

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

*IN RE BROILER CHICKEN ANTITRUST
LITIGATION*

Case No. 1:16-cv-08637

This Document Relates To:

All End User Consumer Plaintiff Actions

**LONG-FORM SETTLEMENT AGREEMENT BETWEEN END-USER
CONSUMER PLAINTIFF CLASS AND NORMAN W. FRIES, INC. D/B/A CLAXTON
POULTRY FARMS**

THIS SETTLEMENT AGREEMENT (“Settlement Agreement”) is made and entered into in the above-captioned action (the “Action”) as of the 20th day of December, 2024 (“Execution Date”) by and between the EUCPs (as hereinafter defined), through Co-Lead Counsel (as hereinafter defined) on behalf of themselves and members of the Certified Class, (as hereinafter defined), and Defendant Norman W. Fries, Inc. d/b/a Claxton Poultry Farms (“Claxton”). EUCPs, on behalf of the Certified Class (as hereinafter defined), and Claxton are referred to herein collectively as the “Parties” or individually as a “Party.”

WHEREAS, EUCPs, on behalf of themselves and as representatives of the Certified Class of similarly situated persons or entities alleged in the Action filed a consolidated amended class action complaint in the United States District Court for the Northern District of Illinois, alleging that various chicken producers participated in a conspiracy to fix, raise, maintain, and stabilize the price of Broilers (as hereinafter defined);

WHEREAS, on October 30, 2020, EUCPs filed a motion for class certification;

WHEREAS, on May 27, 2022, the Court granted EUCPs’ motion for class certification and certified a class consisting of:

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.

WHEREAS, the Court appointed Co-Lead Counsel to represent the class;

WHEREAS, on June 30, 2023 the Court entered an Order granting Claxton's Motion for Summary Judgment as to the EUCP Class (as hereinafter defined) claims against Claxton (ECF Nos. 6641, 7028) (hereinafter "MSJ Order");

WHEREAS, counsel for the Parties have engaged in arm's-length negotiations on the terms of this Settlement Agreement, and this Settlement Agreement embodies all of the terms and conditions of the settlement;

WHEREAS, the Parties wish to resolve all claims asserted and all claims that could have been asserted against Claxton in any way arising out of or relating in any way to the indirect purchase of Broilers by the Certified Class that were produced, processed or sold by Claxton or any of the Defendants or their alleged co-conspirators;

WHEREAS, Co-Lead Counsel have concluded, after investigation of the facts and after considering the circumstances and the applicable law, that it is in the best interests of EUCPs and the Certified Class to enter into this Settlement Agreement with Claxton to avoid the uncertainties of further complex litigation, and to obtain the benefits described herein for the Certified Class, and, further, that this Settlement Agreement is fair, reasonable, adequate, and in the best interests of EUCPs and the Certified Class;

WHEREAS, Claxton denies the EUCPs' claims in this Action, and notwithstanding the MSJ Order dismissing all of EUCP's claims against Claxton and Claxton's belief that it did nothing wrong or illegal, that it has legitimate defenses to any claims that were asserted, could

have been, or could be asserted by the EUCP Class against it, and that it has prevailed on summary judgment and believes it would prevail in any appeal, enters into this Settlement Agreement to avoid the costs, expenses, and uncertainties of this complex litigation, and to put this controversy to rest;

WHEREAS, in the event this settlement does not obtain Court approval, both Parties wish to preserve all appeals, arguments, defenses, and responses to all claims in the Action, including all arguments, defenses and responses to any appeal.

NOW THEREFORE, in consideration of the foregoing, the terms and conditions set forth below, and other good and valuable consideration, it is agreed by and among the Parties that the EUCPs forgo appealing the MSJ Order against Claxton and that all claims of the EUCPs and Certified Class be settled, compromised, and dismissed on the merits with prejudice as to Claxton consistent with the MSJ Order:

1. General Definitions. The terms below and elsewhere in this Settlement Agreement with initial capital letters shall have the meanings ascribed to them for purposes of this Settlement Agreement.

