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11 *Class*

12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 IN RE: PACKAGED SEAFOOD  
15 PRODUCTS ANTITRUST  
16 LITIGATION

Case No. 3:15-md-02670-DMS-MSB

17 **DIRECT PURCHASER**  
18 **PLAINTIFFS' NOTICE OF**  
19 **MOTION AND MOTION FOR**  
20 **PRELIMINARY APPROVAL**

21 This document relates to:

22 The Direct Purchaser Plaintiffs Class  
23 Action Track

24 DATE: August 23, 2024

25 TIME: 1:30 P.M.

26 JUDGE: Dana M. Sabraw

27 CTRM: 13A

**TO THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that on August 23, 2024 at 1:30 p.m., pursuant to Federal Rule of Civil Procedure 23, Plaintiffs Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcos Imports and Distribution Ltd., and Benjamin Foods LLC (collectively, the “Direct Purchaser Plaintiffs” or “DPPs”) will move the Court for an order granting preliminary approval of the proposed class action settlements between DPPs and Defendants StarKist Co. and Dongwon Industries Co., Ltd. and Defendants Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch Cayman LP, which are memorialized in the Settlement Agreements Between Direct Purchaser Plaintiffs and Defendants StarKist Co. and Dongwon Industries Co., Ltd. and Defendant Lion Capital (Americas), Inc. and Specially Appearing Defendants Lion Capital LLP and Big Catch Cayman LP (“Settlement Agreements”), attached as Exs. A and B to the Declaration of Erika A. Inwald, and for related relief. Specifically, DPPs request that the Court:

(1) Certify, for settlement purposes, the following Settlement Class:

All persons and entities that directly purchased packaged tuna products within the United States, its territories and the District of Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015. Excluded from the class are all governmental entities; Defendants and any parent, subsidiary or affiliate thereof; Defendants’ officers, directors, employees, and immediate families; any federal judges or their staffs; purchases of tuna salad kits or cups; and salvage purchases. Also excluded from the class is any person or entity that was excluded from the class, in whole or in part, pursuant to the Court’s Order in this Action at ECF No. 3097, which incorporates the list of entities at ECF No. 3095-1.

(2) Appoint Hausfeld LLP as Class Counsel for settlement purposes;

1 (3) Appoint Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice  
2 Inc. d/b/a PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard  
3 Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcos Imports and  
4 Distribution Ltd., and Benjamin Foods LLC as Class Representatives, for settlement  
5 purposes;

6 (4) Find that the Settlement Agreements have been negotiated at arm's  
7 length;

8 (5) Preliminarily approve the Settlement Agreements as fair, reasonable, and  
9 adequate, and in the best interests of the Settlement Class;

10 (6) Approve the notice content and plan for providing notice of the  
11 Settlement Agreements to members of the Class and Settlement Class; and

12 (7) Schedule a Fairness and Final Approval Hearing.

13 This Motion is based on the accompanying Memorandum of Points and  
14 Authorities, the supporting declarations, the record and any further briefing in this  
15 matter, and the arguments at the hearing of this Motion, if any.

16 Dated: August 13, 2024

Respectfully submitted,

17 By: /s/ Erika A. Inwald  
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11 *Class*

12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 IN RE: PACKAGED SEAFOOD  
15 PRODUCTS ANTITRUST  
16 LITIGATION

17 Case No. 3:15-md-02670-DMS  
18 (MSB)

19 **DIRECT PURCHASER**  
20 **PLAINTIFFS' MEMORANDUM**  
21 **OF POINTS AND AUTHORITIES**  
22 **IN SUPPORT OF THEIR**  
23 **MOTION FOR PRELIMINARY**  
24 **APPROVAL OF SETTLEMENTS**

25 This document relates to:

26 Direct Purchaser Plaintiff Class  
27 Action Track

28 DATE: August 23, 2024

TIME: 1:30 P.M.

JUDGE: Dana M. Sabraw

CTRM: 13A

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1 **I. INTRODUCTION**

2 The Direct Purchaser Plaintiffs (“DPPs”) hereby submit their motion for  
3 preliminary approval of proposed Settlements between DPPs and Defendants StarKist  
4 Co. and Dongwon Industries Co., Ltd. (collectively “StarKist and DWI”) and Defendant  
5 Lion Capital (Americas), Inc. and Specially Appearing Defendants Lion Capital LLP and  
6 Big Catch Cayman LP (collectively the “Lion Companies”) (collectively with the DPPs,  
7 the “Parties”), which are memorialized in the Settlement Agreements Between Direct  
8 Purchaser Plaintiffs and StarKist and DWI and the Lion Companies (the “Settlement  
9 Agreements”).<sup>1</sup> See Declaration of Erika A. Inwald (“Inwald Decl.”), Exs. A, B.

10 In 2015, the DPPs filed the first lawsuit alleging a price-fixing conspiracy in the  
11 packaged tuna industry. Following nine years of hard-fought litigation, the DPPs,  
12 StarKist and DWI, and the Lion Companies have executed the proposed Settlement  
13 Agreements.<sup>2</sup>

14 The proposed Settlements provide fair compensation to the Settlement Class.  
15 The Settlement Class has previously obtained a settlement of \$13,001,961.86, net of  
16 fees and costs, from COSI and TUG. See ECF No. 3011.<sup>3</sup> Now, StarKist and DWI  
17 have agreed to contribute an additional sum of \$58,750,000 in cash and product to the  
18 Settlement Class, which will include the payment of \$32,650,000 in cash as follows:  
19 StarKist and DWI will deposit One Million Dollars (\$1,000,000.00) in United States  
20

---

21 <sup>1</sup> Big Catch Cayman LP was previously dismissed from the Action by the Court with  
22 prejudice. ECF No. 3103.

23 <sup>2</sup> The Court has previously granted final approval to a Settlement Agreement between  
24 DPPs and Tri-Union Seafoods LLC d/b/a Chicken of the Sea International (“COSI”) and  
25 its parent company, Defendant Thai Union Group PCL (“TUG”). See ECF No.  
26 3011.

27 <sup>3</sup> The Court separately approved an arbitrator’s award of fees and costs to Class  
28 Counsel in the amount of \$1,539,363.29 (fees) and \$4,410,636.71 (costs). See ECF  
No. 3012. This award constituted a small fraction of the total expenditure of fees and  
advanced costs made by Class Counsel over the course of nine years of this litigation.

1 currency into the Escrow Account within five (5) days after preliminary approval by  
2 the Court, Fifteen Million Eight Hundred and Twenty-Five Thousand Dollars  
3 (\$15,825,000.00) in United States currency into the Escrow Account within 120 days  
4 after final approval by the Court, and Fifteen Million Eight Hundred and Twenty-Five  
5 Thousand Dollars (\$15,825,000.00) in United States currency into the Escrow  
6 Account by no later than December 1, 2025. Inwald Decl., Ex. A. The Settlement Class  
7 will also be entitled to a pro rata share of \$26,100,000.00 in packaged tuna product,  
8 which shall be redeemed over the course of no more than three (3) years following the  
9 Final Approval of the StarKist and DWI Settlement or following ninety (90) days after  
10 the Settlement Administrator provides StarKist with the pro rata allocation of the  
11 Product Component of the Settlement, whichever is later. *Id.* Settlement Class  
12 Members will be able to place an order for any StarKist-branded products on  
13 StarKist’s national price list in effect on the date that they place their order to redeem  
14 their pro rata share of StarKist Products. *Id.* StarKist Products will be delivered FOB  
15 destination point to each Settlement Class Member who makes a claim and places an  
16 order, freight pre-paid to a single agreed shipping address within the continental  
17 United States for that claimant, provided that the claimant shall pay the standard  
18 shipping costs for any shipments that are made in less than full truckloads if more than  
19 one order for StarKist Products is placed for its allocated share of the Product  
20 Component. *Id.*

21 In addition, the Lion Companies will contribute an additional \$6,000,000.00  
22 dollars to the Settlement Class as follows: The Lion Companies will deposit Two  
23 Hundred Thousand Dollars (\$200,000.00) in United States currency into the Escrow  
24 Account within five (5) days after preliminary approval, Two Million Eight Hundred  
25 Thousand Dollars (\$2,800,000.00) in United States currency into the Escrow Account  
26 within thirty (30) days after preliminary approval, and Three Million Dollars  
27  
28

1 (\$3,000,000.00) in United States currency into the Escrow Account within forty-five  
2 (45) days after final approval. *Id.*, Ex. B.

3 In total, considering the COSI/TUG, the StarKist and DWI, and the Lion  
4 Settlements, the Settlement Class will have recovered \$83,701,961.86 from the  
5 Defendants in this litigation, which is an excellent result given that StarKist and DWI  
6 and the Lion Companies were prepared to dispute the scope, duration, and  
7 effectiveness of the conspiracy. *See, e.g.*, Inwald Decl., Ex. D (May 22, 2024 Hearing  
8 Transcript) at 79:24-80:6 (StarKist’s counsel: “In our view that means that the  
9 questions that remain for trial are limited: were DWI and the Lion Companies involved  
10 in a conspiracy? Did they consciously commit to a common scheme to achieve an  
11 unlawful purpose, as Monsanto says? Were private label products involved in the  
12 conspiracy? Did the conspiracy end in 2013 when Mr. Hodge was fired? Were  
13 Plaintiffs injured? Those are really the issues that remain for the jury[.]”).<sup>4</sup> While,  
14 Class Counsel was confident in their position, trials are risky, and there is no certainty  
15 as to what a jury would decide. There was the additional practical reality that liability  
16 was disputed by the Lion Companies and by DWI, and that collection of a large  
17 judgment would be highly uncertain given that StarKist does not have assets sufficient  
18 to cover the financial exposure of the DPPs’ and the remaining plaintiffs’ claims, and  
19 that DWI and the Lion Companies do not have assets in the United States that could  
20 be attached. Moreover, the Lion Companies are in the process of winding down their  
21 business operations and do not have substantial assets available to resolve the claims  
22 against them. *See* Inwald Decl. ¶ 12. All these factors indicated that the reasonable  
23

24 <sup>4</sup> Pursuant to Federal Rule of Civil Procedure 23(e)(2)(C), Class Counsel further notify  
25 the Court that Class Counsel has reached a separate agreement with StarKist and DWI  
26 that will provide compensation to Class Counsel for the work that they did  
27 coordinating the litigation efforts of the four litigation tracks established in this  
28 multidistrict litigation, including that of the companies that opted out of the DPP Class.  
*See* Inwald Decl., Ex. C (filed under seal). The negotiation of this agreement was  
supervised by the Hon. Michael S. Berg.

1 Settlements achieved here were preferable to the uncertainty of trial and post-  
2 judgment collection.

3 The total compensation obtained by the Settlement Class as a percentage of the  
4 potential damages that they suffered far surpasses the amounts obtained by any other  
5 group of plaintiffs. As just one example, the largest Direct Action Plaintiff (“DAP”),  
6 Wal-Mart, with approximately 20% of the total amount of packaged tuna purchased  
7 during the class period, obtained a settlement with StarKist and DWI, of \$20.5 million  
8 based on a combination of cash and “commercial terms.” *See* Inwald Decl. ¶ 13. By  
9 contrast, the DPPs, whose purchases constituted approximately 20% of the packaged  
10 tuna purchases during the class period, are receiving \$58.75 million in cash and  
11 product from StarKist and DWI. *See id.*

12 It bears noting that the Settlement negotiations involved informal discussions  
13 between the Parties’ counsel over the course of many years, and recently were  
14 supervised by Judge Berg, whose steady hand and persistence substantially assisted in  
15 the pretrial resolution of this litigation. *See id.* ¶ 18.

16 The deductions from the Settlements will be for notice and administration of  
17 the Settlements, which is not expected to exceed \$850,000, reimbursement of Class  
18 Counsel’s fees and costs, and \$12,500 service awards for the following class  
19 representatives: Olean Wholesale Grocery Cooperative, Inc. (“Olean”), Piggly  
20 Wiggly Alabama Distributing Co., Inc., Howard Samuels as Trustee in Bankruptcy  
21 for Central Grocers, Inc., Trepeco Imports and Distribution Ltd., Pacific Groservice  
22 Inc. d/b/a PITCO Foods, and Benjamin Foods LLC, if approved by the Court.

23 **II. BACKGROUND**

24 **A. History of the Litigation**

25 The DPPs’ initial suit, filed in August of 2015, alleged an antitrust conspiracy  
26 by COSI, Bumble Bee Foods LLC (“Bumble Bee”), and StarKist, and their parent  
27 companies to fix and maintain prices. *See Olean Wholesale Grocery Coop., Inc. v.*  
28

1 *Bumble Bee Foods LLC et al.*, No. 15-cv-01714 (S.D. Cal., Aug. 3, 2015), ECF No.  
2 1. The DOJ also conducted a criminal investigation into price-fixing in the packaged  
3 tuna industry. *Id.* ¶ 17. As a result of that investigation, COSI admitted Sherman Act  
4 violations, sought leniency (thereby admitting criminal liability),<sup>5</sup> and cooperated with  
5 both the DOJ and civil claimants by providing evidence against StarKist and Bumble  
6 Bee. Inwald Decl. ¶ 14.

7 Multiple civil actions relating to this conspiracy were consolidated in a  
8 multidistrict litigation for centralized pretrial proceedings before this Court on  
9 December 9, 2015. *See* Transfer Order, ECF No. 1. Early in this multidistrict litigation,  
10 the Court divided Plaintiffs into four tracks: (1) the DPPs; (2) the DAPs, who were  
11 direct purchasers, and consist of mainly large retailers or wholesalers, proceeding  
12 individually against Defendants; (3) the Commercial Food Preparers (“CFPs”), who  
13 were indirect purchasers proceeding on behalf of a proposed class; and (4) the End  
14 Payer Plaintiffs (“EPPs”), who were indirect purchasers proceeding on behalf of a  
15 proposed class (collectively, “Plaintiffs”). *See* ECF No. 119. At that time, the Court  
16 also appointed Hausfeld LLP (“Hausfeld”) as interim lead counsel for the proposed  
17 DPP Class. *Id.*

18 After several rounds of motions to dismiss, which the Court largely denied, the  
19 Defendants answered the operative DPP Complaint, and the case proceeded to  
20 discovery. *See* Answers, ECF Nos. 1561, 1600, 1601, 1688, 1689, and 2637. More  
21 than 200 depositions were taken in this case across the United States and Asia. *See*  
22 Inwald Decl. ¶ 15. Millions of pages of documents were produced and reviewed by  
23 Class Counsel. *Id.*

24 In 2018, the DPPs moved the Court to certify the DPP Class (ECF No. 1140).  
25 After a three-day evidentiary hearing in January of 2019 (ECF Nos. 1774-75, 1777),  
26 the Court ultimately certified a DPP Class of all persons and entities that directly

27 \_\_\_\_\_  
28 <sup>5</sup> *See* <https://www.justice.gov/atr/page/file/926521/download>.



1 purchased packaged tuna products within the United States, its territories, and the  
2 District of Columbia from any Defendant at any time between June 1, 2011 and July  
3 1, 2015, with minor exclusions.<sup>6</sup> ECF No. 1931. The Court also appointed Hausfeld  
4 LLP as Class Counsel for the DPP Class. *Id.*

5 The parties proceeded to expert discovery and dispositive motions, with the  
6 DPPs and the Defendants filing cross motions for summary judgment on various  
7 issues and *Daubert* motions against the opposing experts. *See, e.g.*, ECF Nos. 1967,  
8 1970, 1976, 1981, 1984, 1993, 1998, 1999, 2001, 2007, 2009, 2015, 2030, 2035, 2043,  
9 3036, 3037. The DPPs hired three experts: Dr. Russell Mangum (economist), Dr. Gary  
10 Hamilton (sociologist), and Marianne DeMario (forensic accountant). Inwald Decl.  
11 ¶ 16. The Defendants hired nine experts to oppose the DPPs: Dr. Randal Heeb  
12 (economist), Dr. Michael Moore (economist), Gary Kleinrichert (accountant), Arthur  
13 Laby (attorney), Dennis Carlton (economist), Andres Lerner (economist), Janusz  
14 Ordover (economist), Robert M. Daines (law professor), and Ilya A. Strebulaev  
15 (private equity professor). *Id.* The parties completed all expert depositions and  
16 submitted final expert reports. *Id.* The Court largely denied the defense motions to  
17 exclude the testimony of the DPPs' experts and granted partial summary judgment  
18 with respect to the Plaintiffs' motion as to StarKist. *See* ECF Nos. 2407, 2654, 3134.

19 In 2019, Defendants appealed the Court's class certification decision pursuant  
20 to Fed. R. Civ. P. 23(f). ECF No. 2246. On April 6, 2021, a Ninth Circuit panel vacated  
21 the class certification decision and remanded the case so that the trial court could  
22 decide which expert was more persuasive on the issue of the number of uninjured  
23 parties in each class. *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*,

24 \_\_\_\_\_  
25 <sup>6</sup> The DPPs had a typographic error in their Litigation Class definition (July 1 instead  
26 of July 31) that they asked the Court to correct. ECF No. 1945. The Court later  
27 corrected the Class definition. *See* ECF No. 3024 at 3.

28

1 993 F.3d 774 (9th Cir. 2021). A rehearing *en banc* was granted on August 3, 2021.  
2 *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 5 F.4th 950 (9th Cir.  
3 2021). The *en banc* court affirmed the District Court’s class certification order in full.  
4 *See generally Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31  
5 F.4th 651 (9th Cir. 2022). That decision has been cited 271 times as of July 17, 2024  
6 and has become the leading antitrust class certification order in district court  
7 proceedings throughout the United States.

8 **B. The Settlement Agreements**

9 StarKist and the DPPs executed a Settlement Agreement on August 13, 2024.  
10 Inwald Decl., Ex. A.

11 The Lion Companies and the DPPs executed a Settlement Agreement on August  
12 2, 2024. Inwald Decl., Ex. B.

13 **Settlement Class Definition.** The Settlement Class definition is almost  
14 identical to the DPP Class certified by the Court (*see* ECF No. 1931), with a correction  
15 of a typo so that the Class Period ends on July 31 as opposed to July 1 and an inclusion  
16 of additional exclusions. *See* Inwald Decl., Ex. A ¶¶ 1.23, 3; *Id.*, Ex. B ¶¶ 1.22, 3. The  
17 full definition of the Settlement Class, including the various exclusions, is:

18 All persons and entities that directly purchased packaged tuna products within  
19 the United States, its territories and the District of Columbia from any  
20 Defendant at any time between June 1, 2011 and July 31, 2015. Excluded from  
21 the class are all governmental entities; Defendants and any parent, subsidiary  
22 or affiliate thereof; Defendants’ officers, directors, employees, and immediate  
23 families; any federal judges or their staffs; purchases of tuna salad kits or cups;  
24 and salvage purchases. Also excluded from the class is any person or entity  
25 that was excluded from the class, in whole or in part, pursuant to the Court’s  
26 Order in this Action at ECF No. 3097, which incorporates the list of entities  
27 at ECF No. 3095-1.

28 **Benefits.** The Settlements provide for significant relief for Settlement Class  
Members and was negotiated at an arms’ length between the Parties. In exchange for

1 releasing claims against StarKist and DWI and the Lion Companies in this litigation,  
2 the DPP Class will receive \$64,750,000 in cash and product. *See* Inwald Decl. ¶ 13.

3 **Release.** In exchange for the foregoing relief, the DPPs have agreed to release  
4 “all Claims . . . on account of, arising out of, resulting from, or in any way related to  
5 any conduct concerning the pricing, selling, discounting, manufacturing, distribution,  
6 promotion, or marketing of Packaged Tuna Products during the period from June 1,  
7 2011 to July 31, 2015 that could have been brought based in whole or in part on the  
8 facts, occurrences, transactions, or other matters that were alleged in the Complaint.”  
9 *Id.*, Ex. A ¶ 1.19; *Id.*, Ex. B ¶ 1.18.

10 **Attorneys’ Fees and Costs.** Class Counsel has litigated this case for nine years  
11 on contingency—and has advanced millions of dollars in costs. Inwald Decl. ¶ 21.  
12 Nearly six years into the litigation, the Court awarded Class Counsel \$1,539,363.29  
13 in fees and \$4,410,636.71 in costs pursuant to an arbitration between COSI/TUG and  
14 Class Counsel. *See* ECF No. 3012.

15 Class Counsel will ask the Court for up to 33.3% of the total value of the  
16 Settlement Agreements as attorneys’ fees and will also ask the Court for unreimbursed  
17 costs, all of which will be detailed in a forthcoming motion for an award of fees and  
18 reimbursement of costs. Inwald Decl. ¶ 21.

19 **C. Notice and Claims Process**

20 As set forth in the supporting Declaration of Gina Intrepido-Bowden—a Vice-  
21 President at JND, the settlement and notice administrator—notice of the settlement  
22 will be provided directly via mail to the DPP Class as well as by email for those Class  
23 Members for whom the DPPs have email addresses. *See* Declaration of Gina  
24 Intrepido-Bowden (“Intrepido-Bowden Decl.”) ¶¶ 1, 9a. There will also be a Press  
25 Release, and given the widespread interest in this case, it is likely to be picked up by  
26 relevant media outlets, including those known to report on this case. *Id.* ¶ 9b. The  
27 DPPs’ proposed notice plan also encourages Class Members to go to the dedicated  
28

1 website and register for further direct updates via email for future important events.  
2 *Id.* ¶¶ 9c, 25, 26. Additionally, JND will attempt to individually contact certain Class  
3 Members, specifically food banks, to encourage them to make their claim. Inwald  
4 Decl. ¶ 23.

5 Under the DPPs' proposed plan of allocation, Settlement Class Members will  
6 be able to make claims for their *pro rata* share of the Settlement Amounts. As  
7 explained in the notice plan, the DPPs have the transactional data in this case and are  
8 able to determine Class Members' volume of commerce, and the settlement  
9 administrator plans to establish a secure online portal whereby Class Members can  
10 check and verify their volume of commerce. Intrepido-Bowden Decl. ¶ 31. If they  
11 believe a different amount of commerce is correct, they can dispute that amount, in  
12 which case their claim will be subject to an audit. *See id.* This plan eases the  
13 verification process for Class Members and reduces the burden on them. *Id.* Class  
14 Members will be entitled to a pro rata share of the available cash and product. JND  
15 will remind Settlement Class Members through direct mail and email before the  
16 deadline to place an order for StarKist products is set to expire. *Id.* ¶ 21. Further, Class  
17 Members, including Class Members that are no longer purchasing packaged tuna, may  
18 donate their share of the product to an approved charity and receive the benefit of a  
19 charitable deduction on their taxes for doing so. *See id.* ¶ 32. This process will be  
20 explained on the dedicated website and included in the Class notice. Any unclaimed  
21 product will be distributed, *cy pres*, to food banks, hot meal programs, or other  
22 charities. Inwald Decl. ¶ 25.

23 Within five business days after Preliminary Approval is granted by the Court,  
24 StarKist and DWI have agreed to deposit up to \$1,000,000 and the Lion Companies  
25 have agreed to deposit up to \$200,000 to pay for the costs of notice and administration.  
26 To the extent those funds are spent, they shall not be reimbursable in the event that  
27 final approval is not granted. *Id.*, Ex. A ¶ 5.3; *Id.*, Ex. B ¶¶ 1.21, 5.3. Although the  
28

1 DPPs anticipate that *both* notice and the claims administration will not cost more than  
2 \$850,000, the Settlement Agreements conservatively provide that Class Counsel may  
3 withdraw funds as necessary for notice and administration from the Settlement Fund  
4 of up to \$1,200,000. *Id.* ¶ 23.

### 5 **III. LEGAL STANDARD**

6 In deciding whether to approve a proposed settlement, the Ninth Circuit has a  
7 “strong judicial policy that favors settlements, particularly where complex class action  
8 litigation is concerned.” *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 556  
9 (9th Cir. 2019) (“*Hyundai*”) (internal quotation omitted); *In re Syncor ERISA Litig.*,  
10 516 F.3d 1095, 1101 (9th Cir. 2008). “[T]here is [also] an overriding public interest  
11 in settling and quieting litigation,” and this is “particularly true in class action suits.”  
12 *Van Bronkhorst v. Safeco Corp.*, 529 F.2d 943, 950 (9th Cir. 1976).

13 In December of 2018, the Rules Committee revised Federal Rule of Civil  
14 Procedure 23 to formalize the preliminary approval process for district courts when  
15 first evaluating a proposed class action settlement. *See* Fed. R. Civ. P. 23(e)(1). Under  
16 the new rule, “[t]he court must direct notice [of the proposed settlement] in a  
17 reasonable manner to all class members who would be bound by the proposal if giving  
18 notice is justified by the parties’ showing that the court will likely be able to: (i)  
19 approve the proposal under Rule 23(e)(2); and (ii) certify the class for purposes of  
20 judgment on the proposal.” Fed. R. Civ. P. 23(e)(1)(B).

### 21 **IV. ARGUMENT**

#### 22 **A. The Proposed Settlement Class Satisfies the Requirements of Rules 23(a)** 23 **and (b)(3).**

24 The Supreme Court has long recognized that antitrust class actions are a vital  
25 component of antitrust enforcement. *Reiter v. Sonotone Corp.*, 442 U.S. 330, 344  
26 (1979); *Hawaii v. Standard Oil Co. of Cal.*, 405 U.S. 251, 266 (1972). Thus, courts  
27  
28

1 “resolve doubts in these actions in favor of certifying the class.” *In re Cathode Ray*  
2 *Tube (CRT) Antitrust Litig.*, 308 F.R.D. 606, 612 (N.D. Cal. 2015) (“*CRT IP*”).

3 To certify a settlement class under Fed. R. Civ. P. 23, plaintiffs must satisfy the  
4 four prerequisites of Rule 23(a)—numerosity, commonality, typicality, and adequacy  
5 of representation—as well as at least one of the three subsections of Rule 23(b). *See*  
6 *Sali v. Corona Reg’l Med. Ctr.*, 889 F.3d 623, 629-31 (9th Cir. 2018) (“*Sali*”) (citing  
7 Fed. R. Civ. P. 23(c)(1)(A)). A plaintiff seeking Rule 23(b)(3) certification must show  
8 that “questions of law or fact common to class members predominate over any  
9 questions affecting only individual members, and that a class action is superior to other  
10 available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ.  
11 P. 23(b)(3). The manageability requirement inherent in Rule 23(b)(3) does not apply  
12 to settlement classes. “[T]he criteria for class certification are applied differently in  
13 litigation classes and settlement classes.” *Hyundai*, 926 F.3d at 556.

14 **Rule 23(a) Requirements.**

15 **Numerosity** is satisfied by a class as small as 40 entities. *Lo v. Oxnard European*  
16 *Motors, LLC*, No. 11CV1009, 2011 WL 6300050, at \*2 (S.D. Cal. Dec. 15, 2011)  
17 (“*Lo*”). Here, the proposed Settlement Class contains several hundred entities. *See*  
18 Inwald Decl., Ex. F.

19 **Commonality.** Rule 23(a)(2) requires that there be “questions of law or fact  
20 common to the class.” “[F]or purposes of Rule 23(a)(2), even a single common  
21 question will do.” *Nitsch v. Dreamworks Animation SKG Inc.*, 315 F.R.D. 270, 283  
22 (N.D. Cal. 2016) (“*Nitsch*”) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338,  
23 359 (2011)).

24 Where, as here, the focus is on Defendants’ alleged anticompetitive conduct,  
25 questions of law and fact are common to the class. “Where an antitrust conspiracy has  
26 been alleged, courts have consistently held that ‘the very nature of a conspiracy  
27 antitrust action compels a finding that common questions of law and fact exist.’” *In re*  
28

1 *High-Tech Emp. Antitrust Litig.*, 985 F. Supp. 2d 1167, 1180 (N.D. Cal. 2013) (“*High-*  
2 *Tech*”) (quoting *In re TFT-LCD (Flat Panel) Antitrust Litig.*, 267 F.R.D. 583, 593  
3 (N.D. Cal. 2010), *amended in part by* No. 07-1827, 2011 WL 3268649 (N.D. Cal. July  
4 28, 2011) (“*LCD*”). In this case, there are numerous common issues, including:  
5 (1) whether Defendants participated in a conspiracy to fix prices in violation of the  
6 antitrust laws; (2) the scope of that conspiracy; and (3) whether the Class suffered  
7 antitrust injury as a result of Defendants’ alleged conspiracy.

8 **Typicality.** The test of typicality is “whether other members have the same or  
9 similar injury, whether the action is based on conduct which is not unique to the named  
10 plaintiffs, and whether other class members have been injured by the same course of  
11 conduct.” *Sali*, 889 F.3d at 633 (quotation omitted). “In antitrust cases, typicality  
12 usually ‘will be established by plaintiffs and all class members alleging the same  
13 antitrust violations by defendants.’” *High-Tech*, 985 F. Supp. 2d at 1181 (quoting  
14 *Pecover v. Elec. Arts, Inc.*, No. 08-2820, 2010 WL 8742757, at \*11 (N.D. Cal. Dec.  
15 21, 2010)); *see also Lo*, 2011 WL 6300050, at \*2. The claims of Plaintiffs and the  
16 proposed Class are all based on the same alleged antitrust violations, and they each  
17 have suffered injury as a result of Defendants’ alleged antitrust conspiracy. Any  
18 factual differences among Class Members do not preclude a finding of typicality.<sup>7</sup>

19 **Adequacy of Representation.** Adequacy requires that Plaintiffs “(1) have no  
20 interests that are antagonistic to or in conflict with the interests of the class; and (2) be  
21 represented by counsel able to vigorously prosecute their interests.” *CRT II*, 308  
22 F.R.D. at 618. “The mere potential for a conflict of interest is not sufficient to defeat  
23 class certification; the conflict must be actual, not hypothetical.” *In re Nat’l Collegiate*  
24 *Athletic Ass’n Athletic Grant-In-Aid Cap Antitrust Litig.*, 311 F.R.D. 532, 541 (N.D.

25 \_\_\_\_\_  
26 <sup>7</sup> *See, e.g., In re Korean Ramen Antitrust Litig.*, No. 13-CV-04115, 2017 WL 235052,  
27 at \*20 (N.D. Cal. Jan. 19, 2017); *In re Static Random Access Memory (SRAM)*  
28 *Antitrust Litig.*, 264 F.R.D. 603, 609 (N.D. Cal. 2009); *see also LCD*, 267 F.R.D. at  
593.

1 Cal. 2015) (quotation omitted). There is no conflict between Plaintiffs’ interests and  
2 those of absent Class Members. Plaintiffs and their expert have alleged that all Class  
3 Members were injured by having to pay supracompetitive prices for packaged tuna.

4 The DPPs and their counsel, Hausfeld, have vigorously prosecuted this case on  
5 behalf of the DPP Class. Hausfeld was the first firm to file suit on behalf of the first  
6 filed Plaintiff in this litigation, Olean. Olean and the other class representatives, with  
7 the assistance of Class Counsel, have more than adequately represented the DPP Class.  
8 *See Inwald Decl.* ¶¶ 14-17, 27. They have driven this litigation forward in all aspects  
9 for the betterment of all Plaintiffs. *Id.*

10 Among other things, Class Counsel have conducted extensive discovery,  
11 reviewing millions of pages of documents and taking depositions of dozens of  
12 witnesses. *Id.* ¶ 15. As a result of these and other efforts, Class Counsel were able to  
13 secure relief from Defendants for a period of time beyond the period for which the  
14 DOJ secured guilty pleas. *Id.* Class Counsel have also investigated and litigated claims  
15 against the parent entity Defendants in this case, and as a result of those efforts, DWI  
16 and the Lion Companies are included in the Settlements as well. *Id.*

17 Particularly in light of the late stage of the litigation, Class Counsel have more  
18 than sufficient information to make an informed decision as to the value of the  
19 Settlements compared to the risks of continued litigation. The Parties have been  
20 preparing for trial over the last several months, which allows Class Counsel to make  
21 an informed judgment in favor of the Settlements, a factor which the Court should  
22 consider.<sup>8</sup> In addition, Class Counsel have observed that the other Class Plaintiffs and  
23

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24 <sup>8</sup> *See In re Volkswagen “Clean Diesel” Mktg., Sales Pracs., & Prods. Liab. Litig.*, No.  
25 2672, 2016 WL 6248426, at \*14 (N.D. Cal. Oct. 25, 2016) (“[E]xtensive review of  
26 discovery materials indicates [Plaintiffs have] sufficient information to make an  
27 informed decision about the Settlement. As such, this factor favors approving the  
28 Settlement.”); *see also In re Portal Software Sec. Litig.*, No. C-03-5138, 2007 WL  
4171201, at \*4 (N.D. Cal. Nov. 26, 2007).



1 most of the DAPs—which comprise most of the largest Members of the DPP Class  
2 and collectively account for around 80% of the purchases by DPP Class Members—  
3 have already entered into settlements with Defendants. *See* Inwald Decl. ¶ 12.

4 Class Counsel are experienced lawyers who have successfully litigated many  
5 prior complex antitrust class actions such as this one, and have successfully resolved  
6 many of those cases in this Circuit. *Id.* ¶ 10. Class Counsel have brought that  
7 experience and knowledge to bear on behalf of the Class and in these proposed  
8 Settlements. *Id.*<sup>9</sup>

9 **Rule 23(b)(3) Requirements.** “Predominance is a test readily met in certain  
10 cases alleging . . . violations of the antitrust laws.” *Amchem Prods., Inc. v. Windsor*,  
11 521 U.S. 591, 625 (1997). Courts commonly find Rule 23’s “predominance”  
12 requirement satisfied in direct purchaser horizontal price fixing cases. *See, e.g.,*  
13 *Messner v. Northshore Univ. HealthSystem*, 669 F.3d 802, 815 (7th Cir. 2012); *Nitsch*,  
14 315 F.R.D. at 315.

15 Rule 23(b)(3) “does not require a plaintiff seeking class certification to prove  
16 that each ‘elemen[t] of [her] claim [is] susceptible to classwide proof.’ What the rule  
17 does require is that common questions ‘predominate over any questions affecting only  
18 individual [class] members.’” *Amgen, Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S.  
19 455, 469 (2013) (citation omitted; brackets in original). Predominance is satisfied  
20 when “common questions present a significant aspect of the case” such that significant  
21 facts and issues underlying the proposed classes’ claims are subject to common proof.

22 \_\_\_\_\_  
23 <sup>9</sup> *See Ellis v. Naval Air Rework Facility*, 87 F.R.D. 15, 18 (N.D. Cal. 1980) (“[T]he  
24 fact that experienced counsel involved in the case approved the settlement after hard-  
25 fought negotiations is entitled to considerable weight.”), *aff’d*, 661 F.2d 939 (9th Cir.  
26 1981); *Nat’l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 528 (C.D.  
27 Cal. 2004) (“‘Great weight’ is accorded to the recommendation of counsel, who are  
28 most closely acquainted with the facts of the underlying litigation.”) (citation omitted);  
*Bellows v. NCO Fin. Sys., Inc.*, No. 3:07-cv-01413, 2008 WL 5458986, at \*6-7 (S.D.  
Cal. Dec. 10, 2008) (same).

1 *CRT II*, 308 F.R.D. at 620 (quoting *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1022  
2 (9th Cir. 1998)).

3 Here, the common questions identified above predominate over any individual  
4 ones. The existence and scope of Defendants’ alleged horizontal price-fixing  
5 conspiracy is a class-wide issue that can be proved for each Class Member through  
6 common evidence. “In price-fixing cases, courts repeatedly have held that the  
7 existence of the conspiracy is the predominant issue and warrants certification even  
8 where significant individual issues are present.” *Nitsch*, 315 F.R.D. at 315 (quotation  
9 and internal marks omitted); *CRT II*, 308 F.R.D. at 620, 625 (same); *High-Tech*, 985  
10 F. Supp. 2d at 1217 (finding holistic examination of liability, not just econometric  
11 analysis, justified certification).

12 This is especially true in the context of a settlement class, such as this one. In  
13 *Hyundai*, it was argued that the differences in applicable state laws defeated  
14 predominance, but the Ninth Circuit, sitting *en banc*, said that in the context of a  
15 settlement class, that is viewed as an issue of manageability, which is a requirement  
16 that does not apply. 926 F.3d at 559-60. *Accord Jabbari v. Farmer*, 965 F.3d 1001,  
17 1007 (9th Cir. 2020).

18 **B. The Proposed Settlements Are Fair Under Rule 23(e).**

19 As amended, Rule 23 now provides a checklist of factors to consider when  
20 assessing whether a proposed settlement is fair, reasonable, and adequate. *See* Fed. R.  
21 Civ. P. 23(e)(2) advisory committee’s note (2018) (although the Ninth Circuit  
22 previously used lists of factors to be considered, the revised Rule 23 now “directs the  
23 parties to present [their] settlement . . . in terms of [this new] shorter list of core  
24 concerns.”). Ultimately, as the Ninth Circuit has admonished, the key “underlying  
25 question remains this: Is the settlement fair?” *In re Volkswagen “Clean Diesel” Mktg.,*  
26 *Sales Pracs., & Prods. Liab. Litig.*, 895 F.3d 597, 611 (9th Cir. 2018).

1       **1. The Class Representatives and Class Counsel have adequately represented**  
2       **the Class.**

3           On the first factor, the DPP Class representatives have already explained at  
4       length how the proposed Settlement Class was adequately represented by their counsel  
5       during the discussion of Rule 23(a)(4), which is incorporated by reference here.

