

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

*IN RE BROILER CHICKEN ANTITRUST  
LITIGATION*

This Document Relates To:  
Commercial and Institutional Indirect  
Purchaser Actions

Case No. 1:16-cv-08637

Hon. Thomas M. Durkin  
Magistrate Judge Jeffrey T. Gilbert

**DECLARATION OF ERIC SCHACHTER IN SUPPORT OF  
MOTION FOR APPROVAL OF CLASS NOTICE PLAN**

I, Eric Schachter, hereby declare as follows:

1. I am a Senior Vice President of A.B. Data, Ltd.’s Class Action Administration Division (“A.B. Data”), whose Corporate Office is located in Milwaukee, Wisconsin. A.B. Data has been acting as Settlement Administrator in this case pursuant to previously reached settlements that were finally approved by this Court on April 18, 2022 (ECF 5536). I am fully familiar with the facts contained herein based upon my personal knowledge.

2. Pursuant to the Court’s Memorandum and Order certifying the class dated May 27, 2022 (the “Class Certification Order”), the Court certified a class generally defined as “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the “Certified Damages Class”).” In addition, the Court certified a nationwide injunctive relief class consisting of “All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the “Certified Injunctive Relief Class”). In consultation with Class Counsel, A.B. Data has prepared a notice plan to notify potential Class Members of the Certified Classes. This Declaration will specifically describe the recommended, proposed notice plan, and

how it will meet the requirements of Federal Rule of Civil Procedure (“Rule”) 23 and due process to Class Members.

### **NOTICE PLAN**

3. The objective of the Notice Plan (which is substantially similar to the successful settlement notice plan previously effectuated in this case) is to provide notice of the Certified Classes to Class Members. The Notice Plan includes direct notice via First-Class Mail and email, digital media advertisements in food-industry publications and websites, targeted digital advertising, and earned media via a national press release.

4. Direct notice via First-Class Mail and email will be effectuated via a Short-Form Notice, attached hereto as **Exhibit A**. The Short-Form Notice will also be utilized in the paid and earned media described below where applicable. A more detailed Long-Form Notice, attached hereto as **Exhibit B**, will be posted on the case website, [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com). These notices include summary information concerning the litigation and the Certified Class in plain and engaging language, including: that this is a class action; the Certified Class definition; that the Certified Class alleges antitrust claims; that Class Members can request exclusion; the time and manner for requesting exclusion; and the binding effect of a class judgment.

### **DIRECT NOTICE**

5. The Short-Form Notice will be mailed and/or emailed to approximately 1,100,000 potential Class Members with a known mailing address and/or email address. If A.B. Data has both a mailing address and an email address, the notice will be sent to both. A.B. Data will process all mailing addresses through the national change of address (“NCOA”) database and, using any updated information available in the NCOA database, will send the Short-Form Notice directly to those potential Class Members. Further analysis will be done of any mail returned non-deliverable

after use of the NCOA database and follow up direct mail notice will be provided where appropriate.

6. For the emailed notice, A.B. Data implements certain best practices when disseminating email notice, such as not using email attachments and certain trigger words and sending the emails in tranches over a period of days or weeks to avoid SPAM and junk filters. A.B. Data also works closely with our technical partners, ISPs, and inbox providers to avoid suppression wherever possible.

### **PAID MEDIA**

7. The proposed media schedule includes banner ads on food industry websites; targeted banner ads on Google Display Network and YouTube; and a news release disseminated via earned media. A sample banner ad is attached as **Exhibit C**.

8. Digital ads will be run in the food industry websites, listed below. These websites provide direct access to individuals in management responsible for food-related purchasing decisions and thus are very likely to include commercial and institutional purchasers of Broilers.

