

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

*In re PVC Pipe Antitrust Litigation*

Case No. 24 C 07639

Hon. LaShonda A. Hunt

THIS DOCUMENT RELATES TO:

*The Direct Purchaser Plaintiff Class*

**DECLARATION OF ROBERT N. KAPLAN IN SUPPORT OF DIRECT  
PURCHASER PLAINTIFF BILL WAGNER & SON, INC.'S MOTION – UNOPPOSED  
BY SETTLING DEFENDANT OIL PRICE INFORMATION SERVICE, LLC  
("OPIS") –FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH  
DEFENDANT OPIS AND RELATED RELIEF**

I, Robert N. Kaplan, declare under penalty of perjury as follows:

1. I am a partner at Kaplan Fox & Kilsheimer LLP ("Kaplan Fox"), appointed by the Court on October 17, 2024 as Lead Counsel for the Direct Purchaser Plaintiff Class (the "Lead Counsel Order," ECF No. 163).

2. Since entering private practice after serving in the Antitrust Division of the U.S. Department of Justice, I have successfully negotiated dozens of settlements in antitrust cases, as court-appointed lead, co-lead or settlement counsel on behalf of classes of direct-purchaser plaintiffs, as well as on behalf of large publicly- and privately-owned corporate clients pursuing direct-purchaser antitrust claims as individual (often opt-out) plaintiffs.

3. The Lead Counsel Order gave Kaplan Fox the authority to "[n]egotiate with defense counsel with respect to settlement and other matters." Lead Counsel Order, at ¶ h.

4. Pursuant to the authority granted by the Court, Lead Counsel in early March 2025 began settlement negotiations with Defendant Oil Price Information Service, LLC ("OPIS"). The arm's-length negotiations with OPIS were conducted by email, phone and videoconference by experienced counsel on both sides—namely, the undersigned, on behalf of DPPs, and Brian

O'Bleness and Natalie Spears of Dentons US LLP, on behalf of OPIS. The parties' negotiations continued until the Settlement Agreement (a true and correct copy of which is attached hereto as **Exhibit A**) was finalized and executed on the evening of May 16, 2025.

5. These often hours-long negotiations – many of which took place late at night, early in the morning, on weekends, or during holidays – were hard-fought, extensive, and, while professional and civil, contentious, with each side committed to obtaining the best possible agreement for their clients (and, in Lead Counsel's case, in the best interests of the members of the DPP Settlement Class). Indeed, the last video negotiation I had with OPIS's counsel was on May 16, 2025 at 6:30 am Central time, the day the Settlement Agreement was signed.

6. These negotiations resulted in two forms of relief that will directly benefit the DPP Settlement Class as reflected in the Settlement Agreement: (1) OPIS' agreement to provide extensive cooperation to the DPP Class in pursuing their remaining claims in this action; and (2) monetary relief of \$3 million.

7. The agreed-upon cooperation by OPIS provides the DPP Class with significant non-monetary compensation that is of substantial value to the DPP Settlement Class in their continued prosecution of their claims, particularly at this very early stage of the litigation.

8. In particular, the Settlement Agreement obligates OPIS to provide, through its outside counsel, up to seven hours of an attorney proffer regarding the material facts regarding the alleged antitrust violations alleged in DPP's Complaint. Settlement Agreement, ¶ 10(a).

9. OPIS is also required to use reasonable efforts to make available for depositions up to three current or former OPIS employees as well as up to three current or former OPIS employees to testify live at DPPs' trial. Settlement Agreement, ¶¶ 10(b)-(c).

10. OPIS will also produce to DPP all documents subpoenaed by and produced to the

grand jury empaneled by the U.S. Department of Justice, Antitrust Division or any other governmental entity investigating the PVC Pipe Market, including structured pricing data regarding PVC Pipe and resin from 2012 through 2024, drafts and final editions of OPIS Reports, along with all messages or communications between Donna Todd and any employee of a PVC converter, and centralized sources of ESI related to the PVC Pipe Market. *Id.*, at ¶¶ 9(d), 10(d).

11. In addition, OPIS will provide DPPs with declarations, affidavits and/or testimony to establish the authenticity and admissibility of its documents, which will save the DPP Settlement Class time and streamline their trial preparation against the remaining Defendants.

12. OPIS, which has not conceded or admitted liability concerning Plaintiffs' allegations, has made clear to DPP that it would vigorously defend the case absent the Settlement.

13. Based upon my years of experience in negotiating antitrust settlements for plaintiffs and plaintiff classes, I believe that this early, so-called "ice-breaker" settlement with OPIS is in the best interests of the DPP Settlement Class, particularly because of the aforementioned extensive cooperation OPIS has agreed to provide.

14. Attached are true and correct copies of the following:

- a. **Exhibit A:** Long-Form Settlement Agreement Between Direct Purchaser Class Plaintiffs and Defendant Oil Price Information Service, LLC, executed on May 16, 2025;
- b. **Exhibit B:** August 18, 2017 Order Preliminarily Approving Proposed Settlement Between Direct Purchaser Plaintiff Class and Fieldale Farms Corporation and Conditionally Certifying the Proposed Settlement Class, ECF No. 462 from *In re Broiler Chicken Antitrust Litigation*, Case No. 1:16-cv-08637 (N.D. Ill.) (Durkin, J.) ("*Broilers*");

- c. **Exhibit C:** Plaintiffs’ Motion for Preliminary Approval of Settlement with Defendant RelayHealth, for Certification of the Proposed Settlement Class, for Approval to Notify the Settlement Class, and for Related Relief, ECF No. 126, filed July 29, 2020, in *In re Surescripts Antitrust Litigation*, Civil Action No. 1:19-cv-06627 (N.D. Ill.) (“*Surescripts*”);
- d. **Exhibit D:** April 19, 2021 Order Preliminarily Approving Settlement with Defendant RelayHealth, Certifying the Proposed Settlement Class, Approving Notification to the Settlement Class, and Related Relief, ECF No. 175 from *Surescripts* (Tharp, J.);
- e. **Exhibit E:** December 20, 2019 *Nunc Pro Tunc* Order Granting Direct Purchaser Plaintiffs’ Motion for Preliminary Approval of the Settlements with Defendants Peco Foods, Inc., George’s, Inc., George’s Farms, Inc., and Amick Farms, Inc., ECF No. 3394 from *Broilers*;
- f. **Exhibit F:** February 25, 2021 Order Granting Direct Purchaser Plaintiffs’ Motion for Preliminary Approval of the Settlements with Defendants Pilgrim’s Pride Corp., Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc., ECF No. 4341 from *Broilers*;
- g. **Exhibit G:** October 5, 2021 Order Granting Direct Purchaser Plaintiffs’ Motion for Preliminary Approval of the Settlements with the Mar-Jac and Harrison Poultry Defendants, ECF No. 5086 from *Broilers*;
- h. **Exhibit H:** July 28, 2021 Order Granting Commercial and Institutional Indirect Purchaser Plaintiffs’ Motion for Preliminary Approval of Proposed Settlement with Tyson Defendants and Provisional Certification of Settlement Class, ECF



No. 196, from *Sandee's Bakery et al. v. Agri Stats, Inc. et al./In re Turkey Antitrust Litig.*, Case No. 1:20-cv-02295 (N.D. Ill.) (Kendall, J.);

- i. **Exhibit I:** “Huntington Bank Settlement Services – Experience Matters;” and
- j. **Exhibit J:** June 22, 2018 Order Granting Direct Purchaser Plaintiffs’ Motion to Approve a Plan of Notice of Settlement with Defendant Fieldale Farms Corporation, ECF No. 980 from *Broilers*.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 6, 2025 in Rye, New York.

/s/ Robert N. Kaplan  
Robert N. Kaplan

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

*In re PVC Pipe Antitrust Litigation*

Case No. 1:24-cv-07639

THIS DOCUMENT RELATES TO:

Hon. LaShonda A. Hunt

ALL DIRECT PURCHASER CLASS  
PLAINTIFF ACTIONS

**LONG-FORM SETTLEMENT AGREEMENT BETWEEN DIRECT PURCHASER  
CLASS PLAINTIFFS AND DEFENDANT OIL PRICE INFORMATION SERVICE, LLC**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into as of May 16, 2025 (“Execution Date”), by and between the Direct Purchaser Plaintiff (“DPP”), through Interim Lead Counsel (as hereinafter defined) for the proposed DPP Class (as hereinafter defined), and Oil Price Information Service, LLC (as hereinafter defined) (referred to as “OPIS” or “Settling Defendant”). DPP on behalf of itself and the proposed DPP Class, and OPIS are referred to herein collectively as the “Parties” or individually as a “Party.”

WHEREAS, DPP on behalf of itself and as representative of the proposed DPP Class of similarly situated persons or entities alleges in the Action (as hereinafter defined), among other things, that OPIS participated in a conspiracy—with other Defendants and alleged non-Defendant co-conspirators—beginning April 1, 2021 and continuing thereafter, to fix, raise, maintain, and stabilize the price of polyvinyl chloride pipe (“PVC Pipe”) (as hereinafter defined);

WHEREAS, the Court appointed Interim Lead Counsel to represent the proposed DPP Class of direct purchasers of PVC Pipe (ECF No. 163);

WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have been asserted against OPIS in any way arising out of the direct purchase of PVC Pipe produced,

processed, or sold by any of the Defendants or their alleged named or unnamed co-conspirators;

WHEREAS, counsel for the Parties have engaged in arm's-length negotiations on the terms of this Settlement Agreement, and it embodies all of the terms and conditions of the Settlement (as hereinafter defined);

WHEREAS, Interim Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of the proposed DPP Class to enter into this Settlement Agreement with OPIS to avoid the uncertainties of further complex litigation, and to obtain the significant early benefits described herein for the proposed DPP Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of DPP and the proposed DPP Class, given the uncertainties, risks, and costs of continued litigation, and given the fact that if approved, this Settlement will be the initial icebreaker settlement in a case with many remaining Defendants;

WHEREAS, DPP and Interim Lead Counsel believe the cooperation by OPIS (as set forth in Paragraph 10 herein) and the Settlement Fund (as hereinafter defined) reflect fair, reasonable, and adequate consideration for the proposed DPP Class to release, settle, and discharge the claims against OPIS covered by the release herein, including the claims that they were overcharged in connection with the alleged anticompetitive conduct of which OPIS is accused;

WHEREAS, OPIS has neither conceded nor admitted liability in the Action; and notwithstanding its beliefs that it has legitimate defenses to the claims that are asserted or could have been asserted by the DPP against it in the Action, OPIS enters into this Settlement Agreement to avoid the costs, expenses, disruptions, and uncertainties of this complex litigation, and thereby put this controversy to rest;

WHEREAS, DPP, notwithstanding its belief that it would ultimately prevail at trial and establish liability by OPIS for the conspiracy it has alleged, enters into this Settlement Agreement

to avoid the costs, expenses, and uncertainties of this complex litigation;

WHEREAS, all Parties preserve all arguments, defenses, and responses to all claims in the Action, including any arguments, defenses, and responses to any proposed litigation class proposed by DPP in the event this Settlement Agreement does not obtain Final Approval (as hereinafter defined) or otherwise is terminated as provided in Paragraph 18 herein;

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties that the claims of the DPP and the DPP Class be settled, compromised, and dismissed on the merits with prejudice as to OPIS, subject to Court approval, and that OPIS be forever fully discharged and released from any and all claims covered by this Settlement Agreement:

1. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement.

a. “Action” means the consolidated litigation proceeding captioned *In re: PVC Pipe Antitrust Litigation*, 1:24-cv-07639 (“PVC”), which is currently pending in the United States District Court for the Northern District of Illinois.

b. “DPP Class” (and/or “DPP Settlement Class”) means members of the class of direct purchasers of PVC Pipe as defined in Paragraph 4(a) below, excluding all persons who file a valid request for exclusion from it. Specifically excluded from the proposed DPP Class are: Defendants, and their parents, predecessors, subsidiaries, and affiliates, and all federal government entities and instrumentalities of the federal government.

c. “Class Notice” means any notice sent to the DPP Class pursuant to Preliminary Approval of this Settlement Agreement and in conjunction with the notices approved by the Court pursuant to Federal Rule of Civil Procedure 23.



d. “Class Period” for the DPP Settlement Class means April 1, 2021 through the Execution Date of this Settlement Agreement.

e. “Complaint” and “DPP Complaint” means the DPP’s’ First Amended Class Action Complaint filed with the Court in the Action on October 30, 2024 (ECF No. 183).

f. “Court” means the United States District Court for the Northern District of Illinois and the Honorable Lashonda A. Hunt or her successors, or any other court in which the Action is proceeding.

g. “Days,” when used in this Settlement Agreement to specify a deadline or time period by which some event will occur, means the number of calendar days stated, excluding the day that triggers the period, except that if the last day is a Saturday, Sunday, or legal holiday, the period shall continue to run until the next day that is not a Saturday, Sunday, or legal holiday. .

h. “Defendant” means any named defendant in the Action; and “Converter Defendant” means the named Defendants in the Action other than OPIS (which does not make, sell or distribute PVC Pipe).

i. “Escrow Account” means the escrow account established with the escrow agent at a bank designated by Lead Counsel (“Escrow Agent”) to receive and maintain funds contributed by OPIS for the benefit of the proposed DPP Class.

j. “Escrow Agreement” means that certain agreement between the Escrow Agent that holds the Settlement Fund and DPPs (by and through Interim Lead Counsel) pursuant to which the Escrow Account is established and funded for the benefit of the DPP Class, as set forth in Paragraphs 8 and 9 below.

k. “Fairness Hearing” means a hearing by the Court to determine whether the Settlement Agreement is fair, reasonable, and adequate, and whether it should be finally approved by the Court.

l. “Final Approval” means an order and judgment by the Court which finally approves this Settlement Agreement, including all of its material terms and conditions without modification, and the settlement pursuant to Federal Rule of Civil Procedure 23 and dismisses OPIS with prejudice from the Action.

m. “Final Judgment” means the first date upon which both of the following conditions shall have been satisfied: (a) Final Approval; and (b) either (1) no appeal or petition to seek permission to appeal the Court’s Final Approval has been made within the time for filing or noticing any appeal under the Federal Rules of Appellate Procedure, *i.e.*, thirty (30) Days after entry of the order of Final Approval; or (2) if any timely appeals from the Final Approval or notices of appeal from the Final Approval are filed, (i) the date of final dismissal of all such appeals or the final dismissal of any proceeding on certiorari or otherwise, or (ii) the date the Final Approval is finally affirmed on appeal and affirmance is no longer subject to further appeal or review.

n. “Interim Lead Counsel” means Kaplan Fox & Kilsheimer, LLP as appointed by the Court (ECF No. 163) to represent the proposed DPP Class of direct purchasers of PVC Pipe in the Action.

o. “Oil Price Information Service, LLC” (“OPIS”) and “OPIS Released Parties” or “Released Parties”, collectively and individually, means OPIS, together with any and all of OPIS’s past, current, and future, direct and indirect corporate parents (including holding companies), subsidiaries, related entities, affiliates, associates, divisions, joint ventures, predecessors, successors, assigns and each of their respective past or present, direct or indirect, officers, directors, trustees, partners, managing directors, shareholders, managers, members, employees, attorneys, equity holders, agents, beneficiaries, executors, insurers, advisors, assigns, heirs, legal or other representatives. Notwithstanding the foregoing, “OPIS Released Parties” does not include any Defendant or other entity other than OPIS (as defined above) named by DPP in

the Action, either explicitly or as a third-party beneficiary.

p. “Preliminary Approval” means an order by the Court to preliminarily approve this Settlement Agreement pursuant to Federal Rule of Civil Procedure 23.

q. “PVC Pipe” means polyvinyl chloride pipe, as described in the DPP’s Complaint (ECF No. 183), including, without limitation, all PVC pipe and piping products used in plumbing, electrical conduit, and municipal piping systems that are manufactured by combining chlorine and ethylene. PVC Pipe does not include the market for resin. “PVC Pipe Market” means the United States market for PVC Pipe, as that term is defined herein.

r. “Released Claims” shall have the meaning set forth in Paragraphs 14 and 15 of this Settlement Agreement.

s. “Releasing Parties” means, collectively and individually, DPP the DPP Class, and all members of it, including the DPP, on behalf of itself and its respective predecessors, successors, and all of their respective past, present and future (i) direct and indirect parents, subsidiaries, associates and affiliates, (ii) agents, officials acting in their official capacities, legal representatives, agencies, departments, commissions and divisions, and (iii) shareholders, partners, directors, officers, owners of any kind, principals, members, agents, employees, contractors, insurers, heirs, executors, administrators, devisees, representatives; the assigns of all such persons or entities, as well as any person or entity acting on behalf of or through any of them in any capacity whatsoever, jointly and severally; and also means, to the full extent of the power of the signatories hereto to release past, present, and future claims, persons or entities acting in a private attorney general, qui tam, taxpayer, or any other capacity, whether or not they object to the Settlement and whether or not they make a claim for payment from the Settlement Fund.

t. “Settlement” means the settlement of all claims that are or could have been asserted by DPP and the proposed DPP Class in the Action according to the terms set forth in this



Settlement Agreement.

u. “Settlement Administrator” means the firm retained to disseminate the Class Notice, maintain the settlement website, handle communications related to claims, and to administer the payment of the Settlement Sum from the Settlement Fund (as hereinafter defined) to the DPP Class, subject to approval of the Court.

v. “Settlement Fund” means \$3,000,000.00 (three million U.S. dollars) (the “Settlement Sum”), which includes up to \$250,000.00 (U.S. dollars) in non-refundable class notice and administration costs to the DPP Class, and is inclusive of all Class recovery amounts, fees (including attorneys’ fees and any other fees), and costs, which is the absolute amount OPIS shall pay or cause to be paid into a non-reversionary settlement fund. The Settlement Fund will be held in an interest-bearing Escrow Account maintained by an Escrow Agent on behalf of the DPP Class, pursuant to Paragraphs 8 and 9 below, and shall include any interest accruing within the interest-bearing Escrow Account. The Settlement Fund will be used to pay all valid settlement claims submitted by DPP Settlement Class members at a future date, as well as all settlement Class Notice and administration costs, and all attorneys’ fees and any service awards approved by the Court. For the avoidance of doubt, the Settlement Sum is the maximum amount that OPIS will be obligated to pay in consideration of the Settlement, and under no circumstances will OPIS be obligated to provide any additional monetary consideration in connection with the Settlement.

2. The Parties’ Efforts to Effectuate this Settlement Agreement. The Parties will cooperate in good faith and use reasonable efforts to seek the Court’s Preliminary Approval and Final Approval of the Settlement Agreement, including cooperating in promptly seeking the Court’s approval of the Settlement Agreement, the giving of appropriate Class Notice under Federal Rule of Civil Procedure 23, and securing the prompt, complete and final dismissal with prejudice as to OPIS.

3. Litigation Standstill.

a. Upon execution of this Settlement Agreement, DPP shall cease all litigation activities with respect to OPIS except to the extent expressly authorized in the Settlement Agreement; and OPIS shall cease all litigation activities with respect to DPP and the proposed DPP Class except to the extent expressly authorized in the Settlement Agreement or as it pertains to any cooperation terms or as set forth in Paragraph 10(g)(iii) herein, or to the extent any DPP Class member who has validly excluded itself from the DPP Class files a direct action complaint against OPIS (“Direct Action Plaintiff”) or in any other action or claim filed by parties other than the DPP Class.<sup>1</sup> Nor shall any of the foregoing provisions be construed to prohibit DPP and the proposed DPP Class from (1) seeking appropriate discovery from non-settling Defendants or alleged co-conspirators or any other person other than OPIS and (2) seeking to prove the conspiracy alleged in this Action. None of the foregoing provisions shall be construed to prohibit OPIS from defending itself in proceedings outside of this Action.

b. The Parties’ litigation standstill shall cease in the event that the Settlement does not receive Preliminary Approval from the Court or this Settlement Agreement is terminated for any reason set forth in the Termination Events defined in Paragraph 18.

4. Motion for Preliminary Approval. No later than twenty-one (21) Days after the Execution Date, DPP will move the Court for Preliminary Approval of this Settlement.

a. DPP Settlement Class Certification. DPP shall seek, and OPIS shall not object to, appointment of Interim Lead Counsel as Settlement Class Counsel for purposes of this

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<sup>1</sup> For the avoidance of doubt, “Direct Actions” includes all actions by plaintiffs who validly opt-out of the DPP Settlement Class and file a direct action lawsuit against OPIS based on factual allegations that are substantially similar to those asserted in DPP’s Complaint filed in the Action.

Settlement, and certification in the Action of a DPP Class for settlement purposes only, defined as follows:

All persons and entities who purchased PVC Pipes in the United States directly from one or more of the Converter Defendants (or from any of the Converter Defendants' parents, predecessors, subsidiaries or affiliates) at any time between April 1, 2021 through the Execution Date of this Settlement Agreement. Excluded from the Class are Defendants, and their parents, predecessors, subsidiaries, and affiliates, and all federal government entities and instrumentalities of the federal government.

b. Preliminary Approval Papers. A reasonable time, no less than four (4) business Days, in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including any proposed orders and the proposed Class Notices and notice plan, shall be provided by Interim Lead Counsel to OPIS for its review. To the extent that OPIS objects to any aspect of the motion, it shall communicate such objection to Interim Lead Counsel and the Parties shall meet and confer in good faith to resolve any such objection. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval.

c. Restrictions Prior to Preliminary Approval. Until Preliminary Approval of the Settlement is granted by the Court, DPP and the DPP Class shall not file with the Court, disseminate to any entity or person not a Party to this Settlement Agreement, or quote from any of the information or materials provided by OPIS pursuant to this Settlement Agreement under Paragraph 10 herein, unless agreed to in writing by OPIS, or said information and materials otherwise has become available through discovery in the Action.

5. Class Action Fairness Act ("CAFA") Notice. Within ten (10) Days of filing of this Settlement Agreement in Court with the abovementioned motion for Preliminary Approval, OPIS, at its sole discretion and expense, shall serve (or cause to be served) upon appropriate Federal and State officials all materials required pursuant to CAFA, and shall confirm to DPP's Interim Lead



Counsel via a filing on ECF that such notices have been served.

6. Settlement Class Notices. Along with the motion for Preliminary Approval, and subject to approval by the Court of the means for dissemination, the Parties shall submit:

a. Notices to the Settlement Class: At a reasonable time, no less than four (4) business days, in advance of submission to the Court for approval, along with the Motion for Preliminary Approval, DPP Interim Lead Counsel shall submit to counsel for OPIS, proposed communications to the DPP Class regarding the Settlement (including, but not limited to, short-form and long-form notices and advertisements). To the extent that OPIS has objections to, or has edits or comments to, the proposed Class Notice, it shall communicate such objections, edits and/or comments to Interim Lead Counsel and the Parties shall meet and confer in good faith to resolve them. Each Party reserves all rights in the event that disputes as to form or contents of proposed Class Notice cannot be resolved informally, in good faith, and for the avoidance of doubt, any litigation or disputed motion practice arising between the Parties concerning such disputes shall not be subject to the litigation standstill obligations set forth in the provisions of Paragraph 3.

b. Notice shall be reasonable under the circumstances based on information that the Parties have available. The parties will also request that the Court approve a publication notice plan calculated to reach the greatest possible number of class members. Efforts shall also be made to provide individual notice of this Settlement to ascertainable members of the DPP Class, which shall be mailed, emailed, or otherwise sent by the Settlement Administrator, at the direction of Interim Lead Counsel, to potential members of the DPP Class, in conformance with a notice plan to be approved by the Court, including a required provision in the Class Notice that members of the proposed DPP Class who wish to opt out and exclude themselves from the DPP Class must submit an appropriate and timely request for exclusion.

c. The Notice shall include a provision stating that requests to opt out of the DPP Settlement Class can be made only by individuals or an individual entity on behalf of themselves (and subsidiaries) and personally signed by each individual person or entity requesting exclusion.

d. The Parties recognize that DPP and Interim Lead Counsel will seek at the same time as filing of the Preliminary Approval Motion and notice plan, permission from the Court to obtain customer lists from non-settling Defendants. DPP and Interim Lead Counsel will seek to limit any delay caused by obtaining such customer lists from non-settling Defendants.

e. The DPP Class will seek an order from the Court requiring production of customer data from non-settling Defendants no later than 21 Days after Preliminary Approval.

f. Neither the DPP, proposed DPP Class, Interim Lead Counsel, nor OPIS shall have any responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the DPP Class or obtaining approval of the Settlement or administering the Settlement. Such fees, costs, or expenses shall be paid solely from the Settlement Fund, subject to any necessary Court approval.

g. Subject to Court approval and CAFA requirements, Class Notice to the proposed DPP Class shall be issued promptly. Interim Lead Counsel will seek to send Class Notice to members of the DPP Class within 14 Days of the production of sufficient customer data from non-settling Defendants.

h. Any costs of notice actually incurred that Interim Lead Counsel are permitted to withdraw from the Settlement Fund up to \$250,000.00, either pursuant to the Parties' Settlement Agreement or order of the Court, shall be nonrefundable if, for any reason, this Settlement Agreement is terminated according to its terms or is not granted Final Approval by the Court.

i. The Settlement Administrator shall effectuate the notice plan approved by the Court in the Preliminary Approval Order, shall administer and calculate the claims, and shall oversee distribution of the Settlement Fund in accordance with the plan of distribution at a future date, under the continued supervision of the Court.

