

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

_____)	
FIRST IMPRESSIONS SALON, INC.,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 3:13-cv-00454 (NJR)(GCS)
v.)	
)	
NATIONAL MILK PRODUCERS)	
FEDERATION, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

PLAINTIFFS’ MOTION FOR PRELIMINARY APPROVAL OF CLASS SETTLEMENT

Pursuant to Rule 23(e), Plaintiffs hereby seek an order from this Court granting preliminary approval of the proposed class action settlement. In support of this motion, Plaintiffs state as follows:

I. INTRODUCTION

This class action is now more than seven years old and has been actively litigated at the trial and appellate levels. It has involved the production and review of approximately one million pages of party documents, numerous depositions, dozens of third-party productions, numerous discovery hearings before both Magistrate Judges Williams and Sison, extensive motion practice, summary judgment motions by both sides, *Daubert* motions, a motion to decertify, and motions in limine. The case has been both vigorously prosecuted by Class Counsel and defended by counsel for Defendants.

On May 22, 2019, the parties began a second round of mediation. They selected, and this Court appointed, former California state-court judge Daniel Weinstein, Ret. to mediate the

dispute. That process ran its course for several months, during which all aspects of the litigation actively continued, with the focus on an October 1, 2019 trial date. The mediation process proved successful. Shortly before the date scheduled for trial, counsel for the parties determined that there was a basis for the negotiation of a detailed settlement agreement. Over the course of the succeeding weeks, counsel for the parties worked through settlement terms until negotiations concluded in late November. The parties signed the Settlement Agreement on November 22, 2019. *See* Settlement Agreement (Exhibit 1).

Defendants have denied and continue to deny that they are liable and expressly deny that Plaintiffs' allegations have any factual or legal merit. From Defendants' perspective, they are settling this case to avoid the further expense, inconvenience, and distractions of burdensome and protracted litigation, thus putting to rest with finality this controversy by obtaining complete dismissal of the case and a release by the Class and its members of claims.

As explained more fully below, the proposed settlement requires Defendant National Milk Producers Federation ("National Milk") to pay the Class \$220 million to settle Plaintiffs' claims. All of these monies will go to the Plaintiff Class Members, less attorneys' fees and costs, Court-ordered incentive awards to the Class Representatives, and costs of notice and settlement administration.

This settlement is in the best interests of the Class in order to avoid the uncertainties of continued litigation, and to assure that the benefits of the Settlement Agreement are obtained for the Class Members, all of whom are eligible for monetary payments, and many of whom will receive those payments with minimal effort. Plaintiffs were prepared to try this case to verdict, but this proposed settlement provides significant relief to Class Members now, and avoids: (1)

risks of a trial; (2) any further delay associated with the inevitable appeals of any successful verdict; or (3) the loss of a successful verdict on appeal.

If the Court grants preliminary approval of the settlement, Plaintiffs anticipate that a final fairness hearing could take place early next year and propose a hearing date of Friday, April 24, 2020.

II. STATEMENT OF FACTS

Plaintiffs filed this case on May 10, 2013. The complaint charged that Defendants engaged in a classic, *per se* unlawful supply restraint and therefore violated the Sherman Antitrust Act. Specifically, Plaintiffs alleged that, between July 11, 2003 and July 7, 2010, Defendants and their co-conspirators – agricultural cooperatives representing more than two-thirds of the dairy production in the United States – conspired to remove from production milking cows for the express purpose of artificially driving up the prices of butter, cheese, and raw milk. Plaintiffs alleged that this program, named the “Herd Retirement Program,” removed hundreds of thousands of cows from production, eliminated thousands of dairy farms from the market, reduced the national supply of raw milk by billions of pounds, and thereby artificially inflated the prices for butter and cheese. Plaintiffs contended that Defendants’ actions damaged the Class.

Defendants have steadfastly denied liability and mounted a tenacious defense in all phases of the case. Defendants assert that the Herd Retirement Program was a lawful means of helping farmers during tough times and assert that it falls within the antitrust exemptions created by the federal Clayton and Capper-Volstead Acts. Defendants further assert that the program was lawful even if the antitrust laws were to apply and they assert that the Class Members were not damaged in any way by the conduct of the Herd Retirement Program.

A. Motion Practice

The history of this case can be gleaned from the extensive and exhaustive motion practice. Plaintiffs first filed a Motion for Partial Summary Judgment on May 28, 2013 (Dkt. 10), just weeks after the case was filed. Defendants responded. This motion was later mooted. Soon thereafter, this case was consolidated with another case filed in this district: *Belle Foods Trust, et al. v. National Milk Producers Federation, et al.*, Case No. 14-cv-01014, on October 10, 2014. On September 11, 2015, Plaintiffs filed a Third Amended Complaint. Dkt. 182. Defendants then sought to dismiss this case under Rule 12(b). Dkt. 188. The Court denied that motion on October 5, 2016. Dkt. 250. Next, Plaintiffs moved for class certification. Briefing was completed and a class certification hearing was held on August 25, 2017. The Court certified the Class on September 29, 2017. Defendants sought to appeal the ruling under Fed.R.Civ.P. 23(f), but the Seventh Circuit Court of Appeals denied Defendants' request for review on January 11, 2018. Dkt. 307.

The parties each filed motions for summary judgment. On April 10, 2019, Plaintiffs renewed their Motion for Partial Summary Judgment arguing (1) that the HRP was *per se* illegal under the Sherman Act and (2) the Capper-Volstead Act did not provide a defense. Dkt. 416. On May 20, 2019, Defendants filed their own Motion for Summary Judgment, contending that (1) Plaintiffs' claims were barred by the statute of limitations, (2) the Filed Rate Doctrine bars Plaintiffs' damages claims, and (3) the Herd Retirement Program was entirely legal due to the protections afforded to dairy farmers under the Capper-Volstead and Clayton Acts. Dkt. 430. On May 31, 2019, Defendants filed a *Daubert* motion to exclude Plaintiffs' expert from testifying at trial. Dkt. 436.

As the scheduled trial date approached, the parties filed numerous motions *in limine*, and Defendants moved to exclude the damages and economic testimony of Plaintiffs' expert as well

as filing a motion to decertify the Class. Dkt. 453, 512, 513. Both sides were preparing for trial in earnest. One would be hard pressed to imagine any additional motions that could have been filed to test Plaintiffs' case. By virtue of all the motion practice and rulings and appeals in this case, one thing is abundantly clear: Plaintiffs thoroughly understand the strengths and weaknesses of their case, and, based on that understanding, hereby submit that the proposed settlement is fair, reasonable, and adequate.

B. Discovery

Plaintiffs' assessment of the proposed settlement is also informed by the extensive discovery during the many years of this litigation. Plaintiffs propounded numerous document requests, interrogatories, and requests for admissions. Plaintiffs also reviewed several hundreds of thousands of pages of documents produced in discovery. Plaintiffs then took depositions of the leaders of the CWT/HRP including all of Defendants' corporate representatives. More recently, Plaintiffs deposed a group of several farmers who Defendants intended to bring to trial. Defendants deposed all of the Class Representatives. All of the Class Representatives, especially KPH Healthcare, engaged in excruciatingly lengthy document production and management exercises. Magistrate Judges Williams and then Sison were actively involved in discovery, assisting the parties and conducting many hearings over the years. Not only were the Magistrate Judges called upon to resolve discovery disputes between and among the parties, but also to adjudicate discovery requests by Plaintiffs that were directed to numerous third parties, including the alleged unnamed CWT co-conspirators.

With a fully developed factual record and extensive motion practice, the parties had fully prepared this case for trial. Plaintiffs had engaged a trial consultant and had conducted multiple focus group sessions with multiple mock juries. Both sides fully discovered, analyzed, and

understood the strengths and weaknesses of their positions, and the proposed resolution of this case comes at a fully mature stage.

C. Mediation and Settlement

As described above, after several months of negotiations, Judge Weinstein helped the parties find a path toward the Settlement Agreement. All while the negotiations were occurring, however, preparations for trial continued.

D. The Proposed Settlement

For purposes of preliminary settlement approval, the following summarizes the settlement's terms:

1. The Class

The "Class" is made up of two sub-classes certified by the Court and consists of the following:

- (1) All persons and entities in the United States that purchased butter directly from one or more members of Defendant, Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 (the "Class Period") who did not timely opt-out of the class pursuant to the class notice approved by the Court in its order dated May 8, 2018 and transmitted to the class on May 31, 2018; and
- (2) All persons and entities in the United States that purchased cheese directly from one or more members of Defendant, Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the class pursuant to the class notice approved by the Court in its order dated May 8, 2018 and transmitted to the class on May 31, 2018.

2. Monetary Relief for Class Members

The settlement requires National Milk to make non-reversionary payments totaling \$220 million into the settlement fund. This amount will be paid in scheduled payments as follows:

- (1) National Milk will pay \$30 million into an escrow or trust account for the benefit of the Class ("Class Account") within ten (10) calendar days after preliminary approval;

- (2) National Milk will pay \$60 million into the Class Account within ten (10) calendar days after the deadline for filing an appeal from final approval (but in no event before July 1, 2020) (if there is an appeal, then the \$60 million will be paid into a trust account pending final approval of the settlement);
- (3) National Milk will pay the 1st Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid within ten (10) business days of December 31, 2020, or at least three (3) months after the payment to the Class Account of the \$60 million pursuant to Settlement Agreement, ¶ III(1)(1)(b), whichever is later;
- (4) National Milk will pay the 2nd Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than one year from the date on which the 1st Installment Payment was due;
- (5) National Milk will pay the 3rd Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than two years from the date on which the 1st Installment Payment was due;
- (6) National Milk will pay the 4th Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than three years from the date on which the 1st Installment Payment was due.

The term “Accrued Interest” is defined in the Settlement Agreement. *See* Exhibit 1, III(1)(d).

Defendants have also agreed to provide Plaintiffs with security for the four Installment Payments in exchange for paying via installments in the form of an irrevocable standby letter of credit from CoBank, one of the country’s largest agricultural cooperative lenders, which is to be provided within 90 days of the execution of the Settlement Agreement. CoBank is one of the largest private providers of credit to the U.S. agriculture industry and has over \$125 billion in assets.¹ In the event any of the Installment Payments are not made in accordance with the specific terms in the Settlement Agreement Plaintiffs will immediately be paid the entire remaining balance by CoBank.

¹ Attached as Exhibits 2 and 3 are S&P and Fitch Rating Reports demonstrating the financial strength and stability of CoBank. Also attached as Exhibit 4 is a Global Finance 2019 Press Release naming CoBank as the second safest bank in the United States and 45th safest in the world.

The plan is for the Class to receive an initial distribution after final approval (from the combined first two payments by National Milk of \$30 million and \$60 million) and then subsequent distributions following each installment payment by National Milk, per the installment payment schedule outlined in the Settlement Agreement.

3. The Claims Process

After payment of all costs of notice and claims administration, Court-awarded attorneys' fees and costs, and class representative incentive awards, all remaining funds will be distributed to Class Members through a claims process administered by a Court-appointed settlement claims administrator. This claims process has been proposed by Epiq Class Action & Claims Solutions, Inc. ("Epiq") who previously provided the notice to the Class and reported to the Court regarding the implementation of the notice plan and opt outs, and Plaintiffs submit it meets Rule 23 and due process requirements.

The claims process will proceed in three steps.

Step 1: Division Between Non-Documented and Documented Claims.

The settlement fund will be divided into two "pools:" 1% of the settlement fund will be disbursed to qualified Class Members with non-documented generally "de minimis" claims (likely individual consumers) (the "Non-Documented" pool/claims) and 99% of the settlement pool will be disbursed to pay qualified Class Members with documented and generally higher claims (likely businesses) (the "Documented" pool/claims).

Step 2: Identify Claims

Non-Documented Claims

All Non-Documented claims must be submitted by the Class member using the submission tools provided by the Court-appointed Settlement Administrator.

Documented Claims

Documented claims will be adjudicated by the Settlement Administrator through two methods. First, claims will be generated for direct purchasers identified in the sales data produced during the litigation (“Generated Claim”). Second, Class Members may initiate claims by submitting claims with supporting documentation (“Submitted Claim”).

For Generated Claims, the Class Members will receive notification of their total purchases of both cheese and butter identified in the sales data produced during the litigation. The Claim Form will specifically request that each Class member verify the accuracy of the information contained in the Claim Form and will provide instructions for challenging any of the figures or computations contained in the Claim Form. If a Class member agrees that the information contained in the Claim Form is accurate, it will be asked to sign and return the Claim Form to the Settlement Administrator. If the Class member disputes the amount of previously identified total purchases provided in the Generated Claim, that Class member may reject the Generated Claim and submit a claim with the necessary documentation as a Submitted Claim, for the consideration by the Settlement Administrator. The Settlement Administrator has discretion in approving or disapproving Submitted Claims. This kind of claim process is routinely used in class settlements.²

Step 3: Allocate and Pay Settlement Funds

Non-Documented Claims

² See, e.g., *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litig.*, 330 F.R.D. 11, 41 (E.D.N.Y. 2019) (“Claimants will have the opportunity to ‘contest the accuracy of the statement or estimates’ made by the Class Administrator.”); *In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d 1002, 1030 (N.D. Ill. 2000) (“A class member who believes the list of his or her transactions is incomplete may list additional transfers on the claim form and return it.”); *Trombley v. National City Bank*, 759 F. Supp. 2d 20, 28 (D.D.C. 2011) (“Class Members need only provide their name and address and check one of two boxes; additional information does not have to be submitted unless their claims are contested....”).

The Non-Documented claims will be allocated to those Class Members who cannot document that they made such direct purchases during the Class Period, but who purchased cheese products directly from any of the members of the CWT and to Class Members who cannot document that they made such direct purchases during the Class Period, but who purchased butter directly from any of the members of the CWT. The Non-Documented claims will be processed and paid first from the initial disbursement and only from the funds allocated to the Non-Documented pool.

The Non-Documented pool will be allocated by distributing up to \$5 per claim (with a limit of one claim for the purchase of butter and one claim for the purchase of cheese during the Class Period) by direct purchasers who cannot document purchases made from any of the members of the CWT. The Non-Documented pool will be capped at 1% of the Settlement Amount and any unused portion of this pool will pour-over to the Documented pool for distribution to the Class Members with Documented claims.

Documented Claims

The Documented claims will be allocated between Class Members who purchased cheese products directly from any of the members of the CWT and to Class Members who purchased butter directly from any of the members of the CWT. Plaintiffs' experts have apportioned those amounts based on the share of class-wide damages in Dr. Lamb's Expert Report, 63% for cheese and 37% for butter.

The Documented pool/claims will be allocated to each class member based on their proportional share of total qualifying purchases claimed. A Class Member's proportional share shall be calculated by dividing a Class Member's qualifying/eligible purchases of cheese (or butter) by the total qualifying/eligible Documented claims of cheese (or butter). A Class

Member's payment shall be calculated by multiplying the Class Member's proportional share of cheese (or butter) by the portion of the Documented Pool apportioned to cheese (or butter).

Qualifying claims will be deemed eligible by the Settlement Administrator. Any and all disputes shall be resolved by the Settlement Administrator.

It is not possible to predict the precise amount of the payments to Class Members until claim forms are received. However, the proposed claim process is designed to maximize Class member participation and payments and to meet the due process requirements of Rule 23, by providing essentially automatic payments to many Class Members through the Generated Claims, providing a simple claims submission process for the remaining Class Members, providing a pool for undocumented claims and not allowing for any reversion. Additionally, if after the Settlement Administrator makes diligent effort to notify Class Members who have failed to timely cash or redeem check payments, there remains a small, unredeemed balance in the Settlement Fund, Class Counsel will determine whether it makes economic sense to send a supplemental payment at the end of the installments to the other Documented Class Members or whether that amount will be distributed *cy pres* to the National FFA Organization pursuant to the Settlement Agreement. *See* Exhibit 1, XI(13).

This claims process will involve many Class Members that are larger businesses so the claims process allocation and disbursements will occur after the Court's final approval of this settlement.

4. Class Release

In exchange for the benefits made available under the settlement, Class Members agree to release Defendants from all past, present, and future claims relating to the allegations contained in this lawsuit. *See* Exhibit 1, IV(1-4).

5. Class Representatives Service Awards

Prior to the final fairness hearing, the Class Representatives will ask the Court to award them incentive awards in light of the time and effort they have invested in this case. The settlement is not contingent on the Court granting such awards.

6. Attorneys' Fees and Costs

Also prior to the final fairness hearing, Class Counsel will apply to the Court for an award of attorneys' fees and costs from the common fund. The application will recommend the following: (1) the percentage award made by the Court will be applied to the gross amount to be distributed to the Class; (2) fees may be paid at least no sooner than in installments at the same time as Class Members are paid and/or fees shall be paid after the Class Members have been fully paid all payments and installments described in paragraph II(D)(2) above; (3) Co-Lead Counsel shall have sole discretion as to when and how these attorney fees are distributed to all plaintiff counsel; and (4) reimbursement of all incurred litigation expenses and incentive payments, in contrast, be completely made at one time promptly following final approval.

The settlement is not in any way contingent on Court-approval of an award of attorneys' fees or costs.

7. Settlement Administration and Escrow Agent

Plaintiffs have selected and propose for this Court's appointment Epiq to serve as both the Court-appointed settlement claims administrator ("Settlement Administrator") and settlement fund escrow agent ("Escrow Agent"). Epiq, in consultation with its notice expert, Cameron R. Azari, Esq. of Hilsoft Notifications, previously provided the notice to the Class and reported to the Court regarding the implementation of the prior notice plan and opt-outs. From that effort, Epiq and Hilsoft have gained a familiarity with the nature of the Class and are ideally situated to

move expeditiously going forward to implement the settlement Notice Plan. Epiq has also served as Escrow Agent for hundreds of class settlements.

8. Class Notice

Upon entry of an order granting preliminary settlement approval, Epiq and Hilsoft will begin implementation of the attached Notice Plan. Class Members for whom Epiq has identified addresses will receive direct mail notice informing them about the settlement and their rights to object. Class Members who have already opted out of the Class will be excluded from any recovery. In addition, Epiq and Hilsoft will publish notice of the settlement in the same publications used in the prior Court-approved notice plan and on social media. *See Azari Declaration with Notice Plan (Exhibit 5). See also Mangone v. First USA Bank*, 206 F.R.D. 222, 232 (S.D. Ill. 2001) (finding that the class notice sent by direct mail, published in publications as well as on the internet fully complied with the specific notice requirements imposed by F.R.C.P. 23(c)(2)(A), (B), and (C)).

Further, the Court-appointed Settlement Administrator will continue to maintain and monitor the Court-approved litigation website (www.butterandcheeseaction.com), and that website will include all of the materials relating to the settlement, including the Settlement Agreement itself, the claim form and all information relating to the final fairness hearing.

III. ARGUMENT

A. The Settlement Approval Process

As the Seventh Circuit has recognized, federal courts strongly favor and encourage settlements, particularly in class actions and other complex matters, where the inherent costs, delays, and risks of continued litigation might otherwise overwhelm any potential benefit the class could hope to obtain:

It is axiomatic that the federal courts look with great favor upon the voluntary resolution of litigation through settlement. In the class action context in particular, there is an overriding public interest in favor of settlement. Settlement of the complex disputes often involved in class actions minimizes the litigation expenses of both parties and also reduces the strain such litigation imposes upon already scarce judicial resources.

Armstrong v. Bd. of Sch. Dirs. of the City of Milwaukee, 616 F.2d 305, 312-13 (7th Cir. 1980) (citations and quotations omitted), *overruled on other grounds by Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998); *see also Isby v. Bayh*, 75 F.3d 1191, 1196 (7th Cir. 1996) (“Federal courts naturally favor the settlement of class action litigation.”); 4 *Newberg on Class Actions* § 11.41 (4th ed. 2002) (citing cases).

The *Manual for Complex Litigation* (Fourth) (2004) § 21.63 describes a three-step procedure for approval of class action settlements:

- (1) Preliminary approval of the proposed settlement at an informal hearing;
- (2) Dissemination of mailed and/or published notice of the settlement to all affected Class Members; and
- (3) A “formal fairness hearing” or final settlement approval hearing, at which Class Members may be heard regarding the settlement, and at which evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement may be presented.

This procedure, used by courts in this Circuit and endorsed by *Newberg*, safeguards Class Members’ due process rights and enables the Court to fulfill its role as the guardian of class interests. 4 *Newberg* § 11.25.

The purpose of preliminary evaluation of proposed class action settlements is to determine whether the settlement is within the “range of possible approval,” and thus whether notice to the class of the settlement’s terms and holding a formal fairness hearing would be

worthwhile. *Am. Int'l Group, Inc. v. ACE INA Holdings, Inc.*, No. 07 C 2898, 2011 U.S. Dist. LEXIS 84219, at *32-33 (N.D. Ill. July 26, 2011) (citing *Armstrong*, 616 F.2d at 314).

When determining whether a settlement is fair, adequate, and reasonable at the final approval stage, courts in this circuit consider the following factors:

- (1) the strength of plaintiffs' case compared to the terms of the proposed settlement;
- (2) the likely complexity, length, and expense of continued litigation;
- (3) the amount of opposition to settlement among affected parties;
- (4) the opinion of competent counsel; and
- (5) the stage of the proceedings and the amount of discovery completed.

Isby, 75 F.3d at 1199; accord *Holmes v. Roadview, Inc.*, No. 15-CV-4-JDP, 2016 WL 1466582, at *4 (W.D. Wis. Apr. 14, 2016). See also *Kaufman v. American Express*, 877 F.3d 286 (7th Cir. 2017); *Reynolds v. Beneficial Nat'l Bank*, 288 F.3d 277 (7th Cir. 2002); *In re: Southwest Vouchers Litigation*, 799 F.3d 701 (7th Cir. 2015). In reviewing these factors, courts view the facts "in a light most favorable to the settlement." *Isby*, 75 F.3d at 1199. In addition, courts "should not substitute their own judgment as to the optimal settlement terms for the judgment of the litigants and their counsel." *In re: Sears, Roebuck & Co. Front-loading Washer Products Liab. Litig.*, No. 06 C 7023, 2016 WL 772785, at *7 (N.D. Ill. Feb. 29, 2016) (citing *Armstrong*, 616 F.2d at 315).

Granting preliminary approval of this settlement will allow all Class Members to receive notice of the proposed settlement's terms and the date and time of the final fairness hearing, at which Class Members may voice approval of or opposition to the settlement, and at which time the parties and Class Members may present further evidence and argument concerning the fairness, adequacy, and reasonableness of the settlement. See *Manual for Compl. Lit.*, at §§ 13.14, 21.632.

B. The Proposed Settlement is Well Within the “Range of Reasonableness” for Preliminary Approval.

Plaintiffs respectfully submit that the proposed Settlement Agreement meets all of the factors relevant to *final* settlement approval, and, as such, the settlement should be preliminarily approved.

1. The Settlement Provides Substantial Relief for Class Members, Particularly in Light of the Otherwise Inevitable Appellate Challenges.

“The most important factor relevant to the fairness of a class action settlement is the first one listed: the strength of the plaintiffs’ case on the merits balanced against the amount offered in the settlement.” *Synfuel Techs, Inc. v. DHL Express (USA), Inc.*, 463 F.3d 646, 653 (7th Cir. 2006) (internal quotes and citations omitted). Nevertheless, “[b]ecause the essence of settlement is compromise, courts should not reject a settlement solely because it does not provide a complete victory to plaintiffs.” *In re AT&T Mobility Wireless Data Servs. Sales Litig.*, 270 F.R.D. 330, 347 (N.D. Ill. 2010) (citations omitted).

a. The Monetary Amount of the Proposed Settlement and Proposed Allocation of the Net Settlement Proceeds.

The settlement requires Defendants to pay the substantial sum of \$220 million. The settlement proceeds will be disbursed as follows: After deducting Court-awarded attorneys’ fees and costs, the cost of notice and claims administration, and class representative incentive awards, the entirety of the remaining monies will be allocated to eligible Class Members and will be distributed to them on a proportionate and pro rata basis based on purchase volume during the Class Period, pursuant to the allocation plan as proposed by Dr. Russell Lamb. A second allocation may be required in that any monies left after the scheduled payments listed in Section II(D)(2) above to Class Members (*e.g.*, uncashed checks) will be paid on a proportionate and pro rata basis based on purchase volume during the Class Period to eligible participating Class

Members in an additional payment. These allocations will be paid according to the allocation plan provided by Dr. Russell Lamb, an expert econometrician. *See* Declaration of Dr. Lamb with Allocation Plan (Exhibit 6). Any remaining funds, after allocation of the final distribution to the Class from the last installment payment by National Milk, will be paid to the Court-approved *cy pres* recipient. There is no reversion of any part of the settlement money to Defendants.

