



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE)
CUPPELS, et al., individually and on)
behalf of all others similarly situated,)
Plaintiffs,)
v.)
MOUNTAIRE CORPORATION, an)
Arkansas corporation, MOUNTAIRE) TRIAL BY JURY OF 12
F FARMS, INC., a Delaware) DEMANDED
corporation, and MOUNTAIRE)
F FARMS OF DELAWARE, INC., a)
Delaware corporation.)
Defendants.) C.A. No.: S18C-06-009 CAK

**JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT AGREEMENT AND OTHER RELIEF**

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I. INTRODUCTION

This litigation arises from Plaintiffs' allegations that Defendants Mountaire Corporation, Mountaire Farms of Delaware, Inc., and Mountaire Farms Inc. caused groundwater contamination and air pollution that impacted residents in the Millsboro area. Defendants deny the allegations, and the parties have been in litigation since June 2018.

This Motion is jointly submitted by the parties in support of the settlement of this litigation, as proposed in the Class Action Settlement Agreement and Release ("Settlement Agreement") attached as Exhibit A.¹ The parties jointly move this Court for an Order, as described more fully in the Conclusion section below, that grants preliminary approval of the Settlement Agreement and provides other relief.

II. PROCEDURAL HISTORY

A. Plaintiffs' Allegations

On June 13, 2018, Plaintiffs Gary and Anna-Marie Cuppels, in their individual capacity and on behalf of similarly-situated individuals ("Plaintiffs"), filed a Complaint against Defendants Mountaire Corp. ("MC") Mountaire Farms Inc. ("MFI"), and Mountaire Farms of Delaware, Inc. ("MFODI," along with MC and MFI, "Defendants") related to the operation of a chicken processing facility in

¹ As set forth in the Settlement Agreement, by entering into the Settlement Agreement and joining this motion, Defendants do not admit any factual allegations against them, any legal issues, or any liability.

Sussex County, Delaware (the “Facility”). Plaintiffs filed an Amended Complaint on October 12, 2018 and a Second Amended Complaint on June 26, 2020, adding additional proposed class representatives and claims.

Plaintiffs allege that Defendants disposed of contaminated wastewater and liquefied sludge on lands near Plaintiffs’ residences. Plaintiffs allege that this wastewater and sludge have seeped into the groundwater throughout the area, causing nitrates and other contaminants to enter Plaintiffs’ drinking water wells, resulting in health effects and property diminution for a class of individuals living, working, leasing, or owning property and/or businesses in the area described as the “Groundwater Area” set forth on Exhibit B.

Plaintiffs further allege that Defendants’ wastewater treatment plant and their spray irrigation and sludge operations emit air pollutants, including malodorous hydrogen sulfide and ammonia that reach Plaintiffs’ residences at levels causing a class of individuals living, working, leasing, or owning property and/or businesses in the area described as the “Air Area” set forth on Exhibit B to suffer health effects and to endure nuisance conditions preventing and devaluing the use of their properties.

Defendants deny Plaintiffs’ allegations but have chosen to settle the case in order to achieve a final resolution of this matter and resolve the uncertainty associated with litigation.

B. The Litigation and Discovery

This matter has been extensively litigated. As the Court stated in its November 16, 2020 Memorandum Opinion, “Cuppels’ and other Plaintiffs’ claims against the Mountaire defendants are likely the most intensely litigated in the Superior Court in and for Sussex County.” (D.I. 599 at 1). Plaintiffs’ June 2018 Complaint included reports from fifteen experts. At the outset, the parties engaged in extensive motion practice, including briefing on Defendants’ motions to dismiss under Rule 12 and Plaintiffs’ motion for class certification under Rule 23. Before issuing a ruling on those motions, the Court authorized discovery limited to (a) the elements of class certification as outlined by Rule 23(b), and (b) MC’s contacts with Delaware. The parties engaged in extensive written discovery on those issues and litigated many discovery disputes before the Court and the Special Discovery Master, David White.

In August 2019, the Court granted the parties’ request to stay the case while they pursued mediation. The parties engaged the services of two well-respected mediators: David White, an attorney and mediator with extensive experience litigating and mediating cases, and Eric Green, a mediator with extensive experience mediating class actions of national prominence, including environmental matters. The experience of these mediators is set forth in their biographies which are attached as Exhibits C & D. The parties mediated over four days in Wilmington, Delaware.

