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

DIRECT PURCHASER PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR FINAL APPROVAL OF SETTLEMENTS WITH DEFENDANTS FOSTER FARMS, PERDUE, CASE, CLAXTON, WAYNE FARMS, AGRI STATS, AND SANDERSON FARMS

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I. INTRODUCTION

The Direct Purchaser Plaintiffs ("DPPs") hereby seek final approval of the settlements with defendants Foster Farms,[1] Perdue,[2] Case,[3] Claxton,[4] Wayne Farms,[5] Agri Stats,[6] and Sanderson Farms[7] (collectively referred to as the "Settling Defendants," and with DPPs as the "Parties"). Under the settlements (collectively, "Settlements" or "Settlement Agreements"), the DPPs and each of the Settling Defendants mutually agree to waive any rights to appeal or otherwise further adjudicate their claims against each other in *In re Broiler Chicken Antitrust Litigation*, and in exchange each Party agrees not to seek or assert any claim for costs, fees, attorney's fees or any other form of recovery against the other. The Settlements do not provide for the recovery of additional attorneys' fees by DPP Class Counsel and will eliminate the possibility that the DPP Class would have to pay any taxable litigation costs to the Settling Defendants. As the DPPs have settled with all other Defendants and have secured over $284 million in settlements (Declaration of Michael H. Pearson in support of this Motion ("Pearson Decl."), at ¶ 6.), these are the last remaining settlements in the DPPs' case.

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[1] Defendants Foster Farms, LLC and Foster Poultry Farms LLC are collectively referred to herein as "Foster Farms." The Foster Farms Settlement Agreement is available at ECF No. 7173-1.

[2] Defendants Perdue Farms, Inc. and Perdue Foods LLC are collectively referred to herein as "Perdue." The Perdue Settlement Agreement is available at ECF No. 7173-2.

[3] Defendants Case Foods, Inc., Case Farms Processing, Inc., and Case Farms, LLC are collectively referred to herein as "Case." The Case Settlement Agreement is available at ECF No. 7173-3.

[4] Defendant Norman W. Fries, Inc. d/b/a Claxton Poultry Farms is referred to herein as "Claxton." The Claxton Settlement Agreement is available at ECF No. 7173-4.

[5] Defendant Wayne Farms, LLC is referred to herein as "Wayne Farms." The Wayne Farms Settlement Agreement is available at ECF No. 7173-5.

[6] Defendant Agri Stats, Inc. is referred to herein as "Agri Stats." The Agri Stats Settlement Agreement is available at ECF No. 7173-6.

[7] Defendants Sanderson Farms, LLC (f/k/a Sanderson Farms, Inc.), Sanderson Farms Foods, LLC (f/k/a Sanderson Farms, Inc. (Foods Division)), Sanderson Farms Production, LLC (f/k/a Sanderson Farms, Inc. (Production Division)), and Sanderson Farms Processing, LLC (f/k/a Sanderson Farms, Inc. (Processing Division)) are collectively referred to herein as "Sanderson Farms." The Sanderson Farms Settlement Agreement is available at ECF No. 7173-7.

In granting preliminary approval of these Settlements, the Court found they fell within the range of reasonableness and directed notice of the Settlements to be provided to the Class members. (*See* Preliminary Approval Order, Mar. 15, 2024, ECF No. 7179 ("Preliminary Approval Order").) Co-Lead Class Counsel[8] and A.B. Data Ltd., the Court-appointed claims administrator (*id.* at 3), have executed the Notice Plan in accordance with the Court's Preliminary Approval Order. (*Id*. at 3-4; *see generally* Declaration of Eric Schachter ("Schachter Decl."); Pearson Decl. ¶ 13.) The reaction of the Class members has been overwhelmingly positive, with no objections to the Settlements (*see* Section IV.B.3 below). This process has confirmed that the settlements with the Settling Defendants are fair, reasonable, and adequate, and should be granted final approval by the Court.

II. LITIGATION BACKGROUND

The Court is very familiar with this case, and thus DPPs will dispense with a detailed recitation of its background.