A proposed escrow agreement with Epiq will be filed for this Court's consideration in the near future. Plaintiffs move this Court to approve this escrow agreement so that funds may be deposited into this escrow account for the benefit of Plaintiffs and the Class. Per the proposed Settlement Agreement, assuming this Court grants this motion for preliminary approval of the settlement, the Defendants shall deposit the initial payment of the settlement proceeds as described above into the escrow account within 10 days of the entry of the Order granting preliminary approval.

b. The Strength of Plaintiffs' Case.

Class Counsel have worked hard to get this case prepared for trial. Class Counsel and the Class Representatives have lived this case for years, which made the decision to settle on the eve of trial difficult. Plaintiffs have argued that their damages exceed \$1 billion due to Defendants' HRP program. On the other hand, Defendants have maintained throughout the case – and would have argued on appeal from any verdict for the Plaintiffs – that the HRP was not a violation of the Sherman Act, that the Capper-Volstead and Clayton Acts create complete legal immunity from liability for the Defendants' HRP, that, in any event, the HRP was legal, that the Filed Rate Doctrine precludes Plaintiffs from pursuing a damage remedy and that the HRP did not, in fact, damage the Class.

Class Counsel continue to believe that their claims against Defendants have merit and were prepared to prove as much at trial. Nevertheless, the Class would face a number of risks

and difficult challenges if the litigation were to continue. Among these are the relative shortage of direct legal precedent regarding the standard of antitrust liability – per se or Rule of Reason that applies here; the question of whether the otherwise broad immunizing reach of the Capper-Volstead and Clayton Acts protect a supply restraint like the HRP; whether the Filed Rate Doctrine protect Defendants against a damages verdict and the many factual and expert opinion issues that surround the calculation of damages. And even if all of those issues were finally resolved by this Court in the Plaintiffs favor, there remains the certainty of an appeal of a successful trial verdict. Plaintiffs would have to overcome each and every one of the challenges made by the defense on appeal, as well as the propriety of class certification, and losing any one issue could result in the loss of a judgment and dismissal of the entire case. Although the Court has ruled in Plaintiffs' favor on some issues, there is certainly no guarantee that the Seventh Circuit (or the United States Supreme Court) would do the same. Because of these risks, Plaintiffs have determined that the proposed settlement – which would ensure that Class Members receive a real recovery in the readily foreseeable future -- is in the best interests of the Class.

2. Continued Litigation is Likely to Take Several More Years.

Continued litigation would likely delay this case for several more years due to the inevitable post-trial motions and appeal to the Seventh Circuit. If certiorari were granted by the United States Supreme Court, also not unlikely given the nature of this case, then resolution of the case would take still more years.

Instead of facing the uncertainty of a potential award in their favor years from now, the proposed settlement allows Class Members to receive immediate and certain relief upon final approval. *See, e.g., Schulte v. Fifth Third Bank*, 805 F. Supp. 2d 560, 586 (N.D. Ill. 2011)

(“Settlement allows the class to avoid the inherent risk, complexity, time, and cost associated with continued litigation.”) (citation omitted).

3. Class Counsel Endorse the Settlement.

Class Counsel endorse this settlement. Class Counsel’s opinion on the settlement is entitled to considerable weight, particularly because: (1) Class Counsel are well-qualified and experienced in class action litigation; (2) Class Counsel have been actively involved in the prosecution, discovery, and trial preparation of the action since 2013; (3) Class Counsel fully prepared this case for trial; and (4) the proposed settlement was reached at arm’s length through negotiations by experienced counsel and with the help of an experienced mediator. *See McKinnie v. JP Morgan Chase Bank, N.A.*, 678 F. Supp. 2d 806, 812 (E.D. Wis. 2009) (factors including that “counsel endorses the settlement and it was achieved after arms-length negotiations facilitated by a mediator . . . suggest that the settlement is fair and merits final approval”); *see also In re Mexico Money Transfer Litig.*, 164 F. Supp. 2d at 1020 (placing “significant weight on the unanimously strong endorsement of these settlements” by “well-respected attorneys”). This factor therefore weighs in favor of preliminary approval.

4. The Late Stage of the Proceedings and the Amount of Discovery Completed Support Preliminary Approval.

The mature stage of the proceedings also favors preliminary approval of the proposed settlement. Indeed, the parties in this case have completed virtually all fact discovery, all expert discovery, extensive summary judgment and other motion practice, and the case was in very late stages of being readied for trial. As a result, Class Counsel possesses all the information necessary to properly evaluate the case, and, in their estimation, the proposed settlement is fair, reasonable, and adequate. *See Woods v. Club Cabaret, Inc.*, Case No. 1:15-cv-01213 (JEH), 2017 WL 4054523, *8 (C.D. Ill. May 17, 2017) (“With the discovery conducted there was more

than adequate information for the parties to understand their cases and reach a reasonable settlement. This supports a finding that the settlement is fair and adequate.”).

C. The Best Practicable Notice Will Be Provided.

“Rule 23(e)(1)(B) requires the court to ‘direct notice in a reasonable manner to all Class Members who would be bound by a proposed settlement, voluntary dismissal, or compromise’ regardless of whether the class was certified under Rule 23(b)(1), (b)(2), or (b)(3).” *Manual for Compl. Lit., supra*, at § 21.312. The best practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The proposed forms of notice, attached as exhibits to the Notice Plan, satisfy all of the criteria above as well as due process. The Notice Plan provides for direct, individual notice to approximately 14,158 direct purchasers by U.S. Mail. Because these addresses have previously been confirmed as a result of the notice following class certification, this process should proceed expeditiously. In addition, reasonable and adequate publication notice will advise these and other Class Members of the details of the settlement. Also, notice will be provided to Class Members online through the settlement website. *See* Azari Declaration, Exhibit 5.

IV. CONCLUSION

For all of the foregoing reasons, Plaintiffs respectfully request that the Court:

- (1) order all deadlines, dates and discovery in this litigation shall be stayed and suspended until further order of the Court, except as necessary to implement the settlement or comply with the terms of the Settlement Agreement;
- (2) preliminarily approve the proposed Settlement Agreement including Plaintiff’s Plan of Allocation as being within the range of possible final settlement approval;

- (3) re-appoint Epiq as the notice provider, approve the proposed Notice Plan, appoint Epiq as the Court-appointed Settlement Administrator and Escrow Agent, and approve the escrow agreement form;
- (4) schedule a Final Fairness Hearing to determine whether:
 - i. the proposed settlement as set forth in the Settlement Agreement, should be finally approved as fair, reasonable and adequate;
 - ii. the application for Class Representative incentive awards and an award of attorneys’ fees, costs and expenses of litigation in this matter should be approved; and
- (5) schedule the following deadlines:

February 26, 2020	Deadline for: (1) Motion and Memorandum in Support of Final Approval; (2) Class Counsel Motion for Attorneys’ Fees, Costs and Class Representative Service Awards
March 6, 2020	Deadline for Notice to the Court of Completion of Class Notice Program
March 17, 2020	Deadline for Class Members to file Objections
April 10, 2010	Deadline for Parties to File the responses to any Objections
April 24, 2020	Final Fairness Hearing at 9:00 a.m.

Dated: December 4, 2019.

Respectfully submitted,

/s/ Charles Barrett
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Co-Lead Class Counsel

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2019, I served the foregoing on all counsel of record via the Court's ECF filing system.

/s/ Charles Barrett

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

FIRST IMPRESSIONS SALON, INC.,
et al.,

Plaintiffs,

v.

NATIONAL MILK PRODUCERS
FEDERATION, *et al.*,

Defendants.

Case No. 3:13-cv-00454 (NJR)(GCS)

CLASS ACTION

SETTLEMENT AGREEMENT

This Settlement Agreement is made and entered into on November 22, 2019 by and between Defendant National Milk Producers Federation and Plaintiffs First Impressions Salon, Inc., Roy Mattson, Piggly Wiggly Midwest, LLC and KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc., for themselves individually and on behalf of all Class Members. This Settlement Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims, upon and subject to the terms and conditions herein, subject to Court approval.

I. DEFINITIONS

1. As used in this Settlement Agreement, the following capitalized terms have the meanings specified below:
2. “Action” means the action known as *First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.*, 3:13-cv-00454-NJR-GCS (S.D. Ill.).

3. “Agreement” means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated by reference.
4. “Claim” means any and all manner of claims, causes of action, cross-claims, counterclaims, suits, demands, actions, rights, charges, liabilities, losses, obligations, and controversies of any kind, nature, or description whatsoever, whether known or unknown, accrued or unaccrued, foreseen or unforeseen, matured or not matured, suspected or unsuspected, liquidated or not liquidated, fixed or contingent, direct or derivative, including “Unknown Claims,” whether class, individual, representative, or otherwise in nature, whether arising in law or equity or under any statute, regulation, ordinance, contract, or otherwise, for damages, interest, costs, expenses, attorneys’ fees, fines, civil or other penalties, or other payment of money, whenever incurred, or for injunctive, declaratory, or other equitable relief.
5. “Class” shall have the meaning as certified by the Court in its Order dated September 29, 2017 (ECF 291 Sealed) as follows:

All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Butter Sub-Class”);

and

All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant,

Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Cheese Sub-Class”).

6. “Class Member” means each member of the Class.
7. “Co-Lead Class Counsel” means the Court-appointed interim Co-Lead Class Counsel for Plaintiffs and the Class, namely, (i) Michael L. Roberts, Roberts Law Firm P.A.; (ii) Don Barrett, Barrett Law Group, P.A.; and (iii) Dianne M. Nast, Nastlaw, LLC.
8. “Class Counsel” means Co-Lead Class Counsel plus other firms appearing under the direction and supervision of Co-Lead Counsel in this matter.
9. “Conduct” means any alleged conduct, acts, transactions, policies, practices, events, communications, occurrences, statements, omissions or failures to act.
10. “Court” means the United States District Court for the Southern District of Illinois.
11. “CWT” means Cooperatives Working Together.
12. “Dairy Products” means cheese and butter sold, distributed, or provided by Defendants and any other members of CWT to Class Members.
13. “Deadline for Filing Appeal from Final Judgment and Order of Dismissal” means the latest day on which appeals from the Court’s Final Judgment and Order of Dismissal may be filed.

14. “Defendants” means Agri-Mark, Inc., Dairy Farmers of America, Inc., Land O’Lakes, Inc., and National Milk Producers Federation a/k/a Cooperatives Working Together, the defendants in this Action.
15. “Effective Date of Settlement” means the first business day following the date the Final Judgment and Order of Dismissal has become final and unappealable, either because: (i) the prescribed time for commencing any appeal has expired and no appeal has been filed; or (ii) an appeal has been filed and either (1) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (2) the order has been affirmed in its entirety or remanded to the Court, which has entered a further Final Judgment and Order of Dismissal, and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this Section, an appeal includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings of like kind whether by affirmance on or exhaustion of any possible appeal or review, writ of certiorari, lapse of time, or otherwise. The finality of the Final Judgment and Order of Dismissal shall not be affected by any appeal or other proceeding regarding solely an application for attorneys’ fees and expenses.
16. “Escrow Agent” means Epiq Class Action & Claims Solutions, Inc..
17. “Escrow Bank” means Pinnacle Bank.
18. “Execution Date” or “Settlement Date” means November 22, 2019.

19. “Fairness Hearing” means the hearing to be held by the Court to determine whether the settlement set forth in this Agreement shall receive final approval pursuant to Fed. R. Civ. P. 23.
20. “Fee and Expense Application” has the meaning given to it in Section VII.1.
21. “Final Judgment and Order of Dismissal” means the order of the Court that (i) contains all the provisions set forth in Section V.3, and (ii) finally approves the Settlement set forth in this Agreement and dismisses with prejudice the claims of Plaintiffs and all Class Members against Defendants.
22. “Herd Retirement Program” means the program where dairy producers, in the CWT, were invited to submit bids to agree to sell their milking herds and cease milk production from those herds.
23. “Named Plaintiffs” means Plaintiffs First Impressions Salon, Inc., Roy Mattson, Piggly Wiggly Midwest, LLC and KPH Healthcare Services, Inc. a/k/a Kinney Drugs, Inc.
24. “National Milk” shall mean National Milk Producers Federation and all committees, component parts and members thereof.
25. “Net Settlement Fund” means the amount of the Settlement Fund remaining after payment of: (a) all Court approved attorneys’ fees to Class Counsel; (b) reimbursement of litigation expenses as approved by the Court; (c) payment of incentive awards to the Named Plaintiffs as awarded by the Court; (d) payment of the costs of notice; (e) payment of taxes in accordance with Section VIII below; and (f) payment of the costs of settlement administration.

26. “Notice” means the notice required by Fed. R. Civ. P. 23(e) to be provided to the Class in a manner acceptable to the Parties and approved by the Court.
27. “Person” means any individual or entity.
28. “Plaintiffs” means, individually and collectively, the Named Plaintiffs and the Class.
29. “Preliminary Approval Order” means an order of the Court that (i) contains all the provisions set forth in Section V.1, and (ii) preliminarily approves the settlement set forth in this Agreement and directs Notice thereof to the Class.
30. “Released Claims” means any and all manner of Claims relating in any way to Conduct that was alleged or could have been alleged in the Action based on the same factual predicate as any or all of the factual predicates for the Claims alleged in the Action, including, without limitation:
 - (i) Any Conduct by Defendants or by the Released Parties (including any continuing effects of such conduct) relating to creation of, operation of, or participation in CWT or the Herd Retirement Program;
 - (ii) Any claim involving, arising from, or relating in any way to any allegation that any Defendant or any Released Party engaged in any unlawful agreement, conspiracy, exclusionary conduct, restraint of trade, anticompetitive conduct, or similar unfair method of competition or unfair business practice that could or has been alleged to be or have been a violation of any federal or state law.
31. The term “Released Claims” also means any claim that any Class Member has asserted, could have asserted, or could assert against Defendants in the Action, including any Claims that arise out of or relate to any acts, omissions, nondisclosures, facts, or occurrences (including any oral or written

representations) in connection with the prosecution, defense, or settlement of the Action or the implementation of this Agreement, including without limitation: (i) the provision of Notice, (ii) the amount distributed to Class Members, and (iii) any tax consequence to Class member resulting from or arising out of the Settlement.

32. “Releasing Parties” means, individually and collectively, Plaintiffs and all Class Members on behalf of themselves and any of their respective past, present, or future officers, directors, employees, shareholders (in their capacity as such), legal representatives, partners, associates, trustees, parents, subsidiaries, divisions, affiliates, heirs, executors, administrators, purchasers, predecessors, successors, assigns, and any other Person purporting to act on behalf of, or for the benefit of, or derivatively for any of them, regardless of whether such Person submits any claim for payment or receives any such payment pursuant to any claims process that may be established and approved by the Court. For avoidance of doubt, the term “Releasing Parties” includes (among others) every Class Member regardless of whether he, she, or it submits any claim for payment or receives any such payment pursuant to any claims process that may be established and approved by the Court.
33. “Released Parties” means National Milk, all past and present members of Cooperatives Working Together, and all past and present members of National Milk, including the Third Party Beneficiaries, as well as all of their respective past and present, direct and indirect, parents, subsidiaries, joint ventures, and affiliates,

and all of their respective past and present, direct and indirect, parents, subsidiaries, affiliates, unincorporated entities, divisions, and groups; the predecessors, successors and assigns of any of the above; and each and all of the present and former principals, parents, officers, directors, supervisors, employees, members, agents, representatives, insures, attorneys, heirs, executors, administrators, and assigns of each of the foregoing (collectively “Releasees”).

34. “National Milk’s Counsel” means Steptoe & Johnson LLP.
35. “Settlement” means the settlement and related terms between the Settling Parties as set forth in this Agreement.
36. “Settlement Amount” means the sum of \$220 million plus accrued interest as specified below.
37. “Settlement Fund” means the escrow account established pursuant to Section III of this Agreement, including all monies held therein in accordance with the terms of this Agreement.
38. “Settlement Agreement Execution Date” means the date on which this Agreement is executed by the Settlement Parties.
39. “Settlement Preliminary Approval Date” means the date of preliminary approval of the Settlement by the Court.
40. “Settling Parties” means Defendant National Milk and Plaintiffs.
41. “Summary Notice” means the summary notice of proposed settlement and hearing for publication acceptable to the Settling Parties and approved by the Court.

42. “Taxes” has the meaning given to it in Section VIII.
43. “Third Party Beneficiaries” means Agri-Mark, Inc., Dairy Farmers of America Inc., Land O’Lakes, Inc., all past and present members of Cooperatives Working Together, and all past and present members of National Milk.

II. AGREED-UPON RECITALS

1. WHEREAS, on September 11, 2015, Plaintiffs filed their Third Amended Class Action Complaint against Defendants in the Action;
2. WHEREAS, Plaintiffs allege that, from 2003 to 2010, Defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1, through the CWT program, in which Defendants engaged in a continuing contract, combination and conspiracy to limit the production of raw farm milk through premature “herd retirements” that required participating dairy farmers to destroy all of the dairy cows in all of their herds. Plaintiffs allege that the principal purpose and effect of this contract, combination and conspiracy was to reduce the nation’s supply of raw milk and to produce both short-term and long-term increases in the prices of raw farm milk, butter and cheese.
3. WHEREAS, Defendants have denied and continue to deny each and every Claim and allegation of wrongdoing made in the Action and all charges of wrongdoing or liability against them arising out of any Conduct alleged or that could have been alleged in the Action;
4. WHEREAS, Class Counsel have conducted and overseen extensive discovery and investigation of the facts, including extensive expert discovery, and after carefully

considering the relevant circumstances of the Action and the applicable law have concluded that: (i) it is in the best interests of Plaintiffs and the Class to enter into this Agreement in order to avoid the uncertainties of continued litigation, and to assure that the benefits reflected herein, including the value of the Settlement Amount to be paid by National Milk under this Agreement, are obtained for the Class; and (ii) the settlement set forth in this Agreement is fair, reasonable, and adequate within the meaning of Federal Rule of Civil Procedure 23 and in the best interests of the Class;

5. WHEREAS, National Milk, while denying any liability for the claims asserted in the Action, and believing that Defendants have good defenses to those claims, but recognizing that continued litigation of the Action is likely to be expensive and time-consuming, has agreed to enter into this Agreement to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation, and thereby put fully to rest with finality this controversy by obtaining complete dismissal of the Action with prejudice and a release by the Class and each member thereof of all Released Claims;

6. WHEREAS, this Agreement is the product of arms'-length negotiations between the Parties and this Agreement embodies all of the terms and conditions of the settlement agreed upon subject to the preliminary and final approval of the Court;

NOW, THEREFORE, it is agreed, by and among the Plaintiffs, by and through Co-Lead Class Counsel, and National Milk, by and through National Milk's Counsel, that, subject to the preliminary and final approval of the Settlement by the Court, the Action be settled,

compromised, and dismissed on the merits with prejudice as to National Milk and the other Released Parties, without costs, on the following terms and conditions.

III. THE SETTLEMENT FUND

1. National Milk will cause to be deposited into an escrow or trust account at the Escrow Bank \$220,000,000 as follows:

a. Within ten (10) calendar days after the Settlement Preliminary Approval Date, National Milk will cause to be deposited into an escrow or trust account at an appropriate financial institution approved by the Court for the benefit of the Class (“Class Account”) the sum of thirty million U.S. dollars (\$30,000,000);

b. Within ten (10) calendar days after the Deadline for Filing Appeal from Final Judgment and Order of Dismissal, but in no event before July 1, 2020, National Milk will cause to be deposited into the Class Account the sum of sixty million U.S. dollars (\$60,000,000); provided that if an appeal is taken from the Court’s Final Judgment and Order of Dismissal, then within ten (10) calendar days of the filing of such an appeal, but in no event before July 1, 2020, National Milk will cause to be deposited in a trust account at an appropriate financial institution approved by the Court for the benefit of the Class but with interest payable to National Milk, the sum of sixty million U.S. dollars (\$60,000,000), such sums to be used to make the payment described in Paragraph III.1.b. if and when that payment is due;

c. In the event that National Milk fails to make the initial \$30,000,000 payment and/or the subsequent \$60,000,000 payment referenced above when due to Plaintiffs, and such payments remain uncured for more than seven (7) business days after Plaintiffs provide written notice of any such failure to National Milk, then the Settlement is voidable at the election of the

Plaintiffs. If Plaintiffs so elect by providing separate written notice to National Milk's Counsel, the Settlement (including but not limited to the Release) shall be null and void and any and all moneys previously paid pursuant to the Settlement shall be immediately returned to National Milk, minus any funds used for Court-approved notice and administrative expenses, and the case shall proceed in Court.

d. The remaining portion of the Settlement Amount shall be paid in four installments as follows:

- A 1st Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid within ten (10) business days of December 31, 2020, or at least three (3) months after the payment to Class Account of the sixty million U.S. dollars (\$60,000,000) pursuant to Paragraph III.1.b., whichever is later (but such payment does not include the deposit of funds into a trust account wherein interest is payable to National Milk as described in Paragraph III.1.b);
- A 2nd Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than one year from the date on which the 1st Installment Payment was due;
- A 3rd Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than two years from the date on which the 1st Installment Payment was due;
- A 4th Installment Payment of \$32.5 million plus Accrued Interest with such installment to be paid not later than three years from the date on which the 1st Installment Payment was due.

As used in this sub-paragraph III.1.d the term "Accrued Interest" means interest on the balance of the unpaid Settlement Amount as of the date the payment is made to the Class Account pursuant to Paragraph III.1.b. at the rate of 4% per annum.

e. If this Agreement is not rescinded pursuant to Paragraph III.1.c., a failure to make any payment described above in sub-paragraph III.1.d. as an Installment Payment when due to

Plaintiffs that remains uncured more than seven (7) business days after Plaintiffs provide written notice of any such failure to National Milk, shall be considered to be a material breach of the terms of this Agreement and the entire portion of the Settlement Amount remaining unpaid at that time plus interest accrued thereon (the “Unpaid Balance”) shall become immediately due and payable.

2. Any or all of the payments comprising the Settlement Amount can be made in advance and without penalty, with interest due, if any, as accrued only to the date of the early payment. The Settlement Amount net of attorneys’ fees, reimbursement of litigation expenses, incentive awards to the Plaintiffs, if any, costs of notice and settlement administration and other expenses, shall be distributed to the Class on a basis approved by the Court for which neither National Milk nor Third Party Beneficiaries shall have any responsibility. There will be no reversion, unless the Court declines to enter Final Judgment and Order of Dismissal, in which case all funds not previously spent on administrative costs shall be returned to National Milk.
3. In the event that National Milk elects to make deposits into the Settlement Fund by wire transfer, Co-Lead Class Counsel shall provide National Milk with information necessary to complete the wire transfer. The Settlement Fund shall be established as an escrow account at Escrow Bank and administered by the Escrow Agent, subject to approval by the Court.
4. Plaintiffs propose the allocation be made as follows: Thirty-seven percent (37%) of the Net Settlement Fund, shall be allocated for payment and distribution to the

Butter Sub-Class and sixty-three percent (63%) of the Net Settlement Fund, shall be allocated for payment and distribution to the Cheese Sub-Class in accordance with a Plan of Distribution to be approved by the Court.

5. Within ninety (90) days of the execution of this Agreement, National Milk shall obtain and furnish to Class Counsel for the benefit of the Class an irrevocable standby letter of credit from CoBank in which CoBank undertakes to pay Plaintiffs the lesser of \$130,000,000 (inclusive of Accrued Interest) or the unpaid balance, upon written certification by Class Counsel that National Milk failed to make a payment when due to Plaintiffs and that failure remained uncured more than seven (7) days after Plaintiffs provided written notice of any such failure to Defendants. Should National Milk fail to supply the Class with such an irrevocable standby letter of credit within ninety (90) days of the execution of this Agreement, the Settlement (including but not limited to the Release) shall be null and void and any and all moneys previously paid pursuant to the Settlement shall be immediately returned to National Milk, minus any funds used for Court-approved notice and administrative expenses, and the case shall be set for trial.
6. Other than payment of the Settlement Amount in accordance with the provisions of Section III.1 above, neither National Milk nor the Third-Party Beneficiaries shall have any liability, responsibility, or obligation to pay or reimburse any other amounts to any Person, including but not limited to Plaintiffs, Class Counsel, any Class Member, or any Releasing Parties in connection with, relating to, or arising out of the Action, the Released Claims, or this Settlement. National Milk shall have

no liability, obligation, or responsibility with respect to the investment, allocation, use, disbursement, administration, or oversight of the Settlement Fund.