7. Motion for Final Approval and Entry of Final Judgment. If the Court grants Preliminary Approval, then DPP, through Interim Lead Counsel—in accordance with the schedule set forth in the Court’s Preliminary Approval—shall submit to the Court a separate motion for Final Approval of this Settlement Agreement by the Court. At a reasonable time, no less than four (4) business Days, in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by Interim Lead Counsel to OPIS for its review. To the extent that OPIS objects to any aspect of the motion, it shall communicate such objection to Interim Lead Counsel and the Parties shall meet and confer to resolve any such objection. The motion for Final Approval shall seek entry of an order and Final Judgment:

a. Finally approving the Settlement Agreement as being a fair, reasonable, and adequate settlement for the DPP Class within the meaning of Federal Rule of Civil Procedure 23, and directing the implementation, performance, and consummation of the Settlement Agreement and its material terms and conditions, without material modification of those terms and conditions;

b. Determining that the Class Notice provided to the DPP Settlement Class constituted the best notice practicable under the circumstances of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons entitled to receive notice;

c. Dismissing DPP’s Complaint, and all other complaints, asserted by Releasing Parties in the Action with prejudice as to OPIS , only, without further costs or fees;

- d. Discharging and releasing the OPIS Released Parties from all Released Claims;
- e. Enjoining the Releasing Parties from suing any of the OPIS Released Parties for any of the Released Claims;
- f. Finding that OPIS has provided the appropriate notice pursuant to the CAFA, 28 U.S.C. §1711 et seq.;
- g. Reserving continuing and exclusive jurisdiction over the Settlement Agreement for all purposes; and
- h. Determining under Fed. R. Civ. P. 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to OPIS shall be final and appealable and entered forthwith.

The Parties shall use all reasonable efforts available to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions

8. Escrow Account. The Escrow Account shall be administered by the Escrow Agent pursuant to this Agreement and subject to the supervision of Interim Lead Counsel for the DPP and proposed DPP Class, under the Court's continuing supervision, jurisdiction, and control pursuant to the Escrow Agreement.

9. Settlement Consideration. In consideration for the release of Released Claims, the dismissal of the Action under the terms herein, and the other material terms and conditions herein, within forty-five (45) Days after Preliminary Approval is granted by the Court, OPIS will pay the Settlement Sum into the Escrow Account by wire transfer pursuant to instructions from the Escrow Agent and/or Interim Lead Counsel, and will provide the cooperation set forth in Paragraph 10.



10. Cooperation. Cooperation by OPIS is a material term of the Settlement Agreement and shall include the following once the Settlement Agreement is executed:

a. Attorney Proffer. OPIS's outside counsel will provide up to seven hours of an attorney proffer that may be conducted in multiple sessions regarding the material facts known to OPIS's counsel regarding alleged violations of the antitrust laws, including alleged price-fixing in the PVC Pipe Market, pled in DPP's Complaint. The first attorney proffer will take place within ten (10) Days of the Execution Date by video conference and/or in person at a mutually convenient location, at Interim Lead Counsel's election. This provision does not require counsel to provide information protected by the attorney-client privilege or attorney work product doctrine, nor is OPIS waiving any such privileges. By agreement of the Parties, any statements made by counsel as part of the Attorney Proffer contemplated by this Paragraph shall be inadmissible as evidence.

b. Depositions. OPIS will use reasonable efforts to make up to three current or former employees available for depositions, including Donna Todd.

c. Trial Witnesses. OPIS will use reasonable efforts to provide up to three current or former employees to provide testimony live at trial of the DPP's claims in the Action.

d. Documents. OPIS will produce, electronically, documents and data that were already (or that are in the future) produced by OPIS to the Department of Justice Antitrust Division ("DOJ") pursuant to the DOJ subpoena served on OPIS as part of the DOJ's investigation into alleged antitrust violations in the PVC Pipe Market ("DOJ Subpoena"), and to any other governmental entity pursuant to a government investigation into alleged antitrust violations in the PVC Pipe Market ("Governmental PVC Pipe Market Investigation"), within three Days of the Execution Date. Such document and data productions will be treated as CONFIDENTIAL or



HIGHLY CONFIDENTIAL<sup>2</sup> and will include at a minimum:

- i. The structured pricing data OPIS maintains regarding PVC Pipe and resin from January 1, 2012 to November 2024, in a structured data format, such as a .csv file.
- ii. Copies of all draft and final PVC & Pipe Weekly reports from January 2017 through November 2024.
- iii. All messages or communications to or from Donna Todd at OPIS and the work account, user handle, or phone number of an employee of a PVC converter without any relevance review.<sup>3</sup> OPIS has represented that only Donna Todd engaged in such communications, therefore, based on that representation, only her communications are to be searched at this time. The Parties agree that if further factual information changes the understanding that only Donna Todd has relevant communications with PVC converter employees, then the Parties will meet in good faith to address any production deficiencies. OPIS has also represented that Donna Todd does not use personal accounts for such communications. The Parties

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<sup>2</sup> DPP, Interim Lead Counsel, and other counsel and persons retained or acting at the direction of DPP or Interim Lead Counsel, will treat the documents and data produced by OPIS as CONFIDENTIAL or HIGHLY CONFIDENTIAL as indicated in the specific documents and under the terms of and subject to the protective order that will be subsequently entered in the Action. Until such time as such protective order is entered, and if no protective order has been entered at the time of the Final Approval and Final Judgment as to OPIS, the documents and data produced by OPIS will be treated, at a minimum and by agreement, in accordance with the protection for HIGHLY CONFIDENTIAL documents in the draft proposed protective order circulated by Plaintiffs' counsel on October 16, 2024, until the Court enters a protective order in the case, after which the protective order entered by the Court governs confidentiality. OPIS will not be obligated to re-review or redesignate a confidentiality designation; provided however, DPP and Interim Lead Counsel are not precluded from making particularized requests to OPIS to redesignate specific documents, which OPIS shall consider in good faith.

<sup>3</sup> To the extent available to OPIS, this includes text messages and includes the log of both text messages and phone calls from Donna Todd's cellular device(s). Donna Todd's communications with any Westlake employees were reviewed for relevance and will be produced as indicated in Paragraph 10(d)(iv).

agree that if further factual information changes the understanding that Donna Todd does not use personal accounts for relevant communications with PVC converter employees, then the Parties will meet in good faith to address any production deficiencies.

iv. In addition to the prior provision, OPIS will also run search terms on the remaining ESI for Donna Todd relating to the names of each PVC converter; their relevant employees (both full names and shorthand names); and names of the relevant products. OPIS will apply a relevance review to these and will produce any non-privileged document related to the PVC Pipe Market.

v. All documentation of communications with or between Donna Todd and PVC converters, such as call notes, whether in electronic or hard copy format.

vi. Materials produced from centralized sources of ESI provided to the DOJ pursuant to the DOJ Subpoena or a governmental entity in response to a Governmental PVC Pipe Market Investigation.

vii. Any written analysis, interrogatory response, or other written submission provided to the DOJ pursuant to the DOJ Subpoena or a governmental entity in response to a Governmental PVC Pipe Market Investigation.

e. Declaration. OPIS will provide declarations and/or affidavits and/or testimony necessary to establish the authenticity and admissibility of its documents under the Federal Rules of Evidence to DPP, the DPP Class, and Interim Lead Counsel.

f. DPP and Interim Lead Counsel will not share any materials or information provided by OPIS through the cooperation terms herein with any other plaintiff or plaintiff group in any other action, unless authorized by OPIS in writing or directed to do so by the Court.

g. Other Terms.

i. On the Execution Date of this Settlement Agreement, OPIS will withdraw from any joint defense group in this Action, if any, and will not voluntarily share this Settlement Agreement with the other Defendants until such time as it is publicly filed by the Parties in connection with the Motion for Preliminary Approval of the Settlement.

ii. OPIS will not cooperate with the other Defendants further in this Action, but if OPIS is asked to do so, OPIS may seek permission from DPP to cooperate, and DPP will consider such requests in good faith. Nothing in this Paragraph prevents OPIS from fully defending itself if a Direct Action is filed by a plaintiff who opts-out of this Settlement, or prevents OPIS from coordinating with non-settling Defendants in the joint defense of claims against OPIS in such other Direct Actions, including retention of experts for use in such Direct Actions. However, if such a case is filed, OPIS in its sole discretion will not provide any more information to other Defendants than necessary to defend itself in those actions.

iii. Until the Parties agree or the Court orders otherwise, no cooperation materials which OPIS produces under this Settlement Agreement may be shared with any other Defendant or alleged co-conspirators, except as authorized under this Agreement in connection with the defense of a Direct Action filed against OPIS or in any other action or claim filed by parties other than the DPP Settlement Class.

iv. OPIS will provide DPP any privilege log it provides to DOJ pursuant to the DOJ Subpoena or any other private or governmental party in response to a Governmental PVC Pipe Market Investigation within seven (7) Days of the Execution Date, or no later than seven (7) Days after such privilege log is served. Any document that OPIS identifies on such privilege log and which OPIS subsequently produces in a less redacted or unredacted format will be produced to DPP within seven (7) Days of production to any other entity. Both Parties wish to



avoid any dispute regarding documents withheld on the privilege log. Should DPP have any specific concerns with the privilege log, it will raise such concerns with OPIS, and OPIS will respond in good faith to those concerns.

v. OPIS will not assert any reporter's privilege with respect to the materials agreed to be produced in this Settlement Agreement. OPIS is not waiving any reporter's privilege in the event this Settlement is not consummated, or for other materials, products, or documents that are not required to be produced under this Settlement Agreement. Nor is OPIS waiving the attorney-client privilege or attorney work product doctrine. Further, for the avoidance of doubt, notwithstanding any other provision in this Settlement Agreement, OPIS shall not be deemed to have waived any privileges in the event that this Settlement Agreement does not receive Preliminary or Final Approval from the Court, or is otherwise terminated in accordance with this Agreement.

vi. To the extent that OPIS responds to discovery, produces documents, or provides proffers or other cooperation or information to any other plaintiff or government entity regarding the PVC Pipe Market during the pendency of the Action, it will provide the same information to DPPs within ten (10) Days thereof. For the avoidance of doubt, OPIS will provide DPP and the DPP Settlement Class with no less cooperation than it provides any other plaintiff or government entity including, without limitation, witnesses, declarations, affidavits, proffers, witness interviews, or documents and data regarding the PVC Pipe Market.

h. In the event that the Court does not grant either Preliminary or Final Approval, or the Settlement is terminated, including without limitation for any reason set forth in the Termination Events defined in Paragraph 18, all documents produced pursuant to this Settlement Agreement shall be returned to OPIS within seven (7) Days and all documents and information provided by OPIS deemed inadmissible, unless otherwise made available through

discovery in the Action.

11. Qualified Settlement Fund. The Parties agree to treat the Settlement Fund as being at all times a “Qualified Settlement Fund” within the meaning of Treas. Reg. § 1.468B-1, and to that end, the Parties shall cooperate with each other and shall not take a position in any filing or before any tax authority that is inconsistent with such treatment. In addition, Interim Lead Counsel shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph, including the relation-back election (as defined in Treas. Reg. § 1.468B-1(j)) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of Interim Lead Counsel to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. All provisions of this Settlement Agreement shall be interpreted in a manner that is consistent with the Settlement Funds being a Qualified Settlement Fund within the meaning of Treas. Reg. § 1.468B-1. Interim Lead Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k), (1)). Such returns shall reflect that all taxes (including any estimated taxes, interest or penalties) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund. OPIS shall not be responsible for the filing of any tax returns or payment of any taxes of any kind or expenses connected to the Qualified Settlement Fund. The Class Members shall be responsible for paying any and all federal, state, or local taxes due on any distribution made to them pursuant to the Settlement provided herein.

12. Distribution of Settlement Fund to Settlement Class. After Final Approval, the Settlement Fund shall be distributed in accordance with a plan of distribution and plan of allocation to be approved by the Court at a future date; the timing of the motion to approve a plan of

distribution and plan of allocation shall be in the discretion of Lead Counsel. After paying the Settlement Sum, OPIS shall have no responsibility or liability whatsoever for the allocation or distribution of the Settlement Fund or the determination, administration or calculation of claims, and OPIS shall not be responsible for any disputes relating to the allocation or distribution of any amounts, fees or expenses, including attorneys' fees. Any issues or proceedings related to the distribution plan shall not impact this Settlement Agreement or the finality of the Final Approval or Final Judgment entered pursuant to this Agreement. Members of the DPP Class shall be entitled to look solely to the Settlement Fund for settlement and satisfaction of the Settlement Agreement or in connection with any of the Released Claims against the OPIS Released Parties and shall not be entitled to any other payment or relief from the OPIS Released Parties. Except as provided by order of the Court, no member of the DPP Settlement Class shall have any interest in the Settlement Fund or any portion thereof. DPP members of the DPP Settlement Class, and their counsel will be reimbursed solely out of the Settlement Fund for all expenses including, but not limited to, attorneys' fees and expenses and the costs of notice of the Settlement Agreement to potential members of the DPP Settlement Class. OPIS and the other OPIS Released Parties shall not be liable for any costs, fees, or expenses of any of DPP's and Interim Lead Counsel's attorneys, experts, advisors, or representatives, but all such costs and expenses as approved by the Court shall be paid out of the Settlement Fund.

13. Fee Awards, Costs and Expenses, and Service Awards to DPPs. Subject to Interim Lead Counsel's sole discretion as to timing, Interim Lead Counsel will apply for a fee award, plus expenses and costs incurred, and service awards to the DPP to be paid from the Settlement Fund. OPIS shall not oppose such a motion. OPIS shall have no responsibility, financial obligation, or liability for any such fees, costs, expenses, or awards, which shall be paid exclusively from the Settlement Sum.



14. Settlement Release. Upon Final Judgment, the Releasing Parties shall be deemed to have fully, finally, and forever completely compromised, settled, released, acquitted, resolved, relinquished, waived, and discharged the OPIS Released Parties from any and all claims, demands, actions, injuries, losses, damages, suits, and causes of action relating to the PVC Pipe Market, including but not limited to all claims that have been asserted, or could have been asserted, in the Action, whether class, individual, or otherwise in nature that the Releasing Parties ever had, now have, or hereafter can, shall, or may ever have, known and unknown, foreseen and unforeseen, suspected or unsuspected, actual or contingent, liquidated or unliquidated, through the Execution Date of this Settlement Agreement (the “Released Claims”), except for claims to enforce any of the terms of this Settlement Agreement. This release of the Released Claims is binding on the Releasing Parties regardless of whether or not any member of the DPP Class has objected to the Settlement or makes a claim in the Settlement, whether directly, representatively, derivatively or in any other capacity.

15. Further Release. In addition to the provisions of Paragraph 14, the Releasing Parties hereby expressly waive and release, solely with respect to the Released Claims, upon Final Judgment, any and all provisions, rights, and benefits conferred by Section 1542 of the California Civil Code, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY;

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code, including without limitation 20-7-11 of the South Dakota Codified Laws (providing:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR”).

Each Releasing Party may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 14, but each Releasing Party hereby expressly waives and fully, finally, and forever settles and releases, upon Final Judgment, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the Releasing Parties have agreed to release pursuant to Paragraph 14 whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The foregoing release of unknown, unanticipated, unsuspected, unforeseen, and unaccrued losses or claims is contractual and not a mere recital.

16. Covenant Not to Sue. DPP and each DPP Settlement Class member covenant not to sue any of the OPIS Released Parties for any transaction, event, circumstance, action, failure to act, or occurrence of any sort or type arising out of the Released Claims, including, without limitation, seeking to recover damages relating to any of the Released Claims. This Paragraph shall not apply to any action to enforce this Settlement Agreement.

17. No Admission.

a. This Settlement Agreement shall not be construed as an admission of liability, or used as evidence of liability or any violation of any statute, law, rule, or regulation, or of any liability or wrongdoing, by OPIS, or of the truth of the allegations against it, for any purpose in any legal proceeding, claim, regulatory proceeding, or government investigation.



b. In the event this Agreement is terminated for any reason set forth in the Termination Events defined in Paragraph 18, then the pre-Settlement status of this Action shall be restored, and the Agreement shall have no effect on the rights of DPP and the DPP Class or OPIS to prosecute or defend the pending Action in any respect, including the right to litigate fully the issues related to class certification, raise personal jurisdictional defenses, or any other defenses, which rights OPIS specifically and expressly retains, and there shall be no admission of any kind as to the certifiability of a litigation class or any other legal issue. For avoidance of doubt, by stipulating for purposes of only this Settlement to the proposed DPP Settlement Class, OPIS does not admit that the Rule 23 requirements are met for purposes of certifying a litigation class, or that antitrust injury or damages are provable on a classwide basis, or that the DPP Settlement Class as defined herein would be appropriate for a litigation class.

18. Termination Events and Rights. The Settlement is conditioned upon Preliminary and Final Approval of the Parties' Settlement Agreement, and all terms and conditions thereof, without material changes, material amendments, or material modifications (except to the extent such changes, amendments, or modifications are agreed to in writing by the Parties).

a. Termination based on lack of Preliminary or Final Approval. Either Party may elect to terminate the Settlement upon written notice to the other Party, within twenty-one (21) Days of any of the following "Termination Events": (i) if the Court refuses to grant Preliminary Approval or Final Approval of the Settlement Agreement; (ii) if the Court's order(s) granting Preliminary Approval or Final Approval of the Settlement Agreement include substantial or material changes, amendments, or modifications of the terms and conditions of the Settlement Agreement; (iii) if the Court's order(s) granting Preliminary Approval or Final Approval of the Settlement Agreement are substantially or materially modified, reversed or vacated on appeal; or (iv) if the Court refuses to enter a Final Judgment as to OPIS in any substantial or material respect.

b. No Termination Due to Attorneys' Fees or Award. Notwithstanding the preceding subsection, and for the avoidance of doubt, the Parties may not terminate this Settlement because of the amount of any attorneys' fees or costs awards authorized by the Court; and any modification, reduction or rejection of the attorneys' fees or costs awarded by the Court, or any appellate court, shall not be a Termination Event, or in any way a basis for termination or rescission of this Agreement.

c. Termination Based on Exclusion Limit. Further, as an additional Termination Event to those defined in Paragraph 18(a), OPIS may in its sole discretion terminate this Settlement if the opt outs exceed a threshold set forth in a confidential letter agreement which shall be made available *in camera* to the Court upon request.

d. Termination Based on NCSP Settlement Termination. The Parties acknowledge that, as of the Execution Date of this Settlement Agreement, OPIS also has reached a settlement with the NCSP Class, as defined by the NCSP Class Amended Complaint filed October 30, 2024 (ECF No. 179) and led by Interim Co-Lead Counsel from Scott+Scott Attorneys at Law LLP and Lockridge Grindal Nauen PLLP, pursuant to the Court's October 17, 2024 Order (ECF No. 164). The Parties to this Settlement Agreement agree that full and final approval of OPIS's settlement agreement with the NCSP Class is a material term and condition of this Settlement Agreement, and the Court's entry of Final Approval and Final Judgment concerning this Settlement Agreement is a material term and condition of OPIS's settlement agreement with the NCSP Class. As additional Termination Events to those defined in Paragraphs 18(a) and (c), if OPIS's separate NCSP Settlement Agreement with the NCSP Class is terminated for any reason and/or any of the following events occur, then OPIS may in its sole discretion terminate this Settlement with the DPP and DPP Settlement Class: (i) if Preliminary Approval or Final Approval of OPIS's separate NCSP Settlement Agreement with the NCSP Class is not granted by the Court,

or (ii) if the Court's order(s) granting Preliminary Approval or Final Approval of the NCSP Settlement Agreement include substantial or material changes, substantial or material amendments, or substantial or material modifications of the terms and conditions of the NCSP Settlement Agreement; or (iii) if the Court's order(s) granting Preliminary Approval or Final Approval of the NCSP Settlement Agreement are substantially or materially modified, reversed or vacated on appeal; or (iv) if the Court refuses to enter a Final Judgment as to OPIS in connection with the NCSP Settlement in any substantial or material respect, or (v) if the trigger for termination based on opt-out claims provided in the NCSP Settlement Agreement is met and OPIS terminates the NCSP Settlement Agreement.

19. Effect of Disapproval or Termination. In the event that the Settlement is terminated by either Party in accordance with any of the Termination Events set forth in Paragraph 18, the Settlement Agreement shall become null and void, any Preliminary Approval entered by the Court and all of its provisions shall be vacated by its own terms, any certification of a DPP Settlement Class for settlement purposes will be vacated, and the Parties will be restored to their respective positions as if no Settlement had occurred, unless the Parties mutually agree in writing to proceed with the Settlement Agreement or to modify the Settlement Agreement to cure the reason for any rejection, denial, modification, non-affirmance, or alteration by the Court or any appellate court. Further, in the event of termination by either Party under the terms of Paragraph 18 of this Agreement, no term of the Settlement Agreement or any draft thereof, or any aspect of the negotiation, documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect, nor shall any such matter be admissible in evidence for any purpose in any proceeding, and all funds in the Escrow Account shall be returned to OPIS within ten (10) Days of written notice of termination, except any Settlement Funds used for Notice and Administration purposes that are nonrefundable pursuant to Paragraph 6(h), and the Parties' positions shall be returned to the status quo ante.



20. Choice of Law and Dispute Resolution.

a. Any disputes relating to this Settlement Agreement shall be governed by Illinois law without regard to conflicts of law provisions. Any and all disputes regarding this Settlement Agreement, including any aspect of its breadth, scope or interpretation and applicability, or the finalization of settlement documentation, will be mediated in good faith before a mutually agreed-upon mediator before any suit, action, proceeding, or dispute, may be filed in the Court pursuant to Paragraphs 16 and 21.

b. To the extent that the Court does not grant Preliminary Approval, the Parties will negotiate in good faith to modify the Settlement Agreement directly or with the assistance of a mutually agreed settlement mediator, and will endeavor in good faith to resolve any issues to the satisfaction of the Court.

21. Consent to Jurisdiction. The Parties and any Releasing Parties hereby irrevocably submit to the exclusive jurisdiction of this Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement, or the applicability of this Settlement Agreement. Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning the provisions of Paragraphs 14–16, including but not limited to, any suit, action, or proceeding in which the provisions of Paragraphs 14–16 are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, constitutes a suit, action, or proceeding arising out of or relating to this Settlement Agreement. In the event that the provisions of Paragraphs 14–16 are asserted by any OPIS Released Party as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection in any suit, action or proceeding, it is hereby agreed that such OPIS Released Party shall be entitled to a stay of that suit, action, or proceeding until the mediation required by Paragraph 20 is complete. Solely for purposes of such suit, action, or proceeding, to the fullest extent that they may effectively do so under applicable law, the Parties and any Releasing Parties

irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim or objection that they are not subject to the in personam jurisdiction of the Court. Nothing shall be construed as a submission to jurisdiction for any purpose other than enforcement of this Settlement Agreement.

22. Costs Relating to Administration. The OPIS Released Parties shall have no responsibility or liability relating to the administration, investment, or distribution of the Settlement Fund.

23. Binding Effect. This Settlement Agreement constitutes a binding, enforceable agreement as to the terms contained herein. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors, assigns, and heirs of the Parties, DPP Settlement Class members, the Releasing Parties, and the OPIS Released Parties. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the DPP shall be binding upon all members and potential members of the DPP Settlement Class and Releasing Parties who have not validly excluded themselves from the DPP Settlement Class.

24. Sole Remedy. This Settlement Agreement shall provide the sole and exclusive remedy for any and all Released Claims against any OPIS Released Party, and upon entry of Final Judgment, the Releasing Parties shall be forever barred from initiating, asserting, maintaining, or prosecuting any and all Released Claims against any OPIS Released Party.

25. Counsel's Express Authority. Each counsel signing this Settlement Agreement on behalf of a Party or Parties has full and express authority to enter into all of the terms reflected herein on behalf of each and every one of the clients for which counsel is signing.

26. Admissibility to Enforce Agreement. It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement.

27. Notices. All notices under this Settlement Agreement shall be in writing. Each such notice shall be given either by: (a) hand delivery; (b) registered or certified mail, return receipt requested, postage pre-paid; or (c) Federal Express or similar overnight courier, and, in the case of either (a), (b) or (c) shall be addressed:

If directed to DPP, the DPP Settlement Class, or any member of the Settlement Class, to:

Robert N. Kaplan  
KAPLAN FOX & KILSHEIMER LLP  
800 Third Avenue, 38th Floor  
New York, New York 10022  
T: (212) 687-1980  
Email: [rkaplan@kaplanfox.com](mailto:rkaplan@kaplanfox.com)

If directed to OPIS, to:

Brian O'Bleness  
DENTONS US LLP  
1900 K. St. NW  
Washington, D.C. 20006  
T: (202) 408-3255  
Email: [brian.obleness@dentons.com](mailto:brian.obleness@dentons.com)

AND

Natalie J. Spears  
DENTONS US LLP  
233 South Wacker Drive, Suite 5900  
Chicago, Illinois 60606  
T: (312) 876-8000  
Email: [natalie.spears@dentons.com](mailto:natalie.spears@dentons.com)

or such other address as the Parties may designate, from time to time, by giving notice to all Parties hereto in the manner described in this Paragraph. The Parties shall also provide courtesy copies of all notices by electronic mail.

28. No Admission. Whether or not Preliminary Approval is granted, Final Judgment is entered, or this Settlement Agreement is terminated, the Parties expressly agree that this Settlement Agreement and its contents, and any and all statements, negotiations, documents, and

discussions associated with it, are not and shall not be deemed or construed to be an admission of liability or wrongdoing by any Party or OPIS Released Party.

29. No Unstated Third-Party Beneficiaries. Except as expressly stated in this Settlement Agreement, no provision of this Settlement Agreement shall provide any rights to, or be enforceable by, any person or entity that is not a OPIS Released Party, DPP, member of the DPP Class, or Interim Lead Counsel.

30. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation, or construction that would or might cause any provision to be construed against the drafter hereof.

31. Amendment and Waiver. This Settlement Agreement shall not be modified in any respect except by a writing executed by the Parties, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Settlement Agreement. This Settlement Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Settlement Agreement.

32. Execution in Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute a single agreement. DocuSign, Facsimile or Electronic Mail signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the Court.

33. Integrated Agreement. This Settlement Agreement comprises the entire, complete, and integrated agreement between the Parties, and supersedes all prior and contemporaneous



undertakings, communications, representations, understandings, negotiations, drafts, term sheets, and discussions, either oral or written, between the Parties, and reflects the final and binding agreement between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

34. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties and reflects a settlement that was reached voluntarily, and no Party has entered this Settlement Agreement as the result of any coercion or duress.

