

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

IN RE BROILER CHICKEN ANTITRUST  
LITIGATION,

This Document Relates To:

THE DIRECT PURCHASER PLAINTIFF  
ACTION

Case No.: 1:16-cv-08637

The Honorable Thomas M. Durkin

Magistrate Judge Jeffrey T. Gilbert

**[PROPOSED] ORDER GRANTING DIRECT PURCHASER PLAINTIFFS'  
MOTION FOR PAYMENT OF ATTORNEYS' FEES, REIMBURSEMENT OF  
LITIGATION EXPENSES, AND CLASS REPRESENTATIVE SERVICE AWARDS**

This Court, having considered Direct Purchaser Plaintiffs’ (“DPPs”) Motion for Payment of Attorneys’ Fees, Reimbursement of Litigation Expenses, and Class Representative Service Awards and the memorandum and declarations in support thereof (collectively, the “Motion”),<sup>1</sup> after a duly noticed hearing, hereby finds that:

1. DPPs seek an award of attorneys’ fees in the amount of \$37,279,851.67, which represents 33 1/3% of the Mar Jac, Harrison Poultry, Simmons, Mountaire, O.K. Foods, HRF, and Koch settlements that total \$115,050,150.00 inclusive of interest (which at the time of the filing of this Motion totals \$2,975,355.20) and net of litigation expenses and any Class Representative service awards. DPPs also seek reimbursement of \$1,029,448.72 as reimbursement for litigation expenses, \$100,000.00 as a future litigation expense fund, and \$15,000.00 in service awards to each of the five named Class Representatives.

2. The amount of attorneys’ fees requested is fair and reasonable under the percentage-of-the-fund method, which is confirmed by a lodestar “cross-check.” An award of 33 1/3% is reasonable and warranted for the reasons set forth in the Motion, including the following: the outstanding result obtained for the DPP Class—payment by Defendants of over \$284 million (\$115,050,150.00 at issue); the quality and quantity of work performed by Class Counsel since 2016 in zealously representing the DPP Class, including extensive motion practice, substantial discovery, and trial, all involving complex issues of fact and law; and the risks faced throughout the litigation, which existed from the outset through the trial in 2023 and through the subsequent settlements of all remaining claims between DPPs and Defendants. The attorneys’ fees requested were entirely contingent upon a successful outcome for the DPP Class, which was never guaranteed.

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<sup>1</sup> For the purposes of this order, the Court adopts the defined terms in the Motion.

3. The Court finds that Class Counsel's lodestar since January 1, 2021 through March 31, 2024 is \$41,480,268.50, based on historical hourly rates, and that such a lodestar is reasonable given the extensive scope of this case. Accordingly, DPPs' requested fee award of \$37,279,851.67 represents a negative multiplier of 0.8987. Looked at from the perspective of the case from inception, and considering the prior attorneys' fee award on December 1, 2021 (ECF No. 5229), Class Counsel's lodestar from case inception through March 31, 2024 is \$92,393,630.25 and represents a negative multiplier of 0.9989. Both of these lodestar multipliers are reasonable and support the requested award. Further, Class Counsel will continue to incur attorneys' fees which are not included in this lodestar calculation.

4. In addition to expending time and effort, Class Counsel advanced substantial costs and expenses in prosecuting the litigation with no guarantee of compensation. From the inception of the case through March 31, 2024, DPPs have incurred over \$10 million in expenses. Of that amount, \$1,029,448.72 remains unreimbursed. The Court has reviewed these expenses and approves them as reasonable and necessarily incurred in the litigation.

5. As DPPs work to conclude this litigation, they have requested \$100,000.00 as a future expense fund. The Court approves this request, and Class Counsel is ordered to provide an accounting of the expenses and any amount not used (and therefore subject to distribution to the qualified claimants) at the time of the next distribution of settlement proceeds to the DPP Class.