7. The Settlement Fund shall be administered pursuant to this Agreement and subject to the Court's continuing supervision and control. With the sole exception of Notice and administration costs described in Section VII, and Taxes as described in Section VIII, no monies shall be disbursed from the Settlement Fund prior to the Effective Date of Settlement and without the specific authorization of the Court, except in the event of termination of this Agreement and return of the Settlement Fund to National Milk.
8. The Settlement Fund shall be invested by the Escrow Agent in short term (up to ninety day maturity) United States agency or Treasury securities or other instruments backed by the full faith and credit of the United States government or an agency thereof, or fully insured by the United States government or an agency thereof, and the proceeds of these instruments shall be reinvested in similar instruments at their then-current market rates as they mature. In the event that the yield on securities identified herein is negative, in lieu of purchasing such securities, all or any portion of the Settlement Fund held may be deposited in a non-interest-bearing account, which to the extent available, is fully insured by the Federal Deposit Insurance Corporation. All risks related to the investment of the Settlement Fund in accordance with the investment guidelines set forth in this Section shall be borne by the Class.

9. All funds held by the Escrow Agent shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds are either returned to National Milk pursuant to this Agreement or distributed subsequent to the Effective Date of Settlement pursuant to a plan of distribution approved by the Court or pursuant to other orders of the Court.
10. If the Court declines to enter Final Judgment and Order of Dismissal, or if such approval is modified or set aside on appeal, and if subject to remand the Court declines to issue a further Final Judgment and Order of Dismissal, then this entire Agreement shall be null and void and the parties may elect to re-negotiate a settlement agreement or proceed to the conclusion of the underlying litigation.

IV. DISMISSALS, RELEASES, AND COVENANTS NOT TO SUE

1. Subject to Court approvals, Settling Parties agree that this Agreement shall be in full and final disposition of: (i) the Action; and (ii) any and all Released Claims, as against any and all Released Parties.
2. Upon final approval of the Settlement reflected in this Agreement, and as part of the entry of the Final Judgment and Order of Dismissal, the Action shall be dismissed with prejudice.
3. The Releasing Parties hereby expressly and irrevocably waive, and fully, finally, and forever settle, discharge, and release the Released Parties from, any and all manner of claims, demands, actions, suits, and causes of action, whether individual, class, representative, or otherwise in nature, for damages, restitution,

disgorgement, interest, costs, expenses, attorneys' fees, fines, civil or other penalties, or other payment of money, or for injunctive, declaratory, or other equitable relief, whenever incurred, whether directly, indirectly, derivatively, or otherwise, whether known or unknown, suspected or unsuspected, in law or in equity, that any Releasing Party ever had, now has, or hereafter can, shall, or may have and that have accrued as of the Settlement Preliminary Approval Date related in any way to the Released Claims. In connection therewith, upon the Effective Date of Settlement, each of the Releasing Parties (i) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Released Parties from the beginning of time through the Settlement Preliminary Approval Date; and (ii) agrees and covenants not to sue any of the Released Parties with respect to any Released Claims or to assist any third party in commencing or maintaining any suit against any Released Party related in any way to any Released Claims

4. The Settling Parties intend by this Agreement to settle with and release only the Released Parties that the Releasing Parties have released pursuant to Section IV.1-4, and the Settling Parties do not intend this Agreement, or any part hereof, or any other aspect of the proposed Settlement or release, to release or otherwise affect in any way any claims concerning product liability, breach of warranty, breach of contract or tort of any kind, a claim arising out of violation of the Uniform Commercial Code, or personal or bodily injury.

V. PRELIMINARY APPROVAL ORDER, NOTICE, AND FAIRNESS HEARING

1. No later than December 6, 2019, Class Counsel shall submit to the Court a motion and supporting papers requesting entry of the Preliminary Approval Order, with Defendants' Counsel to be provided at least five (5) business days' advance notice of the proposed filings and drafts thereof. The requested Preliminary Approval Order shall include provisions to the following effect:

- (i) Approving the Settlement set forth in this Agreement as sufficiently fair, reasonable, and adequate within the meaning of Fed. R. Civ. P. 23 for purposes of issuing Notice to the Class;
- (ii) Approving the form, contents, and method of dissemination, of: (1) the Summary Notice, which shall be (a) mailed via first-class domestic or international mail, as applicable; and (b) published in appropriate periodicals generally read by Class Members as determined by Class Counsel in consultation with the Claims Administrator; and (2) the Notice, which shall be mailed to Class Members that request a copy and posted on a dedicated website. The Preliminary Approval Order shall also direct Class Counsel to establish and maintain, or cause to be established and maintained, a dedicated website from which each member of the Class can view and download relevant documents, including the Preliminary Approval Order, Notice, Summary Notice, and Plaintiffs' Third Amended Consolidated Class Action Complaint;
- (iii) Approving the procedures set forth in the Notice for Persons who would otherwise be Class Members to object to the Settlement;
- (iv) Approving the appointment of Epiq Class Action & Claims Solutions, Inc. as Escrow Agent;
- (v) Setting a schedule for the filing of (a) Plaintiffs' motion for final settlement approval and proposed allocation plan, and (b) Class Counsel's application for attorneys' fees, costs, and incentive awards for the Named Plaintiffs; and
- (vi) Scheduling a final approval hearing with respect to the proposed Settlement for a time and date convenient for the Court, but no earlier than ninety (90) days after the Settlement Agreement Execution Date or sixty (60) days after the Settlement Preliminary Approval Date, whichever is later, at which hearing the Court will conduct an inquiry into the fairness, reasonableness, and adequacy of this Agreement and address any

objections to it, and determine whether this Agreement should be finally approved.

2. Any Class Member who objects to the Settlement set forth in this Agreement may appear in person or through counsel, at that Person's own expense, at the Fairness Hearing to present any evidence or argument that the Court deems proper and relevant, subject to further order by the Court. However, no such Person shall be heard, and no papers, briefs, pleadings, or other documents submitted by any such Person shall be received and considered by the Court, unless such Person properly submits a written objection that includes: (i) a notice of intention to appear; and (ii) the specific grounds for the objection and any reasons why such Person desires to appear and be heard, as well as all documents or writings that such Person desires the Court to consider. Such a written objection must be both filed with the Court and mailed to Co-Lead Class Counsel and National Milk's Counsel not less than fourteen (14) days prior to the Fairness Hearing, or any other date set by the Court, in accordance with the procedures and deadlines set forth in the Notice. Any Person who fails to timely object in the manner prescribed herein shall be deemed to have waived his or her objections and will forever be barred from making any such objections in the Action, unless otherwise excused for good cause shown, as determined by the Court. Co-Lead Class Counsel and/or National Milk shall file any papers in response to any such objection or otherwise in further support of the Settlement within seven days of the Fairness Hearing, or any other date set by the Court.

3. If the Preliminary Approval Order is entered by the Court, Class Counsel shall seek entry of a Final Judgment and Order of Dismissal, with Defendants' Counsel to be provided at least five (5) business days' advance notice of the proposed filings and drafts thereof, that among other things:
 - (i) Approves finally the Settlement set forth in this Agreement and its terms, which shall be incorporated by reference, as being a fair, reasonable, and adequate settlement as to Class Members within the meaning of Fed. R. Civ. P. 23 and directing its consummation according to its terms;
 - (ii) Approves Co-Lead Class Counsel's proposed allocation plan for distribution of proceeds of the Settlement to Class Members;
 - (iii) Finds that the Notice constitutes due, adequate, and sufficient notice of the Settlement set forth in this Agreement, meeting the requirements of due process and the Federal Rules of Civil Procedure;
 - (iv) Directs that the Action shall be dismissed with prejudice without costs;
 - (v) Directs that the releases of any and all Released Claims with respect to the Released Parties shall be deemed effective as of the Effective Date of Settlement;
 - (vi) Orders that Releasing Parties are permanently enjoined and barred from instituting, commencing, or prosecuting any action or other proceeding asserting any Released Claims against any Released Party;
 - (vii) Orders that rulings, orders, and judgments in this Action shall not have any res judicata, collateral estoppel, or offensive collateral estoppel effect with respect to any non-released claim;
 - (viii) Retains with the Court exclusive jurisdiction over the Settlement and this Agreement, including the administration and consummation of the Settlement;
 - (ix) Directs that the judgment of dismissal as to Defendants shall be final and entered forthwith; and
 - (x) Expressly retains continuing and exclusive jurisdiction to interpret and enforce the terms of terms of the Settlement.

VI. APPLICATION FOR ATTORNEYS' FEES, EXPENSES, AND CLASS REPRESENTATIVE INCENTIVE AWARDS

1. Class Counsel will submit an application or applications (the "Fee and Expense Application") to the Court for an award of attorneys' fees and expenses and incentive awards, if any, to Plaintiffs pertaining to this Settlement or to this Action. Neither National Milk nor the Released Parties shall have any responsibility for, or liability whatsoever with respect to, any payment of attorneys' fees or expenses or incentive awards; rather, any such attorneys' fees, expenses, or incentive awards must be paid solely from the Settlement Fund. National Milk agrees not to state a position on Co-Lead Class Counsel's request for (i) attorneys' fees of up to 33.333% of the gross Settlement Amount (including any interest earned thereon as part of the Settlement Fund), (ii) reimbursement of all reasonably incurred expenses and/or future expenses to be expended in litigation on behalf of the Class, and (iii) incentive awards to the Named Plaintiffs. Any attorneys' fees, costs and expenses awarded by the Court shall be disbursed only to Co-Lead Class Counsel for allocation, at their discretion, among the various Class Counsel who have participated in this litigation.
2. Any Fee and Expense Application shall be considered by the Court separate and apart from its consideration of the fairness, reasonableness, and adequacy of the Settlement, and any order or proceeding relating to the Fee and Expense Application, or any appeal of any order relating thereto or reversal or modification

thereof, shall not operate to terminate or cancel this Agreement or the Settlement, or affect the finality or binding nature of any of the releases granted hereunder.

VII. NOTICE AND ADMINISTRATIVE COSTS AND ADMINISTRATION OF THE SETTLEMENT

1. Class Counsel shall take all necessary and appropriate steps to ensure that the Class Notice and notice of the date of the hearing scheduled by the Court to consider the fairness, adequacy, and reasonableness of this Settlement is provided in accordance with the Federal Rules of Civil Procedure and any Court orders. The Class Notice will be issued after Preliminary Approval by the Court and subject to any Court orders regarding the means of dissemination of notice.
2. The Escrow Agent shall be entitled, upon approval of Co-Lead Class Counsel, to make disbursements from the Settlement Fund for purposes of paying costs (other than attorneys' fees) incurred in preparing and providing the Class Notice and paying other administrative expenses, including expenses of and incurred by the Claims Administrator. Funds expended pursuant to Section VII for Class Notice and claims administration are not recoverable (i.e., do not revert to Defendants) if this Settlement is terminated or does not become final.
3. It is anticipated and understood that Co-Lead Class Counsel and Plaintiffs, after consultation with National Milk, will eventually seek to establish a claims process pertaining to this Settlement or this Action, subject to approval by the Court, pursuant to which Class Members may seek to be included in distributions of funds recovered on their behalf in the Action. Any such claims process shall include

required submission of a proof of claim form by each Class Member, which proof of claim form shall include, *inter alia*, an acknowledgement of, and agreement to, the releases of all Released Claims against all Released Parties. Any Class Member who does not execute a proof of claim form containing such an acknowledgement and agreement shall not be permitted to receive any distribution from the Settlement Fund or otherwise in connection with the Action and will in any event be barred from bringing any action against the Released Parties concerning the Released Claims. During the claims process, claiming Class Members shall identify any high level executives of such Class Member, if any, who are willing to speak with high-level executives of the CWT cooperatives regarding the expansion of their supply relationship regarding butter and cheese, and the claims administrator shall make such information available to National Milk. Nothing contained in the Agreement shall be deemed to require any Class Member to have discussions with or do any business with any particular seller of butter or cheese.

4. Neither National Milk nor the Released Parties shall have any role in, or responsibility or liability to any person for, the solicitation, review, or evaluation of proofs of claim by Plaintiffs, Class Counsel, or their designated representatives or agents.
5. Neither National Milk nor the Released Parties shall have any responsibility for, or liability whatsoever with respect to, any Notice and Administrative Costs, except to the extent that any such costs will be paid solely from the Settlement Fund.

6. All Class Members whose claims are not approved and who may be barred from any participation in distributions from the Settlement Fund shall nonetheless be bound by all of the terms of this Agreement and the Settlement, including the terms of the Final Judgment and Order of Dismissal to be entered in the Action and the releases provided for herein, and will be barred from bringing any action against the Released Parties concerning the Released Claims.
7. All proceedings with respect to the administration, processing, and determination of claims and proof of claims by Plaintiffs (including Class Members) and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of claims, shall be subject to the jurisdiction of the Court, and the Court shall retain continuing jurisdiction to interpret and enforce the terms of the Settlement.

VIII. TAXES

1. The Settling Parties agree that the Settlement Fund is intended to be treated at all times as a Qualified Settlement Fund within the meaning of Treasury Regulation § 1.468B-1, and agree not to take any position for Tax purposes inconsistent therewith. The Settlement Fund, less any amounts incurred for Taxes (as defined below), and less any funds expended for Class Notice and claims administration pursuant to Section VII, plus any accrued interest thereon, shall be returned to National Milk if the Settlement does not become effective for any reason, including by reason of a termination of this Agreement.

2. The Escrow Agent and National Milk will cooperate and, if in the view of National Milk such an election is necessary or advisable, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of Section VIII including the “relation-back election” (as defined in Treas. Reg. § 1.468B-1) back to the earliest permissible date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing(s) to occur.
3. For the purpose of Section 1.468B of the Internal Revenue Code and the Treasury regulations thereunder, the Escrow Agent shall be designated as the “administrator” of the Settlement Fund. The Escrow Agent or the claims administration firm retained by Class Counsel and approved by the Court shall timely and properly file all income, informational, and other tax returns necessary or advisable with respect to the Settlement Fund (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)). Such returns shall be consistent with this Section VIII and, in all events, shall reflect that all Taxes (as defined below) on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.
4. All: (i) taxes or other similar imposts or charges (including any estimated taxes, interest, penalties, or additions to tax) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be

imposed upon the Released Parties with respect to any income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as a “Qualified Settlement Fund” within the meaning of Treasury Regulation § 1.468B-1 (or any relevant equivalent for state tax purposes); (ii) other taxes imposed on or in connection with the Settlement Fund (collectively, “Taxes”); and (iii) expenses and costs incurred in connection with the operation and implementation of Section VIII (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described herein (“Tax Expenses”)), shall promptly be paid out of the Settlement Fund by the Escrow Agent without prior order from the Court. Taxes shall be treated as, and considered to be, a cost of administration of the Settlement Fund, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1) (2)). The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this Section.

5. Neither the Settling Parties nor their counsel shall have any responsibility for or liability whatsoever with respect to: (i) any act, omission, or determination of the Escrow Agent or any other person, or any of their respective designees or agents,

in connection with the administration of the Settlement Fund or otherwise; (ii) any plan of distribution approved by the Court; (iii) the determination, administration, calculation, or payment of any claims asserted against the Settlement Fund; (iv) any losses suffered by, or fluctuations in the value of, the Settlement Fund; or (v) the payment or withholding of any Taxes and/or costs incurred in connection with the taxation of the Settlement Fund or the filing of any returns.

IX. NO ADMISSION OF LIABILITY

1. Nothing in the existence of, or terms of, this Agreement constitutes an admission by National Milk and/or Third Party Beneficiaries as to the merits of any allegation made in the Action or the invalidity of any substantive defenses or procedural issues that could be or have been asserted by National Milk and Third Party Beneficiaries. For avoidance of doubt, National Milk and Third Party Beneficiaries expressly deny the allegations of each and every complaint in the Action and all liability. The Agreement, and all negotiations, documents, and discussions associated with it, shall be without prejudice to the rights, positions, or privileges of any Released Party (except as expressly provided for in this Agreement), and shall not be construed as, or deemed to be, an admission or evidence on the part of any Released Party of any violation of any statute, regulation, law, rule, or principle of common law or equity, or of any liability or wrongdoing, or of the truth or merit of any allegations or claims in this Action, and shall not be discoverable, used, offered, or accepted, directly or indirectly, as

evidence of such in this Action or any other action, litigation, arbitration, or other proceeding, and shall have no precedential value; provided, however, that nothing contained herein shall preclude use of this Agreement in any proceeding to enforce this Agreement or the Final Judgment and Order of Dismissal.

2. Plaintiffs (including each Class Member), Class Counsel, and National Milk agree that neither this Agreement nor any statement made in negotiation thereof shall be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by National Milk and Third Party Beneficiaries or of the truth of any of the claims or allegations alleged in or relating to the Action. If the Settlement does not result in the Final Judgment and Order of Dismissal, Defendants expressly reserve the right to assert any and all available defenses (including immunities under the Clayton Act, the Capper-Volstead Act, and any other privileges and immunities) in other actions and proceedings or in this proceeding and Plaintiffs expressly reserve the right to assert any and all available claims and respond in any way to any and all of the Defendants' defenses (including immunities under the Clayton Act, the Capper-Volstead Act, and any other privileges and immunities asserted by Defendants) in the same manner and to the same extent that they could have asserted such claims, defenses, immunities and responses thereto if this Agreement had never been entered into.

X. GOOD FAITH EFFORTS TO EFFECTUATE THIS AGREEMENT

1. The Settling Parties agree to cooperate with one another in good faith to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms of this Agreement. This includes National Milk's timely serving notice on those entities required to receive notice pursuant to 28 U.S.C. § 1715.

XI. MISCELLANEOUS

1. The headings herein are used for the purpose of convenience only and are not meant to have legal effect.
2. The Settling Parties agree that the amount paid and the other terms of the Settlement were negotiated at arm's-length in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with experienced legal counsel.
3. The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering all orders relating to matters addressed in this Agreement and enforcing the terms of this Agreement.
4. For the purpose of construing or interpreting this Agreement, the Settling Parties agree that it is to be deemed to have been drafted equally by all Settling Parties hereto and shall not be construed strictly for or against any Settling Party.
5. This Agreement shall constitute the entire, complete, and integrated agreement between the Settling Parties pertaining to the settlement of the Action and

supersedes any and all prior negotiations and agreements, and is not subject to any condition not explicitly provided for in this Agreement itself. All terms of this Agreement are contractual and not mere recitals. In entering into and executing this Agreement, each of the Settling Parties respectively warrants that it is acting upon its respective independent judgment and upon the advice of its respective counsel, and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other Person, other than the warranties and representations expressly made in this Agreement. Subject to approval of the Court, the terms of this Agreement are and shall be binding upon each of the Settling Parties hereto, their heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns, and upon all other Persons claiming any interest in the subject matter hereto through any of the Settling Parties hereto including any Class Members.

6. The terms of this Agreement are not severable, but are interdependent and have been agreed to only as a whole by the Settling Parties.
7. This Agreement may be modified or amended only by a writing executed by the Settling Parties, including their counsel, and approved by the Court.
8. All terms of this Agreement shall be governed by and interpreted according to federal law.
9. The waiver by any Settling Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach of this Agreement, whether prior, subsequent, or contemporaneous.

10. Each of the Released Parties is intended to be and is a third-party beneficiary of this Agreement and is authorized to enforce the provisions of this Agreement, including without limitation the release of Released Claims against the Released Parties and covenant not to sue the Released Parties, and such other provisions of this Agreement as are applicable to each Released Party.
11. Each of the Third-Party Beneficiaries to this Agreement is entitled to the rights and benefits hereunder and may enforce the provisions hereof as if it were a party hereto.
12. National Milk and Plaintiffs (including Class Members), and Class Counsel hereby irrevocably submit to the exclusive jurisdiction and venue of the United States District Court for the Southern District of Illinois, for any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement, including, without limitation, any suit, action, proceeding, or dispute relating to the release provisions herein. Each Settling Party waives the right to move to dismiss or transfer any action brought in the United States District Court for the Southern District of Illinois to enforce this Agreement on grounds of jurisdiction, venue, or forum non conveniens.
13. It is anticipated that Co-Lead Class Counsel and Plaintiffs will eventually submit to the Court a plan of distribution with respect to the distribution of some or all of the Settlement Fund at some time following the Effective Date of Settlement. Distribution payments will be made by check or electronic payment. If complete exhaustion of settlement funds is not feasible for unanticipated reasons, it will be

distributed as *cy pres* to National FFA Organization, 6060 FFA Drive, Indianapolis, Indiana 46268-0960. A plan of distribution is not a term of this Agreement, and it is not a condition of this Agreement that any particular plan of distribution be approved. Any plan of distribution is a matter separate and apart from the settlement between the Settling Parties and any decision by the Court concerning a plan of distribution shall not affect the validity or finality of the proposed settlement. National Milk shall have no responsibility, obligations, or liabilities whatsoever with respect to any plan of distribution or implementation thereof, or with respect to any other administration or distribution of the Settlement Fund.

14. The Named Plaintiffs and Defendants will return or destroy all copies of confidential and highly confidential materials obtained in this litigation from any other party to the Action or third parties, including Dr. Scott Brown, within thirty (30) days of final approval of the Settlement and exhaustion of any appeals.
15. The Final Agreement is subject to approval by the Board of Directors of National Milk or its duly authorized delegates, not to be unreasonably withheld, and to be approved on or before November 22, 2019.
16. This Agreement may be executed in counterparts by or on behalf of the Settling Parties, and a facsimile or .pdf signature shall be deemed an original signature for purposes of executing this Agreement.
17. Plaintiffs and National Milk acknowledge that they have been represented by counsel and have made their own investigations of the matters covered by this


Agreement to the extent they have deemed it necessary to do so. Therefore, Plaintiffs and National Milk and their respective counsel agree that they will not seek to set aside any part of this Agreement on the grounds of mistake or coercion. Moreover, Plaintiffs and National Milk and their respective counsel understand, agree, and expressly assume the risk that any fact may turn out hereinafter to be other than, different from or contrary to the facts now known to them or believed by them to be true, and further agree that this Agreement shall be effective in all respects notwithstanding and shall not be subject to termination, modification, or rescission by reason of any such difference in facts.

18. Any notice or materials to be provided to the Plaintiffs or Co-Lead Class Counsel pursuant to or relating to this Agreement shall be sent to Michael L. Roberts, Roberts Law Firm P.A., 20 Rahling Circle, Little Rock, AR 72223; Don Barrett, Barrett Law Group, P.A., 404 Court Square North, Lexington, Mississippi 39095-0927; and Dianne M. Nast, NastLaw, LLC, 1101 Market Street, Suite 2801, Philadelphia, PA 19107; any notice or materials to be provided to National Milk's Counsel pursuant to or relating to this Agreement shall be sent to Jonathan B. Sallet, Steptoe & Johnson, LLP, 1330 Connecticut Avenue, NW, Washington, DC 20036.
19. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement, subject to Court approval, and the undersigned Co-Lead Class Counsel represent that they

are authorized to execute this Agreement on behalf of Plaintiffs and, subject to Court Approval, on behalf of the Class and all Class Members.