35. Confidentiality of Agreement. The Parties agree to keep the terms of the Settlement Agreement confidential until such time as DPP seeks Preliminary Approval of the Settlement in the Action. The Parties further agree to continue to maintain the confidentiality of all settlement discussions communications exchanged in the course of reaching and entering into this Settlement.

\* \* \* \* \*

IN WITNESS WHEREOF, the Parties, individually or through their duly authorized representatives, enter into this Settlement Agreement on the Execution Date.

**[SIGNATURES ON NEXT PAGE]**



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Robert N. Kaplan  
KAPLAN FOX & KILSHEIMER LLP  
800 Third Avenue, 38th Floor  
New York City, New York 10022  
T: (212) 687-1980  
Email: [rkaplan@kaplanfox.com](mailto:rkaplan@kaplanfox.com)

***Interim Lead Counsel for Direct Purchaser  
Class Plaintiffs***

Dated: 5/16/2025

130356970

DocuSigned by:

*Brian Crotty*

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***Defendant Oil Price Information Service,  
LLC***

***By: Brian Crotty***

***Its: General Manager***

Dated: 5/16/2025



Robert N. Kaplan  
KAPLAN FOX & KILSHEIMER LLP  
800 Third Avenue, 38th Floor  
New York City, New York 10022  
T: (212) 687-1980  
Email: [rkaplan@kaplanfox.com](mailto:rkaplan@kaplanfox.com)

*Interim Lead Counsel for Direct Purchaser  
Class Plaintiffs*

Dated: 5/16/2025

130356970

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*Defendant Oil Price Information Service,  
LLC*

*By: Brian Crotty*

*Its: General Manager*

Dated: 5/16/2025

# **EXHIBIT B**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE: BROILER CHICKEN ANTITRUST LITIGATION	Case No. 1:16-cv-08637
THIS DOCUMENT RELATES TO:  DIRECT PURCHASER ACTION	

**ORDER PRELIMINARILY APPROVING PROPOSED  
SETTLEMENT BETWEEN DIRECT PURCHASER PLAINTIFF CLASS  
AND FIELDALE FARMS CORPORATION AND CONDITIONALLY CERTIFYING  
THE PROPOSED SETTLEMENT CLASS**

**THIS CAUSE** came before the Court on the Direct Purchaser Plaintiff Class’s Motion For Preliminary Approval Of Settlement Between Direct Purchaser Plaintiff Class And Fieldale Farms Corporation And For Conditional Certification Of The Proposed Settlement Class. Direct Purchaser Plaintiffs (“Plaintiffs”) have entered into a Settlement Agreement with Defendant Fieldale Farms Corporation (“Settling Defendant” or “Fieldale Farms”). The Court, having reviewed the Motion, its accompanying memorandum, and the exhibits thereto, the Settlement Agreement, and the file, hereby:

**ORDERS AND ADJUDGES:**

Preliminary Approval of Settlement Agreement

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreement. Upon review of the record, the Court finds that the proposed Settlement Agreement, which was arrived at by arm’s-length negotiations by highly experienced counsel, falls within the range of possible approval and is hereby preliminarily approved, subject to further consideration at



the Court's Fairness Hearing. The Court preliminarily finds that the Settlement encompassed by the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class, raises no obvious reasons to doubt its fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that Notice of the Settlement should be given.

#### Class Certification

2. This Court certifies a Settlement Class defined as:

All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until the date of this Preliminary Approval Order. Specifically excluded from this Class are the Defendants, the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Class are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

The Court appoints the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson, Simon & Warshaw, LLP as co-lead counsel for the Settlement Class.

#### Class Notice and Fairness Hearing

3. Co-Lead Counsel for Plaintiffs shall submit for the Court's approval a Motion to Approve a Plan of Notice of Settlement for this and any other settlements at an appropriate time prior to moving for final approval of the Fieldale Farms Settlement Agreement.

4. Co-Lead Counsel shall identify a date in consultation with the Court for the Final Approval Hearing concerning the Fieldale Farms Settlement Agreement and any other Settlement Agreements included in the Plan of Notice.

Other Provisions

6. Terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used as defined in the Settlement Agreement.

7. In aid of the Court's jurisdiction to implement and enforce the proposed Settlement, as of the date of entry of this Order, Plaintiffs and all members of the Class shall be preliminarily enjoined from commencing or prosecuting any action or other proceeding against the Settling Defendant asserting any of the Claims released in Section II(B) of the Settlement Agreement pending final approval of the Settlement Agreement or until such time as this Court lifts such injunction by subsequent order.

8. If the Settlement Agreement is terminated in accordance with its provisions, or is not approved by the Court or any appellate court, then the Settlement Agreement and all proceedings in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in the Settlement Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendant, and the members of the Class.

9. If the Settlement Agreement is terminated or is ultimately not approved, the Court will modify any existing scheduling orders as necessary to ensure that the Plaintiffs and Settling Defendant will have sufficient time to prepare for the resumption of litigation.

**IT IS SO ORDERED.**



DATED: August 18, 2017

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HON. THOMAS M. DURKIN  
United States District Judge

# **EXHIBIT C**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE SURESCRIPTS ANTITRUST  
LITIGATION

This Document Relates To:

All Class Actions

Civil Action No. 1:19-cv-06627

Honorable John J. Tharp Jr.

Magistrate Judge Susan E. Cox

**PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT WITH  
DEFENDANT RELAYHEALTH, FOR CERTIFICATION OF THE PROPOSED  
SETTLEMENT CLASS, FOR APPROVAL TO NOTIFY THE SETTLEMENT CLASS,  
AND FOR RELATED RELIEF**



## **I. INTRODUCTION**

Plaintiffs have reached a proposed settlement of their claims with Defendant NDCHealth Corporation d/b/a RelayHealth (“RelayHealth”).<sup>1</sup> Pursuant to the Settlement Agreement, within 30 days of the Effective Date of the Settlement Agreement, RelayHealth will pay the sum of \$10 million (\$10,000,000.00) in United States dollars into escrow for the benefit of the Settlement Class, and prior to and thereafter will provide material cooperation to Plaintiffs in this litigation.

Plaintiffs now move the Court to preliminarily approve the Settlement Agreement, certify the proposed Settlement Class and appoint Interim Co-Lead Counsel as co-lead counsel for the Settlement Class, and approve a program to notify members of the Settlement Class of this settlement. Plaintiffs also ask the Court to appoint Angeion Group (“Angeion”) as the notice and claims administrator for Plaintiffs in this case, and to appoint The Huntington National Bank (“Huntington”) as the escrow agent and provide escrow services in this litigation. At the Final Fairness Hearing, Interim Co-Lead Counsel will request entry of a final order and judgment (“Final Order”) consistent with the Settlement Agreement, dismissing with prejudice all claims against RelayHealth and retaining jurisdiction for the implementation and enforcement of the Settlement Agreement.

## **II. BACKGROUND**

Plaintiffs are pharmacies and bring this action under Sections 1 and 2 of the Sherman Act to restrain anticompetitive conduct by Surescripts, the nation’s largest provider of e-prescribing services, and to remedy the harms of its decade-long anticompetitive scheme. Plaintiffs contend that Surescripts maintained its dominant status and high pricing in the e-prescription routing and

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<sup>1</sup> The Settlement Agreement is attached hereto as Exhibit A to Declaration of W. Joseph Bruckner (hereinafter, “Settlement” or “Settlement Agreement”).

eligibility markets through an anticompetitive scheme aided by Defendants RelayHealth and Allscripts, which effectively foreclosed more than 70% of the markets.

Plaintiffs filed a Consolidated Class Action Complaint on December 5, 2019. (ECF No. 52.) On January 31, 2020, all Defendants moved to dismiss Plaintiffs' complaint. (ECF Nos. 76-77, 78-79, 80-81.) Plaintiffs opposed these motions on February 28, 2020 (ECF No. 90), and Defendants replied on June 12, 2020. (ECF Nos. 109, 110, 111.) RelayHealth's motion has been held in abeyance pending approval of the Settlement Agreement. The motions of the remaining Defendants have been argued and are *sub judice*.

Since filing their initial complaint, Plaintiffs have continued their investigation into the conspiracy they allege. In addition to the payment of money, under the Settlement Agreement RelayHealth will cooperate with Plaintiffs in their continued prosecution of the Action against Defendants Surescripts and Allscripts.

### **III. SUMMARY OF THE SETTLEMENT AGREEMENT**

After extensive arm's length negotiations, Plaintiffs agreed to settle with RelayHealth in return for its agreement to pay \$10 million (\$10,000,000.00) in United States dollars into escrow for the benefit of the Settlement Class, and to cooperate with Plaintiffs in their ongoing prosecution of the case. In consideration, Plaintiffs and the proposed Settlement Class agree, among other things, to release claims against RelayHealth and its affiliates, which were or could have been brought in this litigation relating to the conduct alleged in the Complaint. The release does not extend to any other Defendants or co-conspirators.

RelayHealth's cooperation includes providing Plaintiffs with documents concerning e-prescription services it produced to the Federal Trade Commission (FTC) or any other antitrust or competition authorities, meeting with Interim Co-Lead Counsel to describe in detail the principal

facts known to RelayHealth, and providing interviews, depositions, and other testimony. (*See* Settlement Agreement, § II.A.)

#### **IV. STANDARDS APPLICABLE TO PRELIMINARY APPROVAL OF THE PROPOSED SETTLEMENT**

There is an overriding public interest in settling litigation, and this is particularly true in class actions. *See Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996) (“Federal courts naturally favor the settlement of class action litigation.”); *E.E.O.C. v. Hiram Walker & Sons, Inc.*, 768 F.2d 884, 888-89 (7th Cir. 1985), *cert. denied*, 478 U.S. 1004 (1986) (noting that there is a general policy favoring voluntary settlements of class action disputes); *Armstrong v. Bd. of Sch. Dirs.*, 616 F.2d 305, 312 (7th Cir. 1980) (“It is axiomatic that the federal courts look with great favor upon the voluntary resolution of litigation through settlement.”), *overruled on other grounds*, *Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998). Class action settlements minimize the litigation expenses of the parties and reduce the strain such litigation imposes upon already scarce judicial resources. *Armstrong*, 616 F.2d at 313 (citing *Cotton v. Hinton*, 559 F.2d 1326, 1331 (5th Cir. 1977)). However, a class action may be settled only with court approval. Before the court may give its final approval, all class members must be given notice of the proposed settlement in the manner the court directs. Fed. R. Civ. P. 23(e).

Generally, before directing that notice be given to the class members, the court makes a preliminary evaluation of the proposed class action settlement. The Manual For Complex Litigation (Fourth) § 21.632 (2004) explains:

Review of a proposed class action settlement generally involves two hearings. First counsel submit the proposed terms of settlement and the judge makes a preliminary fairness evaluation . . . . The Judge must make a preliminary determination on the fairness, reasonableness and adequacy of the settlement terms and must direct the preparation of notice of the . . . proposed settlement, and the date of the [formal Rule 23(e)] fairness hearing.

*See also* 2 NEWBERG ON CLASS ACTIONS, §11.24 (3d ed. 1992); *see also Armstrong*, 616 F.2d at 314.

The standard for final approval of a class action settlement is whether the proposed settlement is fair, reasonable, and adequate. Fed. R. Civ. P. 23(e)(2). In weighing a grant of preliminary approval, courts must determine whether “giving notice is justified by the parties’ showing that the court will likely be able to: (i) approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B)(i–ii).

#### **V. THE COURT IS LIKELY TO APPROVE THE SETTLEMENT UNDER 23(e)(2)**

To determine whether to approve a proposed settlement under Rule 23(e)(2), courts look to the factors in the text of Rule 23(e)(2), which a court must consider when weighing final approval. *See* Fed. R. Civ. P. 23(e)(2) (“If the proposal would bind class members, the court may approve it only after a hearing and only on finding that it is fair, reasonable, and adequate after considering” the factors set forth in Rule 23(e)(2).); *see, e.g., In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 28 (E.D.N.Y. 2019). Rule 23(e)(2) requires courts to consider whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
  - (i) the costs, risks, and delay of trial and appeal;
  - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims, if required;
  - (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and
  - (iv) any agreement required to be identified under Rule 23(e)(3); and



(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2). Factors (A) and (B) under Rule 23(e)(2) constitute the “procedural” analysis factors, and examine “the conduct of the litigation and of the negotiations leading up to the proposed settlement.” Fed. R. Civ. P. 23 advisory committee’s note to 2018 amendment. Factors (C) and (D) under Rule 23(e)(2) constitute the “substantive” analysis factors, and examine “[t]he relief that the settlement is expected to provide to class members....” *Id.*

Because the proposed settlement meets all factors under Rule 23(e)(2), the Court will likely grant final approval of the proposed settlement, and thus the proposed settlement should be preliminarily approved.

# **1. The Class Representatives and Class Counsel Have Adequately Represented the Class**

Fed. R. Civ. P. 23(e)(2)(A) requires that “the class representatives and class counsel have adequately represented the class.” Adequacy is measured by a two-part test: (i) the named plaintiffs cannot have claims in conflict with other class members, and (ii) the named plaintiffs and proposed class counsel must demonstrate their ability to litigate the case vigorously and competently on behalf of named and absent class members alike. *See Kohen v. Pacific Inv. Mgmt.*, 571 F.3d 672, 679 (7th Cir. 2009).

Both requirements are satisfied here. The interests of the Settlement Class members are aligned with those of the representative Plaintiffs. Plaintiffs, like all Settlement Class members, share an overriding interest in obtaining the largest possible monetary recovery and as fulsome cooperation as possible. *See, e.g., In re Community Bank of N. Virginia Mortg. Lending Practices Litig.*, 795 F.3d 380, 394 (3d Cir. 2015) (no fundamental intra-class conflict to prevent class certification where all class members pursuing damages under the same statutes and the same theories of liability); *In re Corrugated Container Antitrust Lit.*, 643 F.2d 195, 222 (5th Cir. 1981),

cert. denied, 456 U.S. 998 (1982) (certifying settlement class and holding that “so long as all class members are united in asserting a common right, such as achieving the maximum possible recovery for the class, the class interests are not antagonistic for representation purposes”). Representative Plaintiffs are not afforded any special compensation by this proposed Settlement and all Settlement Class members similarly share a common interest in obtaining RelayHealth’s early and substantial cooperation to prosecute this case.

Moreover, Plaintiffs and their counsel will continue to litigate this case vigorously and competently. As they demonstrated when they sought appointment, Interim Co-Lead Counsel are qualified, experienced, and thoroughly familiar with antitrust class action litigation.<sup>2</sup> As they respectfully submit has been demonstrated by their conduct to date, Interim Co-Lead Counsel have diligently represented the interests of the class in this litigation and will continue to do so. Accordingly, the Representative Plaintiffs and Interim Co-Lead Counsel have adequately represented the class.

## **2. The Settlement is Fair and Resulted from Arm’s-Length Negotiations**

Fed. R. Civ. P. 23(e)(2)(B) requires that “the proposal was negotiated at arm’s length.” There is usually an initial presumption that a proposed settlement is fair and reasonable when it was the result of arm’s-length negotiations. *See* 2 NEWBERG ON CLASS ACTIONS, § 11.40 at 451 (2d ed. 1985); *Goldsmith v. Tech. Solutions Co.*, No. 92-C-4374, 1995 WL 17009594, at \*3 n.2 (N.D. Ill. Oct. 10, 1995) (“[I]t may be presumed that the agreement is fair and adequate where, as here, a proposed settlement is the product of arm’s-length negotiations.”). Settlements proposed by experienced counsel and which result from arm’s-length negotiations are entitled to deference

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<sup>2</sup> *See* ECF No. 47 (Plaintiffs’ Unopposed Motion for CMC Reassigning & Consolidating & Appointing Interim Lead Counsel); ECF No. 51 (Court’s Order of December 3, 2019 appointing same).

from the Court. *See, e.g., In re Linerboard Antitrust Litig.*, 292 F. Supp. 2d 631, 640 (E.D. Pa. 2003) (“A presumption of correctness is said to attach to a class settlement reached in arms-length negotiations between experienced, capable counsel after meaningful discovery.”) (quoting *Hanrahan v. Britt*, 174 F.R.D. 356, 366 (E.D. Pa. 1997)). The initial presumption in favor of such settlements reflects courts’ understanding that vigorous negotiations between seasoned counsel protect against collusion and advance the fairness concerns of Rule 23(e). In making the determination as to whether the proposed settlement is fair, reasonable, and adequate, the Court necessarily will evaluate the judgment of the attorneys for the parties regarding the “strength of plaintiffs’ case compared to the terms of the proposed settlement.” *In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 346 (N.D. Ill. 2010).

The proposed Settlement plainly meets the standards for preliminary approval. The Settlement reached here is the product of intensive arm’s-length settlement negotiations, which included several rounds of give-and-take between Interim Co-Lead Counsel and RelayHealth’s counsel. (Bruckner Decl. ¶ 6.) Based on Plaintiffs’ extensive factual investigation to date, the cooperation provisions negotiated as part of the settlement enable Plaintiffs to obtain critical additional information regarding the allegations in the Complaint. (*Id.* ¶¶ 4-6.) The parties also extensively negotiated the role of potential class opt-outs and signed a separate and confidential agreement (“Confidential Supplemental Agreement”) to address the consequences to the Settlement from potential opt-outs.<sup>3</sup> In the event that the number of opt-outs exceed the percentage specified in the Confidential Supplemental Agreement, RelayHealth shall have the right, but not the obligation, to withdraw from the settlement. Based on both the monetary and cooperation

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<sup>3</sup> A copy of the Confidential Supplemental Agreement is attached as Exhibit C to the Bruckner Declaration for review and consideration *in camera*.

elements of the Settlement Agreement, Interim Co-Lead Counsel believe this is a fair settlement for the Settlement Class. (*Id.* ¶ 10.)

Moreover, this Settlement does not affect the potential for full recovery of damages for the Class under the antitrust laws in light of the fact that the remaining Defendants will be jointly and severally liable for all injuries incurred as a result of the conspiracy Plaintiffs allege; RelayHealth’s sales remain in the case for purposes of assessing injury and damages to the Class. *See* Settlement Agreement, at 2; *see also Paper Sys. Inc. v. Nippon Paper Indus.*, 281 F.3d 629, 632 (7th Cir. 2002) (“[E]ach member of a conspiracy is liable for all damages caused by the conspiracy’s entire output.”). In addition to not affecting the overall damages, the Settlement should hasten and improve the Class’ recovery by providing Plaintiffs access to information that likely would otherwise only be obtainable through protracted discovery. *See In re Ampicillin Antitrust Litig.*, 82 F.R.D. 652, 654 (D.D.C. 1979) (approving settlement where class will “relinquish no part of its potential recovery” due to joint and several liability and where settling defendant’s “assistance in the case again [a non-settling defendant] will prove invaluable to plaintiffs”).

In addition to a monetary payment, RelayHealth will provide material cooperation to the Class as provided in the Settlement Agreement. (*See* Bruckner Decl. ¶ 8.) Courts have recognized the value of such cooperation:

[F]rom a pragmatic standpoint, the value of . . . [cooperating defendants] in litigation, as opposed to the specter of hundreds of uncooperative opponents, is significant. The [settling defendants] know far better than the plaintiff classes precisely what occurred in the [relevant] period . . . and their willingness to open their files . . . may ease the plaintiffs’ discovery burden enormously.

*In re IPO Sec. Litig.*, 226 F.R.D. 186, 198-99 (S.D.N.Y. 2005) (footnote omitted). This cooperation here is even more valuable in light of the applicability of joint and several liability to



Plaintiffs' claims. While Plaintiffs believe that their case is strong, any complex antitrust litigation is inherently costly and risky, and this Settlement mitigates that risk and protects the Class.

Conversely, RelayHealth believes its defenses are strong and that if it continued to litigate, it would succeed on the merits. RelayHealth denies that it conspired with Surescripts to allocate the alleged routing market, and RelayHealth maintains that it did nothing wrong. (*See* Settlement Agreement, Recital E, p. 2) But in the interests of avoiding the risk and uncertainty of trial, RelayHealth has agreed to settle; Plaintiffs believe that its contracts and dealings with Surescripts gives it valuable and unique insight into Surescripts' monopoly over e-prescription routing services alleged by Plaintiffs.

In sum, the Settlement Agreement: (1) provides substantial benefits to the class; (2) is the result of extensive good faith negotiations between knowledgeable and skilled counsel; (3) was entered into after extensive factual investigation and legal analysis; and (4) in the opinion of experienced Class Counsel, is fair, reasonable, and adequate to the Class. Accordingly, Interim Co-Lead Counsel believe that the Settlement Agreement is in the best interests of the Class Members and should be preliminarily approved by the Court.

### **3. The Relief Provided For the Class Is Substantial and Tangible**

In assessing whether the settlement provides adequate relief for the putative class under Rule 23(e)(2)(C), the Court should consider: (i) the costs, risks, and delay of trial and appeal; (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims, if required; (iii) the terms of any proposed award of attorney's fees, including timing of payment; and (iv) any agreement required to be identified under Rule 23(e)(3). Fed. R. Civ. P. 23(e)(2)(C)(i–iv).

“Settlement is favored if settlement results in substantial and tangible present recovery, without the attendant risk and delay of trial.” *See, e.g., In re Payment Card Interchange Fee and*

*Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 36 (E.D.N.Y. 2019) (citations omitted). Here, for the reasons described above in Section V(2), the settlement is fair and resulted from arm's-length negotiations. Counsel thoroughly evaluated the relative strengths and weaknesses of the respective litigation positions, and determined that the settlement brings substantial benefits to the proposed class at an early stage in the litigation, and avoids the delay and uncertainty of continuing protracted litigation with RelayHealth. (See Bruckner Decl. ¶¶ 5-10.) Plaintiffs have proposed an effective method of notice to the proposed Settlement Class used previously by experienced counsel (see Section VII below). In addition, during negotiations there was no discussion, let alone agreement, regarding the amount of attorneys' fees Plaintiffs' counsel ultimately may ask the Court to award in this case, and Plaintiffs' counsel are not seeking fees at this time. (Bruckner Decl. ¶ 7). The benefits of settlement outweigh the costs and risks associated with continued litigation with RelayHealth, and weigh in favor of granting final approval.

#### **4. The Proposal Treats Class Members Equitably Relative to Each Other**

Consideration under this Rule 23(e)(2) factor "could include whether the apportionment of relief among class members takes appropriate account of differences among their claims, and whether the scope of the release may affect class members in different ways that bear on the apportionment of relief." Fed. R. Civ. P. 23 advisory committee's note to 2018 amendment.

Here, representative Plaintiffs are treated the same as all other Class members in this proposed Settlement, and all Class members similarly share a common interest in obtaining RelayHealth's early and substantial cooperation to prosecute this case. The release applies uniformly to putative class members, and does not affect the apportionment of the relief to class members. Accordingly, this factor will likely weigh in favor of granting final approval. *See, e.g., In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 47 (E.D.N.Y. 2019).

## VI. THE COURT SHOULD CERTIFY THE PROPOSED SETTLEMENT CLASS

In order to preliminarily approve the settlement proposals, the Court must also find that it will likely be able to certify the class for purposes of judgment on the proposal. Fed. R. Civ. P. 23(e)(1)(B)(i–ii).

Under Rule 23, class actions may be certified for settlement purposes only. *See, e.g., Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). Certification of a settlement class must satisfy each requirement set forth in Rule 23(a), as well as at least one of the separate provisions of Rule 23(b). *Id.* at 613–14; *see also In re Cmty. Bank of N. Va.*, 418 F.3d 277, 299 (3d Cir. 2005) (“[C]ertification of classes for settlement purposes only [is] consistent with Fed. R. Civ. P. 23, provided that the district court engages in a Rule 23(a) and (b) inquiry[.]”).

Plaintiffs seek certification of a Settlement Class consisting of:

All pharmacies in the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 through the date of Preliminary Approval. Excluded from the Settlement Class are Defendants and their officers, directors, management, employees, parents, owners, subsidiaries, or affiliates, and all governmental entities.

(Settlement Agreement, § II.E.2; Addendum to Settlement Agreement.) As detailed below, this proposed Settlement Class meets the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(3).

### A. The Requirements of Rule 23(a) are Satisfied

#### 1. Numerosity

Fed. R. Civ. P. 23(a)(1) requires that the class be so numerous as to make joinder of its members “impracticable.” No magic number satisfies the numerosity requirement, however, “a class of more than 40 members is generally believed to be sufficiently numerous for Rule 23 purposes.” *Schmidt v. Smith & Wollensky LLC*, 268 F.R.D. 323, 326 (N.D. Ill. 2010) (citations

omitted). The proposed Settlement Class consists of pharmacies throughout the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 to the Date of Preliminary Approval. Based on their investigation, Interim Co-Lead Counsel believe there are thousands of entities that fall within the Settlement Class definition. Thus, joinder would be impracticable and Rule 23(a)(1) is satisfied.

## **2. Common Questions of Law and Fact**

Fed. R. Civ. P. 23(a)(2) requires that there be “questions of law or fact common to the class.” Plaintiffs must show that resolution of an issue of fact or law “is central to the validity of each” class member’s claim and “[e]ven a single [common] question will” satisfy the commonality requirement. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011).

A central allegation in the Complaint is that Defendants illegally conspired to monopolize and conspired to eliminate competition in the routing market, thereby increasing prices to Plaintiffs and the Proposed Class. Proof of this conspiracy will be common to all Class members. *See, e.g., Thillens, Inc. v. Cmty. Currency Exch. Ass’n*, 97 F.R.D. 668, 677 (N.D. Ill. 1983) (“The overriding common issue of law is to determine the existence of a conspiracy.”). In addition to that overarching question, this case is replete with other questions of law and fact common to the Settlement Class including: (1) Whether Surescripts willfully obtained and maintained market power over e-prescription routing; (2) Whether Surescripts unlawfully excluded competitors and potential competitors from the markets for routing and eligibility; (3) Whether Surescripts has any legally cognizable procompetitive benefit that could not have been achieved using a means with less restrictions on competition, and if so, whether the anticompetitive effect of Surescripts’ misconduct nonetheless outweighs the procompetitive benefit; (4) Whether Surescripts entered into an illegal agreement with other Defendants not to compete and to allocate the routing market to Surescripts; (5) Whether the unlawful scheme alleged herein has substantially affected interstate

commerce; (6) Whether Defendants' anticompetitive conduct caused antitrust impact to Plaintiffs and members of the class; and (7) The quantum of aggregate overcharge damages to the class. Accordingly, the Settlement Class satisfies Rule 23(a)(2).