6       **2. The Parties negotiated the proposed Settlement at arm’s length.**

7           The second Rule 23(e)(2) factor asks the Court to confirm that the proposed  
8       settlement was negotiated at arm’s length. Fed. R. Civ. P. 23(e)(2)(B). As with the  
9       preceding factor, this can be “described as [a] ‘procedural’ concern[], looking to the  
10      conduct of the litigation and of the negotiations leading up to the proposed settlement.”  
11      Fed. R. Civ. P. 23(e)(2)(A) & (B) advisory committee’s note (2009); *Rodriguez v. W.*  
12      *Publ’g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009) (“*Rodriguez*”) (“We put a good deal  
13      of stock in the product of an arms-length, non-collusive, negotiated resolution.”).

14           The Settlement was reached only after extensive, aggressive litigation and  
15      prolonged, well-informed, and extensive arm’s-length negotiations—including in-  
16      person mediation sessions and additional negotiations—between experienced and  
17      knowledgeable counsel facilitated by Judge Berg. *See* Inwald Decl. ¶ 18. The use of a  
18      court appointed mediator supports the conclusion that the settlement process was not  
19      collusive. *See* Fed. R. Civ. P. 23(e)(2)(B) advisory committee’s note (2018) (“[T]he  
20      involvement of a neutral or court-affiliated mediator or facilitator in [the parties’]  
21      negotiations may bear on whether they were conducted in a manner that would protect  
22      and further the class interests.”).<sup>10</sup>

23           \_\_\_\_\_  
24      <sup>10</sup> *Villegas v. J.P. Morgan Chase & Co.*, No. CV 09–00261, 2012 WL 5878390, at \*6  
25      (N.D. Cal. Nov. 21, 2012) (noting that private mediation “tends to support the  
26      conclusion that the settlement process was not collusive”); *see also In re Zynga Inc.*  
27      *Sec. Litig.*, No. 12-cv-04007, 2015 WL 6471171, at \*9 (N.D. Cal. Oct. 27, 2015)  
28      (deciding that use of mediator and fact that some discovery had been completed  
    “support the conclusion that the Plaintiff was appropriately informed in negotiating a  
    settlement”) (internal citation omitted).

1           Moreover, none of the Defendants have promised the Class Representatives  
2 preferential treatment in exchange for the Settlements. Inwald Decl. ¶ 22. *Radcliffe v.*  
3 *Experian Info. Sols., Inc.*, 715 F.3d 1157, 1165 (9th Cir. 2013) (stating preferential  
4 treatment for class representatives can create a conflict of interest). Here, the  
5 Settlement funds will be distributed pro rata, and DPP Class Counsel will be  
6 reimbursed expenses and fees from the common fund, subject to the Court’s approval.  
7 Class Counsel will ask the Court to approve a nominal service award to the Class  
8 Representatives out of the Settlement funds to reimburse them for their efforts on  
9 behalf of the Settlement Class over the past several years, but neither Class Counsel  
10 nor any of the Defendants have made any promises about requesting such awards.<sup>11</sup>

11           **3. The quality of relief to the Class weighs in favor of approval.**

12           The third factor to consider is whether “the relief provided for the class is  
13 adequate, taking into account: (i) the costs, risks, and delay of trial and appeal; (ii) the  
14 effectiveness of any proposed method of distributing relief to the class, including the  
15 method of processing class-member claims; (iii) the terms of any proposed award of  
16 attorney’s fees, including timing of payment; and (iv) any agreement required to be  
17 identified under Rule 23(e)(3).” Fed. R. Civ. P. 23(e)(2)(C). The relief “to class  
18 members is a central concern.” Fed. R. Civ. P. 23(e)(2)(C) advisory committee’s note  
19 (2018).

20  
21  
22           <sup>11</sup> See *In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934, 943 (9th Cir. 2015)  
23 (“[T]he class settlement agreement provided no guarantee that the class  
24 representatives would receive incentive payments[.]”). The settlement process here  
25 has been arm’s length in all respects. See *In re Am. Capital S’holder Derivative Litig.*,  
26 No. CIV. 11-2424, 2013 WL 3322294, at \*4 (D. Md. June 28, 2013) (“The  
27 negotiations appear to have been appropriately adverse and at arm’s length: for  
28 example, one of the key deal points—plaintiffs’ attorneys’ fees—was litigated before  
a private arbitrator, a former federal district judge, who arrived at the fee proposed in  
the Settlement Agreement.”).

1                   **a. Costs, risks, and delay of trial and appeal.**

2                   The DPPs maintain that the liability claims for violations under the antitrust  
3 laws are strong, given admissions of COSI, StarKist, and Bumble Bee (and additional  
4 judgments against Steve Hodge, Scott Cameron, Ken Worsham, and Chris  
5 Lischewski) for participation in a conspiracy to violate those laws. However, the  
6 claims against DWI and the Lion Companies were disputed. And all the Defendants  
7 vigorously disputed the scope, duration, and effect of the collusion. Moreover, DWI  
8 and the Lion Companies did not have collectible assets within the United States, and  
9 the Lion Companies are winding down their operations. For all these reasons, the  
10 substantial settlements that have been achieved here are an excellent result for the DPP  
11 Class.<sup>12</sup> See Inwald Decl. ¶ 12. Therefore, while the DPPs maintain they have “strong  
12 claims,” “significant risk and uncertainty remain such that continuing the case could  
13 lead to protracted and contentious litigation.” *Howell v. Advantage RN, LLC*, No. 17-  
14 CV-883, 2020 WL 3078522, at \*4 (S.D. Cal. June 9, 2020).

15                   **b. The effectiveness of any proposed method of distributing relief to the**  
16                   **Class.**

17                   The Settlements provide the Settlement Class Members with significant relief.  
18 The total value of the settlement agreements with COSI and TUG, StarKist and DWI,  
19 and the Lion Companies is \$83,701,961.86. See Inwald Decl. ¶ 20. That total value  
20 provides the Settlement Class Members with approximately 92.6% of their

21 \_\_\_\_\_  
22 <sup>12</sup> *Rodriguez*, 563 F.3d at 966 (summarizing risks of litigating antitrust class actions);  
23 *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 118 (2d Cir. 2005) (“Indeed,  
24 the history of antitrust litigation is replete with cases in which antitrust plaintiffs  
25 succeeded at trial on liability, but recovered no damages, or only negligible damages,  
26 at trial, or on appeal.” (quoting *In re NASDAQ Market-Makers Antitrust Litig.*, 187  
27 F.R.D. 465, 475 (S.D.N.Y. 1998))); *In re Auto. Refinishing Paint Antitrust Litig.*, 617  
28 F. Supp. 2d 336, 341 (E.D. Pa. 2007) (“*Auto Refinishing*”) (approving settlements in  
part because the “antitrust class action is arguably the most complex action to  
prosecute [and] [t]he legal and factual issues involved are always numerous and  
uncertain in outcome”) (internal quotation omitted).

1 \$90,349,227 in single damages. *Id.* ¶ 20. Moreover, if one compares the single  
2 damages from all the Settlement Class Members who already submitted claims for the  
3 COSI/TUG Settlement with the relief received from the StarKist and DWI Settlement  
4 Agreement, the claimants will receive an amount equal to 9.44% of their total  
5 packaged tuna purchases. *Id.* ¶ 20. That figure is close to the 10.39% overcharge that  
6 DPP expert, Dr. Mangum, calculated for the DPPs. *Id.* ¶ 20.

7 This relief is comparable to other settlements. For example, the EPPs settled  
8 with StarKist and DWI for \$130,000,000. *Id.* That settlement represents  
9 approximately 58% of their \$224,000,000 in single damages. *Id.* Similarly, the DPP  
10 settlement agreement with StarKist and DWI provides for cash and product valued at  
11 \$58.75 million dollars, which is approximately 65% of the DPPs’ \$90,349,227 in  
12 single damages. *Id.*

13 Additionally, the Settlement Class Members are mostly comprised of smaller  
14 companies, with other larger retailers having effectively opted out of the Class by  
15 filing their own suits or separately settling with the Defendants. As it pertains to the  
16 Settlement Agreement with StarKist, the Settlement Class Members represent around  
17 20% of the purchases of packaged tuna products during the relevant period and  
18 received \$58.75 million dollars in cash and product. *See* Inwald Decl. ¶¶ 13, 20.

19 By comparison, as noted above, one of the former DAPs in this case,  
20 Wal-Mart—the largest retailer in the country, which alone represents nearly 20% of  
21 the packaged tuna purchases in the relevant period—resolved its antitrust claims  
22 against StarKist for \$20.5 million in cash and product. *Id.*, Ex. E. Thus, the StarKist  
23 and DWI Settlement Agreement alone has achieved a result that is nearly three times  
24 than what an individual direct action purchaser achieved for itself. *See* Fed. R. Civ. P.  
25 23 advisory committee notes (2018) (“[T]he actual outcomes of other cases, may  
26 indicate whether counsel negotiating on behalf of the class had an adequate  
27 information base.”).

1                   **c. The method for processing claims.**

2                   Settlement Class Members who make a claim will be entitled to receive cash  
3 and product, with the actual amount received depending on the number of claims and  
4 the volume of commerce represented in those claims. Making a claim should be very  
5 straightforward. Class Members that previously submitted a claim for benefits from  
6 the COSI/TUG settlement will not need to file another claim to access the benefits of  
7 the current Settlements because their prior claim will be deemed submitted here as  
8 well, unless they have previously released claims against these Settling Defendants.  
9 Further, Class Counsel have the transactional data from the Defendants, which  
10 identifies all purchases in this case. Using an online portal, Class Members will be  
11 able to check their claim volume, and in the event that their own data suggests that a  
12 different claimed volume of commerce is appropriate, they can provide that  
13 information, and it will be considered by the Claims Administrator, subject to audit.  
14 This information will be included on the Settlement website and in the Settlement  
15 Class notice. *See* Inwald Decl. ¶¶ 23-25. As noted above, the proceeds from the  
16 Settlement Amount will be distributed on a pro rata basis, which courts routinely  
17 accept.<sup>13</sup> It is proposed that any unclaimed portion of the Settlement proceeds after  
18 any distributions be donated to an appropriate charity/non-profit. *See* Inwald Decl.

19 \_\_\_\_\_  
20 <sup>13</sup> *See In re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 14-CV-2058, 2017 WL  
21 2481782, at \*5 (N.D. Cal. June 8, 2017) (approving settlement distribution plan that  
22 “‘fairly treats class members by awarding a pro rata share’ to the class members based  
23 on the extent of their injuries.” (quoting *In re Heritage Bond Litig.*, No. 02-ML-1475,  
24 2005 WL 1594403, at \*11 (C.D. Cal. June 10, 2005)); *In re High-Tech Emp. Antitrust*  
25 *Litig.*, No. 11-CV-02509, 2015 WL 5159441, at \*8 (N.D. Cal. Sept. 2, 2015)  
26 (approving pro rata distribution of fractional share based upon class member’s total  
27 base salary as fair and reasonable); *Four in One Co. v. S.K. Foods, L.P.*, No. 2:08-CV-  
28 3017, 2014 WL 4078232, at \*15 (E.D. Cal. Aug. 14, 2014) (approving “plan of  
allocation providing for a pro rata distribution of the net settlement fund based on  
verified claimants’ volume of qualifying purchases” as “fair, adequate, and  
reasonable”); *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1045-46 (N.D. Cal.  
2008) (approving securities class action settlement allocation on a “per-share basis”).

1 ¶ 25. The proposed notices to be furnished to Class Members will explain all of this  
2 information.

3 **d. Proposed award of attorneys’ fees, including timing of payment.**

4 The proposed fee and cost award is fair and reasonable, as described above.  
5 Judge Berg, who has spent a significant amount of time with the Parties over the course  
6 of the last year has endorsed all aspects of the proposed Settlement Agreements, and  
7 the proposed compensation of Class Counsel. *See* Inwald Decl., Ex. G.

8 **e. Any agreement required to be identified under Rule 23(e)(3).**

9 Courts also must evaluate any agreement made in connection with the proposed  
10 settlement. *See* Fed. R. Civ. P. 23(e)(2)(C)(iv), (e)(3). As noted above, StarKist has  
11 agreed to compensate Class Counsel for their substantial efforts in coordinating the  
12 various plaintiff tracks, and for assisting in the global resolution of this litigation. *See*  
13 Inwald Decl., Ex. C. Judge Berg was involved in this process and has endorsed the  
14 agreement. *See id.*, Ex. G.

15 **4. The Settlement treats all Settlement Class Members equitably.**

16 The final Rule 23(e)(2) factor turns on whether the proposed settlement “treats  
17 class members equitably relative to each other.” Fed. R. Civ. P. 23(e)(2)(D). “Matters  
18 of concern could include whether the apportionment of relief among class members  
19 takes appropriate account of differences among their claims, and whether the scope of  
20 the release may affect class members in different ways that bear on the apportionment  
21 of relief.” Fed. R. Civ. P. 23(e)(2)(D) advisory committee’s note (2018).

22 Here, the Settlements treat all Class Members equitably, and there are no  
23 differences between the scope of relief between any Class Members, with the  
24 following caveat: Certain Class Members opted out of the DPP Class as to StarKist  
25 and DWI, but not as to the Lion Companies, and thus they are not parties to StarKist  
26 and DWI’s Settlement Agreement. While Class Counsel has requested nominal  
27  
28



1 service awards for the Class Representatives to reimburse them for their efforts on  
2 behalf of the Class, such awards are well-established in the Ninth Circuit.<sup>14</sup>

3 For all of these reasons, the proposed Settlement merits preliminary approval  
4 as it is likely to be finally approved after the Fairness Hearing.

5 **C. The Proposed Notice Is the Best Practicable Under the Circumstances.**

6 Pursuant to Fed. R. Civ. P. 23(c)(2)(B), “[f]or any class certified under Rule  
7 23(b)(3) the court must direct to class members the best notice that is practicable under  
8 the circumstances, including individual notice to all members who can be identified  
9 through reasonable effort.” Here, the Court has certified the class under Rule 23(b)(3),  
10 *see* ECF No. 1931, but the Court has not yet authorized notice.

11 Where there is a class settlement, Rule 23(e)(1) requires the court to “direct  
12 notice in a reasonable manner to all class members who would be bound by the  
13 proposal.” Fed. R. Civ. P. 23(e)(1)(B). “Notice is satisfactory if it ‘generally describes  
14 the terms of the settlement in sufficient detail to alert those with adverse viewpoints  
15 to investigate and to come forward and be heard.’” *Rodriguez*, 563 F.3d at 962  
16 (quoting *Churchill Vill., LLC v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004)).

17 In Rule 23(b)(3) actions, “the court must direct to class members the best notice  
18 that is practicable under the circumstances,” and that notice “must clearly and  
19 concisely state in plain, easily understood language:” (1) the nature of the action; (2)  
20 the definition of the class certified; (3) the class claims, issues, or defenses; (4) that a

21  
22 <sup>14</sup> *Harris v. Vector Mktg. Corp.*, No. 08-cv-5198, 2012 WL 381202, at \*6 (N.D. Cal.  
23 Feb. 6, 2012) (“It is well-established in this circuit that named plaintiffs in a class  
24 action are eligible for reasonable incentive payments, also known as service awards.  
25 In fact, the Ninth Circuit recently noted that incentive payments to named plaintiffs  
26 have become ‘fairly typical’ in class actions.”); *see also Boyd v. Bank of Am. Corp.*,  
27 No. 13-cv-0561, 2014 WL 6473804, at \*7 (C.D. Cal. Nov. 18, 2014) (citing *Staton v.*  
28 *Boeing Co.*, 327 F.3d 938, 976-77 (9th Cir. 2003)); *In re BofI Holding, Inc. Sec. Litig.*,  
No. 3:15-CV-02324, 2022 WL 9497235, at \*8 (S.D. Cal. Oct. 14, 2022) (granting a  
\$15,000 service award).

1 class member may enter an appearance through an attorney if the member so desires  
2 (5) that the court will exclude from the class any member who requests exclusion; (6)  
3 the time and manner for requesting exclusion; and (7) the binding effect of a class  
4 judgment on members under Rule 23(c)(3). *See* Fed. R. Civ. P. 23(c)(2)(B).

5 As described above, the notice plan proposed by the DPPs with the advice and  
6 assistance of JND—a notice and settlement administrator with significant  
7 experience—provides a thorough approach to notice by direct U.S. mail, with skip-  
8 tracing and other methods to find changed addresses, as well as email where available,  
9 all of which are designed so that notice will reach all Class Members. *See* Intrepido-  
10 Bowden Decl. ¶¶ 1, 9a, 13-20 ; *see also, e.g., Ross v. Trex Co.*, No. 09-00670, 2013  
11 WL 791229, at \*1 (N.D. Cal. Mar. 4, 2013) The notice plan proposed by JND satisfies  
12 Rule 23 requirements and the Due Process clause of the United States Constitution. It  
13 was also similarly used with the approval of this Court in connection with the earlier  
14 settlement between the DPP Class and COSI/TUG. *See* ECF No. 2733 at 19 (Order  
15 approving notice).

16 Moreover, the contents of the notice satisfactorily inform DPP Class Members  
17 of their rights in the class action and under the Settlement. *See* Intrepido-Bowden  
18 Decl., Exs. A-C. The proposed notice form includes: (i) the case caption; (ii) a  
19 description of the Class and Settlement Class; (iii) a description of the Settlement  
20 Agreement, including the monetary consideration provided to the Settlement Class;  
21 (iv) the names of Class Counsel; (v) the Fairness Hearing date; (vi) information about  
22 the Fairness Hearing; (vii) information about the deadline for filing objections to the  
23 Settlement Agreement; (viii) how Class Counsel will be compensated and that  
24 additional information regarding Class Counsel’s fees and costs will be posted on the  
25 website prior to the deadline for objections; and (ix) how to obtain further information  
26 about the proposed Settlement Agreements, including through the website maintained  
27 by the Claims Administrator that will include links to the notice, motions for approval  
28

1 and for attorneys’ fees, and other important documents. *See id.*; *see also* 4 *Newberg*  
2 *on Class Actions* § 11:53 (4th ed. 2002) (stating that notice is “adequate if it may be  
3 understood by the average class member”); *Lamb v. Bitech, Inc.*, No. 3:11-cv-05583,  
4 2013 WL 4013166, at \*4 (N.D. Cal. Aug. 5, 2013). Accordingly, the notice program,  
5 through direct mail, and email where available, as well as the accompanying forms,  
6 are reasonable and adequate and are fairly calculated to apprise Class Members of  
7 their rights. *See also* Fed. R. Civ. P. 23(c)(2) advisory committee’s note (2018) (stating  
8 that “electronic methods of notice, for example email, [will sometimes be] the most  
9 promising” method for delivery of notice). The notice is also consistent with the  
10 sample provided by the Federal Judicial Center.

11 JND will also assist Class Counsel with the implementation of the claims  
12 administration and distribution process. *See* Intrepido-Bowden Decl. ¶¶ 31-32; Inwald  
13 Decl. ¶ 23 (describing estimated costs from JND).

14 **D. CAFA Notice.**

15 Class Counsel will make efforts to ensure that the relevant notices required by  
16 the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.* (“CAFA”) are disseminated.

17 **E. Service Awards.**

18 The DPPs will also request a service award of \$12,500.00 per Class  
19 Representative, as noted above. These parties have faithfully represented the Class for  
20 nearly nine years, including producing documents, sitting for depositions, and  
21 monitoring the progress of the case. In addition, over the past few months, each of  
22 these parties has spent significant time with Class Counsel and assisted in the  
23 preparation for trial. Inwald Decl. ¶ 27. These proposed service awards are modest  
24 and do not fully reflect the contribution these parties have made over the last nine  
25 years. Nevertheless, it is a nominal acknowledgment of their service on behalf of the  
26 whole Class. *Id.* As noted, such awards are routine in the Ninth Circuit. *See Birch v.*  
27 *Office Depot*, No. 06 CV 1690, 2007 WL 9776717, at \*2 (S.D. Cal. Sept. 28, 2007)  
28

1 (Sabraw, J.) (awarding service awards of \$15,000 and \$10,000 because “Plaintiffs  
 2 greatly assisted Class Counsel and committed a significant amount of effort in order  
 3 to obtain the benefits on behalf of the class” and because the service awards were  
 4 “well within amounts awarded by courts”); *Santillan v. Verizon Connect, Inc.*, No.  
 5 3:21-cv-1257, 2024 WL 627998, at \*11 (S.D. Cal. Feb. 13, 2024) (granting a \$10,000  
 6 incentive award).

7 **V. CONCLUSION**

8 For the foregoing reasons, the DPPs respectfully request that the Court enter the  
 9 accompanying proposed order approving the Settlement Agreements, directing notice  
 10 of the proposed Settlements, appointing Class Counsel and the Class Representatives  
 11 for settlement purposes, and setting a hearing for the purpose of deciding whether to  
 12 grant final approval of the Settlements. As set forth in the Proposed Order, the DPPs  
 13 propose the following schedule for final approval and related deadlines:

14	15	Deadline for disseminating Class notice	14 days after entry of preliminary approval order
16	17	Deadline for filing affidavit attesting that notice was disseminated as ordered	35 days after entry of preliminary approval order
18	19	Plaintiffs to file a motion for an award of attorneys’ fees, costs, and service awards	49 days before the Fairness Hearing
20	21	Deadline for Class Members to object to the Settlements	35 days before the Fairness Hearing
22	23	Deadline for Class Members to file a claim	35 days before the Fairness Hearing
24	25	Plaintiffs to file motion for final approval of Settlements	28 days before the Fairness Hearing
26	27	Hearings on motion for final approval and motion for an award of attorneys’ fees, costs, and service awards	90 days after preliminary approval order

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Dated: August 13, 2024

Respectfully submitted,

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*Class Counsel for the Direct Purchaser  
Plaintiffs*

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**CERTIFICATE OF SERVICE**

I certify that on August 13, 2024, I filed the foregoing document and supporting papers with the Clerk of the Court for the United States District Court, Southern District of California, by using the Court’s CM/ECF system. I also served counsel of record via this Court’s CM/ECF system.

/s/ Erika A. Inwald  
Erika A. Inwald

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10 *Class Counsel for the Direct Purchaser Plaintiffs*

11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 IN RE: PACKAGED SEAFOOD  
14 PRODUCTS ANTITRUST  
15 LITIGATION

16 Case No. 3:15-md-02670-DMS  
17 (MSB)

18 **DECLARATION OF ERIKA A.**  
19 **INWALD IN SUPPORT OF**  
20 **DIRECT PURCHASER**  
21 **PLAINTIFFS' MOTION FOR**  
22 **PRELIMINARY APPROVAL OF**  
23 **SETTLEMENTS**

24 This document relates to:

25 The Direct Purchaser Plaintiff Class  
26 Action Track

27 DATE: August 23, 2024

28 TIME: 1:30 P.M.

JUDGE: Dana M. Sabraw

CTRM: 13A

1 I, Erika A. Inwald, declare as follows:

2 1. I am an attorney licensed to practice law in the State of New York. I am an  
3 associate at Hausfeld LLP, 33 Whitehall St., 14th Floor, New York, NY, 10004. I  
4 make this declaration in support of the Direct Purchaser Plaintiffs’ (the “DPPs”)   
5 Motion for Preliminary Approval of their proposed Settlements with Defendants  
6 StarKist Co. and Dongwon Industries Co., Ltd. (collectively “StarKist and DWI”), and  
7 Defendant Lion Capital (Americas), Inc. and Specially Appearing Defendants Lion  
8 Capital LLP and Big Catch Cayman LP (collectively the “Lion Companies”)   
9 (collectively with the DPPs, the “Parties”). I have personal knowledge of the facts  
10 set forth herein and, if called upon to do so, I could and would testify competently  
11 thereto.

12 2. Attached as **Exhibit A** is a true and accurate copy of the proposed Settlement  
13 Agreement between the DPPs and StarKist and DWI.

14 3. Attached as **Exhibit B** is a true and accurate copy of the proposed Settlement  
15 Agreement between the DPPs and the Lion Companies.

16 4. Attached as **Exhibit C** is a true and accurate copy of the separate agreement  
17 between the DPPs and StarKist and DWI to compensate DPP Class Counsel for  
18 coordinating the litigation efforts in this multidistrict litigation.

19 5. Attached as **Exhibit D** is a true and accurate copy of an excerpt from the  
20 transcript of the May 22, 2024 hearing held in this case.

21 6. Attached as **Exhibit E** is a true and correct copy of a news article available  
22 at [https://www.post-gazette.com/business/money/2019/01/25/StarKist-Walmart-  
23 million-settle-antitrust-claims-tuna-price/stories/201901250139](https://www.post-gazette.com/business/money/2019/01/25/StarKist-Walmart-million-settle-antitrust-claims-tuna-price/stories/201901250139).

24 7. Attached as **Exhibit F** is a true and correct copy of Appendix C3 of the  
25 Addendum Expert Report of Dr. Andres V. Lerner dated May 21, 2024.

26 8. Attached as **Exhibit G** is a true and correct copy of the Honorable Michael  
27 S. Berg’s Statement in Support of Settlement Agreements Between Direct Purchaser  
28



1 Plaintiffs and End Purchaser Plaintiffs and StarKist Co., Dongwon Industries Co.,  
2 Ltd., Lion Capital LLP, and Lion Capital (Americas), Inc.

3 9. The Court appointed Hausfeld LLP as Class Counsel for the Direct  
4 Purchaser Plaintiffs. ECF No. 1931.

5 10. I and the other attorneys at my firm who have worked on this case are  
6 experienced attorneys who have litigated many prior complex antitrust class actions  
7 such as this one. We have successfully resolved many of those cases in districts within  
8 this Circuit. We have brought that experience and knowledge to bear on behalf of the  
9 Class and in this proposed Settlement. As described below, the negotiations leading  
10 to the settlements with Defendants were vigorous, informed, and thorough; occurred  
11 over a span of many months; and were not concluded until after the completion of fact  
12 and expert discovery and full briefing of dispositive motions. The parties conducted  
13 their negotiations in good faith under the supervision of the Honorable Michael S.  
14 Berg, a United States Magistrate Judge for this District.

15 11. The trial in this Action was scheduled to take place on July 16, 2024. Had  
16 the trial occurred, Dr. Russell Mangum, the DPPs' expert economist, was prepared to  
17 present single damages of \$90,349,227.

18 12. Class Counsel believe that the proposed Settlements provide fair  
19 compensation to the Settlement Class and are likely to be approved at a final approval  
20 hearing. The Settlement amounts are fair, adequate, and reasonable. A collection of a  
21 large judgment in this case is highly uncertain given that StarKist does not have assets  
22 sufficient to cover the financial exposure of the DPPs and the remaining plaintiffs, and  
23 that DWI and the Lion Companies do not have assets in the United States that could  
24 be attached. Moreover, I understand the Lion Companies are in the process of winding  
25 down their business operations and do not have substantial assets available to resolve  
26 the claims against them. Additionally, I have observed that the other Class Plaintiffs  
27 and most DAPs—which comprise most of the largest members of the DPP Class and  
28

1 collectively account for around 80% of the purchases by DPP Class Members—have  
2 already entered into settlements with Defendants.

3 13. Based on existing and anticipated requests for exclusion (from the Direct  
4 Action Plaintiffs (“DAPs”), for example), the proposed Settlement with StarKist and  
5 DWI will deliver approximately \$58,750,000 in cash and product to remaining Class  
6 Members. The proposed Settlement with the Lion Companies will deliver  
7 approximately \$6,000,000 in cash to remaining Class Members. Together, the DPPs  
8 settlements with StarKist and DWI and the Lion Companies total \$64,750,000. This  
9 is significant relief for the Settlement Class Members, whose purchases (after the  
10 DAPs are excluded) represent approximately 20% the commerce at issue in this case,  
11 as described in the DPPs’ economist’s expert report. *See* Mangum Merits Reply  
12 Report ¶ 244, attached to the Declaration of Samantha Stein (ECF No. 2143), Ex. 242.  
13 By comparison, it has been publicly reported that one of the most powerful retailers  
14 in the market, Wal-Mart, which accounted for approximately 20% of packaged tuna  
15 purchases during the relevant period, settled with StarKist for \$20.5 million. Thus,  
16 comparatively, the DPPs’ proposed settlements achieve a result that is fair, reasonable,  
17 and adequate—and do so without burdening Class Members with the distractions  
18 associated with litigating on their own behalf.

19 14. The Settlement was achieved after significant discovery and development  
20 of the case. The DPPs’ initial suit was filed in August of 2015 after the U.S.  
21 Department of Justice (“DOJ”) began a criminal investigation. Hausfeld was the first  
22 firm to file suit on behalf of the first filed Plaintiff in this litigation, Olean Wholesale  
23 Grocery Cooperative, Inc. (“Olean”). Following the DOJ’s criminal investigation,  
24 COSI admitted Sherman Act violations, sought leniency, and cooperated with both the  
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1 DOJ and civil claimants by providing evidence against its co-conspirators and co-  
2 Defendants, StarKist and Bumble Bee Foods LLC.<sup>1</sup>

3 15. After filing suit, the DPPs began developing their case and conducting  
4 significant discovery. Among other things, Class Counsel have reviewed millions of  
5 pages of documents and have participated in many of the more than 200 depositions  
6 taken in this case across the United States and Asia. Class Counsel have also  
7 conducted extensive written discovery, including serving interrogatories and requests  
8 for admission. As a result of these and other efforts, Class Counsel were able to secure  
9 relief from Defendants for a period of time longer than the period for which the DOJ  
10 secured guilty pleas. Class Counsel have also investigated and litigated claims against  
11 the parent entity Defendants in this case (which were not charged by the DOJ), and as  
12 a result of those efforts, DWI and the Lion Companies are included in the Settlements  
13 as well.

14 16. The Parties also conducted expert discovery and briefed dispositive  
15 motions, with the DPPs and the Defendants filing cross motions for summary  
16 judgment on various issues and *Daubert* motions against the opposing experts. *See,*  
17 *e.g.*, ECF Nos. 1967, 1970, 1976, 1981, 1984, 1993, 1998, 1999, 2001, 2007, 2009,  
18 2015, 2030, 2035, 2043, 3036, 3037. The DPPs hired three experts for use against  
19 Defendants: Dr. Russell Mangum (economist), Dr. Gary Hamilton (sociologist), and  
20 Marianne DeMario (forensic accountant). The Defendants hired nine experts to  
21 oppose the DPPs: Dr. Randal Heeb (economist), Dr. Michael Moore (economist),  
22 Gary Kleinrichert (accountant), Arthur Laby (attorney), Dennis Carlton (economist),  
23 Andres Lerner (economist), Janusz Ordover (economist), Robert M. Daines (law  
24 professor), and Ilya A. Strebulaev (private equity professor). The Parties completed

25 \_\_\_\_\_  
26 <sup>1</sup> When Bumble Bee and StarKist pleaded guilty to violations of the antitrust laws, the  
27 DOJ sent letters to DPP Class Counsel pursuant to the Crime Victim Rights Act to  
28 notify victims of the conspiracy, including DPP Class Members, of their rights to be  
heard in connection with the sentencing of these companies.

1 all expert depositions and submitted final expert reports. The Court granted in part and  
2 denied in part the defense motions to exclude the testimony of the DPPs' experts and  
3 granted partial summary judgment with respect to the Plaintiffs' motion as to StarKist.  
4 ECF Nos. 2407, 2654, 3134.

5 17. All of this discovery, expert work, and motion practice has given Class  
6 Counsel more than sufficient information to evaluate the DPPs' claims. Particularly  
7 in light of the late stage of the litigation, Class Counsel is well-positioned to make an  
8 informed decision as to the value of the Settlements compared to the risks of continued  
9 litigation.

10 18. The negotiations concerning the Settlements involved informal  
11 discussions between the parties' counsel over the course of many years, and recently  
12 were supervised by Judge Berg. The Settlement Agreements were negotiated over  
13 multiple in-person, video conference, and telephonic mediation sessions. Judge Berg  
14 oversaw the final negotiations with respect to the Settlements with both StarKist and  
15 DWI and the Lion Companies.

16 19. StarKist and DWI and the DPPs executed a Settlement Agreement on  
17 August 13, 2024. The Lion Companies and the DPPs executed a Settlement  
18 Agreement on August 2, 2024.

19 20. The Settlements provide the Settlement Class Members with significant  
20 relief. The total value of the settlement agreements with COSI and TUG, StarKist and  
21 DWI, and the Lion Companies is \$83,701,961.86 (including a partial reimbursement  
22 of fees and advanced costs from the COSI settlement). That total value provides the  
23 Settlement Class Members with approximately 92.6% of their \$90,349,227 in single  
24 damages. Moreover, if one compares the single damages from all the Settlement Class  
25 Members who already submitted claims for the COSI/TUG settlement with the relief  
26 received from the Settlement Agreement with StarKist and DWI, the claimants will  
27 receive an amount equaled to 9.44% of their total purchases of packaged tuna. That  
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1 figure is close to the 10.39% overcharge that DPP expert, Dr. Mangum, calculated for  
2 the DPPs. This relief is comparable to other settlements. For example, the EPPs settled  
3 with StarKist and DWI for \$130,000,000. That settlement represents approximately  
4 58% of their \$224,000,000 in single damages. Similarly, the DPP settlement  
5 agreement with StarKist and DWI provides for cash and product valued at \$58.75  
6 million dollars, which is approximately 65% of the DPPs' \$90,349,227 in single  
7 damages.

8 21. Class Counsel has litigated this case for nine years on contingency—and  
9 has advanced millions of dollars in costs. Nearly six years into the litigation, the Court  
10 awarded Class Counsel \$1,539,363.29 in fees and \$4,410,636.71 in costs pursuant to  
11 an arbitration between COSI/TUG and Class Counsel. *See* ECF No. 3012. Class  
12 Counsel will ask the Court for 33.3% of the total value of the Settlement Agreements  
13 as attorneys' fees and will also ask the Court for unreimbursed costs, all of which will  
14 be detailed in a forthcoming motion for an award of fees and reimbursement of costs.

15 22. None of the Defendants have promised the Class Representatives  
16 preferential treatment in exchange for the Settlements.

17 23. The DPPs have retained JND,<sup>2</sup> a settlement and notice administrator, to  
18 provide notice of the Settlement, which will be mailed directly via first-class mail to  
19 the DPP Class as well as by email to those Class Members for whom the DPPs have  
20 email addresses. JND will attempt to individually contact certain Class Members,  
21 specifically food banks, to encourage them to make their claim. There will also be a  
22 Press Release, and given the widespread interest in this case, it is likely to be picked  
23 up by relevant media outlets, including those known to report on this case. JND will  
24 also remind Settlement Class Members through direct mail and email (to those Class  
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26 <sup>2</sup> Class Counsel solicited bids from other administrators and then engaged in  
27 substantial further negotiations with those that responded to ensure a cost-competitive  
28 retention was secured.

1 Members for whom the DPPs have email addresses) before the deadline to place an  
2 order for StarKist products is set to expire. The DPPs’ proposed notice plan also  
3 encourages Class Members to go to the dedicated website and register for further  
4 direct updates via email for future important events or information. Although the DPPs  
5 anticipate that notice *and* claims administration will cost approximately \$850,000, the  
6 Settlement conservatively provides that Class Counsel may withdraw funds as  
7 necessary for notice and administration from the Settlement Fund up to \$1,200,000.

8       24. A key part of the notice plan is also to encourage Class Members to sign  
9 up and register their preferred email and other contact information on the DPPs’ case  
10 website to receive updates about the case. The DPPs will thus be able to notify the  
11 Class about any news with respect to this case by posting that information on the  
12 website and sending updates via email.

13       25. Under the DPPs’ proposed plan of allocation, Settlement Class Members  
14 will be able to make claims for their pro rata share of the Settlement Amounts. Class  
15 Members that previously submitted a claim for benefits from the COSI/TUG  
16 settlement will not need to file another claim to access the benefits of the current  
17 Settlements because their prior claim will be deemed submitted here as well, unless  
18 they have previously released claims against these Settling Defendants. As explained  
19 in the notice plan, the DPPs have the transactional data in this case and are able to  
20 determine Class Members’ volume of commerce, and the settlement administrator  
21 plans to establish a secure online portal whereby Class Members can check and verify  
22 their volume of commerce. In the event that they believe a different amount of  
23 commerce is correct, they can dispute that amount, in which case their claim will be  
24 subject to an audit. This plan eases the verification process for Class Members and  
25 reduces the burden on them. Class Members will be entitled to a pro rata share of the  
26 available cash and product. Further, Class Members, including Class Members that  
27 are no longer purchasing packaged tuna, may donate their share of the product to non-  
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1 profits and receive the benefit of a charitable deduction on their taxes for doing so.  
2 This process will be explained on the dedicated website and included in the Class  
3 notice. Any unclaimed product will be distributed, *cy pres*, to food banks, hot meal  
4 programs, or other charities.

5 26. As required by the Class Action Fairness Act, 28 U.S.C. § 1711, *et seq.*,  
6 the DPPs understand that all Parties will ensure that the relevant notices are provided.