APPROVED

BY: _____
Jonathan B. Sallet, Counsel for
National Milk Producers Federation

BY: 
Michael L. Roberts, Co-Lead Class Counsel

BY: 
Don Barrett, Co-Lead Class Counsel

BY: 
Dianne Nast, Co-Lead Class Counsel

BY:  12/04/19
Jonathan B. Sallet, Counsel for
National Milk Producers Federation

BY: _____
Michael L. Roberts, Co-Lead Class Counsel

BY: _____
Don Barrett, Co-Lead Class Counsel

BY: _____
Dianne Nast, Co-Lead Class Counsel

CoBank, ACB Fixed Income > S&P Global Ratings

S&P Global Ratings R&I JCR

S&P Global Ratings Credit Ratings

Debt Type (Rating Type)	Rating	Regulatory Identifier	Rating Date	Last Review Date	Action	CreditWatch/Outlook	CreditWatch/Outlook Date
Issuer Credit Rating (Local Currency LT)	AA-	EE	Jun-04-2007	Sep-25-2019	New Rating CreditWatch/Outlook	Stable	Jun-04-2007
Issuer Credit Rating (Foreign Currency LT)	AA-	EE	Dec-27-2010	Sep-25-2019	New Rating CreditWatch/Outlook	Stable	Dec-27-2010

'Last Review Date' indicates the date on which an Issue/Issuer Credit Rating was last formally reviewed within a twelve-month period or when a Credit Rating Action was last published. For certain dependent instruments, the 'Last Review Date' will only be updated in the event of a Credit Rating change of the linked organization.

 Preferred Stock

Maturity Date	Description	Rating Type	Rating Date	Rating	CreditWatch/Outlook	CreditWatch/Outlook Date
	US\$300 mil var/fixed rate non-cum pfd stk ser H	Local Currency LT	Nov-20-2014	BBB+	-	-
	US\$375 mil var/fixed rate non-cum perpetual ser I	Local Currency LT	Apr-05-2016	BBB+	-	-
	US\$200 mil 6.125% non-cum ser G	Local Currency LT	Sep-29-2014	BBB+	-	-
	US\$225 mil perpetual non-cum fixed to fltg pfd stk ser E	Local Currency LT	Sep-29-2014	BBB+	-	-
	US\$400 mil var/fixed rate non-cum perpetual pfd stk ser F	Local Currency LT	Sep-29-2014	BBB+	-	-

Viewing 1-5 of 5 Securities

S&P Credit Ratings and Research provided by


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Rating Coverage List

as of 26 Nov 2019

ENTITY	RATING			SECTOR	COUNTRY	ANALYSTS
CoBank, ACB	AA-●	03 Apr 2019	Long Term Issuer Default Rating	Corporate	United States	Rumohr, Bain
	F1+	03 Apr 2019	Short Term Issuer Default Rating			
	1	03 Apr 2019	Support Rating			
	AA-	03 Apr 2019	Support Rating Floor			



ISSUE

as of 26 Nov 2019

RATING DATE	CUSIP	ISIN	LTR	STR	ISSUER NAME	ISSUE NAME	ISSUE DETAILS	MARKET SECTOR	MATURITY DATE
03 Apr 2019	19075Q805	US19075Q8050	BBB		CoBank, ACB	non-cumulative perpetual ser F	preferred stock/security -	Government Sponsored Enterprises (GSEs)	
03 Apr 2019	19075QAC6	US19075QAC69	BBB		CoBank, ACB	non-cumulative perpetual series I ser I	preferred stock/security -	Government Sponsored Enterprises (GSEs)	
03 Apr 2019	19075Q870	US19075Q8704	BBB		CoBank, ACB	non-cumulative perpetual ser G	preferred stock/security -	Government Sponsored Enterprises (GSEs)	
03 Apr 2019	19075Q862		BBB		CoBank, ACB	non-cumulative perpetual preferred ser H	preferred stock/security -	Government Sponsored Enterprises (GSEs)	
13 Nov 2019	74053VAA0		WD	WD	Premier Mushrooms, Inc. (CA)	taxable notes ser 2012 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Dec 2037
01 Sep 2019	892850AC2		NR	NR	Trall County (ND)	(American Crystal Sugar Company) industrial devel rev rfdg bonds ser 2009 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Sep 2019
28 Aug 2019	272456AG9		AA-●	F1+	East Grand Forks (MN)	(American Crystal Sugar Company Project) solid waste disposal rev bonds ser 2019 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Aug 2034
09 Apr 2019	130536JF3		AA-●	F1+	California Pollution Control Financing Authority (CA)	(Bos Farms) var-rate demand solid waste disposal rev bonds ser 2001 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Sep 2021
09 Apr 2019	130536LD5		AA-●	F1+	California Pollution Control Financing Authority (CA)	(Vanderham Family Trust-Koetsier Son Dairy) var-rate demand solid waste disposal rev bonds ser 2003 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Apr 2028
09 Apr 2019	56682FAE3		AA-●	F1+	Maricopa County Industrial Development Authority (AZ)	(Michael Pylman Dairy, L.L.C. Project) var-rate demand solid waste disposal rev bonds ser 2005 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Jan 2025
09 Apr 2019	56682FAK9		AA-●	F1+	Maricopa County Industrial Development Authority (AZ)	(Robert and Andrea Van Hofwegan Family, LLC Project) var-rate demand solid waste disposal rev bonds ser 2006 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Aug 2026
09 Apr 2019	46246SAA3		AA-●	F1+	Iowa Finance Authority (IA)	(Farmers Cooperative Company) var rate demand midwestern disaster area rev bonds ser 2010 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 Nov 2030
09 Apr 2019	130536LX1		AA-●	F1+	California Pollution Control Financing Authority (CA)	(Ag Resources III, LLC Project) var-rate demand solid waste disposal rev bonds ser 2004 (LOC: CoBank, ACB)	-	Municipal Structured Finance	01 May 2034



Press Release

Global Finance Names The World's 50 Safest Banks 2019

NEW YORK, September 17, 2019 — *Global Finance* has announced its 28th annual ranking of the World's 50 Safest Banks. The full list is included here and will be published in the November issue.

European banks dominate the top of the World's Safest Banks again in 2019, taking the first ten positions and 17 of the top 25. Germany's KfW is in the top spot for the ninth year in a row.

Asian banks put in a strong showing in the top 20 once again, led by Singapore's DBS Bank at #14 and followed by OCBC (#15), United Overseas Bank (#17), Korea Development Bank (#18) and Export-Import Bank of Korea (#19).

"We designed the Global Finance Safest Banks rankings as a tool to compare the stability and security of banks all across the world. This year, changing trade policies are having a dramatic impact on economies everywhere, as is continuing political turmoil. We take pride in offering this metric to aid readers in choosing financial institutions, especially when they seek to enter new markets," says *Global Finance* publisher and editorial director Joseph D. Giarraputo.

Global Finance's annual ranking of the World's 50 Safest Banks has been the recognized and trusted standard of financial counterparty safety for a quarter-century. Winners were selected through an evaluation of long-term foreign currency ratings—from Moody's, Standard & Poor's and Fitch—of the 500 largest banks worldwide.

In addition to the World's 50 Safest Banks, the full report also includes the following: World's 50 Safest Commercial Banks, Safest Banks by Country, 50 Safest Banks in Emerging Markets, Safest Islamic Financial Institutions in the GCC, and Safest Banks by Region (Africa, Asia, Australasia, Central & Eastern Europe, Latin America, the Middle East, North America and Western Europe).

The full results of this exclusive survey will be published in the November issue of *Global Finance*. The top ten safest banks will be presented awards at a special ceremony to be held during the Annual Meetings of the IMF and World Bank in Washington DC at the National Press Club on October 19.

page 1 of 3

For editorial information please contact: Andrea Fiano, editor, email: afiano@gfmag.com

Ratings current as of: August 30, 2019 / Press Release Date: September 17, 2019
Updated Oct 4 to correct a rating error for Banque et Caisse d'Epargne de L'Etat.



About Global Finance

Global Finance, founded in 1987, has a circulation of 50,000 and readers in 188 countries. *Global Finance's* audience includes senior corporate and financial officers responsible for making investment and strategic decisions at multinational companies and financial institutions. Its website — GFMag.com — offers analysis and articles that are the legacy of 32 years of experience in international financial markets. *Global Finance* is headquartered in New York, with offices around the world. *Global Finance* regularly selects the top performers among banks and other providers of financial services. These awards have become a trusted standard of excellence for the global financial community.

To obtain rights to use the *Global Finance* Safest Bank Award 2019 logo or any other *Global Finance* logos, please contact Chris Giarraputo at: chris@gfmag.com

The unauthorized use of *Global Finance* logos is strictly prohibited.



Press Release

Global Finance Names The World's 50 Safest Banks 2019

RANK	BANK NAME	COUNTRY
1	KfW*	GERMANY
2	Zuercher Kantonalbank*	SWITZERLAND
3	BNG Bank*	NETHERLANDS
4	Landwirtschaftliche Rentenbank*	GERMANY
5	L-Bank*	GERMANY
6	Nederlandse Waterschapsbank*	NETHERLANDS
7	Kommunalbanken*	NORWAY
8	NRW.BANK*	GERMANY
9	Swedish Export Credit Corp.*	SWEDEN
10	Caisse Des Depots et Consignations*	FRANCE
11	Banque et Caisse d'Epargne de L'Etat	LUXEMBOURG
12	Royal Bank of Canada	CANADA
13	TD Bank	CANADA
14	DZ BANK	GERMANY
15	DBS Bank	SINGAPORE
16	Oversea-Chinese Banking Corporation	SINGAPORE
17	Svenska Handelsbanken	SWEDEN
18	United Overseas Bank	SINGAPORE
19	Korea Development Bank	SOUTH KOREA
20	The Export-Import Bank of Korea	SOUTH KOREA
21	Deutsche Apotheker- und Aerztebank	GERMANY
22	Banque Cantonale Vaudoise	SWITZERLAND
23	Industrial Bank of Korea	SOUTH KOREA
24	Swedbank	SWEDEN
25	DNB Bank	NORWAY

AWARDS CEREMONY

*The World's Top Ten Safest Banks will be invited to *Global Finance's* Best Bank Awards ceremony at the National Press Club in Washington DC on October 19 during the IMF/World Bank Annual Meetings. For more information on the awards and/or ceremony please contact: Michael Ambrosio, email: mambrosio@gfmag.com.



Press Release

Global Finance Names The World's 50 Safest Banks 2019

RANK	BANK NAME	COUNTRY
26	SFIL	FRANCE
27	Banque Pictet & Cie	SWITZERLAND
28	The Bank of Nova Scotia	CANADA
29	ANZ Group	AUSTRALIA
30	Commonwealth Bank of Australia	AUSTRALIA
31	Nordea Bank	FINLAND
32	Westpac	AUSTRALIA
33	Bank of Montreal	CANADA
34	National Australia Bank	AUSTRALIA
35	Canadian Imperial Bank of Commerce	CANADA
36	SEB	SWEDEN
37	HSBC France	FRANCE
38	First Abu Dhabi Bank	UNITED ARAB EMIRATES
39	Hang Seng Bank	HONG KONG
40	Federation des caisses Desjardins	CANADA
41	AgriBank	UNITED STATES
42	Sparkassen-Finanzgruppe (Sparkassen)	GERMANY
43	UBS	SWITZERLAND
44	Rabobank	NETHERLANDS
45	CoBank	UNITED STATES
46	National Bank of Kuwait	KUWAIT
47	OP Corporate Bank	FINLAND
48	AgFirst	UNITED STATES
49	Farm Credit Bank of Texas	UNITED STATES
50	BNP Paribas	FRANCE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

_____)	
FIRST IMPRESSIONS SALON, INC.,)	
<i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. 3:13 –cv-00454-(NJR)(GCS)
)	
NATIONAL MILK PRODUCERS)	
FEDERATION, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**DECLARATION OF CAMERON R. AZARI, ESQ.
ON SETTLEMENT NOTICE PLAN AND NOTICES**

I, CAMERON R. AZARI, ESQ., hereby declare and state as follows:

1. My name is Cameron R. Azari, Esq. I am over the age of twenty-one and I have personal knowledge of the matters set forth herein, and I believe them to be true and correct.
2. I am considered an expert in the field of legal notice and I have served as a legal notice expert in dozens of federal and state cases involving class action notice plans.
3. I am the Director of Legal Notice for Hilsoft Notifications, a firm that specializes in designing, developing, analyzing and implementing large-scale, un-biased, legal notification plans. Hilsoft has been involved with some of the most complex and significant notices and notice programs in recent history. Hilsoft is a business unit of Epiq Class Action & Claims Solutions, Inc. (“Epiq”).
4. This declaration will describe the Settlement Notice Plan (“Notice Plan” or “Plan”) and notices (the “Notice” or “Notices”) designed by Hilsoft Notifications here for the Settlement in *First*

Impressions Salon, Inc. et al v. National Milk Producers Federation, Case No. 13-cv-00454-NJR-GCS (S.D. Ill.). Previously, I have executed several declarations in this case regarding notice. In the “*Declaration of Cameron R. Azari, Esq. on Notice Plan and Notices*” dated April 30, 2018, I detailed Hilsoft’s class action notice experience and attached Hilsoft Notifications’ curriculum vitae. I also provided my educational and professional experience relating to class actions and my ability to render opinions on the overall adequacy of notice programs. Subsequently, in my *Declaration of Cameron R. Azari, Esq. on Implementation and Adequacy of Notice Plan and Notices* dated August 29, 2018, I detailed the successful completion of the Class Certification notice effort. Most recently, in the “*Declaration of Cameron Azari*” dated January 18, 2019, I confirmed that notices had been sent to 12 specific entities.

5. The facts in this declaration are based on my personal knowledge, as well as information provided to me by my colleagues in the ordinary course of my business at Hilsoft and Epiq.

OVERVIEW

6. The Court previously certified the following two sub-classes:

- (1) All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013; and
- (2) All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013.

7. I have reviewed the Settlement Agreement and understand the Class definition is proposed to be updated to the following:

All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Butter Sub-Class”);

and

All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant, Cooperatives Working Together, and/or their subsidiaries during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Cheese Sub-Class”).

8. I further understand that the relevant Members of Defendant Cooperatives Working

Together include the following:

Agri-Mark, Inc.	Humboldt Creamery Association
Arkansas Dairy Cooperative Association	Jefferson Bulk Milk Cooperative, Inc.
Associated Milk Producers Inc.	Just Jersey Cooperative, Inc.
Bongards Creameries	Land O'Lakes, Inc.
Burke Milk Producers Cooperative, Inc.	Lone Star Milk Producers
California Dairies Inc.	Lowville Producers Dairy Cooperative
Cass-Clay Creamery Inc.	Magic Valley Quality Milk Producers, Inc.
Champlain Milk Producers Cooperative	Manitowoc Milk Producers Cooperative
Conesus Milk Producers Cooperative Association, Inc.	Maryland & Virginia Milk Producers Cooperative Association
Continental Dairy Products, Inc.	Massachusetts Coop. Milk Producers Fed. Inc.
Cooperative Milk Producers Association, Inc.	Michigan Milk Producers Association
Cortland Bulk Milk Producers Cooperative	Mid-West Dairymen's Co.
Dairy Farmers of America	Mount Joy Farmers Cooperative Association
Dairylea Cooperative Inc.	National Farmers Organization
Dairymen's Marketing Cooperative Inc.	North Lawrence Producers Cooperative, Inc.
Ellsworth Cooperative Creamery	Northwest Dairy Association (Darigold)
Empire Keystone Cooperative	Oneida-Madison Milk Producers Cooperative
Farmers Cooperative Creamery	Prairie Farms Dairy
First District Cooperative Association	Preble Cooperative, River Valley Milk Producers Inc.
Foremost Farms USA	

Schoharie County Cooperative Dairies
Seaway Bulk Milk Producers Cooperative, Inc.
Security Milk Producers Association
Select Milk Producers, Inc.
Snake River Dairymen's Association
South New Berlin Milk Cooperative, Inc.
Southeast Milk, Inc.
St. Albans Cooperative Creamery, Inc.

Swiss Valley Farms, Co.
Tillamook County Creamery Association
United Dairy Cooperative Services, Inc.
United Dairymen of Arizona
Upstate Niagara Cooperative, Inc.
Utah Dairy Farmers Cooperative
Western Tier Milk Producers Cooperative
Zia Milk Producers Inc.

NOTICE PLAN DETAIL

9. Rule 23 directs that the best notice practicable under the circumstances must include “individual notice to all members who can be identified through reasonable effort.”¹ The previous Class Certification notice effort and the proposed Settlement notice effort here satisfy this direction. For any Class Members who were identified from records obtained from the relevant CWT members, including Defendants, notice was sent by first class mail for the Class Certification notice effort. The Settlement Notice will be mailed by first class mail to the same Class Members as the Class Certification notice effort (even if the notice was previously returned as undeliverable), unless the business or individual has opted out of the Class. Address updating (both prior to mailing and on undeliverable pieces) and re-mailing protocols will meet or exceed those used in other class actions. To the extent, Epiq has Class Member email addresses, a summary notice will be sent by email.

10. In addition to individual notice, modeled after the Class Certification notice effort, media notice will be provided. We have analyzed the top trade media serving the industries most likely to have directly purchased cheese and/or butter. Media notice will be provided via print and online to these industries for the Settlement notice effort as it was for the Class Certification notice effort. Additionally, to cover the instances where Defendants have sold cheese and/or butter made by a CWT

¹ FRCP 23(c)(2)(B).

member directly to consumers through company stores, local media will be purchased again for the Settlement Notice effort.

Individual Notice – Mailed Notice

11. For the Class Certification notice effort, Epiq received a total of 14,912 data records from the Defendants. The majority of the records contained both a Bill-To Address and a Ship-To Address, which were translated into separate records when different, for a total of 21,116 records. After invalid records were removed, Epiq identified 14,121 records, which were sent an initial postcard notice mailing. For the Settlement notice effort, Epiq will mail a Detailed Notice via United States Postal Service (“USPS”) first class mail to all the same Class Members as the Class Certification notice effort (even if the notice was previously returned as undeliverable), unless the business or individual has opted out of the Class.

12. The Detailed Notice will prominently feature the case website address. By accessing the website, recipients will be able to easily access the Settlement Agreement, Complaint, a list of Frequently Asked Questions and other information about the lawsuit. Visitors to the website are also able to register to be sent a claim form following Court approval of a Plan of Distribution. A copy of the proposed Detailed Notice is included as **Attachment 1**.

13. Prior to mailing, all mailing addresses will be checked against the National Change of Address (“NCOA”) database maintained by the United States Postal Service (“USPS”).² In addition, the addresses will be certified via the Coding Accuracy Support System (“CASS”) to ensure the quality of the zip code, and verified through Delivery Point Validation (“DPV”) to verify the accuracy of the

² The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms and lists submitted to it are automatically updated with any reported move based on a comparison with the person’s name and known address.

addresses. This address updating process is standard for the industry and for the majority of promotional mailings that occur today.

14. The return address on the Notices will be the existing post office box maintained by Epiq for the case. Notices returned as undeliverable will be re-mailed to any new address available through postal service information, for example, to the address provided by the postal service on returned pieces for which the automatic forwarding order has expired, but which is still during the period in which the postal service returns the piece with the address indicated, or to better addresses that may be found after reasonable, additional third-party source lookups. Upon successfully locating better addresses, Notices will be promptly re-mailed on an ongoing basis.

15. Additionally, a Detailed Notice will be mailed via USPS first class mail to all persons who requested one via the toll-free phone number.

Individual Notice – Emailed Notice

16. It is my understanding that email addresses exist for some Class Member records. A summary Email Notice will be disseminated to all potential Class Members for whom a facially valid email address is available. The Email Notice will be created using an embedded html text format. This format will provide easy-to-read text without graphics, tables, images and other elements that would increase the likelihood that the message could be blocked by Internet Service Providers (ISPs) and/or SPAM filters. Each Email Notice will be transmitted with a unique message identifier. If the receiving email server cannot deliver the message, a “bounce code” will be returned along with the unique message identifier. For any Email Notice for which a bounce code is received indicating that the message was undeliverable, at least two additional attempts will be made to deliver the Notice by email.

17. The Email Notice will include an embedded link to the case website. By clicking the link, recipients will be able to easily access the Detailed Notice, Settlement Agreement and other information about the settlement. The proposed summary Email Notice is included as **Attachment 2**.

Media Notice Plan

18. A Trade Publication Notice will appear once as a 1/2 page ad unit in eleven selected publications targeted to businesses and industries that are likely to have purchased butter or cheese directly. The trade publications include *Cheese Market News*, *Cheese Reporter*, *Convenience Store News*, *Dairy Foods*, *Food Processing*, *Frozen & Refrigerated Buyer*, *Grocery Business*, *Prepared Foods*, *Progressive Grocer*, *Restaurant Business* and *Supermarket News*. These selected publications will reach business owners and employees specializing in the grocery, food preparation and restaurant industries. Together, these selected eleven publications have a combined circulation of 444,130. The proposed Trade Publication Notice is included as **Attachment 3**.

19. To further the reach of the Notice Plan to potential Class Members, Internet Banner Notices in multiple sizes will be placed on the associated websites of each of the eleven trade publications listed above. Combined, approximately 211,350 impressions will be generated by the Internet Banner Notice. The Banner Notices will run for 30 days on each associated website. Clicking on the Banner Notice will link the reader to the case website where they can obtain information about the lawsuit. Examples of the proposed Banner Notices are included as **Attachment 4**.

20. In order to cover potential Class Members who may have purchased directly from a local Member of Defendant Cooperatives Working Together store, local newspaper and online media will be purchased in the local area surrounding each store. The Local Newspaper Notice will run as an 1/4 page ad unit once in a daily and once in a Sunday edition (where available) or in two consecutive

weekly editions in local newspapers like the following: *Amery Free Press*, *Appleton Post-Crescent*, *Arizona Republic*, *Chippewa Herald*, *Darlington Republican Journal*, *Eau Claire Leader-Telegram*, *Faribault Daily News*, *Fayettee County Union*, *Ithaca Journal*, *Kiel Tri-County News*, *Marshfield News-Herald*, *Milwaukee Journal Sentinel*, *New Ulm Journal*, *Oneida Daily Dispatch*, *Perham Focus*, *Portage Daily Register*, *Potter County News*, *Reedsburg Times-Press*, *Richland Observer*, *Rochester Post-Bulletin*, *Sioux City Journal*, *Sioux Falls Argus Leader*, *St. Albans Messenger*, *St. Cloud Times*, *St. Paul Pioneer Press*, *Tillamook Headlight Herald*, *Vermont World*, *Waconia Pioneer*, *Watertown Daily Times*, and *West Lebanon Valley News*. The Local Newspaper Notice will include a modified headline to specifically address Class Members who are consumer purchasers (“If you bought butter or cheese directly from a local dairy co-op store between December 6, 2008 and July 31, 2013, you could receive a payment from a class action settlement.”). The proposed Local Newspaper Notice is included as **Attachment 5**. The local online Banner Notices will run on the associated local newspaper websites, or where an affiliated website does not exist, on another appropriate news-related, local website. The local Banner Notices will run for a period of 30 days.

Sponsored Search Listings

21. To facilitate locating the case website, sponsored search listings will be acquired on the three most highly-visited Internet search engines: *Google*, *Yahoo!* and *Bing*. When search engine visitors search on common keyword combinations such as “Cheese Class Action,” “Dairy Antitrust,” or “Cooperatives Working Together Lawsuit” the sponsored search listing will display either at the top of the page prior to the search results or in the upper right hand column.

Informational Release

22. To build additional reach and extend exposures, a party-neutral Informational Release will be issued to approximately 5,000 general media (print and broadcast) outlets and 4,500 online databases and websites throughout the United States. The Informational Release will serve a valuable role by providing additional notice exposures beyond that which will be provided by the paid media. The Informational Release will include the toll free number and case website address.

23. Additionally, an Informational Release will be issued to PR Newswire's "Food Industry" Microlist and "Restaurants" Microlist, which includes 182 food focused media outlets and 541 restaurant focused media outlets respectively.

Case Website

24. The existing neutral, informational case website, with an easy to remember domain name (www.ButterAndCheeseClassAction.com), which was established as part of the Class Certification notice effort, will be updated with information regarding the Settlement. The case website will continue to allow potential Class Members to obtain additional information and documents including the Detailed Notice, Settlement Agreement, Preliminary Approval Order, Complaint, the Class Certification Order, a list of the Cooperatives Working Together Members and their local stores, answers to frequently asked questions and any other information that the Court may require. The website will also include information on how potential Class Members can object to the Settlement, if they chose. The website address will be prominently displayed in all printed notice documents.

Toll-free Telephone Number and Postal Mailing Address

25. The existing toll-free number (1-855-804-8574), which was established as part of the Class Certification notice effort, will be updated with information regarding the Settlement. Callers will hear an introductory message. Callers will then have the option to continue to get information about the lawsuit in the form of recorded answers to frequently asked questions. Callers have an option to request a Detailed Notice by mail. This automated phone system will continue to be available 24 hours per day, 7 days per week.