On June 30, 2023, the Court granted summary judgment in favor of defendants Agri Stats, Case, Foster Farms, Claxton, Perdue, and Wayne Farms, and against all Plaintiffs' claims regarding the manipulation of the Georgia Dock. (*See* ECF No. 6641.)[9] Prior to that time, the DPPs had settled with nine defendants for a total of $188,895,591. (*See* Pearson Decl. ¶ 6.) Following the Court's summary judgment order, DPPs settled with four more defendants for a grand total of $284,650,750 from all settling defendants, and went to trial against Sanderson Farms, the

[8] Co-Lead Class Counsel are Lockridge Grindal Nauen P.L.L.P. ("LGN") and Pearson Warshaw, LLP ("PW"). (ECF No. 5644.)

[9] The Court also granted summary judgment in favor of defendant Fieldale as to claims by other Plaintiffs. Because DPPs previously settled with Fieldale, Fieldale is not a party to any of the Settlements presented in this Motion and is not a subject of this Motion.

remaining defendant. In October 2023 the jury returned a verdict in Sanderson's favor. (*See* ECF Nos. 7014, 7015.)

III. SUMMARY OF THE SETTLEMENT NEGOTIATIONS AND TERMS

A. Terms of the Settlement Agreements

Each Settlement Agreement contains nearly identical terms and resolves claims with prejudice in *In re Broiler Chicken Antitrust Litigation* between the DPP Class and each Settling Defendant. Under applicable statutes and case law prevailing defendants may seek to tax certain litigation costs in the event summary judgment or the jury verdict (as the case may be) is upheld in post-trial proceedings or on appeal. These Settlements eliminate the risk of the DPP Class having to pay such litigation costs. The Settlement Agreements each set forth mutual waivers of claims for costs and attorneys' fees (*see* Settlement Agreements, ¶ 3) in exchange for each Party agreeing to cease all litigation activities against the other, including but not limited to appealing the Order on Settling Defendants' motions for summary judgment (ECF No. 6641) or the trial verdict in favor of Sanderson Farms (*see* Settlement Agreements, ¶ 2). Notably, the Settlement Agreements do not contain any release language and are narrowly tailored. The relief they provide is limited to the ramifications of the summary judgment order and the trial verdict, and any related post-trial and appellate proceedings. In exchange the Settling Defendants will not seek to recover any litigation expenses from the DPP Class. The settlement with Agri Stats includes an added benefit to Class members – an option for Class Members to receive free access to six months of price reporting services from Agri Stats subsidiary Express Markets Inc. (EMI).

B. Summary of Settlement Negotiations

This litigation has been pending for seven years, through summary judgment and a trial, and thus the Parties have had ample opportunity to assess the merits of their respective claims and defenses and to weigh the relative benefits of continued litigation or settlement. Each Settlement

Agreement was the product of an independent negotiation process that commenced with each Settling Defendant in December 2023. (Pearson Decl. ¶ 8.) Each of the settlement negotiations involved multiple exchanges between the parties as well as drafts that ultimately resulted in the final settlement agreements. (*Id*.; *see also* Settlement Agreements.)

In sum, the Settlement Agreements: (1) are the result of extensive good-faith and hard-fought negotiations between knowledgeable and skilled counsel (*see* Section IV.C below); (2) were entered into after extensive factual investigation and legal analysis; and (3) in the opinion of experienced Co-Lead Class Counsel, are fair, reasonable, and adequate (*see* Section IV.B.4 below). Co-Lead Class Counsel submits that the Settlement Agreements are in the best interests of the Certified Class members and should be approved by the Court. (Pearson Decl. ¶¶ 9, 10, 15.)

IV. THE SETTLEMENTS SATISFY THE STANDARD FOR FINAL APPROVAL

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. of City of Milwaukee*, 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)).