7 27. Finally, the DPPs will respectfully request a service award of \$12,500 for  
8 the following Class Representatives: Olean, Piggly Wiggly Alabama Distributing Co.,  
9 Inc., Howard Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcos  
10 Imports and Distribution Ltd., Pacific Groservice Inc. d/b/a PITCO Foods, and  
11 Benjamin Foods LLC. The Class Representatives have faithfully represented the Class  
12 for nearly nine years, including producing documents, responding to interrogatories,  
13 sitting for depositions, and monitoring the progress of the case. In addition, over the  
14 past few months, each of these parties has spent significant time with Class Counsel  
15 and assisted in the preparation for trial. Class Counsel communicated with class  
16 representatives multiple times by video conference, in person, and by telephone. Class  
17 Counsel practiced direct examinations with Class Representatives and reviewed  
18 potential trial exhibits with them. The Class Representatives, including those who had  
19 to travel to San Diego from the east coast, were willing to attend trial and testify if  
20 called upon by Class Counsel. All the Class Representatives were essential to Class  
21 Counsel in preparing for trial and were generous with their time. These proposed  
22 service awards are modest and do not fully reflect the contribution these parties have  
23 made over the last nine years. Neither Class Counsel nor Defendants made any  
24 promises about requesting such awards.

25 I declare under penalty of perjury that the foregoing facts are true and correct  
26 and that this declaration was executed in New York, New York on August 13, 2024.

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By: /s/ Erika A. Inwald  
Erika A. Inwald  
**HAUSFELD LLP**  
einwald@hausfeld.com

*Class Counsel for the Direct Purchaser Plaintiffs*



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**CERTIFICATE OF SERVICE**

I certify that on August 13, 2024, I filed the foregoing document and supporting papers with the Clerk of the Court for the United States District Court, Southern District of California, by using the Court’s CM/ECF system. I also served counsel of record via this Court’s CM/ECF system.

/s/ Erika A. Inwald  
Erika A. Inwald

# EXHIBIT A

1 Michael P. Lehmann (#77152)  
2 Christopher L. Lebsock (#184546)  
3 **HAUSFELD LLP**  
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5 San Francisco, CA 94111  
6 Tel: (415) 633-1908  
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9 clebsock@hausfeld.com  
10 *Class Counsel for the Direct Purchaser*  
11 *Plaintiff Class*

12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

14 **IN RE: PACKAGED SEAFOOD**  
15 **PRODUCTS ANTITRUST**  
16 **LITIGATION**  
17 This document relates to:  
18 Direct Purchaser Plaintiff Class

Case No. 15-md-2670 DMS (MSB)  
MDL No. 2670

**SETTLEMENT AGREEMENT**  
**BETWEEN DIRECT**  
**PURCHASER PLAINTIFFS**  
**AND DEFENDANTS STARKIST**  
**CO. AND DONGWON**  
**INDUSTRIES CO., LTD.**

1 This Settlement Agreement (“Settlement Agreement”), dated August 13, 2024  
2 (“Execution Date”), is made and entered into by and among Defendants StarKist Co.  
3 (StarKist”) and Dongwon Industries Co., Ltd. (“DWI”) and Direct Purchaser  
4 Plaintiffs Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a  
5 PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as  
6 Trustee in Bankruptcy for Central Grocers, Inc., Trepcu Imports and Distribution  
7 Ltd., and Benjamin Foods LLC (“the named plaintiffs”), individually, on behalf of a  
8 certified litigation class of direct purchaser plaintiffs, and as representatives of the  
9 Settlement Class defined herein (collectively, “DPPs”). This Settlement Agreement  
10 is intended by the Parties to fully, finally, and forever resolve, discharge and settle  
11 the Released Claims, upon and subject to the terms and conditions hereof.

12 WHEREAS, in the instant class action *In Re: Packaged Seafood Products*  
13 *Antitrust Litigation*, No. 15-md-2670 DMS (MSB), MDL No. 2670 (S.D. Cal.),  
14 currently pending before the Honorable Dana M. Sabraw in the United States District  
15 Court for the Southern District of California, DPPs have alleged that StarKist and  
16 DWI participated in an unlawful conspiracy to restrain trade;

17 WHEREAS, StarKist and DWI deny DPPs’ allegations and have asserted a  
18 number of defenses to DPPs’ claims;

19 WHEREAS, Settlement Class Counsel have concluded after carefully  
20 considering DPPs’ claims, and the possible legal and factual defenses thereto, that it  
21 is in DPPs’ best interests to enter into this Settlement Agreement with StarKist and  
22 DWI to avoid the uncertainties and risks of further litigation and trial, and that the  
23 settlement set forth herein is fair, reasonable, adequate and in the best interests of the  
24 Settlement Class as defined below in Paragraph 1.23;

25 WHEREAS, StarKist and DWI, having maintained that there is no legal or  
26 factual basis for their liability in this matter and that they have valid defenses to the  
27 claims alleged, have nevertheless agreed to enter into this Settlement Agreement to

1 avoid the expense, inconvenience, and uncertainty of trial and further protracted  
2 litigation;

3 WHEREAS, DPPs and StarKist and DWI agree that neither this Settlement  
4 Agreement nor any statement made in the negotiation thereof shall be deemed or  
5 construed to be an admission by or evidence against StarKist and DWI or evidence  
6 of the truth of any of DPP allegations;

7 WHEREAS, DPPs and StarKist and DWI have engaged in multiple arm’s-  
8 length settlement negotiations, assisted by Magistrate Judge Michael S. Berg, and  
9 have reached this Settlement Agreement, subject to the approval of the Court; and

10 NOW, THEREFORE, in consideration of the promises, covenants,  
11 agreements, and releases set forth herein and for other good and valuable  
12 consideration, and incorporating the above recitals herein, subject to the approval of  
13 the Court, it is agreed by the undersigned counsel, on behalf of StarKist and DWI,  
14 DPPs, and the Settlement Class, that the claims that have been or could have been  
15 asserted by DPPs in the Action be settled, compromised, and dismissed on the merits  
16 and with prejudice as to StarKist and DWI, and, except as hereinafter provided,  
17 without costs as to DPPs, StarKist, and/or DWI, subject to the approval of the Court,  
18 on the following terms and conditions:

19 **1. Definitions**

20 1.1. “Action” means the class action captioned *In Re: Packaged Seafood*  
21 *Products Antitrust Litigation*, No. 15-md-2670 DMS (MSB), MDL No. 2670 (S.D.  
22 Cal.), currently pending before the Honorable Dana M. Sabraw in the United States  
23 District Court for the Southern District of California, all actions relating to the claims  
24 alleged in “Direct Purchaser Plaintiffs’ Fourth Amended Consolidated Class Action  
25 Complaint” and all actions that have been or are subsequently filed in or transferred  
26 for consolidation and/or coordinated pretrial proceedings to the Southern District of  
27 California by the Judicial Panel on Multidistrict Litigation as part of MDL No. 2670.

1           1.2. “Claims” shall mean any and all actions, suits, claims, rights,  
2 demands, assertions, allegations, causes of action, controversies, proceedings, losses,  
3 damages, injuries, attorneys’ fees, costs, expenses, debts, liabilities, judgments, or  
4 remedies, whether equitable or legal.

5           1.3. “Claims Administrator” shall mean JND or any other third-party  
6 class action settlement claims administrator mutually agreed upon by the Parties and  
7 approved by the Court for the purposes of administering this settlement.

8           1.4. “Complaint” means the Direct Purchaser Plaintiffs’ Fourth  
9 Amended Consolidated Class Action Complaint filed in the Action [ECF No. 1460].

10           1.5. “Court” means the United States District Court for the Southern  
11 District of California.

12           1.6. “Defendant” means any defendant named in DPPs’ Complaint (*i.e.*,  
13 StarKist and DWI, as defined above, Bumble Bee Foods LLC, Lion Capital  
14 (Americas), Inc., and Lion Capital LLP, and Tri-Union Seafoods LLC d/b/a Chicken  
15 of the Sea and Thai Union Group PCL).

16           1.7. “Document” is defined to be synonymous in meaning and equal in  
17 scope to the usage of this term in Federal Rule of Civil Procedure (“Federal Rule”)  
18 34(a). A draft or non-identical copy is a separate document within the meaning of  
19 this term.

20           1.8. “DPPs” means the named plaintiffs defined above and the unnamed  
21 members of the Settlement Class.

22           1.9. “Effective Date” means the earliest date on which all of the events  
23 and conditions specified in Paragraph 7 herein have occurred or have been met.

24           1.10. “Escrow Account” means an account to be established with  
25 Huntington Bank for the purpose of holding the Settlement Funds.

26           1.11. “Escrow Agent” means the bank or trust company that agrees to  
27 establish and maintain the Escrow Account.

1           1.12. “Final Approval” means an order finally approving the DPPs’  
2 class settlement and dismissing the Action with prejudice as to StarKist and DWI  
3 without costs (other than those provided for in this Settlement Agreement), to be  
4 rendered by the Court in the Action.

5           1.13. “Judgment” means a final order of judgment by the Court  
6 dismissing the Action as to any Released Party and approving the Settlement  
7 Agreement under Federal Rule 23(e), as described in Paragraph 6.1 herein.

8           1.14. “Order Date” refers to the date on which an eligible claimant  
9 places an order for StarKist Product in connection with this Settlement.

10           1.15. “Packaged Tuna” means shelf-stable tuna sold for human  
11 consumption and packaged in either cans or pouches, and excludes tuna cups, tuna  
12 salad kits, and salvage sales.

13           1.16. “Parties” means DPPs, Settlement Class Members, and StarKist  
14 and DWI.

15           1.17. “Person” means an individual or an entity.

16           1.18. “Preliminary Approval” means an order preliminarily approving  
17 the settlement, to be rendered by the Court in the Action.

18           1.19. “Released Claims” means any and all Claims, whether class,  
19 individual, or otherwise, that the Releasing Parties or any of them ever had, now has,  
20 or hereafter can, shall, or may have, directly, representatively, derivatively, or in any  
21 other capacity, against the Released Parties or any of them, whether such Claims are  
22 based on federal, state, local, statutory, or common law, or any other law, code, rule,  
23 or regulation of any country or other jurisdiction worldwide, whether such Claims  
24 are known or unknown, suspected or unsuspected, asserted or unasserted, foreseen  
25 or unforeseen, actual or contingent, liquidated or unliquidated, regardless of legal  
26 theory, and regardless of the type or amount of relief or damages claimed, or Claims  
27 that have been, could have been, or in the future might have been, claimed in law or  
in equity, on account of, arising out of, resulting from, or in any way related to any

1 conduct regardless of legal theory, and regardless of the type or amount of relief or  
2 damages claimed, or Claims that have been, could have been, or in the future might  
3 have been, claimed in law or in equity, on account of, arising out of, resulting from,  
4 or in any way related to DPPs’ purchases of Packaged Tuna, including any conduct  
5 concerning the pricing, selling, discounting, marketing, manufacturing, distribution,  
6 or promotion, of Packaged Tuna, during the period from June 1, 2011 to July 31,  
7 2015. The Released Claims also include all claims that could have been brought  
8 based in whole or in part on the facts, occurrences, transactions, or other matters that  
9 were alleged in the Complaint.

10 1.20. “Released Parties” means, jointly and severally, individually and  
11 collectively: StarKist and DWI, their present and former parents, subsidiaries,  
12 divisions, affiliates, and departments, their respective past and present officers,  
13 directors, members, employees, agents, attorneys, servants, insurers, and  
14 representatives of each of the aforesaid entities, and the predecessors, successors,  
15 heirs, executors, administrators, and assigns of each of the foregoing. As used in this  
16 definition, “affiliates” means entities controlling, controlled by, or under common  
17 control with any of the Released Parties.

18 1.21. “Releasing Parties” means, jointly and severally, and individually  
19 and collectively: DPPs and all Settlement Class Members, their predecessors,  
20 successors, present and former parents, subsidiaries, divisions, affiliates, and  
21 departments, each of their respective past and present officers, directors, employees,  
22 agents, attorneys, servants, and representatives, and the predecessors, successors,  
23 heirs, executors, administrators, and assigns of each of the foregoing.

24 1.22. “Settlement Amount” means Thirty-Two Million Six Hundred and  
25 Fifty Thousand Dollars (\$32,650,000.00) in United States currency and Twenty-Six  
26 Million and One Hundred Thousand Dollars (\$26,100,000.00) in-kind in StarKist  
27 Products valued at their national list prices as of the Order Date (the “Product  
28 Component”). StarKist will deposit One Million Dollars (\$1,000,000.00) in United



1 States currency into the Escrow Account within five (5) days of Preliminary  
2 Approval by the Court, Fifteen Million Eight Hundred and Twenty-Five Thousand  
3 Dollars (\$15,825,000.00) in United States currency into the Escrow Account within  
4 120 days after Final Approval by the Court, and Fifteen Million Eight Hundred and  
5 Twenty-Five Thousand Dollars (\$15,825,000.00) in United States currency into the  
6 Escrow Account no later than December 1, 2025. Subject to the approval of the  
7 Court, each Settlement Class Member who submits a valid claim shall receive its pro  
8 rata share of cash and StarKist Products. The allocation of cash among the Settlement  
9 Class shall be made on a pro rata basis, following the payment of approved fees and  
10 costs, to eligible class members who submit claims. Likewise, the allocation of  
11 StarKist Products among the Settlement Class shall be made on a pro rata basis to  
12 eligible class members who submit claims. StarKist will distribute the StarKist  
13 Products to all claimants with eligible claims as advised by Settlement Class Counsel  
14 in an amount to be determined by the Claims Administrator as described below in  
15 Paragraph 10.2.

16 1.23. “Settlement Class” means the Direct Purchaser Settlement Class,  
17 which is defined as follows:

18 All persons and entities that directly purchased packaged tuna products  
19 within the United States, its territories and the District of Columbia from  
20 any Defendant at any time between June 1, 2011 and July 31, 2015.  
21 Excluded from the class are all governmental entities; Defendants and any  
22 parent, subsidiary or affiliate thereof; Defendants’ officers, directors,  
23 employees, and immediate families; any federal judges or their staffs;  
24 purchases of tuna salad kits or cups; and salvage purchases. Also excluded  
25 from the class is any person or entity that was excluded from the class, in  
26 whole or in part, pursuant to the Court’s Order in this Action at ECF No.  
27 3097, which incorporates the list of entities at ECF No. 3095-1.

28 1.24. “Settlement Class Counsel” means Hausfeld LLP, 600  
Montgomery Street, Suite 3200, San Francisco, CA 94111.

1 1.25. "Settlement Class Member" means each member of the Settlement  
2 Class as defined in Paragraphs 1.23 and referred to in Paragraph 3 herein.

3 1.26. "Settlement Fund" shall mean those monies representing the  
4 consideration to be paid by StarKist to Direct Purchaser Plaintiffs and the Settlement  
5 Class Members, including the Settlement Amount and any income earned on that  
6 amount while such monies are held in the Escrow Account.

7 1.27. "StarKist Products" shall mean StarKist-branded products on the  
8 StarKist national price list that comprise the in-kind portion of the Settlement  
9 Amount described in Paragraphs 1.22 and 10.2.

10 **2. Cooperation and Effectuation of this Settlement Agreement**

11 Counsel for Direct Purchaser Plaintiffs and StarKist and DWI shall use all  
12 reasonable efforts to effectuate this Settlement Agreement, including cooperating in  
13 efforts to obtain the Court's approval of procedures (including the giving of class  
14 notice under Federal Rules 23(c) and 23(e)) and to secure certification of the  
15 Settlement Class for settlement purposes and the complete and final dismissal with  
16 prejudice of the Action as to StarKist and DWI. Prior to the filing of any motions or  
17 other papers in connection with the settlement, including, without limitation, the  
18 motion for Preliminary Approval of the settlement (as contemplated in Paragraph 4.1  
19 of this Settlement Agreement) and for Final Approval of the settlement (as  
20 contemplated in Paragraph 6.1 of this Settlement Agreement), Settlement Class  
21 Counsel will send those papers to counsel for StarKist and DWI within a reasonable  
22 amount of time prior to filing. The text of any proposed form of order approving this  
23 Settlement Agreement shall be agreed upon by Settlement Class Counsel and  
24 Counsel for StarKist and DWI before it is submitted to the Court.

25 **3. Settlement Class Certification**

26 On July 30, 2019, the Court granted DPPs' motion to certify a class pursuant  
27 to Federal Rule 23(b)(3). The Settlement Class, as defined above in Paragraph 1.23,  
28 is almost identical to the Court's order certifying the litigation class in the Action at

1 ECF No. 1931, except that the Settlement Class also excludes parties later excluded  
2 from the litigation class by the Court’s Order in this Action at ECF No. 3097. The  
3 Parties hereby stipulate for purposes of this settlement only that the requirements of  
4 Rule 23(a) and 23(b)(3) of the Federal Rules are satisfied, and, subject to Court  
5 approval, the Settlement Class shall be certified for settlement purposes.

6 **4. Motion for Preliminary Approval**

7 4.1. At an appropriate time after the Execution Date of this Settlement  
8 Agreement, and after consultation as to timing with counsel for StarKist and DWI,  
9 Settlement Class Counsel shall file with the Court a motion requesting entry of  
10 Preliminary Approval, *inter alia*:

11 (a) finding the proposed settlement in the Settlement  
12 Agreement has been negotiated at arm’s length, and  
13 preliminarily approving the proposed settlement as fair,  
14 reasonable, and adequate, and in the best interests of the  
15 Settlement Class; scheduling a hearing to consider (i)  
16 whether the proposed settlement should be approved as fair,  
17 reasonable, and adequate to Settlement Class Members, and  
18 whether the Judgment should be entered dismissing the  
19 Claims of DPPs and all Settlement Class Members against  
20 StarKist and DWI on the merits and with prejudice; and (ii)  
21 whether to approve any application by Settlement Class  
22 Counsel for an award of attorneys’ fees and payment of  
23 costs and expenses (“Fairness Hearing”);

24 (b) certifying the Settlement Class for settlement purposes,  
25 designating class representatives and Settlement Class  
26 Counsel as defined herein, and finding that each element for  
27 certification of the Settlement Class pursuant to Federal  
28 Rule 23 is met;

1 (c) enjoining initiation, commencement, or prosecution of any  
2 action or proceeding asserting any Released Claims  
3 described in Paragraph 8 by any Releasing Party.

4 4.2. DPPs shall seek, and StarKist and DWI shall not oppose,  
5 certification of the Settlement Class and appointment of Settlement Class Counsel as  
6 lead counsel for purposes of this settlement.

7 **5. Notice to Settlement Class Members**

8 5.1. After Preliminary Approval of this Settlement Agreement and  
9 submission to the Court and approval of a program to provide notice to the Settlement  
10 Class in accordance with the requirements of the Federal Rules of Civil Procedure  
11 and due process, Settlement Class Counsel shall provide the Settlement Class  
12 Members with notice of the settlement and the date of the Fairness Hearing in a  
13 manner to be approved by the Court.

14 5.2. Upon approval by the Court of a program to provide notice to the  
15 Settlement Class, Settlement Class Counsel shall cause a summary notice of the  
16 settlement to be published in such manner and scope as is reasonable and consistent  
17 with the requirements of Federal Rule 23.

18 5.3. The costs and expenses associated with providing notice of the  
19 settlement to members of the Settlement Class pursuant to the Court-approved  
20 notification plan shall be paid from the Settlement Fund. StarKist and DWI agree to  
21 permit use of the Settlement Fund toward the out-of-pocket costs and expenses of  
22 administering the settlement, comprising out-of-pocket costs and expenses associated  
23 with providing notice of the settlement to the Settlement Class (“Notice Costs”). Up  
24 to a maximum of one million US dollars (USD \$1,000,000.00) of those Notice Costs  
25 are not recoverable by StarKist or DWI if this Settlement Agreement does not  
26 become final or is terminated to the extent such Notice Costs have actually been  
27 expended or incurred. Other than as set forth in this Paragraph, StarKist and DWI  
28 shall have no obligation to pay for the costs and expenses of providing notice of the

1 settlement to members of the Settlement Class. StarKist and DWI agree that  
2 Settlement Class Counsel may withdraw funds as necessary from the Settlement  
3 Fund after Preliminary Approval for the purpose of providing notice to the Settlement  
4 Class of the settlement as described herein.

5 **6. Fairness Hearing**

6 6.1. At the Fairness Hearing, DPPs shall seek entry of Judgments:

- 7 (a) approving the Settlement Agreement and its terms as being  
8 fair, reasonable, and adequate as to the Settlement Class,  
9 within the meaning of Federal Rule 23, and directing its  
10 consummation according to its terms;
- 11 (b) determining that the notices to Settlement Class Members  
12 constituted, under the circumstances, the best practicable  
13 notice of this Settlement Agreement and the Fairness  
14 Hearing, and constituted due and sufficient notice for all  
15 other purposes to all Persons entitled to receive notice;
- 16 (c) dismissing the Claims against StarKist and DWI with  
17 prejudice, without costs;
- 18 (d) permanently barring and enjoining the institution,  
19 commencement, or prosecution, by any of the Releasing  
20 Parties, of any action asserting any Released Claim against  
21 any Released Party, in any local, state, federal, or other court  
22 of any nation, or in any agency or other authority or arbitral  
23 or other forum wherever located;
- 24 (e) providing that any Settlement Class Member who fails to  
25 object in the manner prescribed in the Settlement  
26 Agreement shall be deemed to have waived any objections  
27 to the settlement and the Settlement Agreement and will

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forever be barred from making any such objections to the settlement or the Settlement Agreement;

(f) retaining exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of the settlement; and

(g) determining under Federal Rule 54(b) that there is no just reason for delay and directing that the Judgment of dismissal as to StarKist and DWI shall be final and entered forthwith.

6.2. Any Settlement Class Member who objects to the settlement may appear, at that Person’s own expense, at the Fairness Hearing in person or through counsel, to present any evidence or argument with respect to the settlement, to the extent permitted by the Court. However, no such Person shall be heard, and no papers, briefs, pleadings, or other Documents shall be received and considered by the Court unless such Person properly submits a written objection that includes: (a) notice of intention to appear, (b) proof of membership in the Settlement Class, and (c) 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 no later than thirty-five (35) days prior to the date set for the Fairness Hearing, and mailed to both Settlement Class Counsel and StarKist and DWI’s counsel at the addresses set forth below and provided in the notices to the Settlement Class, postmarked (or mailed by overnight delivery) no later than thirty-five (35) days prior to the date of the Fairness Hearing.

For Settlement Class Counsel:

Christopher L. Lebsack  
Hausfeld LLP  
600 Montgomery Street, Suite 3200

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San Francisco, CA, 94111  
For StarKist:  
Ashley M. Bauer  
Latham & Watkins LLP  
505 Montgomery Street, Ste 2000  
San Francisco, CA 94111

Any Person who fails to object in the manner prescribed herein shall be deemed to have waived any objections to the Settlement Agreement and will forever be barred from making any such objections to this Settlement Agreement in the Action or in any other action or proceeding, unless otherwise permitted for good cause shown as determined by the Court.

**7. Effective Date of Agreement**

The Effective Date of this Settlement Agreement is the earliest date on which all of the following events and conditions have occurred or have been met: (a) the Court has entered a Judgment, following notice to the Settlement Class and the Fairness Hearing, approving this Settlement Agreement under Federal Rule 23(e) and dismissing the Action as against any Released Party who is named as a Defendant in the Action, with prejudice as to all Settlement Class Members and without costs except as specified herein; and (b) the time for appeal or to seek permission to appeal from the Court’s approval of the Settlement Agreement and entry of the Judgment has expired or, if appealed, approval of this Settlement Agreement and the Judgment has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review. Neither the provisions of Federal Rule 60 nor the All Writs Act, 28 U.S.C. § 1651, shall be taken into account in determining the above-stated times.

**8. Release and Covenant Not to Sue**

8.1. Upon the occurrence of the Effective Date, and only after the completion of all installment payments pursuant to the Settlement Amount due by

1 StarKist as set forth in Paragraphs 1.22, 10.1, and 10.2 herein, and in consideration  
2 of the payment of the Settlement Amount set forth in Paragraph 1.22 herein, each of  
3 the Releasing Parties shall be deemed to have, and by operation of the Judgment shall  
4 have, fully, finally, and forever released, relinquished, and discharged all Released  
5 Claims against the Released Parties, shall have covenanted not to sue or otherwise  
6 seek to establish liability against any of the Released Parties based, in whole or in  
7 part, upon any of the Released Claims, and shall be permanently barred and enjoined  
8 from instituting, commencing, prosecuting, or asserting any such Released Claim  
9 against any of the Released Parties. The statute of limitations of all Released Claims  
10 against the Released Parties shall be tolled from the Execution Date until after the  
11 completion of all installment payments pursuant to the Settlement Amount due by  
12 StarKist as set forth in Paragraphs 1.22, 10.1, and 10.2 herein.

13 **8.2. Waiver of California Civil Code § 1542 and Similar Laws.** With  
14 respect to any and all Released Claims, the Parties stipulate and agree that, upon the  
15 Effective Date and the completion of all installment payments pursuant to the  
16 Settlement Agreement as set forth in Paragraphs 1.22, 10.1, and 10.2 herein, DPPs  
17 shall expressly waive and, upon the Effective Date and the completion of all  
18 installment payments pursuant to the Settlement Agreement as set forth in Paragraphs  
19 1.22, 10.1, and 10.2 herein, each of the Releasing Parties shall be deemed to have  
20 waived, and by operation of the Judgment shall have waived: (i) the provisions,  
21 rights, and benefits of California Civil Code Section 1542 and South Dakota Codified  
22 Laws Section 20-7-11 (to the extent either or both of them apply to the Action), each  
23 of which provides that:

24 **A GENERAL RELEASE DOES NOT EXTEND TO**  
25 **CLAIMS THAT THE CREDITOR OR RELEASING**  
26 **PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN**  
27 **HIS OR HER FAVOR AT THE TIME OF EXECUTING**  
28 **THE RELEASE AND THAT, IF KNOWN BY HIM OR**  
**HER, WOULD HAVE MATERIALLY AFFECTED HIS**



**OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

(ii) any equivalent, similar, or comparable present or future law or principle of law in any jurisdiction (U.S. or foreign); and/or (iii) any law or principle of law in any jurisdiction (whether U.S. or foreign) that would similarly limit or restrict the effect or scope of the provisions of the release set forth above. Releasing Parties expressly acknowledge that they may hereafter discover facts in addition to or different from those facts that any of them or their counsel now knows or believes to be true with respect to the subject matter of the Settlement Agreement, but upon the completion of the installment payments pursuant to the Settlement Agreement as set forth in Paragraphs 1.22, 10.1, and 10.2 herein, and retroactive to the Effective Date, each Plaintiff shall expressly have, and, upon the Effective Date, each Releasing Party shall be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, that now exist or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent, reckless, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery of existence of such different or additional facts. DPPs acknowledge, and the Releasing Parties shall be deemed to have acknowledged, and by operation of the Judgment shall have acknowledged, that the foregoing waiver was separately bargained for and a key element of the settlement of which this release is a part.

**9. Reservation of Settlement Class Members' Rights**

All rights of any Settlement Class Member against any alleged co-conspirator or any other Person other than the Released Parties are specifically reserved by DPPs and the Settlement Class Members.

1           **10. Settlement Consideration**

2           10.1. The total monetary amount payable by StarKist (comprising class  
3 damages, costs of class notice and administration, and attorneys' fees and costs) in  
4 settlement of all claims relating to the Action and all Released Claims, is the  
5 Settlement Amount described above in Paragraph 1.22. The deposited sums shall be  
6 held in the Escrow Account until there is an order from the Court concerning  
7 distribution or use of the Settlement Amount. The Escrow Account Agent shall be  
8 subject to escrow instructions mutually acceptable to Settlement Class Counsel and  
9 StarKist and DWI, and such escrow is to be administered under the Court's continuing  
10 supervision and control. The timing provisions herein are a material part of this  
11 Settlement Agreement.

12           10.2. The Product Component of this settlement shall be administered as  
13 follows: The Claims Administrator shall provide StarKist with the pro rata allocation  
14 of the Product Component within thirty (30) days of verifying the claims of eligible  
15 Class Members. The Product Component of the Settlement Agreement shall be  
16 redeemed over the course of no more than three (3) years following Final Approval  
17 or following ninety (90) days after the Claims Administrator provides StarKist with  
18 the pro rata allocation of the Product Component of the settlement, whichever is later.  
19 Settlement Class Members may place an order for any StarKist-branded products on  
20 StarKist's national price list in effect on the date that they place their order to redeem  
21 their pro rata share of StarKist Products. Settlement Class Members must place their  
22 first order for StarKist Products within one-hundred and eighty (180) days after Final  
23 Approval or ninety (90) days after the Claims Administrator provides StarKist with  
24 the pro rata allocation of the Product Component of the settlement, whichever is later.  
25 Any Settlement Class Member whose allocation of StarKist Products is valued at less  
26 than \$113,000.00 must redeem all of its StarKist Products in one (1) order. There is  
27 no limit on the number of orders that Settlement Class Members whose allocations of

1 StarKist Products are valued at or above \$113,000.00 may place. StarKist Products  
2 shall be delivered FOB destination point to each Settlement Class Member who makes  
3 a claim and places an order, freight pre-paid to a single agreed shipping address within  
4 the continental United States for that claimant, provided that the claimant shall pay  
5 the standard shipping costs for any shipments that are made in less than full truckloads  
6 if more than one order for StarKist Products is placed for its allocated share of the  
7 Product Component. StarKist will pay full trucking costs on all full truckload  
8 shipments. StarKist agrees to promptly ship the agreed upon StarKist Products subject  
9 to availability. In the event of a product allocation, StarKist shall not discriminate  
10 against orders for StarKist Products, and shall treat the orders of Settlement Class  
11 Members as it treats all other orders in determining order fulfillment. StarKist shall  
12 annually provide the Claims Administrator and Settlement Class Counsel with an  
13 accounting of the Product Component, including a list of the StarKist Products  
14 claimed during each preceding calendar year, and the dollar value of such orders  
15 (valued at the national list price in effect as of the Order Date). Any claimant may  
16 elect to transfer its share of StarKist Products to a designated 501(c)(3) cy pres  
17 recipient to be agreed upon by the Parties by informing StarKist in writing of its desire  
18 to transfer. The orders for StarKist Products by Settlement Class Members shall be  
19 subject to StarKist's standard terms and conditions for product orders. Upon  
20 conclusion of the three-year period set forth herein, Settlement Class Counsel, subject  
21 to the approval of the Court, may direct the shipment of any undistributed portion of  
22 the Product Component to an appropriate 501(c)(3) cy pres recipient to be agreed upon  
23 with StarKist. StarKist shall have the sole discretion as to the selection of StarKist  
24 Products that comprise the cy pres Product Component. In no event shall any StarKist  
25 Products revert to StarKist.

26 10.3. The Escrow Agent shall cause the funds deposited in the Escrow  
27 Account to be invested in instruments backed by the full faith and credit of the United

1 States Government or fully insured by the United States Government or an agency  
2 thereof, or money market funds invested substantially in such instruments, and shall  
3 reinvest any income from these instruments and the proceeds of these instruments as  
4 they mature in similar instruments at their then-current market rates.

5 10.4. All funds held in the Escrow Account shall be deemed and  
6 considered to be in custodia legis of the Court and shall remain subject to the  
7 jurisdiction of the Court, until such time as such funds shall be distributed pursuant to  
8 this Settlement Agreement and/or further order(s) of the Court.

9 10.5. DPPs and StarKist and DWI intend for the Settlement Fund to be  
10 treated as being at all times a “qualified settlement fund” within the meaning of Treas.  
11 Reg. § 1.468B-1. In addition, the Escrow Agent shall timely make such elections as  
12 necessary or advisable to carry out the provisions of Paragraph 10.7, including the  
13 “relation-back election” (as defined in Treas. Reg. § 1.468B-1) so as to enable the  
14 Settlement Fund to be treated as a “qualified settlement fund” from the earliest date  
15 possible. Such elections shall be made in compliance with the procedures and  
16 requirements contained in such regulations. It shall be the responsibility of the Escrow  
17 Agent to timely and properly prepare and deliver the necessary documentation for  
18 signature by all necessary parties, and thereafter to cause the appropriate filing to  
19 occur.

20 10.6. For the purpose of § 468B of the Internal Revenue Code of 1986,  
21 as amended, and the regulations promulgated thereunder, the “administrator” shall be  
22 the Claims Administrator. The Claims Administrator shall timely and properly file all  
23 information and other tax returns necessary or advisable with respect to the Settlement  
24 Fund (including without limitation the returns described in Treas. Reg. § 1.468B-  
25 2(k)(1)). Such returns (as well as the elections described in Paragraph 10.5) shall be  
26 consistent with Paragraph 10.8.

1           10.7. All (i) taxes (including any estimated taxes, interest, or penalties)  
2 arising with respect to the income earned by the Settlement Fund, including any taxes  
3 or tax detriments that may be imposed upon StarKist and DWI or any other Released  
4 Party with respect to any income earned by the Settlement Fund for any period during  
5 which the Settlement Fund does not qualify as a “qualified settlement fund” for federal  
6 or state income tax purposes (“Taxes”); and (ii) expenses and costs incurred in  
7 connection with the operation and implementation of Paragraphs 10.5 through 10.9  
8 (including, without limitation, expenses of tax attorneys and/or accountants and  
9 mailing and distribution costs and expenses relating to filing (or failing to file) the  
10 returns described in Paragraph 10.6 (“Tax Expenses”)), shall be paid out of the  
11 Settlement Fund.

12           10.8. Neither StarKist and DWI nor any other Released Party nor their  
13 respective counsel shall have any liability or responsibility, including filing  
14 responsibility, for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses  
15 shall be treated as, and considered to be, a cost of administration of the Settlement  
16 Fund and shall be timely paid by the Escrow Agent out of the Escrow Account from  
17 the Settlement Fund. The Escrow Agent shall be obligated (notwithstanding anything  
18 herein to the contrary) to withhold from distribution to any claimants authorized by  
19 the Court any funds necessary to pay such amounts including the establishment of  
20 adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may  
21 be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). Neither StarKist and  
22 DWI nor any other Released Party are responsible nor shall they have any liability  
23 therefor. DPPs and StarKist and DWI agree to cooperate with the Escrow Agent, each  
24 other, and their tax attorneys and accountants to the extent reasonably necessary to  
25 carry out the provisions of Paragraphs 10.3 through 10.11. StarKist and DWI make  
26 no representation to DPPs regarding the appropriate tax treatment of the Settlement  
27

1 Fund, income earned on the Settlement Fund, or any distribution taken from the  
2 Settlement Fund.

3 10.9. If this Settlement Agreement does not receive Final Approval by  
4 the Court, or if the Action is not certified as a class action for settlement purposes, or  
5 if this Settlement Agreement is terminated or voided for any reason, then all amounts  
6 paid by StarKist and DWI into the Settlement Fund (other than costs that may already  
7 have reasonably been incurred or expended in accordance with Paragraphs 5.3 and  
8 11) shall be returned to StarKist and DWI from the Escrow Account by the Escrow  
9 Agent along with any interest accrued thereon, within ten (10) business days after  
10 such order becomes final and non-appealable.

11 10.10. StarKist and DWI shall not be liable for any costs, fees, or  
12 expenses of any of DPPs' respective attorneys, experts, advisors, agents, or  
13 representatives, except all such costs, fees, and expenses as provided for in Paragraphs  
14 5.3 and 11 or otherwise approved by the Court may be paid out of the Settlement  
15 Fund.

16 10.11. If, after all costs (including notice costs), attorneys' fees, and any  
17 other expenses have been paid from the Settlement Fund, there are any remaining  
18 funds, they shall be distributed to the Settlement Class, or in Settlement Class  
19 Counsel's reasonable judgment, be made the subject of an application to the Court by  
20 DPPs for cy pres distribution in accordance with governing standards in the Ninth  
21 Circuit.

22 **11. Administration of the Settlement Fund**

23 11.1. The costs and expenses of administration of the settlement  
24 pursuant to the terms of this Settlement Agreement shall be paid out of the Settlement  
25 Fund. The Claims Administrator(s) shall, on a monthly basis, submit invoices, with  
26 appropriate supporting documentation, to Settlement Class Counsel for payment  
27 from the Escrow Account. To the extent practicable, the administration of this

1 settlement shall be coordinated with the administration of other aspects of this  
2 Action, including, but not limited to, any other settlement(s) entered into between  
3 DPPs and any other settling Defendant(s) and/or the administration of any recovery  
4 obtained on behalf of the class by summary judgment or trial.

5 11.2. StarKist and DWI shall not have any responsibility, financial  
6 obligation, or liability whatsoever with respect to the investment, distribution, or  
7 administration of the Settlement Fund, including, but not limited to, the costs and  
8 expenses of such investment, distribution, and administration, except as expressly  
9 otherwise provided in the Settlement Agreement.

10 **12. Withdrawal From or Modification of the Settlement**

11 12.1. If the Court declines to approve this Settlement Agreement or any  
12 material part hereof, or if such approval is materially modified or set aside on appeal,  
13 or if the Court does not enter the Judgment, or if the Court enters the Judgment and  
14 appellate review is sought and, on such review, such Judgment is not affirmed or is  
15 materially modified, then StarKist and DWI and DPPs shall each, in their respective  
16 sole discretion, have the option to rescind this Settlement Agreement in its entirety.

