

State of California - Department of Justice - Attorney General's Office - Proposition 65 Enforcement Reporting

Attention: Prop 65 Coordinator, 1515 Clay Street, Suite 2000, Oakland, CA 94612

FORM JUS 1502  
(03-01)

PRIVATE ENFORCEMENT FILING - Health and Safety Code section 25249.7(e) and (f)

**REPORT OF ENTRY OF JUDGMENT**

Please print or type required information

Original Filing     Supplemental Filing     Corrected Filing

<b>PARTIES TO THE ACTION</b>	PLAINTIFF(S) <b>Jennifer Fishman</b>		
	DEFENDANT(S) INVOLVED IN JUDGMENT <b>Republic Tobacco, L.P.</b>		
<b>CASE INFO</b>	COURT DOCKET NUMBER <b>37-2019-00002496-CU-MC-CTL</b>		COURT NAME <b>San Diego Superior Court</b>
	SHORT CASE NAME <b>Fishman v. Republic Tobacco, L.P.</b>		
<b>REPORT INFO</b>	INJUNCTIVE RELIEF <b>Proposition 65 exposure warnings on rolling papers</b>		
	PAYMENT: CIVIL PENALTY <b>\$50,000</b>	PAYMENT: ATTORNEYS FEES <b>\$50,000</b>	PAYMENT: OTHER
	DATE SUBMITTED TO COURT <b>02 / 19 / 2019</b>	IS JUDGMENT PURSUANT TO SETTLEMENT? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	IF YES, DATE SETTLEMENT WAS REPORTED TO ATTORNEY GENERAL <b>02 / 19 / 2019</b>
	<b>COPY OF JUDGMENT MUST BE ATTACHED</b>		
<b>FILER INFO</b>	NAME OF CONTACT <b>Jack Fitzgerald</b>		
	ORGANIZATION <b>The Law Office of Jack Fitzgerald, PC</b>		TELEPHONE NUMBER <b>((619)) 692-3840</b>
	ADDRESS <b>3636 4th Ave. Ste. 202</b>		FAX NUMBER <b>( )</b>
	CITY <b>San Diego</b>	STATE    ZIP <b>CA    92103</b>	E-MAIL ADDRESS <b>jack@jackfitzgeraldlaw.com</b>

**FILING INSTRUCTIONS:** This form can be completed online and printed. If electronic filing is not available, mail the completed form with a copy of the judgment to the attention of the Prop 65 Coordinator at the address shown above. If you need additional space to complete this form please use an attachment.

**FILED**  
Clerk of the Superior Court

MAY 16 2019

By: B. DELGADO

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

JENNIFER FISHMAN,

Plaintiff,

vs.

REPUBLIC TOBACCO, L.P.

Defendant.

Case No.: 37-2019-00002496-CU-MC-CTL

~~[PROPOSED]~~ JUDGMENT

Dept.: C-75  
Judge: Hon. Richard E.L. Strauss

1 Plaintiff Jennifer Fishman and Defendant Republic Tobacco, L.P. have agreed to the terms of  
2 settlement memorialized in the [Proposed] Consent Judgment attached hereto as Exhibit A, and Plaintiff has  
3 moved this Court for an Order approving the settlement and entering the Consent Judgment as proposed.

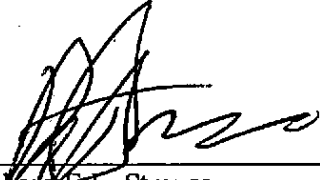
4 After consideration of the papers submitted and the arguments presented, the Court finds that the  
5 settlement set forth in the [Proposed] Consent Judgment is in the public interest, *see Consumer Advocacy*  
6 *Group, Inc. v. Kintetsu* (2006) 141 Cal. App. 4th 46, 62, and further finds that the settlement meets the criteria  
7 required by California Health & Safety Code § 25249.7(f)(4), namely that:

- 8 1. The injunctive relief required by the Consent Judgment complies with Prop 65;
- 9 2. The reimbursement of attorneys' fees and costs is reasonable under California law; and
- 10 3. The civil penalty amount to be paid to the State of California is reasonable.

11 Accordingly, the Motion to Approve and Enter Consent Judgment Between Jennifer Fishman and Republic  
12 Tobacco, L.P. is **GRANTED** and the attached [Proposed] Consent Judgment is **ENTERED** with full force  
13 and effect.

