

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE TURKEY ANTITRUST LITIGATION

Case No. 1:19-cv-08318

This Document Relates To:

Honorable Sunil R. Harjani
Hon. Keri L. Holleb Hotaling

COMMERCIAL AND INSTITUTIONAL
INDIRECT PURCHASER PLAINTIFF
ACTION (Case No. 1:20-cv-02295)

**ORDER GRANTING COMMERCIAL AND INSTITUTIONAL INDIRECT
PURCHASER PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENTS WITH DEFENDANTS PERDUE FARMS, INC.,
PERDUE FOODS LLC, FOSTER FARMS LLC, AND FOSTER POULTRY FARMS LLC,
AND RELATED RELIEF**

Commercial and Institutional Indirect Purchaser Plaintiffs ("CIIPPs") have entered into settlement agreements with Perdue Farms, Inc., and Perdue Foods LLC ("Perdue"), and Foster Farms LLC and Foster Poultry Farms LLC, ("Foster Farms") on behalf of the Commercial and Institutional Indirect Purchaser litigation class certified by the Court ("Settlements" or "Settlement Agreements"). Before the Court is CIIPPs' Unopposed Motion for Preliminary Approval of the Settlement Agreements with Perdue and Foster Farms and for Approval of the Manner and Form of the Class Notice Plan and Related Relief. ECF No. 1941. Since the filing of the Motion, CIIPPs have advised the Court that they have reached an additional settlement and seek to combine notice of the pending settlements with notice of that and any other appropriate settlements to avoid the expense associated with multiple notices. The Court, having reviewed the Motion; its accompanying memorandum, declarations and exhibits thereto; the proposed Settlement Agreements; the file; and having considered the presentation of Class Counsel, hereby: **ORDERS:**

Notice of the Court's Class Certification Order

1. The Court certified the following CIIPP damages and injunctive relief class in its order dated January 22, 2025 (ECF No. 1107) (the “Certified Class”):

All entities in the Indirect Purchaser States that indirectly purchased fresh or frozen, uncooked turkey breast, ground turkey, or whole bird turkey products sold by Defendants in the United States during the Class Period for their own use in commercial food preparation.¹

2. Excluded from the Class are all persons who previously filed a valid request for exclusion from the Certified Class by the Court-ordered deadline. Specifically excluded from this Class are the Defendants and their alleged Co-Conspirators; the officers, directors or employees of any Defendant or alleged Co-Conspirator; any entity in which any Defendant or their alleged Co-Conspirator has a controlling interest; any entity with an interest, controlling or non-controlling, in a Defendant or their alleged Co-Conspirator; any (in whole or in part), affiliate, legal representative, heir or assign of any Defendant or their alleged Co-Conspirator. Also excluded from this Class are any federal, state or local governmental entities, any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, any juror assigned to this action, and any alleged Co-Conspirator identified in this action.

3. The Class Period is January 1, 2010, through December 31, 2016.

4. The Court appointed Michael J. Flannery of Cuneo Gilbert Flannery & LaDuca, LLP and Sterling Aldridge of Barrett Law Group, P.A. to serve as CIIPP Class Counsel.

¹ CIIPPs assert claims under the Sherman Act to secure injunctive relief for Class members in Indirect Purchaser States; claims for violations of state antitrust laws to secure damages; and claims for unjust enrichment and violations of state consumer protection law predicated on Defendants’ alleged antitrust violations. The Indirect Purchaser States are: Arizona, Arkansas, California, the District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Hampshire, New Mexico, Nevada, New York, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Wisconsin, and West Virginia.

5. The Court directed notice regarding certification of the CIIPP Class be distributed pursuant to Federal Rule of Civil Procedure (“Rule”) 23(c)(2)(B).

Preliminary Approval of the Settlements

6. CIIPPs have entered into Settlement Agreements with Perdue Farms, Inc., and Perdue Foods LLC (“Perdue”), and Foster Farms LLC and Foster Poultry Farms LLC, (“Foster Farms”) on behalf of the Certified Class.