17 12.2. If StarKist and DWI choose to exercise the option to rescind  
18 pursuant to Paragraph 12.1, any and all amounts then constituting the Settlement  
19 Fund (including all income earned thereon and excluding any reasonable expenses  
20 that have been paid or incurred associated with providing notice to the Settlement  
21 Class, administering the Settlement Fund, incurred or paid under Paragraph 10.7 of  
22 this Settlement Agreement, and/or any Taxes already paid on such income), together  
23 with any amounts, including attorneys' fees, paid to Settlement Class Counsel  
24 pursuant to Paragraph 14 below (including all income earned thereon), shall be  
25 returned forthwith to StarKist. A modification or reversal on appeal of any amount  
26 of Settlement Class Counsel's fees and/or expenses awarded by the Court or any plan  
27 of allocation or distribution of the Settlement Fund shall not be deemed a

1 modification of all or a part of the terms of this Settlement Agreement or the  
2 Judgment.

3 12.3. StarKist and DWI and DPPs expressly reserve all of their rights if  
4 this Settlement Agreement does not become effective or if it is rescinded pursuant to  
5 Paragraph 12.1 of this Settlement Agreement. In addition, if for any reason (including  
6 a party's exercise of a valid right to rescind this Settlement Agreement), the  
7 Settlement Agreement does not receive Final Approval by the Court, then the  
8 certification of the Settlement Class shall become null and void without further Court  
9 action, and shall not be used or referred to for any further purpose in the Action or in  
10 any other action or proceeding, and shall not prejudice any party in arguing for or  
11 against contested class certification in this Action or in any other proceeding. Further,  
12 this Settlement Agreement, whether or not it is finally approved and whether or not  
13 StarKist and DWI or DPPs elect to rescind it under Paragraph 12.1 of the Settlement  
14 Agreement, and any and all negotiations, Documents, and discussions associated  
15 with it, shall not be deemed or construed to be an admission or evidence of any  
16 violation of any statute or law, or of any liability or wrongdoing by StarKist and DWI  
17 or any Defendant, or of the truth of any of the claims or allegations contained in the  
18 Complaint or any other pleading filed by DPPs in the Action, or waiver or invalidity  
19 of any defense, and evidence thereof shall neither be discoverable nor used directly  
20 or indirectly except in a proceeding to enforce or interpret the Settlement Agreement.

21 **13. No Admissions**

22 The Parties intend the settlement as described herein to be a final and  
23 complete resolution of all disputes between them with respect to the Released Claims,  
24 and it shall not be deemed an admission by any party as to the jurisdiction of the  
25 Court over the claims asserted against StarKist and DWI, or as to the merits of any  
26 claim or defense or any allegation made in the Action.  
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1           **14. Settlement Class Counsel’s Attorneys’ Fees and Expenses**

2           14.1. The procedure for, and the allowance or disallowance by the Court  
3 of, any application by Settlement Class Counsel for attorneys’ fees and expenses are  
4 not part of the Settlement Agreement and are to be considered by the Court separately  
5 from the Court’s consideration of the fairness, reasonableness, and adequacy of the  
6 settlement. Any order or proceeding relating to any application for, or approval of,  
7 attorneys’ fees and expenses, the pendency of any such application, or any appeal or  
8 review of an order relating thereto or reversal or modification thereof, shall not  
9 operate to terminate or cancel this Settlement Agreement, or affect or delay the  
10 finality of the Judgment. StarKist and DWI agree that Settlement Class Counsel may  
11 withdraw from the Settlement Fund any amount awarded by the Court for attorneys’  
12 fees and costs five (5) days following the Court’s award, subject to an appropriate  
13 financial undertaking required by the Court in the event of an appeal of the Court’s  
14 award of attorneys’ fees and expenses. Attorneys’ fees and expenses authorized by  
15 the Court to be paid from the Settlement Fund shall be payable notwithstanding the  
16 existence of any timely filed objections to the Settlement Agreement, to any payment  
17 of fees, expenses, or incentives or potential for appeal therefrom, or collateral attack  
18 on the Settlement Agreement or any part thereof, subject to Settlement Class  
19 Counsel’s obligation to make appropriate refunds or repayments to the Settlement  
20 Fund, if the Effective Date does not occur, or the Settlement Agreement is subject to  
successful collateral attack, or the fee or cost amount is reduced or reversed.

21           14.2. StarKist and DWI shall have no responsibility for, and no liability  
22 whatsoever with respect to, the division of attorneys’ fees and expenses among  
23 counsel representing the DPPs, and any negotiation or dispute among counsel  
24 representing the DPPs in that regard shall not operate to terminate or cancel this  
25 Settlement Agreement, or affect or delay the finality of the Judgment.

26           14.3. Except as otherwise provided herein, DPPs and StarKist and DWI  
27 shall each be responsible for bearing their own costs and fees incurred in this Action.

1           **15. Miscellaneous Provisions**

2           15.1. StarKist and DWI expressly represent that they have obtained all  
3 required approvals from their management for this Settlement Agreement.

4           15.2. This Settlement Agreement shall constitute the entire agreement  
5 between the Parties pertaining to the settlement of the Action against StarKist and  
6 DWI and supersedes any and all prior and contemporaneous undertakings of the  
7 Parties in connection therewith. The terms of the Settlement Agreement are and shall  
8 be binding upon each of the Parties hereto, their heirs, executors, administrators,  
9 representatives, agents, attorneys, partners, successors, predecessors-in-interest, and  
10 assigns, and upon all other Persons claiming any interest in the subject matter hereto  
11 through any of the parties hereto including any Settlement Class Members.

12           15.3. This Settlement Agreement may be modified or amended only by  
13 a writing executed by Settlement Class Counsel and counsel for StarKist and DWI,  
14 subject (if after preliminary or final approval by any court) to the approval of the  
15 Court. Amendments and modifications may be made without notice to the Settlement  
16 Class unless notice is required by law or by the Court.

17           15.4. None of the Parties hereto shall be considered to be the drafter of  
18 this Settlement Agreement or any its provisions hereof for the purpose of any statute,  
19 case law, or rule of interpretation or construction that would or might cause any  
20 provision to be construed against the drafters of this Settlement Agreement.

21           15.5. This Settlement Agreement shall be construed and interpreted to  
22 effectuate the intent of the Parties which is to provide, through this Settlement  
23 Agreement, for a complete resolution of the Released Claims with respect to the  
24 Released Parties.

25           15.6. Nothing expressed or implied in this Settlement Agreement is  
26 intended to or shall be construed to confer upon or give any person or entity other  
27 than Settlement Class Members, Releasing Parties, and Released Parties any right or  
28 remedy under or by reason of this Settlement Agreement.

1           15.7. This Settlement Agreement shall be binding upon, and inure to the  
2 benefit of, the Releasing Parties and the Released Parties.

3           15.8. DPPs and StarKist and DWI acknowledge that they have been  
4 represented by counsel and have made their own investigations of the matters covered  
5 by this Settlement Agreement to the extent they have deemed it necessary to do so.  
6 Therefore, DPPs and StarKist and DWI and their respective counsel agree that they  
7 will not seek to set aside any part of the Settlement Agreement on the grounds of  
8 mistake. Moreover, DPPs and StarKist and DWI and their respective counsel  
9 understand, agree, and expressly assume the risk that any fact may turn out  
10 hereinafter to be other than, different from, or contrary to the facts now known to  
11 them or believed by them to be true, and further agree that the Settlement Agreement  
12 shall be effective in all respects and shall not be subject to termination, modification,  
13 or rescission by reason of any such difference in facts. If any provision of this  
14 Settlement Agreement is found by a court of competent jurisdiction to be illegal,  
15 invalid, or unenforceable for any reason, the remainder of this Settlement Agreement  
16 will not be affected and, in lieu of each provision that is found illegal, invalid, or  
17 unenforceable, a provision will be added as a part of this Settlement Agreement that  
18 is as similar to the illegal, invalid, or unenforceable provision as may be legal, valid,  
and enforceable.

19           15.9. All terms of this Settlement Agreement shall be governed by, and  
20 interpreted according to, the substantive laws of the State of California without regard  
21 to its choice of law or conflicts of laws principles.

22           15.10. StarKist and DWI, DPPs, and all Settlement Class Members  
23 hereby irrevocably submit to the exclusive jurisdiction of the Court for any suit,  
24 action, proceeding, or dispute arising out of or relating to this Settlement Agreement  
25 or the applicability, or interpretation of this Settlement Agreement, including,  
26 without limitation, any suit, action, proceeding, or dispute relating to the release  
27

1 provisions herein. StarKist and DWI do not, by way of this Settlement Agreement,  
2 submit to the jurisdiction of the Court for any other purpose.

3 15.11. This Settlement Agreement may be executed in counterparts.  
4 Facsimile or Portable Document Format signatures shall be considered as valid  
5 signatures for purposes of execution of this Settlement Agreement, but original  
6 signature pages shall thereafter be collated for filing of this Settlement Agreement  
7 with the Court.

8 15.12. Each of the undersigned attorneys represents that he or she is  
9 fully authorized to enter into the terms and conditions of, and execute, this Settlement  
10 Agreement, subject to Court approval, and the undersigned Settlement Class Counsel  
11 represent that they are authorized to execute this Settlement Agreement on behalf of  
12 DPPs and the Settlement Class.

13 IN WITNESS HEREOF, the Parties, through their fully authorized  
14 representatives, have agreed to this Settlement Agreement as of the date first written  
15 above.

16 [signature page follows]  
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Dated: August 13, 2024

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Christopher L. Lebsock  
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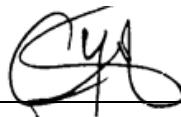
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*Class Counsel for the Direct Purchaser Plaintiffs*

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Dated: August 13, 2024

LATHAM & WATKINS LLP

By:  \_\_\_\_\_

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*Counsel for Defendants StarKist Co. and  
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# Exhibit B

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10 *Class Counsel for the Direct Purchaser Class*

11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 **IN RE: PACKAGED SEAFOOD**  
14 **PRODUCTS ANTITRUST**  
15 **LITIGATION**

16 Case No. 15-md-2670 DMS (MSB)  
17 MDL No. 2670

18 This document relates to:  
19 Direct Purchaser Plaintiff Class

20 **SETTLEMENT AGREEMENT**  
21 **BETWEEN DIRECT**  
22 **PURCHASER PLAINTIFFS**  
23 **AND LION CAPITAL LLP,**  
24 **LION CAPITAL (AMERICAS),**  
25 **INC., AND BIG CATCH**  
26 **CAYMAN LP**

27 **SETTLEMENT AGREEMENT BETWEEN DIRECT**  
28 **PURCHASER PLAINTIFFS AND LION CAPITAL**  
**LLP, LION CAPITAL (AMERICAS), INC., AND BIG**  
**CATCH CAYMAN LP**

**CASE NO. 15-MD-2670-DMS (MSB)**



1 This Settlement Agreement (“Settlement Agreement”), dated July 30, 2024  
2 (“Execution Date”), is made and entered into by and among Defendant Lion Capital  
3 (Americas), Inc. and Specially Appearing Defendants Lion Capital LLP and Big  
4 Catch Cayman LP<sup>1</sup> (collectively “the Lion Companies”) and Direct Purchaser  
5 Plaintiffs Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a  
6 PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as  
7 Trustee in Bankruptcy for Central Grocers, Inc., Trepcos Imports and Distribution  
8 Ltd., and Benjamin Foods LLC (collectively “Direct Purchaser Plaintiffs”),  
9 individually, on behalf of a certified litigation class of direct purchaser plaintiffs, and  
10 as representatives of the Settlement Class as defined herein.

11 WHEREAS, in the instant class action *In Re: Packaged Seafood Products*  
12 *Antitrust Litigation*, No. 15-MD-2670 DMS (MSB), MDL No. 2670 (S.D. Cal.),  
13 currently pending before the Honorable Dana M. Sabraw in the United States District  
14 Court for the Southern District of California, Direct Purchaser Plaintiffs have alleged  
15 that the Lion Companies participated in an unlawful conspiracy to restrain trade;

16 WHEREAS, the Lion Companies deny Direct Purchaser Plaintiffs’ allegations  
17 and have asserted a number of defenses to Direct Purchaser Plaintiffs’ claims; the  
18 United States District Court for the Southern District of California granted the Lion  
19 Companies’ motion for summary judgment as to claims against Big Catch Cayman  
20 LP pursuant to ECF No. 3103; and Lion Capital LLP maintains that the United States  
21 District Court for the Southern District of California lacks personal jurisdiction over  
22 the claims Plaintiffs asserted against it;

23 WHEREAS, Lead Counsel for Direct Purchaser Plaintiffs have concluded  
24 after carefully considering the claims made by Direct Purchaser Plaintiffs and the  
25 Settlement Class, and the possible legal and factual defenses thereto, that it is in the  
26 best interests of Direct Purchaser Plaintiffs and the Settlement Class to enter into this

26 <sup>1</sup> As noted herein, Big Catch Cayman LP was previously dismissed from the  
27 Action by the Court with prejudice. ECF No. 3103.

1 Settlement Agreement with the Lion Companies to avoid the uncertainties and risks  
2 of further litigation and trial, and that the settlement set forth herein is fair,  
3 reasonable, adequate and in the best interests of the Settlement Class;

4 WHEREAS, the Lion Companies, having maintained that there is no legal or  
5 factual basis for their liability in this matter and that they have valid defenses to the  
6 claims alleged, have nevertheless agreed to enter into this Settlement Agreement to  
7 avoid the expense, inconvenience, and uncertainty of trial and further protracted  
8 litigation;

9 WHEREAS, Direct Purchaser Plaintiffs and the Lion Companies agree that  
10 neither this Settlement Agreement nor any statement made in the negotiation thereof  
11 shall be deemed or construed to be an admission by or evidence against the Lion  
12 Companies, or evidence of the truth of any of Direct Purchaser Plaintiffs' allegations;

13 WHEREAS, Direct Purchaser Plaintiffs and the Lion Companies have  
14 engaged in multiple arm's length settlement negotiations, first with the assistance of  
15 private mediators, and subsequently assisted by Magistrate Judge Michael S. Berg,  
16 and have reached this Settlement Agreement subject to approval of the Court; and

17 NOW, THEREFORE, in consideration of the promises, covenants,  
18 agreements, and releases set forth herein and for other good and valuable  
19 consideration, and incorporating the above recitals herein, subject to the approval of  
20 the Court, it is agreed by the undersigned, on behalf of the Lion Companies, Direct  
21 Purchaser Plaintiffs, and the Settlement Class, that the claims of Direct Purchaser  
22 Plaintiffs and the Settlement Class that have been or could have been asserted in the  
23 Action be settled, compromised, and dismissed on the merits and with prejudice as  
24 to the Lion Companies, and, except as hereinafter provided, without costs as to Direct  
25 Purchaser Plaintiffs, the Settlement Class, or the Lion Companies, subject to the  
26 approval of the Court, on the following terms and conditions:

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**1. Definitions**

1.1. "Action" means the class action captioned *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MSB), MDL No. 2670 (S.D. Cal.), currently pending before the Honorable Dana M. Sabraw in the United States District Court for the Southern District of California, all actions relating to the claims alleged in "Direct Purchaser Plaintiffs' Fourth Amended Consolidated Class Action Complaint" and all actions that have been or are subsequently filed in or transferred for consolidation and/or coordinated pretrial proceedings to the Southern District of California by the Judicial Panel on Multidistrict Litigation as part of MDL No. 2670.

1.2. "Claims" shall mean any and all actions, suits, claims, rights, demands, assertions, allegations, causes of action, controversies, proceedings, losses, damages, injuries, attorneys' fees, costs, expenses, debts, liabilities, judgments, or remedies, whether equitable or legal.

1.3. "Claims Administrator" shall mean JND or any other third-party class action settlement claims administrator mutually agreed upon by the Parties and approved by the Court for the purposes of administering this settlement.

1.4. "Complaint" means the Direct Purchaser Plaintiffs' Fourth Amended Consolidated Class Action Complaint filed in the Action [ECF No. 1460].

1.5. "Court" means the United States District Court for the Southern District of California.

1.6. "Defendants" means the Lion Companies, as defined above, Bumble Bee Foods LLC, StarKist Co. and Dongwon Industries Co., Ltd., and Tri-Union Seafoods LLC d/b/a Chicken of the Sea and Thai Union Group PCL.

1 1.7. "Direct Purchaser Plaintiffs" means the named class representatives  
2 defined above and the unnamed members of the certified Direct Purchaser Plaintiff  
3 class, defined in ECF No. 1931.<sup>2</sup>

4 1.8. "Document" is defined to be synonymous in meaning and equal in  
5 scope to the usage of this term in Federal Rule of Civil Procedure ("Federal Rule")  
6 34(a). A draft or non-identical copy is a separate document within the meaning of  
7 this term.

8 1.9. "Effective Date" means the earliest date on which all of the events  
9 and conditions specified in Paragraph 7 herein have occurred or have been met.

10 1.10. "Escrow Account" means an account to be established with  
11 Huntington Bank for the purpose of holding the Settlement Funds.

12 1.11. "Escrow Agent" means the bank or trust company that agrees to  
13 establish and maintain the Escrow Account.

14 1.12. "Final Approval" means an order finally approving the Direct  
15 Purchaser Plaintiffs' class settlement and dismissing the Action with prejudice as to  
16 the Lion Companies without costs (other than those provided for in this Agreement),  
17 to be rendered by the Court in the Action.

18 1.13. "Judgment" means a final order of judgment by the Court  
19 dismissing the Action as to any Released Party and approving the Settlement  
20 Agreement under Federal Rule 23(e), as described in Paragraph 6.1 herein.

21 1.14. "Packaged Tuna Products" means shelf-stable tuna sold for human  
22 consumption and packaged in either cans or pouches, and excludes tuna cups, tuna  
23 salad kits, and salvage sales.

24 1.15. "Parties" means Direct Purchaser Plaintiffs, Settlement Class  
25 Members, and the Lion Companies.

26 <sup>2</sup> This class definition had a typographic error listing the class period ending on  
27 July 1, 2015 instead of July 31, 2015, which was corrected when the Court granted  
28 preliminary approval of another settlement. *See* ECF No. 2733.

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1.16. "Person" means an individual or an entity.

1.17. "Preliminary Approval" means an order preliminarily approving the settlement to be rendered by the Court in the Action.

1.18. "Released Claims" means any and all Claims, whether class, individual, or otherwise, that the Releasing Parties or any of them ever had, now has, or hereafter can, shall, or may have, directly, representatively, derivatively, or in any other capacity, against the Released Parties or any of them, whether such Claims are based on federal, state, local, statutory, or common law, or any other law, code, rule, or regulation of any country or other jurisdiction worldwide, whether such Claims are known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, regardless of legal theory, and regardless of the type or amount of relief or damages claimed, or Claims that have been, could have been, or in the future might have been, claimed in law or in equity, on account of, arising out of, resulting from, or in any way related to any conduct regardless of legal theory, and regardless of the type or amount of relief or damages claimed, or Claims that have been, could have been, or in the future might have been, claimed in law or in equity, on account of, arising out of, resulting from, or in any way related to any conduct concerning the pricing, selling, discounting, manufacturing, distribution, promotion, or marketing of Packaged Tuna Products during the period from June 1, 2011 to July 31, 2015 that could have been brought based in whole or in part on the facts, occurrences, transactions, or other matters that were alleged in the Complaint.

1.19. "Released Parties" means, jointly and severally, individually and collectively: the Lion Companies, their present and former parents, subsidiaries, divisions, affiliates, and departments, their respective past and present officers, directors, members, employees, agents, attorneys, servants, insurers, and representatives of each of the aforesaid entities, and the predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing. As used in this

1 definition, "affiliates" means entities controlling, controlled by, or under common  
2 control with any of the Released Parties.

3 1.20. "Releasing Parties" means, jointly and severally, and individually  
4 and collectively: Direct Purchaser Plaintiffs and all Settlement Class Members, their  
5 predecessors, successors, present and former parents, subsidiaries, divisions,  
6 affiliates, and departments, each of their respective past and present officers,  
7 directors, employees, agents, attorneys, servants, and representatives, and the  
8 predecessors, successors, heirs, executors, administrators, and assigns of each of the  
9 foregoing.

10 1.21. "Settlement Amount" means Six Million Dollars (\$6,000,000.00)  
11 in United States currency. The Lion Companies will deposit Two Hundred Thousand  
12 Dollars (\$200,000) in United States currency into the Escrow Account, for notice and  
13 administration of claims, within five (5) days after Preliminary Approval by the  
14 Court, Two Million and Eight Hundred Thousand Dollars (\$2,800,000.00) in United  
15 States currency into the Escrow Account within thirty (30) days after Preliminary  
16 Approval by the Court, and Three Million Dollars (\$3,000,000.00) in United States  
17 currency into the Escrow Account within forty-five (45) days after Final Approval  
18 by the Court. Up to Two Hundred Thousand Dollars (\$200,000) in United States  
19 currency shall be used for notice and administration of claims in the period preceding  
20 Final Approval.

21 1.22. "Settlement Class" means the Direct Purchaser Settlement Class,  
22 which is defined as follows:

23 All persons and entities that directly purchased packaged tuna products  
24 within the United States, its territories and the District of Columbia from  
25 any Defendant at any time between June 1, 2011 and July 31, 2015.  
26 Excluded from the class are all governmental entities; Defendants and any  
27 parent, subsidiary or affiliate thereof; Defendants' officers, directors,  
28 employees, and immediate families; any federal judges or their staffs;  
purchases of tuna salad kits or cups; and salvage purchases. Also excluded  
from the class is any person or entity that was excluded from the class, in  
whole or in part, pursuant to the Court's Order in this Action at ECF No.  
3097, which incorporates the list of entities at ECF No. 3095-1.

1           1.23. "Settlement Class Counsel" means Hausfeld LLP, 600  
2 Montgomery Street, Suite 3200, San Francisco, CA, 94111.

3           1.24. "Settlement Class Member" means each member of the Settlement  
4 Class as defined in Paragraphs 1.22 and 3 herein.

5           1.25. "Settlement Fund" shall mean those monies representing the  
6 consideration to be paid the Lion Companies to Direct Purchaser Plaintiffs and the  
7 Settlement Class Members, including the Settlement Amount and any income earned  
8 on that amount while such monies are held in the Escrow Account.

9           **2. Cooperation and Effectuation of this Settlement Agreement**

10           Direct Purchaser Plaintiffs and the Lion Companies shall use all reasonable  
11 efforts to effectuate this Settlement Agreement, including cooperating in Direct  
12 Purchaser Plaintiffs' efforts to obtain the Court's approval of procedures (including  
13 the giving of class notice under Federal Rules 23(c) and 23(e)) and to secure  
14 certification of the Settlement Class for settlement purposes and the complete and  
15 final dismissal with prejudice of the Action as to the Lion Companies. Prior to the  
16 filing of any motions or other papers in connection with the settlement, including,  
17 without limitation, the motion for Preliminary Approval of the settlement (as  
18 contemplated in Paragraph 4.1 of this Settlement Agreement) and for Final Approval  
19 of the settlement (as contemplated in Paragraph 6.1 of this Settlement Agreement),  
20 Direct Purchaser Plaintiffs will send those papers to the Lion Companies within a  
21 reasonable amount of time prior to filing. The text of any proposed form of order  
22 approving this Settlement Agreement shall be agreed upon by Direct Purchaser  
23 Plaintiffs and the Lion Companies before it is submitted to the Court.

24           **3. Settlement Class Certification**

25           On July 30, 2019, the Court granted Direct Purchaser Plaintiffs' motion to  
26 certify a class pursuant to Federal Rule 23(b)(3). The Settlement Class, as defined  
27 above in paragraph 1.22, is almost identical to the Court's order certifying the

1 litigation class in the Action at ECF No. 1931, except that the Settlement Class also  
2 excludes parties later excluded from the litigation class by the Court’s Order in this  
3 Action at ECF No. 3097. The parties to this Settlement Agreement hereby stipulate  
4 for purposes of this settlement only that the requirements of Rule 23(a) and 23(b)(3)  
5 of the Federal Rules are satisfied, and, subject to Court approval, the Settlement Class  
6 shall be certified for settlement purposes.

7 **4. Motion for Preliminary Approval**

8 4.1. At an appropriate time after the Execution Date of this Settlement  
9 Agreement, and after consultation as to timing with counsel for the Lion Companies,  
10 Direct Purchaser Plaintiffs shall file with the Court a motion requesting entry of  
11 Preliminary Approval, *inter alia*:

12 (a) finding the proposed settlement in the Settlement  
13 Agreement has been negotiated at arm’s length, and  
14 preliminarily approving the proposed settlement as fair,  
15 reasonable, and adequate, and in the best interests of the  
16 Settlement Class; scheduling a hearing to consider (i)  
17 whether the proposed settlement should be approved as fair,  
18 reasonable, and adequate to Settlement Class Members, and  
19 whether the Judgment should be entered dismissing the  
20 Claims of Direct Purchaser Plaintiffs and all Settlement  
21 Class Members against the Lion Companies on the merits  
22 and with prejudice; and (ii) whether to approve any  
23 application by Settlement Class Counsel for an award of  
24 attorneys’ fees and payment of costs and expenses  
25 (“Fairness Hearing”);

26 (b) certifying the Settlement Class for settlement purposes,  
27 designating class representatives and Settlement Class  
28 Counsel as defined herein, and finding that each element for



1 certification of the Settlement Class pursuant to Federal  
2 Rule 23 is met;

3 (c) enjoining initiation, commencement, or prosecution of any  
4 action or proceeding asserting any Released Claims  
5 described in Paragraph 8 by any Releasing Party.

6 4.2. Direct Purchaser Plaintiffs shall seek, and the Lion Companies  
7 shall not oppose, certification of the Settlement Class and appointment of Settlement  
8 Class Counsel as lead counsel for purposes of this settlement.

9 **5. Notice to Settlement Class Members**

10 5.1. After Preliminary Approval of this Settlement Agreement and  
11 submission to the Court and approval of a program to provide notice to the Settlement  
12 Class in accordance with the requirements of the Federal Rules of Civil Procedure  
13 and due process, Settlement Class Counsel shall provide those Settlement Class  
14 Members identified with notice of the settlement and the date of the Fairness Hearing  
15 in a manner to be approved by the Court.

16 5.2. Upon approval by the Court of a program to provide notice to the  
17 Class, Settlement Class Counsel shall cause a summary notice of the settlement to be  
18 published in such manner and scope as is reasonable and consistent with the  
19 requirements of Federal Rule 23.

20 5.3. Except as provided herein, the costs and expenses associated with  
21 providing notice of the settlement to members of the Settlement Class pursuant to the  
22 Court-approved notification plan shall be paid from the Settlement Fund, and the  
23 Lion Companies shall have no obligation to pay for the costs and expenses of  
24 providing notice of the settlement to members of the Settlement Class. The Lion  
25 Companies agree that Settlement Class Counsel may withdraw funds as necessary  
26 from the Settlement Fund after Preliminary Approval for the purpose of providing  
27 notice to the class of the settlement as described herein, which shall be non-  
28 refundable. If the settlement is not finally approved, the Lion Companies shall not be

1 entitled to any sums spent or owing for purposes of disseminating notice and/or  
2 administering the notice program as approved by the Court.

3 **6. Fairness Hearing**

4 6.1. At the Fairness Hearing, Direct Purchaser Plaintiffs shall seek  
5 entry of Judgments:

- 6 (a) approving the Settlement Agreement and its terms as being  
7 fair, reasonable, and adequate as to the Settlement Class,  
8 within the meaning of Federal Rule 23, and directing its  
9 consummation according to its terms;
- 10 (b) determining that the notices to Settlement Class Members  
11 constituted, under the circumstances, the best practicable  
12 notice of this Settlement Agreement and the Fairness  
13 Hearing, and constituted due and sufficient notice for all  
14 other purposes to all Persons entitled to receive notice;
- 15 (c) dismissing the Claims against the Lion Companies with  
16 prejudice, without costs;
- 17 (d) permanently barring and enjoining the institution,  
18 commencement, or prosecution, by any of the Releasing  
19 Parties, of any action asserting any Released Claim against  
20 any Released Party, in any local, state, federal, or other court  
21 of any nation, or in any agency or other authority or arbitral  
22 or other forum wherever located;
- 23 (e) providing that any Settlement Class Member who fails to  
24 object in the manner prescribed in the Settlement  
25 Agreement shall be deemed to have waived any objections  
26 to the settlement and the Settlement Agreement and will  
27 forever be barred from making any such objections to the  
28 settlement or the Settlement Agreement;

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- (f) retaining exclusive jurisdiction over the settlement and this Settlement Agreement, including the administration and consummation of the settlement; and
- (g) determining under Federal Rule 54(b) that there is no just reason for delay and directing that the Judgment of dismissal as to the Lion Companies shall be final and entered forthwith.

6.2. Any Settlement Class Member who objects to the settlement may appear, at that Person’s own expense, at the Fairness Hearing in person or through counsel, to present any evidence or argument with respect to the settlement, to the extent permitted by the Court. However, no such Person shall be heard, and no papers, briefs, pleadings, or other documents shall be received and considered by the Court unless such Person properly submits a written objection that includes: (a) notice of intention to appear, (b) proof of membership in the Settlement Class, and (c) 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 no later than thirty-five (35) days prior to the date set for the Fairness Hearing, and mailed to Settlement Class Counsel and the Lion Companies’ counsel at the addresses provided in the notices to the Settlement Class, postmarked (or mailed by overnight delivery) no later than thirty-five (35) days prior to the date of the Fairness Hearing. Any Person who fails to object in the manner prescribed herein shall be deemed to have waived any objections to the Settlement Agreement and will forever be barred from making any such objections to this Settlement Agreement in the Action or in any other action or proceeding, unless otherwise permitted for good cause shown as determined by the Court.

1           **7. Effective Date of Agreement**

2           The Effective Date of this Settlement Agreement is the earliest date on which  
3 all of the following events and conditions have occurred or have been met: (a) the  
4 Court has entered a Judgment, following notice to the Settlement Class and the  
5 Fairness Hearing, approving this Settlement Agreement under Federal Rule 23(e) and  
6 dismissing the Action as against any Released Party who is named as a Defendant in  
7 the Action, with prejudice as to all Settlement Class Members and without costs  
8 except as specified herein; and, (b) the time for appeal or to seek permission to appeal  
9 from the Court's approval of the Settlement Agreement and entry of the Judgment  
10 has expired or, if appealed, approval of this Settlement Agreement and the Judgment  
11 has been affirmed in its entirety by the court of last resort to which such appeal has  
12 been taken and such affirmance has become no longer subject to further appeal or  
13 review. Neither the provisions of Federal Rule 60 nor the All Writs Act, 28 U.S.C.  
14 § 1651, shall be taken into account in determining the above-stated times.

15           **8. Release and Covenant Not to Sue**

16           8.1. Upon the occurrence of the Effective Date, and only after the  
17 completion of all installment payments pursuant to the Settlement Amount due by  
18 the Lion Companies as set forth in Paragraphs 1.21 and 10.1 herein, and in  
19 consideration of the payment by the Lion Companies of the Settlement Amount set  
20 forth in Paragraph 1.21 herein (the sufficiency of which is hereby again  
21 acknowledged), each of the Releasing Parties shall be deemed to have, and by  
22 operation of the Judgment shall have, fully, finally, and forever released,  
23 relinquished, and discharged all Released Claims against the Released Parties, shall  
24 have covenanted not to sue or otherwise seek to establish liability against any of the  
25 Released Parties based, in whole or in part, upon any of the Released Claims, and  
26 shall be permanently barred and enjoined from instituting, commencing, prosecuting,  
27 or asserting any such Released Claim against any of the Released Parties.

1           8.2. With respect to any and all Released Claims, the Parties stipulate  
2 and agree that, upon the Effective Date and the completion of all installment  
3 payments pursuant to the Settlement Agreement as set forth Paragraphs 1.21 and 10.1  
4 herein, Direct Purchaser Plaintiffs shall expressly waive and, upon the Effective Date  
5 and the completion of all installment payments pursuant to the Settlement Agreement  
6 as set forth Paragraphs 1.21 and 10.1 herein, each of the Releasing Parties shall be  
7 deemed to have waived, and by operation of the Judgment shall have waived, the  
8 provisions, rights, and benefits of California Civil Code Section 1542 and South  
9 Dakota Codified Laws Section 20-7-11 (to the extent either or both of them apply to  
10 the Action), each of which provides that, “[a] general release does not extend to  
11 claims which the creditor does not know or suspect to exist in his favor at the time of  
12 executing the release, which if known by him must have materially affected his  
13 settlement with the debtor,” and of any similar provision, statute, regulation, rule, or  
14 principle of law or equity of any other state or territory of the United States or any  
15 other applicable jurisdiction. Releasing Parties expressly acknowledge that they may  
16 hereafter discover facts in addition to or different from those facts that any of them  
17 or their counsel now knows or believes to be true with respect to the subject matter  
18 of the Settlement Agreement, but upon the completion of the installment payments  
19 pursuant to the Settlement Agreement as set forth in Paragraphs 1.21 and 10.1 herein,  
20 and retroactive to the Effective Date, each Plaintiff shall expressly have, and, upon  
21 the Effective Date, each Releasing Party shall be deemed to have, and by operation  
22 of the Judgment shall have, fully, finally, and forever settled and released any and all  
23 Released Claims, known or unknown, suspected or unsuspected, contingent or non-  
24 contingent, whether or not concealed or hidden, that now exist or heretofore have  
25 existed, upon any theory of law or equity now existing or coming into existence in  
26 the future, including, but not limited to, conduct that is negligent, reckless,  
27 intentional, with or without malice, or a breach of any duty, law, or rule, without  
28 regard to the subsequent discovery of existence of such different or additional facts.

1 Direct Purchaser Plaintiffs acknowledge, and the Releasing Parties shall be deemed  
2 to have acknowledged, and by operation of the Judgment shall have acknowledged,  
3 that the foregoing waiver was separately bargained for and a key element of the  
4 settlement of which this release is a part.

5 **9. Reservation of Settlement Class Members' Rights**

6 All rights of any Settlement Class Member against any alleged co-conspirator  
7 or any other Person other than the Released Parties are specifically reserved by Direct  
8 Purchaser Plaintiffs and the Settlement Class Members.

9 **10. Settlement Consideration**

10 10.1. The total monetary amount payable by the Lion Companies  
11 (comprising class damages, costs of class notice and administration, and attorneys'  
12 fees and costs) in settlement of all claims relating to the Action and all Released  
13 Claims, is the Settlement Amount described above in Paragraph 1.21. The deposited  
14 sums shall be held in the Escrow Account until there is an order from the District  
15 Court concerning distribution or use of the Settlement Amount. The Escrow Account  
16 Agent shall be subject to escrow instructions mutually acceptable to Settlement Class  
17 Counsel and the Lion Companies, and such escrow is to be administered under the  
18 Court's continuing supervision and control. The timing provisions herein are a  
19 material part of this Settlement Agreement.

20 10.2. The Escrow Agent shall cause the funds deposited in the Escrow  
21 Account to be invested in instruments backed by the full faith and credit of the United  
22 States Government or fully insured by the United States Government or an agency  
23 thereof, or money market funds invested substantially in such instruments, and shall  
24 reinvest any income from these instruments and the proceeds of these instruments as  
25 they mature in similar instruments at their then-current market rates.

26 10.3. All funds held in the Escrow Account shall be deemed and  
27 considered to be in *custodia legis* of the Court and shall remain subject to the

1 jurisdiction of the Court, until such time as such funds shall be distributed pursuant  
2 to this Settlement Agreement and/or further order(s) of the Court.

3 10.4. Direct Purchaser Plaintiffs and the Lion Companies intend for the  
4 Settlement Fund to be treated as being at all times a “qualified settlement fund”  
5 within the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall  
6 timely make such elections as necessary or advisable to carry out the provisions of  
7 Paragraph 10, including the “relation-back election” (as defined in Treas. Reg.  
8 § 1.468B-1) so as to enable the Settlement Fund to be treated as a “qualified  
9 settlement fund” from the earliest date possible. Such elections shall be made in  
10 compliance with the procedures and requirements contained in such regulations. It  
11 shall be the responsibility of the Escrow Agent to timely and properly prepare and  
12 deliver the necessary documentation for signature by all necessary parties, and  
13 thereafter to cause the appropriate filing to occur.

14 10.5. For the purpose of § 468B of the Internal Revenue Code of 1986,  
15 as amended, and the regulations promulgated thereunder, the “administrator” shall  
16 be the Escrow Agent. The Escrow Agent shall timely and properly file all information  
17 and other tax returns necessary or advisable with respect to the Settlement Fund  
18 (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(l)).  
19 Such returns (as well as the elections described in Paragraph 10.4) shall be consistent  
20 with Paragraph 10.7.

21 10.6. All (i) taxes (including any estimated taxes, interest, or penalties)  
22 arising with respect to the income earned by the Settlement Fund, including any taxes  
23 or tax detriments that may be imposed upon the Lion Companies or any other  
24 Released Party with respect to any income earned by the Settlement Fund for any  
25 period during which the Settlement Fund does not qualify as a “qualified settlement  
26 fund” for federal or state income tax purposes (“Taxes”); and (ii) expenses and costs  
27 incurred in connection with the operation and implementation of Paragraphs 10.4  
28 through 10.8 (including, without limitation, expenses of tax attorneys and/or

1 accountants and mailing and distribution costs and expenses relating to filing (or  
2 failing to file) the returns described in Paragraph 10.5 (“Tax Expenses”)), shall be  
3 paid out of the Settlement Fund.