Of course, any dismissal, compromise, or settlement of a class action is subject to court approval. Fed. R. Civ. P. 23(e). Rule 23 jurisprudence has led to a defined procedure and specific

criteria for class action settlement approval, namely: the court's preliminary approval of the proposed settlement upon finding that the proposed settlement is sufficiently likely to be finally approved as to warrant sending notice to class members; dissemination of notice of the settlement to all affected class members, and providing class members an opportunity to object to the proposed settlement; and a fairness hearing at which class members may be heard regarding the settlement, and counsel may present evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement. *See* 4 Newberg on Class Actions, §§ 13:39, *et seq*. Final Judicial Approval of Proposed Class Action Settlements (5th ed.). This procedure safeguards class members' due process rights and enables the Court to fulfill its role as the guardian of class interests. *See id*.

A. The Court-Approved Notice Program Satisfies Due Process and Has Been Fully Implemented

The Court-approved Notice Plan related to the Settlements has been successfully implemented and Class members have been notified of the Settlements. When a proposed class action settlement is presented for court approval, the Federal Rules require "the best notice that is practicable under the circumstances," and that certain specifically identified items in the notice be "clearly and concisely state in plain, easily understood language." Fed. R. Civ. P. 23(c)(2)(B). A settlement notice is a summary, not a complete source, of information. *See, e.g.*, *Petrovic v. Amoco Oil Co.*, 200 F.3d 1140, 1153 (8th Cir. 1999); *In re "Agent Orange" Prod. Liab. Litig.*, 818 F.2d 145, 170 (2d Cir. 1987), *cert. denied*, 484 U.S. 1004 (1988); *Mangone v. First USA Bank*, 206 F.R.D. 222, 233 (S.D. Ill. 2001).

The Notice Plan approved by this Court (Preliminary Approval Order, ECF No. 7179 at 3-4)—which relies primarily on direct notice to Class members, but is supplemented by publication notice in order to maximize the likelihood of actual notice—is commonly used in class actions like

this one.[10] *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 617 (1997) (quoting Fed. R. Civ. P. 23(c)(2)); *City of Greenville v. Syngenta Crop Prot., Inc.*, No. 3:10-CV-188, 2012 WL 1948153, at *4 (S.D. Ill. May 30, 2012) (same); Fed. R. Civ. P. 23(c)(2)(B). It constitutes valid, due, and sufficient notice to Class members, and in many instances their counsel, and is the best notice practicable under the circumstances. The content of the Court-approved notice complies with the requirements of Rule 23(c)(2)(b). Both the summary and long-form notice clearly and concisely explained in plain English the nature of the action and the terms of the Settlements. (*See* Schachter Decl. ¶ 7.) The notices provided a clear description of who is a member of the Class and the binding effects of Class membership. (*Id.*) They also explained how to object to the Settlements, and how to contact Co-Lead Class Counsel. (*Id.*) The notices also explained that they provided only a summary of the Settlements, and that the Settlement Agreements, as well as other important documents related to the litigation, are available online at www.broilerchickenantitrustlitigation.com. (*See id.*) In addition, the information from that website, as well as the toll-free call-in number for the Settlements, were available in both English and Spanish. (*See id.* ¶ 9.)

The Notice Plan was implemented by the Court-appointed settlement administrator, A. B. Data Ltd. (*See* Preliminary Approval Order at 3.) Specifically, using customer information obtained from Defendants, A. B. Data mailed 27,060 print notices and emailed 15,010 electronic notices to potential Class members. (Schachter Decl. ¶¶ 3-5.) A. B. Data also published notice on

[10] The notice plan implemented here is substantially similar to that previously disseminated in this case with prior settlements. (*See* Order Approving Fieldale Notice Plan, ECF No. 980; Peco, George's and Amick Preliminary Approval Order, ECF No. 3394 (approving the proposed notice plan); Pilgrim's and Tyson Preliminary Approval Order, ECF No. 4341; Mar Jac and Harrison Poultry Preliminary Approval Order, ECF No. 5086; Mountaire and O.K. Foods Preliminary Approval Order (also providing notice of the settlement with Simmons), ECF No 6830; *see also* Pearson Decl. ¶ 13.)

the following industry websites (banner advertisements in digital media) from April 1, 2024, through April 30, 2024: www.ProgressiveGrocer.com, www.MeatPoultry.com, www.PoultryTimes.com, www.SuperMarketNews.com, www.GroceryDrive.com, www.FastCasual.com, and www.ShelbyReport.com. (*Id.* ¶ 6.) In addition, A. B. Data continues to maintain the case website, where Class members can view and print important documents and obtain other information related to the litigation. (*Id.* ¶ 8.) A. B. Data also continues to maintain a toll-free call-in number to answer Class members' questions. (*Id.* ¶ 9.)