14  
15 **IT IS SO ORDERED.**

16 Dated: 5-16, 2019

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19 Hon. Richard E.L. Strauss  
20 Judge of the Superior Court  
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# **Exhibit A**

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SAN DIEGO**

JENNIFER FISHMAN,  
  
Plaintiff,  
  
vs.  
  
REPUBLIC TOBACCO, L.P.  
  
Defendant.

Case No.: 37-2019-00002496-CU-MC-CTL  
  
[PROPOSED] CONSENT JUDGMENT  
  
Dept: C-75  
Judge: Hon. Richard E. L. Strauss

1     **1.     INTRODUCTION**

2           1.1.    This Consent Judgment is entered into by Plaintiff Jennifer Fishman (“Plaintiff”),  
3 acting on behalf of the public interest, and Republic Tobacco, L.P. (“Settling Defendant”) to settle  
4 claims asserted by Fishman against Settling Defendant as set forth in the operative Complaint in the  
5 matter of *Jennifer Fishman v. Republic Tobacco, L.P.*, No. 37-2019-00002496-CU-MC-CTL (Super.  
6 Ct., San Diego County) (the “Action”). Plaintiff and Settling Defendant, each a “Party” are referred  
7 to collectively as the “Parties.”

8           1.2.    On or about October 9, 2018, Plaintiff served 60-Day Notices of Violation (the  
9 “Notices”) relating to the California Safe Drinking Water and Toxic Enforcement Act of 1986,  
10 California Health & Safety Code § 25249.5, et seq. (“Proposition 65”) on Settling Defendant  
11 (erroneously named as Republic Group), the California Attorney General, the District Attorneys of  
12 every County in the State of California, and the City Attorneys for every City in State of California  
13 with a population greater than 750,000. The Notices allege violations of Proposition 65 with respect  
14 to the presence of carbon monoxide in rolling papers manufactured, distributed, and/or sold by  
15 Settling Defendant, designed for use with tobacco, cannabis and other legal smoking herbs.

16           1.3.    Settling Defendant is a limited partnership that employs ten (10) or more persons and  
17 that manufactures, distributes, and/or sells Covered Products (as defined herein) in the State of  
18 California, or has done so in the past.

19           1.4.    For purposes of this Consent Judgment only, the Parties stipulate that: (i) this Court  
20 has jurisdiction over the allegations of violations contained in the Notices and Complaint and personal  
21 jurisdiction over Settling Defendant as to the acts alleged in the Complaint; (ii) venue is proper in the  
22 County of San Diego; and (iii) this Court has jurisdiction to enter this Consent Judgment as a full and  
23 final resolution of all claims which are, were or could have been raised in the Complaint based on the  
24 facts alleged in the Notices and Complaint with respect to Covered Products manufactured,  
25 distributed, and/or sold by Settling Defendant.

26           1.5.    The Parties enter into this Consent Judgment as a full and final settlement of all claims  
27 which are, were or could have been raised in the Complaint arising out of the facts or conduct related  
28 to Settling Defendant alleged therein. By execution of this Consent Judgment and agreeing to comply

1 with its terms, the Parties do not admit any fact, conclusion of law, or violation of law, nor shall  
2 compliance with the Consent Judgment constitute or be construed as an admission by the Parties of  
3 any fact, conclusion of law, or violation of law. Settling Defendant denies the material, factual, and  
4 legal allegations in the Notices and Complaint and expressly deny any wrongdoing whatsoever.  
5 Nothing in this Consent Judgment shall prejudice, waive, or impair any right, remedy, argument, or  
6 defense any of the Parties may have in this or any other pending or future legal proceedings. This  
7 Consent Judgment is the product of negotiation and compromise and is accepted by the Parties solely  
8 for purposes of settling, compromising, and resolving issues disputed in this Action.

9 **2. DEFINITIONS**

10 2.1. "Covered Products" means any combustible paper products manufactured, distributed,  
11 or sold by Settling Defendant, including, but not limited to, such products marketed and sold under  
12 the following brand names: 4 Aces, Altessse, El Rey, e-z Wider, Gambler, High Card, JOB, Joker,  
13 Low Bob's, McClintock, OCB, Premier, Rolling, Rollit, Smoker Friendly, TOP, Tube Cut and  
14 Ventura.