4 10.7. Neither the Lion Companies nor any other Released Party nor their  
5 respective counsel shall have any liability or responsibility, including filing  
6 responsibility, for the Taxes or the Tax Expenses. Further, Taxes and Tax Expenses  
7 shall be treated as, and considered to be, a cost of administration of the Settlement  
8 Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund. The  
9 Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to  
10 withhold from distribution to any claimants authorized by the Court any funds  
11 necessary to pay such amounts including the establishment of adequate reserves for  
12 any Taxes and Tax Expenses (as well as any amounts that may be required to be  
13 withheld under Treas. Reg. § 1.468B-2(1)(2)). Neither the Lion Companies nor any  
14 other Released Party are responsible nor shall they have any liability therefor. Direct  
15 Purchaser Plaintiffs and the Lion Companies agree to cooperate with the Escrow  
16 Agent, each other, and their tax attorneys and accountants to the extent reasonably  
17 necessary to carry out the provisions of Paragraphs 10.2 through 10.10. The Lion  
18 Companies make no representation to Direct Purchaser Plaintiffs regarding the  
19 appropriate tax treatment of the Settlement Fund, income earned on the Settlement  
20 Fund, or any distribution taken from the Settlement Fund.

21 10.8. If this Settlement Agreement does not receive Final Approval by  
22 the Court, or if the Action is not certified as a class action for settlement purposes, or  
23 if this Settlement Agreement is terminated or voided for any reason, then all amounts  
24 paid by the Lion Companies into the Settlement Fund (other than costs that may  
25 already have reasonably been incurred or expended in accordance with Paragraphs  
26 5.3 and 10) shall be returned to the Lion Companies from the Escrow Account by the  
27 Escrow Agent along with any interest accrued thereon, within ten (10) business days  
28 after such order becomes final and non-appealable.



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10.9. The Lion Companies shall not be liable for any costs, fees, or expenses of any of Direct Purchaser Plaintiffs’ respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as provided for in Paragraphs 5.3 and 10 or otherwise approved by the Court may be paid out of the Settlement Fund.

10.10. If, after all costs (including notice costs), attorneys’ fees, and any other expenses have been paid from the Settlement Fund, there are any remaining funds, they shall be distributed to the Settlement Class, or in Settlement Class Counsel’s reasonable judgment, be made the subject of an application to the Court by Direct Purchaser Plaintiffs for *cy pres* distribution in accordance with governing standards in the Ninth Circuit.

**11. Administration of the Settlement Fund**

11.1. The costs and expenses of administration of the settlement pursuant to the terms of this Settlement Agreement shall be paid out of the Settlement Fund. The Claims Administrator(s) shall, on a monthly basis, submit invoices, with appropriate supporting documentation, to Settlement Class Counsel for payment from the Escrow Account. To the extent practicable, the administration of this settlement shall be coordinated with the administration of other aspects of this Action, including, but not limited to, any other settlement(s) entered into between Direct Purchaser Plaintiffs and any other settling Defendant(s) and/or the administration of any recovery obtained on behalf of the class by summary judgment or trial.

11.2. The Lion Companies shall not have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Fund, including, but not limited to, the costs and expenses of such investment, distribution, and administration, except as expressly otherwise provided in the Settlement Agreement.

1           **12. Withdrawal From or Modification of the Settlement**

2           12.1. If the Court declines to approve this Settlement Agreement or any  
3 material part hereof, or if such approval is materially modified or set aside on appeal,  
4 or if the Court does not enter the Judgment, or if the Court enters the Judgment and  
5 appellate review is sought and, on such review, such Judgment is not affirmed or is  
6 materially modified, then the Lion Companies and Direct Purchaser Plaintiffs shall  
7 each, in their respective sole discretion, have the option to rescind this Settlement  
8 Agreement in its entirety.

9           12.2. If the Lion Companies choose to exercise the option to rescind  
10 pursuant to Paragraph 12.1, any and all amounts then constituting the Settlement  
11 Fund (including all income earned thereon and excluding any reasonable expenses  
12 that have been paid or incurred associated with providing notice to the Settlement  
13 Class, administering the Settlement Fund, incurred or paid under Paragraph 10.6 of  
14 this Settlement Agreement, and/or any Taxes already paid on such income), together  
15 with any amounts, including attorneys' fees, paid to Settlement Class Counsel  
16 pursuant to Paragraph 14 below (including all income earned thereon), shall be  
17 returned forthwith to the Lion Companies. A modification or reversal on appeal of  
18 any amount of Settlement Class Counsel's fees and/or expenses awarded by the Court  
19 or any plan of allocation or distribution of the Settlement Fund shall not be deemed  
20 a modification of all or a part of the terms of this Settlement Agreement or the  
21 Judgment.

22           12.3. The Lion Companies and Direct Purchaser Plaintiffs expressly  
23 reserve all of their rights if this Settlement Agreement does not become effective or  
24 if it is rescinded pursuant to Paragraph 12.1 of this Settlement Agreement. In  
25 addition, if for any reason (including a party's exercise of a valid right to rescind this  
26 Settlement Agreement), the Settlement Agreement does not receive Final Approval  
27 by the Court, then the certification of the Settlement Class shall become null and void  
28 without further Court action, and shall not be used or referred to for any further

1 purpose in the Action or in any other action or proceeding, and shall not prejudice  
2 any party in arguing for or against contested class certification in this Action or in  
3 any other proceeding. Further, this Agreement, whether or not it is finally approved  
4 and whether or not the Lion Companies or Direct Purchaser Plaintiffs elect to rescind  
5 it under Paragraph 12.1 of the Settlement Agreement, and any and all negotiations,  
6 documents, and discussions associated with it, shall not be deemed or construed to  
7 be an admission or evidence of any violation of any statute or law, or of any liability  
8 or wrongdoing by the Lion Companies or any Defendant, or of the truth of any of the  
9 claims or allegations contained in the Complaint or any other pleading filed by Direct  
10 Purchaser Plaintiffs in the Action, or waiver or invalidity of any defense, and  
11 evidence thereof shall neither be discoverable nor used directly or indirectly except  
12 in a proceeding to enforce or interpret the Settlement Agreement.

13 **13. No Admissions**

14 The Parties intend the settlement as described herein to be a final and  
15 complete resolution of all disputes between them with respect to the Released Claims,  
16 and it shall not be deemed an admission by any party as to the jurisdiction of the  
17 Court over the claims asserted against the Lion Companies, or as to the merits of any  
18 claim or defense or any allegation made in the Action.

19 **14. Settlement Class Counsel's Attorneys' Fees and Expenses**

20 14.1. The procedure for, and the allowance or disallowance by the Court  
21 of, any application by Settlement Class Counsel for attorneys' fees and expenses are  
22 not part of the Settlement Agreement and are to be considered by the Court separately  
23 from the Court's consideration of the fairness, reasonableness, and adequacy of the  
24 settlement. Any order or proceeding relating to any application for, or approval of,  
25 attorneys' fees and expenses, the pendency of any such application, or any appeal or  
26 review of an order relating thereto or reversal or modification thereof, shall not  
27 operate to terminate or cancel this Settlement Agreement, or affect or delay the  
28 finality of the Judgment. The Lion Companies agree that Settlement Class Counsel

1 may withdraw from the Settlement Fund any amount awarded by the Court for  
2 attorneys' fees and costs five (5) days following the Court's award, subject to an  
3 appropriate financial undertaking required by the Court in the event of an appeal of  
4 the Court's award of attorneys' fees and expenses. Attorneys' fees and expenses  
5 authorized by the Court to be paid from the Settlement Fund shall be payable  
6 notwithstanding the existence of any timely filed objections to the Settlement  
7 Agreement, to any payment of fees, expenses, or incentives or potential for appeal  
8 therefrom, or collateral attack on the Settlement Agreement or any part thereof,  
9 subject to Settlement Class Counsel's obligation to make appropriate refunds or  
10 repayments to the Settlement Fund, if the Effective Date does not occur, or the  
11 Settlement Agreement is subject to successful collateral attack, or the fee or cost  
12 amount is reduced or reversed.

13 14.2. The Lion Companies shall have no responsibility for, and no  
14 liability whatsoever with respect to, the division of attorneys' fees and expenses  
15 among counsel representing the Direct Purchaser Plaintiffs, and any negotiation or  
16 dispute among counsel representing the Direct Purchaser Plaintiffs in that regard  
17 shall not operate to terminate or cancel this Settlement Agreement, or affect or delay  
18 the finality of the Judgment.

19 14.3. Except as otherwise provided herein, Direct Purchaser Plaintiffs  
20 and the Lion Companies shall each be responsible for bearing their own costs and  
21 fees incurred in this Action.

22 **15. Miscellaneous Provisions**

23 15.1. The Lion Companies expressly represent that they have obtained  
24 all required approvals from their management for this Settlement Agreement.

25 15.2. This Settlement Agreement shall constitute the entire agreement  
26 between the Parties pertaining to the settlement of the Action against the Lion  
27 Companies and supersedes any and all prior and contemporaneous undertakings of  
28 the Parties in connection therewith. The terms of the Settlement Agreement are and

1 shall be binding upon each of the Parties hereto, their heirs, executors, administrators,  
2 representatives, agents, attorneys, partners, successors, predecessors-in-interest, and  
3 assigns, and upon all other Persons claiming any interest in the subject matter hereto  
4 through any of the parties hereto including any Settlement Class Members.

5 15.3. This Settlement Agreement may be modified or amended only by  
6 a writing executed by Direct Purchaser Plaintiffs and the Lion Companies, subject (if  
7 after preliminary or final approval by any court) to approval by the Court.  
8 Amendments and modifications may be made without notice to the Settlement Class  
9 unless notice is required by law or by the Court.

10 15.4. None of the Parties hereto shall be considered to be the drafter of  
11 this Settlement Agreement or any its provisions hereof for the purpose of any statute,  
12 case law, or rule of interpretation or construction that would or might cause any  
13 provision to be construed against the drafters of this Settlement Agreement.

14 15.5. This Settlement Agreement shall be construed and interpreted to  
15 effectuate the intent of the parties which is to provide, through this Settlement  
16 Agreement, for a complete resolution of the Released Claims with respect to the  
17 Released Parties.

18 15.6. Nothing expressed or implied in this Settlement Agreement is  
19 intended to or shall be construed to confer upon or give any person or entity other  
20 than Settlement Class Members, Releasing Parties, and Released Parties any right or  
21 remedy under or by reason of this Settlement Agreement.

22 15.7. This Settlement Agreement shall be binding upon, and inure to the  
23 benefit of, the Releasing Parties and the Released Parties.

24 15.8. Direct Purchaser Plaintiffs and the Lion Companies acknowledge  
25 that they have been represented by counsel and have made their own investigations  
26 of the matters covered by this Settlement Agreement to the extent they have deemed  
27 it necessary to do so. Therefore, Direct Purchaser Plaintiffs and the Lion Companies  
28 and their respective counsel agree that they will not seek to set aside any part of the

1 Settlement Agreement on the grounds of mistake. Moreover, Direct Purchaser  
2 Plaintiffs and the Lion Companies and their respective counsel understand, agree,  
3 and expressly assume the risk that any fact may turn out hereinafter to be other than,  
4 different from, or contrary to the facts now known to them or believed by them to be  
5 true, and further agree that the Settlement Agreement shall be effective in all respects  
6 and shall not be subject to termination, modification, or rescission by reason of any  
7 such difference in facts. If any provision of this Settlement Agreement is found by a  
8 court of competent jurisdiction to be illegal, invalid, or unenforceable for any reason,  
9 the remainder of this Settlement Agreement will not be affected and, in lieu of each  
10 provision that is found illegal, invalid, or unenforceable, a provision will be added as  
11 a part of this Settlement Agreement that is as similar to the illegal, invalid, or  
12 unenforceable provision as may be legal, valid, and enforceable.

13 15.9. All terms of this Settlement Agreement shall be governed by, and  
14 interpreted according to, the substantive laws of the State of California without regard  
15 to its choice of law or conflicts of laws principles.

16 15.10. The Lion Companies, Direct Purchaser Plaintiffs, and all  
17 Settlement Class Members hereby irrevocably submit to the exclusive jurisdiction of  
18 the Court for any suit, action, proceeding, or dispute arising out of or relating to this  
19 Settlement Agreement or the applicability of this Settlement Agreement, including,  
20 without limitation, any suit, action, proceeding, or dispute relating to the release  
21 provisions herein. The Lion Companies do not, by way of this Settlement Agreement,  
22 submit to the jurisdiction of the Court for any other purpose.

23 15.11. This Settlement Agreement may be executed in counterparts.  
24 Facsimile or Portable Document Format signatures shall be considered as valid  
25 signatures for purposes of execution of this Settlement Agreement, but original  
26 signature pages shall thereafter be collated for filing of this Settlement Agreement  
27 with the Court.

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15.12. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and execute, this Settlement Agreement, subject to Court approval, and the undersigned Settlement Class Counsel represent that they are authorized to execute this Settlement Agreement on behalf of Direct Purchaser Plaintiffs and the Settlement Class.

IN WITNESS HEREOF, the Parties hereto through their fully authorized representatives have agreed to this Settlement Agreement as of the date first written above.

*[signature page follows]*

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Dated: August 2, 2024

/s/   
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Christopher L. Lebsock  
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*Class Counsel for the Direct Purchaser Plaintiffs*



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Dated: August 2, 2024

SULLIVAN & CROMWELL LLP

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*Counsel for Defendant Lion Capital  
(Americas), Inc. and Specially Appearing  
Defendants Lion Capital LLP and Big Catch  
Cayman LP*

# EXHIBIT C

(FILED UNDER SEAL)

# Exhibit D

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

_____ )	
IN RE PACKAGED SEAFOOD )	
PRODUCTS ANTITRUST LITIGATION )	CASE NO. 15MD2670-DMS
_____ )	
ALL ACTIONS )	SAN DIEGO, CALIFORNIA
_____ )	WEDNESDAY MAY 22, 2024
_____ )	1:30 P.M. CALENDAR
_____ )	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

**MOTION IN LIMINE HEARING**

REPORTED BY:

LEE ANN PENCE,  
OFFICIAL COURT REPORTER  
UNITED STATES COURTHOUSE  
333 WEST BROADWAY, ROOM 1393  
SAN DIEGO, CALIFORNIA 92101

**COUNSEL SPEAKING:**

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SAN DIEGO, CALIFORNIA 92130

1 SAN DIEGO, CALIFORNIA - WEDNESDAY, MAY 22, 2024 - 1:30 P.M.

2 \* \* \*

3 **THE CLERK:** CALLING MATTER NO. 1 ON THE CALENDAR,  
4 15MD2670, IN REGARDS TO PACKAGED SEAFOOD PRODUCTS ANTITRUST  
5 LITIGATION.

6 **THE COURT:** WELCOME. GOOD AFTERNOON, EVERYONE.  
7 IF I CAN HAVE YOU STATE YOUR APPEARANCES FOR THE  
8 RECORD, PLEASE.

9 **MR. LEBSOCK:** GOOD AFTERNOON, YOUR HONOR. CHRIS  
10 LEBSOCK FOR THE DIRECT PURCHASER PLAINTIFFS.

11 **THE COURT:** THANK YOU.

12 **MR. RIFKIN:** GOOD AFTERNOON, YOUR HONOR. MARK  
13 RIFKIN FOR THE CONSUMER PLAINTIFFS.

14 **THE COURT:** THANK YOU.

15 **MS. MANIFOLD:** GOOD AFTERNOON. BETSY MANIFOLD ON  
16 BEHALF OF THE CONSUMER PLAINTIFFS.

17 AND I ALSO WANTED TO LET THE COURT KNOW THAT OUR  
18 CLERK, SAM SMITH, IS HERE AND IS EXCITED TO BE IN YOUR  
19 COURTROOM.

20 **THE COURT:** THANK YOU. WELCOME.

21 **MR. SMITH:** YOUR HONOR, GARY SMITH, WITH HAUSFELD  
22 LLP, ON BEHALF OF THE DIRECT PURCHASER PLAINTIFFS.

23 **THE COURT:** THANK YOU.

24 **MS. PRITZKER:** GOOD AFTERNOON, YOUR HONOR.  
25 ELIZABETH PRITZKER, PRITZKER LEVINE, ON BEHALF OF THE END

1 THEREFROM. AND THEN I WILL RULE ON THIS AT THE APPROPRIATE  
2 TIME DURING TRIAL. OKAY.

3 MR. YATES.

4 **MR. YATES:** THANK YOU, YOUR HONOR.

5 I THINK THE NEXT ONES TO ADDRESS ARE DEFENDANTS'  
6 MOTIONS IN LIMINE NO. 7 AND 8.

7 **THE COURT:** YES.

8 **MR. YATES:** IF I COULD ADDRESS THOSE TOGETHER. I  
9 THINK THEY RELATE TO A SIMILAR ISSUE WHICH IS SORT OF WHAT'S  
10 THE SCOPE OF THE TRIAL GOING TO BE.

11 **THE COURT:** YES.

12 **MR. YATES:** IF YOUR HONOR -- IF THAT IS ACCEPTABLE  
13 TO YOUR HONOR.

14 **THE COURT:** YES.

15 **MR. YATES:** SO THESE MOTIONS, AS I SAID, GO TO  
16 THE -- REALLY THEY GO TO THE HEART OF WHAT IS ACTUALLY GOING  
17 TO BE TRIED.

18 YOUR HONOR'S SUMMARY JUDGMENT RULINGS, BOTH ON THE  
19 2011 TO 2013 PERIOD AND THEN ON THE PRE JUNE 2011 PERIOD, YOU  
20 KNOW, THEY ESTABLISH CERTAIN THINGS. YOU KNOW, WHAT HAS BEEN  
21 ESTABLISHED WITH RESPECT TO STARKIST IS THAT STARKIST WAS  
22 INVOLVED IN A CONSPIRACY FROM JUNE OF 2011 TO DECEMBER OF  
23 2013.

24 IN OUR VIEW THAT MEANS THAT THE QUESTIONS THAT  
25 REMAIN FOR TRIAL ARE LIMITED: WERE DWI AND THE LION COMPANIES



1 INVOLVED IN A CONSPIRACY? DID THEY CONSCIOUSLY COMMIT TO A  
2 COMMON SCHEME TO ACHIEVE AN UNLAWFUL PURPOSE, AS MONSANTO  
3 SAYS? WERE PRIVATE LABEL PRODUCTS INVOLVED IN THE CONSPIRACY?  
4 DID THE CONSPIRACY END IN 2013 WHEN MR. HODGE WAS FIRED? WERE  
5 PLAINTIFFS INJURED?

6 THOSE ARE REALLY THE ISSUES THAT REMAIN FOR THE JURY  
7 BECAUSE OF YOUR HONOR'S SUMMARY JUDGMENT RULINGS.

8 THE PLAINTIFFS HERE MADE A STRATEGIC CHOICE, THAT  
9 THEY ASKED YOUR HONOR, AND YOUR HONOR SPENT A TREMENDOUS  
10 AMOUNT OF TIME RULING ON A SUMMARY JUDGMENT MOTION FOR THE  
11 JUNE 2011 TO DECEMBER 2013 PERIOD.

12 IN OUR VIEW, THE EFFECT OF THAT RULING, OF YOUR  
13 HONOR'S RULING GRANTING THAT MOTION, GOES TWO WAYS. IT MEANS,  
14 OBVIOUSLY, WE CAN'T RELITIGATE THOSE FACTS; BUT IT ALSO MEANS  
15 THAT THE PLAINTIFF SHOULDN'T RELITIGATE THOSE FACTS EITHER.

16 AND WHAT I AM CONCERNED ABOUT IS THE PLAINTIFFS ARE  
17 JUST GOING TO TROT OUT TESTIMONY, THAT THEY USED AND PRESENTED  
18 TO YOUR HONOR TO GET YOUR HONOR TO GRANT THE MOTION FOR  
19 SUMMARY JUDGMENT, TO ESTABLISH A CONSPIRACY INVOLVING STARKIST  
20 THAT YOUR HONOR HAS ALREADY FOUND EXISTED.

21 SO, YOU KNOW, I THINK THAT THIS TRIAL WOULD BE FAR  
22 MORE EFFICIENT IF WE FIGURE OUT A WAY TO LIMIT THE TRIAL TO  
23 THE ISSUES THAT I MENTIONED THAT ARE REALLY THE ONLY ISSUES TO  
24 BE TRIED.

25 WITH RESPECT TO THE PRE JUNE 2011 PERIOD, OBVIOUSLY

1 THAT MOTION INVOLVED AWG. BUT THE PLAINTIFFS HAD  
2 STRATEGICALLY AMENDED THEIR COMPLAINTS TO HAVE A CLASS PERIOD  
3 BEGINNING IN JUNE OF 2011, OTHERWISE THEY WOULD HAVE BEEN  
4 SUBJECT TO THE SAME MOTION.

5 THE REALITY, YOU KNOW, I THINK THAT YOUR HONOR  
6 CONSIDERED THEIR ARGUMENTS, OR AWG'S SIMILAR ARGUMENTS, THAT  
7 THE CONSPIRACY TOOK A WHILE TO IMPLEMENT.

8 I DON'T KNOW WHY ANY OF THAT IS NECESSARY, WHY  
9 ANYTHING FROM NOVEMBER OF 2010 IS NECESSARY, GIVEN YOUR  
10 HONOR'S FINDING THAT THE CLASS PERIOD FROM -- THE START OF THE  
11 CLASS PERIOD, JUNE 2011, IS ENCOMPASSED WITHIN YOUR HONOR'S  
12 SUMMARY JUDGMENT RULING.

13 THE OTHER THING I WOULD NOTE IS, IF YOU LOOK AT THE  
14 PLAINTIFFS' MEMORANDUM OF CONTENTION OF FACTS AND CONCLUSIONS  
15 OF LAW, I THINK IT IS AT PAGES 5 TO 6, THEY REFER TO AN  
16 ALLEGED CAN DOWNSIZING CONSPIRACY IN 2008.

17 THAT WAS RESOLVED IN YOUR HONOR'S SUMMARY JUDGMENT  
18 MOTION, THE AWG SUMMARY JUDGMENT MOTION. THAT ISSUE, YOUR  
19 HONOR FOUND THERE WERE NO TRIABLE ISSUES WITH RESPECT TO  
20 STARKIST AND DWI BECAUSE, AS COSI SAID, THAT WAS AN AGREEMENT  
21 BETWEEN COSI AND BUMBLE BEE. AND THE SAME THING WITH RESPECT  
22 TO A MAY OF 2010 AGREEMENT SPECIFICALLY BETWEEN COSI AND  
23 BUMBLE BEE.

24 SO, IN OUR VIEW, THAT EVIDENCE SHOULD ALL BE OUT.  
25 IT HAS GOT NOTHING TO DO WITH THE ISSUES TO BE TRIED HERE.

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**MR. RIFKIN:** YOUR HONOR, NONE FROM THE PLAINTIFFS'

SIDE.

**MR. YATES:** NONE FROM THE DEFENSE, YOUR HONOR.

**MR. PARIS:** NOTHING, YOUR HONOR. THANK YOU.

**THE COURT:** THANK YOU VERY MUCH.

I APPRECIATE THE DISCUSSIONS, SEEING ALL OF YOU, AND  
THE BRIEFING. THANK YOU.

**MR. YATES:** THANK YOU, YOUR HONOR.

**MR. RIFKIN:** THANK YOU, YOUR HONOR.

\* \* \*

I CERTIFY THAT THE FOREGOING IS A CORRECT  
TRANSCRIPT FROM THE RECORD OF PROCEEDINGS  
IN THE ABOVE-ENTITLED MATTER.

S/LEEANN PENCE 5/23/2024  
LEEANN PENCE, OFFICIAL COURT REPORTER DATE

# Exhibit E

ERROR: Template gigya-head.lmo not found in theme default for section yourmoney!



## StarKist agrees to \$20.5 million deal to settle Walmart's antitrust claims

January 25, 2019 6:57 PM

Pittsburgh Post-Gazette

StarKist Co. announced late Friday that it has agreed to a settlement worth \$20.5 million with Walmart to resolve antitrust claims.

Pittsburgh-based Starkist noted that Walmart is the largest retailer for canned tuna in the United States, making a deal with the Arkansas-based company critical.

“StarKist is pleased to resolve this matter with our valued customer, Walmart. The resolution is a business-oriented and reasonable one, which sets a benchmark for resolving remaining matters with our other valued customers,” said Scott Meece, StarKist’s general counsel and senior vice president, in the official announcement.

Starkist, owned by South Korean parent Dongwon, is one of three major tuna suppliers who have been investigated for price-fixing in recent years. The U.S. Department of Justice has been looking into allegations that StarKist, Bumble Bee Foods, and Tri-Union Seafoods, which owns Chicken of the Sea, conspired to keep prices artificially high.

A number of civil lawsuits were filed by retailers, grocers, wholesalers and suppliers.

Chicken of the Sea settled with Walmart in May, although the terms also weren’t disclosed, other than to say the agreement included a cash settlement and a deal to participate in a series of programs and new product promotions in stores.

Recently, Chicken of the Sea settled with numerous other companies — including O’Hara-based grocer Giant Eagle.

StarKist's announcement Friday said its "portion of the settlement is valued at \$20.5 million, based on a combination of cash payment and certain favorable commercial terms, which will further strengthen the business relationship between the two companies."

The company's president said he was pleased with the resolution of the dispute with Walmart.

"StarKist is committed to being a socially responsible company, and we are pleased to resolve this lawsuit with our largest customer under fair and reasonable terms," said Andrew Choe, president and CEO, in an official statement.

"We will continue to conduct our business with the utmost transparency and integrity, and we hope to resolve the remaining lawsuits with our other customers under similarly fair and mutually beneficial terms."

In August 2017 Bumble Bee pleaded guilty to one count of violation of the Sherman Antitrust Act and agreed to pay a \$25 million fine.

In October StarKist pleaded guilty to a one-count felony charge and faces a fine of up to \$100 million.

# Exhibit F

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

**IN RE: PACKAGED SEAFOOD  
PRODUCTS ANTITRUST  
LITIGATION**

**CASE No. 15-MD-2670 JLS (MSB)**

**THIS DOCUMENT RELATES TO:  
The Direct Purchaser Plaintiff Class  
Action Track**

**ADDENDUM EXPERT REPORT OF DR. ANDRES V. LERNER**

**May 21, 2024**

**HIGHLY CONFIDENTIAL  
SUBJECT TO PROTECTIVE ORDER**



HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

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**HIGHLY CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER**

**Table 13: Alleged Damages Estimates  
Summary Judgment Period**

<b>DPP Specification</b>	<b>StarKist</b>	<b>Bumble Bee</b>	<b>COSI</b>	<b>Total</b>
Including All Direct Purchasers in Overcharge and Damages	\$10,223,516	\$8,276,151	\$7,384,079	\$25,883,746
Including All Direct Purchasers in Overcharge & Excluding All Opt-Outs in Damages	\$1,071,098	\$1,389,919	\$1,851,780	\$4,312,797
Excluding All Opt-Outs in Overcharge and Damages	\$625,235	\$811,341	\$1,080,944	\$2,517,520



