

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

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776 (JRT-JFD)

This Document Relates To:

THE DIRECT PURCHASER PLAINTIFF
ACTION

**DIRECT PURCHASER
PLAINTIFFS' STATUS REPORT
REGARDING FIRST
DISTRIBUTION OF NET
SETTLEMENT PROCEEDS AND
MOTION FOR APPROVAL OF
REDISTRIBUTION PLAN**

I. INTRODUCTION AND BACKGROUND

The Direct Purchaser Plaintiffs (“DPPs”) respectfully submit to the Court this status report regarding the distribution of the \$64,047,950.48 Net Settlement Fund¹ as ordered and approved by the Court on August 25, 2023. *See* ECF Nos. 2015, 2058.

The Court-appointed Settlement Administrator, A.B. Data, Ltd. (“A.B. Data”), in consultation with Co-Lead Class Counsel,² disseminated notice to the Settlement Classes (as defined in each of the Settlement Agreements), diligently processed thousands of claims, and determined each claimant’s eligibility. *See* ECF No. 2015.

Following the Court’s Order Approving a Plan of Distribution (ECF No. 2015), the Settlement Administrator sent *pro rata* payment to each qualified claimant from the Net Settlement Fund. *See* Declaration of Eric Schachter, Senior Vice President at A.B. Data, in support of this Report (“Schachter Decl.”) ¶¶ 4, 5. As of March 14, 2024, over 83% (\$53,531,714.70) of the Net Settlement Fund has been successfully paid to qualified claimants. *Id.* ¶¶ 3, 9.

As the Claims Administrator prepares to close out the initial distribution, Class Counsel respectfully requests that the Court enter an order approving the transfer of any

¹ During the first four years of this litigation, the DPPs recovered \$101,864,300.00 from settlements with the JBS and Smithfield Defendants (collectively, “Settled Defendants”). Following the Court’s approved deductions for costs of settlement administration and escrow (*see* ECF No. 2015), and the Court’s award of attorneys’ fees, litigation expenses, and class representative incentive awards (*see* ECF No. 1424), the funds available to distribute to qualified claimants totaled \$64,047,950.48 and are referred to in this report as the Net Settlement Fund.

² The Court previously appointed the law firms of Lockridge Grindal Nauen P.L.L.P. and Pearson Warshaw, LLP as Co-Lead Class Counsel for the Certified Class. *See* Cert. Order, ECF No. 1887, at 68.

remaining settlement proceeds into escrow for distribution at the time that subsequent settlements (Seaboard) or other recoveries (if any) are distributed.³

II. THE PLAN OF DISTRIBUTION WAS SUCCESSFULLY IMPLEMENTED

On October 18, 2023, the Settlement Administrator sent Court-approved payments from the Net Settlement Fund to qualified claimants. *Id.* ¶¶ 4, 5. As of March 14, 2024, of the \$64,047,950.48 in net settlement proceeds approved by the Court for distribution, \$53,531,714.70 has been successfully paid and negotiated, \$2,318,887.66 remains outstanding, and \$8,197,348.12 remains undistributed and available for redistribution as discussed below. *Id.* ¶ 9.

The Claims Administrator has issued over 1,000 checks and sent numerous wire transfers in distributing the Net Settlement Fund. *Id.* ¶ 7. The Claims Administrator continues to search for and contact claimants in an effort to distribute the \$2,318,887.66 in outstanding funds, and will do so until a Court-ordered date on which any unclaimed funds will be set for redistribution. *Id.* ¶¶ 8-9.

Separate from the outstanding amount of \$2,318,887.66, there is an unallocated surplus of \$8,197,348.12 resulting from a miscalculation discovered during the Claims Administrator's final quality assurance reviews prior to distributing the Net Settlement Fund. *Id.* ¶ 9. The miscalculation was caused by the wrong underlying approved purchase

³ Since the Court's final approval of DPPs' settlement with Defendant Seaboard took place on March 5, 2024 (ECF No. 2137), after the distribution of funds discussed in this status report, the Seaboard settlement proceeds were not part of this first distribution. In the future Co-Lead Class Counsel will propose distributing the remaining Net Settlement Fund discussed in this report in conjunction with distribution of the Seaboard net settlement proceeds and any other recoveries.

amount being associated with three claims. *Id.* Each of the affected claimants was notified and sent their corrected distribution amount, which resulted in the surplus. *Id.* The surplus was not included in the distribution because it would have delayed payments to all but three qualified claimants as checks had already been issued and *pro rata* amounts for wire transfers were already confirmed. This surplus amount will be combined with any additional proceeds for redistribution as set forth below. *Id.*

III. REDISTRIBUTION OF THE REMAINING SETTLEMENT PROCEEDS

DPPs propose that any settlement proceeds that remain unclaimed as of July 1, 2024, be transferred into an interest-bearing escrow account and earmarked for *pro rata* distribution to qualified claimants at the time that subsequent settlements or other recoveries are distributed. As of March 14, 2024, this amount equals \$10,516,235.78.⁴ *Id.* ¶ 9. Co-Lead Class Counsel request that the Court authorize the immediate transfer of the \$8,197,348.12 surplus discussed above to the aforementioned interest-bearing escrow account as this amount is not subject to the ongoing distribution and set to be distributed in the future. The remaining \$2,318,887.66 that remains outstanding is expected to decrease, and any remaining funds will be transferred to the same account following the July 1, 2024 cut off. Although the money will be held in one account, the amount to be paid to qualified claimants will be based on their *pro rata* share of each of the two settlements and paid in addition to any *pro rata* share of the Seaboard settlement and any other future recoveries by the DPP Class.⁵

⁴ \$64,047,950.48 Net Settlement Proceeds minus the already-distributed \$53,531,714.70.

⁵ Prior to any distribution of Seaboard and any other future recoveries, Co-Lead Class

IV. CONCLUSION

For the foregoing reasons, DPPs respectfully request that the Court approve this plan of redistribution of the remaining settlement proceeds.⁶

Date: March 15, 2024

/s/ Michael H. Pearson

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Counsel will move the Court to approve a plan of distribution for those funds. In such a future motion for distribution DPPs will advise the Court regarding any practicality and/or feasibility issues pertaining to the redistribution funds, including but not limited to any *cy pres* recipients in the event that the residual amount cannot be distributed to qualified claimants.

⁶ The Court has not set a hearing in conjunction with this Status Report. Should the Court have any questions, or wish to have a hearing, Co-Lead Class Counsel is available at the Court's convenience.