This mediation included presentations from both parties and their experts. The mediation, however, was not successful at that time.

The parties returned to discovery on issues related to class certification and MC's contacts with Delaware, including extensive written discovery. Yet more discovery disputes were litigated before the Special Discovery Master and the Court.

On January 9, 2020, the Court issued a Trial Scheduling Order that scheduled a six-week jury trial to begin on October 11, 2021.

In January 2020, the Court authorized merits-related discovery to begin, which prompted further written discovery. The parties and the Special Discovery Master implemented an electronic discovery protocol, and over the following months, hundreds of thousands of pages of documents were produced and reviewed by the parties. Discovery also involved multiple site inspections both at the Facility as well as the residences of class members, the scope and procedures of which were litigated before the Special Discovery Master. The parties also engaged in over 20 discovery depositions, including the depositions of corporate designees, class representatives, unnamed class members, an expert witness, and Defendants' current and former employees (and many more depositions remain pending). And Plaintiffs obtained a great volume of information from the Delaware Department of Natural Resources and Environmental Control ("DNREC"), successfully defeating DNREC's motions to quash a subpoena for that information.

Plaintiffs moved for class certification on January 10, 2020, which Defendants opposed. That motion has been fully briefed, and remains pending.

The Court denied Defendants' motions to dismiss. On January 30, the Court denied Defendants' motion to dismiss Plaintiffs' negligence *per se* claim. On June 18, 2020, the Court denied MC's motion to dismiss for lack of personal jurisdiction. And on September 11, 2020, the Court denied Defendants' motion to dismiss for lack of subject matter jurisdiction, without prejudice to Defendants re-raising the jurisdictional issue at a later point. As of September 21, 2020, Plaintiffs disclosed their expert opinions in support of their allegations. Defendants assembled their own experts who were prepared to issue opinions by December 16, 2020 refuting the opinions of Plaintiffs' experts. Defendants renewed the motion to dismiss for lack of subject matter jurisdiction on October 9, 2020, based on Plaintiffs' class certification briefing and expert reports. The Court denied that renewed motion on October 14, 2020, and Defendants have sought leave to file an interlocutory appeal. The Delaware Supreme Court has stayed that interlocutory appeal pending resolution of the settlement negotiations.²

² The Court deferred ruling on Defendants' motion to dismiss the class action allegations and instead instructed the parties to litigate those issues in the context of Plaintiffs' motion to certify.

The parties continued to discuss settlement in 2020, as an extension of the mediation that began in 2019. Ultimately, during the fall of 2020, the parties reached agreement and entered into the proposed Settlement Agreement.

III. THE PROPOSED SETTLEMENT

A. Terms of Settlement

The proposed Settlement Agreement requires Defendants to pay \$65 million cash in full satisfaction of Plaintiffs' claims, including all legal fees, costs, and expenses (including costs and expenses of administering the settlement fund described below). *See also* § III.G, *infra*. The payment is required to be made in two installments.

A Qualified Settlement Fund (the “QSF”) will be established to receive the settlement proceeds. The QSF will be funded with those proceeds which will be held in escrow by Huntington Bank pending approval of the proposed Settlement Agreement and the subsequent disbursement of the settlement funds. Following the approval of this Court, the QSF will be allocated and amounts will be distributed to class members in accordance with the Plan of Allocation described briefly below and further detailed in Exhibit E. Legal fees, costs, expenses, and any liens will likewise be subject to the approval of this Court prior to payment from the QSF.

B. Settlement Class Definition

Plaintiffs' proposed class definition is as follows:

The Parties shall propose the following Settlement Class: “All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit B**, and not the Air Area, which is bounded by the dashed red line on **Exhibit B**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.”

Excluded from the class definition are: (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.

The Groundwater Area has been defined as the area overlying the groundwater contamination plumes alleged to have been caused in whole or in part by Defendants and developed by Plaintiffs’ expert witness, Dr. Harvey Cohen, a hydrogeologist with more than 20 years of contaminant fate and transport experience. Dr. Cohen reviewed dozens of reports and models related to the groundwater near the Facilities and has plotted nitrate and water levels in hundreds of monitoring and residential wells upgradient and downgradient of Defendants’

spray irrigation and sludge fields. Based on hundreds of hours of analysis and groundwater “particle tracking” by Dr. Cohen and his colleagues at S.S. Papadopoulos & Associates, Dr. Cohen would testify that this area has been or soon will be impacted by Defendants.³

The Air Area is defined as the area over which Plaintiffs allege Defendants’ conduct caused exceedances of the Delaware Air Quality Standard for hydrogen sulfide and exceedances of the health standard established by the Agency for Toxic Substances and Disease Registry (“ASTDR”) for ammonia and other air pollutants. The area of air exposure has been modeled by John Purdum, an expert in Environmental Protection Agency (“EPA”) air modeling techniques, based on EPA modeling protocols and emissions.

