

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

IN RE BROILER CHICKEN ANTITRUST  
LITIGATION

No. 1:16-cv-08637

This Document Relates To:

Honorable Thomas M. Durkin

*End-User Consumer Plaintiffs Action*

**ORDER GRANTING END-USER CONSUMER PLAINTIFFS’  
MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENTS**

This matter comes before the Court on the End-User Consumer Plaintiffs’ (“EUCPs”) Motion for Final Approval of Class Action Settlements (“Motion”) between EUCPs and the following Defendants: Norman W. Fries, Inc. d/b/a Claxton Poultry Farms (“Claxton”); Foster Farms, LLC and Foster Poultry Farms LLC (“Foster Farms”); Harrison Poultry, Inc. (“Harrison Poultry”); House of Raeford Farms, Inc. (“House of Raeford”); Koch Foods Incorporated, JCG Foods of Alabama LLC, JCG Foods of Georgia LLC, and Koch Meat Co., Inc. (“Koch”); Mountaire Farms Inc., Mountaire Farms, LLC, and Mountaire Farms of Delaware, Inc. (“Mountaire”); O.K. Foods, Inc., O.K. Farms, Inc., and O.K. Industries, Inc. (“O.K. Foods”); Perdue Farms, Inc. and Perdue Foods LLC (“Perdue”); 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)), excluding Wayne Farms, LLC (“Sanderson”); Simmons Foods, Inc. and Simmons Prepared Foods, Inc. (“Simmons”); and Wayne Farms, LLC, excluding 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)) (“Wayne”) (collectively, “Settling Defendants”).

The Court has reviewed the memorandum submitted by the EUCPs in support of their motion and has reviewed the various declarations and submissions relating to that motion. The Court has also reviewed the EUCPs’ Corrected Second Motion for Attorneys’ Fees, Expenses, and Class Representative Service Awards (“Fee Request”, Dkt. No. 7706) and has reviewed the various declarations and submissions relating to that motion. The Court has also reviewed the objection of John M. Andren (Dkt. No. 7716). The Court held a hearing on June 30, 2025, and appearances were noted on the record.

Based on the record and proceedings before the Court, it is hereby **ORDERED:**

**A. Final approval of the settlements is granted.**

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 settlement agreements are fair, reasonable, and adequate settlements for the Settlement Class within the meaning of Federal Rules of Civil Procedure 23 and in accordance with the factors identified by the Seventh Circuit in *Synfuel Techs., Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006).

2. For the settlements with Defendant families Claxton, Foster Farms, Harrison Poultry, House of Raeford, Koch, Mountaire, O.K. Foods, Perdue, Sanderson, Simmons, and Wayne Farms, the Settlement Class is defined as:

All persons and entities who indirectly purchased the following types of raw chicken, whether fresh or frozen: whole birds (with or without giblets), whole cut-up birds purchased within a package, breast cuts or tenderloin cuts, but excluding chicken that is marketed as halal, kosher, free range, organic, diced, minced, ground, seasoned, flavored or

breaded—from defendants or co-conspirators for personal consumption in Repealer Jurisdictions from January 1, 2012 to July 31, 2019.<sup>1</sup>

3. The Court preliminarily approved this Settlement Class (Dkt. Nos. 6676, 7500) and it is the same class set forth in each of the eleven settlement agreements.

4. The Court appointed the law firms of Hagens Berman Sobol Shapiro LLP and Cohen Milstein Sellers & Toll PLLC as Co-Lead Counsel for the Settlement Class.

5. In granting final approval of the settlements, the Court considered all of the factors identified by Rule 23(e) and the Seventh Circuit:

a. **Rule 23(e)(2)(A):** The Court finds that Class Counsel and Class Representatives adequately represented the class.

i. Class Counsel spent nearly 90,000 hours in pursuit of these claims, overcame over two dozen summary judgment motions, and navigated almost 200 depositions, in addition to leading discovery and preparing for trial. Likewise, each named plaintiff has adequately represented the class – spending more than 40 hours on tasks such as responding to discovery, preparing for and sitting for depositions, and reviewing and providing input for each settlement. Each named plaintiff has provided a declaration describing their efforts and certifying that they considered the interests of all class members before approving of the settlements and noting that they understood that they could disagree with Class Counsel about the merits of the settlements. None of the named plaintiffs have any business relationship with Class Counsel, nor do any have familial relationships.