15 2.2. "Effective Date" means the date on the Court enters this Consent Judgment.

16 **3. INJUNCTIVE RELIEF**

17 3.1. Commencing twelve (12) months after the Effective Date (the "Labeling Date"),  
18 Settling Defendant shall not produce or manufacture any Covered Products for sale in California, nor  
19 shall it sell or distribute in California any Covered Products produced or manufactured following the  
20 Labeling Date, unless a clear and reasonable on-product label that meets the requirements of Section  
21 25249.6 of the California Health and Safety Code is affixed or printed on the Covered Products (a  
22 "Proposition 65 Warning"). The Proposition 65 Warnings shall be given pursuant to Proposition 65  
23 Guidelines Section 25603 (27 Cal. Code Regs. §25603) and be printed or affixed on the Covered  
24 Products in compliance with the following:

25 3.1.1 On-product warnings affixed to or printed on the Covered Products' packaging  
26 or labeling and displayed with such conspicuousness as compared with other words or  
27 statements, or otherwise designed so as to render it likely to be read and understood by an  
28 ordinary individual under customary conditions of purchase or use and which may be

1 contained in the same section of the packaging, labeling or instruction booklet that states other  
2 safety warnings, if any. (See 27 Cal. Code Regs §25603). The on-product warning may also  
3 warn for “other smoking harms”.

4 3.2. Sale Through Period. It shall not be a violation of this Consent Judgment for Settling  
5 Defendant, or Downstream Released Parties (as defined in Section 5.1 below) to distribute or sell in  
6 California any Covered Products manufactured or produced by Settling Defendant prior to the  
7 Labeling Date without such warning labels affixed or printed on the Covered Products’ packaging  
8 or labeling.

9 **4. MONETARY PAYMENTS**

10 4.1. Within ten (10) days of the Effective Date, Settling Defendant shall pay the total sum  
11 of \$100,000, which shall be allocated as set forth in this Section.

12 4.2. \$50,000 as a civil penalty pursuant to California Health & Safety Code § 25249.7(b),  
13 such money to be apportioned in accordance with California Health & Safety Code § 25249.12 (25%  
14 to Plaintiff and 75% to the State of California’s Office of Environmental Health Hazard Assessment  
15 (“OEHHA”)).

16 4.2.1. Within ten (10) days of the Effective Date, Settling Defendant shall issue two  
17 separate checks for the Civil Penalty to (a) “OEHHA” in the amount of \$37,500; and to (b)  
18 “The Law Office of Jack Fitzgerald in Trust for Jennifer Fishman” in the amount of \$12,500.

19 4.3. \$50,000 as a reimbursement of Plaintiff’s reasonable attorneys’ fees and costs. This  
20 amount shall be issued in a check made payable to The Law Office of Jack Fitzgerald within ten (10)  
21 days of the Effective Date.

22 4.4. All checks shall be sent to counsel for Plaintiff, Jack Fitzgerald, 3636 4th Ave., Ste.  
23 202, San Diego, California 92103. Plaintiff’s counsel shall promptly forward all checks or amounts  
24 due to the payees indicated.

25 **5. RELEASE OF ALL CLAIMS**

26 5.1. This Consent Judgment is a full, final, and binding resolution between Plaintiff, acting  
27 in the public interest, and Settling Defendant, as well as Settling Defendant’s parents, subsidiaries,  
28 affiliated entities that are under common ownership, officers, directors, employees, shareholders,



1 divisions, subdivisions, subsidiaries, and their respective successors, attorneys and assigns (“Released  
2 Parties”), and all entities to whom they directly or indirectly distribute or sell or have distributed or  
3 sold Covered Products including, but not limited to, distributors, wholesalers, customers, retailers,  
4 franchisees, cooperative members, licensors and licensees (“Downstream Released Parties”), of any  
5 and all claims of violation of Proposition 65 that have been or could have been asserted by any person  
6 against Settling Defendant and Downstream Released Parties, regarding the failure to warn about  
7 exposure to any chemical listed under Proposition 65 allegedly contained in the Covered Products  
8 manufactured, distributed, or sold by Settling Defendant prior to the Labeling Date, regardless of  
9 whether such Covered Products are sold, distributed, or offered for sale prior to, or following, the  
10 Labeling Date.