This class definition is ascertainable for purposes of this Settlement Agreement and includes all claimants with potentially viable claims against Defendants arising out of the allegations alleged or that could have been alleged in the Second Amended Complaint. Defendants consent to certification of this class for settlement purposes only.

³ Defendants reserve, among other reservations, the right to raise *Daubert* challenges to all of Plaintiffs’ expert witnesses in the event the Court does not grant final approval of the Settlement Agreement.

C. Allocation of Settlement Proceeds

Plaintiffs propose that a Claims Adjudicator be retained for the allocation of the proceeds of this settlement. Specifically, Plaintiffs propose, and Defendants consent to, the Hon. Irma Raker (Ret.) serving as Claims Adjudicator. Plaintiffs propose, and Defendants consent to, Judge Raker utilizing David White as a consultant and/or assistant adjudicator

Judge Raker has extensive class action allocation experience, having recently led the distribution of settlement proceeds from a \$190 million settlement to approximately 9,000 claimants in *Jane Doe No. 1, et al. v. Johns Hopkins Hospital, et al.*, No. 24-C-13- 001041 (Md. Cir. Ct. 2014). Judge Raker has also served as an Associate Judge of the District Court of Maryland, Montgomery County from 1980 to 1982, Associate Judge of the Circuit Court for Montgomery County Maryland from 1982 to 1992, and on the Maryland Court of Appeals from 1994 until her retirement in 2008.

David White is a Delaware attorney with experience in alternative dispute resolution and toxic tort litigation. Mr. White also served as a Commissioner for the Delaware Superior Court from 2001 to 2008, where he presided over pretrial matters pertaining to the Court's mass tort litigation. Mr. White has also been actively involved in this litigation for several years as a mediator and Court Appointed Special Discovery Master. Mr. White brings subject matter expertise to the

allocation team based on his long-term involvement and knowledge of this matter, as well as his service as mediator.

The Claims Adjudicator will evaluate each claim and categorize each claimant to determine fair, reasonable, and equitable compensation based upon the established categories of damages and the proposed Plan of Allocation, attached as Exhibit E. In doing so, the Claims Adjudicator will utilize the injury categories and additional factors noted in the proposed Plan of Allocation. Following notification to each claimant of their allocation, a period will be provided during which each claimant may appeal to a Claims Adjudicator before the allocation becomes final.

Defendants shall not be entitled to a return of any portion of the settlement amount if both the proposed Settlement Agreement is finally approved and the First Amended Consent Decree is approved and entered in the case captioned *Delaware Department of Natural Resources and Environmental Control v. Mountaire Farms of Delaware, Inc.* 1:18-cv-00838 MN-JLH currently pending in the District Court for the District of Delaware (the “Federal Case”). However, if the Court does not finally approve the Settlement Agreement, or if the Court’s final approval of the settlement is overturned on appeal, or if the First Amended Consent Decree is not entered in the Federal Case, the settlement amount shall be returned to Defendants, together with any interest or other gains that have accrued on each of their respective

contributions, less notice and administrative expenses incurred subsequent to preliminary approval of the proposed settlement.

D. Notice to Class Members

If the Court preliminarily approves the terms of this settlement, including the Settlement Class, notice to potential class members is required under Superior Court Rule 23(c)(2) and Rule 23(e). Plaintiffs' Counsel has worked with RG/2 Claims Administration LLC to develop a Notice program that meets Rule 23's requirements and due process. *See Exhibit F, Declaration of Mike Lee and associated exhibits describing the Notice Plan.* Defendants have consented to the retention of RG/2 and the proposed Notice Plan. If approved, the Notice of proposed settlement and Fairness Hearing would be provided by mail to all residences within the class area, as well as through publication in selected Delaware and national newspapers and online at a website set up for this purpose. *See Id.*