- *Food Management*
- *FoodService Director*
- *Nation's Restaurant News*
- *Progressive Grocer*
- *QSR*
- *Restaurant Hospitality*
- *Supermarket News*

9. Targeted digital banner ads will also be placed via the Google Display Network and YouTube, which allows targeting to owners, managers, and staff in commercial entities that

purchase processed chicken. Websites and applications that include large percentages of the specific target audience will be selected and programmatic buying will be utilized to ensure cost-efficient and effective placement of the banner ads. A minimum of 20 million impressions will be delivered over a period of 30 days. Comparable alternatives will be considered if any of the proposed publications do not accept legal notices or if inventory is not available at the time of placement.

#### **EARNED MEDIA**

10. A.B. Data will also disseminate a news release via the *PR Newswire* distribution service. This news release will be distributed to more than 10,000 newsrooms, including print, broadcast, and digital media, across the United States. It will also be distributed to food-industry trade publications.

#### **WEBSITE AND TELEPHONE**

11. To assist potential Class Members in understanding the effect of the Certified Classes, A.B. Data will continue to maintain the existing case-specific toll-free telephone number and case-specific website.

12. The toll-free telephone number will be updated to present callers with a series of choices to hear prerecorded information concerning the Certified Classes. If callers need further help, they will have an option to speak with a live operator during business hours.

13. The case-specific website will be updated with information concerning the Certified Classes, including a summary of the case, all relevant documents including the Class Certification Order, and important dates and deadlines.

### **EXCLUSION PROCESSING**

14. The notices provide that Class Members may request exclusion by sending a written, mailed request to the Settlement Administrator. A.B. Data will promptly send the parties copies of all exclusion requests received and a report that tracks each request and whether the required information was included.

### **CONCLUSION**

15. The Notice Plan described herein is estimated to deliver a reach of at least 80% of the target audience. It is my opinion, based on my expertise and experience and that of my A.B. Data colleagues on which I regularly rely, that the Notice Plan is designed to effectively reach potential Class Members, will deliver plain language notices that will capture the attention of the reader, and will provide relevant information in an informative and easy to understand manner that is necessary to effectively understand the rights and options under the terms of the Class Certification Order. For these reasons, I believe this Notice Plan is the best practicable notice under the circumstances to reach Class Members and is fully compliant with Rule 23 of the Federal Rules of Civil Procedure and due process.

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

Executed this 21<sup>st</sup> day of December, 2022 in Milwaukee, Wisconsin.

A handwritten signature in black ink, appearing to read 'Eric Schachter', is written over a horizontal line.

Eric Schachter

# **EXHIBIT A**

#### LEGAL NOTICE

##### **If You Purchased Broiler Chicken For Commercial Use Since 2009, A Class Action May Affect Your Rights.**

The purpose of this notice is to inform you of your rights related to the class action lawsuit entitled *In re Broiler Chicken Antitrust Litigation (Commercial and Institutional Indirect Purchaser Plaintiffs)*, N.D. Ill. Case No. 1:16-cv-08637, pending in the United States District Court for the Northern District of Illinois. On May 27, 2022, Judge Thomas M. Durkin issued an Order certifying a damages class of indirect purchasers generally defined as: "All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the "Certified Damages Class")." In addition, the Court certified an injunctive class consisting of "All entities that purchased Broilers indirectly from a Defendant or a named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the "Certified Injunctive Class")."

Defendants have not admitted any liability and continue to deny the legal claims alleged in this lawsuit. No additional settlements have been reached with the Non-Settling Defendants. If there are any future settlements or judgments, you will receive an additional notice.

This notice provides Class Members with an opportunity to opt out of the Certified Classes defined above. If you exclude yourself from the Certified Classes, you will not be able to recover any award from any future settlements or judgments obtained by the lawyers for the Class, if settlements or judgments occur. **The Certified Classes do not affect the previous settlements reached in this litigation. Your legal rights may be affected whether you act or do not act. Please read this notice carefully.**

##### **Am I Included?**

Your company may be included if, from January 1, 2009, through July 31, 2019, it indirectly purchased Broilers from a Defendant or named co-conspirator in the United States for use in commercial food preparation. The largest categories of purchasers included are businesses that purchased Broilers through distributors such as restaurants, grocery store deli counters that commercially prepare meals, and institutional purchasers such as nongovernmental hospitals, nursing homes, and schools. A more detailed notice, including the history of the lawsuit and the exact Class definitions and exceptions to Class membership, is available at [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com).