26. The existing post office box and email address, which were established as part of the Class Certification notice effort, will continue to be available to allow Class Members to request additional information or ask questions via these channels.

PERFORMANCE OF THE PROPOSED NOTICE PROGRAM

Reach

27. Many courts have accepted and understood that a 75 or 80 percent reach is more than adequate in a class action notice effort. In 2010, the Federal Judicial Center issued a Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide. This Guide states that, "the lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70–95%. Here the individual notice will reach approximately 85% of identifiable Class Members. To supplement this effort, targeted media will be purchased that focuses on the universe of potential Class Members for whom individual notice may not be available. These efforts reinforce the fact that the Notice Plan is targeted and designed to actually reach persons who may be Class Members.

PLAIN LANGUAGE NOTICE DESIGN

28. The proposed Notices themselves are designed to be “noticed,” reviewed, and—by presenting the information in plain language—understood by Class Members. The design of the Notices follows the principles embodied in the Federal Judicial Center’s illustrative “model” notices posted at www.fjc.gov. Many courts, and as previously cited, the FJC itself, have approved notices that we have written and designed in a similar fashion. The proposed Notices contain substantial, albeit easy-to-read, summaries of all of the key information about Class Members’ rights and options. Consistent with our normal practice, all notice documents will undergo a final edit prior to actual mailing and publication for grammatical errors and accuracy.

29. The proposed Notices are designed to increase noticeability and comprehension. Because mailing recipients are accustomed to receiving junk mail that they may be inclined to discard unread, the Notice Program calls for steps to bring the mailed Notice to the attention of Class Members. Once people “notice” the Notices, it is critical that they can understand them. As such, the proposed Notices, are clearly worded with an emphasis on simple, plain language to encourage readership and comprehension.

30. The proposed notices feature a prominent headline designed to garner attention from readers who may be members of the Class. For the proposed Detailed Notice, Email Notice and Trade Publication Notice, the headline is focused on business purchasers (“**If you bought butter or cheese directly from a National Milk Producers Federation Cooperatives Working Together Program Member between December 6, 2008 and July 31, 2013, you could receive a payment from a \$220 million settlement.**”) in bold text. The proposed Local Newspaper Notice features a modified

headline addressed to Class Members who are consumer purchasers (“**If you bought butter or cheese directly from a local dairy co-op store between December 6, 2008 and July 31, 2013, you could receive a payment from a class action settlement.**”) These headlines will alert recipients and readers that the Notice is an important document authorized by a court and that the content may affect them, thereby supplying reasons to read the Notice.

31. The proposed Detailed Notice provides substantial information to Class Members. The proposed Detailed Notice begins with a summary page providing a concise overview of the important information and a table highlighting key options available to Class Members. A table of contents, categorized into logical sections, helps to organize the information, while a question and answer format makes it easy to find answers to common questions by breaking the information into simple headings.

CONCLUSION

32. In class action notice planning, execution, and analysis, we are guided by due process considerations under the United States Constitution, by federal and local rules and statutes, and further by case law pertaining to notice. This framework directs that the notice program be designed to reach the greatest practicable number of potential Class Members. These requirements will be met in this case.

33. Our notice effort will follow the guidance for how to satisfy due process obligations that a notice expert gleans from the United States Supreme Court’s seminal decisions, which are: a) to endeavor to actually inform the class, and b) to demonstrate that notice is reasonably calculated to do so:

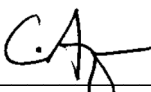
- A. “But when notice is a person’s due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it,” *Mullane v. Central Hanover Trust*, 339 U.S. 306, 315 (1950).
- B. “[N]otice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections,” *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156 (1974) citing *Mullane* at 314.

34. The Notice Program will provide the best notice practicable under the circumstances of this case, conform to all aspects of Federal Rules of Civil Procedure Rule 23, and comport with the guidance for effective notice articulated in the Manual for Complex Litigation 4th Ed.

35. As reported above, the individual notice portion of the Notice Plan will reach approximately 85% of the identified Class. This will be augmented by print and trade media and local media efforts in areas where Defendants sold directly to consumers. The Plan will deliver “noticeable” Notices to capture Class Members’ attention, and provide them with information necessary to understand their rights and options.

36. The Notice Plan schedule will afford enough time to provide full and proper notice to Class Members before the objection deadline.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 3, 2019.



Cameron R. Azari, Esq.

Attachment 1

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ILLINOIS

**If you bought butter or cheese directly from
a National Milk Producers Federation Cooperatives
Working Together Program Member between December
6, 2008 and July 31, 2013, you could receive a payment
from a \$220 million settlement.**

A court authorized this notice. This is not a solicitation.

- A \$220 million settlement has been reached in a class action lawsuit brought against National Milk Producers Federation, Agri-Mark, Inc., Dairy Farmers of America, Inc., and Land O'Lakes, Inc. (collectively "Defendants"). The lawsuit claimed that an effort known as Cooperatives Working Together (CWT) operated a Herd Retirement Program that was a conspiracy to reduce milk output that violated the law. The Defendants deny doing anything wrong. The Court has not decided who is right.
- On September 29, 2017, the Court decided that the "Class" was comprised of businesses and individual consumers in the United States that purchased butter and/or cheese directly from one or more of the CWT members including the Defendants, during the period from December 6, 2008 to July 31, 2013. A notice was subsequently issued, as ordered by the Court, in which affected businesses and individual purchasers were required to submit a request for exclusion by July 30, 2018 if they did not want to stay in the Class. You cannot request exclusion from the Class at this time.
- To be a Class Member who could be eligible for a payment, you must have purchased butter or cheese made by a CWT Member. If you are a consumer, you must have purchased butter or cheese made by a CWT Member at one of the dairy co-op stores. A list of the CWT Members along with their store names and locations is provided on pages 2 and 3.
- If you are a Class Member and do not like the settlement or any part of it including the proposed attorneys' fees, you may do nothing or you may write to the Court and/or request to speak at a hearing by **Month DD, 2020**.
- If the Court approves the settlement and after any resulting appeals are resolved, the Court will approve a Claim Form and set a deadline for Class Members to submit claims. In order to receive a payment, you must submit a Claim Form.
- If you received this notice in the mail, a Claim Form will be sent to you automatically and you do not need to do anything at this time to be eligible to receive a payment from the settlement.
- If you *did not* receive this Notice in the mail, and you think you are a potential Class Member, please identify yourself or your company to the Settlement Administrator as a potential Class Member by letter to the following address: Butter and Cheese Class Action, PO Box 4290, Portland, OR 97208-4290, email to: info@butterandcheeseaction.com, or register on the website, so you can obtain a Claim Form, once it is available by going to www.ButterandCheeseClassAction.com to register to be mailed a Claim Form. You will then be mailed a Claim Form after the Court approves the Claim Form and sets a deadline for Class Members to submit claims. At that time, the Claim Form will also be posted on the website.
- Your rights and options are explained in this notice.

YOUR RIGHTS AND OPTIONS	
DO NOTHING	If you received this Notice in the mail, you do not need to do anything at this time to be eligible to receive a payment. Once the Court has approved the Claim Form and set a deadline for Class Members to submit claims, you will be mailed a Claim Form automatically.
REGISTER FOR A CLAIM FORM	If you <i>did not</i> receive this Notice in the mail, and you think you are a potential Class Member, please identify yourself or your company to the Settlement Administrator as a potential Class Member by letter to the following address: Butter and Cheese Class Action PO Box 4290, Portland, OR 97208-4290, email to: info@butterandcheeseaction.com , or register on the website, so you can obtain a Claim Form once it is available. After the Court approves the Claim Form, a Claim Form will be mailed to you.
OBJECT	Write to the Court about why you do not like the Settlement or any part of it including the proposed attorneys' fees by Month DD, 2020 .
GO TO A HEARING	Write to the Court to ask to speak about the Settlement by Month DD, 2020 .

CWT Members

Agri-Mark, Inc.
 Arkansas Dairy Cooperative Association
 Associated Milk Producers Inc.
 Bongards Creameries
 Burke Milk Producers Cooperative, Inc.
 California Dairies Inc.
 Cass-Clay Creamery Inc.
 Champlain Milk Producers Cooperative
 Conesus Milk Producers Cooperative
 Association, Inc.
 Continental Dairy Products, Inc.
 Cooperative Milk Producers Association, Inc.
 Cortland Bulk Milk Producers Cooperative
 Dairy Farmers of America
 Dairylea Cooperative Inc.
 Dairymen's Marketing Cooperative Inc.
 Ellsworth Cooperative Creamery
 Empire Keystone Cooperative
 Farmers Cooperative Creamery
 First District Cooperative Association
 Foremost Farms USA
 Humboldt Creamery Association
 Jefferson Bulk Milk Cooperative, Inc.
 Just Jersey Cooperative, Inc.
 Land O'Lakes, Inc.
 Lone Star Milk Producers
 Lowville Producers Dairy Cooperative
 Magic Valley Quality Milk Producers, Inc.
 Manitowoc Milk Producers Cooperative

Maryland & Virginia Milk Producers Cooperative
 Association
 Massachusetts Coop. Milk Producers Fed. Inc.
 Michigan Milk Producers Association
 Mid-West Dairymen's Co.
 Mount Joy Farmers Cooperative Association
 National Farmers Organization
 North Lawrence Producers Cooperative, Inc.
 Northwest Dairy Association (Darigold)
 Oneida-Madison Milk Producers Cooperative
 Prairie Farms Dairy
 Preble Cooperative, River Valley Milk Producers Inc.
 Schoharie County Cooperative Dairies
 Seaway Bulk Milk Producers Cooperative, Inc.
 Security Milk Producers Association
 Select Milk Producers, Inc.
 Snake River Dairymen's Association
 South New Berlin Milk Cooperative, Inc.
 Southeast Milk, Inc.
 St. Albans Cooperative Creamery, Inc.
 Swiss Valley Farms, Co.
 Tillamook County Creamery Association
 United Dairy Cooperative Services, Inc.
 United Dairymen of Arizona
 Upstate Niagara Cooperative, Inc.
 Utah Dairy Farmers Cooperative
 Western Tier Milk Producers Cooperative
 Zia Milk Producers Inc.

QUESTIONS? CALL 1-855-804-8574 OR VISIT WWW.BUTTERANDCHEESECLASSACTION.COM

CWT MEMBER STORES

Store Name	City, State
Foremost Farms USA Cheese Stores	Appleton, WI
Foremost Farms USA Cheese Stores	Chilton, WI
Foremost Farms USA Cheese Stores	Clayton, WI
Foremost Farms USA Cheese Stores	Lancaster, WI
Foremost Farms USA Cheese Stores	Marshfield, WI
Foremost Farms USA Cheese Stores	Preston, MN
Foremost Farms USA Cheese Stores	Reedsburg, WI
Foremost Farms USA Cheese Stores	Richland Center, WI
Bongards Retail Store	Bongards, MN
Perham Retail Store	Perham, MN
Cortland Bulk Milk Producers Cooperative - CBM Cheese Shop, LLC, "The Cheese Shop"	Cortland, NY
Ellsworth Cooperative Creamery	Comstock, WI
Ellsworth Cooperative Creamery	Ellsworth, WI
Jefferson Bulk Milk Cooperative - Jeff Bulk Cheese Store, Inc. "The Cheese Store"	Watertown, NY
Lowville Producers Dairy CO-OP, Inc. - Lowville Producers Cheese Store	Lowville, NY
Oneida-Madison Milk Producers Cooperative	Sherrill, NY
St. Albans Cooperative Creamery, Inc. - St. Albans Coop Store	St. Albans City, VT
Cabot Farmers' Store	Waterbury Center, VT
Cabot Quechee Store	Quechee, VT
The Cheese Cave	Faribault, MN
Shullsburg Creamery	Shullsburg, WI
Milk 'n More Store	Tempe, AZ
Tillamook County Creamery Association	Tillamook, OR
Associated Milk Producers Inc.	Arlington, IA
Associated Milk Producers Inc.	Blair, WI
Associated Milk Producers Inc.	Freeman, SD
Associated Milk Producers Inc.	Hoven, SD
Associated Milk Producers Inc.	Jim Falls, WI
Associated Milk Producers Inc.	New Ulm, MN
Associated Milk Producers Inc.	Paynesville, MN
Associated Milk Producers Inc.	Portage, WI
Associated Milk Producers Inc.	Rochester, MN
Associated Milk Producers Inc.	Sanborn, IA

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BASIC INFORMATION

1. WHY WAS THIS NOTICE ISSUED?

A Court has established, or “certified,” this case as a class action lawsuit. This Notice is to inform you that a \$220 million settlement has been reached. If you are a Class Member, you have legal rights and options before the Court decides whether to give final approval to the settlement. This Notice explains all of these things.

Judge Nancy J. Rosenstengel, of the United States District Court for the Southern District of Illinois (the “Court”), is currently overseeing this case. The case is known as *First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.*, Case No. 3:13-CV-00454-NJR-SCW. The people who sued are called the Plaintiffs. The companies they sued, Agri-Mark, Inc., Dairy Farmers of America, Inc., Land O’Lakes, Inc., and National Milk Producers Federation are called the Defendants.

2. WHAT IS A CLASS ACTION?

In a class action, one or more people called “Named Plaintiffs” (in this case, First Impressions Salon, Inc., Roy Mattson, Piggly Wiggly Midwest, LLC, and KPH Healthcare Services d/b/a Kinney Drugs, Inc.) sue on behalf of people who have similar claims. All these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who previously excluded themselves from the Class.

3. WHAT IS THIS LAWSUIT ABOUT?

In the *Third Amended Consolidated Class Action Complaint* (the “*Complaint*”) (available at the website), Plaintiffs claim that from December 6, 2008 through July 31, 2013, Defendants violated the Sherman Act, 15 U.S.C. §1, and conspired and combined to limit the production of raw farm milk through premature “herd retirements” that required dairy farmers who participated in a herd retirement to remove all of the milking cows in their herds and, beginning on April 1, 2009, forego a 10% incentive payment if they wished to reenter the dairy farming business within one year. The *Complaint* alleges that the principal purpose and effect of this contract, combination and conspiracy has been to eliminate competition, significantly reduce the number of dairy farmers competing in the market and produce both short-term and long-term increases in the prices of butter and cheese. Defendants deny these claims.

4. WHY IS THERE A SETTLEMENT?

The Court has not decided in favor of the Plaintiffs or Defendants. Instead, both sides have agreed to the Settlement. By agreeing to a settlement, the parties avoid the costs and uncertainty of a trial, and if the settlement is approved by the Court, Class Members will be eligible to receive a payment from this settlement. The settlement does not mean that any law was broken or that the Defendants did anything wrong. The Defendants deny all legal claims in this case. Plaintiffs and their lawyers think the settlement is best for everyone who is affected.

WHO IS INCLUDED IN THE SETTLEMENT

5. HOW DO I KNOW IF I AM PART OF THIS?

On September 29, 2017, the Court decided that everyone who fits the following description is a Class Member:

(1) All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Butter Sub-Class”); and

(2) All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class pursuant to the Class Notice approved by the Court in its order dated May 8, 2018 and transmitted to the Class on May 31, 2018 (hereinafter referred to as “Cheese Sub-Class”).

A notice was subsequently issued as ordered by the Court in which affected businesses and individual purchasers were required to submit a request for exclusion by July 30, 2018 if they did not want to stay in the Class.

6. CAN I REQUEST TO BE EXCLUDED FROM THE CLASS?

The Court decided that the deadline to request exclusion from the Class was July 30, 2018. Since that deadline has now passed, you cannot request exclusion from the Class at this time.

7. WHO ARE THE “MEMBERS” OF COOPERATIVES WORKING TOGETHER (CWT)?

The “Members” are the CWT producers listed on page 2.

8. HOW CAN I BE SURE I BOUGHT BUTTER OR CHEESE FROM A CWT MEMBER?

In order to be a Class Member, you must have bought butter and/or cheese directly from one of the CWT members listed on page 2.

9. IF I BOUGHT BUTTER OR CHEESE JUST FOR MYSELF COULD I BE A CLASS MEMBER?

Yes. Though most Class Members are larger entities, some butter and cheese products were sold at CWT co-op stores directly to individual consumers. A list of CWT Member stores and their locations is provided on page 3.

10. I’M STILL NOT SURE IF I AM INCLUDED IN THE CLASS.

If you are still not sure whether you are included in the Class, you can visit the website www.ButterandCheeseClassAction.com, call toll free 1-855-804-8574, or write to Butter and Cheese Class Action Administrator, P.O. Box 4290, Portland, OR 97208-4290, for more information.

THE SETTLEMENT BENEFITS

11. WHAT DOES THE SETTLEMENT PROVIDE?

As part of the settlement, the National Milk Producers Federation will deposit \$220 million into a Settlement Fund. These monies will be deposited in installments over approximately the next four years as described in detail in the Settlement Agreement which is posted on the website.

The settlement provides that payments to Class Members will be allocated as follows:

- 37% to the Butter Sub-Class, and
- 63% to the Cheese Sub-Class.

Payments to Class Members will be comprised of the \$220 million plus applicable accrued interest, minus the following: attorneys' fees and expenses, payments to the Named Plaintiffs, notice costs, administration costs, and taxes. For more information on attorneys' fees and payments to the Named Plaintiffs, *see* "The Lawyers Representing the Class," below.

12. HOW CAN I GET A PAYMENT FROM THE SETTLEMENT?

If the Court approves the settlement (*see* "The Court's Fairness Hearing" below) and any resulting appeals are resolved, the Court will approve a Plan of Distribution including a Claim Form and a deadline for Class Members to submit claims. In order to get a payment from the settlement, you must submit a Claim Form.

To be a Class Member who could be eligible for a payment, you must have purchased butter or cheese made by a CWT member. If you are a consumer, you must have purchased butter or cheese made by a CWT Member at one of the dairy co-op stores. The list of CWT Members along with their store names and locations is provided on pages 2 and 3.

If you received this notice in the mail, a Claim Form will be sent to you automatically and you do not need to do anything at this time to be eligible to receive a payment from the settlement in the future.

If you did not receive this notice in the mail, and you think you are a potential Class Member, please identify yourself or your company to the Settlement Administrator as a potential Class Member by letter to the following address: Butter and Cheese Class Action, PO Box 4290, Portland, OR 97208-4290, email to: info@butterandcheeseaction.com, or register on the website, so you can obtain a Claim Form once it is available. You will then be mailed a Claim Form once the Court has approved the Plan of Distribution. The Claim Form will also be posted on the website at that time.

THE LAWYERS REPRESENTING THE CLASS

13. DO I HAVE A LAWYER IN THIS CASE?

The Court appointed as Co-Lead Class Counsel: Don Barrett of Barrett Law Group, Lexington, Mississippi, Dianne M. Nast of NastLaw LLC, Philadelphia, Pennsylvania and Michael L. Roberts of Roberts Law Firm, P.A., Little Rock, Arkansas to represent you. You do not have to pay Class Counsel out of your own pocket. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

14. HOW WILL THE LAWYERS BE PAID?

The Court will be asked to approve attorneys’ fees of up to 33.33% of the \$220 million Settlement Fund plus interest and reimbursement of the attorneys’ expenses. The Court will also be asked to approve payments to the Named Plaintiffs for their service on behalf of the entire Class. These payments to Class Counsel and the Named Plaintiffs will be made from the Settlement Fund.

OBJECTING TO THE SETTLEMENT

15. HOW DO I OBJECT TO THE SETTLEMENT?

If you are a Class Member, you can object to any part of the settlement including the request for attorneys’ fees and expenses and payments to the Named Plaintiffs.

To object to the Settlement, you must send a letter with the following information:

- Your name and address and the name and address of your attorney, if you have hired one.
- Case name and number:
First Impressions Salon, Inc., et al. v. National Milk Producers Federation, et al.
 Case No. 3:13-CV-00454-NJR-SCW
- The specific reasons why you object to the settlement or any part of it.
- All documents or writings that you want the Court to consider.

You must mail your objection to the following addresses postmarked by **[Insert Date]**:

CLERK OF THE COURT	CO-LEAD CLASS COUNSEL	NATIONAL MILK’S COUNSEL
Clerk, U.S. District Court Southern District of Illinois 750 Missouri Avenue East St. Louis, IL 62201	Michael L. Roberts Roberts Law Firm 20 Rahling Circle Little Rock, AR 72223	Jonathan B. Sallet Steptoe & Johnson, LLP 1330 Connecticut Ave NW Washington, DC 20036

THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses (“Fairness Hearing”).

16. WHEN WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court has scheduled a Fairness Hearing on **[Insert Date and Time]**, at the United States District Court Southern District of Illinois, Courtroom 3, 750 Missouri Avenue East St. Louis, IL 62201. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check www.ButterandCheeseClassAction.com, for updates.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court may also consider the requests by Class Counsel for attorneys’ fees and expenses and for payments to the Named Plaintiffs. If there are objections, the Court will consider them at that time.

QUESTIONS? CALL 1-855-804-8574 OR VISIT WWW.BUTTERANDCHEESECLASSACTION.COM

After the hearing, the Court will decide whether to approve the Settlement. It is unknown how long these decisions will take.

Any judgment issued by the Court will be binding on the Class. The Settlement, if approved by the Court and once any appeals are resolved, will release all claims in the class action. The specific release of claims is provided in the Settlement Agreement, which can be found on the website.

17. DO I HAVE TO ATTEND THE HEARING?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements provided above, the Court will consider it. You also may pay your own lawyer to attend the hearing, but this is not necessary.

18. MAY I SPEAK AT THE HEARING?

If you have properly submitted an objection (*see* “Objecting to the Settlement, above), you may ask the Court for permission to speak at the Final Approval Hearing about the reasons you do not like the settlement or any part of it.

Any Class Member who wishes to appear at the Final Approval Hearing must file with the Clerk of the Court a “Notice of Intention to Appear,” which must be received by **[Insert Date]** with copies sent to the counsel addresses listed in Question 15 above.

GETTING MORE INFORMATION

19. HOW DO I GET MORE INFORMATION?

Visit the website at www.ButterandCheeseClassAction.com, where you will find the Settlement Agreement, Preliminary Approval Order, Memorandum and Order certifying the Class, the *Complaint*, and the Defendant’s Joint Answer to Plaintiffs’ Third Amended Consolidated Class Action Complaint. You may also call toll-free at 1-855-804-8574 or write to Butter and Cheese Class Action Administrator, P.O. Box 4290, Portland, OR 97208-4290 or send an email to info@ButterandCheeseClassAction.com.

Attachment 2

Email Notice

If you bought butter or cheese directly from a National Milk Producers Federation Cooperatives Working Together Program Member between December 6, 2008 and July 31, 2013, you could receive a payment from a \$220 million settlement.

A court authorized this notice. This is not a solicitation.

What is the lawsuit about?

A \$220 million settlement has been reached in a class action lawsuit brought against National Milk Producers Federation, Agri-Mark, Inc., Dairy Farmers of America, Inc., and Land O'Lakes, Inc. (collectively "Defendants"). The lawsuit claimed that an effort known as Cooperatives Working Together (CWT) operated a Herd Retirement Program that was a conspiracy to reduce milk output that violated the law. The Defendants deny doing anything wrong. The Court has not decided who is right.

You are receiving this email because you may be a Class Member.

On September 29, 2017, the Court decided that the "Class" was comprised of businesses and individual consumers in the United States that purchased butter and/or cheese directly from one or more of the CWT members including the Defendants, during the period from December 6, 2008 to July 31, 2013. A notice was subsequently issued, as ordered by the Court, in which affected businesses and individual purchasers were required to submit a request for exclusion by July 30, 2018 if they did not want to stay in the Class. You cannot request exclusion from the Class at this time.

To be a Class Member who could be eligible for a payment, you must have purchased butter or cheese made by a CWT Member. If you are a consumer, you must have purchased butter or cheese made by a CWT Member at one of the dairy co-op stores. Go to www.ButterandCheeseClassAction.com for a list of the CWT Members along with their store names and locations.

What does the settlement provide?

As part of the settlement, the National Milk Producers Federation will deposit \$220 million into a Settlement Fund. These monies will be deposited in installments over approximately the next four years as described in detail in the Settlement Agreement, which is posted on the [website](#).