The Notice would include all information necessary for Class Members to make informed decisions about making a claim. The Notice would inform Class Members that the judgment will include all members who do not request exclusion from the judgment, and will further inform Class Members of their rights to (1) object to the terms of the proposed Settlement Agreement by filing written notice of any objections within a prescribed period of time; (2) be heard on any possible objections at the Fairness Hearing to be conducted at a prescribed time and place

and in a prescribed manner; (3) exclude themselves from the proposed Settlement Agreement; and (4) file a claim for a portion of the Settlement Fund. The judgment will include all Class Members who do not request exclusion. Further, the notice would inform Class Members of a court-approved Bar Date, after which Class Members will be prohibited from asserting a claim for a portion of the settlement fund. The proposed Notice is attached hereto as Exhibit G. Also attached as Exhibit H is a proposed form of Notice for publication

E. Class Representatives

Plaintiffs propose that the following individuals serve as Class Representatives⁴ for purposes of settlement:⁵

Gary and Anna Marie Cuppels: Gary and Anna Marie Cuppels have resided at 26650 Carlisle Drive, Millsboro, DE 19966 for 23 years. Their home is within both the Air Area and Groundwater Area. They share claims in common with other members of the class, their claims are typical of the other class members, and they will serve as adequate class representatives for settlement purposes.

Michael and Anne Harding: Michael and Anne Harding have resided at 26265 Hollyville Road, Millsboro, DE 19966 for 7 years. Their home is within both the Air

⁴ Plaintiffs include all Class Representatives' Declarations in Exhibit I.

⁵ Defendants reserve, among other reservations, all objections and arguments raised in the Answering Brief and Sur-Reply to Plaintiffs' Motion for Class Certification.

Area and Groundwater Area. They share claims in common with other members of the class, their claims are typical of the other members of the class, and they will serve as adequate class representatives for settlement purposes.

Larry Miller, individually and on behalf of the Estate of Barbara Miller: Mr. Miller and Mrs. Miller resided together at 30415 Smiling Wolf Lane, Millsboro, DE 19966 until February 8, 2013 when Mrs. Miller passed away from kidney cancer. Their home is within both the Air Area and Groundwater Area. Mr. Miller, both in his individual and representative capacity, shares claims in common with other members of the class, his claims are typical of the other members of the class, and he will serve as an adequate class representative for settlement purposes.

Ronald and Patricia Tolson: Ronald and Patricia Tolson have resided at 26658 Hollyville Road, Millsboro, DE 19966 for 7 years. Their home is within both the Air Area and Groundwater Area. They share claims in common with other members of the class, their claims are typical of the other members of the class, and they will serve as adequate class representatives for settlement purposes.

Named Plaintiffs Heather Betts, Elizabeth Berger, William Hale, Herber Emelitio Gomez-Hernandez, Jill Gomez, Isaura Hernandez-Perez; Dean Daisey, Barbara Daisey, Arthur Selby, and Wendy Selby, identified in the Second Amended Complaint, are not offered as class representatives for purposes of this Motion, but would be subject to the terms of the Settlement Agreement to the extent they meet

the class definition. Plaintiffs elected to reduce the number of Class Representatives for administrative considerations and to more efficiently manage discovery and trial. The Parties request that the Second Amended Complaint be deemed amended in conformance with these changes.

F. Enhancement Award

Together with the request for final approval, Plaintiffs will petition the Court for an aggregate enhancement award to be awarded to the class representatives not to exceed a total of \$150,000.00 to be allocated amongst the seven individual Class Representatives. Plaintiffs will propose that these funds be allocated by the Claims Adjudicator, in proportion to the Class Representatives' efforts in prosecuting this claim. Those efforts include providing critical background information, supplying supporting documents, giving deposition testimony, and participating extensively in the entire process of this litigation including approval of the Settlement Agreement itself. The Cuppels have been directly involved from the start of the case, with the other representatives becoming more involved recently.

G. Federal Court Resolution

As this Court is aware, the Cuppels and Plaintiffs' Counsel have been engaged in litigation as intervenors before the U.S. District Court for the District of Delaware in the Federal Case. The Federal Case involves claims raised by DNREC against MFODI under federal law related to alleged violations and contamination at the

Facility. The claims at issue in the Federal Case are premised on some of the same operative factual allegations as the claims in this matter. In the Federal Case, DNREC and MFODI entered into a proposed consent decree, and then a First Amended Agreement and [Proposed] Consent Decree (“First Amended Consent Decree”) that requires MFODI to (a) make certain Facility improvements to prevent future groundwater contamination; and (b) engage in certain efforts to remove existing nitrate contamination from the groundwater, among other terms and conditions. The Cuppels, as intervenors in the Federal Case, raised objections to the Consent Decree as originally proposed as well as the First Amended Consent Decree. The Cuppels also moved for a preliminary injunction in the Federal Case, seeking a suspension or curtailment of MFODI operations.