### **3. Typicality**

Fed. R. Civ. P. 23(a)(3) requires that the class representatives' claims be "typical" of class members' claims. "[T]ypicality is closely related to commonality and should be liberally construed." *Saltzman v. Pella Corp.*, 257 F.R.D. 471, 479 (N.D. Ill. 2009) (citations omitted). Typicality is a "low hurdle," requiring "neither complete coextensivity nor even substantial identity of claims." *Owner-Operator Indep. Drivers' Ass'n v. Allied Van Lines, Inc.*, 231 F.R.D. 280, 282 (N.D. Ill. 2005). When "the representative party's claim arises from the same course of conduct that gives rise to the claims of other class members and all of the claims are based on the same legal theory," factual differences among class members do not defeat typicality. *Id.*

Plaintiffs here allege Defendants illegally conspired to monopolize and eliminate competition in the routing market thereby increasing prices to Plaintiffs and the Proposed Class. The named class representative Plaintiffs will have to prove the same elements that absent Settlement Class members would have to prove, *i.e.*, the existence and impact of such conspiracy. Because the representative Plaintiffs' claims arise out of the same alleged illegal anticompetitive conduct and are based on the same alleged theories and will require the same types of evidence to prove those theories, the typicality requirement of Rule 23(a)(3) is satisfied.

### **4. Adequacy**

For the reasons mentioned above in Section V(1), the class representatives and class counsel have adequately represented the class.



**B. The Proposed Settlement Class Satisfies Rule 23(b)(3)**

Once Rule 23(a)'s four prerequisites are met, Plaintiffs must show the proposed Settlement Class satisfies one of the provisions of Rule 23(b). The proposed Settlement satisfies Rule 23(b)(3) by showing that “questions of law or fact common to class members predominate over any questions affecting only individual members, and that a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” As to predominance, “[c]onsiderable overlap exists between the court’s determination of commonality and a finding of predominance. A finding of commonality will likely satisfy a finding of predominance because, like commonality, predominance is found where there exists a common nucleus of operative facts.” *Saltzman*, 257 F.R.D. at 484.

In antitrust conspiracy cases such as this one, courts consistently find that common issues of the existence and scope of the conspiracy predominate over individual issues, which follows from the central nature of a conspiracy in such cases. *Hughes v. Baird & Warner, Inc.*, No. 76 C 3929, 1980 WL 1894, at \*3 (N.D. Ill. Aug. 20, 1980) (“Clearly, the existence of a conspiracy is the common issue in this case. That issue predominates over issues affecting only individual sellers.”); *see also Amchem*, 521 U.S. at 625 (“Predominance is a test readily met in certain cases alleging consumer or securities fraud or violations of the antitrust laws.”).

Plaintiffs must also show that a class action is superior to individual actions, which is evaluated by four considerations:

(A) the interest of the members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the litigation of the claims in the particular forum; (D) the difficulties likely to be encountered in the management of the class action.

Fed. R. Civ. P. 23(b)(3).

Here, any Class member's interest in individually controlling the prosecution of separate claims is outweighed by the efficiency of the class mechanism. Thousands of entities paid for routing services during the class period; settling these claims in the context of a class action conserves both judicial and private resources and hastens Class members' recovery. Finally, while Plaintiffs see no management difficulties in this case, Plaintiffs do not believe that this final consideration is pertinent to approving the proposed settlement class. *See Amchem*, 521 U.S. at 620 ("Confronted with a request for settlement-only class certification, a district court need not inquire whether the case, if tried, would present intractable management problems . . . for the proposal is that there be no trial.").

Accordingly, the proposed class action is superior to other available methods (if any) for the fair and efficient adjudication of the controversy relating to RelayHealth.

## **VII. APPOINTMENT OF THE NOTICE ADMINISTRATOR AND APPROVAL OF THE PROPOSED NOTICE TO THE CLASS**

Rule 23(e) requires that prior to final approval, notice of a proposed settlement be given in a reasonable manner to all class members who would be bound by such a settlement. For a class proposed under Rule 23(b)(3), whether litigated or by virtue of a settlement, Rule 23(c)(2)(B) states: The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). The form of notice is "adequate if it may be understood by the average class member." 4 Newberg on Class Actions § 11.53 (4th ed. 2002) ("Newberg"). Notice to class members must be "the best notice that is practicable under the circumstances, including

individual notice to all members who can be identified through reasonable effort.” *Amchem Prods.*, 521 U.S. at 617 (quoting Fed. R. Civ. P. 23(c)(2)).

Plaintiffs propose that Angeion Group (“Angeion”) be appointed by the Court to serve as the Settlement Administrator in this case. Angeion was selected by Co-Lead Counsel after a competitive bidding process. A comprehensive summary of judicial recognition Angeion has received is attached to the Declaration of Steven Weisbrot submitted in support of this motion, as Exhibit A, and Angeion’s diversity and inclusion statement is attached to the Declaration as Exhibit B.

Plaintiffs further propose a plan of notice that comports with due process and provides reasonable notice to all known and reasonably identifiable customers of Defendants—settling and non-settling Defendants alike. The class notice documents—consisting of long form notice, email notice, publication notice, postcard notice, and a press release—comply with the requirements of Rule 23(c)(2)(B). (These proposed notices are attached to the Bruckner Declaration as Exhibit D (long form notice), Exhibit E (email notice), Exhibit F (publication notice), Exhibit G (postcard notice), and Exhibit H (press release).) The notice documents define the settlement class, describe the nature of the action, summarize the class claims, and explain the procedure for requesting exclusion from the settlement class and objecting to the proposed settlement. The notice documents describe the terms of the settlement with Defendant RelayHealth and inform the Settlement Class Members that there is no plan of distribution at this time to qualifying Class Members. The notice documents provide that there will be a final approval hearing, and informs class members that they need not enter an appearance through counsel, but may do so if they choose. The notice documents also inform Settlement Class members how to exercise their rights to participate in, opt out of, or object to the proposed settlement, how to make informed decisions

regarding the proposed settlement, and tell class members that the settlement will be binding upon them if they do not opt out.

Plaintiffs will rely predominantly on direct mail and email “to all members who can be identified through reasonable effort.” *Amchem Prods.*, 521 U.S. at 617 (quoting Fed. R. Civ. P. 23(c)(2)). Since the class members in this case are pharmacies, the names and addresses of class members can likely be readily obtained. In addition, pursuant to the Settlement Agreement, Plaintiffs will receive documents sufficient to show the identity of pharmacies in the United States and its territories that contracted with settling defendant RelayHealth for Surescripts e-prescription routing access during the class period. This information will be supplemented by the names and addresses of class members that can be readily obtained by Angeion, which, together with the documents provided by RelayHealth, will likely be sufficient to identify all Settlement Class Members. This will enable Plaintiffs to send notice to Settlement Class members.

Once Plaintiffs receive adequate customer contact data, Angeion will analyze the data and conduct address research to verify the Settlement Class Members’ mailing addresses, updating as necessary. (Weisbrot Decl. ¶¶ 14-18.) Angeion will mail the notice via first-class U.S. mail to those Settlement Class Members. (*Id.* ¶ 14.) Angeion will employ best practices to increase the deliverability rate of the mailed Notices, including utilizing the National Change of Address database, re-mailing notices returned with forwarding addresses, and utilizing “skip tracing” to re-mail notices returned without forwarding addresses. (*Id.* ¶¶ 15-18.) Angeion will also send the email notice to all Settlement Class Members for whom email addresses are provided in the class list data. (*Id.* ¶ 19.) The email notice will provide Class Members with an electronic link to the settlement website, where they can obtain more information including the Settlement Agreement. (*Id.*)

Plaintiffs further plan to supplement the direct mail and email notice via digital publication notice, as well a custom social media campaign, print publication, and a press release. (*Id.* ¶¶ 23, 31, 35, 37.) Plaintiffs will also host an informational website with a memorable domain name, providing additional information and documents, and a toll-free number for frequently asked questions and requests for mailing of further information. (*Id.* ¶¶ 38-39.)

This proposed notice will provide full and proper notice to Class Members before the opt-out and objection deadlines, and is the best notice that is practicable under the circumstances. (*Id.* ¶ 41.) Interim Co-Lead Counsel submits that this proposed Notice goes above and beyond the requirements imposed by Fed. R. Civ. P. 23(c)(2) and 23(e), and thus should be approved.

#### **VIII. APPOINTMENT OF AN ESCROW AGENT TO MAINTAIN SETTLEMENT FUNDS**

Finally, Plaintiffs propose that The Huntington National Bank (“Huntington”) be appointed by the Court to serve as the escrow agent, maintain the Qualified Settlement Fund as called for by the parties’ Settlement Agreement (*see* Settlement Agreement, § II.C), and provide escrow services in this litigation. Huntington was selected by Co-Lead Counsel after a competitive bidding process. Huntington’s qualifications are attached to the Declaration of Robyn Griffin submitted in support of this motion, as Exhibit A, and Huntington’s diversity and inclusion statement is attached to the Declaration as Exhibit B.

#### **IX. CONCLUSION**

For these reasons, Interim Co-Lead Counsel respectfully request that the Court:

- (1) Preliminarily approve the Settlement Agreement;
- (2) Certify the proposed Settlement Class;
- (3) Appoint Interim Co-Lead Counsel as co-lead counsel for the Settlement Class;
- (4) Appoint Angeion as the notice and claims administrator;



- (5) Approve the program to notify members of the Settlement Class of this settlement; and
- (6) Appoint Huntington National Bank as the escrow agent to provide escrow services in this case.

Dated: July 29, 2020

s/Kenneth A. Wexler  
Kenneth A. Wexler  
Justin N. Boley  
Tyler J. Story  
**Wexler Wallace LLP**  
55 West Monroe St., Ste. 3300  
Chicago, IL 60603  
T: (312) 346-2222  
F: (312) 346-0022  
kaw@wexlerwallace.com  
jnb@wexlerwallace.com  
tjs@wexlerwallace.com

W. Joseph Bruckner  
Robert K. Shelquist  
Brian D. Clark  
**Lockridge Grindal Nauen P.L.L.P.**  
100 Washington Avenue South, Suite  
2200  
Minneapolis, MN 55401  
T: (612) 339-6900  
F: (612) 339-0981  
wjbruckner@locklaw.com  
rkshelquist@locklaw.com  
bdclark@locklaw.com

Tyler W. Hudson  
Eric D. Barton  
**Wagstaff & Cartmell, LLP**  
4740 Grand Avenue, Ste. 300  
Kansas City, MO 64112  
T: (816) 701-1100  
F: (816) 531-2372  
thudson@wcllp.com  
ebarton@wcllp.com

Daniel E. Gustafson

Karla M. Gluek  
Michelle J. Looby  
**Gustafson Gluek PLLC**  
120 South Sixth Street, Ste. 2600  
Minneapolis, MN 55402  
T: (612) 333-8844  
F: (612) 339-6622  
dgustafson@gustafsongluek.com  
kgluek@gustafsongluek.com  
mlooby@gustafsongluek.com

Robert N. Kaplan, Esq.  
Jeffrey P. Campisi, Esq.  
Elana Katcher, Esq.  
Matthew P. McCahill, Esq.  
**Kaplan Fox & Kilsheimer LLP**  
850 Third Ave., 14th Floor  
New York, NY 10022  
Telephone: (212) 687-1980  
rkaplan@kaplanfox.com  
jcampisi@kaplanfox.com  
ekatcher@kaplanfox.com  
mmccahill@kaplanfox.com

Eugene A. Spector  
William G. Caldes  
Jeffrey L. Kodroff  
John Macoretta  
**Spector Roseman & Kodroff, P.C.**  
2001 Market Street, Suite 3420  
Philadelphia, PA 19103  
Tel: (215) 496-0300  
espector@srkattorneys.com  
bcaldes@srkattorneys.com  
jkodroff@srkattorneys.com  
jmacoretta@srkattorneys.com

*Interim Co-Lead Counsel*

# **EXHIBIT D**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

IN RE SURESCRIPTS ANTITRUST  
LITIGATION

This Document Relates To:

All Class Actions

Civil Action No. 1:19-cv-06627

Judge John J. Tharp Jr.

Magistrate Judge Susan E. Cox

**ORDER PRELIMINARILY APPROVING SETTLEMENT  
WITH DEFENDANT RELAYHEALTH, CERTIFYING THE PROPOSED  
SETTLEMENT CLASS, APPROVING NOTIFICATION  
TO THE SETTLEMENT CLASS, AND RELATED RELIEF**

**THIS CAUSE** came before the Court on Plaintiffs’ Motion for Preliminary Approval of Settlement with Defendant RelayHealth and for Certification of the Proposed Settlement Class, for Approval to Notify the Settlement Class, and for Related Relief. Plaintiffs have reached a proposed settlement of their claims with Defendant NDCHealth Corporation d/b/a RelayHealth (“RelayHealth”). The Court, having reviewed the Motion, its accompanying memorandum, and the exhibits thereto, the Settlement Agreement, and the file, hereby:

**ORDERS AND ADJUDGES:**

Preliminary Approval of Settlement Agreement

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreement. Upon review of the record, the Court finds preliminarily that the proposed Settlement Agreement, which was arrived at by arm’s-length negotiations by highly experienced counsel, meets all factors under Rule 23(e)(2) and will therefore likely be granted final approval by the Court, subject to further consideration at the Court’s Fairness Hearing. The Court finds that the Settlement encompassed by the Settlement Agreement is preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class, raises no obvious reasons to doubt its

fairness, and raises a reasonable basis for presuming that the Settlement and its terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that Notice of the Settlement should be given.

### Class Certification

2. The Court finds, preliminarily, that the Settlement Class meets the requirements of Rule 23(a) as well as the requirements of Rule 23(b)(3). As to the requirements of Rule 23(a), the Court preliminarily finds that (1) the Settlement Class certified herein numbers thousands of entities, and joinder of all such entities would be impracticable, (2) there are questions of law and fact common to the Settlement Class; (3) Plaintiffs' claims are typical of the claims of the Settlement Class they seek to represent for purposes of settlement; and (4) Plaintiffs are adequate representatives of the Settlement Class. As to the requirements of Rule 23(b)(3), the Court preliminarily finds that the questions of law and fact common to the Settlement Class predominate over any questions affecting any individual Class Member, and that a class action on behalf of the Settlement Class is superior to other available means of adjudicating this dispute.

3. This Court preliminarily certifies a Settlement Class defined as:

All pharmacies in the United States and its territories who paid for e-prescriptions routed through the Surescripts network during the period September 21, 2010 through the date of Preliminary Approval. Excluded from the Settlement Class are Defendants and their officers, directors, management, employees, parents, owners, subsidiaries, or affiliates, and all governmental entities.

4. The Court appoints the following law firms as Co-Lead Counsel for the Settlement Class:

Kenneth A. Wexler (Committee Chair)  
Justin N. Boley  
Wexler Wallace LLP

W. Joseph Bruckner  
Brian D. Clark



Lockridge Grindal Nauen P.L.L.P.

Tyler W. Hudson  
Eric D. Barton  
Wagstaff & Cartmell, LLP

Daniel E. Gustafson  
Michelle J. Looby  
Gustafson Gluek PLLC

Robert N. Kaplan  
Elana Katcher  
Kaplan Fox & Kilsheimer LLP

Jeffrey L. Kodroff  
Spector, Roseman & Kodroff P.C.

Karin E. Garvey  
Gregory S. Asciolla  
Labaton Sucharow LLP

5. The Court appoints Angeion Group (“Angeion”) to serve as the notice and claims administrator for Plaintiffs in this case.

6. The Court appoints The Huntington National Bank (“Huntington”) to serve as the escrow agent and provide escrow services in this case.

#### Class Notice

7. The proposed notice plan set forth in Plaintiffs’ Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice via mail as well as email to all members who can be identified through reasonable effort. The notice will be supported by reasonable publication and other notice to reach class members who could not be individually identified through reasonable effort.

8. The Court approves Plaintiffs' program to notify members of the Settlement Class of this settlement.

9. The proposed notice documents and their manner of transmission comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise class members of: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as the correction of typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court. The schedule for submitting claims, requesting exclusion, opting out of the Settlement Class, objecting to the Settlement Agreement, and conducting a Fairness Hearing must be submitted to and approved by the Court before notice is issued.

10. Pursuant to the Settlement Agreement, Plaintiffs will receive from RelayHealth documents sufficient to show the identity of pharmacies in the United States and its territories that contracted with settling defendant RelayHealth for Surescripts e-prescription routing access during the class period. This information will be supplemented by the names and addresses of class members that can be readily obtained by Angeion, which, together with the documents provided by RelayHealth, will likely be sufficient to identify all Settlement Class Members.

#### Other Provisions

11. Terms used in this Order that are defined in the Settlement Agreement are, unless otherwise defined herein, used as defined in the Settlement Agreement.


12. In aid of the Court's jurisdiction to implement and enforce the proposed Settlement, as of the date of entry of this Order, Plaintiffs and all members of the Class shall be preliminarily enjoined from commencing or prosecuting any action or other proceeding against the Settling Defendant asserting any of the Claims released in Section II(B) of the Settlement Agreement pending final approval of the Settlement Agreement or until such time as this Court lifts such injunction by subsequent order.

13. The Court's preliminary certification of the Settlement Class as provided herein is without prejudice to the right of any Defendant to contest certification of any other class proposed in these consolidated actions, and the Court's findings in this Order do not bind the Court in ruling on any motion to certify other classes in these actions. No party may cite or refer to the Court's preliminary approval of this Settlement Class (or subsequent final approval of the Settlement Class) as persuasive or binding authority with respect to the certification of any other class.

14. If the Settlement Agreement is terminated or is ultimately not approved, the Court will modify any existing scheduling orders as necessary to ensure that the Plaintiffs and Settling Defendant will have sufficient time to prepare for the resumption of litigation.

**IT IS SO ORDERED.**

DATED: April 19, 2021

  
\_\_\_\_\_  
JOHN J. THARP, JR.  
United States District Judge

# **EXHIBIT E**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

*IN RE BROILER CHICKEN ANTITRUST  
LITIGATION*

Case No. 1:16-cv-08637

Hon. Thomas M. Durkin

This Document Relates To:

THE DIRECT PURCHASER PLAINTIFF  
ACTION

**CORRECTED [PROPOSED] ORDER GRANTING DIRECT PURCHASER  
PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF THE SETTLEMENTS  
WITH DEFENDANTS PECO FOODS, INC., GEORGE'S, INC., GEORGE'S FARMS,  
INC., AND AMICK FARMS, LLC**

This order corrects and replaces the order granting preliminary approval entered by the Court on December 20, 2019 (Dkt. No. 3359). This Court has held a hearing on Direct Purchaser Plaintiffs' Motion for Preliminary Approval of the Settlements With Defendants Peco Foods, Inc. ("Peco"), George's, Inc. and George's Farms, Inc. ("George's"), and Amick Farms, LLC ("Amick") ("Motion"). Direct Purchaser Plaintiffs ("Plaintiffs") have entered into Settlement Agreements with Defendants Peco, George's, and Amick (collectively "Settlement Defendants"). The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreements, and the file, hereby **ORDERS AND ADJUDGES:**

**Preliminary Approval of the Settlements and Certification of Settlement Class**

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreements. Upon review of the record, the Court finds that the proposed Settlement Agreements, which were arrived at by arm's length negotiations by highly experienced counsel, fall within the range of possible approval and are hereby preliminarily approved, subject to



further consideration at the Court's Fairness Hearing. The Court finds that the Settlements Agreements are preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Class, raise no obvious reasons to doubt their fairness, and raise a reasonable basis for presuming that the Settlements and their terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that notice of the Settlements should be given to the Settlement Class.

2. This Court certifies a Settlement Class defined as:

All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. Specifically excluded from this Class are the Defendants, the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Class are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

3. The Court appoints the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson, Simon & Warshaw, LLP as co-lead counsel for the Settlement Class.

#### **Approval of the Notice Plan**

4. The Court hereby directs notice to be distributed to the Settlement Class Members pursuant to Federal Rule of Civil Procedure ("Rule") 23(c)(2).

5. The proposed notice plan set forth in the Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice via mail and email to all members who can be identified through reasonable effort. The direct mail and email notice will be supported by reasonable publication notice to reach Settlement Class Members who could not be individually identified.

6. The attached proposed notice documents: Long Form Notice (Exhibit A), Email Notice (Exhibit B), and Summary Publication Notice (Exhibit C), and their manner of transmission, comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise Settlement Class Members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a Settlement Class Member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court.

**Schedule for Class Notice and the Fairness Hearing**

7. The Court hereby sets the below schedule for the dissemination of notice to the class, for Settlement Class Members to object to or exclude themselves from the Settlements, and for the Court's Fairness Hearing, at which time the Court will determine whether the Settlement Agreements should be finally approved as fair, reasonable, and adequate. This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting the Parties will not be required to provide any additional notice to Settlement Class Members.

<u>DATE</u>	<u>EVENT</u>
1. January 8, 2020	Settlement Administrator to provide direct mail and email notice, and commence the publication notice plan
2. March 9, 2020	Last day for Settlement Class Members to request exclusion from the Settlement Class; for Settlement Class Members to object to the Settlement; and for Settlement Class Members to file notices to appear at the Fairness Hearing
3. March 19, 2020	Class Counsel shall file with the Court a list of all persons and entities who have timely and adequately requested exclusion from the Settlement Class
4 April 3, 2020	Class Counsel shall file motion for final approval of the Settlements and all supporting papers, and Class Counsel and the Settling Defendants may respond to any objections to the proposed Settlements
5. April 17, 2020 at 9:30 a.m.	Final Settlement Fairness Hearing

#### **Other Provisions**

8. Terms used in this Order that are defined in the Settlement Agreements are, unless otherwise defined herein, used as defined in the Settlement Agreements.

9. If the Settlement Agreements are terminated or rescinded in accordance with their provisions, or otherwise do not become Final, then the Settlement Agreements and all proceedings in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in the Settlement Agreements, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendants, and the members of the Class. The parties shall also comply with any terms or provisions of the Settlement Agreements applicable to termination, rescission, or the Settlements otherwise not becoming Final.

10. Neither this Order nor the Settlement Agreements shall be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, or regulation or of any liability or wrongdoing by the Settling Defendants or of the truth of any of Plaintiffs' Claims or

allegations, nor shall it be deemed or construed to be an admission nor evidence of Settling Defendants' defenses.

11. All proceedings in the above-captioned action with respect to Settling Defendants and Plaintiffs are stayed until further order of the Court, except as may be necessary to implement the Settlements or comply with the terms thereof.

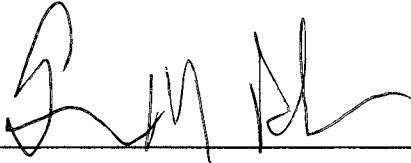
**IT IS SO ORDERED.**

DATED:

1/8/2020

Nunc Pro Tunc

12/20/2019

A handwritten signature in black ink, appearing to read "T.M. Durkin", written over a horizontal line.

HON. THOMAS M. DURKIN

# Exhibit A

## UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

**If you purchased Broiler chicken directly from a Broiler Chicken Producer in the United States from at least as early as January 1, 2008 through December 20, 2019, class action settlements may affect your rights.**

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

- Three settlements (“Settlements”) have been reached in a class action antitrust lawsuit filed on behalf of Direct Purchaser Plaintiffs (“Plaintiffs”) of Broiler chicken with the following defendants: Peco Foods, Inc. (“Peco”), George’s, Inc. and George’s Farms, Inc. (“George’s”), and Amick Farms, LLC (“Amick”) (collectively “Settling Defendants”).
- These proposed Settlements are with these three Settling Defendants only and do not dismiss claims against other Defendants. Several other defendants remain in the case, and Plaintiffs’ lawsuit will continue against them in the case entitled *In re Broiler Chicken Antitrust Litigation*, N.D. Ill. Case No. 1:16-cv-08637.
- If approved by the Court, the Settlements will resolve Plaintiffs’ claims that the Settling Defendants combined and conspired in restraint of trade, the purpose and effect of which was to suppress competition and to allow the Settling Defendants and other Broiler chicken producers to charge supra-competitive prices for Broilers during the Class Period, in violation of federal law. Settling Defendants deny all allegations of wrongdoing and damages in this lawsuit. If approved, the Settlements will avoid litigation costs and risks to Direct Purchaser Plaintiffs and the Settling Defendants, and will release the Settling Defendants from liability to the class of Direct Purchaser Plaintiffs.
- The Settlements require the Settling Defendants to pay up to the following amounts to benefit the Direct Purchaser Plaintiff Class: Peco \$5.15 million, George’s \$4.25 million, and Amick \$3.95 million (collectively \$13.35 million).
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS FOR THE SETTLEMENTS	
<b>OBJECT</b>	Write to the Court about why you don’t like the Settlements. Objections must be postmarked or received by March 9, 2020.
<b>ATTEND THE FAIRNESS HEARING</b>	Request to speak in Court about the fairness of the Settlements by providing notice by March 9, 2020.
<b>DO NOTHING</b>	You will remain part of the Settlements, and you may participate in any monetary distribution to qualified purchasers. The Settlements will resolve your claims against the Settling Defendants and you will give up your rights to sue the Settling Defendants about the legal claims in this case. You will be bound by the judgment as to these Settling Defendants.
<b>ASK TO BE EXCLUDED</b>	This is the only option that allows you ever to be part of any <i>other</i> lawsuit against the Settling Defendants about the legal claims in this case. Requests for Exclusion must be postmarked or received by March 9, 2020.

