

**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
<i>All End-User Consumer Plaintiff Actions</i>	

**ORDER GRANTING END-USER CONSUMER PLAINTIFFS’
UNCONTESTED MOTION FOR PRELIMINARY APPROVAL OF
SETTLEMENTS AND TO DIRECT NOTICE**

End-User Consumer Plaintiffs (“End-Users” or “Plaintiffs”) have entered into Settlement Agreements with Claxton, Foster Farms, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Perdue, Sanderson, Simmons, and Wayne (“Settlement Agreements”).¹ They moved for preliminary approval of these settlements and to direct notice to the class of the same (“Motion”). The Motion also requested the Court’s approval to direct notice regarding the settlement with Harrison Poultry, which the Court has preliminarily approved.²

¹ “**Claxton**” refers to Norman W. Fries, Inc. d/b/a Claxton Poultry Farms. “**Foster Farms**” refers to Foster Farms, LLC and Foster Poultry Farms LLC. “**House of Raeford**” refers to House of Raeford Farms, Inc. “**Koch Foods**” refers to Koch Foods Incorporated, JCG Foods of Alabama LLC, JCG Foods of Georgia LLC, and Koch Meat Co., Inc. “**Mountaire**” refers to Mountaire Farms Inc., Mountaire Farms, LLC and Mountaire Farms of Delaware, Inc. “**O.K. Foods**” refers to O.K. Foods, Inc., O.K. Farms, Inc., and O.K. Industries, Inc. “**Perdue**” refers to Perdue Farms, Inc. and Perdue Foods LLC. “**Sanderson**” refers to 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)); “**Simmons**” refers to Simmons Foods, Inc. and Simmons Prepared Foods, Inc.; “**Wayne**” refers to Wayne Farms, LLC.

² “Harrison Poultry” refers to Harrison Poultry, Inc.

On February 11, 2025, this Court held a hearing as to this Motion. The Court, having reviewed the Motion, its accompanying memorandum and the exhibits thereto, the Settlement Agreements, and the file, hereby **ORDERS AND ADJUDGES**:

PRELIMINARY APPROVAL OF THE SETTLEMENTS

1. This Court has jurisdiction over this action and each of the parties to the Settlement Agreements. The Court previously appointed the law firms of Hagens Berman Sobol Shapiro LLP and Cohen Milstein Sellers & Toll PLLC as Co-Lead Class Counsel for the Certified Class.

2. The settlements were entered into on behalf of the Class certified by this Court in its order dated May 27, 2022, *see* ECF Nos. 3971, 5644 (the “Certified Class”):

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 the Repealer Jurisdictions from January 1, 2012 to July 31, 2019.

3. Upon review of the record, the Court finds that the proposed Settlement Agreements, which were arrived at by arm’s length negotiations by highly experienced counsel, fall within the range of possible approval and are hereby preliminarily approved, subject to further consideration at the Court’s Fairness Hearing. The Court finds that the Settlement Agreements are preliminarily determined to be fair, reasonable, adequate, and in the best interests of the Certified Class, raise no obvious reasons to doubt their fairness, and raise a reasonable basis for presuming that the Settlements and their terms satisfy the requirements of Federal Rules of Civil Procedure 23(c)(2) and 23(e) and due process so that notice of the settlements should be given to the Certified Class.

4. At the hearing on the Motion, there were no objections to the Motion.

APPROVAL OF THE NOTICE PLAN

5. End-Users have proposed a notice plan to notify Class Members of the settlements with Claxton, Foster Farms, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Perdue, Sanderson, Simmons, and Wayne. In addition, the End-Users propose notifying Class Members of a prior settlement reached with Harrison Poultry. The Court granted preliminary approval of the Harrison Poultry settlement on July 18, 2023 and allowed notice to be deferred until subsequent settlement agreements were reached. *See* ECF No. 6676.

A. The Notice Plan

6. End-Users propose using a combination of direct email notice, digital media, social media, and earned media to deliver notice to potential Class Members. The Court has reviewed the notice plan and finds it provides the best practicable notice under the circumstances and satisfies the requirements of Fed. R. Civ. P. 23(c)(2)(B). A.B. Data shall be appointed as the notice administrator for the End-User Class and shall implement the proposed notice plan, as described in Exhibit B of the Schachter Decl. to End-Users' Motion (the Notice Plan). End-Users shall maintain a case-specific notice website to host the claims forms, notice documents, and other information about the case: www.overchargedforchicken.com.