Contemporaneously with the settlement of this class action case, the Cuppels intervenors and MFODI have entered into a separate confidential settlement agreement in the Federal Case to resolve the intervenors’ claims in that case, including its motion for preliminary injunction and its opposition to the First Amended Consent Decree. Pursuant to that agreement, intervenors anticipate that they will withdraw their objections and ask the Federal Court to enter the First Amended Consent Decree, and that MFODI will be required to engage in certain additional activities to prevent future harm to the groundwater and provide residents an avenue to report and receive follow-up on air pollution complaints. The Parties

estimate that the aggregate value of MFODI's commitments, including under the First Amended Consent Decree, is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies that the intervening Cuppels value at an additional \$20 million. These remedies are not included as part of the Settlement Agreement in this matter, and Plaintiffs' Counsel will not be requesting a legal fee, costs, and expenses for the Federal Case in connection with this resolution of this matter, as the legal fees, costs, and expenses related to the Federal Case have been separately negotiated.

The proposed Settlement Agreement in this case is contingent on entry of the First Amended Consent Decree (or any successor thereof) in the Federal Case, which is anticipated to occur shortly following final approval of this Settlement Agreement, if approved, if not sooner.

IV. The Proposed Settlement is Fair, Reasonable, and Adequate

Under Rule 23, the Court engages in a two-step process when determining whether to approve a class action settlement. First, the Court conducts a preliminary review of the proposed settlement to determine if there are patent grounds to question the fairness of the settlement. If not, the Court will preliminarily approve the settlement and schedule a so-called "fairness hearing" at which the Court will receive evidence in support of, or opposition to, the settlement in order to determine

whether the settlement is fair, reasonable, and adequate. *Jane Doe 30's Mother v. Bradley*, 64 A.3d 379, 394 (Del. Super. 2012).

To make the “fairness” determination, the Court should consider several factors, including, *inter alia*:

- (1) the advantages of the proposed settlement versus the probable outcome of a trial on the merits;
- (2) the probable duration and cost (both financial and emotional) of a trial;
- (3) the extent of participation in the settlement negotiations by class representatives and by a judge or special master;
- (4) the number and force of the objections by class members;
- (5) the effect of the settlement on other pending (or future) actions;
- (6) the fairness and reasonableness of the claims administration process for individual claims;
- (7) the apparent intrinsic fairness of the settlement terms; and
- (8) the extent to which only the class representatives are to receive monetary relief.

See Bradley, 64 A.3d at 394 (citing *Crowhorn v. Nationwide Mut. Ins. Co.*, 836 A.2d 558, 563 (Del. Super. 2003)). There is a presumption in favor of the settlement when there has been arms-length bargaining among the parties after adequate development of the factual record and legal theories. *Bradley*, 64 A.3d at 394.

The parties believe that the proposed Settlement Agreement, which was entered into in good faith after arms' length negotiations, is clearly in the best interests of the Class Members under all the conditions and circumstances of the

case and is therefore fair, reasonable, and adequate. Accordingly, the parties respectfully request that the proposed Settlement Agreement be preliminarily approved and, after notice and hearing, be finally approved.

A. The Advantages of the Proposed Settlement and Probable Duration of Litigation

The amount to be paid by Defendants is reasonable under all the circumstances. These circumstances involve: (1) the prospect of continuing litigation on issues including certification, jurisdiction, and liability; (2) litigation that would be extraordinarily expensive and continue for many years; (3) the likelihood and uncertainty of appeals of legal and other issues by Defendants, against whom claims of negligence and others have been asserted; (4) the unpredictability of success on any of the issues that would be litigated, including questions of whether Defendants are responsible for the groundwater and air pollution Plaintiffs claim to have affected the putative class; (5) the delays that would necessarily be encountered throughout many years of litigation versus the benefit of compensation to Class Members at this time; (6) the additional expense that would be incurred in the litigation process; and (7) the absence of insurance coverage available for recovery. As reflected in the Settlement Agreement, Defendants maintain all objections to Plaintiffs' motion for class certification, the jurisdiction of this Court to preside over Plaintiffs' complaint, and Plaintiffs' entitlement to relief on any of their causes of action. The risk that Defendants will prevail on any of these arguments—and the cost of litigating these

issues, including any appeals—favors approving the settlement. *See, e.g., Rowe v. E.I. DuPont de Nemours & Co.*, 2011 WL 3837106, at *15 (D.N.J. Aug. 26, 2011) (the “risk of decertification … weights in favor of settlement”).