- **Questions? Read on and visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or call toll-free 1-866-552-1178.**



## WHAT THIS NOTICE CONTAINS

<b>BASIC INFORMATION.....</b>	<b>3</b>
1. Why did I receive a notice?	
2. What is this lawsuit about?	
3. What is a class action, and who is involved?	
4. Why are there settlements in this case?	
5. What if you received previous communications regarding this Lawsuit?	
<b>WHO IS IN THE SETTLEMENT CLASS.....</b>	<b>4</b>
6. Am I part of the Settlement Class?	
7. Are there exceptions to being included in the Settlement Class?	
8. I'm still not sure if I'm included.	
<b>THE SETTLEMENT BENEFITS.....</b>	<b>5</b>
9. What do the Settlements with Peco, George's, and Amick provide?	
10. What are the Settlement benefits being used for?	
11. What am I giving up by staying in the Settlement Class?	
12. What happens if I do nothing at all?	
<b>EXCLUDING YOURSELF FROM THE SETTLEMENTS.....</b>	<b>5</b>
13. How do I exclude myself from the Settlements?	
14. If I don't exclude myself, can I sue the Settling Defendants for the same thing later?	
<b>OBJECTING TO THE SETTLEMENTS.....</b>	<b>6</b>
15. How do I tell the Court that I don't like the Settlements?	
16. What is the difference between excluding myself and objecting?	
<b>THE LAWYERS REPRESENTING YOU.....</b>	<b>7</b>
17. Do I have a lawyer in this case?	
18. How will the lawyers be paid?	
<b>THE COURT'S FAIRNESS HEARING.....</b>	<b>7</b>
19. When and where will the Court decide whether to approve the Settlements?	
20. Do I have to come to the hearing?	
21. May I speak at the hearing?	
<b>GETTING MORE INFORMATION.....</b>	<b>8</b>
22. How do I get more information about the Settlements?	

## Basic Information

### 1. Why did I receive a notice?

All Defendants including the Settling Defendants produce Broiler chicken. Records from all Defendants show that you may have purchased Broiler chicken products directly from one or more Defendants for use and delivery in the United States between at least as early as January 1, 2008 and December 20, 2019. The list of Defendants is in Section 2 below and in the operative Complaint.

The Court authorized this notice because you have a right to know about the three proposed Settlements of certain claims by Direct Purchaser Plaintiffs against the Settling Defendants in this class action lawsuit and about your options before the Court decides whether to approve these settlements. If the Court approves the Settlements, and after objections and appeals are resolved, you will be bound by the judgment and terms of the Settlements. This notice explains the lawsuit, the Settlements, and your legal rights.

### 2. What is this lawsuit about?

This class action, *In re Broiler Chicken Antitrust Litigation*, N.D. Ill. Case No. 1:16-cv-08637, is pending in the United States District Court for the Northern District of Illinois. U.S. District Court Judge Thomas M. Durkin presides over this class action.

Direct Purchaser Plaintiffs allege that Defendants and their co-conspirators conspired to fix, raise, maintain, and stabilize the price of Broilers, beginning at least as early as January 1, 2008, and that their principal method for doing this was to coordinate their output and limit production, with the intent and expected result of increasing prices of Broilers in the United States, in violation of federal antitrust laws.

The Defendants and co-conspirators named in Direct Purchaser Plaintiffs' Fourth Consolidated Amended Complaint are producers of Broiler chicken and Broiler chicken products in the United States. The Defendants include: Fieldale Farms Corporation; Koch Foods, Inc.; JCG Foods of Alabama, LLC; JCG Foods of Georgia, LLC; Koch Meat Co., Inc.; Tyson Foods, Inc.; Tyson Chicken, Inc.; Tyson Breeders, Inc.; Tyson Poultry, Inc.; Pilgrim's Pride Corporation; Perdue Farms, Inc.; Perdue Foods LLC; Sanderson Farms, Inc.; Wayne Farms, LLC; Mountaire Farms, Inc.; Mountaire Farms, LLC; Mountaire Farms of Delaware, Inc.; Peco Foods, Inc.; Foster Farms, LLC; House of Raeford Farms, Inc.; Simmons Foods, Inc.; George's, Inc.; George's Farms, Inc.; O.K. Foods, Inc.; O.K. Farms, Inc.; O.K. Industries, Inc.; Claxton Poultry Farms, Inc.; Norman W. Fries, Inc.; Harrison Poultry, Inc.; Mar-Jac Poultry, Inc.; Mar-Jac Poultry MS, LLC; Mar-Jac Poultry AL, LLC; Mar-Jac AL/MS, Inc.; Mar-Jac Poultry, LLC; Mar-Jac Holdings, Amick Farms, LLC, Case Foods, Inc., Case Farms, LLC, Case Farms Processing, Inc., and Agri Stats, Inc.

The Court previously approved a settlement between the Direct Purchaser Plaintiffs and Fieldale Farms Corporation. Direct Purchaser Plaintiffs now have reached three proposed settlements with Peco, George's and Amick. The Direct Purchasers' case is proceeding against all other Defendants who have not settled the case. If applicable, you will receive a separate notice regarding the progress of the litigation and any resolution of claims against other Defendants.

The Settling Defendants vigorously and affirmatively deny all allegations of wrongdoing and damages in this lawsuit, and would allege numerous defenses to the Direct Purchaser Plaintiffs' claims if the case against them were to proceed. Nevertheless, the Settling Defendants agreed to settle this action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to this litigation, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

### 3. What is a class action, and who is involved?

In a class action lawsuit, one or more people or businesses called class representatives sue on behalf of others who have similar claims, all of whom together are a "class." Individual Settlement Class Members do not have to file a lawsuit to participate in the class action settlement, or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class.

#### **4. Why are there settlements in this case?**

The Court did not decide in favor either of Direct Purchaser Plaintiffs or the Settling Defendants. Direct Purchaser Plaintiffs believe they may have won at trial and possibly obtained a greater recovery. The Settling Defendants believe they may have won at a trial and that Plaintiffs might recover nothing against them. But trials involve risks to both sides, and therefore Direct Purchaser Plaintiffs and the Settling Defendants have agreed to settle the case. The three Settlements require Peco, George's, and Amick to pay money on behalf of the Direct Purchaser Plaintiff Settlement Class Members. Direct Purchaser Plaintiffs and their attorneys believe the Settlements are in the best interests of all Class Members.

#### **5. What if you received previous communications regarding this Lawsuit?**

A previous notice went to the Direct Purchaser Class Members regarding the Fieldale settlement. You are permitted to participate in these Settlements regardless of whether you excluded yourself from the Fieldale settlement.

You may have received other communications regarding this lawsuit, including solicitations by other attorneys seeking to represent you as a Direct Action Plaintiff in an individual lawsuit against Defendants. These communications were not approved by the Court and—unlike this notice—did not come from Court-appointed Plaintiffs' Class Counsel. You should carefully review this notice and your rights as a Class Member before deciding whether to opt out or stay in the Class. If you have questions about this litigation and your rights as a Class Member, please contact Co-Lead Class Counsel, whose contact information is listed in question 15 below.

### **Who is in the Settlement Class**

#### **6. Am I part of the Settlement Class?**

The Court decided that, for settlement purposes, Settlement Class Members are defined as:

All persons (including businesses and companies) who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this notice, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019.

If you satisfy these criteria, then you are a Settlement Class Member, subject to the exception listed in Section 7 below.

While the Settlements are only with Peco, George's, and Amick, the Settlement Class includes persons (including businesses and companies) who purchased Broiler chicken from *any* of the Defendants or their co-conspirators. If you are a Settlement Class Member and do not exclude yourself, you will be eligible to participate in these Settlements.

#### **7. Are there exceptions to being included in the Settlement Class?**

Yes. Specifically excluded from this Settlement Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

If you are in one of these categories, you are not a Settlement Class Member and not eligible to participate in the Settlements.

#### **8. I'm still not sure if I'm included.**

If you are still not sure if you are included, please review the detailed information contained in the Settlement Agreements, available at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com). You may also call the Settlement Administrator at 1-866-552-1178 or call or write to Co-Lead Counsel at the phone numbers or addresses listed in question 15 below.

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).



## The Settlement Benefits

### 9. What do the Settlements With Peco, George's, and Amick provide?

If the Settlements are approved the Settling Defendants will pay up to the following amounts: Peco will pay \$5.15 million, George's will pay \$4.25 million, and Amick will pay \$3.95 million. Collectively, the Settlements provide up to \$13.35 million to the Settlement Class Members. The Settling Defendants will also cooperate with Direct Purchaser Plaintiff to authenticate documents in the litigation to be used against other Defendants. The Settlement amounts may be reduced based on the portion of class members who exclude themselves from these Settlements. This is explained in Section II.E.10.b of the Settlement Agreements. Plaintiffs will report to the Court on the number of exclusions and final amount recovered by Settlement Class Members in their motion for final approval.

### 10. What are the Settlement benefits being used for?

A portion of the Settlements' proceeds are being used by the Settlement Administrator to administer the Notice. The remainder of the Settlements' proceeds will remain available for distributions to Settlement Class Members, any future notice costs, and attorneys' fees, litigation expenses, and incentive awards that the Court chooses to award to Plaintiffs. At this time, Plaintiffs and their counsel are not seeking any attorneys' fees, non-administration expenses, or incentive awards from the Settlements' proceeds. However, they may do so in the future, subject to additional notice to you and approval by the Court. Settlement Class Counsel do not intend to distribute any proceeds from the Settlements to qualifying Settlement Class Members at this time, but instead intend to combine any distribution of the Settlements' proceeds with proceeds from future settlements or other recoveries in the litigation. You will be provided further notice of any such future settlements or recoveries. In addition, please consult the case website, [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com), regularly for updates on the case.

### 11. What am I giving up by staying in the Settlement Class?

Unless you exclude yourself from one or more of the Settlements, you are staying in the Settlement Class, which means that you can't sue, continue to sue, or be part of any other lawsuit against the Settling Defendants that makes claims based on the same legal issues alleged or could have been alleged in *this* case. It also means that all Court orders will apply to you and legally bind you. The Released Claims are detailed in the Settlement Agreements, available at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

You are not releasing your claims against any Defendant other than Peco, George's, and Amick by staying in the Settlement Class.

### 12. What happens if I do nothing at all?

If you do nothing, you will remain a member of the Settlement Class, and participate in the Settlements obtained by Direct Purchaser Plaintiffs.

## Excluding Yourself from the Settlements

### 13. How do I exclude myself from the Settlements?

If you do not want the benefits offered by any of the Settlements and you do not want to be legally bound by them, or if you wish to pursue your own separate lawsuit against the Settling Defendants, you must exclude yourself by submitting a written request to the Settlement Administrator stating your intent to exclude yourself from the Settlement Class by March 9, 2020. You can choose any of the three Settlements you want to exclude yourself from and do not have to exclude yourself from all of the Settlements.

Your Exclusion Request must include the following: (a) your name, including the name of your business which purchased Broiler chicken, and address; (b) a statement that you want to be excluded from the Settlement Class in *In re: Broiler Chicken Antitrust Litigation*, (c) which of the Settlement Agreements you wish to be excluded from; and

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

(d) your signature or your attorneys' signature. You must mail or email your Exclusion Request, postmarked or received by March 9, 2020, to: Broiler Chicken Antitrust Litigation, c/o JND Legal Administration, PO Box 91343, Seattle, WA 98111 or [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com).

#### **14. If I don't exclude myself, can I sue the Settling Defendants for the same thing later?**

No. Unless you exclude yourself from one or more of the Settlement Agreements, you give up the right to sue that Settling Defendant for the claims that Settlement resolves. Thus, if you do not exclude yourself from any of the three Settlement Agreements in this Notice, you give up the right to sue Peco, George's and Amick for the same claims that their Settlements resolve. If you have your own pending lawsuit against any of the Settling Defendants, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from this Settlement Class to continue your own lawsuit against the Settling Defendants.

By staying in the lawsuit you are not releasing your claims in this case against any Defendant other than the Settling Defendants.

### **Objecting to the Settlements**

#### **15. How do I tell the Court that I don't like the Settlements?**

If you are a Settlement Class Member and have not excluded yourself from the Settlements, you can object to one or more of the Settlements if you don't like part or all of them. The Court will consider your views.

To object, you must send a letter or other written statement saying that you object to the Direct Purchaser Plaintiffs' Settlements with the Settling Defendants in *In re: Broiler Chicken Antitrust Litigation*, state which of the Settlement you are objecting to, and the reasons why you object to the Settlements. Be sure to include your full name, the name of your business that purchased Broiler chicken, current mailing address, and email address. Your objection must be signed. You may include or attach any documents that you would like the Court to consider. Do not send your written objection to the Court or the judge. Instead, mail the objection to the Settlement Administrator, Co-Lead Counsel, and Counsel for Settling Defendant at the addresses listed below. Your objection must be postmarked no later than March 9, 2020.

##### **Settlement Administrator:**

Broiler Chicken Antitrust Litigation  
c/o JND Legal Administration  
PO Box 91343  
Seattle, WA 98111  
(866) 552-1178

##### **Direct Purchaser Plaintiffs' Co-Lead Counsel:**

W. Joseph Bruckner  
Lockridge Grindal Nauen P.L.L.P.  
100 Washington Ave. S., Ste. 2220  
Minneapolis, MN 55401  
(612) 339-6900

##### **Direct Purchaser Plaintiffs' Co-Lead Counsel:**

Bobby Pouya  
Pearson, Simon & Warshaw, LLP  
15165 Ventura Blvd, Suite 400  
Sherman Oaks, CA 91403  
(818) 788-8300

##### **Counsel for Defendant Peco:**

Boris Bershteyn  
Skadden, Arps, Slate, Meagher &  
Flom LLP  
FourTimes Square  
New York, NY 10036  
(212) 735-3000

##### **Counsel for Defendant George's:**

William L. Greene  
Stinson LLP  
50 South Sixth Street, Suite 2600  
Minneapolis, MN 55402  
(612) 335-1568

##### **Counsel for Defendant Amick:**

Howard B. Iwrey  
Dykema Gossett PLLC  
39577 Woodward Ave., Suite 300  
Bloomfield Hills, MI 48304  
248-203-0700

#### **16. What is the difference between excluding myself and objecting?**

Objecting is telling the Court that you do not like something about the Settlements. You can object only if you do not exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

the Settlement Class or the lawsuit. If you exclude yourself, you have no standing to object because the case no longer affects you.

## The Lawyers Representing You

### 17. Do I have a lawyer in this case?

The Court has appointed Lockridge Grindal Nauen P.L.L.P. and Pearson, Simon & Warshaw, LLP as Co-Lead Counsel on behalf of Direct Purchaser Plaintiffs and Settlement Class Members. Their contact information is provided above in question 15. If you wish to remain a Settlement Class Member, you do not need to hire your own lawyer because Co-Lead Counsel is working on your behalf.

If you wish to pursue your own case separate from this one, or if you exclude yourself from the Settlement Class, these lawyers will no longer represent you. You may need to hire your own lawyer if you wish to pursue your own lawsuit against the Settling Defendants.

### 18. How will the lawyers be paid?

At this time, Co-Lead Counsel are not asking the Court to award any attorneys' fees from the Settlements. In the future, Co-Lead Counsel may ask the Court to award attorneys' fees and reimbursement of reasonable and necessary litigation expenses from the Settlements with the Settling Defendants or any other settlement or other recovery in this litigation. At such time, and prior to any Court approval, Settlement Class Members will be provided with notice of the amount of fees or expenses sought by Class Counsel and the opportunity to be heard by the Court. You will not have to pay any fees or costs out-of-pocket.

## The Court's Fairness Hearing

### 19. When and where will the Court decide whether to approve the Settlements?

The Court will hold a Fairness Hearing to decide whether to approve the Settlements at 9:30 a.m. on April 17, 2020 at the United States District Court for the Northern District of Illinois, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois in Courtroom 1441. At this hearing, the Court will consider whether the Settlements are fair, reasonable, and adequate. If there are objections, the Court will consider them. You may attend and you may ask to speak, if you make a request as instructed in Paragraph 21, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long the Court will take to decide. The date of the hearing may change without further notice to the Class, so please check the settlement website for updates.

### 20. Do I have to come to the hearing?

No. Co-Lead Counsel will answer any questions the Court may have. However, you are welcome to come at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

### 21. May I speak at the hearing?

You may ask to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *In re: Broiler Chicken Antitrust Litigation*." Be sure to include your name, including the name of your business that purchased Broiler chicken, current mailing address, telephone number, and signature. Your Notice of Intention to Appear must be postmarked no later than March 9, 2020, and it must be sent to the Clerk of the Court, Co-Lead Counsel, and Defense Counsel. The address for the Clerk of the Court is: Clerk of the United States District Court, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois. The addresses for Co-Lead



Counsel and Defense Counsel are provided in Question 15. You cannot ask to speak at the hearing if you exclude yourself from the Settlements.

## Getting More Information

### **22. How do I get more information about the Settlements?**

This notice summarizes the proposed Settlements. More details are in the Settlement Agreements. You can find a copy of the Settlement Agreements, other important documents, and information about the current status of the litigation by visiting [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com). You may contact the Settlement Administrator at [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com) or toll-free at 1-866-552-1178. You may also contact Co-Lead Counsel at the address, phone number, and email address provided in Question 15.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

# Exhibit B

From: [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com)  
To:  
Date:  
Subject: Legal Notice re: Broiler Chicken Antitrust Litigation

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### **COURT-APPROVED LEGAL NOTICE**

**If you purchased Broiler chicken directly from a Broiler Chicken Producer in the United States from January 1, 2008 through December 20, 2019, three class action settlements may affect your rights.**

*Para una notificación en español, llame gratis al 1-866-552-1178  
o visite nuestro website [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).*

Settlements have been proposed between Direct Purchaser Plaintiffs and the following defendants: Peco Foods, Inc. ("Peco"), George's, Inc. and George's Farms, Inc. ("George's"), and Amick Farms, LLC ("Amick") (collectively "Settling Defendants") in a class action antitrust lawsuit about Broiler chickens sold in the United States between January 1, 2008 and December 20, 2019. This Court-ordered notice may affect your rights. Please review and follow the instructions carefully.

The United States District Court for the Northern District of Illinois authorized this notice. Before any money is paid, the Court will hold a hearing to decide whether to approve the Settlements.

### **WHO IS INCLUDED?**

For settlement purposes, Class Members are defined as all persons (including businesses and companies) who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. If you are not sure you are included, you can get more information, including a detailed notice, at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or by calling toll-free 1-866-552-1178.

Specifically excluded from the Class are the Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

### **WHAT IS THIS ABOUT?**

The lawsuit claims that Broiler chicken producers including the Settling Defendants combined and conspired in restraint of trade, the purpose and effect of which was to suppress competition and allow them to charge supra-competitive prices for Broilers during the Class Period, in violation of federal law. The Settling Defendants vigorously and affirmatively deny they did anything wrong, and deny that they in any way conspired with competitors to restrain trade or suppressed competition to charge supra-competitive prices. The Court did not decide which side was right, but both sides agreed to the Settlement to resolve the case. The case is still proceeding on behalf of the Direct Purchaser Plaintiffs against all other Defendants who have not settled with the Direct Purchaser Plaintiffs.

### **WHAT DOES THE SETTLEMENT PROVIDE?**

The Settlements require the Settling Defendants to pay up to the following amounts to the Direct Purchaser Plaintiff Class: Peco \$5.15 million, George's \$4.25 million, and Amick \$3.95 million. Collectively, the Settlements provide up to \$13.35 million to the Class Members. The Settling Defendants will also cooperate with Direct Purchaser Plaintiff Class with regard to the authentication of documents in the litigation against other Defendants. Class Counsel are not seeking to recover attorneys' fees and do not plan for distribution of settlement proceeds to the Class Members at this time, but may do so at a future date subject to further notice.

### **WHAT ARE YOUR RIGHTS AND OPTIONS?**

You do not need to take any action to remain a Class Member and be bound by the Settlements. As a Class Member, you may be able to participate in any future settlement or judgment obtained by Direct Purchaser Plaintiffs against other Defendants in the case who have not yet settled with the Direct Purchaser Plaintiffs. If you don't want to be legally bound by any of the Settlements, you must exclude yourself by **March 9, 2020**, or you won't be able to sue or continue to sue the Settling Defendants about the legal claims in this case. You can participate in or exclude yourself from one of more of the Settlements independently. If you exclude yourself from any of the Settlements, you can't get money from the Settlements. If you stay in the Settlements, you may object to them by **March 9, 2020**. The detailed notice explains how to exclude yourself or object. Details may also be found on the FAQs

page of the settlement website. The Court will hold a hearing in this case (*In re: Broiler Chicken Antitrust Litigation*, Case No. 16-cv-08637) on April 17, 2020 at 9:30 a.m. to consider whether to approve the Settlement. You may ask to speak at the hearing, but you don't have to. The date of the hearing may change without further notice to the Class, so please check the website for updates.

**This notice is only a summary. You can find more details about the Settlement at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or by calling toll-free 1-866-552-1178. Please do not contact the Court.**

# Exhibit C

## **COURT-APPROVED LEGAL NOTICE**

**If you purchased Broiler chicken directly from a Broiler Chicken Producer in the United States from January 1, 2008 through December 20, 2019, three class action settlements may affect your rights.**

*Para una notificación en español, llame gratis al 1-866-552-1178  
o visite nuestro website [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).*

Settlements have been proposed between Direct Purchaser Plaintiffs and the following defendants: Peco Foods, Inc. ("Peco"), George's, Inc. and George's Farms, Inc. ("George's"), and Amick Farms, LLC ("Amick") (collectively "Settling Defendants") in a class action antitrust lawsuit about Broiler chickens sold in the United States between January 1, 2008 and December 20, 2019. This Court-ordered notice may affect your rights. Please review and follow the instructions carefully.

The United States District Court for the Northern District of Illinois authorized this notice. Before any money is paid, the Court will hold a hearing to decide whether to approve the Settlements.

### **WHO IS INCLUDED?**

For settlement purposes, Class Members are defined as all persons (including businesses and companies) who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. If you are not sure you are included, you can get more information, including a detailed notice, at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or by calling toll-free 1-866-552-1178.

Specifically excluded from the Class are the Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any co-conspirator identified in this action.

### **WHAT IS THIS ABOUT?**

The lawsuit claims that Broiler chicken producers including the Settling Defendants combined and conspired in restraint of trade, the purpose and effect of which was to suppress competition and allow them to charge supra-competitive prices for Broilers during the Class Period, in violation of federal law. The Settling Defendants vigorously and affirmatively deny they did anything wrong, and deny that they in any way conspired with competitors to restrain trade or suppressed competition to charge supra-competitive prices. The Court did not decide which side was right, but both sides agreed to the Settlement to resolve the case. The case is still proceeding on behalf of the Direct Purchaser Plaintiffs against all other Defendants who have not settled with the Direct Purchaser Plaintiffs.

### **WHAT DOES THE SETTLEMENT PROVIDE?**

The Settlements require the Settling Defendants to pay up to the following amounts to the Direct Purchaser Plaintiff Class: Peco \$5.15 million, George's \$4.25 million, and Amick \$3.95 million. Collectively, the Settlements provide up to \$13.35 million to the Class Members. The Settling Defendants will also cooperate with Direct Purchaser Plaintiff Class with regard to the authentication of documents in the litigation against other Defendants. Class Counsel are not seeking to recover attorneys' fees and do not plan for distribution of settlement proceeds to the Class Members at this time, but may do so at a future date subject to further notice.

### **WHAT ARE YOUR RIGHTS AND OPTIONS?**

You do not need to take any action to remain a Class Member and be bound by the Settlements. As a Class Member, you may be able to participate in any future settlement or judgment obtained by Direct Purchaser Plaintiffs against other Defendants in the case who have not yet settled with the Direct Purchaser Plaintiffs. If you don't want to be legally bound by any of the Settlements, you must exclude yourself by **March 9, 2020**, or you won't be able to sue or continue to sue the Settling Defendants about the legal claims in this case. You can participate in or exclude yourself from one of more of the Settlements independently. If you exclude yourself from any of the Settlements, you can't get money from the Settlements. If you stay in the Settlements, you may object to them by **March 9, 2020**. The detailed notice explains how to exclude yourself or object. Details may also be found on the FAQs page of the settlement website. The Court will hold a hearing in this case (*In re: Broiler Chicken Antitrust Litigation*, Case No. 16-cv-08637) on April 17, 2020 at 9:30 a.m. to consider whether to approve the Settlement. You may ask to speak at the hearing, but you don't have to. The date of the hearing may change without further notice to the Class, so please check the website for updates.

**This notice is only a summary. You can find more details about the Settlement at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or by calling toll-free 1-866-552-1178. Please do not contact the Court.**



# **EXHIBIT F**

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST  
LITIGATION,

Case No.: 1:16-cv-08637

The Honorable Thomas M. Durkin

This Document Relates To:

THE DIRECT PURCHASER PLAINTIFF  
ACTION

**ORDER GRANTING DIRECT PURCHASER PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF THE SETTLEMENTS WITH DEFENDANTS  
PILGRIM'S PRIDE CORP., TYSON FOODS, INC., TYSON CHICKEN, INC., TYSON  
BREEDERS, INC., AND TYSON POULTRY, INC.**

This Court has held a hearing on Direct Purchaser Plaintiffs' Motion for Preliminary Approval of the Settlements with Defendants Pilgrim's Pride Corp. ("Pilgrim's"), and Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc. (collectively, "Tyson") ("Motion"). Direct Purchaser Plaintiffs ("Plaintiffs") have entered into Settlement Agreements with Defendants Pilgrim's and Tyson (collectively, "Settlement Defendants"). The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreements, and the file, hereby **ORDERS AND ADJUDGES:**

**Preliminary Approval of the Settlements and Certification of Settlement Class**

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreements. Upon review of the record, the Court finds that the proposed Settlement Agreements, each of which was arrived at by arm's length negotiations by highly experienced counsel, falls within the range of possible approval and each one is hereby preliminarily approved, subject to further consideration at the Court's Fairness Hearing. The Court finds that the Settlement Agreements are preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Settlement Class, raise no obvious reasons to doubt their fairness, and raise a reasonable basis for presuming that the Settlements and their terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that notice of the Settlements should be given to the Settlement Class.