- a. "EUCPs" means Linda Cheslow, Abraham Drucker, Ian Adams, Marilyn Stangeland, Daniel M. Percy, Kristin Davis, Leslie Weidner, David Weidner, Matthew Hayward, Dorothy Monahan, Joshua Madsen, Natalie Wilbur, Alison Pauk, Michael Perry, David Marino, Eric Thomas, Kenneth Cote, Catherine Senkle, Margo Stack, James Flasch, Dina Morris, Dianne Spell, Angela Ashby, Christina Hall, Richard Heftel, and Stephen Holt.
- b. "Claxton" means Norman W. Fries, Inc. d/b/a Claxton Poultry Farms and all of its predecessors; successors; assigns; affiliates (including, without limitation, any affiliates named as alleged co-conspirators); and any and all

past, present, and future parents, owners, subsidiaries, divisions, and/or departments. “Claxton” does not include any other Defendant named by EUCPs in the Action, either explicitly or as a third-party beneficiary.

- c. “Broilers” means 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.
- d. “Co-Lead Counsel” means Hagens Berman Sobol Shapiro LLP and Cohen Milstein Sellers & Toll, PLLC as appointed by the Court to represent the certified class of end-user consumer indirect purchasers of Broilers.
- e. “Court” means the United States District Court for the Northern District of Illinois and the Honorable Thomas M. Durkin or his successor, or any other court in which the Action is proceeding.
- f. “Defendants” means those Defendants named in EUCPs’ Fifth Consolidated Amended Class Action Complaint (ECF Nos. 3747 (Redacted) and 3748 (Unredacted)).
- g. “Final Approval” means an order and judgment by the Court which finally approves this Settlement Agreement pursuant to Federal Rule of Civil Procedure 23 and dismisses Claxton with prejudice from the Action.
- h. “Effective Date” means the first date upon which both of the following conditions shall have been satisfied: (a) Final Approval of this Settlement Agreement; and (b) either (i) thirty days have passed from the date of Final Approval with no notice of appeal having been filed with the Court; or

(2) Final Approval has been affirmed by a mandate issued by any reviewing court to which any appeal has been taken and the return of the mandate to the Court, and any further petition for review (including, but limited to, a petition for writ of certiorari) has been denied, and the time for any further appeal or review of Final Approval has expired.

- i. “Preliminary Approval” means an order by the Court to preliminarily approve this Settlement Agreement pursuant to Federal Rule of Civil Procedure 23.
- j. “Repealer Jurisdictions” has the meaning ascribed in the Court’s order granting class certification in Docket Number 5644: 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.
- k. “Settlement Administrator” means the firm retained to disseminate the Class Notice.
- l. “Certified Class” or “EUCP Class” shall have the same definition and consist of the litigation class certified by the Court on May 27, 2022 (ECF No. 5644) defined as follows: 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. The Certified Class excludes all persons and entities that previously filed a valid exclusion from the Certified Class as set forth in ECF No. 6603.

2. Mutual Waiver of Right to Appeal or Further Adjudication. Upon the Effective Date, neither the EUCP Class nor Claxton will seek to further adjudicate at the district court, via appeal, or any other means, the orders of the Court in connection with the EUCP Action as they pertain to the other Party, including but not limited to asking the Court to revise, modify, vacate, or reconsider the MSJ Order. For the avoidance of doubt, this does not preclude Claxton from further adjudicating, via appeal or any other means, orders of the Court as part of its defense against any claims brought against Claxton by any other Plaintiff. The EUCP Class further agrees that the MSJ Order is a final judgment on the merits with respect to the EUCP Class claims against Claxton.

3. The EUCP Class's Challenge to the MSJ Order As to Claxton. Upon filing of the motion seeking approval of this Settlement Agreement, the EUCP Class will advise the Court that it does not intend to appeal the MSJ Order as to Claxton and is not asking the Court to revise, modify, vacate, or reconsider the MSJ Order as to Claxton pending approval of this Settlement Agreement. The EUCP Class further agrees that it will not challenge the MSJ Order as to Claxton during the time period between the date of execution of this Settlement Agreement and the Effective Date. However, the EUCP Class reserves the right to seek to challenge the MSJ Order as to Claxton and take necessary steps to preserve any such rights in the event this settlement does not obtain Court approval. For the avoidance of doubt, the EUCP Class's reservation of rights as described in this paragraph shall cease upon the Effective Date. Likewise, Claxton reserves the right to seek to challenge and contest any effort by the EUCP Class to challenge the MSJ Order as to Claxton and to take any and all necessary steps to preserve its rights to, among other things, seek final judgment and obtain costs, fees, and any other permissible legal recovery or equitable relief in the event this settlement does not obtain Court

approval.