B. Participation of Class Representatives and Neutrals

The Class Representatives have been active in this litigation, having responded to many written discovery requests, provided deposition testimony, and participated in inspections of their homes and properties. The Class Representatives and have been informed of and support the terms of the Settlement Agreement. *See Exhibit I, Class Representatives’ Declarations.*

Additionally, the parties were aided in reaching resolution of this matter by the assistance of mediators, including Special Discovery Master David White and Eric Green. While the parties were able to finalize settlement negotiations without further assistance from the mediators, Mr. White and Mr. Green initiated settlement mediation and assisted the parties in understanding the strengths and weaknesses of their respective claims. The parties consider the proposed Settlement Agreement to be an extension of the mediation process.

C. Effect of Settlement on other Pending Matters

As of the date of this motion, there is only one other pending matter relating to the same or similar underlying claims (except for the Federal Case as discussed above), *Albright v. Mountaire Farms of Delaware, Inc. et al.*, Case No. S18C-06-

033 RFS (Del. Super. Ct.). In that case, the plaintiffs, John Albright, Dina Morrison, and Jay Albright, Jr. (“Albright plaintiffs”), were initially represented by the firm of Jacobs & Crumplar, P.A., which firm withdrew as counsel of record on November 1, 2019; the Albright plaintiffs have proceeded *pro se* ever since. After a stay in the *Albright* case was lifted, Defendants moved to dismiss the complaint. The Albright plaintiffs failed to timely respond to Defendants’ motion to dismiss, and, on October 8, 2020, the Court advised the Albright plaintiffs that their failure to respond to that motion could result in a dismissal of the case. Shortly after the Court’s October 8, 2020 letter, the parties reached a confidential agreement. Defendants provided the Albright plaintiffs with settlement agreements and releases on November 4, 2020, but the Albright plaintiffs have not yet returned them fully-executed. On November 12, 2020, the Court issued an order indicating that it would dismiss the case with prejudice if the parties fail to file a stipulation of dismissal by January 11, 2021. It is unlikely that the Settlement Agreement will have any impact on this matter.

D. Fairness of the Allocation Process and Settlement

Plaintiffs’ Counsel represent that the Allocation Plan attached as Exhibit E represents a fair process for allocation of the proceeds of this settlement. It provides consideration to the compensable elements of each class members’ claims; a right to appeal to the Claims Adjudicator if a claimant is unsatisfied with their allocation amount; a late filing fund for those who, as a result of extraordinary circumstances,

are unable to timely file their claim; and a latent injury trust fund to provide compensation for potential future claims. This settlement will provide substantial monetary relief to all participating Class Members.

V. Class Certification is Appropriate for Settlement Purposes

Plaintiffs assert that the proposed Settlement Class meets the criteria for certification under Superior Court Rule 23 for purposes of settlement for the reasons set forth herein. Certification of a class action requires a two-step analysis. *Crowhorn*, 836 A.2d at 561–62. The first step requires that the action satisfy all four prerequisites mandated by Rule 23(a). *Id.* The prerequisites are: (1) numerosity; (2) commonality; (3) typicality and (4) adequacy of representation. *Id.* If all of the prerequisites of subsection (a) are satisfied, then the Court moves to the second step, which is to determine if the requirements of Rule 23(b) are satisfied. *Id.*

This section sets forth Plaintiffs' position regarding why the requirements for class certification are satisfied here. Defendants reserve, among other reservations, all objections and arguments raised in the Answering Brief and Sur-Reply to Plaintiffs' Motion for Class Certification. However, Defendants consent to the proposed Settlement Class for settlement purposes only.