2. This Court certifies a Settlement Class defined as:

All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. Specifically excluded from the Settlement Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer

presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

3. The Court appoints the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson, Simon & Warshaw, LLP as Co-Lead Counsel for the Settlement Class.

**Approval of the Notice Plan**

4. The Court hereby directs notice to be distributed to the Settlement Class members pursuant to Federal Rule of Civil Procedure (“Rule”) 23(c)(2). JND Legal Administration is hereby appointed as Claims Administrator and ordered to effectuate the notice plan. US Bank is hereby appointed as the Escrow Agent for each Settlement.

5. The proposed notice plan set forth in the Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice via mail and email to all members who can be identified through reasonable effort. The direct mail and email notice will be supported by reasonable publication notice to reach Settlement Class members who could not be individually identified.

6. The attached proposed notice documents: Long Form Notice (Exhibit “A”), Email Notice (Exhibit “B”), Summary Publication Notice (Exhibit “C”), Claim Form (Exhibit “D”), and Purchase Audit Request Form (Exhibit “E”), and their manner of transmission, comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise Settlement Class members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a Settlement Class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the Settlement Class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-

substantive changes, such as typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court.

**Schedule for Class Notice and the Fairness Hearing**

7. The Court hereby sets the below schedule for the dissemination of notice to the class, for Settlement Class members to object to or exclude themselves from the Settlements, timing for Co-Lead Counsel to bring a motion for disbursement, attorneys' fees, costs and incentive awards, if any, and for the Court's Fairness Hearing, at which time the Court will determine whether the Settlement Agreements should be finally approved as fair, reasonable, and adequate. This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting the Parties will not be required to provide any additional notice to Settlement Class members.

<b><u>DATE</u></b>	<b><u>EVENT</u></b>
1. March 16, 2021	Settlement Administrator to provide direct mail and email notice, and commence the publication notice plan.
2. April 16, 2021	Plaintiffs to file their Motion for Attorneys' Fees, Costs, and Service Awards.
3. May 17, 2021	Last day to request exclusion from the Settlement Class; and for Settlement Class members to file claims, challenge calculated purchase amounts, object to the Settlements; and file notices to appear at the Fairness Hearing.
4. June 15, 2021	Class Counsel shall file with the Court a list of all persons and entities who have timely and adequately requested exclusion from the Settlement Class.
5. June 15, 2021	Class Counsel shall file a motion for final approval of the Settlements and all supporting papers, and Class Counsel and the Settling Defendants may respond to any objections to the proposed Settlements.
6. June 29, 2021 at 9:00 a.m.	Final Settlement Fairness Hearing.

**Other Provisions**

8. Terms used in this Order that are defined in the Settlement Agreements are, unless otherwise defined herein, used as defined in the Settlement Agreements.

9. If either of the Settlement Agreements is not finally approved, then that Settlement Agreement and all proceedings in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in that Settlement Agreement, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendant, and the members of the Class. The parties shall also comply with any terms or provisions of the Settlement Agreements applicable to termination, rescission, or the Settlements otherwise not becoming Final.

**IT IS SO ORDERED.**

DATED: February 25, 2021



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HON. THOMAS M. DURKIN



# EXHIBIT A

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

**If you purchased Broiler chicken directly from  
a Broiler Chicken Producer in the United States from  
at least as early as January 1, 2008 through December 20, 2019,  
you may be eligible for benefits from some class action settlements.**

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

- Two more settlements have been reached in a class action antitrust lawsuit filed on behalf of Direct Purchaser Plaintiffs (“Plaintiffs”) of Broiler chicken. The two new settlements are with Defendants Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc. (collectively, “Tyson”) and Pilgrim’s Pride Corporation (“Pilgrim’s Pride”), collectively “New Settlements” with the “New Settling Defendants.” Previous settlements (the “Previous Settlements”) were filed on behalf of Plaintiffs with Defendants Peco Foods, Inc. (“Peco”), George’s, Inc. and George’s Farms, Inc. (collectively, “George’s”), Amick Farms, LLC (“Amick”), and Fieldale Farms Corporation (“Fieldale Farms”), collectively the “Previous Settling Defendants.” Together, the New Settling Defendants and Previous Settling Defendants are referred to as “Settling Defendants” and the Previous Settlements and the New Settlements are collectively referred to as the “Settlements.”
- The proposed New Settlements are with the New Settling Defendants only and do not dismiss claims against other Defendants. The settlements with the Previous Settling Defendants have been given final approval by the Court. Fourteen other Defendants remain in the case, and Plaintiffs’ lawsuit will continue against them in the case entitled *In re Broiler Chicken Antitrust Litigation*, N.D. Ill. Case No. 1:16-cv-08637.
- If approved by the Court, the New Settlements will resolve Plaintiffs’ claims that the New Settling Defendants conspired in restraint of trade, the purpose and effect of which were to suppress competition and to allow the New Settling Defendants and other Broiler chicken producers to charge supra-competitive prices for Broilers from January 1, 2008 through December 20, 2019 (the “Class Period”), in violation of federal law. New Settling Defendants have not admitted any liability concerning and continue to deny the legal claims alleged in this lawsuit. If approved, the New Settlements will avoid litigation costs and risks to Plaintiffs and the New Settling Defendants, and will release the New Settling Defendants from liability to the Plaintiffs that participate in the Settlement Class.
- The New Settlements require the New Settling Defendants to pay up to the following amounts to benefit the Direct Purchaser Plaintiff Class: Tyson \$80,000,000; and Pilgrim’s Pride \$75,000,000. Together with the amounts paid by the Previous Settling Defendants (Peco \$4,964,600; George’s \$4,097,000; Amick \$3,950,000, Fieldale Farms \$2,250,000), total settlements in the Direct Purchaser Plaintiffs’ case are \$170,261,600 (the “Settlement Proceeds”).
- This notice also informs you how to make a claim to receive money from the New Settlements and Previous Settlements.
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

**Questions? Read on and visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or call toll-free 1-866-552-1178.**

## YOUR LEGAL RIGHTS AND OPTIONS FOR THE SETTLEMENTS

<b>FILE A CLAIM TO RECEIVE MONEY FROM THE SETTLEMENTS</b>	<p>In order to receive money from the New Settlements and Previous Settlements you must submit a Claim Form by May 17, 2021. If you are confirmed to be a Class Member and file a valid Claim Form, you will be eligible to receive a payment from the Settlement Proceeds.</p> <p>Instructions for filing a claim are available in Question 11 of this notice, on the Claim Form, and at the settlement website <b><a href="http://www.broilerchickenantitrustlitigation.com">www.broilerchickenantitrustlitigation.com</a></b>.</p> <p>By participating as a Settlement Class member, you give up your rights to sue the New Settling Defendants about the claims that the New Settlements resolve.</p>
<b>ASK TO BE EXCLUDED (“OPT OUT”) FROM THE NEW SETTLEMENTS</b>	<p>You must submit a valid request for exclusion in order to remove yourself from the New Settlements with the New Settling Defendants and receive no payment from the New Settlements.</p> <p>You will keep your right to be part of any <i>other</i> lawsuit against the New Settling Defendants about the legal claims that the New Settlements resolve. Requests for exclusion must be postmarked by May 17, 2021.</p> <p>The deadline to request exclusion from the settlements with the Previous Settling Defendants has already passed.</p>
<b>OBJECT TO THE NEW SETTLEMENTS</b>	<p>You may write to the Court about why you don’t like the New Settlements with the New Settling Defendants. Objections must be postmarked by May 17, 2021. The deadline to object to the settlements with the Previous Settling Defendants has already passed.</p>
<b>ATTEND THE FAIRNESS HEARING</b>	<p>You may request to speak in Court about the fairness of the New Settlements by providing notice by May 17, 2021.</p>
<b>DO NOTHING</b>	<p>If you do not file a claim as described above and in Question 11, you will receive no payment from the Settlements with any of the Settling Defendants.</p> <p>If you do nothing regarding the New Settlements, you will give up your rights to sue the New Settling Defendants about the legal claims that the New Settlements resolve.</p>

## WHAT THIS NOTICE CONTAINS

<b>BASIC INFORMATION.....</b>	<b>4</b>
1. Why did I receive a notice? .....	4
2. What is this lawsuit about? .....	4
3. What is a class action, and who is involved? .....	5
4. Why are there settlements in this case? .....	5
5. What if you received previous communications regarding this lawsuit? .....	5
<b>THE SETTLEMENT CLASS.....</b>	<b>6</b>
6. Am I part of the Settlement Class? .....	6
7. Are there exceptions to being included in the Settlement Class? .....	6
8. I'm still not sure if I'm included. ....	6
<b>THE SETTLEMENT BENEFITS.....</b>	<b>6</b>
9. What do the Settlements provide? .....	6
10. How much will my payment from the Settlements be? .....	7
<b>HOW YOU GET A PAYMENT .....</b>	<b>7</b>
11. How can I file a Claim to get a payment from the Settlements?.....	7
12. When will I get my payment from the Settlements? .....	8
13. What am I giving up by staying in the Settlement Class?.....	8
<b>IF YOU DO NOTHING .....</b>	<b>8</b>
14. What happens if I do nothing at all? .....	8
<b>EXCLUDING YOURSELF FROM THE NEW SETTLEMENTS .....</b>	<b>8</b>
15. How do I exclude myself from the New Settlements?.....	8
16. If I don't exclude myself, can I sue the New Settling Defendants for the same thing later? .....	9
<b>OBJECTING TO THE NEW SETTLEMENTS .....</b>	<b>9</b>
17. How do I tell the Court that I don't like the New Settlements? .....	9
18. What is the difference between excluding myself and objecting? .....	10
<b>THE LAWYERS REPRESENTING YOU .....</b>	<b>10</b>
19. Do I have a lawyer in this case? .....	10
20. How will the lawyers be paid? .....	10
<b>THE COURT'S FAIRNESS HEARING .....</b>	<b>10</b>
21. When and where will the Court decide whether to approve the New Settlements? .....	10
22. Do I have to come to the hearing?.....	10
23. May I speak at the hearing?.....	10
<b>GETTING MORE INFORMATION.....</b>	<b>11</b>
24. How do I get more information about the New Settlements? .....	11

## **BASIC INFORMATION**

### **1. Why did I receive a notice?**

All Defendants, including the Settling Defendants, produce Broiler chicken. Records from all Defendants show that you may have purchased Broiler chicken products directly from one or more Defendants and/or alleged Co-Conspirators for use and delivery in the United States between January 1, 2008 and December 20, 2019. The list of Defendants and alleged Co-Conspirators is in Question 2 below and in the operative Complaint.

The Court authorized this notice because you have a right to know about the proposed New Settlements, certain claims by Plaintiffs against the Settling Defendants in this class action lawsuit, and about your options before the Court decides whether to approve the proposed New Settlements. If the Court approves the New Settlements, and after objections and appeals are resolved, you will be bound by the judgment and terms of the New Settlements. This notice explains the lawsuit, the New Settlements, and your legal rights under the New Settlements and Previous Settlements.

### **2. What is this lawsuit about?**

This class action, *In re Broiler Chicken Antitrust Litigation*, N.D. Ill. Case No. 1:16-cv-08637, is pending in the United States District Court for the Northern District of Illinois. U.S. District Court Judge Thomas M. Durkin presides over this class action.

Plaintiffs allege that Defendants and their Co-Conspirators conspired to fix, raise, maintain, and stabilize the price of Broilers, beginning at least as early as January 1, 2008. Plaintiffs allege that Defendants implemented their conspiracy in various ways, including via coordinated supply restrictions, sharing competitively sensitive price and production information, and otherwise manipulating Broiler prices, with the intent and expected result of increasing prices of Broilers in the United States, in violation of federal antitrust laws.

The Defendants and alleged Co-Conspirators named in Plaintiffs' Fifth Consolidated Amended Complaint are producers of Broiler chicken and Broiler chicken products in the United States. The Defendants and alleged Co-Conspirators include: Fieldale Farms Corporation; Koch Foods, Inc.; JCG Foods of Alabama, LLC; JCG Foods of Georgia, LLC; Koch Meat Co., Inc.; Tyson Foods, Inc.; Tyson Chicken, Inc.; Tyson Breeders, Inc.; Tyson Poultry, Inc.; Pilgrim's Pride Corporation; Perdue Farms, Inc.; Perdue Foods LLC; Sanderson Farms, Inc.; Sanderson Farms, Inc. (Foods Division); Sanderson Farms, Inc. (Production Division); Sanderson Farms, Inc. (Processing Division); Wayne Farms, LLC; Mountaire Farms, Inc.; Mountaire Farms, LLC; Mountaire Farms of Delaware, Inc.; Peco Foods, Inc.; Foster Farms, LLC; Foster Poultry Farms; House of Raeford Farms, Inc.; Simmons Foods, Inc.; Simmons Prepared Foods, Inc.; George's, Inc.; George's Farms, Inc.; O.K. Foods, Inc.; O.K. Farms, Inc.; O.K. Industries, Inc.; Claxton Poultry Farms, Inc.; Norman W. Fries, Inc.; Harrison Poultry, Inc.; Mar-Jac Poultry, Inc.; Mar-Jac Poultry MS, LLC; Mar-Jac Poultry AL, LLC; Mar-Jac AL/MS, Inc.; Mar-Jac Poultry, LLC; Mar-Jac Holdings, LLC; Amick Farms, LLC; The Amick Company, Inc.; Amick-OSI Broilers, LLC; Amick-OSI Processing, LLC; Case Foods, Inc.; Case Farms, LLC; Case Farms Processing, Inc.; Agri Stats, Inc.; Keystone Foods, LLC; Keystone Foods Corporation; Equity Group Eufaula Division, LLC; Equity Group Kentucky Division LLC; Equity Group – Georgia Division LLC; Allen Harim USA, Ltd.; Allen Harim Foods, LLC; Allen Harim Farms, LLC; JCG Industries, Inc.; JCG Properties, Inc.; JCG Land Holdings, LLC; JCG Foods LLC; Koch Foods of Cumming LLC; Koch Foods of Gainesville LLC; JCG Farms of Georgia LLC; Koch Foods of Mississippi LLC; Koch Farms of Mississippi LLC; Koch Freezers LLC; Koch Properties of Mississippi LLC; Koch Foods of Alabama LLC; Koch Farms of Alabama LLC; JCG Farms of Alabama LLC; Koch Foods of Ashland LLC; Koch Farms of Ashland LLC; Koch Farms of Gadsden LLC; Koch Foods of Gadsden LLC; Koch Foods of Cincinnati LLC; Koch Foods LLC; Koch Farms LLC; Koch Farms of Chattanooga LLC; Koch Foods of Chattanooga LLC; Koch Foods of Morristown LLC; Koch Farms of Morristown LLC; Tyson Sales & Distribution, Inc.; Perdue Foods, Inc.; Harvestland Holdings, LLC; Perdue Food Products, Inc.; Perdue Farms, LLC; Perdue Farms Incorporated; WFSP Foods, LLC; George's Chicken, LLC; George's Family Farms, LLC; George's Foods, LLC; George's of Missouri, Inc.; George's Processing, Inc.; Peco Farms of Mississippi, LLC; PFS Distribution Company; Merit Provisions, LLC; GC Properties, LLC; Pilgrim's Pride of Nevada, Inc.; PPC Marketing, Ltd.; Pilgrim's Pride Corporation of West Virginia, Inc.; Foster International Trading Company, Inc.; Napoleon Poultry Supply, LLC; O.K. Broiler Farms Limited Partnership; House of Raeford Farms of Louisiana, LLC; Johnson Breeders, Inc.; Columbia Farms of Georgia, Inc.; Raeford Farms of Louisiana, LLC; and Columbia Farms, Inc.

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

The Court previously gave final approval to settlements between the Plaintiffs and Fieldale Farms, Peco, George's and Amick. The Court has now preliminarily approved settlements with Tyson and Pilgrim's Pride. The Direct Purchaser Plaintiffs' case is proceeding against all other Defendants who have not settled the case. If applicable, you will receive a separate notice regarding the progress of the litigation and any resolution of claims against other Defendants.

The New Settling Defendants have not admitted any liability concerning and continue to deny the legal claims alleged in this lawsuit, and would allege numerous defenses to the Plaintiffs' claims if the case against them were to proceed. Nevertheless, the New Settling Defendants agreed to settle this action to avoid the further expense, inconvenience, disruption, and burden of this litigation and any other present or future litigation arising out of the facts that gave rise to this litigation, to avoid the risks inherent in uncertain complex litigation and trial, and thereby to put to rest this controversy.

### **3. What is a class action, and who is involved?**

In a class action lawsuit, one or more people or businesses called class representatives sue on behalf of others who have similar claims, all of whom together are a "class." Individual Settlement Class members do not have to file a lawsuit to participate in the class action settlement, or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class.

### **4. Why are there settlements in this case?**

The Court did not decide in favor either of Plaintiffs or the New Settling Defendants. Plaintiffs believe they may win at trial and possibly obtain a greater recovery. The New Settling Defendants believe they may win at trial and that Plaintiffs might recover nothing against them. But trials involve risks to both sides, and therefore Plaintiffs and the New Settling Defendants have agreed to settle the case. The New Settlements require the New Settling Defendants to pay money for the benefit of the Settlement Class members. Plaintiffs and their attorneys believe the New Settlements are in the best interests of all Settlement Class members.

### **5. What if you received previous communications regarding this lawsuit?**

You already received notice regarding settlements with the Previous Settling Defendants. You are permitted to participate in the New Settlements with the New Settling Defendants regardless of whether you excluded yourself from the settlements with the Previous Settling Defendants. In order to receive money from the New Settlement and Previous Settlements you must submit a Claim Form by May 17, 2021.

You may have received other communications regarding this lawsuit, including solicitations by other attorneys seeking to represent you as a Direct Action Plaintiff in an individual lawsuit against Defendants. Contrary to what you may have been told in such solicitations, you do not need to opt out of this class action or file an individual lawsuit to protect your rights in this litigation. You also may have received solicitations from persons seeking to purchase your claim or represent you as a Class Member.

None of these communications has been approved by the Court and—unlike this notice—they did not come from Court-appointed Co-Lead Counsel for the Direct Purchaser Plaintiffs. You should carefully review this notice and your rights as a Settlement Class member before deciding whether to opt out or stay in the Class. In addition, you do not need to retain or pay anyone in order to receive the benefits provided to Class Members in this lawsuit. **You need only fill out the enclosed Claim Form to benefit.**

If you have questions about this litigation and your rights as a Settlement Class member, please contact Co-Lead Counsel, whose contact information is listed in Question 17 below.



## **THE SETTLEMENT CLASS**

### **6. Am I part of the Settlement Class?**

The Court decided that, for settlement purposes, Settlement Class members are defined as follows for all settlements except for the Fieldale Farms settlement:

All persons who purchased Broilers directly from any of the Defendants or any Co-Conspirator identified in this action, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019.

The class period for the Fieldale Farms settlement is January 1, 2008 through August 18, 2017.

If you satisfy these criteria, then you are a Settlement Class member, subject to the exceptions listed in Question 7 below.

While the New Settlements are only with the New Settling Defendants, the Settlement Class includes persons (including businesses and companies) who purchased Broiler chicken from *any* of the Defendants or their alleged Co-Conspirators. If you are a Settlement Class member and do not exclude yourself, you will be eligible to participate in the New Settlements.

### **7. Are there exceptions to being included in the Settlement Class?**

Yes. Specifically excluded from this Settlement Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any alleged Co-Conspirator identified in this action.

If you are in one of these categories, you are not a Settlement Class member and not eligible to participate in the New Settlements.

### **8. I'm still not sure if I'm included.**

If you are still not sure if you are included, please review the detailed information contained in the Settlement Agreements, available at the settlement website, [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) (the "Settlement Website"). You may also call the Settlement Administrator at 1-866-552-1178 or call or write to Co-Lead Counsel at the phone numbers or addresses listed in Question 17 below.

## **THE SETTLEMENT BENEFITS**

### **9. What do the Settlements provide?**

If the New Settlements are approved, the New Settling Defendants will pay up to the following amounts: Tyson will pay \$80,000,000, and Pilgrim's Pride will pay \$75,000,000. Of the Previous Settling Defendants, Peco has paid \$4,964,600, George's has paid \$4,097,000, Amick has paid \$3,950,000, and Fieldale Farms has paid \$2,250,000. Collectively, all Settlements to date provide up to \$170,261,600 in Settlement Proceeds.

A portion of the Settlement Proceeds has been and will be used by the Settlement Administrator for notice and administration costs. The Settlement Proceeds will also be used to pay attorneys' fees, litigation expenses, and incentive awards that the Court chooses to award. Plaintiffs and Co-Lead Counsel will file a motion by April 16, 2021, in which they will seek amounts not to exceed 33⅓% of the Settlement Proceeds in attorneys' fees, \$4.5 million in current and ongoing litigation expenses, and \$25,000 in service awards for each of the five Plaintiffs who are serving as Class Representatives. A copy of the motion for distribution of Settlement Proceeds and attorneys' fees, litigation expenses, and service awards will be available on the Settlement Website. The remainder of the Settlement Proceeds will be distributed to Settlement Class members who submit a timely and valid Claim Form and who have not excluded themselves from the Settlements on a pro rata basis pursuant to their Broiler purchases from January 1, 2008 through December 20, 2019.

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

The New Settling Defendants will also cooperate with Plaintiffs including by providing information, making witnesses available at trial, authenticating documents in the litigation to be used against the remaining Defendants. The New Settlement amounts may be reduced based on the portion of Settlement Class members who exclude themselves from these New Settlements. This is explained in Section II.E.10.b of the New Settlement Agreements. Plaintiffs will report to the Court on the number of exclusions and final amount paid by New Settling Defendants in their motion for final approval of the New Settlements.

#### **10. How much will my payment from the Settlements be?**

To be eligible to receive a payment from the Settlements (New and Previous), you must complete and submit a timely Claim Form by May 17, 2021. The instructions for submitting a claim are set forth in the attached Claim Form and Question 11 below.

The amount received from the Settlements by a qualified claimant will be based on a number of factors, including the number of Settlement Class members who have validly excluded themselves from one or more of the Settlements and the amount of Broiler purchases by each participating Class Member from January 1, 2008 through December 20, 2019. No matter how many claims are filed, no money will be returned to the Settling Defendants once the Court has granted final approval of the Settlements and certifies the Settlement Class.

Payments from the Settlements will only be made to Class Members if the Court has granted final approval of the Settlements and any objections and appeals are resolved. In accordance with the Settlement Agreements, the combined Settlement Proceeds, minus Court-approved attorneys' fees and litigation expenses, any Class Representative Service Award approved by the Court, and Settlement Administration and notice expenses (the "Net Settlement Fund"), will be distributed to Class Members on a pro rata basis based on the amount of Broiler purchases by each participating Class Member. The distribution plan, as approved by the Court, will determine the amount, if any, that each Class Member will receive. The proposed distribution plan for the Settlements is to make a pro rata distribution to each qualifying Class Member based on the dollar value of approved purchases of Broilers per Settlement Class member during the Settlement Class Period.

### **HOW YOU GET A PAYMENT**

#### **11. How can I file a Claim to get a payment from the Settlements?**

To be eligible to receive a payment from any of the Settlements, you must complete and submit a timely Claim Form by May 17, 2021. Submit your Claim Form online at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com), by May 17, 2021. Or fill out the Claim Form, and mail it to the address below, postmarked no later than May 17, 2021. If you do not submit a valid Claim Form by the deadline, you will not receive a payment from any of the Settlements, but you will be bound by the Court's judgment in these actions.

Your Claim Form is attached and is pre-populated to reflect the amount of your Broiler purchases from each Defendant and Co-Conspirator, based on a review of Defendants' records. You may use your personal Access Code listed on your Claim Form to log in at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com), where you can submit a claim, check the status of your claim, and review your purchase information electronically. You can accept the purchase amounts that are prepopulated or, if you disagree with those amounts, you can challenge them by completing the Purchase Audit Request form posted on the Settlement Website and providing supporting documentation. All revised Broiler purchaser amounts will be subject to a review process by the Settlement Administrator, Co-Lead Counsel, and ultimately the Court.

You can also request that a Claim Form be sent to you on the Settlement Website or by sending a written request to the Settlement Administrator by mail or by email:

Broiler Chicken Antitrust Litigation  
c/o JND Legal Administration  
PO Box 91343  
Seattle, WA 98111  
[info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com)

If you received multiple Claim Forms, you must submit each one or take other steps to ensure that all of the purchases reflected in the Claim Forms are accounted for in your submission.

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

If you have questions regarding your Claim Form or participating in the Settlements, contact Co-Lead Plaintiffs or the Settlement Administrator using the contact information set forth in Question 17 herein.

## **12. When will I get my payment from the Settlements?**

Payments from the Settlements will not be distributed until the Court grants final approval of the New Settlements and any objections or appeals are resolved. It is uncertain whether and when any appeals will be resolved. Settlement updates will be provided on the Settlement Website at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or may be obtained by contacting the Settlement Administrator by phone toll-free at 1-866-552-1178. Please be patient.

## **13. What am I giving up by staying in the Settlement Class?**

Unless you exclude yourself from one or more of the New Settlements with Tyson and Pilgrim's, you are staying in the Settlement Class, which means that you can't sue, continue to sue, the New Settling Defendants about the claims that the New Settlements resolve through February 23, 2021. It also means that all Court orders will apply to you and legally bind you. The Released Claims, which go through February 23, 2021, are detailed in the Settlement Agreements, available at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

You are not releasing your claims against any Defendant other than Tyson and Pilgrim's Pride by staying in the Settlement Class. The deadline to request exclusion from the settlements with the Previous Settling Defendants has already passed.

Please be advised that the class period for the New Settlements is January 1, 2008 through December 20, 2019 and payments for participating Class Members will be distributed on a pro rata basis pursuant to their Broiler purchases from January 1, 2008 through December 20, 2019.

## **IF YOU DO NOTHING**

## **14. What happens if I do nothing at all?**

If you do nothing, you will not get a payment from the New Settlements or Previous Settlements. Unless you exclude yourself from the New Settlements, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the New Settling Defendants about the claims that the New Settlements resolve, ever again. The deadline to request exclusion from the settlements with the Previous Settling Defendants has already passed.