Andres V. Lerner, Ph.D.  
May 21, 2024

## **Appendix C3**

**Mangum Addendum: DPP Class Members**  
**Bumble Bee, COSI, and Starkist**

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
4 U CATALOG	4 U CATALOG	Y	-
A&D SUPPLIES	A&D SUPPLIES	Y	-
A&R FOOD DISTRIBUTORS	A&R FOOD DISTRIBUTORS	Y	-
A&T ITALIAN FOODS	A&T ITALIAN FOODS	Y	-
AA PASTOSA	AA PASTOSA	Y	-
ACE ENDICO	ACE ENDICO	Y	-
ACME FOOD PRODUCTS	ACME FOOD PRODUCTS	Y	-
ACME FOOD SALES	ACME FOOD SALES	Y	-
ADAMS WHOLESALE COMPANY	ADAMS WHOLESALE COMPANY	Y	-
ADVANTAGE WEBCO DODGE HAWAII	ADVANTAGE WEBCO DODGE HAWAII	Y	-
AFI FOOD SERV DIST CO	PERFORMANCE FOOD SERVICE	-	Y
AKAMAI PACIFIC LLC	AKAMAI PACIFIC LLC	Y	-
ALANRIC FOOD DISTRIBUTORS	ALANRIC FOOD DISTRIBUTORS	Y	-
ALASKAN EXPRESS	ALASKAN EXPRESS	Y	-
ALDI	ALDI	-	Y
ALFA RESTAURANT	ALFA RESTAURANT	Y	-
ALL AMERICAN FOODS	ALL AMERICAN FOODS	Y	-
ALLISON'S GOURMET KITCHEN	ALLISON'S GOURMET KITCHEN	Y	-
ALMACEN BAYAMON	B FERNANDEZ Y HNOS	Y	-
ALMACEN BAYAMON	ECONO	Y	-
ALMACEN BAYAMON	JF MONTALVO INC	Y	-
ALMACEN BAYAMON	JOSE A VELEZ ROSADO	Y	-
ALMACEN BAYAMON	MR SPECIAL	Y	-
ALMACEN BAYAMON	RALPHS	Y	-
ALMACEN BAYAMON	SELECTOS	Y	-
ALMACEN BAYAMON	WALMART	Y	-
ALMAR	ALMAR	Y	-
ALPENA WHOLESALE	GREAT NORTH FOODS	Y	-
AMAZON	AMAZON	Y	-
AMELIAS GROCERY OUTLET	AMELIAS GROCERY	Y	-
AMERICAN FINE FOOD CORP	AMERICAN FINE FOOD CORP	Y	-
AMERICAN FOODS	AMERICAN FOODS	Y	-
ANGIES WHOLESALE GROCERIES INC	ANGIES WHOLESALE GROCERIES INC	Y	-
ASIA TRANS & CO	ASIA TRANS & CO	Y	-
ASM CONSOLIDATED	ROOSEVELT CAPITAL	Y	-
ASM CONSOLIDATED	STAR SNACKS	Y	-
ASM CONSOLIDATED	VERNON SALES	Y	-
ASSOC GROCERS AL	ASSOC GROCERS AL	Y	-
ASSOC GROCERS AL	ASSOC GROCERS SOUTH	Y	-
BADGER MURPHY FOODSERVICE	BADGER MURPHY FOODSERVICE	Y	-
BAGEL PLACE INC	BAGEL PLACE INC	Y	-
BAKEMARK	BAKEMARK	Y	-
BANNER WHOLESALE GROCERS	BANNER WHOLESALE GROCERS	Y	-
BARGAIN BARN	BARGAIN BARN	Y	-
BARGAIN WHOLESALE	99 CENTS ONLY	Y	-
BARGAIN WHOLESALE	BARGAIN WHOLESALE	Y	-
BARTELL DRUG CO	BARTELL DRUG CO	Y	-
BATTAGLIA DISTRIBUTION CORP	BATTAGLIA DISTRIBUTION CORP	Y	-
BEAVER STREET FISHERIES	BEAVER STREET FISHERIES	Y	-
BEDESSE IMPORTS INC	BEDESSE IMPORTS INC	Y	-
BELL WHOLESALE GROC CO INC	BELL WHOLESALE GROC CO INC	Y	-
BEN E KEITH COMPANY, INC	BEN E KEITH COMPANY, INC	Y	-
BENJAMIN FOODS	BENJAMIN FOODS	Y	-
BEST DEAL FOOD COMPANY	BEST DEAL FOOD COMPANY	Y	-
BETHEL-ECKERT ENTERPRISES	BETHEL-ECKERT ENTERPRISES	Y	-
BIG APPLE DELI PRODUCTS INC	BIG APPLE DELI PRODUCTS INC	Y	-
BI-MART	BI-MART	Y	-
BJ'S WHOLESALE CLUB	BJ'S WHOLESALE CLUB	Y	-
BODEGA LATINA CORPORATION	EL SUPER	Y	-
BOZZUTOS	BOZZUTOS	Y	-
BOZZUTOS	MARS SUPERMARKETS INC	Y	-
BRENHAM WHOLESALE GROCERY	BRENHAM WHOLESALE GROCERY	Y	-
BRUEGGERS BAGELS	BRUEGGERS BAGELS	Y	-
BUEHLERS	BUEHLERS	Y	-
BURRIS LOGISTICS	BURRIS LOGISTICS	Y	-
BUST THE MOVE OF NY INC	BUST THE MOVE OF NY INC	Y	-
BUTTERFIELD FOODS	BUTTERFIELD FOODS	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
BUY THE CASE LLC	BUY THE CASE LLC	Y	-
C & D TRADING INC	C & D TRADING INC	Y	-
CA CURTZE	CA CURTZE	Y	-
CACCIATORE BROTHERS	CACCIATORE BROTHERS	Y	-
CALIFORNIA SUPERMARKETS	CALIFORNIA SUPERMARKETS	Y	-
CANTORO ITALIAN MARKET	CANTORO ITALIAN MARKET	Y	-
CAPITAL SALES COMPANY	CAPITAL SALES COMPANY	Y	-
CARAMAGNO FOODS	CARAMAGNO FOODS	Y	-
CARMELA FOODS, INC	CARMELA FOOD DISTRIBUTING	Y	-
CASA IMPORTS, INC	CASA IMPORTS, INC	Y	-
CEDAR FARMS COMPANY INC	CEDAR FARMS COMPANY INC	Y	-
CENTO FOODS	CENTO FINE FOODS, INC	Y	-
CENTRAL GROCERS COOP	CAPUTOS	Y	-
CENTRAL GROCERS COOP	CENTRAL GROCERS COOP	Y	-
CENTRAL GROCERS COOP	STRACK & VAN TIL	Y	-
CHEFS CHOICE CASH & CARRY FOOD DIST	CHEFS CHOICE CASH & CARRY FOOD DIST	Y	-
CHENEY BROTHERS INC	CHENEY BROTHERS INC	Y	-
CHICAGO HUB	SVT, LLC	Y	-
CHICAGO HUB	TONYS FINER FOODS	Y	-
CHICAGO HUB	WALTS FOODS	Y	-
CHIHADE	CHIHADE	Y	-
CHOICE YIELD	CHOICE YIELD	Y	-
CHRIST PANOS FOOD	CHRIST PANOS FOOD	Y	-
CLARO'S ITALIAN MKTS INC	CLARO'S ITALIAN MKTS INC	Y	-
COASTAL PACIFIC FOOD	COASTAL PACIFIC FOOD	Y	-
COBORNS	COBORNS	Y	-
COLORADO INDEPENDENT GROCERS	COLORADO INDEPENDENT GROCERS	Y	-
COMMUNITY FOOD BANK	COMMUNITY FOOD BANK OF NEW JERSEY	Y	-
COMPASS GROUP	COMPASS GROUP	Y	-
CONAGRA FOODS	CONAGRA FOODS	Y	-
CONCA DORO IMPORTERS INC	CONCA DORO IMPORTERS INC	Y	-
CONSOLIDATED SERVICE DISTRIBUTORS	CONSOLIDATED SERVICE DISTRIBUTORS	Y	-
COOPER BOOTH WHOLESALE COOP	COOPER BOOTH WHOLESALE COOP	Y	-
CORE-MARK	CORE-MARK	-	Y
CORE-MARK	FORREST CITY GROCERY	-	Y
COSI SAMPLES & DONATIONS	COS SAMPLES-FDS	Y	-
COSI SAMPLES & DONATIONS	COS SAMPLES-RET	Y	-
COSI SAMPLES & DONATIONS	COS SAMPLES-SMK	Y	-
COSI SAMPLES & DONATIONS	COSI SAMPLES & DONATIONS	Y	-
COSTCO	COSTCO	-	Y
COST-U-LESS	COST-U-LESS	Y	-
COUNTRY KITCHEN	COUNTRY KITCHEN	Y	-
COUNTRY MAID INC	COUNTRY MAID INC	Y	-
CREST DISCOUNT FOODS	CREST DISCOUNT FOODS	Y	-
CUMBERLAND FARMS INC	CUMBERLAND FARMS INC	Y	-
CUSTOMIZED DISTRIBUTION	CUSTOMIZED DISTRIBUTION	Y	-
CW DUNNETT	CW DUNNETT	Y	-
D COLUCCIO & SONS	D COLUCCIO & SONS	Y	-
D&B GROCERS	D&B GROCERS	Y	-
DAVID ROSEN BAKERY SUPPLY CO	DAVID ROSEN BAKERY SUPPLY CO	Y	-
DAWNS FOODS	DAWNS FOODS	Y	-
DEARBORN WHOLESALE GROCERS	DEARBORN WHOLESALE GROCERS	Y	-
DEISS SALES CO INC	DEISS SALES CO INC	Y	-
DEMOULAS SUPER MARKETS	DEMOULAS SUPER MARKETS	Y	-
DEMOULAS SUPER MARKETS	M & B DISTRIBUTOR/DEMOULAS	Y	-
DENNIS WHOLESALE FOOD INC	DENNIS WHOLESALE FOOD INC	Y	-
DERSTINES INC	DERSTINES	Y	-
DHX - FREIGHT TERMINAL	DHX - FREIGHT TERMINAL	Y	-
DIAL INDUSTRIES	DIAL INDUSTRIES	Y	-
DIERBERG'S MARKETS INC	DIERBERG'S MARKETS INC	Y	-
DIERKS WAUKESHA	DIERKS WAUKESHA	Y	-
DISCOUNT DRUG MART INC	DISCOUNT DRUG MART INC	Y	-
DON QUIJOTE	DON QUIJOTE	Y	-
DONAHUE BROTHERS INC	DONAHUE BROTHERS INC	Y	-
DORIGNACS FOOD CENTER	DORIGNACS FOOD CENTER	Y	-
DOS AMIGOS DISTRIBUTORS	DOS AMIGOS DISTRIBUTORS	Y	-
DOWNEY WHOLESALE	DOWNEY WHOLESALE	Y	-
DRISCOLL FOODS	METROPOLITAN FOODS	Y	-
DUCKWALL ALCO STORES INC	DUCKWALL ALCO STORES INC	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
E & S	E & S	Y	-
EA PA AO (DOT)	SYSCO	Y	-
EBY BROWN CO	EBY BROWN CO	-	Y
ECONOMY CASH & CARRY	ECONOMY CASH & CARRY	Y	-
ECONOMY WHOLESALE CO	ECONOMY WHOLESALE CO	Y	-
EINSTEIN & NOAH CORP	EINSTEIN BROS	Y	-
ELK INTERNATIONAL	ELK INTERNATIONAL	Y	-
ELKHORN MOUNTAIN	ELKHORN MOUNTAIN RESOURCES	Y	-
EMPIRE SEAFOODS	EMPIRE SEAFOODS	Y	-
FEEDING AMERICA	COMMUNITY FOOD BANK	Y	-
FEEDING AMERICA	COMMUNITY FOOD BANK OF NEW JERSEY	Y	-
FEEDING AMERICA	CONNECTICUT FOOD BANK	Y	-
FEEDING AMERICA	FEEDING AMERICA	Y	-
FEEDING AMERICA	FOOD BANK OF CENTRAL NEW YORK	Y	-
FEEDING AMERICA	FOOD BANK OF WESTERN MA	Y	-
FEEDING AMERICA	FOODLINK	Y	-
FEEDING AMERICA	GOOD SHEPARD FOOD BANK	Y	-
FEEDING AMERICA	GREATER CHICAGO FOOD	Y	-
FEEDING AMERICA	HARVESTERS-THE COMMUNITY	Y	-
FEEDING AMERICA	MERRIMACK VALLEY FOOD BANK	Y	-
FEEDING AMERICA	NORTHERN ILLINOIS FOOD BANK	Y	-
FEEDING AMERICA	SECOND HARVEST	Y	-
FEEDING AMERICA	SECOND HARVEST HEARTLAND	Y	-
FEEDING AMERICA	THE GREATER BOSTON FOOD BANK	Y	-
FERRARINI GOURMET EMPORIO	FERRARINI GOURMET EMPORIO	Y	-
FISCHER FOODS	FISCHER FOODS	Y	-
FISHERMANS LANDING CORP	FISHERMAN'S CANNING CORP	Y	-
FLORIDA FOOD SERVICE	FLORIDA FOOD SERVICE	Y	-
FOCASTLE FARM COUNTRY STORE	FOCASTLE FARM COUNTRY STORE	Y	-
FOOD BANK NYC	FOOD BANK NYC	Y	-
FOOD MARKETING	FOOD MARKETING CORP	Y	-
FOOD MARKETING	SUPERVALU	Y	-
FOOD MAXX	FOODMAXX SAVE MART	Y	-
FOOD SOURCE	FOOD SOURCE	Y	-
FOODCO DISTRIBUTORS	FOODCO DISTRIBUTORS	Y	-
FOODS GALORE INC	FOODS GALORE INC	Y	-
FORREST CITY GROCERY	FORREST CITY GROCERY	Y	-
FORTHS FOOD INC	FORTHS FOOD INC	Y	-
FREDS INC DOLLAR	FREDS INC DOLLAR	Y	-
FRENCH GOURMET	FRENCH GOURMET	Y	-
FRESH & EASY FENM INC	FRESH & EASY	Y	-
FRESH ENCOUNTERS	FRESH ENCOUNTER	Y	-
FRESH GRILL LLC	FRESH GRILL LLC	Y	-
FRIENDLY MARKET CENTER	FRIENDLY MARKET CENTER	Y	-
FRISCH'S RESTAURANTS, INC	FRISCH'S COMMISARY	Y	-
FUJI FOOD PRODUCTS INC	FUJI FOOD PRODUCTS INC	Y	-
FUTURE FOOD LTD	SANTA BARBARA BAY FOODS	Y	-
GA FOOD SERVICE	GA FOOD SERVICE	Y	-
GALOT INC	GALOT INC	Y	-
GARBER BROTHERS INC	GARBER BROTHERS INC	Y	-
GELSON MARKET	GELSON MARKET	Y	-
GENERAL MILLS	GENERAL MILLS	Y	-
GENERAL TRADING CO	GENERAL TRADING CO	Y	-
GENERE FOOD CORP	GENERE FOOD CORP	Y	-
GEORGE DELALLO CO	GEORGE DELALLO CO	Y	-
GEORGE W GROETSCH INC	GROETSCH WHLSLE GROCERS	Y	-
GIANCOLA BROS INC	GIANCOLA BROS INC	Y	-
GIUNTAS WAREHOUSE INC	GIUNTAS WAREHOUSE INC	Y	-
GLOBAL FOODS INC	NORTH TEXAS FOOD BANK	Y	-
GLOBAL PRODUCT & LOGISTIC SERVICES	GLOBAL PRODUCT & LOGISTIC SERVICES	Y	-
GLOBAL PRODUCT DISTRIBUTION INC	GLOBAL PRODUCT DISTRIBUTION INC	Y	-
GNGS FOODS	GNGS FOODS	Y	-
GOLD COAST SALADS	GOLD COAST SALADS	Y	-
GOLDBERG & SOLOVY FOODS	GOLDBERG & SOLOVY FOODS	Y	-
GOLDEN BAY FOODS	GOLDEN BAY FOODS	Y	-
GOLDEN CUISINE LLC	GOLDEN CUISINE LLC	Y	-
GOLDEN STATE CARE PACKAGES INC	GOLDEN STATE CARE PACKAGES INC	Y	-
GONGCO FOODS	FOOD 4 LESS	Y	-
GOOD SOURCE DOLLAR	FOOD BANK NYC	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
GOOD SOURCE SOLUTIONS	OREGON FOOD BANK	Y	-
GOURMET FOODS INTERNATIONAL	GOURMET FOODS INTERNATIONAL	Y	-
GRAND AVE FOOD SUPPLY INC	GRAND AVE FOOD SUPPLY INC	Y	-
GRAYS WHOLESALE INC	GRAYS WHOLESALE INC	Y	-
GREAT NORTH FOODS	GREAT NORTH FOODS	Y	-
GRECO & SONS	GRECO & SONS	Y	-
GREEN CUISINE INC	GREEN CUISINE INC	Y	-
GROCERY OUTLET	AMELIAS GROCERY	Y	-
GROCERY OUTLET	GROCERY OUTLET	Y	-
H SCHRIER & CO INC	H SCHRIER & CO INC	Y	-
HADDON HOUSE	HADDON HOUSE	Y	-
HANS KISSLE COMPANY LLC	HANS KISSLE COMPANY LLC	Y	-
HARBOR TRADING COMPANY	HARBOR TRADING COMPANY	Y	-
HARBOR WHOLESALE GROCERY	HARBOR WHOLESALE GROCERY	Y	-
HAROLD LEVINSON ASSOCIATES	HAROLD LEVINSON ASSOCIATES	Y	-
HAWAII KTA/FOODLAND	FOODLAND	Y	-
HAWAII KTA/FOODLAND	HAWAII KTA/FOODLAND	Y	-
HAWAII KTA/FOODLAND	SACK N SAVE	Y	-
HEINENS	BELL WHOLESALE GROC CO INC	Y	-
HEINENS	FISHER FOODS MARKETING INC	Y	-
HEINENS	HEINENS	Y	-
HEINZ	HEINZ	Y	-
HEINZ	HEINZ FROZEN FOOD COMPANY	Y	-
HEINZ NORTH AMERICA 57 CENTER	AMERICAN BOUNTY	Y	-
HEINZ NORTH AMERICA 57 CENTER	AMERICAN PRESIDENT LINES	Y	-
HEINZ NORTH AMERICA 57 CENTER	AMERIQUAL PACKAGING	Y	-
HEINZ NORTH AMERICA 57 CENTER	BAKAKERS SPECIALTY FOODS, INC	Y	-
HEINZ NORTH AMERICA 57 CENTER	COASTAL PACIFIC FOOD	Y	-
HEINZ NORTH AMERICA 57 CENTER	EAT'N PARK	Y	-
HEINZ NORTH AMERICA 57 CENTER	EMPIRE WAREHOUSE	Y	-
HEINZ NORTH AMERICA 57 CENTER	FRIENDLY ICE CREAM	Y	-
HEINZ NORTH AMERICA 57 CENTER	GEORGIA WHOLESALE	Y	-
HEINZ NORTH AMERICA 57 CENTER	GP - PEACHTREE LOGISTICS LLC	Y	-
HEINZ NORTH AMERICA 57 CENTER	HEINZ NORTH AMERICA 57 CENTER	Y	-
HEINZ NORTH AMERICA 57 CENTER	HJ HEINZ COMPANY	Y	-
HEINZ NORTH AMERICA 57 CENTER	KEEFE SUPPLY CO	Y	-
HEINZ NORTH AMERICA 57 CENTER	M5-GENCO SOUTHERN CALIFORNIA	Y	-
HEINZ NORTH AMERICA 57 CENTER	SANTA BARBARA BAY FOODS	Y	-
HEINZ NORTH AMERICA 57 CENTER	SHIP SIDE FOOD SERVICE	Y	-
HEINZ NORTH AMERICA 57 CENTER	SKUS SAMPLE CUSTOMER	Y	-
HEINZ NORTH AMERICA 57 CENTER	SOPAKCO INC	Y	-
HEINZ NORTH AMERICA 57 CENTER	SUMA TRADING	Y	-
HEINZ NORTH AMERICA 57 CENTER	SYGMA	Y	-
HEINZ NORTH AMERICA 57 CENTER	SYSCO	Y	-
HEINZ NORTH AMERICA 57 CENTER	THE WORNICK COMPANY	Y	-
HEINZ NORTH AMERICA 57 CENTER	US FOODS	Y	-
HERRIS GOURMET INC	HERRIS GOURMET INC	Y	-
HILLERS SHOPPING CENTER MARKET	HILLERS SHOPPING CENTER MARKET	Y	-
HILO RICE MILL CO LTD	HILO RICE MILL CO LTD	Y	-
HOMELAND STORES	HOMELAND STORES	Y	-
HOOPLE COUNTRY KITCHENS	HOOPLE COUNTRY KITCHENS	Y	-
HOSTESS BRANDS	LOU MISTERLY FOOD SALES INC	Y	-
HOSTESS BRANDS	SERVICE WAREHOUSE CORP	Y	-
HT HACKNEY	HT HACKNEY	Y	-
IMPORTADORA RICAMAR SA	IMPORTADORA RICAMAR SA	Y	-
INDIVIDUAL FOODSERVICE	INDIVIDUAL FOODSERVICE	Y	-
INFANT AND NUTRIONAL PRODUCTS INC	INFANT AND NUTRIONAL PRODUCTS INC	Y	-
INGARDIA BROS	INGARDIA BROS	Y	-
INGLES MARKETS INC	INGLES MARKETS INC	-	Y
INLAND SEAFOOD	INLAND SEAFOOD	Y	-
INNER WORKINGS	INNER WORKINGS CINCINNATI	Y	-
INSTITUTIONAL FOOD HOUSE	INSTITUTIONAL FOOD HOUSE	Y	-
INTERNATIONAL WHOLESALE	INTERNATIONAL WHOLESALE	Y	-
INTERNAT'L SALES & MKTG	A SEABRA FOODS	Y	-
INTERNAT'L SALES & MKTG	C&S WHOLESALE GROCERS	Y	-
INTERNAT'L SALES & MKTG	DEL MAXIMO	Y	-
INTERNAT'L SALES & MKTG	EL CONDOR	Y	-
INTERNAT'L SALES & MKTG	FAMILY FOOD DISTRIBUTORS	Y	-
INTERNAT'L SALES & MKTG	GROCERY OUTLET	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
INTERNAT'L SALES & MKTG	INTERNAT'L SALES & MKTG	Y	-
INTERNAT'L SALES & MKTG	MONTALVANS SALES	Y	-
IRA HIGDON GROCERY CO	IRA HIGDON GROCERY CO	Y	-
ISHIHARA MARKET LTD	ISHIHARA MARKET LTD	Y	-
ITALFOODS, INC	ITALFOODS, INC	Y	-
J & D FOODSERVICE	J & D FOODSERVICE	Y	-
J HARA STORE INC	J HARA STORE INC	Y	-
J POLEP DISTRIBUTION SERVICES	J POLEP DISTRIBUTION SERVICES	Y	-
J T DAVENPORT & SONS	J T DAVENPORT & SONS	Y	-
J WINKLER AND SONS, INC	J WINKLER AND SONS, INC	Y	-
JA FOODSERVICE	JA FOODSERVICE	Y	-
JETRO CASH & CARRY	JETRO CASH & CARRY	Y	-
JOHN ACCARDI FOOD PRODUCT	ACCARDI FOODS INC	Y	-
JOHN F GREER & ASSOCIATES INC	JOHN F GREER & ASSOCIATES INC	Y	-
JOS ANTOGNOLI & CO	JOS ANTOGNOLI & CO	Y	-
JOSE' SANTIAGO, INC	JOSE' SANTIAGO, INC	Y	-
JOZEV PRODUCTS INC	JOZEV PRODUCTS INC	Y	-
JT DAVENPORT & SONS	JT DAVENPORT & SONS	Y	-
JUST RIGHT PACKAGES	JUST RIGHT PACKAGES	Y	-
K BRAND INC	K BRAND INC	Y	-
KB SPECIALTY FOODS	KB SPECIALTY FOODS	Y	-
KEHE FOOD DISTRIBUTORS INC	KEHE FOOD DISTRIBUTORS INC	Y	-
KELLOGG SUPPLY INC	KELLOGG SUPPLY INC	Y	-
KEY FOOD STORES	ALMONTE HEIGHTS FOOD CORP	Y	-
KEY FOOD STORES	ALMONTE LANDS FOOD CORP	Y	-
KEY FOOD STORES	FOOD UNIVERSE	Y	-
KEY FOOD STORES	KEY FOOD STORES	Y	-
KEY FOOD STORES	WAVERLY MARKET	Y	-
KING FISH INC	KING FISH INC	Y	-
KINGS SEAFOOD	KINGS SEAFOOD	Y	-
KINNEY DRUG CO	KINNEY DRUG CO	Y	-
KOSHER PROVISIONS INC	KOSHER PROVISIONS INC	Y	-
KRAFT FOOD	KRAFT FOOD	Y	-
KTA	KTA SUPER STORES	Y	-
KV MART CO	KV MART CO	Y	-
KWONG YET LUNG CO	KWONG YET LUNG CO	Y	-
L & K DISTRIBUTORS INC	L & K DISTRIBUTORS INC	Y	-
LA FOODS	LA FOODS	Y	-
LA INDEPENDENTS	EL SUPER	Y	-
LA INDEPENDENTS	EL TAPATIO	Y	-
LA INDEPENDENTS	KV MART CO	Y	-
LA INDEPENDENTS	NORTHGATE MARKETS	Y	-
LA INDEPENDENTS	PROS RANCH MARKET	Y	-
LA INDEPENDENTS	SUPERIOR DISTRIBUTION CENTER	Y	-
LAUREL GROCERY CO	HEINENS	Y	-
LAUREL GROCERY CO	LAUREL GROCERY CO	Y	-
LEWIS GROCER	LEWIS GROCER	Y	-
LEWISCO HOLDINGS	LEWISCO HOLDINGS	Y	-
LIBERTY INTERNATIONAL WHOLESAL	LIBERTY INTERNATIONAL WHOLESAL	Y	-
LIBERTY USA	LIBERTY USA	Y	-
LIPARI FOODS INC	LIPARI FOODS INC	Y	-
LONG ISLAND CARES INC	LONG ISLAND CARES	Y	-
LONGS DRUG STORES INC	LONGS DRUG STORES INC	Y	-
LUNDS MITCHELL ROAD	LUNDS MITCHELL ROAD	Y	-
LYONS SPECIALITY CO LLC	LYONS SPECIALITY CO LLC	Y	-
M & R FROSTED FOODS CO INC	M & R FROSTED FOODS CO INC	Y	-
M BERNSTEIN & SONS	M BERNSTEIN & SONS	Y	-
M R WILLIAMS IN	M R WILLIAMS IN	Y	-
M ZUKERMAN & CO	M ZUKERMAN & CO	Y	-
MACKOUL DISTRIBUTORS INC	MACKOUL DISTRIBUTORS INC	Y	-
MAJESTIC SALES	MAJESTIC SALES	Y	-
MALONE MEAT & POULTRY INC	MALONE MEAT & POULTRY INC	Y	-
MARS SUPERMARKETS INC	MARS SUPERMARKETS INC	Y	-
MARSH SUPERMARKETS	MARSH SUPERMARKETS	Y	-
MARUKAI WHOLESAL	MARUKAI WHOLESAL	Y	-
MARUKAI WHOLESAL MART	MARUKAI WHOLESAL	Y	-
MASON BROS COMPANY, INC	MASON BROS COMPANY, INC	Y	-
MATTOON RURAL KING SUPPLY INC	MATTOON RURAL KING SUPPLY INC	Y	-
MAXIMUM QUALITY FOODS INC	MAXIMUM QUALITY FOODS INC	Y	-



Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
MBM CORP	MBM CORP	Y	-
MCFARLING FOODS	MCFARLING FOODS	Y	-
MED-DIET LABORATORIES INC	MED-DIET LABORATORIES INC	Y	-
MENDEZ & CO	HATILLO CASH CARRY, INC	Y	-
MENDEZ & CO	MENDEZ & CO SALMON	Y	-
MENDEZ & CO	PEREZ CASH & CARRY	Y	-
MENDEZ & CO	PONCE C & C - MORELL CAMPOS	Y	-
MENDEZ & CO	S/M SELECTO INC-CTRO DIST	Y	-
MENDEZ & CO	SUPERMERCADO MAXIMO, INC	Y	-
MENDEZ & CO	SUPERMERCADOS ECONO	Y	-
MENDEZ & CO	SUPERMERCADOS MR SPECIAL INC	Y	-
MENDEZ & CO	WALMART	Y	-
MERCHANTS EXPORT	MERCHANT'S EXPORT INC	Y	-
MERIT FOODS LLC	MERIT FOODS LLC	Y	-
MERRIDIAN DISTRIBUTORS INC	MERRIDIAN DISTRIBUTORS INC	Y	-
MIAMI WHOLESALERS	ASSOCIATED GROCERS	Y	-
MIAMI WHOLESALERS	PRESIDENTE	Y	-
MIAMI WHOLESALERS	REX DISCOUNT CASH & CARRY	Y	-
MIAMI WHOLESALERS	SOUTHEAST WHOLESALE FOODS	Y	-
MIAMI WHOLESALERS	THE BOYS FARMERS MARKET INC	Y	-
MID MOUNTAIN FOODS	FOOD CITY	Y	-
MIDDENDORF QUALITY FOODS	PERFRMANCE FDSV MIDDNDORF	Y	-
MINERS	MINERS	Y	-
MISAKIS INC	MISAKIS INC	Y	-
MITCHELL GROCERY	MITCHELL GROCERY	Y	-
MIVILA	MIVILA	Y	-
MONTE CARLO - ITALIA FOOD	MONTE CARLO - ITALIA FOOD	Y	-
MOTHERS NUTRITIONAL CNTR	MOTHERS NUTRITIONAL CNTR	Y	-
NAARCISS INTERNATIONAL	MIEL FOODS	Y	-
NATIONAL FOOD GROUP	BATEMAN SENIOR	Y	-
NATIONAL FOOD GROUP	NATIONAL FOOD GROUP	Y	-
NATIONAL SALES GROUP	NATIONAL SALES GROUP	Y	-
NELLIES PROVISIONS	NELLIES PROVISIONS	Y	-
NICOLAS VILLALBA	NORTH & SOUTH	Y	-
NORTHGATE MARKETS	NORTHGATE MARKETS	Y	-
NUGGET MARKET	NUGGET MARKET	Y	-
NUTRICION FUNDAMENTAL	NUTRICION FUNDAMENTAL	Y	-
NY WHOLESALE GROCERS	NY WHOLESALE GROCERS	Y	-
NYC FOOD BANK	FOOD BANK NYC	Y	-
OCEAN VIEW MARKET	OCEAN VIEW MARKET	Y	-
OCTOBER INC	OCTOBER INC	Y	-
OHIO FARMERS	OHIO FARMERS	Y	-
OKIMOTO	OKIMOTO	Y	-
OLEAN WHOLESALE GROCERY	OLEAN WHOLESALE GROCERY	Y	-
OLINDOS IMPORTED FDS	OLINDOS IMPORTED FDS	Y	-
ORLANDO GRECO & SONS	ORLANDO GRECO & SONS	Y	-
PACIFIC FOODS NY CORP	PACIFIC FOODS NY CORP	Y	-
PACIFIC SEAFOOD	PACIFIC SEAFOOD	Y	-
PAK-RITE INDUSTRIES INC	PAK-RITE INDUSTRIES INC	Y	-
PALMIER DELI	PALMIER DELI	Y	-
PASTENE CO LTD	PASTENE CO LTD	Y	-
PENNSYLVANIA MACARONI CO	PENNSYLVANIA MACARONI CO	Y	-
PERFORMANCE FOOD GROUP	PERFORMANCE FOOD GROUP	-	Y
PETERSON COMPANY	PETERSON COMPANY	Y	-
PIGGLY WIGGLY	PIGGLY WIGGLY	Y	-
PITCO FOODS	PITCO	Y	-
PLATINUM DISTRIBUTION	PLATINUM DISTRIBUTION	Y	-
PON FOOD CORPORATION	PON FOOD CORPORATION	Y	-
PORT ROYAL SALES	PORT ROYAL SALES	Y	-
PQ NEW YORK	PQ NEW YORK	Y	-
PREMIUM FOODS	PREMIUM FOODS	Y	-
PRICESMART	PRICESMART	Y	-
PRO GROUP	PRO GROUP	Y	-
PROJECT OPEN HAND	PROJECT OPEN HAND	Y	-
PROS RANCH MARKET	PROS RANCH MARKET	Y	-
PUKALANI MARKET	PUKALANI MARKET	Y	-
PUNA PLANTATION	KTA SUPER STORES	Y	-
QUAKER SUGAR	QUAKER SUGAR	Y	-
QUALITY FOOD PRODUCTS	QUALITY FOOD PRODUCTS	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
QUALITY GROCERIES INC	QUALITY GROCERIES INC	Y	-
QUALITY NATURALLY FOODS	QUALITY NATURALLY FOODS	Y	-
QUINN SUPERS	AMAYOSHI	Y	-
QUINN SUPERS	AS DISTRIBUTION	Y	-
R F OWENS	R F OWENS	Y	-
R N MARKET	R N MARKET	Y	-
RAMPART MARKETING	RAMPART MARKETING	Y	-
RED APPLE	RED APPLE	Y	-
REDNERS MARKETS	GWR DC	Y	-
REDNERS MARKETS	REDNERS MARKETS	Y	-
REINHART	REINHART	Y	-
REMA FOODS	REMA FOODS	Y	-
REMKE MARKETS	REMKE MARKETS	Y	-
RENZI FOODSERVICE	RENZI FOODSERVICE	Y	-
RESTAURANT DEPOT	RESTAURANT DEPOT	Y	-
RF OWENS	RF OWENS	Y	-
RH RENY	RH RENY	Y	-
RITE AID	RITE AID	Y	-
R-N MARKET INC	TKJ TRUCKING	Y	-
ROADTOWN WHOLESALE	ROADTOWN WHOLESALE	Y	-
ROBINSON ENTERPRISE	ROBINSON ENTERPRISE	Y	-
ROSA FOOD PRODUCTS	ROSA FOOD PRODUCTS	Y	-
ROSSELI FOODS	ROSSELI FOODS	Y	-
ROTHSTEIN CORP	ROTHSTEIN CORP	Y	-
RUBINELLI	RUBINELLI	Y	-
RUBINO'S ITALIAN FOODS	RUBINO'S ITALIAN FOODS	Y	-
S ABRAHAM & SONS	S ABRAHAM & SONS	Y	-
S F I CORPORATION	SMART & FINAL	Y	-
SAJ USA DRUG	SAJ USA DRUG	Y	-
SALADINOS INC	SALADINOS INC	Y	-
SAN DIEGO FOODBANK	SAN DIEGO FOOD BANK	Y	-
SARAU DISTRIBUTORS	SARAU DISTRIBUTORS	Y	-
SCHIESS DISTRIBUTORS INC	SCHIESS DISTRIBUTORS INC	Y	-
SECOND HARVEST	SECOND HARVEST	Y	-
SECOND HARVEST HEARTLAND	SECOND HARVEST HEARTLAND	Y	-
SENDIKS FOOD MARKETS	SENDIKS FOOD MARKETS	Y	-
SHAKER VALLEY FOODS	SHAKER VALLEY FOODS	Y	-
SHAMROCK FOODS	SHAMROCK FOODS	Y	-
SHAVER FOODS	SHAVER FOODS	Y	-
SHERMS THUNDERBIRD MARKET	SHERMS THUNDERBIRD MARKET	Y	-
SHIMAS MARKET	SHIMAS MARKET	Y	-
SHIMAYA SHOTEN	SHIMAYA SHOTEN	Y	-
SHIP SIDE FOOD SERVICE	SHIP SIDE FOOD SERVICE	Y	-
SHOP RITE	KLEINS	Y	-
SHOPKO	SHOPKO	Y	-
SIDARIS ITALIAN FOODS	SIDARIS ITALIAN FOODS	Y	-
SKUS SAMPLE CUSTOMER	SKUS SAMPLE CUSTOMER	Y	-
SMART & FINAL	SMART & FINAL	Y	-
SODEXO	SODEXO	Y	-
SODEXO	UNIVERSAL OGDN	Y	-
SONOCO CORRIFLEX	SONOCO CORRIFLEX	Y	-
SOUTH PACIFIC WHOLESALE IMPORTS	SOUTH PACIFIC WHOLESALE IMPORTS	Y	-
SOUTHCO DISTRIBUTING COMPANY	SOUTHCO DISTRIBUTING COMPANY	Y	-
SOUTHEAST FOODS	PRESIDENT SUPERMARKET	Y	-
SOUTHEAST FOODS	SOUTHEAST WHOLESALE FOODS	Y	-
SOUTHEAST WHOLESALE FOODS	SOUTHEAST WHOLESALE FOODS	Y	-
SOUTHWEST TRADERS	SOUTHWEST TRADERS	Y	-
SPARTAN NASH	SUPER FOODS	Y	-
SPECIALTY FOOD	SPECIALTY FOOD	Y	-
SPRINGFIELD GROCER COMPANY	SPRINGFIELD GROCER COMPANY	Y	-
STANS COFFEE	STANS COFFEE	Y	-
STATER BROS	STATER BROS	Y	-
STEERFORTH TRADING INC	STEERFORTH TRADING INC	Y	-
STEPHEN L LA FRANCE	USA DRUG	Y	-
STERLING INT'L MERCANTILE, INC.	STERLING INTERNATIONAL MERC	Y	-
STEVES GROCERY	STEVES GROCERY	Y	-
STEWARTS PROCESSING CORP	STEWARTS PROCESSING CORP	Y	-
STRAUBS MARKET	STRAUBS MARKET	Y	-
SUEOKA STORE	SUEOKA STORE	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
SUPER CENTER CONCEPTS INC	SUPER CENTER CONCEPTS INC	Y	-
SUPER CENTER CONCEPTS INC	SUPERIOR SUPER WAREHOUSE	Y	-
SUPERMERCADO ECONO	SUPERMERCADO ECONO	Y	-
SYSCO	CNC NUTRITION CENTER	-	Y
SYSCO	DOC FOOD PRODUCTION	-	Y
SYSCO	SYGMA	-	Y
SYSCO	SYSCO	-	Y
SYSCO	US FOODS	-	Y
T HARA & COMPANY	T HARA & COMPANY	Y	-
T TAKATA STORE INC	T TAKATA STORE INC	Y	-
TAKIS ROYAL FOODS	TAKIS ROYAL FOODS	Y	-
TAMURAS	TAMURAS	Y	-
TAYLOR FARMS	JACK & JILL ICE CREAM	Y	-
TAYLOR FARMS	TAYLOR FARMS	Y	-
TEITEL BROTHERS	TEITEL BROTHERS	Y	-
TERI NICHOLS	TERI NICHOLS INSTITUTIONAL FOOD	Y	-
TESCO	FRESH & EASY	Y	-
THE FOOD EXCHANGE	THE FOOD EXCHANGE	Y	-
THE MANISCHEWITZ CO	THE MANISCHEWITZ CO	Y	-
THE MERCHANTS COMPANY	MERCHANTS COMPANY	-	Y
THE STRIVE GROUP	THE STRIVE GROUP	Y	-
THOMS PROESTLER	PERFORMANCE FOOD GROUP	-	Y
TIENDAS SINDICALES	TIENDAS SINDICALES	Y	-
TIM HORTONS USA	SYGMA	Y	-
TIMES SUPERMARKET	TIMES SUPERMARKET	Y	-
TONY'S FINE FOODS	TONY'S FINE FOODS	Y	-
TONY'S FISH & SEAFOOD	TONY'S FISH & SEAFOOD	Y	-
TOP GENERAL MERCHANDISE	TOP GENERAL MERCHANDISE	Y	-
TOPCO	AFFILIATED FOODS	Y	-
TOPCO	ASSOCIATED GROCERS	Y	-
TOPCO	BIG Y FOODS INC	Y	-
TOPCO	BROOKSHIRE BROTHERS	Y	-
TOPCO	C&S WHOLESALE GROCERS	Y	-
TOPCO	CERTCO	Y	-
TOPCO	FRED W ALBRECHT	Y	-
TOPCO	K-VA-T FOOD STORES	Y	-
TOPCO	MDI INC	Y	-
TOPCO	MITCHELL GROCERY	Y	-
TOPCO	PIGGLY WIGGLY	Y	-
TOPCO	PS ACQUISITIONS	Y	-
TOPCO	ROCHE BROS	Y	-
TOPCO	RYDER	Y	-
TOPCO	SPARTAN STORES	Y	-
TOPCO	TOPCO	Y	-
TOPCO	UNITED SUPERMARKETS	Y	-
TOPCO	W LEE FLOWERS	Y	-
TOWN & COUNTRY	TOWN & COUNTRY	Y	-
TRADEWELL DISTRIBUTORS	TRADEWELL DISTRIBUTORS	Y	-
TREPCO IMPORTS & DISTRIBUTION	TREPCO - WEST	Y	-
TRIFI FOODS INC	TRIFI FOODS INC	Y	-
TSN WEST	TSN EAST	Y	-
TSN WEST	TSN WEST	Y	-
UNICOR	UNICOR	Y	-
UNITED SALES & DISTRIBUTORS	UNITED SALES & DISTRIBUTORS	Y	-
UNITED WESTERN GROCERS	EL SUPER	Y	-
UNITED WESTERN GROCERS	EL TAPATIO	Y	-
UNITED WESTERN GROCERS	NORTHGATE MARKETS	Y	-
UNITED WESTERN GROCERS	SUPER A FOODS	Y	-
UNITED WESTERN GROCERS	SUPER KING MARKETS	Y	-
UNITED WESTERN GROCERS	UNIFIED WESTERN GROCERS	Y	-
UNITED WESTERN GROCERS	UNITED GROCERS	Y	-
UNITED WESTERN GROCERS	VALLARTA WAREHOUSE	Y	-
UNIVERSITY OF NOTRE DAME	UNIVERSITY OF NOTRE DAME	Y	-
US TUNA CORP	US TUNA CORP	Y	-
USDA	CENTRAL STORAGE & WAREHOUSE	Y	-
USDA	GENEVA LAKES COLD STORAGE	Y	-
UTAH BISHOP'S CENTRAL STORE HOUSE	UTAH BISHOP'S CENTRAL STORE HOUSE	Y	-
VALUE INC	VALUE WHOLESALE	Y	-
VALUE WHOLESALE	VALUE WHOLESALE	Y	-

Corporate Name	Customer Name	Class Member with respect to All Defendants	Class Member with respect to BB and COSI Only
VARIETY WHOLESALE	VARIETY WHOLESALE	Y	-
VEND SERVICE INC	VEND SERVICE INC	Y	-
VERNON SALES	VERNON SALES	Y	-
VERSA FOODS INC	VERSA FOODS INC	Y	-
VINCE & JOES FRUIT MRKT	VINCE & JOES FRUIT MRKT	Y	-
VINCE'S SHELLFISH	VINCE'S SHELLFISH	Y	-
VINEGAR FACTORY	VINEGAR FACTORY	Y	-
VIOLA FOODS	BUTTERFIELD FOODS	Y	-
VISTAR	VISTAR	-	Y
VITCO DISTRIBUTORS INC	VITCO DISTRIBUTORS INC	Y	-
WAREHOUSE MARKET	WAREHOUSE MARKET	Y	-
WAWA INC	WAWA INC	Y	-
WEIS	WEIS	-	Y
WESTERN BEEF	WESTERN BEEF	Y	-
WINCO	WINCO	Y	-
WINKLER	WINKLER	Y	-
WONDER FOODS	WONDER FOODS	Y	-
Y HATA & CO LTD	Y HATA & CO LTD	Y	-
ZUMA & SONS	ZUMA & SONS	Y	-

Note: Corporate Name corresponds to the field "harmcorpname" and Customer Name corresponds to the field "harmcustname" in the Mangum Merits Report backup.

**Mangum Addendum: DPP Class Members  
Thai Union Group (TUG)**

<b>Customer Name</b>	<b>Customer Name (Ship-to)</b>	<b>Customer Name (Bill-to)</b>
ACME FOOD SALES, INC.	ACME FOOD SALES, INC.	ACME FOOD SALES, INC.
ATALANTA CORPORATION	ATALANTA CORPORATION	ATALANTA CORPORATION
CALKINS AND BURKE LTD.	CB MAGNUM INC.	CALKINS AND BURKE LTD.
CHAMPACA COMPANY LIMITED.	CAMERICAN INTERNATIONAL INC.	CAMERICAN INTERNATIONAL INC.
CHAMPACA COMPANY LIMITED.	LIMSON TRADING	LIMSON TRADING
CIAN FOOD PRODUCTS CO., LTD	DS INTERNATIONAL TRADERS LLC	DS INTERNATIONAL TRADERS LLC
GOLDEN BASKET INC.	GOLDEN BASKET INC.	GOLDEN BASKET INC.
J.M.B. INTERNATIONAL CO., LTD.	ATALANTA CORPORATION	ATALANTA CORPORATION
J.M.B. INTERNATIONAL CO., LTD.	C.PACIFIC	C.PACIFIC
J.M.B. INTERNATIONAL CO., LTD.	J.A. KIRSCH CORP.	J.A. KIRSCH CORP.
J.M.B. INTERNATIONAL CO., LTD.	NORTHEAST MARKETING CO.	NORTHEAST MARKETING CO.
J.M.B. INTERNATIONAL CO., LTD.	SAMPCO INC.	SAMPCO INC.
J.M.B. INTERNATIONAL CO., LTD.	SCHREIBER FOODS INTERNATIONAL, INC.	SCHREIBER FOODS INTERNATIONAL, INC.
J.M.B. INTERNATIONAL CO., LTD.	SEVILLE IMPORTS	SEVILLE IMPORTS
KAWASHO FOODS(THAILAND)CO.,LTD	JFE SHOJI TRADE AMERICA,INC	JFE SHOJI TRADE AMERICA,INC
KYOWA SHOJI CO.,LTD.	KYOWA SHOJI CO.,LTD.	KYOWA SHOJI CO.,LTD.
MILKY WAY INTERNATIONAL TRADING	MILKY WAY INTERNATIONAL TRADING	MILKY WAY INTERNATIONAL TRADING
mitsubishi corporation(THAILAND)	NBK CORPORATION	MITSUBISHI CORPORATION
MITSUI & CO.(THAILAND) LTD.	MITSUI FOODS INC	MITSUI FOODS INC
NIPPON SUISAN KAISHA.,LTD.	NIPPON SUISAN KAISHA LTD.	NIPPON SUISAN KAISHA LTD.
REMA FOODS, INC.	REMA FOODS, INC.	REMA FOODS, INC.
SEVEN KINGDOM TRADING COMPANY	ATLANTIC BEVERAGE COMPANY	ATLANTIC BEVERAGE COMPANY
SEVEN KINGDOM TRADING COMPANY	GOLDEN SEA INC.	GOLDEN SEA INC.
SEVEN KINGDOM TRADING COMPANY	MONACO FOODS INC.	MONACO FOODS INC.
SILVERSEA INTERNATIONAL, INC.	SILVERSEA INTERNATIONAL, INC.	SILVERSEA INTERNATIONAL, INC.
T.G.A. CORPORATION CO.,LTD.	J.A. KIRSCH CORP.	J.A. KIRSCH CORP.
T.G.A. CORPORATION CO.,LTD.	PORT ROYAL SALES LTD.	PORT ROYAL SALES LTD.
THE FOOD MASTERS LTD	NORTHEAST MARKETING CO.	NORTHEAST MARKETING CO.
THE FOOD MASTERS LTD	ROYAL FOOD IMPORT CORPORATION	ROYAL FOOD IMPORT CORPORATION
THE FOOD MASTERS LTD	SEVILLE IMPORTS	SEVILLE IMPORTS
TRI-MARINE INTERNATIONAL(PTE)LTD	THE TUNA STORE LLC.	TRI-MARINE INTERNATIONAL(PTE)LTD
TRI-MARINE INTERNATIONAL,INC.	ROBINSON CRUSOE SEAFOOD INC.	TRI-MARINE INTERNATIONAL(PTE)LTD
VIMPEX INTERNATIONAL CORPORATION	VIMPEX INTERNATIONAL CORPORATION	VIMPEX INTERNATIONAL CORPORATION
VIMPEX INTERNATIONAL CORPORATION	WALMART STORES,INC.	VIMPEX INTERNATIONAL CORPORATION

Note: Customer Name, Customer Name (Ship-to), and Customer Name (Ship-to) correspond to the fields "buyer", "shiptoparty", and "billtoparty" respectively in the Mangum Merits Report backup.