**Broilers CIIPP Settlement**  
c/o A.B. Data, Ltd.  
P.O. Box 173122  
Milwaukee, WI 53217

**For More Information: 1-800-983-6533/[www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com)**

**Why am I Getting this Notice?**

The Court has directed notice to be sent to the Certified Classes, as this lawsuit may affect your rights. This notice provides you with the status of the litigation and the opportunity to exclude yourself from the Certified Classes should you choose to do so. You may have received notices and/or submitted claims with respect to prior settlements reached in this litigation. The prior notices and/or claims only relate to the Settling Defendants. You are receiving this notice because the Court has certified Classes regarding the Non-Settling Defendants.

**What is this Lawsuit about?**

The Certified Classes of Commercial and Institutional Indirect Purchaser Plaintiffs allege that between January 1, 2009, and July 31, 2019, Defendants and co-conspirators conspired to fix, maintain, stabilize, and/or raise the prices of Broilers, resulting in overcharges to commercial and institutional indirect purchasers of Broilers. The complaint describes how the Defendants and co-conspirators allegedly violated federal and state antitrust, unfair competition, and consumer protection laws by agreeing to fix prices and restrict output of Broilers. Defendants deny Plaintiffs' allegations. The Court has not decided which side is right.

**What are my Rights and Options?**

You do not need to take any action to remain a member of the Certified Classes and be bound by the Court's decisions. As a Certified Class member, you may be able to participate in any future settlements or judgments obtained against the Non-Settling Defendants in the case. If you do not want to remain a member of the Certified Classes and you do not want to be legally bound by the terms of any potential settlements or judgments, or if you wish to pursue your own separate lawsuit against the Non-Settling Defendants, you may exclude yourself by submitting a written request to the Administrator stating your intent to exclude yourself from the Certified Classes.

Your Exclusion Request must include the following: (a) your name and address; (b) a statement that you want to be excluded from the Certified Class in *In re Broiler Chicken Antitrust Litigation* – Commercial & Institutional Indirect Purchaser Plaintiff Actions, No. 1:16-cv-08637; and (c) your signature. You must mail your Exclusion Request, postmarked or received by \_\_\_\_\_, 2022, to: Broilers CIIPP Settlement, ATTN: EXCLUSIONS, c/o A.B. Data, Ltd., P.O. Box 173001, Milwaukee, WI 53217-8042.

Specific instructions on how to request exclusion are set forth in the detailed notice, available on [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com).

**How can I get a Payment?**

**For More Information: 1-800-983-6533/[www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com)**



There is no settlement or judgment at this time with respect to the Non-Settling Defendants and there is no guarantee that a settlement will be reached or that a judgment in favor of Plaintiffs will be entered by the Court.

The Certified Classes do not affect the previous settlements reached in this litigation or any claims submitted. Please monitor [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com) for updates on the claim process related to the previously reached settlements. For any submitted claim deemed to be invalid or incomplete, the Settlement Administrator will contact the claimant directly in writing providing an opportunity to provide any missing information or documentation.

**How do I get more Information?**

This notice is only a summary. More details are available on the website. You can find copies of the Order Certifying the Classes, other important documents, and information about the current status of the litigation by visiting [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com) or calling the Settlement Administrator at 1-800-983-6533.

