

**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.

<u>DATE</u>	<u>EVENT</u>
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



HON. THOMAS M. DURKIN

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