11 5.2. Plaintiff on her own behalf and on behalf of her past and current agents,  
12 representatives, attorneys, successors and/or assignees, releases, waives, and forever discharges any  
13 and all claims against Settling Defendant and Downstream Released Parties arising from any violation  
14 of Proposition 65 or any other statutory or common law claims that have been or could have been  
15 asserted by Plaintiff individually, or in the public interest, regarding the failure to warn about exposure  
16 to any chemical listed under Proposition 65 in connection with Covered Products manufactured,  
17 distributed, or sold by Settling Defendant prior to the Labeling Date, regardless of whether such  
18 Covered Products are sold, distributed, or offered for sale prior to, or following, the Labeling Date.  
19 In further consideration of the promises and agreements herein contained, and for the payments to be  
20 made pursuant to Section 4, Plaintiff, on behalf of herself, her past and current agents, representatives,  
21 attorneys, successors and/or assignees, hereby covenants not to sue and waives any right to institute,  
22 participate in, directly or indirectly, any form of legal action and releases all claims that she may have,  
23 including without limitation, all actions and causes of action in law and in equity, all obligations,  
24 expenses (including without limitation all attorneys’ fees, expert fees, and investigation fees, and  
25 costs), damages, losses, liabilities and demands against Settling Defendant and/or any of the  
26 Downstream Released Parties of any nature, character, or kind, whether known or unknown,  
27 suspected or unsuspected, limited to and arising out of the allegations made in the Notices.

28

1           5.3. Compliance with the terms of this Consent Judgment by Settling Defendant and the  
2 Downstream Released Parties shall constitute compliance with Proposition 65 by Settling Defendant  
3 and Downstream Released Parties with respect to any alleged failure to warn about any chemical  
4 listed under Proposition 65 allegedly contained in the Covered Products manufactured, distributed,  
5 or sold by Settling Defendant after the Effective Date.

6           5.4. Upon the Effective Date, the Released Parties and Downstream Released Parties, on  
7 behalf of themselves and their officers, directors, owners, partners, servants, agents, attorneys,  
8 employees, affiliates, and other representatives hereby release and forever discharge Plaintiff, and  
9 Plaintiff's attorneys, family members, predecessors, successors, heirs, assigns, related persons and  
10 other representatives, from any and all claims or causes of action that were alleged or could have  
11 been alleged in the Action, or arising out of the Action.

12 **6. OVERSIGHT AND ENFORCEMENT OF TERMS**

13           6.1 The Court shall retain jurisdiction to oversee, enforce and/or modify the terms of this  
14 Consent Judgment.

15           <sup>a</sup> 6.2 Any Party may, by means of filing an application for an order to show cause, enforce  
16 the terms and conditions contained in this Consent Judgment. The prevailing Party in any such action  
17 or application may request that the Court award its reasonable attorneys' fees and costs associated  
18 with such action or application. Any action to enforce alleged violations of Section 3 shall be brought  
19 exclusively pursuant to this Section 6, and be subject to the meet and confer requirement of Section  
20 6.3.4 if applicable.

21           6.3 Notice of Violation. In the event that Plaintiff purchases a Covered Product in  
22 California and Plaintiff can demonstrate that such Covered Product was not part of the stock of  
23 Covered Products manufactured, produced, distributed or sold by Settling Defendant prior to the  
24 Labeling Date, Plaintiff may issue a Notice of Violation pursuant to this Section.

25                   6.3.1 Service of Notice of Violation and Supporting Documentation.

26                           6.3.1.1 The Notice of Violation shall be sent to the person(s) identified in  
27 Section 9.1 to receive notices for Settling Defendant, and must be served within sixty  
28 (60) days of the later of the date the Covered Product at issue was purchased or

1 otherwise acquired by Plaintiff or the date that Plaintiff can reasonably determine that  
2 the Covered Product at issue was manufactured, shipped, sold, or offered for sale by  
3 Settling Defendant.

4 6.3.1.2 The Notice of Violation shall, at a minimum, set forth: (a) the date the  
5 Covered Product was purchased; (b) the location at which the Covered Product was  
6 purchased; and (c) a description of the Covered Products giving rise to the alleged  
7 violation, including the name and address of the retail entity from which the sample  
8 was obtained and pictures of the product packaging from all sides, which clearly  
9 identifies any product codes or product identification information.