**For More Information: 1-800-983-6533/[www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com)**

# **EXHIBIT B**

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

## If You Purchased Broiler Chicken For Commercial Use Since 2009, A Class Action May Affect Your Rights.

*A federal court authorized this notice. This is not a solicitation from a lawyer.*

- The purpose of this notice is to inform you of your rights related to the class action lawsuit entitled *In re Broiler Chicken Antitrust Litigation (Commercial and Institutional Indirect Purchaser Plaintiffs)*, N.D. Ill. Case No. 1:16-cv-08637, pending in the United States District Court for the Northern District of Illinois (the "Court").
- On May 27, 2022, Judge Thomas M. Durkin issued an Order certifying a class for damages of indirect purchasers generally defined as: "All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the "Certified Damages Class")." The Court also certified an injunctive relief class consisting of: "All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (the "Certified Injunctive Class")."
- This notice provides Class Members with an opportunity to opt out of the Certified Classes defined above. If you exclude yourself from the Certified Classes, you will not be able to recover any award from any future settlements or judgments obtained by the lawyers for the Class, if settlements or judgments occur.
- **The Certified Classes do not affect the previous settlements reached in this litigation or any claims submitted. Please monitor [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com) for updates on the claim process. For any submitted claim deemed to be invalid or incomplete, the Settlement Administrator will contact the claimant directly in writing providing an opportunity to provide any missing information or documentation.**
- Defendants have not admitted any liability and continue to deny the legal claims alleged in this lawsuit. No additional settlements have been reached with the Non-Settling Defendants. If there are any future settlements or judgments, you will receive an additional notice.
- Your legal rights may be affected whether you act or do not act. Please read this notice carefully.

### YOUR LEGAL RIGHTS AND OPTIONS

<b>ASK TO BE EXCLUDED</b>	You must submit a valid request for exclusion to remove yourself from the Certified Classes. This is the only option that allows you ever to be part of any <i>other</i> lawsuit against the Defendants for the claims set forth in this matter. Requests for Exclusion must be <b>postmarked or received by</b> [REDACTED], 2022.
<b>DO NOTHING</b>	If you do nothing, you will remain a member of the Certified Classes, and if there is a settlement or judgment you will be sent a notice with instructions on how to receive a benefit.

## What This Notice Contains

What This Notice Contains .....	2
1. What is this lawsuit about?.....	2
2. What is a class action and who is involved? .....	3
3. Why am I getting this notice?.....	3
4. Am I part of the Certified Class?.....	3
5. I'm still not sure if I am included. ....	4
6. Is there a Settlement? .....	4
7. What do I do if I already filed a claim in this litigation? .....	4
8. What am I giving up by staying in the Class? .....	4
9. What happens if I do nothing at all?.....	4
10. How do I exclude myself from the Certified Class? .....	4
11. If I don't exclude myself, can I sue Defendants for the same thing later? .....	5
12. Do I have a lawyer in this case? .....	5
13. How will the lawyers be paid? .....	5
14. How do I get more information? .....	5

### 1. What is this lawsuit about?

The Certified Classes of Commercial and Institutional Indirect Purchaser Plaintiffs allege that between January 1, 2009, and July 31, 2019, Defendants and co-conspirators conspired to fix, maintain, stabilize, and/or raise the prices of Broilers, resulting in overcharges to commercial and institutional indirect purchasers of Broilers. The complaint describes how the Defendants and co-conspirators allegedly violated federal and state antitrust, unfair competition, and consumer protection laws by agreeing to fix prices and restrict output of Broilers. Defendants deny Plaintiffs' allegations. The Court has not decided which side is right.

The Court previously gave final approval to settlements between the Commercial and Institutional Indirect Purchaser Plaintiffs and Defendants Amick Farms, LLC, Fieldale Farms Corporation, George's Inc. and George's Farms, Inc., Mar-Jac Poultry, Inc., Mar-Jac Poultry MS, LLC, Mar-Jac Poultry AL, LLC, Mar-Jac AL/MS, Inc., Mar-Jac Poultry, LLC, and Mar-Jac Holdings, Inc., Peco Foods, Inc., Pilgrim's Pride Corporation, Tyson Foods, Inc., Tyson Chicken, Inc., Tyson Breeders, Inc., and Tyson Poultry, Inc. (collectively, "Settling Defendants").

