

**UNITED STATES DISTRICT COURT
DISTRICT COURT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

This Document Relates To:

THE DIRECT PURCHASER
PLAINTIFF CLASS ACTION

Case No. 18-cv-01776 (JRT-JFD)

**DECLARATION OF MICHAEL
H. PEARSON IN SUPPORT OF
MOTION TO PRELIMINARILY
APPROVE THE DIRECT
PURCHASER PLAINTIFF
CLASS'S PROPOSED
SETTLEMENTS WITH THE
TYSON, CLEMENS, AND
TRIUMPH DEFENDANTS, AND
TO APPROVE CLASS NOTICE**

I, Michael H. Pearson, declare and state:

1. I am a Partner of the law firm of Pearson Warshaw, LLP. This Court has appointed my firm, together with Lockridge Grindal Nauen PLLP, as Co-Lead Class Counsel for the Direct Purchaser Plaintiff Class (“DPPs”) in this litigation.

2. I submit this Declaration in support of the Motion To Preliminarily Approve The Direct Purchaser Plaintiff Class’s Proposed Settlements With The Tyson, Clemens, And Triumph Defendants, And To Approve Class Notice filed simultaneously herewith.

3. Since the initial complaint was filed, DPPs have continued their factual investigation into the conspiracy alleged in their complaint, and once the Court largely denied Defendants’ motions to dismiss Plaintiffs’ complaints, DPPs commenced extensive discovery.

4. During discovery, DPPs obtained responses to multiple sets of interrogatories, and received millions of documents in response to their requests for production and third-party subpoenas. DPPs, along with other plaintiffs, have taken dozens depositions of the Defendants and third parties. DPPs have also provided responses to written discovery, produced documents, and DPP’s named representatives have appeared for depositions noticed by the Defendants.

5. On November 17, 2020, DPPs and the JBS Defendants entered into a settlement that provided for a payment of \$24,500,000 and meaningful cooperation. The Court granted final approval of that settlement on July 26, 2021. (*See* ECF No. 838.) On June 29, 2021, DPPs and the Smithfield Defendants entered into a settlement that provided for a payment of \$83 million and meaningful cooperation. The Smithfield settlement was

subject to a \$5,635,700 reduction based on the opt-outs received during the settlement administration process. The total net amount paid by Smithfield equaled \$77,364,300. The Court granted final approval of that settlement on January 31, 2022. (*See* ECF No. 1154.) On June 12, 2023, DPPs and Seaboard Foods LLC entered into a settlement that provided for a payment of \$9,750,000 and meaningful cooperation. The Court granted final approval of that settlement on March 5, 2024. (*See* ECF No. 2137.) On March 29, 2024, DPPs and Hormel Foods Corporation entered into a settlement that provided for a payment of \$4,856,000 and meaningful cooperation. The Court granted final approval of that settlement on October 3, 2024. (*See* ECF No. 2618.) Pursuant to the Settlement Agreements, Tyson will pay \$50 million plus notice and administration costs of up to \$2 million, Clemens will pay \$10 million, and Triumph will pay \$4 million. These settlements total \$64 million, and bring the total amount recovered by the DPP Class to \$180,470,300.

6. On behalf of DPPs, I, my firm, and my Co-Lead Class Counsel personally conducted separate and confidential settlement negotiations with counsel for Tyson, Clemens, and Triumph.

7. The Settlement Agreements do not contain any reduction or termination provisions.

8. The proposed Settlements come after extensive separate, confidential, protracted arm's-length negotiations between the parties. Throughout all of these settlement discussions, counsel for DPPs focused on obtaining the best possible result for the DPP class.

9. As with these prior approved settlements, DPP Co-Lead Class Counsel performed a thorough investigation prior to reaching these proposed Settlements with the Settling Defendants and, given that the case has proceeded for nearly seven years, and that class certification proceedings, fact discovery, and summary judgment proceedings were completed by the time of the Settlements, Co-Lead Class Counsel were well informed by the time the parties agreed to settle.