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<sup>1</sup> The “Repealer Jurisdictions” are California, District of Columbia, Florida, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, and Wisconsin.

b. **Rule 23(e)(2)(B):** The Court finds that the settlements were negotiated at arm's length. EUCPs engaged in lengthy, protracted negotiations with each defendant before agreeing to a settlement. Many of the settlements required the assistance of a mediator, either Hon. Daniel Weinstein (Ret.) or his colleague Simone Lelchuk. There are no terms in the settlement that would suggest collusion.

c. **Rule 23(e)(2)(C):** The Court finds that relief for the class is adequate.

i. The costs, risks, and delay of trial and appeal favor settlement here, where parties have engaged in over eight years of vigorous litigation and have yet to see trial.

ii. EUCPs have proposed a distribution plan and claims form that are claimant-friendly, efficient, cost-effective, proportional and reasonable, and generally accepted as effective.

iii. Class Counsel's proposed fee award of 30% comports with the standard for fee awards in antitrust cases in the Seventh Circuit. Further, there are no "clear sailing" provisions or other provisions in the settlements that relate to attorneys' fees that would cause concern for the Court.

iv. All agreements have been identified in accordance with Rule 23(e)(3). EUCPs have publicly filed copies of the executed settlement agreements with their motions for preliminary approval. There are no other agreements with the Settling Defendants.

d. **Rule 23(e)(2)(D):** The settlements treat class members equitably to each other. After the claims period closes (on July 31, 2025), EUCPS will move the Court for a distribution order, and will provide additional detail on the plan of distribution, the number of claimants, and the method by which class members will be paid. EUCPs propose to distribute the

settlement funds to class members on a *pro rata* basis, based on the amount of purchases that claimants made from January 1, 2012 to July 31, 2019.

e. The settlements offer significant compensation to class members, especially in light of risks the class faces. The Seventh Circuit states that the most important factor for Courts to consider is “the strength of plaintiff’s case on the merits balanced against the amount offered in the settlement.” *Synfuel*, 463 F.3d 646, 653 (7th Cir. 2006) (quoting *Isby v. Bayh*, 75 F.3d 1191, 1199 (7th Cir. 1996)). Here, EUCPs have negotiated \$22.35 million in settlements with seven defendants, in addition to waiver-based settlements with four additional defendants. Including the first round of settlements, EUCPs have recovered a total of \$203 million. While damages in this case are estimated to be in the billions, the risks of non-recovery have been significant. As this Court has previously recognized, the Court’s 92-page decision denying the motions to dismiss was a relatively close call. Furthermore, issues raised in the motions to dismiss show that success on class certification and summary judgment, let alone trial, is no guarantee.

f. Another factor courts are instructed to consider is whether experienced counsel recommends granting final approval of settlements. *See Isby v. Bayh*, 75 F.3d 1191, 1200 (7th Cir. 1996). Here, Class Counsel recommends granting final approval of these settlements and this factor weighs in support of granting final approval of the settlements.

g. The positive reaction of the class supports granting final approval of the settlements. The reaction of the class has been extraordinarily positive. Over 10.4 million class members have already filed claims. Despite the extraordinary number of claims, only four class members have timely opted out of the settlement, bringing the total to 22 people opting out at each stage of the case. Only one class member has partially objected to the settlement. The opt

outs and objector represent just 0.0002% percent of all claimants. “Such a low percentage of opposition favors a finding that the settlement is fair, reasonable, and adequate under Rule 23.”