# Exhibit G

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

**IN RE: PACKAGED SEAFOOD  
PRODUCTS ANTITRUST  
LITIGATION**

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This document relates to:

Direct Purchaser Plaintiff Class  
End Purchaser Plaintiff Class

Case No. 15-MD-2670 DMS (MSB)  
MDL No. 2670

**STATEMENT IN SUPPORT OF  
SETTLEMENT AGREEMENTS  
BETWEEN DIRECT  
PURCHASER PLAINTIFFS  
AND END PURCHASER  
PLAINTIFFS AND STARKIST  
CO., DONGWON INDUSTRIES  
CO., LTD., LION CAPITAL  
LLP, AND LION CAPITAL  
(AMERICAS), INC.**

1 In support of the settlement agreements between the certified classes of Direct  
2 Purchaser Plaintiffs (“DPPs”) and End Purchaser Plaintiffs (“EPPs”) on the one hand  
3 and Lion Capital LLP and Lion Capital (Americas), Inc. (collectively “Lion  
4 Defendants<sup>1</sup>”) and StarKist Co. and Dongwon Industries Co., Ltd. (collectively  
5 “StarKist and DWI Defendants”) on the other hand,<sup>2</sup> I, Magistrate Judge Michael S.  
6 Berg, state as follows:

7 1. One of my responsibilities on the bench is to oversee settlement  
8 conferences in civil matters. I have overseen many settlement conferences, involving  
9 many different types of legal disputes, and involving many different counsel. This  
10 antitrust litigation (the “Action”) has turned out to be one of the most time-consuming  
11 and interesting settlements that I have mediated to date. The legal issues involved in  
12 this multidistrict antitrust litigation include the interplay of state and federal law, and  
13 the settlement dynamic involved a complex interplay of multiple tracks of plaintiffs,  
14 financial limitations, collectability of judgments in foreign nations, and the reality  
15 that StarKist pled guilty to an antitrust violation, while its affiliated or parent  
16 company, Dongwon Industries Co., Ltd., did not. The quality of the attorneys, and  
17 their advocacy, was excellent.

18 2. DPPs and EPPs together participated in a mediation session with the Lion  
19 Defendants before me on August 7, 2023. *See* ECF No. 3101. No settlement was  
20 reached at that time, but I was able to assess the parties’ positions and I encouraged  
21 them to keep an open mind to settlement as the case progressed.

22 3. Over time, I have held numerous settlement conferences with the various  
23 parties in this Action, including settlement conferences between EPPs and the  
24 StarKist and DWI Defendants on October 4, 2023, April 25, 2024, May 22, 2024,

25 <sup>1</sup> Big Catch Cayman, L.P., a former Lion Defendant, was previously dismissed with prejudice  
26 by the Court.

27 <sup>2</sup> This statement incorporates the definitions of Direct Purchaser Plaintiffs, Settlement Class,  
28 Defendants, and Settlement Amount from Direct Purchaser Plaintiffs’ Motion for Preliminary  
Approval.



1 May 23, 2024, and May 29, 2024; between DPPs and StarKist on May 29, 2024 and  
2 June 3, 2024; and between DPPs and EPPs together with the Lion Defendants on  
3 August 22, 2023 and June 17, 2024. *See* ECF Nos. 3106, 3125, 3176, 3243, 3245,  
4 3248, 3249, 3256, 3267.

5 4. On June 3, 2024, DPPs and the StarKist and DWI Defendants reached an  
6 agreement in principle to settle the case during a mediation session that I oversaw.  
7 Two agreements were reached during this session. First, with respect to the  
8 Settlement Class, the parties agreed to resolve the claims in exchange for  
9 \$58,750,000 in cash and product, comprising \$32,650,000 in cash and \$26,100,000  
10 in product. The DPP Class will receive product over a three-year period. In exchange,  
11 the DPP Class will release all claims that they did assert, or could have asserted, in  
12 this Action. I find this to be an excellent settlement based on my understanding of  
13 the legal and factual issues involved in the case, the StarKist and DWI Defendants’  
14 financial situation, the difficulty of collecting a judgment in the courts of a foreign  
15 nation, the claims of the DPP Class, the damages exposure involved, and the practical  
16 benefits of settling the matter rather than continuing to litigate. The parties and their  
17 counsel were unusually well prepared to present their positions given the proximity  
18 of the trial, the nearly nine years of work that they had undertaken to prepare for it,  
19 and the amount in dispute.

20 5. On June 3, 2024, EPPs and the StarKist and DWI Defendants also  
21 reached an agreement in principle to settle the case during a mediation session that I  
22 oversaw. The parties agreed to resolve the claims in exchange for \$130,000,000 in  
23 cash. The EPP Class will receive payments over an 18-month period beginning with  
24 the date of preliminary approval of the settlement. In exchange, the EPP Class will  
25 release all claims that they did assert, or could have asserted, in this Action. I find  
26 this to be an excellent settlement based on my understanding of the legal and factual  
27 issues involved in the case, the StarKist and DWI Defendants’ financial situation, the  
28 legal and factual difficulties caused by bringing state antitrust and consumer law

1 claims under the laws of multiple states, the difficulty of collecting a judgment in the  
2 courts of a foreign nation, the claims of the EPP Class, the damages exposure  
3 involved, and the practical benefits of settling the matter rather than continuing to  
4 litigate. The parties and their counsel were unusually well prepared to present their  
5 positions given the proximity of the trial, the nearly nine years of work that they had  
6 undertaken to prepare for it, and the amount in dispute.

7 6. In addition, the StarKist and DWI Defendants ultimately recognized the  
8 benefits that counsel for the DPP and EPP Classes provided to the parties over the  
9 course of the litigation. This included coordinating the various tracks of plaintiffs in  
10 order to streamline the litigation and the settlement process, and I observed these  
11 efforts firsthand over the past year as well. 15 U.S.C. § 15(a) provides a prevailing  
12 plaintiff with a statutory right to recover attorneys' fees and costs. Separately, counsel  
13 for the DPPs previously moved for a set-aside order recognizing their work on behalf  
14 of parties that have since opted out of the DPP class. *See* ECF No. 2446. The StarKist  
15 and DWI Defendants have separately agreed to compensate DPPs' Counsel at  
16 Hausfeld LLP based on a percentage of the settlements that the StarKist Defendants  
17 had achieved with the various Direct Action Plaintiffs that had opted-out of the DPP  
18 Class and that had settled their claims separately. I oversaw these negotiations, and I  
19 find them to be an appropriate and fair resolution of DPPs' Counsel's demands  
20 pursuant to 15 U.S.C. § 15(a).

21 7. On June 17, 2024, DPPs and EPPs reached an agreement in principle  
22 with the Lion Defendants to resolve the claims made in the Action during a mediation  
23 session over which I presided. Counsel for the parties were again exceptionally well  
24 prepared to conduct the mediation, which I understand followed similar mediation  
25 attempts between the Lion Defendants, DPPs, and EPPs before two skilled, private  
26 mediators, the Hon. Daniel Weinstein (Ret.) and Amb. David Carden (Ret.) of JAMS.  
27 Principals for the Lion Defendants, including Lyndon Lea and Graham Tester, were  
28 present and active during the mediation session over which I presided, as well as

1 during prior mediations. During the mediation, I fully evaluated Lion’s financial  
2 condition, as did counsel for DPPs and EPPs. Proffers were made directly by the Lion  
3 Defendants of their financial performance, and the audited financial statements of the  
4 company were reviewed. Additional discussions about the financial capacity of the  
5 Lion Defendants and their principal members were had. The nine-hour mediation  
6 session concluded with an agreement that the Lion Defendants pay \$6 million to the  
7 DPP Class and \$6 million to the EPP Class to resolve the claims against them. I was  
8 fully involved in these settlement discussions, and I find the settlements to be an  
9 excellent result for the parties involved, given the financial realities and serious  
10 questions about the collectability of any judgment that might be obtained.

11 8. Over the course of the last year, I have found that Class Counsel for DPPs  
12 and EPPs have been fully prepared to either litigate this case to conclusion, or to  
13 settle it on fair and reasonable terms. I have evaluated their written and oral advocacy  
14 and find it to be excellent. In addition, I have personally noted their ability to work  
15 together constructively and with other tracks of plaintiffs’ counsel, and with counsel  
16 for the various Defendants to find helpful ways forward within the complex  
17 framework of direct and indirect recoveries under state and federal law, and in  
18 situations where some or all direct purchaser class members have opted out of the  
19 DPP Class as to one defendant or another. Under the unusual circumstances of this  
20 case, it is my recommendation that the District Court consider an upward departure  
21 from the presumptively reasonable benchmark fee of 25% in common fund cases.  
22 *See Asner v. SAG-AFTRA Health Fund*, No. 220CV10914, 2023 WL 6984582, at \*12  
23 (C.D. Cal. Oct. 19, 2023), *reconsideration denied*, No. 220CV10914, 2023 WL  
24 8529996 (C.D. Cal. Dec. 7, 2023) (“In the Ninth Circuit, 25% of a common fund is  
25 considered a presumptively reasonable amount of attorneys’ fees when using the  
26 percentage-of-recovery method.”). Many antitrust courts, in this circuit and others,  
27 provide for an upward departure due to the inherent complexity of the legal issues  
28 involved and the risk assumed by the attorneys’ involved. *See In re Lidoderm*

1 *Antitrust Litig.*, MDL No. 2521, 2018 WL 4620695, at \*4 (N.D. Cal. Sept. 20, 2018)  
2 (“As to the fifth factor, a fee award of one-third is within the range of awards in this  
3 Circuit.”); *see also Larsen v. Trader Joe’s, Inc.*, No. 11-cv-05188, 2014 WL  
4 3404531, at \*9 (N.D. Cal. July 11, 2014) (citing multiple cases awarding fees of 32%  
5 or greater); *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 379 (9th Cir. 1995) (affirming  
6 award of 33%). For cases outside of this circuit, *see, e.g., In re Pork Antitrust Litig.*,  
7 No. 18-1776, 2022 WL 4238416, at \*7 (D. Minn. Sept. 14, 2022) (awarding 33% of  
8 settlement fund as attorneys’ fees in consumer indirect purchaser action); *In re*  
9 *Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, No. 14-md-02542, 2021  
10 WL 2328431, at \*1 (S.D.N.Y. June 7, 2021) (awarding 33 1/3% of a \$31 million  
11 settlement fund as attorneys’ fees in indirect purchaser action); *In re Aggrenox*  
12 *Antitrust Litig.*, No. 3:18-MD-00850, 2018 WL 10705542, at \*5 (D. Conn. July 19,  
13 2018) (awarding 33 1/3% of a settlement fund as attorneys’ fees in indirect purchaser  
14 action); *In re Flonase Antitrust Litig.*, 291 F.R.D. 93, 103 (E.D. Pa. 2013)  
15 (“*Flonase*”) (awarding 33 1/3% of a settlement fund as attorneys’ fees indirect  
16 action).

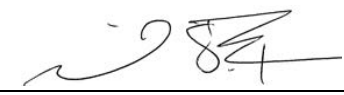
16 9. “[A] one-third fee award is standard in complex antitrust cases[,]”  
17 *Flonase*, 291 F.R.D. at 104, and from my perspective as the mediator, Hausfeld LLP  
18 achieved exceptional results for the class, and was burdened by litigating the Action  
19 for nearly nine years. *See In re Online DVD-Rental Antitrust Litig.*, 779 F.3d 934,  
20 954-55 (9th Cir. 2015) (explaining that the factors for assessing a request for  
21 attorneys’ fees that was calculated using the percentage-of-recovery method are “the  
22 extent to which class counsel achieved exceptional results for the class, whether the  
23 case was risky for class counsel, whether counsel’s performance generated benefits  
24 beyond the cash settlement fund, the market rate for the particular field of law (in  
25 some circumstances), the burdens class counsel experienced while litigating the case  
26 (e.g., cost, duration, foregoing other work), and whether the case was handled on a  
27 contingency basis”). Here, an award at this level is warranted in light of the

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complexity of the issues that have been litigated both in the District Court, where approximately thirteen motions to dismiss were briefed and resolved, motions for reconsideration and/or judgment under Fed. R. Civ. Proc. 54(b) were briefed and decided favorably to plaintiffs, and approximately seventeen motions for summary judgment were resolved in a manner that was largely favorable to the DPP Class. Moreover, it is my view that DPP and EPP Class Counsel were fully prepared to try this case prior to settlement, and that they had done the work necessary to maximize the chances of success for the DPP and EPP Classes had it been necessary to litigate it to conclusion. Finally, complex legal issues concerning class certification were litigated in this Court and in the Ninth Circuit. In fact, DPP and EPP Class Counsel obtained an *en banc* decision from the Ninth Circuit that clarifies the standard for class certification in the context of antitrust cases, which is widely cited in this Circuit and others. For all of these reasons, an award of 33.3% of the DPP Settlement Amount is reasonable here.

10. Moreover, as to the separate payment of fees to DPP Class Counsel at Hausfeld LLP in connection with claims that StarKist resolved with Direct Action Plaintiffs that opted out of the DPP class, this case involved work by Class Counsel beyond the common fund, and was undertaken within a statutory framework that provides for the payment of fees to a successful plaintiff. I find this arms'-length separate payment to be reasonable under the circumstances of this case.

Date: July 12, 2024

Respectfully submitted,  
  
Honorable Michael S. Berg  
United States Magistrate Judge

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: PACKAGED SEAFOOD  
PRODUCTS ANTITRUST  
LITIGATION

Case No. 15-md-2670 DMS (MSB)  
MDL No. 2670

This document relates to:  
DIRECT PURCHASER CLASS  
PLAINTIFFS TRACK

**DECLARATION OF GINA M.  
INTREPIDO-BOWDEN  
REGARDING PROPOSED  
NOTICE PLAN FOR THE  
DIRECT PURCHASER  
PLAINTIFFS' NOTICE OF  
SETTLEMENT WITH STARKIST  
CO., DONGWON INDUSTRIES  
CO., LTD., LION CAPITAL LLP,  
LION CAPITAL (AMERICAS),  
INC., AND BIG CATCH CAYMAN  
LP**

1 I, Gina M. Intrepido-Bowden, declare and state as follows:

2 1. I am a Vice President at JND Legal Administration LLC (“JND”). I  
3 am a nationally recognized legal notice expert with more than 20 years of  
4 experience designing and implementing class action legal notice programs. I have  
5 been involved in many of the largest and most complex class action notice  
6 programs, including all aspects of notice dissemination.

7 2. I previously submitted a Declaration Regarding Proposed Notice Plan  
8 for the Direct Purchaser Plaintiffs’ Notice of Settlement with Tri-Union Seafoods  
9 LLC d/b/a Chicken of the Sea and Thai Union Group PCL (“COSI/TUG  
10 Settlement”), dated December 1, 2021 (ECF No. 2674-6). JND’s background and  
11 experience was included in that Declaration. On October 28, 2022, Bronyn  
12 Heubach, Assistant Director at JND, filed a Supplemental Declaration Regarding  
13 Notice Administration (“Bronyn Declaration”) (ECF No. 2928-1) that  
14 supplemented JND’s Supplemental Declaration of Jennifer M. Keough Regarding  
15 Notice Administration, filed September 6, 2022 (ECF No. 2911-2).

16 3. On November 8, 2022, this Court authorized supplemental notice in  
17 the COSI/TUG Settlement as proposed in the Bronyn Declaration, and the claim  
18 filing deadline was extended to January 6, 2023 for eligible Settlement Class  
19 Members.

20 4. On November 14, 2022, the Ninth Circuit denied non-settling  
21 Defendant StarKist Co.’s (“StarKist”) petition for a *writ of certiorari*. At the  
22 request of Counsel, I submitted a Declaration on January 15, 2023 describing our  
23 proposed Notice Plan to inform Settlement Class Members about the certification  
24 of the Class and the ongoing litigation between Direct Purchaser Plaintiffs  
25 (“DPPs”) and non-settling Defendants StarKist, Dongwon Industries Co. Ltd.  
26  
27

1 (“DWI”), and Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch  
2 Cayman LP (collectively, the “Lion Companies”) (ECF No. 2969-1).

3 5. As of June 2024, StarKist, DWI, and the Lion Companies have  
4 reached agreements in principle to settle with DPPs, which were reduced to written  
5 agreements in August 2024. JND has been asked by Counsel to prepare a Notice  
6 Plan to reach Settlement Class Members and inform them about their rights and  
7 options in these recently proposed Settlements.

8 6. I submit this Declaration based on my personal knowledge, as well as  
9 upon information provided to me by experienced JND employees and Counsel to  
10 describe the proposed Notice Plan for the DPPs and address why it is consistent  
11 with other class notice plans that courts have determined satisfy the requirements  
12 of Rule 23 of the Federal Rules of Civil Procedure, the Due Process Clause of the  
13 United States Constitution, and any other applicable statute, law or rule, as well as  
14 the Federal Judicial Center (“FJC”) guidelines for best practicable due process  
15 notice.

16 **DPP SETTLEMENT CLASS OVERVIEW**

17 7. The DPP Settlement Class consists of all persons and entities that  
18 directly purchased Packaged Tuna Products (excluding tuna salad kits and cups and  
19 salvage purchases) within the United States, its territories, and the District of  
20 Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015.  
21 Excluded from the DPP Settlement Class are all governmental entities; Defendants  
22 and any parent, subsidiary, or affiliate thereof; Defendants’ officers, directors,  
23 employees, and immediate families; and any federal judges or their staffs. Also  
24 excluded from the class is any person or entity that was excluded from the class, in  
25 whole or in part, pursuant to the Court’s Order in this Action at ECF No. 3097,  
26 which incorporates the list of entities at ECF No. 3095-1. Packaged Tuna Products  
27



1 means shelf-stable tuna sold for human consumption and packaged in either cans  
2 or pouches.

3 8. Contact information is available for substantially the entire DPP  
4 Settlement Class. Accordingly, JND designed a Notice Plan that will effectively  
5 reach the DPP Settlement Class through a direct notice effort that will be  
6 supplemented by the distribution of a nationwide press release.

7 **NOTICE PLAN SUMMARY**

8 9. The proposed Notice Plan has been designed to provide the best notice  
9 practicable, consistent with the methods and tools employed in other court-  
10 approved notice programs. The FJC's *Judges' Class Action Notice and Claims*  
11 *Process Checklist and Plain Language Guide* considers a notice plan with a 70%-  
12 95% reach effective.<sup>1</sup>

13 a. **Direct Individual Notice:** A reasonably current list of  
14 addresses is available for the entire DPP Settlement Class. As a result, mailed  
15 notice will be sent to all Settlement Class Members. In addition, an email notice  
16 will be sent to any Settlement Class Member for whom a valid email address is  
17 available.

18 b. **Press Release:** A press release will be distributed nationwide  
19 to supplement the direct notice effort.

20 c. **Case Website:** JND will update the existing case website,  
21 [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), with information about the proposed  
22 Settlements, as well as copies of relevant case documentation, including but not  
23

24 \_\_\_\_\_  
25 <sup>1</sup> Reach is the percentage of a specific population group exposed to a media vehicle  
26 or a combination of media vehicles containing a notice at least once over the course  
27 of a campaign. Reach factors out duplication, representing total different net  
28 persons.

1 limited to the Class Settlement Agreements, the Preliminary Approval Motion,  
2 the Long Form Notice, any proposed Preliminary Approval Order, the Motion for  
3 Attorneys’ Fees and Costs, and any proposed Final Approval Order and  
4 Judgment.

5 d. **Dedicated Toll-Free Number and Contact Center:** JND will  
6 also continue to maintain the case toll-free telephone number and update the  
7 Interactive Voice Recording (“IVR”) system so that Settlement Class Members  
8 may call to obtain more information about the proposed Settlements, as well as  
9 leave a message for a return call.

10 10. Based on my experience in developing and implementing class notice  
11 programs, I believe the proposed Notice Plan will meet the standards for providing  
12 the best practicable notice in class action settlements.

13 11. The sections below explain in greater detail the Notice Plan efforts.

14 **DIRECT INDIVIDUAL NOTICE**

15 12. An adequate notice program needs to satisfy “due process” when  
16 reaching a class. The United States Supreme Court, in the seminal case of *Eisen v.*  
17 *Carlisle & Jacqueline*, 417 U.S. 156 (1974), stated that direct notice (when  
18 possible) is the preferred method for reaching a class. In addition, Rule 23(c)(2) of  
19 the Federal Rules of Civil Procedure requires that “the court must direct to class  
20 members the best notice that is practicable under the circumstances, including  
21 individual notice to all members who can be identified through reasonable effort.  
22 The notice may be by one or more of the following: United States mail, electronic  
23 means, or other appropriate means.”

24 13. As with the COSI/TUG Settlement, JND will send direct individual  
25 notice to all members of the DPP Settlement Class for whom contact information  
26 is available. A reasonably current list of postal addresses is available for the entire  
27

1 DPP Settlement Class. JND will mail a Long Form Notice, attached as **Exhibit A**,  
2 to all Settlement Class Members.

3 14. Using the Settlement Class Member data from the COSI/TUG  
4 Settlement administration and information obtained through the COSI/TUG  
5 Settlement claim process, JND will load the information into a unique database for  
6 these Settlements. Prior to mailing, JND will update all addresses using the United  
7 States Postal Services' ("USPS") National Change of Address ("NCOA")  
8 database.<sup>2</sup>

9 15. JND will track all Notices returned as undeliverable by the USPS and  
10 will promptly re-mail any Notices returned with a forwarding address. For Notices  
11 returned without a forwarding address, JND will also take reasonable efforts to  
12 research and determine a better mailing address through a sophisticated advanced  
13 address search and will re-mail to any reliable updated address that is obtained.

14 16. The mailed notice effort alone is expected to reach more than 95% of  
15 Settlement Class Members.

16 17. In addition to the mailed notice, an Email Notice will be sent to all  
17 available Settlement Class Member email addresses, including those we previously  
18 filed a claim in the COSI/TUG settlement. The Email Notice to Settlement Class  
19 Members and COSI/TUG Claimants are both attached as **Exhibit B**. JND worked  
20 with Counsel to craft the Email Notice to avoid spam language and improve  
21 deliverability. This process includes running the email through spam testing  
22

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23  
24 <sup>2</sup> The NCOA database is the official United States Postal Service ("USPS")  
25 technology product which makes change of address information available to mailers  
26 to help reduce undeliverable mail pieces before mail enters the mail stream. This  
27 product is an effective tool to update address changes when a person has completed  
a change of address form with the USPS. The address information is maintained on  
the database for 48 months.

1 software DKIM for sender identification and authorization, as well as hostname  
2 evaluation.<sup>3</sup> Additionally, we will check the send domain against the 25 most  
3 common IPv4 blacklists.<sup>4</sup>

4 18. JND’s Data Team is staffed with email and software solution experts  
5 to maximize email deliverability, to provide individualized support during the  
6 program, and to manage our sender reputation with Internet Service Providers  
7 (“ISPs”). We will analyze the program’s data and monitor the ongoing  
8 effectiveness of the notification campaign, adjusting the campaign as needed.  
9 These actions ensure the highest possible deliverability of the email campaign so  
10 that more potential Settlement Class Members receive notice of the proposed  
11 Settlements. As part of JND’s standard email notification process, JND will utilize  
12 a verification program to eliminate invalid email addresses and spam traps that  
13 would otherwise negatively impact deliverability. We will then clean the list by  
14 looking for formatting issues and incomplete addresses to further identify all  
15 invalid email addresses.

16 19. To ensure readability of the Email Notice, our team will review and  
17 format the body content into a structure that is applicable to all email platforms.  
18 The email content will be formatted and structured in a way that receiving servers  
19 expect, allowing the email to pass easily to the recipient. Before commencing the  
20 email notice campaign, we will send a test email to multiple ISPs and open the  
21 email on multiple devices (iPhones, Android phones, desktop computers, tablets,  
22

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23 <sup>3</sup> DomainKeys Identified Mail, or DKIM, is a technical standard that helps protect  
24 email senders and recipients from spam, spoofing, and phishing.

25 <sup>4</sup> IPv4 address blacklisting is a common practice. To ensure that the addresses being  
26 used are not blacklisted, a verification is performed against well-known IP blacklist  
27 databases. A blacklisted address affects the reputation of a company and could cause  
any acquired IP addresses to be blocked.

1 etc.) to ensure the email opens and reads as expected. Additionally, JND will  
2 include an “unsubscribe” link at the bottom of the Email Notice to allow Settlement  
3 Class Members to opt out of any additional email notices from JND. This step is  
4 essential to maintain JND’s good reputation among the ISPs and reduce complaints  
5 related to the email campaign.

6 20. Emails that are returned to JND are generally characterized as either  
7 “Soft Bounces” or “Hard Bounces.” A Hard Bounce occurs when the ISP rejects  
8 the email due to a permanent reason such as the email account is no longer active.  
9 A Soft Bounce occurs when the email is rejected for temporary reasons, such as the  
10 recipient’s email address inbox is full. When an email is returned due to a Soft  
11 Bounce, JND will attempt to re-send the Email Notice up to three additional times  
12 to secure deliverability. The email is considered undeliverable if a Hard Bounce is  
13 returned or a Soft Bounce is returned after a third re-send.

14 21. After an initial round of notice, JND will send another notice to  
15 Settlement Class Members via United States mail and email to remind them to  
16 place an order for StarKist Products before the deadline to place an order is set to  
17 expire.

18 **PRESS RELEASE**

19 22. To supplement the direct notice effort, JND will cause a press release,  
20 attached as **Exhibit C**, to be distributed at the launch of the campaign that will  
21 assist in publicizing the case and the proposed Settlements. The Press Release  
22 will be distributed to over 5,000 media outlets nationwide. This case has been the  
23 subject of regular and significant news coverage, which should assist with  
24 distribution of notice of the proposed Settlements as well. The Press Release  
25 specifically directs readers to the case website and clearly identifies Counsel.

1 **CASE WEBSITE**

2 23. JND will update the case website to allow Settlement Class Members  
3 to obtain up-to-date information about the Settlements. The case website has an  
4 easy-to-navigate format to emphasize important information regarding Settlement  
5 Class Member rights, deadlines to act, and answers to frequently asked questions.  
6 The case website will host copies of relevant Settlement documents including the  
7 Long Form Notice and will include an online claim form, as well as a printable  
8 Claim Form, attached as **Exhibit D**, as further detailed below.

9 24. The case website is optimized for mobile visitors so that information  
10 loads quickly across all mobile devices and is designed to maximize search engine  
11 optimization through Google and other search engines.

12 **CASE TOLL-FREE NUMBER AND POST OFFICE BOX**

13 25. JND will maintain the case toll-free telephone number and update the  
14 IVR so that callers may receive up-to-date information related to the proposed  
15 Settlements. Callers will also be able to leave a voicemail message to request  
16 a return call. The telephone line will be available 24 hours a day, seven (7) days  
17 a week.

18 26. JND will also maintain the dedicated Post Office Box where  
19 Settlement Class Members may send inquiries, paper claims, and exclusion  
20 requests.

21 **NOTICE DESIGN AND CONTENT**

22 27. All notice documents have been written in plain language and comply  
23 with the requirements of Rule 23 of the Federal Rules of Civil Procedure, the Due  
24 Process Clause of the United States Constitution, and the FJC’s guidelines for class  
25 action notices. Each of the notice documents contain summaries of the case, the  
26 Settlements, and the options that are available to Settlement Class Members.

1 Additionally, the notice documents provide instructions on how to obtain more  
2 information about the Settlements.

3 **CLAIMS PROCESS & DISTRIBUTION**

4 28. During the course of the COSI/TUG Settlement administration, JND  
5 received a total of 104 valid claims from Settlement Class Members, representing  
6 approximately 65% of total Class commerce. Settlement Class Members who filed  
7 claims in the COSI/TUG Settlement are not required to file new claims.

8 29. Settlement Class Members who have previously released claims against  
9 one or more of the Settling Defendants are not entitled to benefits from the proposed  
10 Settlement Agreements to the extent consistent with the scope of the release and may  
11 not file claims.

12 30. JND understands the Parties intend to provide another opportunity for  
13 Settlement Class Members who did not previously file to make claims for their pro  
14 rata share of the Settlements.

15 31. JND will establish a secure online portal on the case website where  
16 Settlement Class Members can review and verify their volume of commerce. If  
17 they believe a different amount of commerce is correct, Settlement Class Members  
18 can dispute that amount, in which case their claim will be subject to an audit. This  
19 plan will ease the verification process for Settlement Class Members and reduce  
20 the burden on them.

21 32. Settlement benefits will be distributed after final approval is granted,  
22 the claim filing deadline has passed, and claim validation is completed. Settlement  
23 Class Members can place an order for any StarKist-branded products on StarKist's  
24 national price list in effect on the date that they place their order to redeem their  
25 pro rata share of StarKist Products. Settlement Class Members can redeem their pro  
26 rata share of the Product benefit for 3 years following the Final Approval of the  
27

1 StarKist and DWI Settlement or following ninety (90) days after the Claims  
2 Administrator provides StarKist with the pro rata allocation of the Product  
3 Component of the Settlement, whichever is later. Settlement Class Members must  
4 place their first order for StarKist Products within 180 days after the Final Approval  
5 of the StarKist and DWI Settlement or 90 days after the Claims Administrator  
6 provides StarKist with the pro rata allocation of the Product Component of the  
7 Settlement, whichever is later. Any Settlement Class Member whose allocation of  
8 StarKist Products is valued at less than \$113,000.00 must redeem all of its StarKist  
9 Products in one order. There is no limit on the number of orders that Settlement  
10 Class Members whose allocations of StarKist Products are valued at or above  
11 \$113,000.00 may place. StarKist Products will be delivered FOB destination point  
12 to each Settlement Class Member who makes a claim and places an order, freight  
13 pre-paid to a single agreed shipping address within the continental United States  
14 for that claimant, provided that the claimant shall pay the standard shipping costs  
15 for any shipments that are made in less than full truckloads if more than one order  
16 for StarKist Products is placed for its allocated share of the Product Component.  
17 StarKist will pay full trucking costs on all full truckload shipments. StarKist will  
18 promptly ship the agreed upon StarKist Products subject to availability. In the event  
19 of a product allocation, StarKist will treat the orders of Settlement Class Members  
20 as it treats all other orders in determining order fulfillment. StarKist will annually  
21 provide the Claims Administrator and Settlement Class Counsel with an accounting  
22 of the StarKist Products benefit, including a list of the StarKist Products claimed  
23 during each preceding calendar year, and the dollar value of such orders (valued at  
24 the national list price in effect as of the order date). Any claimant may elect to  
25 transfer its share of StarKist Products to a designated food bank, hot meal program,  
26 or other 501(c)(3) cy pres recipient to be agreed by the Parties by informing  
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1 StarKist in writing of its desire to transfer. The orders for StarKist Products by  
2 Settlement Class Members will be subject to StarKist’s standard terms and  
3 conditions for product orders. Relatedly, JND will provide regular reports to  
4 Counsel.

5 **CONCLUSION**

6 33. JND believes that the Notice Plan as described herein provides the  
7 best notice practicable under the circumstances and is consistent with other similar  
8 court-approved best notice practicable notice programs, Rule 23 of the Federal  
9 Rules of Civil Procedure, and the FJC’s guidelines for Best Practicable Due Process  
10 notice. The Notice Program is designed to reach as many Settlement Class  
11 Members as practicable and provide them with the opportunity to review a plain  
12 language notice, with the ability to easily take the next step and learn more about  
13 the proposed Settlements.

14 I declare under penalty of perjury under the laws of the State of California that  
15 the foregoing is true and correct. Executed on the 9<sup>th</sup> day of August 2024, at Stone  
16 Harbor, New Jersey.

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20 GINA INTREPIDO-BOWDEN

**- EXHIBIT A -**

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

**If you purchased Packaged Tuna products directly from Bumble Bee, Chicken of the Sea, StarKist, or Thai Union Group between June 1, 2011 and July 31, 2015, you could be affected by a class action settlement.**

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

**PLEASE READ THIS NOTICE CAREFULLY. YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DON'T ACT.**

You or your company have been identified as a member of a proposed settlement class. This Notice is to provide information regarding:

- Proposed Settlements with Defendants StarKist Co. (“StarKist”), Dongwon Industries Co., Ltd. (“DWI”), Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch Cayman LP (collectively “Settling Defendants”);
- A process and deadline for objecting to the Settlements; and
- An update regarding available settlement benefits for eligible Settlement Class Members who have already submitted claims in the previously reached settlement with Defendants Tri Union Seafoods LLC d/b/a Chicken of the Sea International and Thai Union Group PCL (“COSI/TUG Settlement”); or who now choose to submit a claim. Benefits include a cash payment and StarKist Products that will be redeemed over the course of a three-year period. Settlement Class Members may place an order for any StarKist-branded products on StarKist’s national price list in effect on the date that they place their order to redeem their pro rata share of StarKist Products (“Product Component”). Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the proposed Settlement with StarKist and DWI (“StarKist and DWI Settlement”) or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later.

Your legal rights and options are summarized in this Notice. If you are uncertain about how to proceed, you should promptly contact the Claims Administrator to discuss your options.

YOUR LEGAL RIGHTS AND OPTIONS		
You May	Explanation	Deadline
<b>File a Claim</b>	<ul style="list-style-type: none"> <li>• Receive Settlement benefits</li> <li>• Give up your right to separately sue or continue to sue Settling Defendants for the claims in this case</li> <li>• Be bound by the proposed Settlement</li> <li>• <b>If you already submitted a claim in the COSI/TUG Settlement, you are not required to submit another claim</b></li> </ul>	<b>Postmarked by [date]</b>
<b>Object</b>	<ul style="list-style-type: none"> <li>• Stay in the Settlement Class, but tell the Court what you do not like about the proposed Settlement—you will still be bound by the proposed Settlement unless you opt out of the Settlement Class</li> </ul>	<b>Postmarked by [date]</b>
<b>Attend the Hearing</b>	<ul style="list-style-type: none"> <li>• Ask to speak in Court about the proposed Settlement by providing Notice of Intention to Appear</li> <li>• <b>If you want your own attorney to represent you, you must pay for that attorney</b></li> </ul>	<b>Postmarked by [date]</b>

**WHAT THIS NOTICE CONTAINS**

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3. What is a class action, and who is involved?
4. Why are there proposed settlements in this case?
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## Basic Information

### 1. Why did I receive this Notice?

You received this Notice because your business may have purchased Packaged Tuna (canned or pouched tuna) directly from one or more of the Defendants from June 1, 2011 through July 31, 2015. You have the right to know about your rights and options in the proposed Settlement.<sup>1</sup>

The Court in charge of this case is the United States District Court for the Southern District of California (the “Court”). The case is called *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-md-2670 DMS (MSB), MDL No. 2670.

Certain Direct Purchaser Plaintiffs—the named Class Representatives: Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcu Imports and Distribution Ltd., and Benjamin Foods LLC—sued on behalf of a certified class. The companies they sued are called the Defendants and include Tri Union Seafoods LLC d/b/a Chicken of the Sea International (“COSI”) and Thai Union Group PCL (“TUG”), Bumble Bee Foods LLC (“Bumble Bee”), StarKist and DWI, and Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch Cayman LP (collectively, “Lion”).

Proposed Settlements have been reached with StarKist, DWI, and Lion. A settlement was also reached previously with COSI and TUG (“COSI/TUG Settlement”). Bumble Bee went bankrupt.

This Notice explains that:

- ✓ The Class is affected by proposed Settlements with Settling Defendants.
- ✓ You have legal rights and options that you may exercise before the Court decides whether to approve the Settlements.

### 2. What is this lawsuit about?

Direct Purchaser Plaintiffs allege that Defendants conspired to fix, raise, and maintain the prices that direct purchasers paid for Packaged Tuna and that, as a result, members of the Class paid more than they otherwise would have. Defendants have denied all liability for this conduct and/or assert that their conduct was lawful or exempt from the antitrust laws, or that their conduct did not cause injury, among other defenses. The Court has not decided who is right.

The Direct Purchaser Plaintiffs previously reached a settlement with COSI and TUG. That settlement is now final. Bumble Bee went bankrupt. Proposed Settlements have been reached with the remaining Defendants. While the Settling Defendants deny all allegations, they have agreed to settle this action to avoid the uncertainties and risks of further litigation.

### 3. What is a class action, and who is involved?

In a class action lawsuit, one or more persons or businesses called class representatives sue on behalf of others who have similar claims, all of whom together are a “class.” Individual 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.