10. The separate negotiations included many conferences and written exchanges between counsel.

11. With regard to Tyson, after engaging in initial discussions the parties agreed to retain Judge Daniel Weinstein (ret.), a nationally renowned mediator. The settlement negotiations with Tyson were thorough and extensive. With the assistance of Judge Weinstein, DPPs and Tyson exchanged mediation briefs, made presentations addressing the merits of the case, and exchanged settlement offers and demands. This process included numerous conferences with Judge Weinstein and his team, two videoconference mediations, as well as other discussions. None of these efforts resulted in a settlement, and there were times when it appeared that the parties had reached an impasse. Following the Court's Order on Defendants' motions for summary judgment (ECF No. 2929), the parties continued to negotiate regarding the settlement terms, ultimately executing the Tyson Settlement Agreement on April 15, 2025, which is attached hereto as **Exhibit "A."**

12. The DPPs and Clemens ultimately signed the Settlement Agreement on April 21, 2025, which is attached hereto as **Exhibit "B."**

13. The DPPs and Triumph ultimately signed the Settlement Agreement on April 17, 2025, which is attached hereto as **Exhibit “C.”**

14. There was no collusion or preferential treatment at any time during the negotiations. To the contrary, the negotiations were contentious, hard fought, and fully informed. DPPs sought to obtain the greatest monetary benefit possible from the Settling Defendants. Furthermore, there was no discussion or agreement at any time regarding the amount of attorneys’ fees Co-Lead Class Counsel would ask the Court to award in this case.

15. I have practiced law since 2011, I specialize in antitrust class action law, and I have prosecuted numerous antitrust class actions as lead counsel or other leadership positions. I have negotiated many settlements during those years. In my opinion, and in that of my Co-Lead Class Counsel, the proposed settlement agreements are fair, reasonable, and adequate. The Settlements provide substantial benefits to the Certified Class, and avoids the delay and uncertainty of continuing protracted litigation with the Settling Defendants.

16. DPPs will move for payment of attorneys’ fees from the Seaboard, Hormel Foods, Tyson, Clemens, and Triumph settlement proceeds, plus interest. DPPs will also move for payment of Class Representative service awards from the Seaboard, Hormel Foods, Tyson, Clemens, and Triumph settlement proceeds. The Court previously approved the creation of (ECF No. 1424) and replenishment of (ECF No. 2617) a future litigation expense fund. As of the filing of this declaration, the future litigation expense fund remains capitalized and, therefore, no additional request for reimbursement is anticipated. DPPs

will provide an accounting of the reasonable and necessary litigation expenses incurred in the forthcoming motion. As previously represented, any funds remaining in the future litigation expense fund will be returned to the DPP Class if unused through the settlement distribution process.

17. The Settlement Agreements require Co-Lead Class Counsel to send notice to members of the Certified Class of, among other things, the fact and material terms of the proposed Settlements; instructions on how to object to the Settlements; and other information. The type of notice plan proposed here, which relies on direct notice to the extent practicable to DPPs who can be identified through reasonable effort, supplemented by publication notice, has been successfully implemented in direct purchaser class actions, including in the instant case following preliminary approval of the JBS, Smithfield, Seaboard, and Hormel Foods settlements.

18. The Settling Defendants have reviewed the notice documents and do not object to their contents.

19. Following final approval of the proposed Settlements and the completion of the claims process, Co-Lead Class Counsel will file a motion for approval of a plan of distribution.

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20. DPPs have enlisted the services of an experienced class action administrator, A.B. Data Ltd., to administer notice to the Certified Class members. The details of the proposed notice program are discussed in our Motion and supporting declaration of Eric Schachter, and essentially mirror the notice programs approved by this Court regarding the earlier settlements.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 22nd day of April, 2025, at Sherman Oaks, California.

/s/ Michael H. Pearson

Michael H. Pearson