6. Throughout the case, each of the five Class Representatives has kept apprised of the status of the litigation, actively participated in discovery including searching for and producing documents, appearing for depositions, and responding to written discovery, and engaged in other efforts necessary to fulfill their duties as Class Representatives. The Class Representatives took a risk both financial and otherwise in representing the Class in this lawsuit and each dedicated

significant time and effort to the litigation in supporting Class Counsel, during the course of the litigation. Therefore, the Court approves the request for service awards of \$15,000.00 to each of the five Class Representatives (\$75,000.00 total).

7. On April 1, 2024, in the Court-approved notice (*see* ECF No. 7174-2), Class Counsel informed all DPP Class members that they would bring this Motion and seek (1) an award of attorneys' fees in an amount not to exceed 33 1/3% of the Mar Jac, Harrison Poultry, Simmons, Mountaire, O.K. Foods, HRF, and Koch settlement proceeds plus interest, net of costs; (2) up to \$4 million in reimbursement of litigation expenses; (3) payment of up to \$250,000 for ongoing and future litigation expenses; and (4) Class Representative service awards not to exceed \$15,000 per Class Representative. The notice also told DPP Class members that they could access a copy of the Motion and supporting papers on the case website. The deadline for Class Members to object to this Motion was June 1, 2024, and Class Member[s] objected to the Motion.

8. The Court finds that this notice, which included individual notice to all members of the DPP Class who could be identified through reasonable efforts, was the most effective and practicable under the circumstances; that it provided due and sufficient notice of the proceedings and of the matters set forth therein, including the Motion, to all persons entitled to such notice; and that it fully satisfied the requirements of Rules 23(c)(2) and 23(e)(1) of the Federal Rules of Civil Procedure and the requirements of due process.

9. Therefore, upon consideration of the Motion, and based upon all matters of record in this action, the Court hereby finds that: (1) the requested attorneys' fees are warranted and just; (2) the expenses Class Counsel have incurred in this litigation were necessary, reasonable, and proper, and (3) the requested Class Representative service awards are warranted and just.

Having considered Direct Purchaser Plaintiffs' Motion,

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:**

1. Class Counsel are awarded attorneys' fees in the amount of \$37,279,851.67 or 33 1/3% of the Mar Jac, Harrison Poultry, Simmons, Mountaire, O.K. Foods, HRF, and Koch settlements that total \$115,050,150.00 inclusive of interest and net of litigation expenses and Class Representative service awards.

2. Class Counsel's request for \$1,029,448.72 as reimbursement of reasonably incurred litigation expenses is approved.

3. Class Counsel's request for \$100,000.00 as a future litigation expense fund is approved.

4. The five Class Representatives – Maplevale Farms, Inc.; John Gross and Company, Inc.; Ferraro Foods, Inc. and Ferraro Foods of North Carolina, LLC; Joe Christiana Food Distributors, Inc.; and Cedar Farms Co., Inc. – shall each receive a \$15,000.00 service award.

5. The attorneys' fees and service awards granted by this Order shall be paid *pro rata* from each one of the settlements with Mar Jac, Harrison Poultry, Simmons, Mountaire, O.K. Foods, HRF, and Koch, based on the proportional monetary amount recovered, and shall be paid once all of the aforementioned settlements become final under the terms of the settlement agreements. The reimbursed expenses and future expense fund granted by this Order shall be paid *pro rata* from each of the settlements with HRF and Koch, based on the proportional monetary amount recovered, and shall be paid once both of these settlements become final under the terms of the settlement agreements.

6. The attorneys' fees and reimbursed expenses granted by this Order shall be equitably distributed among Class Counsel by the Court-appointed DPP Co-Lead Class Counsel

in a good-faith manner that reflects DPP Co-Lead Class Counsel's judgment as to each individual Class Counsel's contribution to the litigation.

**IT IS SO ORDERED.**

DATED: \_\_\_\_\_

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HON. THOMAS M. DURKIN