7. The End-Users have attached to their Motion a proposed Email Notice and Frequently Asked Questions ("FAQs"). *See* Exhibits B and C of the Schachter Decl. to End-User's Motion. The Court has reviewed these notices. The notices use neutral language to describe: (1) the nature of the action; (2) the definition of the Certified Class; (3) the claims and issues related to the lawsuit; (4) class counsels' identity and contact information; and (4) the binding effect of a judgment on Class Members.

B. Opt-Out Process

8. Up through and including the class notice of the Court's certification of the litigated Class, Class Members were given at least two opportunities to opt out. First, in connection with a prior round of settlements, notice was sent and allowed a period to opt out. ECF No. 5443. Next, at class certification, a further notice to the Class was sent. ECF No. 6196. As such, at this stage fairness no longer requires giving Class Members another opportunity to exclude themselves from the settlements. However, Rule 23(e)(4) grants district courts the discretion to afford members of a previously certified class an additional opportunity to opt out of the proposed settlement.

9. The settlements with Claxton, Foster Farms, and Perdue do not give Class Members another opportunity to opt out of those settlements. As such, everyone who fits the description of the Certified Class – except for the 18 members of the End-User Class who previously filed a timely and proper request for exclusion (*see* ECF No. 5248-1; Schachter Decl., Ex. F; and ECF No. 6603; Schachter Decl., Ex. E) – are members of the End-User Class for all purposes of the adjudication of the Claxton, Foster Farms, and Perdue claims, and Class Members will not be given another opportunity to opt out.

10. The settlement agreements with House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson, Simmons, Wayne, and Harrison Poultry do allow for Class Members to opt out of the settlements. End-Users have submitted proposed notices that tell Class Members that they can opt out of the House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson, Simmons, Wayne, and Harrison Poultry settlements by requesting an exclusion before the deadline. The notices also set out the consequences of opting out, and informs them that if they opt out, they may bring their own case through their own attorney, if desired.

11. As such, the Court, in its discretion, will allow Class Members a final opportunity to opt out of these settlements. Class Members who elect to opt out of the House of Raeford, Koch

Foods, Mountaire, O.K. Foods, Sanderson, Simmons, Wayne, or Harrison Poultry settlements will not be entitled to any relief under those settlements.

C. Claims Process

12. All potential Class Members have previously submitted a claim – either during the initial round of settlements or after receiving notice of class certification – are not required to submit another claim form to receive relief from the House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson, Simmons, and Harrison Poultry settlements.

13. The claims period for participating in the initial round of settlements closed on December 31, 2023. ECF No. 6651. However, distribution has not yet begun for the End-User Class. And there is no reason why Class Members who receive notice should not participate fully in the settlements. As such, the claims period shall be extended through July 31, 2025.

D. Deadlines

14. The Court sets the following deadlines with respect to class notice and final approval:

EVENT	DATE
Notice campaign begins through direct email and implementation of publication notice campaign	Thursday, March 13, 2025
Last day for Co-Lead Counsel to move for attorney fees, expenses, and service awards for named plaintiffs	Monday, April 28, 2025
Last day for Settlement Class Members to request exclusion from the Harrison Poultry, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson, Simmons, and Wayne settlements, to object to any of the settlements, and to file notices to appear at the final approval hearing	Monday, May 12, 2025

EVENT	DATE
Co-Lead Counsel to provide Settling Defendants with a list of all persons and entities who have timely and adequately requested exclusion from the Harrison Poultry, House of Raeford, Koch Foods, Mountaire, O.K. Foods, Sanderson, Simmons, and Wayne settlements	Monday, May 19, 2025
Co-Lead Counsel shall file a motion for final approval of the settlements and all supporting documents, as well as responses to any objections to the settlements or attorney fees	Monday, June 16, 2025
Final Approval Hearing, and hearing on request for attorney fees and expenses	Monday, June 30, 2025
Distribution to Settlement Class	TBD after final approval has been granted and any objections and/or appeals have been resolved
Claims Period Deadline	July 31, 2025

IT IS SO ORDERED.

DATED: February 11, 2025



HONORABLE THOMAS M. DURKIN
UNITED STATES DISTRICT COURT JUDGE