The settlement provides that payments to Class Members will be allocated as follows:

- 37% to the Butter Sub-Class, and
- 63% to the Cheese Sub-Class.

Payments to Class Members will be comprised of the \$220 million plus interest, minus the following: attorneys' fees and expenses, payments to the Named Plaintiffs, notice costs, administration costs, and taxes.

How can I get a payment from the Settlement?

If the Court approves the settlement, and any resulting appeals are resolved, the Court will approve a Plan of Distribution including a Claim Form and a deadline for Class Members to submit claims. In order to get a payment from the settlement, you must submit a Claim Form. A Claim Form will be sent to you automatically and you do not need to do anything at this time to be eligible to receive a payment from the settlement in the future. Once the Court has approved the Plan of Distribution, the Claim Form will also be posted on the [website](#) at that time.

What are your options? If you are a Class Member, you do not need to do anything at this time to be eligible to receive a payment. Once the Court has approved the Claim Form, a deadline will be set for Class Members to submit claims. As a Class Member, you will be bound by all orders and judgments of the Court. Unless you want to object to the settlement, **YOU DO NOT HAVE TO DO ANYTHING NOW.**

If you are a Class Member, you can object to any part of the settlement including the request for attorneys' fees and expenses and payments to the Named Plaintiffs. Instructions for objecting can be found at the [website](#) or by calling the toll-free number below. You must mail your objection postmarked by **Month DD, 2020**.

The Court will hold a Fairness Hearing on **Month DD, 2020**, to decide whether to approve the Settlement and any requests for fees and expenses. The Court will be asked to approve attorneys' fees of up to 33.33% of the \$220 million Settlement Fund plus interest and reimbursement of the attorneys' expenses. The Court will also be asked to approve payments to the Named Plaintiffs for their service on behalf of the entire Class. These payments to Class Counsel and the Named Plaintiffs will be made from the Settlement Fund. If there are objections, the Court will consider them at the hearing. You do not need to attend the hearing. If you wish to appear at the hearing, you must file a "Notice of Intention to Appear" with the Court and you may hire your own attorney to appear in Court for you at your own expense. Detailed information is available at the [website](#) and by calling 1-855-804-8574.

Attachment 3

If you bought butter or cheese directly from a National Milk Producers Federation Cooperatives Working Together Program Member between December 6, 2008 and July 31, 2013, you could receive a payment from a \$220 million settlement.

What is the lawsuit about? A \$220 million settlement has been reached in a class action lawsuit brought against National Milk Producers Federation, Agri-Mark, Inc., Dairy Farmers of America, Inc., and Land O'Lakes, Inc. (collectively "Defendants"). The lawsuit claimed that an effort known as Cooperatives Working Together (CWT) operated a Herd Retirement Program that was a conspiracy to reduce milk output that violated the law. The Defendants deny doing anything wrong. The Court has not decided who is right.

Who is included? The Court decided that the Class includes all persons and entities in the United States that purchased butter and/or cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class. Those that are included are called "Class Members." To be a Class Member who could be eligible for a payment, you must have purchased butter or cheese made by a CWT Member. If you are a consumer, you must have purchased butter or cheese made by a CWT Member at one of the dairy co-op stores. Go to the website for a list of CWT Members along with their store names and locations.

What does the settlement provide? The settlement provides that payments to Class Members will be allocated: 37% to the Butter Sub-Class, and 63% to the Cheese Sub-Class. Total payments will be \$220 million plus interest, minus: attorneys' fees and expenses; payments to the Named Plaintiffs; notice and administration costs; and taxes.

What are your options? If you are a Class Member who received emailed or mailed Notice, you do not need to do anything at this time to be eligible to receive a payment. Once the Court has approved the Claim Form, a deadline will be set for Class Members to submit claims. If you received a Notice in the mail, you will be mailed a Claim Form automatically.

If you *did not* receive a Notice in the mail, and you think you are a potential Class Member, please identify yourself or your company to the Settlement Administrator as a potential Class Member by letter to the following address: Butter and Cheese Class Action PO Box 4290, Portland, OR 97208-4290, email to: info@butterandcheeseaction.com, or register on the website, so you can obtain a Claim Form, once it is available. As a Class Member, you will be bound by all orders and judgments of the Court. Unless you want to object to the settlement, **YOU DO NOT HAVE TO DO ANYTHING NOW.**

Instructions for objecting can be found at the website or by calling the toll-free number below. You must mail your objection postmarked by **Month DD, 2020**. The Court will hold a Fairness Hearing on **Month DD, 2020**, to decide whether to approve the Settlement and any requests for fees and expenses. If there are objections, the Court will consider them at the hearing. You do not need to attend the hearing. If you wish to appear at the hearing, you must file a "Notice of Intention to Appear" with the Court and you may hire your own attorney to appear in Court for you at your own expense. Detailed information is available at the website and toll-free number listed below.

www.ButterandCheeseClassAction.com


1-855-804-8574

Attachment 4

Trade Publication Banner Advertisement

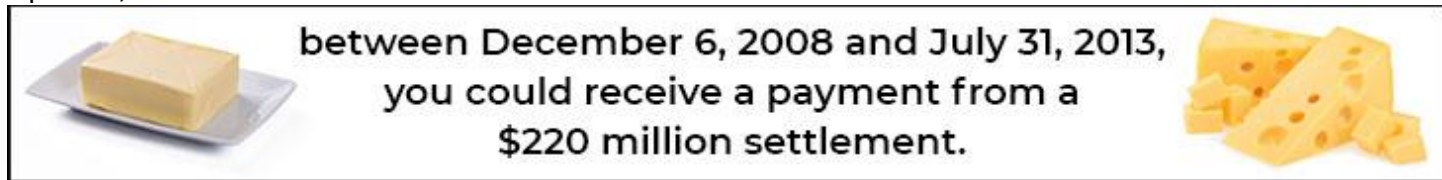
300x250 & 728x90 Display Banners –

Option 1, Frame 1: Visible for 5.5 seconds.



This banner features a white plate with a block of butter on the left and a pile of Swiss cheese on the right. The text in the center reads: "If you bought butter or cheese directly from a National Milk Producers Federation Cooperatives Working Together Program Member".

Option 1, Frame 2: Visible for 5.5 seconds.



This banner features a white plate with a block of butter on the left and a pile of Swiss cheese on the right. The text in the center reads: "between December 6, 2008 and July 31, 2013, you could receive a payment from a \$220 million settlement."

Option 1, Frame 3: Visible for 4 seconds.



This banner features a white plate with a block of butter on the left and a pile of Swiss cheese on the right. The text in the center reads: "Click here for more information. www.ButterandCheeseClassAction.com".

Option 2, Frame 1: Visible for 5.5 seconds.



This banner has a dark background with various types of cheese. The text in the center reads: "If you bought butter or cheese directly from a National Milk Producers Federation Cooperatives Working Together Program Member".

Option 2, Frame 2: Visible for 5.5 seconds.



This banner has a dark background with various types of cheese. The text in the center reads: "between December 6, 2008 and July 31, 2013, you could receive a payment from a \$220 million settlement."

Option 3, Frame 1: Visible for 4 seconds.



This banner has a dark background with various types of cheese. The text in the center reads: "Click here for more information. www.ButterandCheeseClassAction.com".

Attachment 5

If you bought butter or cheese directly from a local dairy co-op store between December 6, 2008 and July 31, 2013, you could receive a payment from a class action settlement.

What is the lawsuit about? A \$220 million settlement has been reached in a class action lawsuit brought against National Milk Producers Federation, Agri-Mark, Inc., Dairy Farmers of America, Inc., and Land O'Lakes, Inc. (collectively "Defendants"). The lawsuit claimed that an effort known as Cooperatives Working Together (CWT) operated a Herd Retirement Program that was a conspiracy to reduce milk output that violated the law. The Defendants deny doing anything wrong. The Court has not decided who is right.

Who is included? The Court decided that the Class includes all persons and entities in the United States that purchased butter and/or cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 who did not timely opt-out of the Class. Those that are included are called "Class Members." To be a Class Member who could be eligible for a payment, you must have purchased butter or cheese made by a CWT Member. If you are a consumer, you must have purchased butter or cheese made by a CWT Member at one of the dairy co-op stores. Go to the website for a list of CWT Members along with their store names and locations.

What does the settlement provide? The settlement provides that payments to Class Members will be allocated: 37% to the Butter Sub-Class, and 63% to the Cheese Sub-Class. Total payments will be \$220 million plus interest, minus: attorneys' fees and expenses; payments to the Named Plaintiffs; notice and administration costs; and taxes.

What are your options? If you are a Class Member who received emailed or mailed Notice, you do not need to do anything at this time to be eligible to receive a payment. Once the Court has approved the Claim Form, a deadline will be set for Class Members to submit claims. If you received a Notice in the mail, you will be mailed a Claim Form automatically.

If you *did not* receive a Notice in the mail, and you think you are a potential Class Member, please identify yourself or your company to the Settlement Administrator as a potential Class Member by letter to the following address: Butter and Cheese Class Action PO Box 4290, Portland, OR 97208-4290, email to: info@butterandcheeseaction.com, or register on the website, so you can obtain a Claim Form, once it is available. As a Class Member, you will be bound by all orders and judgments of the Court. Unless you want to object to the settlement, **YOU DO NOT HAVE TO DO ANYTHING NOW.**

Instructions for objecting can be found at the website or by calling the toll-free number below. You must mail your objection postmarked by **Month DD, 2020**. The Court will hold a Fairness Hearing on **Month DD, 2020**, to decide whether to approve the Settlement and any requests for fees and expenses. If there are objections, the Court will consider them at the hearing. You do not need to attend the hearing. If you wish to appear at the hearing, you must file a "Notice of Intention to Appear" with the Court and you may hire your own attorney to appear in Court for you at your own expense. Detailed information is available at the website and toll-free number listed below.

www.ButterandCheeseClassAction.com

1-855-804-8574

I. Introduction and Assignment

1. I listed my background and qualifications in an Expert Report (“Lamb Report”) filed in this matter on January 4, 2019. I also filed an Expert Reply Report (“Lamb Reply Report”) in this matter on May 3, 2019. I was also deposed by Counsel for Defendants on February 13, 2019 and on May 17, 2019.¹ An updated copy of my C.V., including a list of the matters in which I have submitted expert testimony in the past four years, is attached to this report as Appendix A. Monument Economics Group is being compensated for my work in this matter at my usual and customary rate of \$650 per hour.

2. I have been asked by Counsel for the direct purchaser Class² (“Plaintiffs”) in this matter to develop a methodology that can be used to allocate the Net Settlement Fund to members of the Class who submit claims as part of the claims process in a timely manner (“Claimants”). I describe this methodology in detail below.

II. Methodology for Net Settlement Fund Allocation

3. The methodology I have developed for the purposes of allocating the Net Settlement Fund allocates a portion of the Net Settlement Fund to undocumented claims (the “Undocumented Settlement Fund”) and the remainder to documented claims (the “Documented Settlement Fund”). The amount allocated to the Undocumented Settlement Fund will be 1% of the Net Settlement Fund and will be distributed equally amongst all valid Undocumented Claims with each Undocumented Claimant allowed to submit one Undocumented Claim. The maximum payout per undocumented Claim is \$5. If there are funds remaining in the Undocumented Settlement Fund after allocation to all Undocumented Claims at the maximum payout, any remaining funds will transfer into and be included in the Documented Settlement Fund.

¹ Deposition of Russell Lamb, February 13, 2019 (hereafter “Lamb Deposition”) and Deposition of Russell Lamb, May 17, 2019 (hereafter “Lamb Reply Deposition”).

² The Court previously certified the following Classes on September 29, 2017:

(1) All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 (hereafter the “Butter Class”); and

(2) All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 (hereafter the “Cheese Class”).

Doc. 291 (Sept. 29, 2017).

4. The Documented Settlement Fund, representing 99% of the Net Settlement Fund plus any undistributed monies from the Undocumented Settlement Fund, will be distributed on a *pro rata* basis to all qualified Claimants who filed valid Documented Claims, based on each Claimant's collective direct purchases of 1) cheese from December 6, 2008 to July 31, 2013; 2) butter from December 6, 2008 to July 31, 2013. In particular, my methodology for the *pro rata* allocation of the Documented Settlement Fund to each Claimant is as follows:

- 1) Calculate the total amount of cheese purchased by Claimant directly from Defendants or members of CWT from December 6, 2008 to July 31, 2013;
 - 2) Calculate the total amount of butter purchased by Claimant directly from Defendants or members of CWT from December 6, 2008 to July 31, 2013;
 - 3) Calculate each Claimant's percentage share of cheese purchases by dividing each Claimant's cheese purchase amounts by the cheese purchased by all Claimants who submit valid, accepted claim forms (the "Cheese Claim Share").
 - 4) Calculate each Claimant's percentage share of butter purchases by dividing each Claimant's butter purchase amounts by the butter purchased by all Claimants who submit valid, accepted claim forms (the "Butter Claim Share").
 - 5) Allocate the Documented Settlement Fund to each Claimant who submits a valid and accepted claim form by multiplying each Claimant's Cheese Claim Share by 63% of the Documented Settlement Fund and each Claimant's Butter Claim Share by 37% of the Documented Settlement Fund. (So, for example, if Claimant XYZ purchased \$100 of cheese and there were \$1,000 in total cheese purchased by all Claimants who submitted valid Claim Forms, then, Claimant XYZ would receive an allocation of 10% (100/1,000) of the 63% of the Documented Settlement Fund allocated to the Cheese Class. If Claimant XYZ purchased \$100 of butter and there were \$1,000 in total butter purchased by all Claimants who submitted valid Claim Forms, then, Claimant XYZ would receive an allocation of 10% (100/1,000) of the 37% of the Documented Settlement Fund allocated to the Butter Class.)
5. As noted above, this methodology applies an adjustment factor of 63% to the Documented Settlement Fund to allocate the Documented Settlement Fund to Claimants who

purchased cheese directly from Defendants or members of CWT and an adjustment factor of 37% to the Documented Settlement Fund to allocate the Documented Settlement Fund to Claimants who purchased butter directly from Defendants or members of CWT. These percentages are based on the Cheese Class's and Butter Class's respective share of damages I measured in the Lamb Report and Lamb Reply Report.³ In my damages calculation, 63% of the Class's damages were attributable to the Class's purchases of cheese and 37% of class damages were attributable to the Class's purchases of butter.

6. Using data produced by Defendants and some members of CWT as part of discovery in this matter, along with any additional purchase data submitted by claimants, I am able to determine certain Class members' purchases of cheese and butter from December 6, 2008 to July 31, 2013. However, these calculations are not final for several reasons including because it is possible that not all Class members will submit claims (in which case the Class members who do will receive higher allocations) and including because I understand that Claimants will have the option to submit their own purchase records as part of their claim. To the extent that any such submissions by Claimants differ from the sales data produced by Defendants and members of CWT, if necessary, I may analyze those submissions in conference with the Settlement Administrator to finalize the calculations of the cheese and butter purchased by each Class member.

7. The methodology for *pro rata* allocation of the Documented Settlement Fund discussed above is similar settlement allocation plans accepted by Courts, such as *in In Re: Domestic Drywall Antitrust Litigation* and *In re Polyurethane Foam Antitrust Litigation*.⁴ In my opinion, the methodology described above is reasonable and practical for the purposes of allocation of the Net Settlement Fund to Claimants. As I discussed, this methodology utilizes sales data produced by Defendants and members of CWT from December 6, 2008 to July 31, 2013.⁵ Furthermore, this methodology accounts for the differences in relative overcharges on Class members' purchases of cheese and butter, and thus does not systematically favor or penalize Claimants who purchased cheese or butter, respectively. Further, with regards to Undocumented Claimants, an equal distribution of the Undocumented Settlement Fund among Undocumented Claimants, who

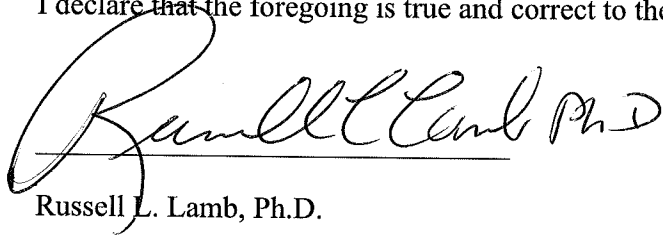
³ Lamb Report at ¶13; Lamb Reply Report at ¶3.

⁴ See, e.g. *In Re: Domestic Drywall Antitrust Litigation*, MDL No. 2437 and 13-MD-2437, Doc. 765; *In re Polyurethane Foam Antitrust Litigation*, 1:10-md-02196-JZ, Doc. 2086.

⁵ These data were also used in my damages analysis in the Lamb Report.

are largely individual customers who purchase at Defendant and/or CWT-member owned retail stores, is an equitable way to distribute the Undocumented Settlement Fund among Claimants who are unable to provide documentation.

I declare that the foregoing is true and correct to the best of my knowledge and belief.

A handwritten signature in cursive script that reads "Russell L. Lamb Ph.D." is written over a horizontal line. The signature is written in black ink and is positioned to the left of the typed name below.

Russell L. Lamb, Ph.D.

November 29, 2019

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<p>FIRST IMPRESSIONS SALON, INC., ROY MATTSON, KPH HEALTHCARE SERVICES d/b/a Kinney Drugs, Inc., and PIGGLY WIGGLY MIDWEST, LLC,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>NATIONAL MILK PRODUCERS FEDERATION, et al.,</p> <p style="text-align: center;">Defendants.</p>	<p>CASE NO. 3:13-CV-00454-NJR-GCS</p>
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**DIRECT PURCHASER PLAINTIFFS' [PROPOSED] PLAN OF
ALLOCATION FOR THE DIRECT PURCHASER CLASS**

Direct Purchaser Plaintiffs First Impressions Salon, Inc., Roy Mattson, KPH Healthcare Services d/b/a Kinney Drugs, Inc., and Piggly Wiggly Midwest, LLC (collectively, "Plaintiffs"), on behalf of the previously certified Cheese and Butter Classes,¹ hereby submit this proposed Plan of Allocation to allocate the net settlement proceeds in the amount of \$____ million received in the settlement with National Milk Producers Federation ("NMPF"), plus interest, which are net of Court-approved attorneys' fees, Court-approved named plaintiff service awards, and Court-approved expenses, including settlement-related expenses (the "Net Settlement

¹ The Court previously certified the following Classes:

- (1) All persons and entities in the United States that purchased butter directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 (hereafter the "Butter Class"); and
- (2) All persons and entities in the United States that purchased cheese directly from one or more Members of Defendant, Cooperatives Working Together and/or their subsidiaries, during the period from December 6, 2008 to July 31, 2013 (hereafter the "Cheese Class").

Doc. 291 (Sept. 29, 2017).

Fund”).

The proposed Plan of Allocation (“Allocation Plan”) allocates the Net Settlement Fund into two separate net settlement funds: one for Class members whose claims of their purchases of cheese and butter products from Defendants or members of CWT during the Class Period have no associated documentation (the “Undocumented Settlement Fund”);² and a second fund for class members who are able to provide (or there exists otherwise available) documentation of their purchases of cheese and butter products from Defendants or members of CWT during the Class Period (the “Documented Settlement Fund”).³

Class members who elect to participate in the Undocumented Settlement Fund will be given an amount to be determined up to \$5, with any unclaimed amounts transferring to the Documented Settlement Fund. The award to Class members who elect to participate in the Documented Settlement Fund will be based on each Class member’s *pro rata* weighted share of valid claims of cheese or butter dollar purchases made directly from the Defendants and CWT members during the Class Period. This proposal is similar to the method of allocation that has been approved in similar class actions brought by direct purchasers to recover overcharges arising from alleged horizontal price-fixing agreements.⁴

Plaintiffs’ expert, economist Dr. Russell L. Lamb, can calculate each Class member’s percentage share of the Documented Settlement Fund using sales data produced by Defendants and CWT members during discovery.⁵ Claimants⁶ will also have the option of submitting their

² These Class Members are largely individuals who made *de minimis* purchases directly from Defendants and/or members of CWT.

³ Documented Class Members are largely business who make repeat purchases from Defendants and/or members of CWT.

⁴ See, e.g. *In Re: Domestic Drywall Antitrust Litigation*, MDL No. 2437 and 13-MD-2437, Doc. 765; *In re Polyurethane Foam Antitrust Litigation*, 1:10-md-02196-JZ, Doc. 2086.

own records or data showing their dollar purchases of (a) cheese, net of returns, from December 6, 2008 to July 31, 2013; and/or (b) butter, net of returns, from December 6, 2008 to July 31, 2013 from Defendants and/or CWT members. The Settlement Administrator will review any such submissions for approval to determine the final calculations, which may include making any necessary and appropriate adjustments.⁷

The proposed Allocation Plan is practical and efficient, using sales data already obtained from Defendants and CWT members where available.⁸ It also is a reasonable way to allocate the Net Settlement Fund, and is fair to all members of the Class, including those Class members that bought cheese and butter from retail stores owned by Defendants and/or CWT members.⁹

THE ALLOCATION PLAN

The Allocation Plan works as follows:¹⁰

⁵ See Declaration of Russell L. Lamb, Ph.D. Related to Proposed Allocation Plan and Net Settlement Fund Allocation (“Lamb Declaration”) (filed herewith), ¶6. Allocations to Claimants whose right to settlement allocation arises by virtue of assignments from Class members would be determined in this same fashion.

⁶ A “Claimant” is any entity that timely submits a completed claim form. A Claimant’s percentage share will be zero if that Claimant timely submits a claim form but that Claimant’s claim is rejected because, for example, the Claimant did not purchase cheese or butter directly from Defendants and/or CWT members during the Class period and does not have any valid assignment covering any such direct purchases.

⁷ Throughout this Allocation Plan, “purchases” refers to dollar purchases made directly from Defendants or members of CWT during the Class Period, or purchases that are covered by a Claimant’s assignment from a direct purchaser of such purchases, during the Class Period. Claimants’ *pro rata* shares will be based only on qualified cheese and butter purchases made directly from Defendants or members of CWT during the Class Period, and will not be based on Claimants’ purchases of cheese and butter from some other entities that buy and resell cheese and butter (unless the claimant has an assignment of rights from the entity that purchased directly from the manufacturer). In addition, “purchases” throughout refers to net purchases, *i.e.*, gross purchases net of any returns and net of any purchases for which the Claimant or Class member has assigned away its rights to recovery in this litigation.

⁸ See Lamb Declaration ¶¶6-7.

⁹ See *id.* ¶ 7.

¹⁰ The Allocation Plan calculations are set out in detail in the Lamb Declaration filed herewith.

1. Allocation of the Net Settlement Fund

1.1 Allocation of the Net Settlement Fund into the Undocumented

Settlement Fund and the Documented Settlement Fund. The Net Settlement Fund shall be distributed to Class Members who submit an undocumented claim from the Undocumented Settlement Fund and to Class Members who submit a documented claim by the Documented Settlement Fund. 1% of the Net Settlement Fund shall be allocated to the Undocumented Settlement Fund and 99% of the Net Settlement Fund shall be allocated to the Documented Settlement Fund.¹¹

1.2 Allocation of the Documented Settlement Fund to the Cheese and

Butter Classes. The Documented Settlement Fund shall be further allocated to the Cheese and Butter Classes by the *pro rata* share of the sum of purchases contained in the valid claims submitted to the Settlement Claims Administrator. According to Dr. Lamb's calculations, 63% of the Class's damages were attributable to the Cheese Class's purchases of cheese and 37% percent were attributable to the Butter Class's purchases of butter.¹² Accordingly, the Allocation Plan allocates 63% of the Documented Settlement Fund to members of the Cheese Class and 37% of the Documented Settlement Fund to members of the Butter Class.

2. Determination of a Recognized Claim

2.1 Claim Notification for Known Class Members. At the appropriate time

and after receiving Court approval to do so, the Settlement Administrator, working with Dr. Lamb's firm Monument Economics Group if necessary, will provide a separate, individualized claim form (the "Claim Form") for each Class member that appears in the transactional data produced in discovery. The Claim Form will include information identifying each Class member

¹¹ See Lamb Declaration at ¶¶ 3-4.