As these Settlements were on behalf of the Certified Class, and all occurred after the last day to opt out of the Certified Class, no additional opportunity for Class members to opt out of the Settlements was provided. (*See* Preliminary Approval Order at 3.) After this outreach, no Class member objected to the Settlements.

B. The Settlements are Fair, Reasonable, and Adequate, and Should be Granted Final Approval

The standard for final approval of a class action settlement is whether the settlement is fair, reasonable, and adequate. *See* Fed. R. Civ. P. 23(e); *Uhl v. Thoroughbred Tech. & Telecomms., Inc.*, 309 F.3d 978, 986 (7th Cir. 2002); *Isby*, 75 F.3d at 1198-99. In evaluating the fairness of a proposed class action settlement, courts typically consider the following factors: (1) the strength of plaintiffs' case compared to the amount of defendants' settlement offer; (2) an assessment of the likely complexity, length and expense of the litigation; an evaluation of the amount of opposition to settlement among affected parties; (3) the reaction of the class members; (4) the opinion of competent counsel; and, (5) the stage of the proceedings and the amount of discovery completed at the time of settlement. *See Isby*, 75 F.3d at 1198-99.

In addition, there is an initial presumption that a proposed class action settlement is fair, reasonable and adequate when the settlement was the result of arm's-length negotiations. *See*

4 Newberg on Class Actions, § 13:43 Presumptions Governing Approval Process—Generally (5th ed.); *Great Neck Cap. Appreciation Inv. P'ship, L.P. v. PricewaterhouseCoopers, L.L.P.*, 212 F.R.D. 400, 410 (E.D. Wis. 2002).

The Court already found that a number of these factors were satisfied in granting preliminary approval to the Settlements (*see generally* Preliminary Approval Order, ECF No. 7179), but at that time Class members themselves had yet to weigh in. Now that Class members have received notice and had an opportunity to be heard, their reaction has been extremely favorable (*see* Section **Error! Reference source not found.** below). Thus, each of these factors supports granting final approval to the Settlements, which were the product of extensive arm's-length negotiations.

1. The Strength of DPPs' Continued Claims Compared to the Settlements' Benefits Supports Approval of the Settlements

As the Seventh Circuit recognized, "[T]he first factor, the relative strength of plaintiffs' case on the merits as compared to what the defendants offer by way of settlement, is the most important consideration." *See Isby*, 75 F.3d at 1198-99. In deciding whether to continue post-trial and appellate efforts, Co-Lead Class Counsel considered the strength of Plaintiffs' claims and the Settling Defendants' defenses, and the benefits that the Settlements will provide to the Class. (Pearson Decl. ¶¶ 4, 5, 7.) The Settlements take into account the fact that six Settling Defendants prevailed on summary judgment and the seventh prevailed at trial. *See, e.g.*, *Kolinek v. Walgreen Co.*, 311 F.R.D. 483, 494 (N.D. Ill. 2015) ("Although Kolinek withstood Walgreens's motion to dismiss on both grounds, the Court observed in its written orders as to both [defense] issues that further factual development might prove that plaintiffs did indeed consent or that the calls were made for emergency purposes."); *Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 582 (N.D. Ill. 2011) ("While Plaintiffs maintain that their claims would ultimately succeed, the above discussion

establishes that Fifth Third has a number of potentially meritorious defenses. Absent settlement, Class Members would face the real risk that they would win little or no recovery."); *Gehrich v. Chase Bank USA, N.A.*, 316 F.R.D. 215, 229 (N.D. Ill. 2016) ("In light of Chase's potential defenses, the legal uncertainty concerning the application of the TCPA, and the time and expense inherent to litigation, proceeding to trial, and obtaining relief posed risks to Plaintiffs, and a possibility existed that they would have recovered nothing."). As a result, the Class's only path to litigation victory against the Settling Defendants was by prevailing on post-trial motions or appeal, and subsequently winning at any new trial. The DPPs believe in their case and appellate arguments, but the burden of overturning verdicts and summary judgments is high.