Only the Settling Defendants listed above have agreed to settle the lawsuit. The Certified Classes only affect the remaining Defendants in this action (the "Non-Settling Defendants")<sup>1</sup> for which the litigation is ongoing. Additional

<sup>1</sup> Koch Foods, Inc., JCG Foods of Alabama, LLC, JCG Foods of Georgia, LLC, Koch Meat Co., Inc. (collectively, "Koch Foods"); Perdue Farms, Inc., Perdue Foods LLC (collectively, "Perdue"); Sanderson Farms, Inc., Sanderson Farms, Inc. (Foods Division), Sanderson Farms, Inc. (Production Division), Sanderson Farms, Inc. (Processing Division) (collectively, "Sanderson Farms"); Wayne Farms LLC; Mountaire Farms, Inc., Mountaire Farms, LLC, Mountaire Farms of Delaware, Inc. (collectively, "Mountaire"); Foster Farms, LLC, Foster Poultry Farms (collectively, "Foster Farms");



money may become available in the future as a result of a trial or future settlements, but there is no guarantee that this will happen. If applicable, you may receive additional notices regarding the progress of the litigation and any resolution of claims against the Non-Settling Defendants.

## **2. What is a class action and who is involved?**

In a class action lawsuit, one or more people or businesses called “class representatives” sue on behalf of themselves and others who have similar claims in the specific class action, all of whom together are a “class.” Class Members do not have to file a lawsuit to participate in the class action settlement or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class.

## **3. Why am I getting this notice?**

The Court has directed notice to be sent to the Certified Classes, as this lawsuit may affect your rights. This notice provides you with the status of the litigation and the opportunity to exclude yourself from the Certified Classes should you choose to do so.

You may have received notices and/or submitted claims with respect to prior settlements reached in this litigation. The prior notices and/or claims only relate to the Settling Defendants. You are receiving this notice because the Court has certified Classes regarding the Non-Settling Defendants.

## **4. Am I part of the Certified Classes?**

The Certified Classes are defined as:

### **Damages Class**

**All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in an Indirect Purchaser State for their own use in commercial food preparation from January 1, 2009, until July 31, 2019 (“Damages Class”).**

The “Indirect Purchaser States” are: Arizona, California, the District of Columbia, Florida, Hawaii, Iowa, Illinois, Kansas, Massachusetts, Maine, Michigan, Minnesota, Missouri, Mississippi, Montana, North Carolina, North Dakota, Nebraska, New Hampshire, New Mexico, Nevada, New York, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Wisconsin, or West Virginia.

You or your company will only be able to receive monetary compensation if you are a member of the Damages Class.

### **Injunctive Relief Class**

**All entities that purchased Broilers indirectly from a Defendant or named co-conspirator in the United States for their own use in commercial food preparation from January 1, 2009, until July 31, 2019. (Injunctive Class)**

Excluded from the Certified Classes are: “Natural persons who purchased Broilers for their personal use and not for commercial food preparation; purchases of Broilers directly from Defendants; purchases of Broilers for resale in unaltered form; purchases of Broilers from an intermediary who has further processed the Broiler; the Defendants; the officers, directors, or employees of any Defendant; any entity in which any Defendant has a controlling interest; and any

House of Raeford Farms, Inc.; Simmons Foods, Inc., Simmons Prepared Foods, Inc. (collectively, “Simmons”); O.K. Foods, Inc., O.K. Farms, Inc., O.K. Industries, Inc. (collectively “O.K. Foods”); Norman W. Fries, Inc. d/b/a Claxton Poultry Farms; Harrison Poultry, Inc.; Agri Stats, Inc.; Case Foods, Inc., Case Farms, LLC, Case Farms Processing, Inc. (collectively, “Case Foods”).

affiliate, legal representative, heir, or assign of any Defendant; any federal, state governmental entities, any judicial officer presiding over this action and the members of her/her immediate family and judicial staff, any juror assigned to this action; and any co-conspirator identified in this action.”