¹² See Lamb Declaration at ¶¶ 4-5.

by its name and address. The Claim Form will also contain totals for the Class member's net purchases of cheese and of butter from Defendants and/or members of CWT from December 6, 2008 to July 31, 2013. The Claim Form will specifically request that each Class member verify the accuracy of the information contained in the Claim Form and will provide instructions for challenging any of the figures or computations contained in the Claim Form. If a Class member agrees that the information contained in the Claim Form is accurate, it will be asked to sign and return the Claim Form to the Settlement Administrator. If a Class member believes that the information contained in its Claim Form is not accurate, that Class member may submit its own purchase records pursuant to the procedures described below. The Claim Form will request the Claimant's full name and mailing address appropriate for correspondence regarding the distribution of the Documented Settlement Fund, and the identity and contact information for the person responsible for overseeing the claims process for the Claimant. In addition, the Claim Form will include the release language contained in the settlement agreement with Defendants. Each Claimant will be required to execute the Claim Form in exchange for receiving any distribution from the Documented Settlement Fund.

2.2 Claim Notification for Unknown Class Members. Unknown Class Members will be required to submit a Claim Form to the Settlement Administrator. If the Class Member elects to participate in the Undocumented Settlement Fund, then the Class Member is only required to fill out a Claim Form and not submit additional documentation. If a Class member elects to participate in the Documented Settlement Fund, the Class member must submit its own purchase records pursuant to the procedures described below. The Claim Form will request the Claimant's full name and mailing address appropriate for correspondence regarding the distribution of the Documented Settlement Fund, and the identity and contact information for

the person responsible for overseeing the claims process for the Claimant. In addition, the Claim Form will include the release language contained in the settlement agreement with Defendants. Each Claimant will be required to execute the Claim Form in exchange for receiving any distribution from the Documented Settlement Fund or the Undocumented Settlement Fund.

2.3 Timeliness. The submission of the Claim Form to the Settlement Administrator (with any necessary supporting documentation if the Claimant disagrees with the information contained in its Claim Form or if it is an unknown Class member that elects to participate in the Documented Settlement Fund) will be deemed timely if it is received or postmarked within the time prescribed by the Court.

3. Allocation of the Undocumented Settlement Fund. After all Claimants have submitted undocumented claims, the funds will be distributed equally to all undocumented claimants with each undocumented claimant receiving a maximum of \$5 per claim with a maximum of one claim per claimant. Any undistributed amounts will be reallocated to the Documented Settlement Fund using the same apportionment formula from §1.2.

4. Allocation of the Documented Settlement Fund Among Recognized Documented Claimants. Each Claimant's allocated share of the Documented Settlement Fund will be set in proportion to each Claimant's net dollar purchases of cheese (or butter) compared to the volume of claimed purchases in the valid claims submitted to the Settlement Administrator, during the period of December 6, 2008 to July 31, 2013 made directly from Defendants and/or members of CWT. The allocation computation will be based on the following information (whether from the data already produced in discovery or from submissions by the Claimants): (a) each Claimant's net dollar purchases of cheese during the period of December 6, 2008 to July 31, 2013 made directly from Defendants and/or members of CWT (b) each

Claimant's net dollar purchases of butter during the period of December 6, 2008 to July 31, 2013 made directly from Defendants and/or members of CWT; (c) the combined total of net dollar purchases of cheese during the period of December 6, 2008 to July 31, 2013 made directly from Defendants and/or members of CWT made by Claimants with valid claims submitted to the Settlement Claims Administrator; and (d) the combined total net dollar purchases of butter during the period of December 6, 2008 to July 31, 2013 made directly from Defendants and/or members of CWT made by Claimants with valid claims submitted to the Settlement Claims Administrator. To calculate the *pro rata* share for each Claimant of the Documented Settlement Fund Settlement Fund, the Settlement Administrator, working with Dr. Lamb, will:

(1) Allocate each Cheese Claimant's share of the Documented Settlement Fund by multiplying the Documented Settlement Fund allocated to the Cheese Class by each Claimant's *pro rata* share of the net purchase volume of cheese in the valid claims submitted to the Settlement Administrator. So, for example, if Claimant XYZ purchased \$100 of cheese and there were \$1,000 in total cheese purchased by all Claimants who submitted valid Claim Forms, then, Claimant XYZ would receive an allocation of 10% ($100/1,000$) of the 63% of the Documented Settlement Fund allocated to the Cheese Class.

(2) Allocate each Butter Claimant's share of the Butter Documented Settlement Fund by multiplying the Documented Settlement Fund allocated to the Butter Class by each Claimant's *pro rata* share of the net purchase volume of butter in the valid claims submitted to the Settlement Administrator. So, for example, if Claimant XYZ purchased \$100 of butter and there were \$1,000 in total butter purchased by all Claimants who submitted valid Claim Forms, then, Claimant XYZ would receive an allocation of 10% ($100/1,000$) of the 37% of the Documented Settlement Fund allocated to the Butter Class.

Each Claimant's total *pro rata* share of the Documented Settlement Fund will be the total of (1) and (2) above.

5. Processing of Claims.

5.1 Acceptance and Rejection. All Claims will be reviewed and processed by the Settlement Administrator, with assistance from Dr. Lamb and his staff at Monument Economics Group as required and appropriate. The Settlement Administrator shall first determine whether a Claim Form received is timely, properly completed, and signed. If a Claim Form is incomplete, the Settlement Administrator shall communicate with the Claimant via First Class Mail, email, or telephone regarding the deficiency. Claimants will then have 30 days from the date they are contacted by the Settlement Administrator regarding the deficiency to cure any such deficiency. If any Claimant fails to correct the deficiency within this time, the claim may be rejected, and the Claimant shall be notified by letter stating the reason for rejection.

5.2 Approval of Claims. All timely Claim Forms that are properly completed shall be approved by the Settlement Administrator (the "Approved Claims"). All late Claims Forms that are otherwise complete will be processed by the Settlement Administrator but marked as "Late Approved Claims." If Class Counsel conclude that, in their judgment, any such "Late Approved Claims" should ultimately not be accepted,¹³ the Claimant will be timely notified, and then may seek review by the Court via the appeals process described in §6.2 below.

5.3 The Pro Rata Distribution Calculation. The Settlement Administrator, in conjunction with Dr. Lamb, will be responsible for determining the total amount each Claimant will receive from the Net Settlement Fund. Once the Settlement Administrator has determined the number of Approved Claims, it will work with Dr. Lamb to calculate each

¹³ Cf. *Kuehbeck v. Genesis Microchip Inc.*, No. C02-05344 JSW, 2007 WL 2382030, at *1 (N.D. Cal. Aug. 17, 2007) (authorizing distribution to timely filed claims and valid claims that were submitted late).

Claimant's *pro rata* share of the Net Settlement Fund as determined by the calculation described above in Sections 3 and 4 above.

6. Processing Challenged Claims.

6.1 Review of Challenged Claims. The Settlement Administrator shall review any and all written challenges by Claimants to the determinations of the Settlement Administrator and if necessary will confer with Dr. Lamb and Class Counsel. If upon review of a challenge and supporting documentation, the Settlement Administrator decides to amend or modify its determination of the distribution amounts to a Claimant, it shall advise the Claimant who made the challenge. These determinations shall be final, subject to the appeals process described in § 6.2 below.

6.2 Claims Appeal Process. Where the Settlement Administrator determines that a challenge requires additional information or documentation, it will so advise the Claimant and provide that Claimant an opportunity to cure the deficiency within 30 days. If that Claimant fails to cure the deficiency within that time, the challenge may be rejected and the Claimant will be notified of the rejection by mail, which notification shall be deemed final subject to any appeal and decision by the Court. If the Settlement Administrator concludes that it has enough information to properly evaluate a challenge and maintains that its initial determinations were correct, it will so inform the Claimant in writing, which notification shall be deemed final subject to any appeal and decision by the Court.

7. Report to Court Regarding Distribution of Net Settlement Fund. After the Settlement Administrator reviews all submitted claims and works with Dr. Lamb and his staff to determine the amount each Claimant is entitled to receive from the Net Settlement Fund, the Settlement Administrator will prepare a final report for the Court's review and approval. The report will explain the tasks and methodologies employed by the Settlement Administrator in

processing the claims and administering the Allocation Plan. It will also contain (a) a list of Class members or other Claimants (if any) who filed Claim Forms that were rejected and the reasons, (b) a list of any challenges to the estimated distribution amounts that were rejected and the reasons, and (c) the date any such Claimant whose challenge was rejected was informed by the Settlement Administrator for purposes of calculating the timeliness of any appeal using the procedures set forth below. Finally, the final report shall contain an accounting of the expenses associated with the Allocation Plan, including bills from Monument Economics Group and the Settlement Administrator, any taxes that are due and owing, and any other fees or expenses associated with the settlement allocation process.

8. Payment to the Claimants.

8.1 **Distribution of Net Settlement Fund.** Upon Court approval of the final report and declaration of the Settlement Administrator, the Settlement Administrator shall issue a check payable to each Claimant who has submitted a complete and valid Claim Form. It is anticipated that the entire Net Settlement Fund will be distributed in multiple installments. The first distribution will be of the Undocumented Settlement Fund. Any unclaimed monies from the Undocumented Settlement Fund will be added to the Documented Settlement Fund which will be distributed second. If any monies remained undistributed, then, subject to further order of the Court, any monies from the Net Settlement Fund that remain unclaimed shall, if feasible, be distributed to Claimants in an additional distribution or distributions on the basis of the same calculations of the Claimants' *pro rata* allocation of the Documented Settlement Fund described in §4 above.

8.2 **Distribution of Residual or Unclaimed Funds.** Insofar as the Net Settlement Fund includes residual funds after distribution or distributions as set forth in the

preceding paragraph that cannot be economically distributed to the Claimants (because of the costs of distribution as compared to the amount remaining), Class Counsel shall make an application to the Court, with notice to Defendants, for such sums to be used to make *cy pres* payments for the benefit of members of the Class.

9. Resolution of Disputes. In the event of any disputes between Claimants and the Settlement Administrator on any subject (*e.g.*, timeliness, required completeness or documentation of a claim, or the calculation of the Claimant's unit purchases, share of the net settlement fund, and/or amount payable), the decision of the Settlement Administrator shall be final, subject to the Claimant's right to seek review by the Court. In notifying a Claimant of the final rejection of a Claim or a challenge thereto, the Settlement Administrator shall notify the Claimant of its right to seek such review by issuing notice to the Settlement Administrator and Class Counsel. Any such appeal by a Claimant must be submitted in writing to the Court, with copies to the Settlement Administrator and Class Counsel, within 21 days of the Settlement Administrator's final rejection notification to the Claimant.

Dated: 19 Nov 2019

Respectfully submitted,

Russell C. Lamb, Ph.D.



Russell Lamb, Ph.D.

President
Monument Economics Group
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Professional Summary

Russell Lamb is an expert in antitrust economics and has testified concerning antitrust liability, impact, and damages. He has an extensive background in applied econometrics and has developed econometric models to measure damages in a number of matters involving allegations of horizontal price fixing. He has provided expert testimony in State and Federal Courts in the United States and in Canada on a range of issues including class-certification and economic damages in antitrust, RICO and consumer fraud matters. In addition, he has provided expert advice to client attorneys at all levels of the litigation. Dr. Lamb has an extensive background in the analysis of domestic and international agricultural markets and has authored more than 50 articles in peer-reviewed economics journals, trade press, and major newspapers.

Dr. Lamb's work has been cited by courts in certifying classes in the United States and Canada. For example, in *In re Aftermarket Automotive Lighting Products Antitrust Litigation*, the court held that his analysis provided "a sufficient basis from which to conclude that Plaintiffs would adduce common proof concerning the effect of Defendants' alleged price-fixing conspiracy on prices class members paid." In certifying the Class in *In re: Titanium Dioxide Antitrust Litigation*, the Court said, "This Court finds that Dr. Lamb's regression analysis accurately reflects the characteristics of the titanium dioxide industry, and the facts in this case." In *In Re: Domestic Drywall Antitrust Litigation*, the Court cited extensively to Dr. Lamb's analysis in its decision to certify the Class: "Dr. Lamb's expert opinion fits the facts of the case, is relevant, and is therefore admissible to show classwide injury and measurable damages in support of Plaintiffs' Motion for Class Certification. [...]"

The Court [...] has thoroughly considered Dr. Lamb's opinion in its decision on the DPPs' Class Certification Motion." In the Canadian LCD Competition Act Class Action, the Court held that Dr. Lamb's analysis provided "evidence of a viable methodology for the determination of loss on a class-wide basis." In *In re: Puerto Rican Cabotage Litigation*, the Court held that "Dr. Lamb [had] set forth a reputable and workable model for determining damages as to individual class members." In certifying the class in *Clarke and Rebecca Wixon, et al. v. Wyndham Resort Development Corp., et al.*, the Court held that "Dr. Lamb [had] presented a plausible class-wide method of proof." In certifying the class in *Eugene Allan, et al., v. Realcomp II, Ltd., et al.*, the Court held that "the Plaintiffs have produced sufficient evidence that common proofs will yield a finding of class-wide damages that predominates over any specific individualized damages. The Lamb Report and Lamb Reply are sufficient to establish this fact." Furthermore, Dr. Lamb was the Indirect Purchaser Plaintiffs' expert in the *In re: Polyurethane Foam Antitrust Litigation* matter, which was certified by the Court in April 2014.

With regard to agricultural economics, Dr. Lamb has a particular expertise in agricultural markets and has undertaken extensive original research and econometric analysis on markets for agricultural commodities. His articles on agricultural economics have been published in peer-reviewed journals, trade press, and major newspapers. Dr. Lamb regularly presents at conferences on topics including the state of the U.S. Economy and farm policy.

Prior to co-founding Monument Economics Group, Dr. Lamb was a Senior Vice President at Nathan Associates Inc., where he directed the firm's litigation consulting practice nationally. Dr. Lamb previously served as a Principal at AACG in Arlington, VA, and as Managing Director and DC Office Head at Econ One Research. He earlier served as an Assistant Professor of Agricultural Economics and faculty member of the Graduate Group in Economics at North Carolina State University and as an Economist and Senior Economist in the Federal Reserve System of the United States, at the Federal Reserve Board and the Federal Reserve Bank of Kansas City.

Education

- Ph.D., Economics, University of Pennsylvania, 1994
- M.A., Economics, The University of Maryland, 1989
- B.A., Economics, The University of Tennessee, 1987

Expert Testimony Offered

2019 *First Impressions Salon, Inc., et al., v. National Milk Producers Federation, et al.*

- United States District Court for the Southern District of Illinois
- Case No. 3:13-cv-00454-NJR-SCW
- Expert Report, January 4, 2019
- Testified at deposition, February 13, 2019
- Expert Reply Report, May 3, 2019
- Testified at deposition, May 17, 2019
- Opinion concerning class certification and damages issues
- Retained by Barrett Law Group, NastLaw LLC, and Roberts Law Firm

Sheridan Chevrolet Cadillac Ltd., et al., v. JTEKT Corporation, et al.

- Ontario Superior Court of Justice
- Court File No. CV-13-478644-00CP
- Expert Report, January 2, 2019
- Opinion concerning class certification issues
- Retained by Sotos LLP

2018 *Sheridan Chevrolet Cadillac Ltd., et al., v. Hitachi Ltd., et al.*

- Ontario Superior Court of Justice
- Court File No. CV-14-506683-00CP
- Expert Report, October 4, 2018
- Opinion concerning class certification issues
- Retained by Sotos LLP

In Re Suboxone Direct Purchaser Antitrust Litigation

- United States District Court for the Eastern District of Pennsylvania
- Case No. 2:13-MD-02445-MSG
- Expert Report, September 18, 2018
- Testified at deposition, October 30, 2018
- Merits Expert Report, November 30, 2018
- Expert Rebuttal Report, January 11, 2019
- Testified at deposition, January 17, 2019
- Expert Merits Rebuttal Report, April 26, 2019
- Testified at deposition, June 12, 2019
- Opinion concerning class certification, merits, and damages issues
- Retained by Berger & Montague, P.C.; Garwin Gerstein & Fisher LLP; and Faruqi & Faruqi LLP

William Rushing, et al. v. Williams-Sonoma, Inc., et al.

- United States District Court Northern District of California, San Francisco Division
- Case No. 3:16-cv-01421-WHO

- Expert Report, July 25, 2018
- Opinion concerning class certification issues
- Retained by Rose Law Group, PC

The Hospital Authority of Metropolitan Government of Nashville and Davidson County, Tennessee, et al. v. Momenta Pharmaceuticals, Inc., et al.

- United States District Court Middle District of Tennessee Nashville Division
- Civil Action No. 15-cv-1100
- Testified at deposition, October 10, 2018
- Expert Report, June 22, 2018
- Expert Reply Report, September 21, 2018
- Testified at class certification hearing, May 13, 2019
- Declaration, May 21, 2019
- Expert Merits Report, May 24, 2019
- Declaration, June 18, 2019
- Expert Report, July 5, 2019
- Expert Supplemental Reply Report, July 5, 2019
- Testified at hearing, July 12, 2019
- Expert Merits Reply Report, July 29, 2019
- Testified at deposition, August 13, 2019
- Opinion concerning class certification and damages issues regarding indirect purchasers
- Retained by Lief Cabraser Heimann & Bernstein, LLP

2017 *Fady Samaha and Urlin Rent a Car Ltd. v. Yamashita Rubber Co., Ltd., et al.*

- Ontario Superior Court of Justice
- Court File No. CV-13-472262-00CP
- Expert Report, December 4, 2017
- Supplemental Report, July 13, 2018
- Opinion concerning class certification issues
- Retained by Siskinds LLP

In Re Lamictal Direct Purchaser Antitrust Litigation

- United States District Court New Jersey
- Case No. 1 2-95 -WHW-MCA
- Expert Report, November 6, 2017
- Revised Expert Reply Report, April 16, 2018
- Testified at deposition, June 6, 2018
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C.

In Re Namenda Direct Purchaser Antitrust Litigation

- United States District Court Southern District of New York
- Case No. 1:15-CV- 07488
- Expert Report, September 15, 2017

- Amended Expert Report, September 20, 2017
- Expert Reply Report, October 25, 2017
- Amended Expert Reply Report November 9, 2017
- Testified at deposition, October 6, 2017
- Opinion concerning class certification and damages issues
- Retained by Berger & Montague, P.C.; and Garwin Gerstein & Fisher LLP

In Re Capacitors Antitrust Litigation

- United States District Court Northern District of California San Francisco Division
- Case No. 3:14-CV-03264 -JD
- Expert Declaration, February 24, 2017
- Expert Reply Declaration, April 28, 2017
- Testified at deposition, May 17, 2017
- Expert Trial Declaration, November 30, 2018
- Expert Trial Reply Declaration, April 19, 2019
- Testified at deposition, May 23, 2019
- Opinion concerning class certification issues regarding indirect purchasers
- Retained by Cotchett, Pitre & McCarthy, LLP

2016 *Deere Construction, LLC, v. Cemex Construction Materials Florida, LLC, et al.*

- United States District Court Southern District of Florida
- Case No. 15-24375-CIV-ALTONAGA/O'Sullivan
- Expert Report, September 14, 2016
- Testified at deposition, September 27, 2016
- Opinion concerning class certification issues
- Retained by Kozyak Tropin & Throckmorton, LLP; Harke Clasby & Bushman, LLP; and McCallum, Methvin & Terrell, P.C.

Luke Begonja v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-010943)

Gerrit Brouwer, Jr., et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008533)

Gary Gottschalk, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001957)

Susan Hatzipetro, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-007996)

Shelly Keegan, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001953)

Yvonne Klebba, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008535)

Adriane McConville, et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2015-CA-001960)

Ernest W. Yeager Jr., et al. v. Wyndham Vacation Resorts, Inc., et al. (Case No. 2014-CA-008054)

- In the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida
- Expert Report, September 14, 2016
- Testified at deposition, October 27-28, 2016
- Testified at deposition, March 2-3, 2017
- Expert Report, May 19, 2017
- Testified at deposition, August 29, 2017
- Opinion concerning damages issues
- Retained by Badham & Buck, LLC

In Re: Evanston Northwestern Healthcare Corporation Antitrust Litigation

- United States District Court for the Northern District of Illinois Eastern Division
- No. 07-C-4446
- Expert Report, July 28, 2016
- Expert Reply Report, January 25, 2017
- Testified at deposition, September 20, 2016
- Testified at deposition, February 22, 2017
- Opinion concerning damages issues
- Retained by Miller Law LLC

In Re: Ductile Iron Pipe Fittings ("DIPF") Direct Purchaser Antitrust Litigation

- United States District Court for the District of New Jersey
- Civ. No. 12-711 (AET)(LHG)
- Declaration, May 27, 2016
- Reply Declaration, March 31, 2017
- Testified at deposition, July 8, 2016
- Opinion concerning class certification, merits, and damages issues
- Retained by Cohen Milstein Sellers & Toll PLLC; and Kaplan Fox & Kilsheimer LLP

Nestlé Purina Petcare Company v. Blue Buffalo Company, Ltd.

Blue Buffalo Company, Ltd. v. Nestlé Purina Petcare Company, et al.

Blue Buffalo Company, Ltd. v. Wilbur-Ellis Company, et al.

Diversified Ingredients, Inc. v. Wilbur-Ellis Company, et al.

Diversified Ingredients, Inc. v. Custom AG Commodities, LLC, et al.

- United States District Court for the Eastern District of Missouri Eastern Division
- Cause No.: 4:14-CV-00859 RWS
- Affidavit, March 17, 2016
- Opinion concerning pricing issues
- Retained by Lashly & Baer, P.C.

In Re: Cast Iron Soil Pipe and Fittings Antitrust Litigation

- United States District Court Eastern District of Tennessee at Chattanooga
- Case No.: 1:14-md-2508
- Declaration, March 4, 2016
- Testified at deposition, May 19, 2016
- Opinion concerning class certification and damages issues
- Retained by Cohen Milstein Sellers & Toll PLLC; Cera LLP; and Kaplan Fox & Kilsheimer LLP

Darren Ewert v. Denso Corporation, et al.

- Supreme Court of British Columbia
- Case No. S-135610
- Expert Report, February 12, 2016
- Expert Reply Report, January 5, 2017
- Opinion concerning class certification issues
- Retained by Camp Fiorante Matthews Mogerman

Serge Asselin v. Hitachi, LTD & al.

- Cour Supérieure Disctirct de Québec
- Case No. 200-06-000180-144
- Expert Report, February 11, 2016
- Opinion concerning class certification issues
- Retained by Siskinds LLP

2015 *Thomas Mervyn v. Atlas Van Lines, Inc., et al.*

- United States District Court Northern District of Illinois Eastern Division
- Case No. 1:13-CV-03587
- Expert Declaration, September 3, 2015
- Expert Report, February 4, 2016
- Opinion concerning data issues
- Opinion concerning damages issues
- Retained by Miller Law LLC

Thomas Mervyn v. Nelson Westerberg, Inc.

- United States District Court Northern District of Illinois Eastern Division
- Case No. 1:11-CV-06594
- Expert Report, July 27, 2015
- Opinion concerning damages issues
- Retained by Miller Law LLC

Lane's Gifts and Collectibles, LLC v. Microsoft Online, Inc.

- United States District Court Western District of Washington at Seattle
- No. 2:12-cv-01181-BJR
- Expert Report, March 23, 2015

- Testified at deposition, May 21, 2015
- Opinion concerning damages issues
- Retained by Nix, Patterson & Roach, L.L.P.; and Kessler Topaz Meltzer & Check, LLP

BlueCross BlueShield of Tennessee, Inc., et al. v. King Pharmaceuticals, Inc., et al.

- In the Circuit Court for Cocke County, Tennessee
- Civil Action No. 32941-II
- Expert Report, January 23, 2015
- Opinion concerning impact and damages issues
- Retained by Miller Law LLC

In Re: Domestic Drywall Antitrust Litigation

- United States District Court for the Eastern District of Pennsylvania
- MDL No. 2437 13-MD-2437
- Trial Expert Report, January 23, 2015
- Reply Expert Report, April 23, 2015
- Expert Report concerning class certification, August 3, 2016
- Expert Reply Report concerning class certification, January 9, 2017
- Affidavit, July 11, 2019
- Testified at deposition, February 25, 2015
- Testified at deposition, August 30, 2016
- Testified at deposition, February 17, 2017
- Testified at class certification hearing, April 27, 2017
- Expert Supplemental Report, July 31, 2017
- Opinion concerning merits issues regarding direct purchasers
- Opinion concerning class certification issues, impact and damages regarding direct purchasers
- Retained by Cohen Milstein Sellers & Toll PLLC; Berger & Montague, P.C.; and Spector Roseman Kodroff & Willis, P.C.