Additionally, the relief provided by the Settlements is real. They eliminate the possibility that the Settling Defendants as prevailing parties could recover taxable litigation costs from the Class. As reflected in the extensive docket, this case is seven years old, with over 7,200 entries, hundreds of depositions, and millions of documents exchanged. As a result, the costs associated with the litigation are significant. Indeed, each of the Settling Defendants has provided DPP Co-Lead Class Counsel with estimates of their potentially recoverable costs, which collectively exceed $1 million. (Pearson Decl. ¶ 3.) While the Class would challenge any cost petitions if these Settlements were not approved, the potential sum is substantial and Co-Lead Class Counsel believes that the Settlements are in the best interest of the Class. (*Id*.)

In exchange for the Settling Defendants forgoing the right to seek costs, the Class will forgo further post-trial proceedings and an expensive and time-consuming appeal, which would pose risks to both sides. Such settlements have been recognized as commonplace and rational. *See, e.g.*, *Downing v. Abbott Lab'ys*, No. 23-1440, 2023 WL 6173468, at *3 (7th Cir. Sept. 22, 2023) ("a party which prevails at the end of a lengthy and hard-fought trial and then attempts to settle to

avoid the attorneys' fees and costs of an appeal acts rationally. Such an offer is not uncommon in civil litigation practice.").

2. Continuing Litigation Would Have Resulted in Significant Expenses, Delay and Administrative Burdens on the Class

In addition to ensuring that DPPs' existing settlement funds can be preserved and distributed without the encumbrance of potential cost awards against the Class, the Settlements will end continued litigation against the Settling Defendants which would have involved significant expenses and protracted legal battles up to and including a potential new trial. Therefore, the complexity, length and expense of further litigation, which the Settlements will eliminate, also favor of approval. *See Larsen v. Trader Joe's Co.*, No. 11-cv-05188-WHO, 2014 WL 3404531, at *4 (N.D. Cal. July 11, 2014) ("Avoiding such unnecessary and unwarranted expenditure of resources and time would benefit all parties, as well as conserve judicial resources…. Accordingly, the high risk, expense, and complex nature of the case weigh in favor of approving the settlement.") (cited authority omitted); *In re Lawnmower Engine Horsepower Mktg. & Sales Practices Litig.*, 733 F. Supp. 2d 997, 1008 (E.D. Wis. 2010) ("The 'complexity, length and expense of further litigation' factor strongly favors this settlement….").

3. No Class Member Objected to the Proposed Settlements

The unanimous and positive reaction of Class members to the Settlements supports final approval. Pursuant to the Court's Preliminary Approval Order, 32,070 notices (27,060 via mail, 15,010 via email) were sent directly to potential Class members, which was in addition to giving publication notice in industry trade press (online) and the settlement administrator maintaining both an informational website and toll-free call-in center. (*See* Section IV.A above; *see also*

Schachter Decl. ¶¶ 3, 5, 6, 8, 9.) After this outreach, no Class member objected to the Settlements.[11] (*Id*. ¶ 11.)

The unanimous and positive response of the Class supports a finding that the Settlements are fair, reasonable, and adequate. *See Schulte*, 805 F. Supp. 2d at 586. In fact, the absence of objections to the Settlements especially favor approval when, as here, "much of the class consists of sophisticated business entities." *In re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 14-CV-2058 JST, 2015 WL 9266493, at *7 (N.D. Cal. Dec. 17, 2015) (citing *In re Linerboard Antitrust Litig.*, 321 F. Supp. 2d 619, 629 (E.D. Pa. 2004)).