4. Settlement Consideration. In consideration for the waiver of appellate or adjudication rights, or both, set forth herein, the EUCP Class and Claxton each agree that they will not seek or assert against each other any claim for costs, fees, attorney's fees or any other form of recovery in connection with the Action. Claxton does not waive any rights to seek any of its costs, fees, attorney's fees or any other form of recovery in connection with the Action from any other Plaintiff in the Action. Similarly, in the event this Settlement is not approved, Claxton reserves all rights to seek to recover any costs and fees from the EUCP Class, and the EUCP Class reserves all rights to challenge and contest any effort by Claxton to seek to recover any costs against the EUCP Class.

5. Motion for Preliminary Approval: No later than ninety (90) days after the Execution Date, EUCPs will move the Court for Preliminary Approval of this settlement. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Preliminary Approval, including but not limited to any draft notices to the EUCP Class, shall be provided by Co-Lead Counsel to Claxton for its review. To the extent that Claxton objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The Parties shall take all reasonable actions as may be necessary to obtain Preliminary Approval. This deadline may be extended by agreement.

6. Class Notices: After Preliminary Approval, and subject to approval by the Court of the means for dissemination:

- a. Notice of this settlement will be sent in coordination with other settlements reached between the EUCP Class and other Defendants. Individual notice of this settlement shall be mailed, emailed, or otherwise sent and/or published by

the Settlement Administrator, at the direction of Co-Lead Counsel, to members of the Certified Class, in conformance with a notice plan to be approved by the Court.

- b. Claxton shall have no responsibility, financial obligation, or liability for any fees, costs, or expenses related to providing notice to the Certified Class or obtaining approval of the settlement, and the EUCP Class shall bear all costs to effectuate notice to the Certified Class and obtain approval of the settlement.
- c. Co-Lead Counsel shall use best efforts to send out notice to the Certified Class within a reasonable period after Preliminary Approval by the Court of the Settlement Agreement. However, Co-Lead Counsel may choose to delay the sending of such notice so that notice need only be sent to the Certified Class once for multiple settlements and that notice costs are kept as low as possible.

On the website, language regarding the settlement with Claxton will include language the same or substantially similar to the following:

On June 30, 2023 the Court granted the motion for summary judgment filed by defendant Claxton against the EUCP Class. The EUCP Class has agreed to not appeal or otherwise challenge the summary judgment order as to defendant Claxton in exchange for a waiver by Claxton of its right to seek recovery of any and all fees and costs against the EUCP Class in conjunction with this Action.

7. Motion for Final Approval and Entry of Final Judgment. If the Court grants Preliminary Approval, then the EUCP Class, through Co-Lead Counsel in accordance with the schedule set forth in the Court's Preliminary Approval, shall submit to the Court a separate motion for Final Approval of this Settlement Agreement by the Court. As soon as practicable in advance of submission to the Court, the papers in support of the motion for Final Approval shall be provided by

Co-Lead Counsel to Claxton for its review. To the extent that Claxton objects to any aspect of the motion, it shall communicate such objection to Co-Lead Counsel and the Parties shall meet and confer about any such objection and attempt to resolve that issue in good faith. The motion for Final Approval shall seek entry of an order and Final Judgment:

- a. Finally approving the Settlement Agreement and its terms as being a fair, reasonable, and adequate settlement for the Certified Class within the meaning of Federal Rules of Civil Procedure 23, and directing the implementation, performance, and consummation of the Settlement Agreement;
- b. Determining that the Class Notice constituted the best notice practicable under the circumstances of this Settlement Agreement and the Fairness Hearing, and constituted due and sufficient notice for all other purposes to all persons entitled to receive notice;
- c. Dismissing all claims made by EUCPs against Claxton in the Action, including in all class action complaints asserted by EUCPs, with prejudice and without further costs or fees;
- d. Confirming that Claxton has provided the appropriate notice pursuant to the Class Action Fairness Act, 28 U.S.C. 1715, *et seq.*
- e. Reserving continuing and exclusive jurisdiction over the Settlement Agreement for all purposes; and
- f. Determining under Federal Rule Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal as to Claxton shall be final and entered forthwith.

The Parties shall use all reasonable best efforts to obtain Final Approval of the Settlement Agreement without modification to any of its material terms and conditions.

