

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

IN RE BROILER CHICKEN ANTITRUST
LITIGATION

This Document Relates To:
Direct Purchaser Actions

No. 1:16-cv-08637

Hon. Thomas M. Durkin
Magistrate Judge Jeffrey T. Gilbert

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

This Court, having considered Direct Purchaser Plaintiffs' Motion for Interim Payment of Attorneys' Fees, Reimbursement of Expenses, and Class Representative Incentive Awards (the "Motion") and the Memorandum in Support of Direct Purchaser Plaintiffs' Motion for Interim Payment of Attorneys' Fees, Reimbursement of Expenses, and Class Representative Incentive Awards (the "Memorandum"), after a duly noticed hearing, hereby finds that:

1. The Motion seeks an interim award of attorneys' fees of \$56,753,866.00, representing 33 1/3% of the \$170,261,600.00 Settlement Fund that comprises the settlement payments paid into escrow by the Settling Defendants. Class Counsel for Direct Purchaser Plaintiffs ("Class Counsel") also seek an order awarding \$4.5 million in litigation expenses incurred during the pendency of this action. Finally, the Motion seeks an interim incentive award of \$25,000.00 for each Class Representative for a total of \$125,000.00.

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."

3. The attorneys' fees requested were entirely contingent upon a successful outcome for the Class. The risk undertaken by Class Counsel was significant, especially considering the lack of similar cases, the absence of a parallel criminal investigation, the complex legal theories

advanced in the Consolidated Amended Complaint, and the vigorous defense by experienced, industry-leading defense counsel.

4. An interim award of 33 1/3% of the Settlement Fund is reasonable and warranted for the reasons set forth in the Memorandum, including the following: the outstanding result obtained for the Class—payment by Settling Defendants of \$170,261,600.00; the quality of work product and quantity of work performed by Class Counsel, including extensive motion practice, substantial discovery efforts, and mediation, all involving complex issues of fact and law that were zealously litigated since 2016; and the risks faced throughout the litigation, which existed from the outset and will continue beyond settlement given that there remain 14 Defendants.

5. The Court finds that Class Counsel's reasonable lodestar as of December 31, 2020 was \$50,928,159.75, based on historical hourly rates. Accordingly, Class Counsel's requested fee award of \$56,753,866.00 represents a multiplier of 1.114 based on their historical hourly rates through December 31, 2020. Class Counsel have continued to incur attorneys' fees since December 30, 2020 which are not included in this lodestar calculation.

6. In addition to risking time and effort, Class Counsel advanced substantial costs and expenses in connection with the prosecution of the litigation for the benefit of the Class with no ultimate guarantee of compensation. Through April 12, 2021, DPPs have incurred expenses in the total amount of \$5,104,566.48, which have been reviewed and are now approved by the Court as reasonable and necessarily incurred in the litigation. Because Class Counsel informed the class that in this petition they would not seek more than \$4.5 million in expense reimbursement, their petition is limited to that amount. Upon a future petition by Class Counsel, the difference of \$604,566.48 may be paid from any future recoveries in the litigation, subject to the Court's approval at that time.

7. Each of the Class Representatives has remained 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.

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

9. Having considered Direct Purchaser Plaintiffs' Motion for Interim Payment of Attorneys' Fees, Reimbursement of Expenses, and Class Representative Incentive Awards

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

1. Class Counsel are awarded interim attorneys' fees in the amount of \$56,753,866.00 or 33 1/3% of the Settlement Fund of \$170,261,600.00.

2. Class Counsel are awarded \$4,500,000.00 in litigation expenses.

3. The following Class Representatives shall each receive \$25,000.00 as interim service awards: Maplevale Farms, Inc.; John Gross and Company, Inc.; Ferraro Foods, Inc. and Ferraro Foods of North Carolina, LLC;¹ Joe Christiana Food Distributors, Inc.; and Cedar Farms Co., Inc.

4. The awarded interim attorneys' fees, reimbursed expenses, and service awards shall be paid from the Settlement Fund.

¹ Both Ferraro entities together shall receive one award of \$25,000.00.

5. The awarded interim attorneys' fees and reimbursed expenses shall be equitably distributed among Class Counsel by the Court-appointed DPP Co-Lead Counsel (*see* ECF No. 144) in a good-faith manner that reflects Co-Lead Counsel's judgment as to each individual Class Counsel's contribution to the institution, prosecution, and resolution of the litigation.

6. The Court finding no just reason for delay, this Order shall be entered as of this date pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

This ____ day of _____, 2021.

HONORABLE THOMAS M. DURKIN
UNITED STATES DISTRICT JUDGE