*In re Cap. One Tel. Consumer Prot. Act Litig.*, 80 F. Supp. 3d 781, 792 (N.D. Ill. 2015).

h. The stage of the proceedings favors granting final approval of the settlements. The classes have engaged in extensive, rigorous discovery, as reflected in the more than 7,000 docket entries that comprise this case. Years of robust discovery have ensured that Class Counsel and the Court can fully evaluate the merits of the claims. *In re AT & T Mobility Wireless Data Servs. Sales Tax Litig.*, 789 F. Supp. 2d 935, 966 (N.D. Ill. 2011) (“This factor is relevant because it determines how fully the district court and counsel are able to evaluate the merits of plaintiffs’ claims.”).

i. Defendants have complied with the Class Action Fairness Act (28 U.S.C. § 1715(d)). The Settling Defendants have confirmed that they provided CAFA notice to all Attorneys General and the U.S. Department of Justice. No Attorneys General have submitted statements of interest or objections in response to these notices.

ii. **Rule 23(c)**: the class was provided with adequate notice of the settlements. Direct notice was emailed to more than 28 million potential class members. Publication notice was disseminated widely, with digital banner advertisements and social media advertisements generating 330 million impressions. The notice itself informed class members of the nature of the action, the terms of the proposed settlements, the effect of the action and the release of claims, as well as class members’ right to exclude themselves from the action and their right to object to the proposed settlements.

**B. EUCPs' claims against Claxton, Foster Farms, Harrison Poultry, House of Raeford, Koch, Mountaire, O.K. Foods, Perdue, Sanderson, Simmons, and Wayne Farms are hereby dismissed with prejudice.**

6. Having found that the settlements are fair, adequate, and reasonable, the Court hereby dismisses with prejudice EUCPs' claims against the Settling Defendants, with each party to bear their own costs and fees, including attorneys' fees, except as provided in the settlement agreements.

7. The Court incorporates the releases defined in the settlement agreements. The releasing parties are hereby and forever barred from commencing or continuing against the Settling Defendants any of the released claims, as defined in the settlement agreements.

8. Any member of the Settlement Class who failed to timely and validly request to be excluded from the Settlement Class shall be subject to and bound by the provisions of the settlement agreements, and the released claims as defined by these agreements, regardless of whether such members of the class seek or obtain any distribution from any settlement fund. All class members who validly requested to be excluded from the Settlement Class are listed in **Exhibit F** in the Declaration of Brian Devery in Support of EUCPs' Motion for Final Approval of Settlement (filed June 16, 2025). These individuals are not entitled to any recovery from the settlement fund. Furthermore, nothing in this Order shall be construed as a determination by this Court that any person or entity satisfies the criteria for membership in the Settlement Class merely because they filed a request for exclusion.

9. 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 agreements. Accordingly, the Clerk is hereby directed to enter this Final Judgment forthwith.

10. Without affecting the finality of the Final Judgment in any way, this Court hereby retains continuing exclusive jurisdiction over: (a) consummation, administration and implementation of the settlement agreements and any allocation or distribution to the Settlement Class pursuant to further orders of this Court; (b) disposition of any settlement fund; (c) hearing and determining applications by plaintiffs for attorneys' fees, costs, expenses, and interest; (d) the actions 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 agreements; (e) hearing and ruling on any matters relating to any plan of allocation or distribution of proceeds from the settlements; and (f) the parties to the settlement agreements for the purpose of enforcing and administering the settlement agreements and the releases contemplated by, or executed in connection with the settlement agreements.

**C. Class Counsel's request for expenses and service awards is granted, and the request for attorneys' fees is stayed.**

11. The Court has considered EUCPs' request for expenses in the amount of \$9,914,092.86 and their request of \$2,000 for each of the 25 Class Representatives (totaling \$50,000 for the Class Representatives). The Court has also considered the cost estimates of notice and administration provided by the claims administrator.