## **EXCLUDING YOURSELF FROM THE NEW SETTLEMENTS**

## **15. How do I exclude myself from the New Settlements?**

If you do not want the benefits offered by any of the New Settlements with the New Settling Defendants and you do not want to be legally bound by them, or if you wish to pursue your own separate lawsuit against the New Settling Defendants, you must exclude yourself by submitting a written request to the Settlement Administrator stating your intent to exclude yourself from the Settlement Class by May 17, 2021. You should state from which of the New Settlements (i.e., Tyson and/or Pilgrim's Pride) you want to exclude yourself. The deadline to request exclusion from the settlements with the Previous Settling Defendants has already passed.

Your Exclusion Request must include the following: (a) your name, including the name of your business which purchased Broiler chicken, and address; (b) a statement that you want to be excluded from the Settlement Class in *In re: Broiler Chicken Antitrust Litigation*; (c) which of the Settlement Agreements (i.e., Tyson and/or Pilgrim's Pride) you wish to be excluded from; and (d) your signature or your attorneys' signature. If you intend to exclude subsidiaries, affiliates, divisions, related or controlled entities, entities under common control, predecessors in interest, or any other related entity, such entities must be expressly identified by name and address in your request.

Additionally, if you intend to exclude claims that were assigned to you from another potential Settlement Class member, you must include the assignor's name; whether the assignor fully or partially assigned their Broiler chicken claims; the annual value of Broiler chicken purchases assigned, identified by Defendant or Co-Conspirator from whom the purchases

were made; and a copy of the executed assignment agreement or a statement outlining the assignment signed by both the assignor and assignee.

You must mail or email your Exclusion Request, postmarked or emailed by May 17, 2021, to: Broiler Chicken Antitrust Litigation, c/o JND Legal Administration, PO Box 91343, Seattle, WA 98111 or [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com).

#### **16. If I don't exclude myself, can I sue the New Settling Defendants for the same thing later?**

No. Unless you exclude yourself from one or more of the New Settlements (i.e., Tyson and/or Pilgrim's Pride), you give up the right to sue the New Settling Defendants for the claims that the New Settlements resolve. Thus, if you do not exclude yourself from any of the New Settlements with the New Settling Defendants, you give up the right to sue Tyson and/or Pilgrim's Pride for the same claims that their settlements resolve through February 23, 2021. If you have your own pending lawsuit against either of the New Settling Defendants, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from this Settlement Class to continue your own lawsuit against the New Settling Defendants.

By staying in the lawsuit, you are not releasing your claims in this case against any Defendant other than the New Settling Defendants through February 23, 2021. The deadline to request exclusion from the Previous Settlements with the Previous Settling Defendants has already passed.

### **OBJECTING TO THE NEW SETTLEMENTS**

#### **17. How do I tell the Court that I don't like the New Settlements?**

If you are a Settlement Class Member and have not excluded yourself from the New Settlements, you can object to either of the New Settlements with the New Settling Defendants if you don't like part or all of them. The Court will consider your views.

To object, you must send a letter or other written statement saying that you object to the New Settlements with the New Settling Defendants in *In re: Broiler Chicken Antitrust Litigation*, state which of the New Settlements (i.e., Tyson and/or Pilgrim's Pride) you are objecting to, and the reasons why you object to the New Settlements. Be sure to include your full name, the name of your business that purchased Broiler chicken, current mailing address, and email address. Your objection must be signed. You may include or attach any documents that you would like the Court to consider. Do not send your written objection to the Court or the judge. Instead, mail the objection to the Settlement Administrator, Co-Lead Counsel, and Counsel for each Settling Defendant at the addresses listed below. Your objection must be postmarked no later than May 17, 2021. The deadline to object to the Previous Settlements with the Previous Settling Defendants has already passed.

<b>Settlement Administrator</b>	<b>Plaintiffs' Co-Lead Counsel</b>	<b>Plaintiffs' Co-Lead Counsel</b>
Broiler Chicken Antitrust Litigation c/o JND Legal Administration PO Box 91343 Seattle, WA 98111 (866) 552-1178	W. Joseph Bruckner Brian D. Clark Lockridge Grindal Nauen P.L.L.P. 100 Washington Ave. S., Ste. 2220 Minneapolis, MN 55401 (612) 339-6900	Clifford H. Pearson Bobby Pouya Pearson, Simon & Warshaw, LLP 15165 Ventura Blvd, Suite 400 Sherman Oaks, CA 91403 (818) 788-8300

<b>Counsel for Defendant Tyson</b>	<b>Counsel for Defendant Pilgrim's Pride</b>
Rachel J. Adcox Axinn, Veltrop & Harkrider LLP 950 F Street, N.W. 7th Floor Washington, DC 20004 (202) 912-4700	Carrie C. Mahan Weil, Gotshal & Manges LLP 2001 M Street NW, Suite 600 Washington, DC 20036 (202) 682-7231

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).

**18. What is the difference between excluding myself and objecting?**

Objecting is telling the Court that you do not like something about the New Settlements. You can object only if you do not exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class or the lawsuit. If you exclude yourself, you have no standing to object because the case no longer affects you.

**THE LAWYERS REPRESENTING YOU****19. Do I have a lawyer in this case?**

The Court has appointed Lockridge Grindal Nauen P.L.L.P. and Pearson, Simon & Warshaw, LLP as Co-Lead Counsel on behalf of Plaintiffs and Settlement Class members. Their contact information is provided above in Question 17. If you wish to remain a Settlement Class member, you do not need to hire your own lawyer because Co-Lead Counsel are working on your behalf, but may do so at your own expense if you so choose.

If you wish to pursue your own case separate from this one, or if you exclude yourself from the Settlement Class, these lawyers will no longer represent you. You may need to hire your own lawyer if you wish to pursue your own lawsuit against the Settling Defendants.

**20. How will the lawyers be paid?**

You will not have to pay any attorneys' fees or costs out-of-pocket. Co-Lead Counsel will file a motion by April 16, 2021, in which they will seek amounts not to exceed 33⅓% of the Settlement Proceeds in attorneys' fees, and \$4.5 million in current and ongoing litigation expenses incurred in the prosecution of this case on behalf of the Settlement Class. A copy of the motion for attorneys' fees and litigation expenses will be available on the Settlement Website and on the Court docket. The Court will determine the amount of the attorneys' fees and litigation expenses that should be paid to Co-Lead Counsel in this case.

**THE COURT'S FAIRNESS HEARING****21. When and where will the Court decide whether to approve the New Settlements?**

The Court will hold a Fairness Hearing to decide whether to approve the New Settlements at 9:00 a.m. on June 29, 2021. The hearing may be held using telephone, video conference or other means approved by the Court, rather than in person. Notice of the manner in which the hearing will be conducted will be provided by the Court. Do not go to the Court in person unless there is notice that the hearing will be conducted in person. At this hearing, the Court will consider whether the New Settlements are fair, reasonable, and adequate, as well as Plaintiffs' motion for fees, litigation expenses, and service awards for the Class Representatives. If there are objections, the Court will consider them. You may attend and you may ask to speak, if you make a request as instructed in Question 23, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the New Settlements. We do not know how long the Court will take to decide. The date of the hearing may change without further notice to the Class, so please check the Settlement Website for updates.

**22. Do I have to come to the hearing?**

No. Co-Lead Counsel will answer any questions the Court may have. However, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

**23. May I speak at the hearing?**

You may ask to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *In re: Broiler Chicken Antitrust Litigation*." Be sure to include your name, and the name of your business that purchased Broiler chicken, current mailing address, telephone number, and signature. Your Notice of Intention to

Questions? Call the Settlement Administrator toll-free at 1-866-552-1178 or visit [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).



Appear must be postmarked no later than May 17, 2021, and it must be sent to the Clerk of the Court, Co-Lead Counsel, and Defense Counsel. The address for the Clerk of the Court is: Clerk of the United States District Court, Dirksen Federal Building, 219 South Dearborn Street, Chicago, IL 60604. The addresses for Co-Lead Counsel and Defense Counsel are provided in Question 17. You cannot ask to speak at the hearing if you exclude yourself from the New Settlements.

### **GETTING MORE INFORMATION**

#### **24. How do I get more information about the New Settlements?**

This notice summarizes the proposed New Settlements. More details are in the Settlement Agreements. You can find a copy of the Settlement Agreements, other important documents, and information about the current status of the litigation by visiting [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com). You may contact the Settlement Administrator at [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com) or toll-free at 1-866-552-1178. You may also contact Co-Lead Counsel at the address, phone number, and email address provided in Question 17.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**



# EXHIBIT B

**Email Subject Line:** Class Action Notice - Broiler Chicken Antitrust Litigation

---

**YOUR ACCESS CODE:** \_\_\_\_\_

**If you purchased Broiler chicken directly from a Broiler Chicken Producer in the United States from at least as early as January 1, 2008 through December 20, 2019, you may be eligible for benefits from some class action settlements**

**Please Review This Notice Carefully. The Deadline to File a Claim, Request Exclusion, Object or Take Other Action is May 17, 2021**

Two more settlements have been reached in a class action antitrust lawsuit filed on behalf of Direct Purchaser Plaintiffs ("Plaintiffs") of Broiler chicken. The two new settlements are with Defendants Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc. (collectively, "Tyson") and Pilgrim's Pride Corporation ("Pilgrim's Pride"), collectively "New Settlements" with the "New Settling Defendants." Previous settlements (the "Previous Settlements") were reached by Plaintiffs with Defendants Peco Foods, Inc. ("Peco"), George's, Inc. and George's Farms, Inc. (collectively, "George's"), Amick Farms, LLC ("Amick"), and Fieldale Farms Corporation ("Fieldale Farms"), collectively the "Previous Settling Defendants." Together the New Settling Defendants and Previous Settling Defendants are referred to as "Settling Defendants" and the Previous Settlements and the New Settlements are collectively referred to as the "Settlements." The proposed New Settlements are with the New Settling Defendants only and do not dismiss claims against other Defendants.

**WHO IS INCLUDED IN THE SETTLEMENTS?** For all settlements except the Fieldale Farms settlement, Settlement Class members include: All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. The class period for the Fieldale Farms settlement is January 1, 2008 through August 18, 2017.

Specifically excluded from the Settlement Class are the Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

**WHAT IS THIS CASE ABOUT?** Plaintiffs allege that Defendants and their Co-Conspirators conspired to fix, raise, maintain, and stabilize the price of Broilers, beginning at least as early as January 1, 2008. Plaintiffs allege that Defendants implemented their conspiracy in various ways, including via coordinated supply restrictions, sharing competitively sensitive price and production information, and otherwise manipulating Broiler prices, with the intent and expected result of increasing prices of Broilers in the United States, in violation of federal antitrust laws. The Settling Defendants have not admitted any liability concerning and continue to deny the legal claims alleged. The Court did not decide which side was right, but both sides agreed to the Settlements to resolve the case. The case is still proceeding on behalf of the Direct Purchase Plaintiffs against all *other* Defendants who have not settled with the Plaintiffs.

**WHAT DO THE SETTLEMENTS PROVIDE?** The New Settlements require the New Settling Defendants to pay up to the following amounts to the Settlement Class: Tyson \$80,000,000; and Pilgrim's \$75,000,000. Together, with the amounts paid by the Previous Settling Defendants (Peco \$4,964,600; George's \$4,097,000; Amick \$3,950,000, Fieldale Farms \$2,250,000), total settlements in the Direct Purchaser Plaintiffs' case are

\$170,261,600 (the “Settlement Proceeds”).

A portion of the Settlement Proceeds has been and will be used by the Settlement Administrator for notice and administration costs. Co-Lead Counsel will file a motion seeking amounts not to exceed 33⅓% of the Settlement Proceeds in attorneys’ fees, \$4.5 million in current and ongoing litigation expenses, and \$25,000 in service awards for each of the five Direct Purchaser Plaintiffs who are serving as Class Representatives. The remainder of the Settlement Proceeds will be distributed on a pro rata basis to Settlement Class members who submit a timely and valid Claim Form and who have not excluded themselves from the Settlements.

**HOW DO YOU RECEIVE MONEY FROM THE SETTLEMENTS?** In order to receive money from the Settlements you must submit a Claim Form by **May 17, 2021**. Go to **www.broilerchickenantitrustlitigation.com** to file a Claim Form online for payment. Your Claim Form is pre-populated to reflect the amount of your Broiler purchases from each Defendant and Co-Conspirator, based on a review of their records. You can access your pre-populated Claim Form using your personal Access Code listed above. You may have also received a pre-printed Claim Form in the mail. You can also request that a Claim Form be sent to you through the Settlement Website or by sending a written request to the Settlement Administrator by mail or by email: Broiler Chicken Antitrust Litigation, c/o JND Legal Administration, PO Box 91343, Seattle, WA 98111 or [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com).

**WHAT ARE MY OTHER OPTIONS?** If you do not request exclusion from the class, you will be bound by the New Settlements. If you want to keep your right to sue or continue to sue the New Settling Defendants about the legal claims in this case, you must exclude yourself by **May 17, 2021**. If you stay in the New Settlements, you may object by **May 17, 2021**. Go to **www.broilerchickenantitrustlitigation.com** for details on how to exclude yourself or object. The deadline to request exclusion from or object to the settlements with the Previous Settling Defendants has already passed.

The Court will hold a Final Approval hearing in this case (*In re Broiler Chicken Antitrust Litigation*, Case No. 16-cv-08637) on **June 29, 2021 at 9:00 a.m.** At this hearing, the Court will consider whether the New Settlements are fair, reasonable, and adequate, as well as Plaintiffs’ motion for distribution of the Settlement Proceeds and attorneys’ fees, litigation expenses, and service awards for the Class Representatives. The hearing may be held using telephone, video conference or other means approved by the Court. You or your attorney may ask to speak at the hearing at your own expense, but you don’t have to. The date of the hearing may change, so please check the Settlement Website for updates.

**This notice is only a summary. For more information, go to [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or call toll-free 1-866-552-1178. You should also review the detailed notice that was mailed to you. Please do not contact the Court.**

To unsubscribe, please click on the following link: [unsubscribe](#)

# EXHIBIT C

## **COURT-APPROVED LEGAL NOTICE**

**If you purchased Broiler chicken directly from a Broiler Chicken Producer in the United States from at least as early as January 1, 2008 through December 20, 2019, you may be eligible for benefits from some class action settlements**

*Para una notificación en español, llame gratis al 1-866-552-1178  
o visite nuestro website [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com).*

Two more settlements have been reached in a class action antitrust lawsuit filed on behalf of Direct Purchaser Plaintiffs (“Plaintiffs”) of Broiler chicken. The two new settlements are with Defendants Tyson Poultry, Inc. (“Tyson”) and Pilgrim’s Pride Corporation (“Pilgrim’s Pride”), collectively “New Settlements” with the “New Settling Defendants.” Previous settlements (the “Previous Settlements”) were reached by Plaintiffs with Defendants Peco Foods, Inc. (“Peco”), George’s, Inc. and George’s Farms, Inc. (collectively, “George’s”), Amick Farms, LLC (“Amick”), and Fieldale Farms Corporation (“Fieldale Farms”), collectively the “Previous Settling Defendants.” Together the New Settling Defendants and Previous Settling Defendants are referred to as “Settling Defendants” and the Previous Settlements and the New Settlements are collectively referred to as the “Settlements.” The proposed New Settlements are with the New Settling Defendants only and do not dismiss claims against other Defendants. The Court has appointed Lockridge Grindal Nauen P.L.L.P. and Pearson, Simon & Warshaw, LLP as Co-Lead Counsel on behalf of Plaintiffs and Class Members.

### **WHO IS INCLUDED IN THE SETTLEMENTS?**

For all settlements except the Fieldale Farms settlement, Class Members include all persons (including businesses and companies) who purchased Broiler chicken directly from any of the Defendants or their Co-Conspirators, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. The class period for the Fieldale Farms settlement is January 1, 2008 through August 18, 2017. If you are not sure you are included, go to the Settlement Website, [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or call toll-free 1-866-552-1178.

Specifically excluded from the Settlement Class are the Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir, or assign of any Defendant. Also excluded from the Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any Co-Conspirator identified in this action.

### **WHAT IS THIS CASE ABOUT?**

The lawsuit claims that the Settling Defendants combined and conspired in restraint of trade, the purpose and effect of which were to suppress competition and allow them and other Broiler chicken producers to charge supra-competitive prices for Broilers during the class period, in violation of federal law. The Settling Defendants have not admitted any liability concerning and continue to deny the legal claims alleged in this lawsuit. The Court did not decide which side was right, but both sides agreed to the Settlements to resolve the case. The case is still proceeding on behalf of the Plaintiffs against all *other* Defendants who have not settled with the Plaintiffs.

### **WHAT DO THE SETTLEMENTS PROVIDE?**

The New Settlements require the New Settling Defendants to pay up to the following amounts to the Direct Purchaser Plaintiff Class: Tyson \$80,000,000; and Pilgrim’s Pride \$75,000,000. Together with the amounts paid by the Previous Settling Defendants (Peco \$4,964,600; George’s \$4,097,000; Amick \$3,950,000, Fieldale Farms \$2,250,000), total settlements in the Direct Purchaser Plaintiffs’ case are \$170,261,600 (the “Settlement Proceeds”).

A portion of the Settlement Proceeds has been and will be used by the Settlement Administrator for notice and administration costs, attorneys’ fees/litigation expenses, and incentive awards. Plaintiffs and Co-Lead Counsel will file a motion seeking amounts not to exceed 33⅓% of the Settlement Proceeds in attorneys’ fees, \$4.5 million in current and ongoing costs, and \$25,000 in service awards for each of the five Plaintiffs who are serving as Class Representatives. The remainder of the Settlement Proceeds will be distributed on a pro rata basis to Class Members who submit a timely and valid Claim Form and who have not excluded themselves from the Settlements.

### **HOW DO YOU RECEIVE MONEY FROM THE SETTLEMENTS?**

In order to receive money from the Settlements you must submit a Claim Form by **May 17, 2021**. Go to [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) to file a Claim Form for payment. You can also request that a Claim Form be sent to you through the Settlement Website or by sending a written request to the Settlement Administrator by mail or by email: Broiler Chicken Antitrust Litigation, c/o JND Legal Administration, PO Box 91343, Seattle, WA 98111 or [info@broilerchickenantitrustlitigation.com](mailto:info@broilerchickenantitrustlitigation.com).

### **WHAT ARE MY OTHER OPTIONS?**

If you do not request exclusion from the class, you will be bound by the New Settlements. If you want to keep your right to sue or continue to sue the New Settling Defendants about the legal claims in this case, you must exclude yourself by **May 17, 2021**. If you stay in the New Settlements, you may object by **May 17, 2021**. Go to [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) for details on how to exclude yourself or object. The deadline to request exclusion from or object to the settlements with the Previous Settling Defendants has already passed. The Court will hold a hearing in this case (*In re: Broiler Chicken Antitrust Litigation*, Case No. 16-cv-08637) on **June 29, 2021 at 9:00 a.m.** At this hearing, the Court will consider whether the New Settlements are fair, reasonable, and adequate, as well as Plaintiffs' motion for fees, costs, and service awards for the Class Representatives. The hearing may be held using telephone, video conference or other means approved by the Court. You or your attorney may ask to speak at the hearing at your own expense, but you don't have to. The date of the hearing may change, so please check the Settlement Website for updates.

**This notice is only a summary. For more information, go to [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) or call toll-free 1-866-552-1178. Please do not contact the Court.**



# EXHIBIT D

Broiler Chicken Antitrust Settlements  
 c/o JND Legal Administration  
 PO Box 91343, Seattle WA 98111  
[www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com)

<<NAME>>  
 <<C/O>>  
 <<ADDRESS 1>>  
 <<ADDRESS2>>  
 <<CITY>>, <<STATE>> <<ZIP>>  
 <<COUNTRY>>

[BARCODE]

CLAIMANT NUMBER: \_\_\_\_\_

YOUR ACCESS CODE: \_\_\_\_\_

### DIRECT PURCHASER ANTITRUST CLAIM FORM

Our records indicate you may be a member of the Settlement Class in this action for the settlements with Defendants Tyson, Pilgrim's Pride, Peco, George's, Amick and Fieldale Farms (collectively, the "Settlements"). The Settlement Class for all settlements except for the Fieldale Farms settlement is defined as "all persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in the action, or their respective subsidiaries or affiliates, for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019." The Fieldale Farms settlement class has a class period of January 1, 2008 through August 18, 2017.

**You must submit this Claim Form to the mailing address listed at the top of this form or on the settlement website [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com) by \_\_\_\_\_, 2021 in order to participate in any settlement benefits available to class members. You will not be eligible to file a claim and receive settlement proceeds for any Settlement you have opted out of.**

You may use your personal Access Code listed at the top of this page to log in at [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com), where you can submit a claim, check the status of your claim, and review your purchase information electronically. If your organization received more than one notice, you only need to file one claim form for each Claimant Number and Access Code listed at the top of this page.

### Review your purchase information

The total award amount you receive will be calculated based on the purchase information from the Defendants' records.

The Defendants' records indicate that your total purchase amount is \$\_\_\_\_\_ from January 1, 2008 through December 20, 2019. The details concerning the amount of your qualifying purchases are set forth on pages 2 and 3.



If you agree with the purchase information listed on pages 2 and 3, you simply need to complete the Claimant Information below and affirm and sign the attestation on page 4, and submit it by \_\_\_\_\_ (postmarked or submitted online).

If you do not agree with the purchase information on page 2 and 3, you may complete the Purchase Audit Request form posted on the settlement website and submit it with your Claim Form.

[BARCODE]

Broiler Chicken Antitrust Settlements  
 c/o JND Legal Administration  
 PO Box 91343, Seattle WA 98111  
[www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com)

CLAIMANT NUMBER: \_\_\_\_\_

YOUR ACCESS CODE: \_\_\_\_\_

<b>PURCHASE INFORMATION</b>
-----------------------------

DEFENDANT/ CO-CONSPIRATOR	2008	2009	2010	2011	2012	2013
Allen Harim						
Amick Farms						
Case Farms						
Claxton Poultry						
Fieldale Farms						
Foster Farms						
George's						
Harrison Poultry						
House of Raeford						
Keystone Foods						
Koch Foods						
Mar-Jac Poultry						
Mountaire						
O.K. Foods						
Peco Foods						
Perdue						
Pilgrim's Pride						
Sanderson Farms						
Simmons Foods						
Tyson						
Wayne Farms, LLC						

Broiler Chicken Antitrust Settlements  
c/o JND Legal Administration  
PO Box 91343, Seattle WA 98111  
www.broilerchickenantitrustlitigation.com

DEFENDANT/ CO-CONSPIRATOR	2014	2015	2016	2017 (1/1 - 8/18)	2017 (8/19 - 12/31)	2018	2019 (1/1 - 12/20)
Allen Harim							
Amick Farms							
Case Farms							
Claxton Poultry							
Fieldale Farms							
Foster Farms							
George's							
Harrison Poultry							
House of Raeford							
Keystone Foods							
Koch Foods							
Mar-Jac Poultry							
Mountaire							
O.K. Foods							
Peco Foods							
Perdue							
Pilgrim's Pride							
Sanderson Farms							
Simmons Foods							
Tyson							
Wayne Farms, LLC							

Total Purchase Amount \$ \_\_\_\_\_



If you agree with the purchase information listed on pages 2 and 3, you simply need to complete the Claimant Information and affirm and sign the attestation on page 4, and submit it by \_\_\_\_\_ (postmarked or submitted online).

If you do not agree with the purchase information on page 2 and 3, you may complete the Purchase Audit Request form posted on the settlement website and submit it with your Claim Form.

[BARCODE]

Broiler Chicken Antitrust Settlements  
 c/o JND Legal Administration  
 PO Box 91343, Seattle WA 98111  
 www.broilerchickenantitrustlitigation.com

CLAIMANT NUMBER: \_\_\_\_\_

YOUR ACCESS CODE: \_\_\_\_\_

### DIRECT PURCHASER ANTITRUST CLAIM FORM

If you **agree** with the purchase information on pages 2 and 3, please complete the Claimant Information below and submit it by \_\_\_\_\_ (postmarked or submitted online) to the Settlement Administrator at the address listed above.

If you do **not agree** with the purchase information listed on pages 2 and 3, please complete the Claimant Information below, as well as the **Purchase Audit Request form posted on the settlement website, [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com)** and submit them by \_\_\_\_\_ (postmarked or submitted online) to the Settlement Administrator at the address listed above, along with additional documentation to support your claim (e.g., invoices, purchase information, etc.).

<u>CLAIMANT INFORMATION</u>			
<u>CONTACT NAME:</u>	First	M.I.	Last
<u>COMPANY NAME:</u>	Company Name		
<u>CURRENT MAILING ADDRESS:</u>	Address 1		
	Address 2		
	City		
	State/Province		
	Postal Code	Country	
<u>CONTACT TELEPHONE:</u>	_ _ _ _  -  _ _ _ _ _  -  _ _ _ _ _		
<u>CONTACT EMAIL ADDRESS:</u>			

By signing below I/we certify that (1) the above and foregoing information is true and correct; (2) I warrant that I am duly authorized and have the legal capacity to sign this Claim Form on behalf of the direct purchaser entity; (3) I/we are not officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; an affiliate, legal representative, heir, or assign of any Defendant, or a federal, state, or local governmental entity; and (4) I/we agree to submit additional information, if requested, in order for the Settlement Administrator to process my/our claim.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Full Name (First, Middle, and Last): \_\_\_\_\_

Title: \_\_\_\_\_

**QUESTIONS? CALL 1-866-552-1178 TOLL FREE OR VISIT [WWW.BROILERCHICKENANTITRUSTLITIGATION.COM](http://WWW.BROILERCHICKENANTITRUSTLITIGATION.COM)**

# EXHIBIT E



Broiler Chicken Antitrust Settlements  
 c/o JND Legal Administration  
 PO Box 91343, Seattle WA 98111  
[www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com)

CLAIMANT NUMBER (printed on your Claim Form): \_\_\_\_\_

### DIRECT PURCHASER ANTITRUST PURCHASE AUDIT REQUEST FORM

Please use this form if you do not agree with the purchase information pre-printed on pages 2 and 3 of your Claim Form and you would like to have that information audited. Please fill out your contact information below and provide annualized purchase information on pages 2 and 3.