If you are a member of the Certified Classes and do not exclude yourself, you may be eligible to participate in any additional settlements which may arise with the Non-Settling Defendants.

#### **5. I’m still not sure if I am included.**

If you are still not sure if you are included, please review the detailed information contained on the litigation website, [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com).

#### **6. Is there a Settlement?**

Settlements were previously reached with the Settling Defendants listed above. There is no settlement or judgment at this time with respect to the Non-Settling Defendants and there is no guarantee that a settlement will be reached or that a judgment in favor of Plaintiffs will be entered by the Court.

#### **7. What do I do if I already filed a claim in this litigation?**

Any claims filed related to prior settlements reached in this litigation are unaffected by the Court’s Order regarding the Certified Classes.

#### **8. What am I giving up by staying in the Classes?**

Unless you exclude yourself by following the directions below, you will remain in the Certified Classes, which means that you cannot sue, continue to sue, or be part of any other lawsuit against the Non-Settling Defendants and their affiliates that pertains to the claims in this case. It also means that should a settlement be reached, or a judgment be issued by the Court, regardless of if it is in favor of the Plaintiffs or the Defendants, the Court’s orders will apply to you and legally bind you.

#### **9. What happens if I do nothing at all?**

If you do nothing, you will remain a member of the Certified Classes. In the event of future settlements or judgments, you will be notified and have the opportunity to participate.

#### **10. How do I exclude myself from the Certified Classes?**

If you do not want to remain a member of the Certified Classes and you do not want to be legally bound by the terms of any potential settlements or judgments, or if you wish to pursue your own separate lawsuit against Non-Settling Defendants, you must exclude yourself by submitting a written request to the Administrator stating your intent to exclude yourself from the Certified Classes (an “Exclusion Request”).

Your Exclusion Request must include the following: (a) your name and address; (b) a statement that you want to be excluded from the Certified Class in *In re Broiler Chicken Antitrust Litigation – Commercial & Institutional Indirect Purchaser Plaintiff Actions*, No. 1:16-cv-08637; and (c) your signature. You must mail your Exclusion Request, postmarked or received by January 10, 2022, to:

Broilers CIIPP Settlement  
ATTN: EXCLUSIONS  
c/o A.B. Data, Ltd.  
P.O. Box 173001  
Milwaukee, WI 53217-8042



### **11. If I don't exclude myself, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself, you give up the right to sue the Non-Settling Defendants for the claims set forth in the litigation. If you have a pending lawsuit against one or more of the Non-Settling Defendants, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from this Classes to continue your own lawsuit against Non-Settling Defendants.

### **12. Do I have a lawyer in this case?**

The Court has appointed the following lawyers as Class Counsel to represent you and all other members of the Settlement Classes:

Daniel C. Hedlund, Esq.  
GUSTAFSON GLUEK PLLC  
120 South Sixth Street, Suite 2600  
Minneapolis, MN 55402  
(612) 333-8844  
dhedlund@gustafsongluek.com

Adam J. Zapala, Esq.  
COTCHETT, PITRE & MCCARTHY, LLP  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
(650) 697-6000  
azapala@cpmlegal.com

You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### **13. How will the lawyers be paid?**

In the event of a future settlement or judgment, Class Counsel will ask the Court for attorneys' fees based on their services in this litigation. Any payment to the attorneys will be subject to Court approval. You will not be responsible for paying Class Counsel directly.

### **14. How do I get more information?**

This notice summarizes the Certified Class. More details are available on the website. You can find copies of the Order Certifying the Class, other important documents, and information about the current status of the litigation by visiting [www.chickencommercialsettlement.com](http://www.chickencommercialsettlement.com) or calling the Settlement Administrator at 1-800-983-6533.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

# **EXHIBIT C**





If You Purchased  
**BROILER CHICKEN**  
For Commercial  
Use Since 2009

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A Class Action  
May Affect  
Your Rights

[Learn More HERE](#)

ChickenCommercialSettlement.com