that the defendant engaged in deceptive sales practices.

17. On September 25, 2018, Judge Freeman U.S. District Court for the Northern District of California, granted the plaintiffs' contested motion for class certification, certifying a California damages and injunctive relief class of consumers relating to false and deceptive advertising regarding the geographical origin of certain beers in the action entitled, *Broomfield, et al. v. Craft Brew Alliance, Inc.*, Case No. 5-17-cv-01027-BLF. Judge Freeman appointed my office and co-counsel as class counsel.

18. On July 29, 2019, Judge Lorenz of the U.S. District Court for the Southern District of California, granted final approval to, and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled, *Dashnaw, et al. v. New Balance Athletics, Inc.*, Case No. 3:17-cv-00159-L-JLB, which involved settlement of a California class of nearly one million class members, based on allegations that the defendant engaged in deceptive Made in USA representations with respect to some its shoes.

19. On April 20, 2022, Judge Preska of the U.S. District Court for the Southern District of New York, granted final approval to, and appointed my office (along with co-counsel) as class counsel in a consumer class action entitled, *Hesse, et al. v. Godiva Chocolatier, Inc*., Case No. 1:19-cv-0972-LAP, which involved settlement of a nationwide class of consumers of chocolate products.

20. On July 31, 2023, Judge Pregerson of the U.S. District Court for the Central District of California, granted the plaintiffs' contested motion for class certification, certifying a California damages class of consumers relating to allegations of a false and deceptive Made in USA claim for certain tea products in the action entitled, *Banks, et al. v. R.C. Bigelow, Inc*., Case No. 2:20-

cv-06208-DDP-RAO. Judge Pregerson appointed my office and co-counsel as class counsel. We tried the case, and on April 8, 2025, a unanimous jury returned a verdict in favor of the certified class and awarded the Class $2,360,744 in damages.

21. On September 27, 2024, Judge Martínez-Olguín of the U.S. District Court for the Northern District of California, granted the plaintiffs' contested motion for class certification, certifying a California and New York damages class of consumers relating to allegations of a false and deceptive pasture raised claim for certain egg products in the action entitled *Rusoff, et al. v. The Happy Group, Inc*., Case No. 3:21-cv-08084-AMO. Judge Martínez-Olguín appointed my office and co-counsel class counsel in this matter. The defendant appealed, and on November 18, 2025, I argued the appeal before the Ninth Circuit Court of Appeals.

22. I am currently litigating employment and consumer class actions in state and federal courts throughout the country.

THE SETTLEMENT IS IN THE BEST INTEREST OF THE CLASS

23. Before reaching this Settlement, counsel considered the significant risks of proceeding with the litigation, including the risks of maintaining class certification and prevailing on the merits of their claims. While confident in the strength of Plaintiffs' case, proceeding through summary judgment and trial would present meaningful risk.

24. A central issue that presents risk at trial would be proof of classwide damages based on Plaintiffs' price premium theory of liability. Bigelow retained five experts who have proffered opinions in support of multiple arguments contesting both liability and damages. The primary opinions offered by these experts, as I understand them, are summarized below:

- Dr. Larry Chiagouris: the Challenged Statement is not false/deceptive or material.

- Sarah Butler: Plaintiffs' experts' surveys are unreliable and any price premium is attributable to the "American Family Owned" clause of the Challenged Statement.
- Katherine McGee: a violation of the federal Made in USA Labeling Rule is not dispositive to violations of New York General Business Law sections 348 and 350.
- Dr. Bruce Strombom: there are no damages stemming from the Challenged Statement nor can damages be established on a classwide basis.
- Dr. Ran Kivetz: the Challenged Statement is not material and there are no damages stemming from the Challenged Statement.

25. Plaintiffs' economics expert, Colin Weir, conducted a conjoint analysis that yielded an 11.38% price premium based on Plaintiffs' theory of liability and damages, which results in damages of $0.36 on a per-product basis when multiplied by the Class Products' average retail price. When the price premium is applied to total retail sales of the Class Products, as calculated by Mr. Weir, aggregate classwide price premium damages are $971,359.

26. When the risks of litigation, the uncertainties involved in maintaining class certification, the burdens of proof necessary to establish liability and prove classwide damages, and the probability of appeal of a favorable judgment are balanced against the merits of Plaintiffs' claims, it is my opinion that the Settlement amount is fair, adequate, and reasonable, and in the best interest of the Class.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 3, 2026 at Long Beach, California.

/s/ Aubry Wand
Aubry Wand