12. The Court has considered the relevant case law and authority and finds that reimbursement of expenses to the EUCPs and their counsel are appropriate under Fed. R. Civ. P. 23(h) and Fed. R. Civ. P. 54(d)(2). Notice of the request for reimbursement of expenses was provided to the potential class members via direct and published notice and a settlement web site that identified relevant documents and pleadings.

13. ***Class Counsel's Request for Costs is Reasonable.*** It is well-established that "a litigant or a lawyer who recovers a common fund for the benefit of persons other than himself or

his client is entitled to a reasonable attorney's fee from the fund as a whole." *Boeing Co. v. Van Gemert*, 444 U.S. 472, 478 (1980); *see also* Fed. R. Civ. P. 23(h). This includes "such things as expert witness costs; computerized research; court reports; travel expense; copy, phone and facsimile expenses and mediation." *Hale v. State Farm Mut. Auto. Ins. Co.*, No. 12-0660-DRH, 2018 WL 6606079, at \*14 (S.D. Ill. Dec. 16, 2018). Here, Class Counsel seeks reimbursement of up to \$9,750,000 for out-of-pocket expenses, many of which related to retaining experts and consultants (\$4,229,349.65). This includes up to \$1,850,000 for all future notice and administrative costs. In light of how fiercely contested this case has been, the Court finds these expenses reasonable.

14. ***The Service Awards are Reasonable.*** Finally, EUCPs request service awards of \$2,000 for each of the 25 named plaintiff Class Representatives. *See Matter of Cont'l Illinois Sec. Litig.*, 962 F.2d 566, 571 (7th Cir. 1992) ("Since without a named plaintiff there can be no class action, such compensation . . . may be necessary[.]"). As demonstrated by their declarations, each of them has invested time and resources in this litigation by, among other things: reviewing pleadings, responding to discovery requests, producing documents, sitting for depositions, preparing for trial, remaining in contact with counsel, and overseeing the litigation. The named plaintiffs have also collectively sat through more 97 hours of depositions, which lasted an average of four hours – with some going up to seven hours. These depositions were attended by multiple defense counsel. Given their considerable work on this case, the Court finds that a \$2,000 incentive award is reasonable, in addition to the \$2,000 service award requested in the first fee motion. These Class Representatives have served admirably for almost a decade, making these service awards warranted. *See In re TikTok, Inc., Consumer Priv. Litig.*, 617 F. Supp. 3d 904, 949 (N.D. Ill. 2022), *appeal dismissed sub nom. In re Tiktok Inc., Consumer Priv.*

*Litig.*, No. 22-2682, 2022 WL 19079999 (7th Cir. Oct. 12, 2022) (finding persuasive an empirical study concluding the median incentive award across all case types in 2021 was \$6,450 per plaintiff and the mean per plaintiff was \$14,371).

15. The Court has further considered Mr. Andren's objection regarding attorneys' fees. Mr. Andren does not object to the payment of expenses, future notice costs, or Class Representative service awards. The parties previously stipulated that Mr. Andren may fully brief his objection "within 60 days after the mandate returns from the Seventh Circuit in Appeal No. 24-2307." The Court will not consider Class Counsel's request for attorneys' fees until the Seventh Circuit has had the opportunity to resolve the appeal, and Mr. Andren has had an opportunity to present his objection.

16. For the reasons set forth below, the Court awards the following:

- a. \$1,850,000 of the settlement fund will be set aside to pay the claims administrator's future notice and administration costs.
- b. Class Counsel's request for a reimbursement of expenses in the amount of \$9,914,092.86 is granted.
- c. Class Counsel's request for \$2,000 for each of the 25 Class Representatives (totaling \$50,000 for the Class Representatives) is granted.
- d. Class Counsel's request for attorneys' fees and interest is stayed pending resolution of the Seventh Circuit Appeal No. 24-2307.

IT IS SO ORDERED.

DATED: June 30, 2025

A handwritten signature in cursive script that reads "Thomas M. Durkin".

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HONORABLE THOMAS M. DURKIN  
UNITED STATES DISTRICT COURT JUDGE