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<sup>1</sup> This lawsuit is only on behalf of direct purchasers of Packaged Tuna, that is, entities such as retailers, wholesalers, and distributors that bought Packaged Tuna directly from one or more of the Defendants. There are separate class actions brought on behalf of indirect purchasers (i.e., persons who did not purchase directly from the Defendants), including consumers and commercial food preparers.

#### **4. Why are there proposed settlements in this case?**

The Court did not decide in favor of either Direct Purchaser Plaintiffs or the Settling Defendants. Trials involve risks to both sides; therefore, Direct Purchaser Plaintiffs and the Settling Defendants have agreed to settle the case. The proposed Settlements require Settling Defendants to pay money into a Settlement Fund and requires StarKist to provide Packaged Tuna Products or other StarKist-branded products. The Settlement Fund and allocated StarKist Products will be distributed to Settlement Class Members with valid claims. Direct Purchaser Plaintiffs and their attorneys believe the Settlements are in the best interests of the Settlement Class.

#### **5. Am I part of the Settlement Class?**

You are a Settlement Class Member if you or your company directly purchased Packaged Tuna Products (excluding tuna salad kits and cups and salvage purchases) within the United States, its territories and the District of Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015. Packaged Tuna Products means shelf-stable tuna sold for human consumption and packaged in either cans or pouches. Excluded from the Settlement Class are all governmental entities; Defendants and any parent, subsidiary, or affiliate thereof; Defendants' officers, directors, employees, and immediate families; and any federal judges or their staffs. Also excluded from the Class is any person or entity who previously requested exclusion. Also excluded from the class is any person or entity that was excluded from the class, in whole or in part, pursuant to the Court's Order in this Action at ECF No. 3097, which incorporates the list of entities at ECF No. 3095-1. ECF Nos. 3095-1 and 3097 will be posted on the Settlement Website, [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com).

If you are a Settlement Class Member and have not previously released your claim against one or more of the Settling Defendants, you will be eligible to participate in benefit distributions to qualified Settlement Class Members if you submit a valid claim. By filing a claim, you will be bound by the results of the proposed Settlements. If you are an eligible Settlement Class Member and you previously submitted a claim in connection with the COSI/TUG Settlement, you do not need to submit another claim. Your prior claim submission will be used to calculate your benefits with respect to benefits from these Settlements.

#### **6. I'm still not sure if I'm included.**

If you are still not sure if you are included in the Settlement Class, please review the detailed case information at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com). You may also call the Claims Administrator at 1-866-615-0970.

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

The Court has appointed Hausfeld LLP as Class Counsel. Their contact information is provided below. You do not need to hire your own lawyer because Class Counsel is working on your behalf.

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

You will not have to pay any attorneys' fees or costs out of pocket. Under the Settlements, attorneys' fees and litigation expenses will be paid out of the Settlement Fund. **This amount is subject to approval by the Court.** Class Counsel's motion for approval of their fees and costs will be posted at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) prior to **[the deadline for objections]**.

## Your Options

### 9. What do the proposed Settlements provide?

If the proposed Settlements are approved, the Settling Defendants will pay a total of \$38,650,000 in cash, and StarKist will also provide StarKist-branded products on StarKist's national price list in effect on the date that an order is placed valued at \$26,100,000 (based on StarKist's national list prices as of the date the product is ordered) for distribution to Class Members with valid claims. Settlement Class Members with valid claims will receive both a cash payment and a right to order their pro rata share of products contained on StarKist's then current national price list, which will allow you to order Packaged Tuna Products or any other product that is then available on that price list. You must place your first order for StarKist Products within 180 days after the Final Approval of the StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. The period in which to use your full product allocation is 3 years following Final Approval of the StarKist and DWI Settlement or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Your portion of the allocation may not be transferred to another party prior to product delivery to your warehouse. All orders of StarKist Products will be subject to StarKist's standard terms and conditions for product orders. Finally, you must order product in truck-sized orders, or take the entirety of your product allocation (if less than a truckload of product remains available to you) in order to qualify for free shipping and handling. Any claimant may elect to donate its share of StarKist Products to a designated food bank, hot meal program, or other 501(c)(3) cy pres recipient to be agreed by the Parties by informing StarKist in writing of its desire to exercise this option.

### 10. What are the settlement benefits being used for?

Settlement Class Members with valid claims will be entitled to receive cash and Packaged Tuna Products (or other StarKist-branded products), with the actual amount depending on the number of valid claims and the volume of commerce represented in those claims. Using an online portal, Settlement Class Members will be able to check their commerce, and in the event that their own data suggests that a different claimed volume of commerce is appropriate, they can provide that information, and it will be considered by the Claims Administrator, subject to audit. **Settlement Class Members who previously submitted claims during the COSI/TUG Settlement are not required to file a new claim.**

Settlement Class Members who previously released claims against one or more of the Settling Defendants are not entitled to benefits from the proposed Settlement Agreements to the extent of their prior release.

Additionally, a portion of the Settlement Amounts may be used by the Claims Administrator to administer notice and to administer the distribution of settlement proceeds, as well as to pay Service Awards to the named Class Representatives for their work in the case. Class Counsel intend to ask the Court to approve Service Awards in the amount of \$12,500.00 for each of the Class Representatives.

To the extent there are any undistributed funds following distribution to Settlement Class Members, the Claims Administrator, upon the recommendation of Class Counsel and approval by the Court, will either make subsequent distributions to eligible Settlement Class Members, or, if it is infeasible to do so in light of the amount of undistributed funds and the costs of administration, will distribute those funds to the Center for Public Interest Law at the University of San Diego School of Law, or similar program at another law school. Any unclaimed product will be distributed to various food banks, hot meal programs, or other charities.

### 11. Do I have to file a claim now to receive benefits?

If you are an eligible Settlement Class Member and you did *not* previously file a claim in the COSI/TUG Settlement, you must file a claim now to receive benefits. **The deadline to file claims is [date].** If you are an eligible Settlement Class Member and you previously filed a claim in the COSI/TUG Settlement, you do not have to file a new claim.

If you did not receive a Notice in the mail but you believe you qualify as a Settlement Class Member, you may file a claim by mail with documentation that shows your direct purchases from Defendants during the Class Period. If you sufficiently prove qualifying direct purchases of Packaged Tuna Products, you may be eligible to receive benefits.

### 12. How do I file a claim?

To file a claim online, visit [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) and enter the Unique ID and PIN that were printed on the Notice that was mailed to you. If you do not have the Notice with you, you may call the Claims Administrator for your Unique ID and PIN. When you log in to the online claim portal, you will be able to view the commerce attributed to you for purchases from each Defendant. If you disagree with any of the commerce values, you may dispute them. All disputes must be supported by documentation. Claims are subject to verification, and the Claims Administrator may reach out to you for additional information to validate your claim. Individual awards will be based on the number of valid claims and will be calculated pro rata based on the total commerce attributed to you.

If you did not receive a Notice but you believe you qualify as a Settlement Class Member, you may file a claim by mail. The Claim Form is available for download at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com). You may also email or call the Claims Administrator at [info@TunaDirectPurchaserCase.com](mailto:info@TunaDirectPurchaserCase.com) or 1-866-615-0970 to request a Claim Form be sent to you.

**The deadline to file a claim is [date].** If you do not submit a claim on or before this date, your claim may not be considered.

### 13. When will I get my cash payment?

Payments will be issued to qualifying Settlement Class Members after the Settlement Effective Dates and after all claims have been validated. StarKist Products are available for three years following Final Approval of the StarKist and DWI Settlement or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later.

### 14. How does the StarKist Products benefit work?

Settlement Class Members with valid claims will be awarded a combination of benefits that includes a cash payment and an award of StarKist Products. After all claims have been reviewed and final claim determinations have been made, eligible Class Members will be mailed a check and instructions on how to redeem the Product benefits. Settlement Class Members can redeem their pro rata share of the Product benefit for 3 years following Final Approval of the StarKist and DWI Settlement or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Class Members can place an order for any StarKist-branded products on StarKist's national price list in effect on the date that they place their order to redeem their pro rata share of StarKist Products. Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the



StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later.

Any Settlement Class Member whose allocation of StarKist Products is valued at less than \$113,000.00 must redeem all of its StarKist Products in one order. There is no limit on the number of orders that Settlement Class Members whose allocations of StarKist Products are valued at or above \$113,000.00 may place. StarKist Products will be delivered FOB destination point to each Settlement Class Member who makes a claim and places an order, freight pre-paid to a single agreed shipping address within the continental United States for that claimant, provided that the claimant shall pay the standard shipping costs for any shipments that are made in less than full truckloads if more than one order for StarKist Products is placed for its allocated share of the Product Component. StarKist will pay full trucking costs on all full truckload shipments. StarKist will promptly ship the agreed upon StarKist Products subject to availability. In the event of a product allocation, StarKist will treat the orders of Settlement Class Members as it treats all other orders in determining order fulfillment. StarKist will annually provide the Claims Administrator and Settlement Class Counsel with an accounting of the StarKist Products benefit, including a list of the StarKist Products claimed during each preceding calendar year, and the dollar value of such orders (valued at the national list price in effect as of the order date). Any claimant may elect to donate its share of StarKist Products to a designated food bank, hot meal program, or other 501(c)(3) cy pres recipient to be agreed by the Parties by informing StarKist in writing of its desire to transfer. The orders for StarKist Products by Settlement Class Members will be subject to StarKist’s standard terms and conditions for product orders.

**15. What happens if I do nothing at all?**

If you do nothing, you will remain a member of the Settlement Class, but unless you already submitted a valid claim in the COSI/TUG Settlement, you will not receive any settlement benefits. Settlement Class Members who submitted claims in the COSI/TUG Settlement who do nothing will receive a cash payment and StarKist Products, except to the extent that they previously released claims against one or more of the Settling Defendants. To check on the status of your claim, you may email or call the Claims Administrator at info@TunaDirectPurchaserCase.com or 1-866-615-0970.

**16. How do I tell the Court that I don’t like the proposed Settlements?**

If you are part of the Settlement Class, you can object to the proposed Settlements if you don’t like part or all of them. The Court will consider your views.

To object to the Settlements, you must send a written objection that includes your Notice of Intention to Appear; proof of membership in the Settlement Class; and the specific grounds for the objection and any reasons why you desire to appear and be heard, as well as all documents or writings that you desire the Court to consider.

Your written objection must be filed with the Court and mailed to Class Counsel and the Settling Defendants’ counsel at the addresses below. Your objection must be postmarked (or mailed by overnight delivery) no later than **[date]**.

**The Court:**

United States District Court Judge,  
The Honorable Dana M. Sabraw  
James M. Carter and Judith N.  
Keep United States Courthouse  
Courtroom 13A  
333 West Broadway  
San Diego, CA 92101

**Class Counsel:**

Michael P. Lehmann  
Christopher L. Lebsack  
Erika A. Inwald  
Hausfeld LLP  
600 Montgomery Street  
Suite 3200  
San Francisco, CA 94111  
415-633-1908

**Settling Defendants’ Counsel:**

Adam S. Paris  
Brandon T. Wallace  
Paul Lazarow  
Sullivan & Cromwell LLP  
1888 Century Park East, Suite  
2100  
Los Angeles, CA 90067  
310-712-6600

PackagedTuna@Hausfeld.com

parisa@sullcrom.com

Alfred C. Pfeiffer  
Christopher S. Yates  
Belinda S Lee  
Ashley M. Bauer  
Jason M. Ohta  
Latham & Watkins LLP  
505 Montgomery Street, Suite  
2000  
San Francisco, CA 94111-6538  
415-391-0600  
chris.yates@lw.com

### **17. When and where is the Court's Fairness Hearing?**

The Court will hold a Fairness Hearing on the Settlements at \_\_\_:\_\_\_ a.m./p.m. PT on **[date]** at the United States District Court for the Southern District of California, James M. Carter and Judith N. Keep United States Courthouse, 333 West Broadway, San Diego, CA 92101, Courtroom #13A. At the hearing, the Court will consider (i) whether the proposed Settlements should be approved as fair, reasonable, and adequate to Settlement Class Members, and whether the judgment should be entered dismissing the claims of Direct Purchaser Plaintiffs and all Settlement Class Members against Settling Defendants on the merits and with prejudice; and (ii) whether to approve any application by Class Counsel for an award of attorneys' fees and payment of costs and expenses, and any Service Awards to the named Class Representatives.

If there are objections, the Court will consider them. You may attend and ask to speak at the Fairness Hearing if you filed an objection as instructed in Question 19, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long the Court will take to decide. The date of the hearing may change without further notice to the Class, so please check the case website regularly for updates.

### **18. Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Court may have. However, you are welcome to come at your own expense. If you send an objection to the proposed Settlements, you do not have to come to the Fairness Hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend the hearing or trial, but it's not necessary.

### **19. May I speak at the hearing?**

Yes. If you did not request exclusion from the Settlements, you may ask permission for you or your own attorney to speak at the Fairness Hearing, at your own expense. To do so, you must submit a written objection as instructed in Question 19. Your Notice of Intention to Appear must be postmarked no later than **[date]**, and it must be sent to the Court, Class Counsel, and the Settling Defendants' counsel at the addresses provided in Question 19.

## Getting More Information

### 20. How do I get more information?

For more detailed information about the case, visit the [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), call 1-866-615-0970, or speak with Class Counsel directly at [PackagedTuna@Hausfeld.com](mailto:PackagedTuna@Hausfeld.com) or 415-633-1908.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION.**

**If you have *any* questions about this Notice, please do not hesitate to call 1-866-615-0970 or email Class Counsel directly at [PackagedTuna@Hausfeld.com](mailto:PackagedTuna@Hausfeld.com).**

Dated: [date]

The Honorable Dana M. Sabraw

**- EXHIBIT B -**

**From: info@TunaDirectPurchaserCase.com**  
**To: [Settlement Class Member email address]**  
**Subject: Notice Update – DPP Packaged Tuna Settlement**

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**If you purchased Packaged Tuna products directly from Bumble Bee, Chicken of the Sea, StarKist, or Thai Union Group between June 1, 2011 and July 31, 2015, you could be affected by a class action settlement.**

You received this notice because your business may have purchased Packaged Tuna (canned or pouched tuna) directly from one or more of the Defendants from June 1, 2011 through July 31, 2015. You have the right to know about your rights or options in the proposed Settlements. The case is called in *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MSB), MDL No. 2670. The Court in charge of this case is the United States District Court for the Southern District of California (the “Court”).

Certain Direct Purchaser Plaintiffs—the named Class Representatives: Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcos Imports and Distribution Ltd., and Benjamin Foods LLC—sued on behalf of a certified class. The companies they sued are called the Defendants and include Tri Union Seafoods LLC d/b/a Chicken of the Sea International (“COSI”) and Thai Union Group PCL (“TUG”), Bumble Bee Foods LLC (“Bumble Bee”), StarKist Co. (“StarKist”), Dongwon Industries Co. Ltd. (“DWI”), and Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch Cayman LP (collectively, the “Lion Companies”). COSI, TUG, Bumble Bee, StarKist, DWI, and the Lion Companies shall collectively be referred to as “Defendants.”

Proposed Settlements have been reached with StarKist, DWI, and the Lion Companies (collectively “Settling Defendants”). While these Settling Defendants deny all allegations, they have agreed to settle to avoid the uncertainties and risks of further litigation. A settlement was also reached previously with Chicken of the Sea and Thai Union (“COSI/TUG Settlement”). Bumble Bee Foods LLC went bankrupt.

**Who is part of the Settlement Class?**

Settlement Class Members include individuals or companies who *directly* purchased Packaged Tuna Products (excluding tuna salad kits and cups and salvage purchases) within the United States, its territories and the District of Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015. Excluded from the class are all governmental entities; Defendants and any parent, subsidiary or affiliate thereof; Defendants’ officers, directors, employees, and immediate families; any federal judges or their staffs; purchases of tuna salad kits or cups; and salvage purchases. Also excluded from the class is any person or entity that was excluded from the class, in whole or in part, pursuant to the Court’s Order in this Action at ECF No. 3097, which incorporates the list of entities at ECF No. 3095-1. Packaged Tuna Products means shelf-stable tuna sold for human consumption and packaged in either cans or pouches.

**What is this case about?**

Direct Purchaser Plaintiffs allege that Defendants conspired to fix, raise, and maintain the prices that direct purchasers paid for Packaged Tuna and that, as a result, members of the Class paid more

than they otherwise would have. Defendants have denied all liability for this conduct and/or assert that their conduct was lawful or exempt from the antitrust laws, or that their conduct did not cause injury, among other defenses. The Court has not decided who is right.

**What do the proposed Settlements provide?**

If the proposed Settlements are approved, Settling Defendants will pay a total of \$38,650,000 in cash, and StarKist will also provide Packaged Tuna Products/other products valued at \$26,100,000 for distribution to Settlement Class Members with valid claims. Go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for more details.

**What are the settlement benefits being used for?**

Settlement Class Members with valid claims will be entitled to receive cash and Packaged Tuna Products, with the actual amount depending on the number of valid claims and the volume of commerce represented in those claims. Additionally, a portion of the Settlement Amounts may be used by the Claims Administrator to administer notice and distribute the settlement proceeds, as well as to pay Service Awards to the named Class Representatives for their work in the case (\$12,500 for each of the Class Representatives).

Any undistributed funds will be used to make subsequent distributions to eligible Settlement Class Members, or, if it is infeasible to do so, will be distributed to the Center for Public Interest Law at the University of San Diego School of Law, or similar program at another law school, subject to the Court's approval. Any unclaimed product will be distributed to various food banks, hot meal programs, or other charities, subject to the Court's approval.

**How do I file a claim?**

Eligible Settlement Class Members must file a claim to receive benefits by **[date]**. **If you previously filed a claim in the COSI/TUG Settlement, you do not have to file a new claim.** To file a claim online, go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) and enter your Unique ID and PIN:

YOUR UNIQUE ID:	YOUR PIN:
<<Unique_ID>>	XXXXXXXX

When you log in to the online claim portal, you will be able to view the commerce attributed to you for purchases from each Defendant. If you disagree with any of the commerce values, you may dispute them with supported documentation. Claims are subject to verification. Individual awards will be based on the number of valid claims and will be calculated pro rata based on the total commerce attributed to you.

You may also file a claim by mail. The Claim Form is available for download at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), or you may request one by email at [info@TunaDirectPurchaserCase.com](mailto:info@TunaDirectPurchaserCase.com) or by phone at 1-866-615-0970.

You will not be eligible for a pro rata distribution to the extent that you previously released your claim against a specific Settling Defendant(s).

Once all claims have been reviewed and final claim determinations have been made, eligible Settlement Class Members will be mailed a check and instructions on how to redeem the StarKist Product benefits. Class Members can place an order for any StarKist-branded products on

StarKist's national price list in effect on the date that they place their order to redeem their pro rata share of StarKist Products. Settlement Class Members can redeem their pro rata share of the Product benefit for 3 years following Final Approval of the proposed Settlement with StarKist and DWI ("StarKist and DWI Settlement") or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later.

### **Do I have a lawyer and how will they be paid?**

The Court has appointed Hausfeld LLP as Class Counsel. You will not have to pay any attorneys' fees or out of pocket. Under the Settlements, attorneys' fees and litigation expenses will be paid out of the Settlement Fund. **This amount is subject to approval by the Court.** Class Counsel's motion for approval of their fees and costs will be posted at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) prior to **[the deadline for objections]**.

### **What are my rights and options?**

DO NOTHING. You will remain a member of the Settlement Class, but unless you already submitted a valid claim in the COSI/TUG Settlement, you will **not** receive any settlement benefits. Settlement Class Members who submitted claims in the COSI/TUG Settlement who do nothing will receive a cash payment and Packaged Tuna Products, except to the extent that they previously released claims against one or more of these Settling Defendants.

OBJECT TO THE PROPOSED SETTLEMENT. If you are part of the Settlement Class, you may tell the Court what you do not like about the proposed Settlements. You will still be bound by the proposed Settlements. Go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for details on how to file an objection. Objections must be postmarked by **Month x, 2024**.

FILE A CLAIM. If you did not previously submit a claim in the COSI/TUG Settlement and you did not previously opt out of the litigation class against the Settling Defendants, as explained above, you may now file a claim. You may file a claim regardless of whether you file timely objections. As explained above, your claim must be filed by **Month x, 2024**

### **Fairness Hearing**

The Court will hold a Fairness Hearing at **[\_]:[\_] a.m./p.m. PT on [date]**. At the hearing, the Court will consider (1) whether the proposed Settlements should be approved as fair, reasonable, and adequate and whether judgment should be entered dismissing the claims of Direct Purchaser Plaintiffs and all Settlement Class Members against Settling Defendants on the merits and with prejudice; and (2) whether to approve any application by Class Counsel for an award of attorneys' fees and payment of costs and expenses, and any Service Awards to the named Class Representatives. If there are objections, the Court will consider them. You may attend and ask to speak at the Fairness Hearing, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long the Court will take to decide. Please check [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) regularly for updates.

### **Questions?**

Visit [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), call toll-free 1-866-615-0970, or contact Class Counsel directly at [PackagedTuna@Hausfeld.com](mailto:PackagedTuna@Hausfeld.com) or 415-633-1908.

**Please do not contact the Court.**

To unsubscribe, please click on the following link: [unsubscribe](#)



**From:** info@TunaDirectPurchaserCase.com  
**To:** [Claimant email address]  
**Subject:** Notice Update – DPP Packaged Tuna Settlements

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**NOTICE UPDATE**  
**Regarding the Direct Purchaser Plaintiffs**  
**Packaged Tuna Class Action Settlements**

Records indicate that you filed a claim in in *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MSB), MDL No. 2670. This Notice is to provide you with an update regarding additional proposed Settlements and your rights and options. If your mailing address or email address has changed since you filed your claim, please send your update to the Claims Administrator by mail or email to ensure that you receive any communications about your claim.

The Court approved the Settlement that was reached between the Direct Purchaser Plaintiffs and Tri Union Seafoods LLC d/b/a Chicken of the Sea International and Thai Union Group PCL (the “COSI/TUG Settlement”). Bumble Bee Foods LLC went bankrupt. Proposed Settlements have now been reached with the remaining Defendants— StarKist Co. (“StarKist”), Dongwon Industries Co. Ltd. (“DWI”), and Lion Capital LLP, Lion Capital (Americas), Inc. and Big Catch Cayman LP (collectively, “Lion”) (together all collectively “Settling Defendants”). Tri Union Seafoods LLC, Thai Union Group PCL, StarKist, DWI, Lion, and Bumble Bee Foods LLC shall collectively be referred to herein as the “Defendants”.

**Who is part of the Settlement Class?**

Settlement Class Members include individuals or companies who *directly* purchased Packaged Tuna Products (excluding tuna salad kits and cups and salvage purchases) within the United States, its territories and the District of Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015. Excluded from the class are all governmental entities; Defendants and any parent, subsidiary or affiliate thereof; Defendants’ officers, directors, employees, and immediate families; any federal judges or their staffs; purchases of tuna salad kits or cups; and salvage purchases. Also excluded from the class is any person or entity that was excluded from the class, in whole or in part, pursuant to the Court’s Order in this Action at ECF No. 3097, which incorporates the list of entities at ECF No. 3095-1. Packaged Tuna Products means shelf-stable tuna sold for human consumption and packaged in either cans or pouches.

**What is this case about?**

Direct Purchaser Plaintiffs allege that Defendants conspired to fix, raise, and maintain the prices that direct purchasers paid for Packaged Tuna and that, as a result, members of the Class paid more than they otherwise would have. Defendants have denied all liability for this conduct and/or assert that their conduct was lawful or exempt from the antitrust laws, or that their conduct did not cause injury, among other defenses. The Court has not decided who is right.

**What do the proposed Settlements provide?**

If the proposed Settlements are approved, Settling Defendants will pay a total of \$38,650,000 in cash, and StarKist will also provide Packaged Tuna Products/other products valued at \$26,100,000 for distribution to Settlement Class Members with valid claims. Settlement Class Members can place an order for any StarKist-branded products on StarKist's national price list in effect on the date that they place their order to redeem their pro rata share of StarKist Products. Settlement Class Members can redeem their pro rata share of the Product benefit for 3 years following Final Approval of the proposed Settlement with StarKist and DWI ("StarKist and DWI Settlement") or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for more details.

### **What are the settlement benefits being used for?**

Settlement Class Members with valid claims will be entitled to receive cash and Packaged Tuna Products, with the actual amount depending on the number of valid claims and the volume of commerce represented in those claims. Additionally, a portion of the Settlement Amounts may be used by the Claims Administrator to administer notice and distribute the settlement proceeds, as well as to pay Service Awards to the named Class Representatives for their work in the case (\$12,500 for each of the Class Representatives).

Any undistributed funds will be used to make subsequent distributions to eligible Settlement Class Members, or, if it is infeasible to do so, will be distributed to the Center for Public Interest Law at the University of San Diego School of Law, or similar program at another law school, subject to the Court's approval. Any unclaimed product will be distributed to various food banks, hot meal programs, or other charities, subject to the Court's approval.

### **What are my rights and options?**

- **DO NOTHING. Records indicate that you submitted a claim in the COSI/TUG Settlement; therefore, you are not required to submit another claim.** By doing nothing, you will remain a member of the Settlement Class, and you will receive a cash payment and StarKist Products, except to the extent that you previously released claims against one or more of the Settling Defendants.
- **OBJECT TO THE PROPOSED SETTLEMENT.** You may tell the Court what you do not like about the proposed Settlements. You will still be bound by the proposed Settlements, and you will still receive a cash payment and Packaged Tuna Products. Go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for details on how to file an objection. Objections must be postmarked by **Month x, 2024.**

### **Do I have a lawyer and how will they be paid?**

The Court has appointed Hausfeld LLP as Class Counsel. You will not have to pay any attorneys' fees or out-of-pocket litigation expenses. Under the Settlements, attorneys' fees and litigation expenses will be paid out of the Settlement Fund. **This amount is subject to approval by the Court.** Class Counsel's motion for approval of their fees and costs will be posted at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) prior to **[the deadline for objections]**.

### **Fairness Hearing**

The Court will hold a Fairness Hearing at    :    a.m./p.m. PT on **[date]**. At the hearing, the Court will consider (1) whether the proposed Settlements should be approved as fair, reasonable, and adequate and whether judgment should be entered dismissing the claims of Direct Purchaser Plaintiffs and all Settlement Class Members against Settling Defendants on the merits and with prejudice; and (2) whether to approve any application by Class Counsel for an award of attorneys' fees and payment of costs and expenses, and any Service Awards to the named Class Representatives. If there are objections, the Court will consider them. You may attend and ask to speak at the Fairness Hearing at your own expense, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long the Court will take to decide. Please check [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) regularly for updates.

### **Questions?**

Visit [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), call toll-free 1-866-615-0970, or contact Class Counsel directly at [PackagedTuna@Hausfeld.com](mailto:PackagedTuna@Hausfeld.com) or 415-633-1908.

**Please do not contact the Court.**

To unsubscribe, please click on the following link: [unsubscribe](#)

**- EXHIBIT C -**

**If you purchased Packaged Tuna products directly from Bumble Bee, Chicken of the Sea, StarKist, or Thai Union Group between June 1, 2011 and July 31, 2015, you could be affected by a class action settlement.**

SEATTLE, **Month x**, 2024/ JND Legal Administration

Proposed Settlements have been reached in *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-md-2670 DMS (MSB), MDL No. 2670, in the United States District Court for the Southern District of California (the “Court”).

Certain Direct Purchaser Plaintiffs—the named Class Representatives: Olean Wholesale Grocery Cooperative, Inc., Pacific Groservice Inc. d/b/a PITCO Foods, Piggly Wiggly Alabama Distributing Co., Inc., Howard Samuels as Trustee in Bankruptcy for Central Grocers, Inc., Trepcos Imports and Distribution Ltd., and Benjamin Foods LLC—sued on behalf of a certified class. The companies they sued are called the Defendants and include Tri Union Seafoods LLC d/b/a Chicken of the Sea International (“COSI”) and Thai Union Group PCL (“TUG”), Bumble Bee Foods LLC (“Bumble Bee”), StarKist Co. (“StarKist”), Dongwon Industries Co., Ltd. (“DWI”), and Lion Capital LLP, Lion Capital (Americas), Inc., and Big Catch Cayman LP (collectively, the “Lion Companies”).

Proposed Settlements have been reached with StarKist, DWI, and the Lion Companies (collectively “Settling Defendants”). While these Settling Defendants deny all allegations, they have agreed to settle to avoid the uncertainties and risks of further litigation. A settlement was also reached previously with COSI and TUG (“COSI/TUG Settlement”). Bumble Bee Foods LLC went bankrupt.

### **Who is part of the Settlement Class?**

Settlement Class Members include individuals or companies who *directly* purchased Packaged Tuna Products (excluding tuna salad kits and cups and salvage purchases) within the United States, its territories and the District of Columbia from any Defendant at any time between June 1, 2011 and July 31, 2015. Excluded from the class are all governmental entities; Defendants and any parent, subsidiary or affiliate thereof; Defendants’ officers, directors, employees, and immediate families; any federal judges or their staffs; purchases of tuna salad kits or cups; and salvage purchases. Also excluded from the class is any person or entity that was excluded from the class, in whole or in part, pursuant to the Court’s Order in this Action at ECF No. 3097, which incorporates the list of entities at ECF No. 3095-1. Packaged Tuna Products means shelf-stable tuna sold for human consumption and packaged in either cans or pouches.

### **What is this case about?**

Direct Purchaser Plaintiffs allege that Defendants conspired to fix, raise, and maintain the prices that direct purchasers paid for Packaged Tuna and that, as a result, members of the Class paid more than they otherwise would have. Defendants have denied all liability for this conduct and/or assert that their conduct was lawful or exempt from the antitrust laws, or that their conduct did not cause injury, among other defenses. The Court has not decided who is right.

### **What do the proposed Settlements provide?**

If the proposed Settlements are approved, Settling Defendants will pay a total of \$38,650,000 in cash, and StarKist will also provide Packaged Tuna Products/other products valued at \$26,100,000 for distribution to Settlement Class Members with valid claims. Go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for more details.

### **What are the settlement benefits being used for?**

Settlement Class Members with valid claims will be entitled to receive cash and Packaged Tuna Products, with the actual amount depending on the number of valid claims and the volume of commerce represented in those claims. Additionally, a portion of the Settlement Amounts may be used by the Claims Administrator to

administer notice and distribute the settlement proceeds, as well as to pay Service Awards to the named Class Representatives for their work in the case (\$12,500 for each of the Class Representatives).

Any undistributed funds will be used to make subsequent distributions to eligible Settlement Class Members, or, if it is infeasible to do so, will be distributed to the Center for Public Interest Law at the University of San Diego School of Law, or similar program at another law school. Any unclaimed product will be distributed to various food banks, hot meal programs, or other charities.

### **How do I file a claim?**

Eligible Settlement Class Members must file a claim to receive benefits by **[date]**. **If you previously filed a claim in the COSI/TUG Settlement, you do not have to file a new claim.** To file a claim online, go to [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) and enter the Unique ID and PIN printed on the Notice that was mailed to you. If you do not have the Notice, call 1-866-615-0970. When you log into the online claim portal, you will be able to view the commerce attributed to you for purchases from each Defendant. If you disagree with any of the commerce values, you may dispute them with supported documentation. Claims are subject to verification. Individual awards will be based on the number of valid claims and will be calculated pro rata based on the total commerce attributed to you.

You may also file a claim by mail. The Claim Form is available for download at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), or you may request one by email at [info@TunaDirectPurchaserCase.com](mailto:info@TunaDirectPurchaserCase.com) or by phone at 1-866-615-0970.

Once all claims have been reviewed and final claim determinations have been made, eligible Settlement Class Members will be mailed a check and instructions on how to redeem the StarKist Product benefits. Settlement Class Members can place an order for any StarKist-branded products on StarKist's national price list in effect on the date that they place their order to redeem their pro rata share of StarKist Products. Settlement Class Members can redeem their pro rata share of the Product benefit for 3 years following Final Approval of the proposed Settlement with StarKist and DWI ("StarKist and DWI Settlement") or following ninety (90) days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later. Settlement Class Members must place their first order for StarKist Products within 180 days after the Final Approval of the StarKist and DWI Settlement or 90 days after the Claims Administrator provides StarKist with the pro rata allocation of the Product Component of the Settlement, whichever is later.

### **Do I have a lawyer and how will they be paid?**

The Court has appointed Hausfeld LLP as Class Counsel. You will not have to pay any attorneys' fees or costs out of pocket. Under the Settlements, attorneys' fees and litigation expenses will be paid out of the Settlement Fund. **This amount is subject to approval by the Court.** Class Counsel's motion for approval of their fees and costs will be posted at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) prior to **[the deadline for objections]**.

### **What are my rights and options?**

DO NOTHING. You will remain a member of the Settlement Class, but unless you already submitted a valid claim in the COSI/TUG Settlement, you will **not** receive any settlement benefits. Settlement Class Members who submitted a valid claim in the COSI/TUG Settlement who do nothing will receive a cash payment and Packaged Tuna Products, except to the extent that they previously released claims against these Settling Defendants.

OBJECT TO THE PROPOSED SETTLEMENT. If you are part of the Settlement Class, you may tell the Court what you do not like about the proposed Settlements. You will still be bound by the proposed Settlements. Go [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) for details on how to file an objection. Objections must be **Month x, 2024**.

FILE A CLAIM. If you did not previously submit a claim in the COSI/TUG Settlement and you did not previously opt out of the litigation class against the Settling Defendants, as explained above, you may now file a claim. You may file a claim regardless of whether you file timely objections. As explained above, your claim must be filed by **Month x, 2024**

### **Fairness Hearing**

The Court will hold a Fairness Hearing at    :    a.m./p.m. PT on **[date]**. At the hearing, the Court will consider (1) whether the proposed Settlements should be approved as fair, reasonable, and adequate and whether judgment should be entered dismissing the claims of Direct Purchaser Plaintiffs and all Settlement Class Members against Settling Defendants on the merits and with prejudice; and (2) whether to approve any application by Class Counsel for an award of attorneys' fees and payment of costs and expenses, and any Service Awards to the named Class Representatives. If there are objections, the Court will consider them. You may attend and ask to speak at the Fairness Hearing, but you don't have to. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long the Court will take to decide. Please check [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com) regularly for updates.

### **Questions?**

Visit [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), call toll-free 1-866-615-0970, or contact Class Counsel directly at [PackagedTuna@Hausfeld.com](mailto:PackagedTuna@Hausfeld.com) or 415-633-1908.

**Please do not contact the Court.**

**- EXHIBIT D -**



**TUNA DIRECT PURCHASER CASE**  
**CLAIM FORM**

If you are a member of the Settlement Class in this action and you did **not** previously submit a claim in the COSI/TUG Settlement, you must complete this Claim Form to make your claim for a pro rata share of the Settlements. If you are a Settlement Class Member and you previously submitted a claim in the COSI/TUG Settlement, you are **not** required to submit this Claim Form to receive settlement benefits.

Settlement Class Members that make a valid claim will be entitled to receive both a cash payment and an award of StarKist Co. Products, unless the Settling Class Member previously settled with StarKist Co., Dongwon Industries Co. Ltd., Lion Capital LLP, Lion Capital (Americas), Inc. or Big Catch Cayman LP, with the actual amount received depending on the total number of valid claims received and the volume of commerce represented in those claims. **Your claim must be submitted by [date], or it will not be considered.**

Please visit the "File a Claim" section of **www.TunaDirectPurchaserCase.com** and review the net purchase values attributed to your company for direct purchases of Packaged Tuna Products from each Defendant between June 1, 2011 and July 31, 2015.

If you disagree with the volume of commerce, you may submit your own documentation that supports your claimed volume of commerce. Your claim will be subject to audit by the Claims Administrator. You may complete your claim online at [www.TunaDirectPurchaserCase.com](http://www.TunaDirectPurchaserCase.com), or you may submit this Claim Form and any supporting documentation by email to [info@TunaDirectPurchaserCase.com](mailto:info@TunaDirectPurchaserCase.com) or by mail to:

Tuna Direct Purchaser Case  
c/o JND Legal Administration  
P.O. Box 91241  
Seattle, WA 98111

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**SECTION A: CLASS MEMBER INFORMATION**

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Enter your company's name and contact information below. It is your responsibility to notify the Claims Administrator of any changes to your contact information after the submission of your claim.

Company Name:

Contact Name:

Title:

Address Line One:

Address Line Two (optional):

City:  State:  Zip code:

Email:

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**SECTION B: REVIEW NET PURCHASES**

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After reviewing your commerce values at the case website, if your own data suggest that a different commerce value is appropriate, enter the values shown by your data below. If you enter your own commerce values, you must provide supporting documentation such as receipts, invoices, or other payment documents naming the payee and payor. If you would like to provide structured transactional data from your business records that supplies dates, vendors, and payment information, please contact the Claims Administrator at [info@TunaDirectPurchaserCase.com](mailto:info@TunaDirectPurchaserCase.com) or 1-866-615-0970.

If you agree with the values of net purchases, you do not need to enter any amounts below, nor do you need to provide supporting documentation. Simply sign and date this Claim Form and return it to the Claims Administrator on or before [date].

**Updated Net Purchases**

Bumble Bee	Chicken of the Sea	StarKist	Thai Union Group

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**SECTION C: CERTIFICATION**

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By signing below, I certify that the above and foregoing information is true and correct, and I warrant that I am duly authorized and have the legal capacity to sign this Claim Form on behalf of the direct purchaser Settlement Class Member.

**Signature:**

**Date:**