

**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 FINAL APPROVAL OF THE SETTLEMENT WITH  
THE SIMMONS DEFENDANTS**

On December 12, 2023, at 10:00 a.m. CST, this Court held a hearing on Direct Purchaser Plaintiffs' Motion for Final Approval of the Settlement with Defendants Simmons Foods, Inc. and Simmons Prepared Foods, Inc. ("Simmons") ("Motion"). Direct Purchaser Plaintiffs ("Plaintiffs") have entered into the Settlement Agreement with Simmons. The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreement, and all papers filed, hereby finds that the Motion should be **GRANTED** as to the settlement with Simmons.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Court has jurisdiction over the subject matter of this litigation, including the actions within this litigation, and over the parties to the Settlement Agreement, including all members of the Certified Class (also referred to herein as the "Class") and Simmons.

2. For purposes of this Order, except as otherwise set forth herein, the Court adopts and incorporates the definitions contained in the Settlement Agreement.

3. The Court previously appointed the law firms of Lockridge Grindal Nauen P.L.L.P., and Pearson Warshaw, LLP (then known as Pearson, Simon & Warshaw, LLP) as Co-Lead Class Counsel for the Certified Class.

4. The Settlement was entered into on behalf of the Class certified by this Court in its order dated May 27, 2022, ECF No. 5644 (the "Certified Class"):

All persons who purchased raw Broilers directly from any of the Defendants or their respective subsidiaries or affiliates either fresh or frozen, in the form of: whole birds (with or without giblets), whole cut-up birds, or parts (boneless or bone in) derived from the front half of the whole bird, for use or delivery in the United States from December 1, 2008 until July 31, 2019.

5. In its order of June 12, 2023, ECF No. 6615, the Court preliminarily determined the proposed Settlement to be fair, reasonable, adequate, and in the best interests of the Certified Class. (*See* ECF No. 6615 at 2.) The Court further held that the proposed Settlement Agreement,

which was arrived at by arm's length negotiations by highly experienced counsel, was within the range of possible approval and raised 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 thus the Court directed that notice of the Settlement be given to the Certified Class. (*Id.*) The Court determined that the proposed notice plan complied with Rule 23(c)(2)(B) and due process as it constituted the best notice practicable under the circumstances, including individual notice via mail and email to all Certified Class members who could be identified through reasonable effort. The direct mail and email notice was supported by reasonable publication notice to reach Certified Class members who could not be individually identified. (*Id.* at 3.) That notice also informed Class members of their right to object to the Settlement, should they so choose, instructed them on how to file an objection, and informed them that any such objection was due no later than November 11, 2023.

6. Following the Court's preliminary approval of the Settlement, the Court-appointed claims administrator implemented the notice plan described above.

7. Furthermore, Simmons has served upon the appropriate state officials and the appropriate federal official notice under the Class Action Fairness Act, 28 U.S.C. § 1715 ("CAFA").

8. The Court hereby finally approves the Settlement Agreement and its terms and finds that the Settlement is, in all respects, fair, reasonable and adequate to the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure and directs consummation of the Settlement Agreement according to its terms and conditions.

9. This Court hereby dismisses on the merits and with prejudice all Claims in the DPP action against Simmons, with each party to bear its own costs and fees, including attorneys' fees, except as provided in the Settlement Agreement or as approved by the Court.

10. The Releases in the Settlement Agreement are incorporated herein and the Releasing Parties shall, by operation of law, be deemed to have released all Released Parties from the Released Claims. All entities who are Releasing Parties (as defined in the Settlement Agreement) or who purport to assert claims on behalf of the Releasing Parties are hereby and forever barred and enjoined from commencing, prosecuting, or continuing, against the Released Parties, in this or any other jurisdiction, any and all claims, causes of action or lawsuits, which they had, have, or in the future may have, arising out of or related to any of the Released Claims as defined in the Settlement Agreement.

11. The Released Parties are hereby and forever released and discharged with respect to any and all claims or causes of action which the Releasing Parties had, have, or in the future may have, arising out of or related to any of the Released Claims as defined in the Settlement Agreement.

12. The notice given to the Class, including individual notice to all members of the Class who could be identified through reasonable efforts, was the most effective and practicable under the circumstances. This notice provided due and sufficient notice of the proceedings and of the matters set forth therein, including the proposed settlement, to all persons entitled to such notice, and this notice 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.

13. One objection to the Settlement was filed by a group of direct action plaintiffs that failed to opt out of the Direct Purchaser Class. (*See* ECF No. 6872.) The objectors are: Boston

Market Corporation, Bojangles' Restaurants, Inc. and Bojangles' Opco, LLC, Golden Corral Corp., El Pollo Loco, Inc., Zaxby's Franchising LLC, Domino's Pizza LLC and Domino's Pizza Distribution LLC, Cracker Barrel Old Country Store, Inc., CBOCS Distribution, Inc., Barbeque Integrated, Inc. d/b/a Smokey Bones Bar & Fire Grill, Shamrock Foods Company, United Food Service, Inc., FIC Restaurants, Inc. d/b/a Friendly's, The Johnny Rockets Group, Inc., WZ Franchise Corp., Captain D's LLC, and White Castle Purchasing Co. (*See* ECF No. 7040 at n.1, collectively referred to as the "Certain Restaurant DAPs".) Having fully reviewed and considered the underlying Motion and the objection, pursuant to the Court's December 11, 2023 Order, the Certain Restaurant DAPs' objection is overruled. (*See* ECF No. 7083.)

14. Any member of the Class who failed to timely and validly request to be excluded from the Certified Class shall be subject to and bound by the provisions of the Settlement Agreement, the Released Claims contained therein, and this Order with respect to all Released Claims, regardless of whether such members of the Class seek or obtain any distribution from the Settlement Fund. Such persons/entities are not entitled to any recovery from the Settlement Fund.

15. As set forth in the notice to the Class, at this time Co-Lead Class Counsel are not seeking attorneys' fees or class representative incentive awards (but are seeking *pro rata* reimbursement of litigation expenses, *see* ECF No. 6963), or to distribute Settlement proceeds to qualified claimants; when Co-Lead Class Counsel determine to do so, they will notify the Class and seek the Court's approval.

16. Without affecting the finality of this Final Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) consummation, administration and implementation of the Settlement Agreement and any allocation or distribution to Class members pursuant to further orders of this Court; (b) disposition of the Settlement Fund; (c) hearing and

determining applications by Plaintiffs for attorneys' fees, costs, expenses, and interest; (d) the actions in this litigation until the Final Judgment has become effective and each and every act agreed to be performed by the parties all have been performed pursuant to the Settlement Agreement; (e) hearing and ruling on any matters relating to any plan of allocation or distribution of proceeds from the Settlement; (f) the parties to the Settlement Agreement for the purpose of enforcing and administering the Settlement Agreement and the releases contemplated by, or executed in connection with the Settlement Agreement; (g) the enforcement of this Final Judgment; and (h) over any suit, action, proceeding, or dispute arising out of or relating to the Settlement Agreement or the applicability of the Settlement Agreement, that cannot be resolved by negotiation and agreement.

17. The Court finds, pursuant to Rules 54(a) and (b) of the Federal Rules of Civil Procedure, that judgment should be entered and further finds that there is no just reason for delay in the entry of final judgment as to the parties to the Settlement Agreement. Accordingly, the Clerk is hereby directed to enter this Final Judgment forthwith.

**IT IS SO ORDERED.**

DATED: December 12, 2023



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HON. THOMAS M. DURKIN