You must submit this Purchase Audit Request Form to the mailing address listed at the top of this form or on the settlement website, [www.broilerchickenantitrustlitigation.com](http://www.broilerchickenantitrustlitigation.com), along with your Claim Form, by \_\_\_\_\_, 2021.

<u>CLAIMANT INFORMATION</u>			
<u>CONTACT NAME:</u>	First	M.I.	Last
<u>COMPANY NAME:</u>	Company Name		
<u>CURRENT MAILING ADDRESS:</u>	Address 1		
	Address 2		
	City		
	State/Province		
	Postal Code	Country	
<u>CONTACT TELEPHONE:</u>	-         -		
<u>CONTACT EMAIL ADDRESS:</u>			

If you do not agree with the purchase information provided on pages 2 and 3 of the Claim Form, you must complete the purchase information tables on pages 2 and 3 of this form with all purchase information to which you believe you are entitled. This form must reflect ALL of the purchases from the Defendants and alleged Co-Conspirators that you are claiming during the relevant time periods. You may not seek Settlement Proceeds with respect to any Settlement from which you have opted out.

You must submit this form along with your Claim Form by \_\_\_\_\_, 2021 (postmarked or submitted online) to the Settlement Administrator at the address listed above, along with additional documentation to support your dispute (e.g., invoices, purchase information, etc.).

Broiler Chicken Antitrust Settlements  
c/o JND Legal Administration  
PO Box 91343, Seattle WA 98111  
www.broilerchickenantitrustlitigation.com

### PURCHASE INFORMATION

DEFENDANT/ CO-CONSPIRATOR	2008	2009	2010	2011	2012	2013
Allen Harim						
Amick Farms						
Case Farms						
Claxton Poultry						
Fieldale Farms						
Foster Farms						
George's						
Harrison Poultry						
House of Raeford						
Keystone Foods						
Koch Foods						
Mar-Jac Poultry						
Mountaire						
O.K. Foods						
Peco Foods						
Perdue						
Pilgrim's Pride						
Sanderson Farms						
Simmons Foods						
Tyson						
Wayne Farms, LLC						

Broiler Chicken Antitrust Settlements  
c/o JND Legal Administration  
PO Box 91343, Seattle WA 98111  
www.broilerchickenantitrustlitigation.com

DEFENDANT/ CO-CONSPIRATOR	2014	2015	2016	2017 (1/1 - 8/18)	2017 (8/19 - 12/31)	2018	2019 (1/1 - 12/20)
Allen Harim							
Amick Farms							
Case Farms							
Claxton Poultry							
Fieldale Farms							
Foster Farms							
George's							
Harrison Poultry							
House of Raeford							
Keystone Foods							
Koch Foods							
Mar-Jac Poultry							
Mountaire							
O.K. Foods							
Peco Foods							
Perdue							
Pilgrim's Pride							
Sanderson Farms							
Simmons Foods							
Tyson							
Wayne Farms, LLC							

By signing below I/we certify that (1) the above and foregoing information is true and correct; (2) I warrant that I am duly authorized and have the legal capacity to sign this Purchase Audit Request Form on behalf of the direct purchaser entity; (3) I/we are not officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; an affiliate, legal representative, heir, or assign of any Defendant, or a federal, state, or local governmental entity; and (4) I/we agree to submit additional information, if requested, in order for the Settlement Administrator to process my/our claim and audit request.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Full Name (First, Middle, and Last): \_\_\_\_\_

Title: \_\_\_\_\_

**QUESTIONS? CALL 1-866-552-1178 TOLL FREE OR VISIT WWW.BROILERCHICKENANTITRUSTLITIGATION.COM**

# **EXHIBIT G**

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

IN RE BROILER CHICKEN ANTITRUST  
LITIGATION,

Case No.: 1:16-cv-08637

The Honorable Thomas M. Durkin

This Document Relates To:

THE DIRECT PURCHASER PLAINTIFF  
ACTION

**ORDER GRANTING DIRECT PURCHASER PLAINTIFFS' MOTION FOR  
PRELIMINARY APPROVAL OF THE SETTLEMENTS WITH  
THE MAR-JAC AND HARRISON POULTRY DEFENDANTS**

This Court has held a hearing on Direct Purchaser Plaintiffs' Motion for Preliminary Approval of the Settlements with Defendants Mar-Jac Poultry, Inc., Mar-Jac Poultry MS, LLC, Mar-Jac Poultry AL, LLC, Mar-Jac AL/MS, Inc., Mar-Jac Poultry, LLC and Mar-Jac Holdings, Inc. (Mar-Jac Holdings, Inc. is incorrectly named in the Complaint as Mar-Jac Holdings, LLC) (collectively, "Mar Jac") and Harrison Poultry, Inc. ("Harrison Poultry") ("Motion"). Direct Purchaser Plaintiffs ("Plaintiffs") have entered into Settlement Agreements with Mar Jac and Harrison Poultry. The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreements, and the file, hereby **ORDERS AND ADJUDGES:**

**Preliminary Approval of the Settlements and Certification of Settlement Class**

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreements. Upon review of the record, the Court finds that the proposed Settlement Agreements, each of which was arrived at by arm's length negotiations by highly experienced counsel, falls within the range of possible approval and each one is hereby preliminarily approved, subject to further consideration at the Court's Fairness Hearing. The Court finds that the Settlement Agreements are preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Settlement Class, raise no obvious reasons to doubt their fairness, and raise a reasonable basis for presuming that the Settlements and their terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that notice of the Settlements should be given to the Settlement Class.

2. This Court certifies a Settlement Class defined as:

All persons who purchased Broilers directly from any of the Defendants or any co-conspirator identified in this action, or their respective subsidiaries or affiliates for use or delivery in the United States from at least as early as January 1, 2008 until December 20, 2019. Specifically excluded from the Settlement Class are the



Defendants; the officers, directors or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of any Defendant. Also excluded from this Settlement Class are any federal, state, or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

3. The Court appoints the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson, Simon & Warshaw, LLP as Co-Lead Counsel for the Settlement Class.

#### **Approval of the Notice Plan**

4. The Court hereby directs notice to be distributed to the Settlement Class members pursuant to Federal Rule of Civil Procedure (“Rule”) 23(c)(2). A.B. Data Ltd. is hereby appointed as Claims Administrator and ordered to effectuate the notice plan. US Bank is hereby appointed as the Escrow Agent for the Settlements.

5. The proposed notice plan set forth in the Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice via mail and email to all members who can be identified through reasonable effort. The direct mail and email notice will be supported by reasonable publication notice to reach Settlement Class members who could not be individually identified.

6. The attached proposed notice documents: Long Form Notice (Exhibit “A”), Email Notice (Exhibit “B”), and Summary Publication Notice (Exhibit “C”), and their manner of transmission, comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise Settlement Class members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a Settlement Class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the Settlement Class any member who requests exclusion; (vi)

the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court.

**Schedule for Class Notice and the Fairness Hearing**

7. The Court hereby sets the below schedule for the dissemination of notice to the class, for Settlement Class members to object to or exclude themselves from the Settlement, and for the Court's Fairness Hearing, at which time the Court will determine whether the Settlement Agreements should be finally approved as fair, reasonable, and adequate. The Fairness Hearing may take place remotely via telephone or video conference. This Court may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting the Parties will not be required to provide any additional notice to Settlement Class members.

<b><u>DATE</u></b>	<b><u>EVENT</u></b>
1. October 22, 2021	Settlement Administrator to provide direct mail and email notice, and commence the publication notice plan.
2. December 21, 2021 (60 days after the mailing of Notice)	Last day to request exclusion from the Settlement Class; object to the Settlements; and file notices to appear at the Fairness Hearing.
4. January 3, 2022 (13 days after last day to request exclusion from the settlement)	Class Counsel shall file with the Court a list of all persons and entities who have timely and adequately requested exclusion from the Settlement Class.
5. January 11, 2022 (14 days before Fairness Hearing)	Class Counsel shall file a motion for final approval of the Settlements and all supporting papers, and Class Counsel and the Settling Defendants may respond to any objections to the proposed Settlements.
6. January 25, 2022 at 1:00 p.m. Central Time	Final Settlement Fairness Hearing.

**Other Provisions**

8. Terms used in this Order that are defined in the Settlement Agreements are, unless otherwise defined herein, used as defined in the Settlement Agreements.

9. If the Settlement Agreements are not finally approved, then they and all proceedings in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in the Settlement Agreements, and without prejudice to the *status quo ante* rights of Plaintiffs, the Settling Defendants, and the members of the Class. The parties shall also comply with any terms or provisions of the Settlement Agreements applicable to termination, rescission, or the Settlements otherwise not becoming Final.

**IT IS SO ORDERED.**

DATED: October 5, 2021



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HON. THOMAS M. DURKIN

# **EXHIBIT H**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SANDEE'S BAKERY d/b/a SANDEE'S  
CATERING BAKERY & DELI AND GNEMI,  
LLC d/b/a LOGAN FARMS,

Plaintiffs,

v.

AGRI STATS, INC., et al.,

Defendants.

No. 1:20-cv-02295

Hon. Virginia M. Kendall

**ORDER GRANTING COMMERCIAL AND INSTITUTIONAL  
INDIRECT PURCHASER PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL  
OF PROPOSED SETTLEMENT WITH TYSON DEFENDANTS AND  
PROVISIONAL CERTIFICATION OF SETTLEMENT CLASS**

The Commercial and Institutional Indirect Purchaser Plaintiffs ("CIIPPs") Sandee's Bakery d/b/a Sandee's Catering Bakery & Deli and Gnemi, LLC d/b/a Logan Farms seek the Court's preliminary approval of the settlement of their claims against Tyson Foods, Inc., Tyson Fresh Meats, Inc., Tyson Prepared Foods, Inc., and the Hillshire Brands Company (collectively "Tyson").

Upon consideration of the filings, record, and applicable legal authority and having carefully reviewed the CIIPPs' Motion for Preliminary Approval of Proposed Settlement with Tyson and Provisional Certification of Settlement Class ("Motion"), it is hereby **ORDERED** as follows:

1. The Motion is hereby **GRANTED**.

2. Unless otherwise set forth herein, defined terms in this Order shall have the same meaning ascribed to them in the settlement agreement between CIIPPs and Tyson (“Settlement Agreement”).

3. The Court has jurisdiction over this action and each of the parties to the Settlement Agreement.

4. The terms of the Settlement Agreement are hereby preliminarily approved, including the release contained therein, as being fair, reasonable, and adequate to the Settlement Class, subject to further consideration at the Court’s Fairness Hearing. The Court finds that the Settlement Agreement was negotiated and entered into at arm’s length by experienced counsel, raises no obvious reasons to doubt its fairness, and is sufficiently within the range of reasonableness that notice of the Settlement Agreement should be given, pursuant to a plan to be submitted by Settlement Class Counsel and approved by the Court at a later date as provided in this Order.

5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court hereby finds that the prerequisites for a class action have been met and provisionally certifies the following class for settlement purposes (“Settlement Class”):

All commercial and institutional purchasers in the United States and its territories that purchased turkey, once or more, other than directly from Defendants, entities owned or controlled by Defendants, or other producers of turkey, from January 1, 2010 to January 1, 2017. Excluded from the Nationwide Class are the Court and its personnel, and any Defendants and their parent or subsidiary companies.

This class definition is in all material respects the same class proposed in the CIIPPs’ Second Amended Class Action Complaint (Dkt. No. 133) and the Settlement Agreement. (*See* Settlement Agreement, ¶ 5).



6. The Court finds that provisional certification of the Settlement Class is warranted in light of the Settlement Agreement because: (a) the Settlement Class members are so numerous that joinder is impracticable; (b) CIIPPs' claims present common issues and are typical of the Settlement Class; (c) the CIIPP named representatives and Settlement Class Counsel (defined below) will fairly and adequately represent the Settlement Class; and (d) common issues predominate over any individual issues affecting the members of the Settlement Class. The Court further finds that the named representative CIIPPs' interests are aligned with the interests of all other members of the Settlement Class. The Court also finds settlement of this action on a class basis is superior to other means of resolving the matter.

7. The Court appoints Blaine Finley (Cuneo Gilbert & LaDuca, LLP) and Sterling Aldridge (Barrett Law Group, P.A.) as Settlement Class Counsel, having determined that the requirements of Rule 23(g) are fully satisfied by this appointment.

8. Each CIIPP class representative named in the most current Complaint in the above case will serve as a CIIPP class representative on behalf of the Settlement Class.

9. The Court hereby sets the below schedule for approval of a notice plan, the dissemination of notice to potential members of the Settlement Class, for members of the Settlement Class to object to or exclude themselves from the Settlement Agreement, and for the Court's Final Approval Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. This Court may order the Final Approval Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website, but other than the website posting, the Parties will not be required to provide any additional notice to Settlement Class Members. Pursuant

to any applicable orders relating to the COVID-19 emergency or otherwise, the Final Approval Hearing may take place remotely, including via telephone or video conference.

<b>DATE</b>	<b>EVENT</b>
Within 60 days after entry of the preliminary approval order	Co-Lead Counsel will move the Court to approve a program to notify members of the Settlement Class of this Settlement with Tyson
Within 30 days after the entry of an order approving the proposed notice plan	Settlement Administrator to commence providing notice
60 days after the commencement of the Notice	Last day for Settlement Class Members to request exclusion from the Settlement Class; for Settlement Class Members to object to the Settlement; and for Settlement Class Members to file notices to appear at the Final Approval Hearing
7 days after last day to request exclusion from Settlements	Co-Lead Counsel to provide Tyson with a list of all persons and entities who have timely and adequately requested exclusion from the Settlement Class
14 days before the Final Approval Hearing	Co-Lead Counsel shall file a motion for final approval of the Settlement and all supporting papers, and Co-Lead Counsel and Tyson may respond to any objections to the proposed Settlement
40 days after the last day to request exclusion from the Settlement, or as soon thereafter as may be heard by the Court	Final Approval Hearing for the Settlement

10. The Notice Motion shall include a proposed form of, method for, and date of dissemination of notice.

11. After notice has been disseminated, potential members of the Settlement Class: (1) who wish to exclude themselves from the Settlement Agreement will be required to submit an appropriate and timely request for exclusion, (2) who wish to object to the Settlement Agreement will be required to submit an appropriate and timely written statement of the grounds for the objection, or (3) who wish to appear in person to be heard or object to the Settlement Agreement will be required to submit an appropriate and timely request to appear. The directions for exercising

these options will be set forth in the notice documents and the Court's Order regarding the Notice Motion.

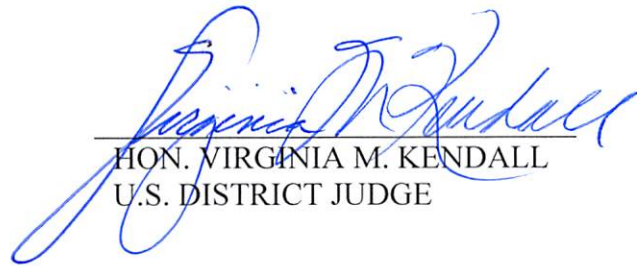
12. If the Settlement Agreement is not granted Final Approval following the Fairness Hearing or is cancelled or terminated pursuant to Paragraph 20 of the Settlement Agreement, then the Settlement Agreement and all proceedings had in connection therewith shall be vacated, and shall be null and void, except insofar as expressly provided otherwise in the Settlement Agreement, and without prejudice to the status quo and rights of CIPPs, Tyson, and the members of the Settlement Class. The parties shall also comply with any terms or provisions of the Settlement Agreement applicable to the settlement not becoming final.

13. Neither this Order nor the Settlement Agreement shall be deemed or construed to be an admission or evidence of a violation of any statute, law, rule, or regulation or of any liability or wrongdoing by Tyson or of the truth of any of CIPPs' claims or allegations, nor shall it be deemed or construed to be admission or evidence of Tyson's defenses.

14. The Court approves the establishment of the Settlement Fund described at Paragraph 11 of the Settlement Agreement as a qualified settlement fund ("QSF") pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder, and retains continuing jurisdiction as to any issue that may arise in connection with the formation and/or administration of the QSF. Settlement Class Counsel are, in accordance with the Settlement Agreement and subject to any necessary Court approval, authorized to expend funds from the QSF for the payment of the costs of notice, payment of taxes, and settlement administration costs.

15. The litigation against Tyson Released Parties (as defined in the Settlement Agreement with Tyson) is stayed except to the extent necessary to effectuate the Settlement Agreement.

Dated: July 28, 2021

  
HON. VIRGINIA M. KENDALL  
U.S. DISTRICT JUDGE

# **EXHIBIT I**





**SETTLEMENT  
SERVICES**





## Connecting Our Customers to Streamlined Settlement Services

Our National Settlement team has handled more than 5,500 settlements for law firms, claims administrators and regulatory agencies. These cases represent over \$75 billion with more than 200 million checks – including some of the largest settlements in U.S. history.

5,500+ Settlements      200M+ Checks      \$75B+ Disbursed

## Including these Settlements

\$7.25B

Payment Card Interchange Fee Settlement Fund

\$4.0B

Madoff Victim Fund

\$2.9B

Petrobras Securities Litigation

\$2.4B

SEC v. Bank of America Securities Settlement

\$2.3B

FX Benchmark Rates Antitrust Settlement

\$1.5B

National Mortgage Settlement

\$926M

Stryker Modular Hip Settlement

\$735M

U.S. Dept. of Justice Adelphia Victim Remission

\$525M

Lehman Brothers Securities Settlement Fund

\$200M

SEC v. JPMorgan Chase Settlement

\$153M

HealthSouth Securities Settlement Fund

# Experience Matters

The Huntington National Settlement team has spent nearly 20 years working within the class action industry, building an extensive network of contacts with law firms, government regulators, claims administrators, and other stakeholders. We use this expertise to simplify the banking process for you, providing seamless service through the life of a case. By putting the business of settlement fund banking in the hands of our specialists, you can focus on the case at hand.





## Disbursement Services

### BUSINESS ONLINE

View the account balance and transaction history, search for transactions, view check images, place stop payments, initiate wire transfers, set up reports, and more through the same easy-to-navigate platform.

### POSITIVE PAY

Huntington Positive Pay automates daily monitoring for the settlement fund. The claims administrator will transmit the dollar amount, date, payee and other pertinent issue information for each claimant check.

### ACH POSITIVE PAY

With ACH Blocks, you can stop any ACH debit to your account. This can prevent any unauthorized electronic transactions from occurring on your account.

## Investment Options

Huntington can provide a variety of investment options<sup>1</sup> for the settlement fund escrow account:

- FDIC Pass-Through Insured Accounts
- IntraFi Cash Service<sup>SM</sup>(ICS)<sup>2</sup>
- U.S. Treasury Money Market Mutual Fund
- Government Obligations Money Market Mutual Fund
- Treasury Bills
- U.S. Government Securities

## Settlement Phases

At Huntington we will work with you from the first deposit to the last disbursement, providing customized solutions for both the Escrow and Distribution phases:

### ESCROW PHASE

Investment options backed by the full faith and credit of the U.S. Government

Broad network of law firms, regulators and claims administrators

Proven track record with a \$9 billion escrow portfolio

Seamless integration from escrow through distribution

### DISTRIBUTION PHASE

Fraud protection services

Master agreements to simplify the process

Advance Reporting Tools

Extensive experience with over 5,500 cases

Digital Payment Services





## Commitment to the Industry

We support numerous legal and trade organizations in the industry, often in leadership positions. We helped organize three national conferences to share best practices among law firms, claims administrators, custodians and regulators. Groups we support include:

- American Antitrust Institute (AAI)
- American Association for Justice (AAJ)
- American Constitution Society (ACS)
- Committee to Support the Antitrust Laws (COSAL)
- Institute for Law and Economic Policy (ILEP)
- National Association of Shareholder & Consumer Attorneys (NASCAT)
- Public Interest Law Center
- Public Justice Foundation
- Women Antitrust Plaintiffs' Attorneys (WAPA)

Huntington National  
Settlements  
Actively Serving

50  
STATES

The Huntington  
National Bank  
Full-service Footprint

11  
STATES

### GET CONNECTED

Reach out to our Huntington National Settlement team about your next settlement case.

**Rose Clark**  
(215) 430-5289  
Rose.Clark@huntington.com  
Philadelphia

**Robyn Griffin**  
(212) 581-5051  
Robyn.Griffin@huntington.com  
New York

**Liz Lambert**  
(215) 568-2382  
Liz.Lambert@huntington.com  
Philadelphia

**Liz McNally**  
(484) 913-2206  
Liz.McNally@huntington.com  
Philadelphia

**Chris Ritchie**  
(215) 568-2328  
Chris.Ritchie@huntington.com  
Philadelphia

**Melissa Villain**  
(212) 581-5053  
Melissa.Villain@huntington.com  
New York





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1 Securities products and services are offered by licensed securities representatives of Huntington Securities, Inc., registered broker dealer and member FINRA/SIPC. Trust and certain investment management products and services are provided by The Huntington National Bank, a national bank with fiduciary powers. Huntington Securities, Inc. and The Huntington National Bank are wholly owned subsidiaries of Huntington Bancshares Incorporated.

2 Deposit placement through CDARS or ICS is subject to the terms, conditions, and disclosures in applicable agreements. Although deposits are placed in increments that do not exceed the FDIC standard maximum deposit insurance amount ("SMDIA") at any one destination bank, a depositor's balances at the institution that places deposits may exceed the SMDIA (e.g., before settlement for deposits or after settlement for withdrawals) or be uninsured (if the placing institution is not an insured bank). The depositor must make any necessary arrangements to protect such balances consistent with applicable law and must determine whether placement through CDARS or ICS satisfies any restrictions on its deposits. A list identifying IntraFi network banks appears at <https://www.intrafi.com/network-banks>. The depositor may exclude banks from eligibility to receive its funds. IntraFi and ICS are registered service marks, and IntraFi Cash Service is a service mark, of IntraFi Network LLC.

When placing your deposits using ICS or CDARS, The Huntington National Bank acts as your agent and not as your investment advisor. Your funds placed by The Huntington National Bank using ICS or CDARS are placed into deposit accounts at other IntraFi network banks and are the deposit obligation of those banks.

**Investment, Insurance and Non-Deposit Trust products are:**  
**NOT A DEPOSIT • NOT FDIC INSURED • NOT GUARANTEED BY THE BANK**  
**• NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY • MAY LOSE VALUE**



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# **EXHIBIT J**

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

*IN RE BROILER CHICKEN ANTITRUST  
LITIGATION*

This Document Relates To:  
Direct Purchaser Actions

Case No. 1:16-cv-08637

Hon. Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

**ORDER GRANTING DIRECT PURCHASER PLAINTIFFS' MOTION TO APPROVE  
A PLAN OF NOTICE OF SETTLEMENT WITH DEFENDANT FIELDALE FARMS  
CORPORATION**



This Court having reviewed and considered Direct Purchaser Plaintiffs' Motion to Approve a Plan of Notice of Settlement With Defendant Fieldale Farms Corporation ("Motion") and finding good cause hereby grants the motion as set forth below.

**FINDINGS:**

1. The Court having previously entered an Order Preliminarily Approving Proposed Settlement Between Direct Purchaser Plaintiff Class And Fieldale Farms Corporation And Conditionally Certifying The Proposed Settlement Class (ECF No. 462), hereby directs notice to be distributed to the Settlement Class Members pursuant to Federal Rule of Civil Procedure ("Rule") 23(c)(2).

2. The proposed notice plan set forth in the Motion and the supporting declarations comply with Rule 23(c)(2)(B) and due process as it constitutes the best notice that is practicable under the circumstances, including individual notice vial mail and email to all members who can be identified through reasonable effort. The direct mail and email notice will be supported by reasonable publication notice to reach class members who could not be individually identified.

3. The attached proposed notice documents: Summary Publication Notice (Exhibit A), Email Notice (Exhibit B), and Long Form Notice (Exhibit C), and their manner of transmission, comply with Rule 23(c)(2)(B) and due process because the notices and forms are reasonably calculated to adequately apprise class members of (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3). Non-substantive changes, such as typographical errors, can be made to the notice documents by agreement of the parties without leave of the Court.

4. The Court hereby sets the below schedule for the dissemination of notice to the class and for the Court's Fairness Hearing, at which time the Court will determine whether the Settlement Agreement should be finally approved as fair, reasonable, and adequate. This Court

may order the Fairness Hearing to be postponed, adjourned, or continued. If that occurs, the updated hearing date shall be posted on the Settlement Website but other than the website posting the Parties will not be required to provide any additional notice to Class Members.

<u>DATE</u>	<u>EVENT</u>
1. July 20, 2018	Each Defendant to produce customer names, addresses, phone numbers and email addresses, to the extent the Defendant has that information in its structured transactional data or other sources as agreed, to Direct Purchaser Plaintiffs and the Settlement Administrator. <sup>1</sup>
2. August 16, 2018	Settlement Administrator to provide direct mail and email notice, and commence the publication notice plan
3. October 15, 2018	Last day for Settlement Class Members to request exclusion from the Settlement Class and for Settlement Class Members to object to the settlement
4. October 25, 2018	Class Counsel shall file with the Court a list of all persons and entities who have timely requested exclusion from the Settlement Class
5. October 29, 2018	Class Counsel shall file motion for final approval of settlement and all supporting papers, and Class Counsel and settling defendant Fieldale Farms may respond to any objections to the proposed settlement.
6. November 13, 2018 at 9:00 a.m.	Final Settlement Fairness Hearing

**IT IS SO ORDERED.**



DATED: 6/22/2018

HON. THOMAS M. DURKIN

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<sup>1</sup> To the extent that any Defendant relies on its transactional structured data to produce customer contact information, it must identify these documents by bates number to Direct Purchaser Plaintiffs and the Settlement Administrator by July 20, 2018 and ensure that the customer contact information is readily identifiable and accessible.