8. Choice of Law. Any disputes relating to the Parties' agreement shall be governed by Illinois law without regard to conflicts of law provisions.

9. Consent to Jurisdiction. The Parties hereby submit to the exclusive jurisdiction of the Court for any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement.

10. Class Action Fairness Act. Within ten (10) days of filing of this Settlement Agreement in the Court with the abovementioned motion for preliminary approval, Claxton will provide to the appropriate Federal and State officials all materials required pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715 ("CAFA"). Co-Lead Counsel shall provide such assistance as is reasonably necessary and information as is reasonably available to comply with CAFA.

11. Binding Effect. This Settlement Agreement constitutes a binding, enforceable agreement as to the terms contained herein. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors, assigns, and heirs of the Parties, Certified Class Members, and Claxton. Without limiting the generality of the foregoing, upon Final Approval, each and every covenant and agreement herein by the EUCPs shall be binding upon all members of the Certified Class.

12. Counsel's Express Authority. Each counsel signing this Settlement Agreement on behalf of a Party or Parties represents and warrants that he, she, or it has full and express authority to enter into all of the terms reflected herein on behalf of each and every one of the clients for which counsel is signing.

13. It is agreed that this Settlement Agreement shall be admissible in any proceeding for establishing the terms of the Parties' agreement or for any other purpose with respect to implementing or enforcing this Settlement Agreement.

14. Notices. All notices under this Settlement Agreement shall be in writing. Each such notice shall be given by: (1) email and (2) either by: (a) hand delivery; (b) registered or certified mail, return receipt requested, postage pre-paid; or (c) Federal Express or similar overnight courier, and, in the case of either (a), (b) or (c) shall be addressed:

If directed to EUCPs or any member of the Certified Class, to:

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, Washington 98101
steve@hbsslaw.com

Shana E. Scarlett
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 300
Berkeley, California 94710
shanas@hbsslaw.com

Brent W. Johnson
COHEN MILSTEIN SELLERS & TOLL, PLLC
1100 New York Avenue NW
Suite 500, West Tower
Washington, DC 20005
bjohnson@cohenmilstein.com

If directed to Claxton, to:

James F. Herbison
Michael P. Mayer
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
jherbison@winston.com
mmayer@winston.com

Charles C. Murphy, Jr.
VAUGHAN & MURPHY
690 S. Ponce Ct., N.E.
Atlanta, GA 30307
cmurphy@vaughanandmurphy.com

or such other address as the Parties may designate, from time to time, by giving notice to all parties hereto in the manner described in this Paragraph.

15. No Admission. The Parties expressly agree that this Settlement Agreement and its contents, and any and all statements, negotiations, documents, and discussions associated with it, are not and shall not be deemed or construed to be an admission of liability by any Party.

16. No Third-Party Beneficiaries. Except as provided in Paragraph 23, no provision of this Settlement Agreement shall provide any rights to, or be enforceable by, any person or entity that is not Claxton, an EUCP, a member of the Certified Class, or Co-Lead Counsel.

17. No Party is the Drafter. None of the Parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

18. Amendment and Waiver. This Settlement Agreement shall not be modified in any respect except by a writing executed by the Parties, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any particular breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Settlement Agreement. This Settlement Agreement does not waive or otherwise limit the Parties' rights and remedies for any breach of this Settlement Agreement. Any breach of this Settlement Agreement may result in irreparable damage to a Party for which such Party does not have an adequate remedy at law. Accordingly, in addition to any other remedies and damages available, the Parties acknowledge and agree that the Parties may immediately seek enforcement of this Settlement Agreement by means of specific performance or injunction, without the requirement of posting a bond or other security.

19. Execution in Counterparts. This Settlement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute a

single agreement. Facsimile or electronic mail signatures shall be considered as valid signatures as of the date hereof, although the original signature pages shall thereafter be appended to this Settlement Agreement and filed with the Court.

20. Integrated Agreement. This Settlement Agreement comprises the entire, complete, and integrated agreement between the Parties, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions, either oral or written, between the Parties. The Parties agree that this Settlement Agreement may be modified only by a written instrument signed by the Parties and that no Party will assert any claim against another based on any alleged agreement affecting or relating to the terms of this Settlement Agreement not in writing and signed by the Parties.