4. Co-Lead Class Counsel Believe the Settlements are in the Best Interest of the Class

The Court in *Isby* noted that in deciding whether to approve a proposed settlement the court should consider the opinion of competent counsel. *See Isby*, 75 F.3d at 1198-99; *see also Kleen Prod. LLC v. Int'l Paper Co*., No. 1:10-CV-05711, 2017 WL 5247928, at *3 (N.D. Ill. Oct. 17, 2017) ("The Settlement was negotiated by highly skilled and experienced antitrust and class action lawyers, who have held leadership positions in some of the largest class actions around the country."); *In re Cathode Ray Tube (CRT) Antitrust Litig*., 2015 WL 9266493, at *6 ("The recommendations of plaintiffs' counsel should be given a presumption of reasonableness.") (quoting *In re Omnivision Techs., Inc*., 559 F. Supp. 2d 1036, 1042 (N.D. Cal. 2008)). Here, Co-Lead Class Counsel (who the Court knows to have handled several major antitrust class actions and litigated this case through trial) fully endorse these proposed Settlements, based on their

[11] The Settlement Administrator received one objection to the Settlements. However, after Co-Lead Class Counsel investigated the objection and spoke with the person who filed it, it was determined that the objection was invalid because the individual did not purchase Broilers directly from the Defendants and thus is not a member of the DPP Class. (Pearson Decl. ¶ 14.) The objector agreed to withdraw the objection upon being informed of these facts. (*Id*.)

extensive experience and deep familiarity with this case. (*See* Pearson Decl. ¶¶ 3, 11, 15.) This is yet another factor that supports final approval.

5. The Stage of the Proceedings and Amount of Discovery Support Final Approval

The stage of the case strongly supports granting final approval to the Settlements. Namely, the Settlements were entered into after the completion of fact and expert discovery, class certification proceedings, summary judgment (ECF No. 6641), and the jury verdict in favor of Sanderson (ECF Nos. 7014, 7015.) (*See* Pearson Decl. ¶¶ 4, 5, 7.) This extensive base of information ensured that Co-Lead Class Counsel made informed decisions to approve and recommend the Settlements to the Class and the Court. Therefore, the procedural posture and status of the case supports granting approval to the Settlements.

C. The Settlements Resulted from Arm's Length Negotiations

In addition to the factors noted in *Isby*, 75 F.3d at 1198-99, there is a presumption that a proposed class action settlement is fair, reasonable and adequate when the settlement was the result of arm's-length negotiations. *See* 4 Newberg on Class Actions, § 13:43 Presumptions Governing Approval Process—Generally (5th ed.); *Great Neck*, 212 F.R.D. at 410; *Goldsmith v. Tech. Sols. Co.*, No. 92-CV-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 that are proposed by experienced counsel and result from arm's length negotiations are entitled to deference 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).

As detailed in this Motion and supporting declarations, the Settlements were the product of arm's length negotiations by experienced and knowledgeable counsel. (*See* Section IV.B.4 above; *see also* Pearson Decl. ¶¶ 8-11.) The hard-fought negotiations with each of the Settling Defendants necessitated many conferences and written exchanges between counsel during which they negotiated the material terms of the Settlements and finalized the Settlement Agreements. (*Id.*) In these settlement discussions, counsel for DPPs focused on obtaining the best possible result for the Class. (*Id.*)

These protracted arm's length settlement negotiations support approval of the Settlements by demonstrating they are free from collusion. *See, e.g.*, *In re Linerboard Antitrust Litig.*, 292 F. Supp. 2d at 640. Moreover, the fact that the negotiations occurred over several weeks, and were supported by an extensive record in this litigation, demonstrate that DPPs worked to achieve the best possible result on behalf of the DPP Class given the circumstances. *Id.*

V. CONCLUSION

For these reasons, Co-Lead Class Counsel respectfully request that the Court grant final approval to the Foster Farms, Perdue, Case, Claxton, Wayne Farms, Agri Stats, and Sanderson Farms Settlement Agreements.

Date: June 25, 2024

/s/ Michael H. Pearson

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