7. The Court has jurisdiction over this action and each of the Parties to the Settlement Agreement. Upon review of the record, the Court finds that the Settlement Agreements, which were arrived at by arm’s-length negotiations by highly experienced counsel, meet all factors under Rule 23(e)(2) and will likely be granted Final Approval by the Court, subject to further consideration at the Court’s Fairness Hearing. The Court finds that the Settlements were preliminarily determined be fair, reasonable, adequate, and in the best interests of the Certified Class; raise no obvious reason to doubt their fairness; and raise a reasonable basis for presuming that the Settlements satisfy the requirements of Rule 23(e), and due process.

8. The Court grants preliminary approval of the CIIPP settlement with Perdue.

9. The Court grants preliminary approval of the CIIPP settlement with Foster Farms.

No New Opportunity to Opt-Out of Certified Class

10. Given that Certified Class members have already been provided an opportunity to exclude themselves, the Court finds, in its discretion, that an additional opportunity to opt out is not warranted and is not required here. The Court previously certified the CIIPP Class on January 22, 2025 (ECF No. 1107) and the deadline for class members to request exclusion ran well over one year ago (ECF No. 1286.) At this stage, fairness no longer requires giving Class members another opportunity to opt out. *See In re Brand Name*

Prescription Drugs Antitrust Litigation, 1996 WL 167347, at * 3 (N.D. Ill. Apr. 4, 1996). The purpose of providing class members with notice and an opportunity to opt out is to ensure that due process is satisfied and they can be bound by the judgment in the case, whether good or bad. But to allow Class members to opt out after summary judgment has been granted in favor of Foster Farms and Perdue, the Court would invite Class members to make their opt-out decisions based on after-the-fact assessments of rulings and developments in the case and in a manner that permits them to avoid judgment. Such a result is contrary to the principles of Rule 23. *See In re Broiler Antitrust Litigation*, Case No.: 1:16-cv-08637, ECF. No. 7179, ¶ 8 (order granting preliminary approval of settlements and notice plan and stating that “[a]s Certified Class members have already been provided an opportunity to exclude themselves, the Court finds that an additional opportunity to opt out is not warranted and is not required here.”).

11. After issuing its January 22, 2025 Class Certification Order (ECF No. 1107), the Court issued an April 9, 2025, order directing notice of its Class Certification Order be distributed to the Certified Class. *See* ECF 1286. In the notice approved by the Court, class members were advised that any request to be excluded from the Certified Class were due no later than August 29, 2025. ECF No. 1396-1 at p. 17 of 48.

Deferral of Class Notice

12. The Court previously granted CIPPs’ unopposed Motions for Preliminary Approval of the Settlements with House of Raeford Farms, Inc. (“House of Raeford”) and Agri Stats, Inc. (“Agri Stats”). ECF Nos. 1785, 1812. CIPPs have now also obtained preliminary approval of the Settlements with Foster Farms and Perdue and have advised the Court that they have reached an additional settlement that they intend to present for preliminary approval.

13. To avoid the expense and potential confusion associated with multiple notices to the Certified Class, the Court finds it appropriate to defer approval and dissemination of Class

Notice so that notice of the House of Raeford, Agri Stats, Foster Farms, and Perdue Settlements may be combined with notice of other settlements, including the recently reached settlement that CIIPPs intend to present to the Court for preliminary approval.

14. Accordingly, the Court defers ruling on CIIPPs' request for approval of the manner and form of the Class Notice Plan and the proposed Class Notice documents. CIIPPs shall submit revised consolidated notice materials and a proposed schedule for Class Notice, objections, final-approval briefing, and a Fairness Hearing at a later date.

15. Pending further order of the Court, CIIPPs are not required to disseminate the Class Notice presently proposed in connection with the Motion.

16. To the extent the Court's prior orders preliminarily approving the House of Raeford and Agri Stats Settlements, ECF Nos. 1785 and 1812, require dissemination of Class Notice by September 8, 2026, that deadline is modified. Class Notice shall instead be disseminated pursuant to the schedule established by the Court following submission and approval of CIIPPs' revised consolidated notice materials.

Other Provisions

17. If the Settlements are not granted Final Approval by this Court or are otherwise terminated by the Parties in accordance with the terms of their Settlement Agreements, the Court will modify any existing scheduling orders as necessary to ensure that the CIIPPs and Foster Farms and Perdue will have sufficient time to prepare for the resumption of litigation.

IT IS SO ORDERED

DATED: 8/26/2026



Honorable Sunil R. Harjani
United States District Court
Northern District of Illinois