10 6.3.2 Notice of Election of Response. No more than sixty (60) days after effectuation  
11 of service of a Notice of Violation, Settling Defendant shall provide written notice to Plaintiff  
12 whether it elects to contest the allegations contained in a Notice of Violation (“Notice of  
13 Election”). Failure to provide a Notice of Election within sixty (60) days of effectuation of  
14 service of a Notice of Violation shall be deemed an election not to contest the Notice of  
15 Violation. Upon notice to Plaintiff, Settling Defendant may have up to an additional sixty (60)  
16 days to elect to contest the allegations if, notwithstanding Settling Defendant’s good faith  
17 efforts, Settling Defendant was unable to verify the information provided by Plaintiff before  
18 expiration of the initial sixty (60) day period.

19 6.3.2.1 If a Notice of Violation is contested, the Notice of Election shall  
20 include all documents upon which Settling Defendant is relying to contest the alleged  
21 violation. If Settling Defendant or Plaintiff later acquires additional information  
22 regarding the alleged violation during the meet and confer period described in Section  
23 6.3.4, they shall notify the other Party and promptly provide all such data or  
24 information to the Party unless either the Notice of Violation or Notice of Election has  
25 been withdrawn.

26 6.3.3 Meet and Confer. If a Notice of Violation is contested, Plaintiff and Settling  
27 Defendant shall meet and confer to attempt to resolve their dispute. Within thirty (30) days of  
28 serving a Notice of Election contesting a Notice of Violation, Settling Defendant may

1 withdraw the original Notice of Election contesting the violation. At any time, Plaintiff may  
2 withdraw a Notice of Violation, in which case for purposes of this Section 6.3 the result shall  
3 be as if Plaintiff never issued any such Notice of Violation. If no informal resolution of a  
4 Notice of Violation results within thirty (30) days of a Notice of Election to contest, Plaintiff  
5 may file an enforcement motion or application pursuant to Section 6.2.

6 6.3.4 Non-Contested Notices. If Settling Defendant elects not to contest the  
7 allegations in a Notice of Violation, it shall undertake corrective action(s) and make payments,  
8 if any, as set forth below.

9 6.3.4.1 Settling Defendant shall include in its Notice of Election a detailed  
10 description with supporting documentation of the corrective action(s) that it has  
11 undertaken or proposes to undertake to address the alleged violation. Any such  
12 correction shall, at a minimum, provide reasonable assurance that Settling Defendant  
13 will take all necessary actions to ensure that (i) all Covered Products having the same  
14 product codes and product identification information as that of the Covered Product  
15 identified in Plaintiff's Notice of Violation (the "Noticed Covered Products") have  
16 affixed or printed on their packaging clear and reasonable Proposition 65 warnings as  
17 described in Sections 3.1 and 3.2 hereof or (ii) if no such labeling is affixed or printed,  
18 such Noticed Covered Products will not be thereafter sold in California or offered for  
19 sale to California customers by Settling Defendant, and that Settling Defendant has  
20 sent instructions to any retailers or customers that offer the Noticed Covered Products  
21 for sale to cease offering the Noticed Covered Products for sale to California  
22 consumers and to return all such Noticed Covered Products to Settling Defendant.  
23 Settling Defendant shall keep for a period of one year and make available to Plaintiff  
24 upon reasonable notice (which shall not exceed more than one request per year) for  
25 inspection and copying records of any correspondence regarding the foregoing.

26 6.3.4.2 If there is a dispute over the corrective action or over whether Settling  
27 Defendant is excused from conducting the corrective actions described in Section  
28 6.3.5.1, Settling Defendant and Plaintiff shall meet and confer before seeking any

1 remedy in court. In no case shall Plaintiff issue more than one Notice of Violation per  
2 product type of a Covered Product, nor shall Plaintiff issue more than two Notices of  
3 Violation in the first year following the Effective Date.