In Re: Processed Egg Products Antitrust Litigation

- United States District Court for the Eastern District of Pennsylvania
- MDL No. 2002
- Expert Declaration, January 22, 2015
- Expert Reply Declaration, April 3, 2015
- Testified at deposition, May 7, 2015
- Opinion concerning merits and damages issues regarding indirect purchasers
- Retained by Straus & Boies, LLP

2014 *In Re: Class 8 Transmission Indirect Purchaser Antitrust Litigation*

- United States District Court for the District of Delaware
- Civil Action No. 11-cv-00009 (SLR)
- Declaration, November 3, 2014
- Reply Declaration, March 6, 2015

- Trial Declaration, March 27, 2015
- Trial Reply Declaration, July 2, 2015
- Testified at deposition, December 17, 2014
- Testified at deposition, March 16, 2015
- Testified at class certification hearing, March 25, 2015
- Testified at deposition, May 1, 2015
- Opinion concerning class certification issues regarding indirect purchasers
- Opinion concerning merits and damages issues regarding indirect purchasers
- Retained by Glancy Binkow & Goldberg LLP

Mark S. Wallach, et al., v. Eaton Corporation, et al.

- United States District Court District of Delaware
- Civil Action No. 10-260-SLR
- Expert Report, November 3, 2014
- Expert Reply Report, March 6, 2015
- Trial Expert Report, March 27, 2015
- Trial Expert Reply Report, July 2, 2015
- Testified at deposition, December 16, 2014
- Testified at deposition, March 16, 2015
- Testified at class certification hearing, March 25, 2015
- Testified at deposition, May 1, 2015
- Opinion concerning class certification issues regarding direct purchasers
- Opinion concerning merits and damages issues regarding direct purchasers
- Retained by Cohen Milstein Sellers & Toll PLLC

Sheridan Chevrolet Cadillac Ltd., et al., v. Furukawa Electric Co. Ltd., et al.

Sheridan Chevrolet Cadillac Ltd., et al., v. Mitsubishi Electric Corporation, et al.

- Ontario Superior Court of Justice
- Court File Nos. CV-12-446737-00CP / CV-14-496994-00CP
- Expert Report, April 15, 2016
- Expert Report, October 14, 2014
- Opinion concerning class certification issues
- Retained by Siskinds LLP

Resco Products, Inc., v. Bosai Minerals Group Co., Ltd., et al.

- United States District Court for the Western District of Pennsylvania
- Civil Action No.: 2:06-cv-235-JFC
- Expert Report, September 24, 2008
- Expert Report, September 29, 2014
- Supplemental Expert Report, December 15, 2014
- Testified at deposition, February 13, 2015
- Opinion concerning damages
- Retained by Boies, Schiller & Flexner LLP

Fond Du Lac Bumper Exchange Inc., et al. v. Jui Li Enterprise Company Ltd. et al.

- United States District Court Eastern District of Wisconsin
- Case No.: 2:09-cv-00852-LA
- Affidavit, August 1, 2014
- Affidavit, November 4, 2014
- Declaration, April 24, 2015
- Expert Report, July 15, 2015
- Expert Reply Report, November 24, 2015
- Expert Surreply Report, January 15, 2016
- Expert Trial Report, August 18, 2016
- Expert Trial Reply Report, December 20, 2016
- Testified at deposition, October 1, 2015
- Testified at deposition, February 13, 2017
- Opinion concerning class certification and damages issues
- Opinion concerning Defendants' replacement data
- Opinion concerning Defendant and LKQ transaction-level data
- Opinion concerning merits and damages issues
- Retained by Stueve Siegel Hanson, LLP

Meredith Corporation, et al., v. SESAC, LLC, et al.

- United States District Court for the Southern District of New York
- 09 Civ. 9177 (PAE)
- Expert Report, July 10, 2014
- Opinion concerning class certification issues
- Retained by Weil, Gotshal & Manges LLP

Janet Skold, et al., v. Intel Corporation, et al.

- Superior Court of the State of California for the County of Santa Clara
- Case No. 1-05-CV-039231
- Expert Report, June 14, 2007
- Testified at deposition, August 31, 2007
- Testified at deposition, January 10, 2014
- Opinion concerning class certification issues
- Opinion concerning damages issues
- Retained by Girard Gibbs LLP

In Re: Polyurethane Foam Antitrust Litigation

- United States District Court Northern District of Ohio Western Division 8
- MDL No. 2196
- Declaration, June 11, 2013
- Reply Declaration, October 23, 2013
- Trial Declaration, March 18, 2014
- Reply Trial Declaration, June 30, 2014

- Testified at deposition, August 20, 2013
- Testified at deposition, November 20, 2013
- Testified at class certification hearing, January 15, 2014
- Testified at deposition, April 14, 2014
- Testified at deposition, July 14, 2014
- Opinion concerning class certification issues regarding indirect purchasers
- Opinion concerning merits and damages issues
- Retained by Miller Law LLC

Professional Experience

Economic Consulting Positions

Monument Economics Group, Oct. 11, 2016 - Present

Nathan Associates, Inc., Arlington, VA, *Senior Vice President*, Jan. 2013 – Sep. 20, 2016

Advanced Analytical Consulting Group, Inc., Washington, DC, *Principal*, Mar. 2011– Jan. 2013

Econ One Research, Inc., Washington, DC, *Managing Director and DC Office Head*, Jul. 2006 – Mar. 2011

- Opened and staffed the DC office; managed office affairs on a daily basis
- Retained as an expert witness for damages and class certification issues in antitrust, breach of contract, product liability and RICO cases; representative testimony includes determination of liability and damages in a case involving resale price maintenance in consumer products, class certification in a horizontal price-fixing case involving international travel in the airline industry, class certification in a consumer class action involving RICO claims in state court
- Industry pre-litigation analyses for consumer products, chemicals, and other industries

Navigant Consulting, Inc., Washington, DC, *Associate Director*, Feb. 2006 – Jul. 2006

- Case manager for damages analysis in asbestos litigation and personal injury claims

Nathan Associates, Inc., Arlington, VA, *Managing Economist*, Jul. 2004 – Feb. 2006

- Case manager for economic analysis of class certification and damages issues in antitrust and RICO cases involving the chemical, consumer products, and tobacco industries
- Retained as expert on damages for direct purchasers of NBR in the Crompton Global Settlement; submitted an Affidavit on damages and appeared before the Special Master for the Crompton Global Settlement (the Hon. Kenneth Feinberg)

Board Membership

- Board of Advisors, American Antitrust Institute, Washington, DC

- Department of Economics Advisory Council, University of Tennessee, Knoxville, Chairman, Spring 2006 – April 2011

Teaching Positions

- The George Washington University, Washington, DC, *Adjunct Assistant Professor of Economics*, Fall 2004 – present
- North Carolina State University (NCSU), *Assistant Professor* (Department of Agricultural and Resource Economics), Fall 1999 – Spring 2004
- The University of Pennsylvania, *Adjunct Instructor*, Summer 1990 – Spring 1994

Additional Teaching Experience

- The Wharton School Evening Division, Philadelphia, PA, summer 1993
- Rutgers University, Camden, NJ, summer 1993
- Philadelphia College of Textiles and Science, Philadelphia, PA, fall 1992
- The Pennsylvania State University, Media, PA, 1991
- St. Mary's College of Maryland, St. Mary's City, MD, summer 1989
- The University of Maryland University College, College Park, MD, 1988-1989

Courses Taught

- Managerial Economics for MBA students (George Washington University)
- Law and Economics (George Washington University)
- Intermediate Microeconomics – graduate level (George Washington University)
- Latin American Economic Development (George Washington University)
- International Trade: Theory and Policy (George Washington University)
- International Finance: Theory and Policy (George Washington University)
- Agricultural Production and Supply – Ph.D. field course (North Carolina State University)
- U.S. Agricultural Policy (North Carolina State University)
- Microfinance: Theory, Practice and Regulation (Superintendencia de Banca y Seguros)
- Statistical Analysis for Economics (University of Pennsylvania)
- Principles of Microeconomics (University of Maryland, St. Mary's College of Maryland)
- Principles of Macroeconomics (University of Pennsylvania, The Wharton School, Penn State University)
- Fundamentals of Micro/Macro Economics (University of Maryland)

- Environmental and Natural Resource Economics (Rutgers)

Federal Reserve Experience

Federal Reserve Bank of Kansas City, *Senior Economist* Jan. 1998 – Aug. 1999; *Economist*, Jan. – Dec. 1997

- Analysis of regional, macroeconomic developments in agriculture, and energy
- Research on public policy towards agriculture in the U.S., especially the impact of farm policy reform
- Briefings to the Bank president and outside groups on the regional economy, agriculture, agricultural trade

Board of Governors of the Federal Reserve System, *Economist*, Jun. 1994 – Dec. 1996

- Analysis of macroeconomic conditions, commodity markets, and prices (CPI, PPI, Core prices)
- Forecasting of agricultural output, prices, and income
- Briefings to the Board of Governors on agriculture and food-price developments

Other Consulting Experience

World Perspectives, Inc., 2003 - 2004

- Analysis of trade barriers for U.S. exports of feed ingredients, pet food ingredients, and food ingredients
- Analysis of the impact of a Free Trade Area of the Americas on U. S. soybean producers
- Analysis of the potential for U.S. Halal-certified meat exports to the Middle East

Womble Carlyle Sandridge & Rice, LLP, 2003 - 2004

- Provided expert testimony related to the estimation of business profitability Smith-Moore, 2002 - 2003
- Provided economic analysis of the U.S. Tobacco Program

Superintendencia de Banca y Seguros (Lima, Peru), 1998 - 2000

- Developed and taught a class on Microfinance issues (in English) to students enrolled in a training program for bank examiners; the program was sponsored by the Inter-American Development Bank.

World Bank, Africa Technical Department, 1992 – 1993

- Summarized and provided an overview of data available on African economic and social indicators

ACG-Afrique, January 1993

- Provided critical review of a study document outlining the impact of structural adjustment on African agriculture

Professional Organizations

- National Association for Business Economics
- American Economic Association

Papers, Publications, and Speeches

Papers Published in Refereed Journals

- “Government Regulation and Quality in the U.S. Beef Market,” (with Peyton Ferrier) *Food Policy*, Vol. 32, No. 1, February 2007, 84-97
- “Rent-seeking in U.S.-Mexican Avocado Trade,” *Cato Journal*, Vol. 26, No. 1, December 2006, 159-177
- “Consolidation in U.S. Agriculture and the Role of Public Policy,” *The ICFAI Journal of Agricultural Economics*, Vol. 1, 2004, 7-16
- “Fertilizer Use, Risk, and Off-farm Labor Markets in the Semi-Arid Tropics of India,” *American Journal of Agricultural Economics*, Vol. 85, No. 2, May 2003, 359-371
- “Inverse Productivity: Land Quality, Labor Markets, and Measurement Error,” *Journal of Development Economics*, Vol. 71, No. 1, June 2003, 71-95
- “A Market-Forces Policy for the New Farm Economy?” *Review of Agricultural Economics*, Vol. 24, No. 1, 1 March 2002, 15-30
- “Food Crops, Exports, and the Short-run Policy Response of Agriculture in Africa,” *Agricultural Economics*, Vol. 22, No. 3, April 2000, 271-298
- “FAIR Act Implications for Land Values in the Corn Belt,” (with Jason Henderson) *Review of Agricultural Economics*, Vol. 22, No. 1, Summer – Spring 2000, 102-119
- “Why are Estimates of Agricultural Supply Response So Variable?” (with Francis X. Diebold) *Journal of Econometrics*, Vol. 76, No. 1-2, January – February 1997, 367-373

Non-refereed Publications, Articles, and Editorials

- “The Predominance Requirement for Antitrust Class Actions – Can Relevant Market Analysis Help?” (with Jeffrey Leitzinger) American Bar Association – Section of Antitrust Law, *Economics Committee Newsletter*, Vol. 7, No. 1, Spring 2007, 17-22
- “Reform of U.S. Farm Policy in an Integrating World Economy,” *Developing Countries in the WTO System*, 2006
- “New Farm Economy,” *Regulation*, Winter 2003-2004, Cato Institute for Public Policy Research, 2003
- “What Road Will U.S. Economy Take in 2003?” *Southeast Farm Press*, 5 February 2003
- “Fast Track for the Tax Cuts,” guest editorial, *News and Observer*, 18 January 2003
- “The 2002 Farm Bill,” (with Blake Brown and Michele Marra) *NC State Economist*, November – December 2002

- “Economy-minded Tax Cuts: Bush's Reductions Provided the Boost to Lift U.S. From Recession,” guest editorial, *News and Observer*, 2 July 2002
- “Policy Only Effective if Farm Economy is Recognized,” special report to *Feedstuffs*, 5 June 2000
- “Aid During Crisis of Little Long-term Help to Farmers,” guest editorial, *Kansas City Star*, 23 August 1999
- “Survey of Agricultural Credit Conditions,” Federal Reserve Bank of Kansas City,” *Regional Economic Digest*, various issues, 1997-1999
- “U.S. Agriculture at the Crossroads in 1999,” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 84, No. 1, 1999, 73-91
- “Can U.S. Oil Production Survive the 20th Century?” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 84, Quarter I, 1999
- “Will the Tenth District Catch the Asian Flu?” (with Ricardo Gazel) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, Quarter II, 1998, 9-26
- “From the Plains to the Plate: Can the Beef Industry Regain Market Share?” (with Michelle Beshear) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, Quarter IV, 1998, 49-66
- “U.S. Agriculture: Another Solid Year in 1998?” (with Mark Drabenstott) *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 83, No. 1, Quarter I, 1998, 55-74
- “How Will the 1996 Farm Bill Affect the Outlook for District Farmland Values?” *Economic Review*, Federal Reserve Bank of Kansas City, Vol. 82, Quarter IV, 1997, 85-101
- “Food Prices and the Farm Sector,” monthly *Greenbook*, Federal Reserve Board of Governors, various issues 1994-1996
- “Hedge to Arrive Contracts,” Memo to the Board of Governors, Federal Reserve Board of Governors, 5 June 1996
- “Prices in the May Greenbook,” Federal Reserve Board of Governors, 19 May 1996
- “Prices in the March Greenbook,” Federal Reserve Board of Governors, 24 March 1996
- “Commodity Price Developments,” Weekly memo to the Board of Governors, Federal Reserve Board of Governors, August 1994 – December 1996

Conference Presentations

- “Class Action Developments,” panelist at the American Antitrust Institute’s 6th Annual Private Antitrust Enforcement Conference, Washington, DC: 4 December 2012
- “Consequences for Antitrust Thought and Practice,” presented at the American Antitrust Institute Invitational Symposium: Antitrust Challenge of Multi-Channel Distribution in the Internet Age, Washington, DC: 22 June 2011

- “The U.S. Economy in the Year Ahead,” presented at the Long Company Annual Conference, Chicago, IL: 11 September 2009 and 19 September 2008
- “The U.S. Economic Outlook,” presented at the Industry Outlook Conference, Chicago, IL: 17 October 2006 and 18 October 2005
- “How Will the Economy Impact Your Business?” presented at the Long Company Annual Conference, Las Vegas, NV: 14 August 2004
- “Focus on The Economy” presented at *Milling and Baking News* Annual Purchasing Managers’ Conference, Kansas City, MO: 14 June 2004, 10 June 2003 and 11 June 2002
- “The U.S. Economic Outlook and Agriculture,” presented at the Industry Outlook Conference, Chicago, IL: October 2003
- “The U.S. Economic Outlook and Agriculture,” presented at the Industry Outlook Conference, Breckenridge, CO: 7 April 2002
- “The U.S. Economic Outlook: The Cost of Terror,” presented at the Southern Agricultural Outlook Conference, Atlanta, GA: 24 September 2001
- “The Economy in Focus,” presented at *Milling and Baking News* annual purchasing managers’ conference, Kansas City, MO: 5 June 2001
- “The Great American Growth Machine,” presented at the Southern Agricultural Outlook Conference, Atlanta, GA: 27 September 2000
- “The Economy in Focus,” presented at *Milling and Baking News* annual purchasing managers’ conference, Kansas City, MO: 6 June 2000
- “The Outlook for the U.S. Pork Sector,” presented to the Industry Outlook Conference, Las Vegas, NV: 17 April 2000
- “The National Economic Outlook: The Road Ahead,” presented to the Food Industry Outlook Conference, Breckenridge, CO: 11 April 1999
- “Farm Policy for the New Millennium,” presented to Federal Reserve Bank of Kansas City, Division of Bank Supervision and Regulation, Bank Examiners’ Annual Training Conference, 7 January 1999
- “The Impact of the 1996 Farm Bill on Farmland Values,” (with Jason Henderson) first place poster presentation at the annual meetings of the American Agricultural Economics Association, Salt Lake City, UT: 4 August 1998
- “A Note on the Inverse Productivity Relationship,” presented at the annual meetings of the Western Economic Association International, Seattle, WA: July 1997
- “Off-farm Labor Supply and Fertilizer Use in the Semi-Arid Tropics of India,” presented at the annual meetings of the American Agricultural Economics Association, August 1995
- “Prices for Food-Away-From-Home and Core Inflation: Some Empirical Relationships,” (with James E. Kennedy) presented at the Federal Reserve System Committee on Agriculture, Richmond, VA: October 1995

- “Some Simple Dynamics of Farming,” presented at the annual meetings of the American Agricultural Economics Association, Orlando, FL: August 1993
- “Structural Adjustment and Food Security,” (with W. Graeme Donovan), presented at the annual meetings of the American Agricultural Economics Association, Orlando, FL: August 1993
- “Structural Adjustment and African Agricultural Supply Response to Exchange Rate and Price Movements,” (with W. Graeme Donovan), presented at the annual meetings of the Southern Agricultural Economics Association, Tulsa, OK: January 1993

Other Presentations

- Panelist, “Antitrust Class Actions – Where Are We? A 360 Degree Perspective,” NYSBA Annual Antitrust Law Section Meeting,” 30 January 2014
- Panelist, Retrospective on the Baby Products Litigation, ABA Section of Antitrust Law: Pricing Conduct Committee, 31 July 2013
- Panelist, Economic Forecasting Summit, Northern Indiana Workforce Investment Board, Inc., 29 March 2007
- “The Welfare Benefits of USDA Beef Quality Certification Programs” (with Peyton Ferrier), presentation memo, 2007
- “Reform of U.S. Farm Policy in an Integrating World Economy,” presented to the Cordell Hull Institute, Trade Policy Roundtable on Reform of U.S. Farm Policy and the WTO System, Washington, DC: 31 March 2006
- “The Case for a Market-forces Farm Policy in the U.S.” presented at the Cordell Hull Institute Trade Policy Roundtable, Washington DC: 26 May 2005
- “How Will the Economy Impact Your Business?” presented at the Apple Processors Association annual meeting, Homewood Resort, 20 June 2004
- “The U.S. and International Economic Outlook,” presented at the AgFirst Loan Officer’s Seminar, Atlanta, GA: 30-31 October 2002
- “Will the U.S. Economy Bounce or Crawl?” presented to the Eastern Bankruptcy Institute, North Myrtle Beach, SC: 1 June 2002
- “The U.S. Economic Outlook and Agriculture,” presented to the National Pork Producers Pork Action Group, Washington, DC: 10 April 2002
- “The U.S. Economic Outlook” presented to the Risk Management Associates, Raleigh, NC: 7 February 2002
- “The U.S. Economic Outlook: The Cost of Terror,” presented at the National Pork Producers Pork Action Group, Marco Island, FL: 14 November 2001
- “Consolidation in Agriculture and the Role of Public Policy,” paper presented to the Southern Extension Meetings, Williamsburg, VA: 13 June 2000

- “The New Farm Economy,” presented at the annual meetings of the National Association of County Agricultural Agents, Omaha, NE: 14 September 1999
- “Regional Economic Update,” presented to bankers in Kansas, Nebraska, Missouri, and Oklahoma as part of the Regulatory Update Seminar, Federal Reserve Bank of Kansas City, April 1999
- “The National Economic Outlook,” presented to Oklahoma State University Advanced Cattle Management Seminar, Stillwater, OK: 11 March 1999
- “Regional Economic Update,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 13 November 1998
- “Can the Tenth District Survive the Asian Flu?” The Federal Reserve Bank of Kansas City Economic Forums, nine presentations to bankers in Wyoming, Oklahoma, and New Mexico, 21 September – 21 October 1998
- “The Impact of Asian Economic Developments on Tenth District Agriculture,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 30 January 1998
- “The Outlook for the Nebraska Economy,” The Federal Reserve Bank of Kansas City: Nebraska Economic Forums, six presentations to bankers in Nebraska, 6-15 October 1997
- “Update on the Macroeconomy and Special Briefing on Forecast Performance at the Kansas City Fed,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 13 August 1997
- “Regional Economic Update,” presented to Thomas Hoenig, President, Federal Reserve Bank of Kansas City, 14 May 1997 and 21 March 1997
- “Producer Prices, Retail Sales, and Agricultural Commodity Markets,” presented to the Board of Governors of the Federal Reserve System, 15 July 1996

Referee Experience

Referee for the Following Academic Journals

- World Development, 1993
- Journal of Development Economics, 1994, 1995
- International Economic Review, 1995
- Journal of Human Resources, 1997
- Journal of Business and Economics Statistics, 1997
- American Journal of Agricultural Economics, 1999, 2001, 2002
- Agricultural Economics, 2000, 2001, 2004
- Agricultural Finance Review, 2000, 2004
- Review of Agricultural Economics, 2000, 2002, 2004

- Journal of Agricultural and Resource Economics, 2000, 2001, 2002
- Emerging Markets Review, 2001
- Contemporary Economic Policy, 2004

Fellowships, Honors, and Awards

Fellowships

- Departmental Fellowship, University of Pennsylvania, 1989-1990
- Dean's Fellowship, University of Pennsylvania, 1991-1992
- Graduate School Fellowship, University of Maryland, College Park, 1987-1989

Honor Societies and Professional Organizations

- Phi Eta Sigma National Honor Society
- Mortar Board National Honor Society
- Golden Key National Honor Society
- Vice President for Professional Activities, Delta Sigma Pi

Awards

- Top Graduate in Liberal Arts, University of Tennessee, Knoxville, Spring 1987
- Chancellor's Citation for Extraordinary Professional Promise, University of Tennessee, Knoxville
- Chancellor's Citation for Outstanding Academic Achievement, University of Tennessee, Knoxville
- First place poster presentation, American Agricultural Economics Association annual meetings, August 1998 (with Jason Henderson)
- Honorable mention, American Agricultural Economics Association, Essay for the 21st Century, 2001, "A Market Forces Policy for the New Farm Economy"
- Honorable mention, American Antitrust Institute Antitrust Enforcement Awards, Outstanding Antitrust Litigation Achievement in Economics (for work on *In Re Titanium Dioxide Antitrust Litigation matter*)
- American Antitrust Institute Antitrust Enforcement Awards, Outstanding Antitrust Litigation Achievement in Economics (for work on *In Re Domestic Drywall Antitrust Litigation matter*)

External Funding

- "Unmanufactured Flue-Cured Tobacco Exports and the Export Component of the Quota Formula." \$13,890 NC Tobacco Foundation. With Blake Brown 2000 – 2001.

Professional Activities and Services

Graduate Student Advising

M.A. degree, North Carolina State University

- Joe Weinberg (Political Science)

Master of Economics, North Carolina State University

- William Pole (2000)
- Dwight Wilder (Chairman, 2002)
- Adrian Atkeson (2002)
- Sarah Spivey
- Li Zhang (Chairman, 2003)
- Nia Atmadja (2003)

Doctor of Philosophy, North Carolina State University

- William Deese (2003)
- Peyton Ferrier (Chairman, 2004)
- Yang Wang (2003)
- Bobby Huggett (2003)
- Syed Wadood (Chairman, 2004)
- Henry Kuo

Economic and Statistical Modeling Skills

- Experience with all major statistical software including SAS, STATA, LIMDEP and C++; applied econometric modeling skills in damage analysis of consumer industries, chemicals industries, and agricultural markets, correlation analysis for class certification.