21. Voluntary Settlement. The Parties agree that this Settlement Agreement was negotiated in good faith by the Parties, and reflects a settlement that was reached voluntarily after consultation with competent counsel, and no Party has entered this Settlement Agreement as the result of any coercion or duress.


22. Confidentiality. The Parties agree to continue to maintain the confidentiality of all settlement discussions, and materials exchanged during the settlement negotiation. However, Claxton and EUCPs can inform other parties to this Action that they have reached a settlement agreement. Claxton may also provide a copy of this Settlement Agreement to all parties to the Defendants' Agreement (as hereinafter defined). The Parties further agree to disclose the Settlement Agreement for the purpose of disclosure and approval from the Court consistent with the terms of the Settlement Agreement.

23. Qualified Settlement. EUCPs have been provided with a copy of the agreement entered into by Defendants dated February 25, 2020 (hereinafter referred to as "Defendants' Agreement"). The defined terms in Defendants' Agreement shall have the same meaning when used

in this Settlement Agreement. In the event the EUCPs and the Certified Class (a) prevail in any appeal of the existing ruling in the Action and (b) thereafter obtain a Final Judgment that includes as a component damages attributable to sales of Broilers by Claxton, the EUCPs and the Certified Class agree that notwithstanding anything to the contrary contained in this Settlement Agreement, EUCPs and the Certified Class shall reduce the dollar amount collectable from the parties to the Defendants' Agreement pursuant to any Final Judgment by a percentage equal to the Sharing Percentage of Claxton, calculated pursuant to Section 4 and Exhibits A and B of Defendants' Agreement (as illustrated by the Appendix to Defendants' Agreement) as if Claxton had not settled, had been found liable on the claim, and was a Sharing Party with respect to the Final Judgment. EUCPs and the Certified Class agree that this undertaking is also for the benefit of any Defendant that is a party to the Defendants' Agreement and that this undertaking may be enforced by any or all of such Defendants as third party beneficiaries hereof. Any ambiguity in this Paragraph 23 or inconsistency between this Settlement Agreement and the Defendants' Agreement shall be resolved in favor of the Defendants' Agreement, including, without limitation, Sections 6.D.1 and 6.D.2 thereof. EUCPs shall use their best efforts to ensure that the Settlement Agreement constitutes a Qualified Settlement under Defendants' Agreement and to effectuate the intent of the parties to the Defendants' Agreement to treat the Settlement Agreement as a Qualified Settlement, including (as may be necessary) to make any amendments to this Settlement Agreement to reflect the intent to treat the Settlement Agreement as a Qualified Settlement.

IN WITNESS WHEREOF, the Parties, individually or through their duly authorized representatives, enter into this Settlement Agreement on the date first above written.

DATED: 12/20/24, 2024



Shana E. Scarlett
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 300
Berkeley, California 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
shanas@hbsslaw.com

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO LLP
1301 Second Avenue, Suite 2000
Seattle, Washington 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594
steve@hbsslaw.com

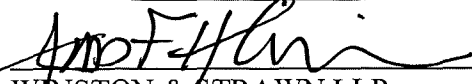
*Co-Lead Counsel for the End-User Consumer
Indirect Purchaser Plaintiff Class*



Brent W. Johnson
Benjamin D. Brown
Daniel H. Silverman
Alison Deich
COHEN MILSTEIN SELLERS & TOLL, PLLC
1100 New York Avenue NW
Suite 500, West Tower
Washington, DC 20005
Telephone: (202) 408-4600
bjohnson@cohenmilstein.com
bbrown@cohenmilstein.com
dsilverman@cohenmilstein.com
adeich@cohenmilstein.com

*Co-Lead Counsel for End-User Consumer
Indirect Purchaser Plaintiff Class*

DATED: 12/20/24, 2024



WINSTON & STRAWN LLP
James F. Herbison
Michael P. Mayer
35 West Wacker Drive
Chicago, Illinois 60601
Telephone: (312) 558-5600
Facsimile: (312) 558-5700
jherbison@winston.com
mmayer@winston.com

VAUGHAN & MURPHY
Charles C. Murphy, Jr.
690 S. Ponce Ct., N.E.
Atlanta, GA 30307
Telephone: (404) 667-0714
Facsimile: (404) 529-4193
cmurphy@vaughanandmurphy.com

Attorneys for Defendant Norman W. Fries, Inc. d/b/a Claxton Poultry Farms