4 6.3.4.3 Settling Defendant shall pay \$1,000 for each Notice of Violation under  
5 Section 6.3 that was not successfully contested or withdrawn. If Settling Defendant is  
6 excused from the corrective action obligation pursuant to Section 6.3.3, then Settling  
7 Defendant shall be excused from payment under this Section for that Notice of  
8 Violation. In no case shall Settling Defendant be obligated to pay more than \$20,000  
9 for all Notices of Violation not successfully contested or withdrawn in any calendar  
10 year irrespective of the total number of Notices of Violation issued.

11 6.3.5 Payments. Any payments under Section 6.3 shall be made by check payable to The  
12 Law Office of Jack Fitzgerald, PC, shall be paid within thirty (30) days of service of a Notice of  
13 Election triggering a payment, and shall be used as reimbursement for costs for investigating,  
14 preparing, sending, and prosecuting Notices of Violation, and to reimburse attorneys' fees and costs  
15 incurred in connection with these activities.

16 **7. APPLICATION OF CONSENT JUDGMENT**

17 7.1 This Consent Judgment shall apply to and be binding upon the Parties and their  
18 respective privies, successors, and assigns, and it shall be deemed to inure the benefit of the Parties  
19 and their respective privies, successors, and assigns.

20 **8. MODIFICATION OF CONSENT JUDGMENT**

21 8.1. This Consent Judgment may only be modified by written agreement of Plaintiff and  
22 Settling Defendant, or upon noticed motion of Plaintiff or Settling Defendant as provided by law.

23 **9. MOST FAVORED NATION**

24 9.1 If, on or after the date hereof, Plaintiff enters into any consent judgement or similar  
25 agreement (a "Settlement Document") with any person with respect to combustible paper products,  
26 then (i) Plaintiff shall as soon as practicable provide notice thereof to Settling Defendant and (ii) the  
27 terms and conditions of this Consent Judgment shall be, without any further action by Settling  
28 Defendant or Plaintiff, automatically amended and modified in an equivalent manner such that

1 Settling Defendant shall receive the benefit of any more favorable terms and/or conditions (as the  
2 case may be) set forth in any such Settlement Document, provided that upon written notice to Plaintiff  
3 at any time Settling Defendant may elect not to accept the benefit of any such amended or modified  
4 term or condition, in which event the term or condition contained in this Consent Judgment shall  
5 continue to apply to Settling Defendant as in effect immediately prior to such amendment or  
6 modification as if such amendment or modification never occurred with respect to Settling Defendant.  
7 For the avoidance of doubt, nothing in this Section 9 will apply to a monetary remedy contained or  
8 offered in any Settlement Document.

9 **10. PROVISION OF NOTICE**

10 10.1 All notices required to be given to either Party to this Consent Judgment by the other  
11 shall be in writing and sent to the following agents listed below by (a) first-class, registered, (b)  
12 certified mail, (c) overnight courier, or (d) personal delivery to the following:

13 For Plaintiff Jennifer Fishman  
14 The Law Office of Jack Fitzgerald, PC  
15 Jack Fitzgerald  
16 3636 4th Ave., Ste. 202  
17 San Diego, CA 92103  
18 jack@jackfitzgeraldlaw.com

19 For Defendant Republic Tobacco, L.P.  
20 Michael G. Romey  
21 Latham & Watkins LLP  
22 355 S. Grand Ave., Ste. 100  
23 Los Angeles, CA 90071  
24 Mike.Romey@lw.com

25 And

26 Seth Gold  
27 Executive Vice President and General Counsel  
28 Republic Tobacco, L.P.  
2301 Ravine Way  
Glenview, Illinois 60025  
sigold@drl-ent.com

10.2. Any Party may modify the person and address to whom the notice is to be sent by  
sending the other Parties notice by first class and electronic mail.

1 **11. CONSTRUCTION AND SEVERABILITY**

2 11.1. The terms and conditions of this Consent Judgment have been reviewed by the  
3 respective counsel for the Parties prior to its signing, and each Party has had an opportunity to fully  
4 discuss the terms and conditions with its counsel. In any subsequent interpretation or construction of  
5 this Consent Judgment, any uncertainty or ambiguity existing in the terms and conditions shall not be  
6 construed against any Party as a result of the manner of the preparation of this Consent Judgment.  
7 Each Party to this Consent Judgment agrees that any statute or rule of construction providing that  
8 ambiguities are to be resolved against the drafting Party should not be employed in the interpretation  
9 of this Consent Judgment and, in this regard the Parties hereby waive California Civil Code Section  
10 1654.

11 11.2. In the event that any of the provisions of this Consent Judgment is held by a court to  
12 be unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

13 **12. GOVERNING LAW**

14 12.1. The terms and conditions of this Consent Judgment shall be governed by and construed  
15 in accordance with the laws of the State of California.

16 **13. COURT APPROVAL**

17 13.1. The Parties shall use their reasonable best efforts to support the Court's approval of  
18 the Consent Judgment and entry of the Consent Judgment. The Parties acknowledge that, pursuant to  
19 California Health and Safety Code Section 25249.7(f), a noticed motion is required for judicial  
20 approval of this Consent Judgment, which motion Plaintiff shall draft and file and Settling Defendant  
21 shall support, appearing at the hearing if so requested. Plaintiff agrees to file a notice of motion within  
22 fifteen (15) calendar days after the Effective Date.

23 13.2. If the California Attorney General objects to any term in this Consent Judgment, the  
24 Parties shall use their best efforts to resolve the concern in a timely manner, and, if possible, prior to  
25 the hearing on the Motion for Court Approval.

26 13.3. This Consent Judgment shall not be effective until it is approved by the Court and  
27 shall be null and void if, for any reason, it is not approved and entered by the Court within one (1)  
28 year after it has been fully executed by the Parties. If, despite the Parties' best efforts, the Court does

1 not approve settlement and enter a Consent Judgment thereon within nine (9) months of the date the  
2 Consent Judgment is executed by the Parties, the Parties shall meet to try and resolve the matter  
3 amicably, if such resolution cannot be reached, the settlement is null and void and of no force or  
4 effect, in which event, all payment-related obligations set forth in Section 4 shall be deemed never to  
5 have existed and the Parties may thereafter proceed of their own accord.

6 **14. ENTIRE AGREEMENT**

7 14.1. This Consent Judgment contains the sole and entire agreement and understanding of  
8 Plaintiff and Settling Defendant with respect to the entire subject matter herein, and any and all prior  
9 discussions, negotiations, commitments, or understandings related hereto. No representations,  
10 express or implied, other than those contained herein have been made by any Party.

11 14.2. No other agreements not specifically contained or referenced herein shall be deemed  
12 to exist or to bind any of the Parties hereto. Any agreements specifically contained or referenced  
13 herein shall be deemed to exist or to bind any of the Parties hereto only to the extent that they are  
14 expressly incorporated herein.

15 14.3. No supplementation, modification, waiver, or termination of this Consent Judgment  
16 shall be binding unless executed in writing by the Party to be bound thereby.

17 14.4. No waiver of any of the provisions of this Consent Judgment shall be deemed or shall  
18 constitute a waiver of any of the other provisions hereof whether or not similar, nor shall such waiver  
19 constitute a continuing waiver.

20 **15. RETENTION OF JURISDICTION**

21 15.1. This Court shall retain jurisdiction of this matter to implement or modify the Consent  
22 Judgment.

23 **16. AUTHORIZATION**

24 16.1. Each signatory to this Consent Judgment certifies that he or she is fully authorized by  
25 the Party he or she represents to stipulate to this Consent Judgment and to enter into and execute the  
26 Consent Judgment on behalf of the Party represented and to legally bind that Party.

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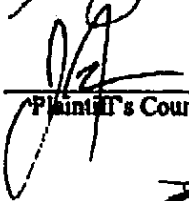
1 **17. EXECUTION IN COUNTERPARTS**

2 17.1. This Consent Judgment may be executed in counterparts and by facsimile, each of  
3 which shall be deemed an original, and all of which, when taken together, shall constitute one and the  
4 same document.

5  
6 **IT IS SO STIPULATED:**

7 By:   
8 Plaintiff, Jennifer Fishman


Dated: 2/6/ .2019

9  
10 By:   
11 Plaintiff's Counsel, Jack Fitzgerald

Dated: February 6 .2019

12 By:   
13 Defendant, Republic Tobacco, L.P.  
14 Seth Gold  
Executive Vice President and General Counsel

Dated: February 7 .2019

15 By:   
16 Defendant's Counsel, Michael G. Roney

Dated: February 7 .2019

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