A. The Putative Class meets the requirements of Rule 23(a)

1. Numerosity

First, a class must be “so numerous that joinder of all members is impracticable” in order to meet the numerosity requirement. Superior Court Rule

23(a). “Although there is no numerical cutoff under the numerosity requirement, numbers in the proposed class in excess of forty, and particularly in excess of one hundred, have sustained the numerosity requirement.” *Smith v. Hercules, Inc.*, 2003 WL 1580603, at *4 (Del. Super. Jan. 31, 2003). “Courts look to the “litigational inconvenience” of bringing separate actions versus a class action to assess impracticability. *Id.*

Here, the known members of the Groundwater and Air Areas are in excess of the following figures: Groundwater Area only-1,568; Air Area only-4,615, and both areas-1,116. Joinder of over 7,000 plaintiffs would be impracticable. The numerosity requirement is therefore met.

2. Commonality

The second requirement, commonality, will be met “where the question of law linking the class members is substantially related to the resolution of the litigation even though the individuals are not identically situated.” *Leon N. Weiner & Assoc., Inc. v. Krapf*, 584 A.2d 1220, 1224 (Del. 1991). Commonality is satisfied where common questions are capable of generating common answers apt to drive the resolution of the litigation. *Wal-Mart Stores Inc. v. Dukes*, 131 S. Ct. 2541, 2551 (2011). Thus, if the named plaintiffs share at least one question of law or fact with the grievances of the prospective class this requirement will be met. *Smith*, 2003 WL 1580603, at *4.

There are common questions of law and fact in this action which can be certified and resolved on behalf of the class. In particular, Plaintiffs assert that Defendants' conduct presents numerous common questions which could be resolved on a class-wide basis.

3. Typicality

The "typicality" requirement is satisfied if the representative's interests are consistent with those of the class members. *Krapf*, 584 A.2d at 1225-26. Typicality will be found despite factual differences if a representative's claim “arises from the same event or course of conduct that gives rise to the claims ... of other class members and is based on the same legal theory.”” *Leon*, 584 A.2d at 1226 (quoting *Zeffiro v. First Pa. Banking & Trust Co.*, 96 F.R.D. 567, 569 (E.D.Pa.1983)). The claims of the Class Representatives are typical of the claims of the class, as each Class Representative lives within both the Groundwater Area and the Air Area and claim personal injury and property damage associated with alleged groundwater contamination and air pollution.

4. Adequacy of Representation

The fourth prerequisite determines whether the class representative is competent to represent the entire class. *Smith*, 2003 WL 1580603, at *8. This requirement is comprised of two elements: “(a) that the interests of the representative

party must coincide with those of the class; and, (b) that the representative party and his attorney can be expected to prosecute the action vigorously.” *Id.*

In determining whether the interests of a representative coincide with those of the class, the court looks to see if any conflict exists between named parties and the class they seek to represent. *Id.* at *9. “[O]nly a conflict that goes to the very subject matter of the litigation will defeat a party's claim of representative status.” *Id.* The Class Representatives have no conflicts with other class members. As set forth above, their interests are typical and coincide with the interests of the class.

Additionally, the Class Representatives and Plaintiffs’ counsel have vigorously prosecuted this litigation. Plaintiffs have complied with their discovery obligations, which have included extensive written discovery and deposition testimony. Plaintiffs’ counsel are experienced in class actions and other complex litigation, and have been diligently investigating and litigating this case for nearly three years. Plaintiffs’ counsel have adequately represented the interests of the class.

5. Ascertainability

A plaintiff seeking certification under Rule 23 should show by a preponderance of the evidence that the class is ascertainable. *Hayes v. Wal-Mart Stores, Inc.*, 725 F.3d 349, 354 (3d Cir. 2013). This means proving (1) the class is “defined with reference to objective criteria;” and (2) there is “a reliable and administratively feasible mechanism for determining whether putative class

members fall within the class definition.” *Id.* at 355. Plaintiffs need simply show that “class members *can* be identified.” *McRobie v. Credit Prot. Ass’n*, 2019 WL 1469097, at *6 (E.D. Pa. Apr. 3, 2019).

In environmental cases, courts have certified classes defined according to geographic areas impacted by contamination. *E.g. Bentley v. Honeywell*, 223 F.R.D. 471, 477 (S.D. Oh. 2004) (class defined as “persons who own or reside in residential property in the area overlying the commingled groundwater plume”); *Stoll v. Kraft Foods Global, Inc.*, 2010 WL 3613828 (S.D. Ind.) (class boundaries depicted on a map); *Boggs v. Divested Atomic Corp.*, 141 F.R.D. 58 (S.D. Ohio 1991) (court certified class defined as properties within a six mile radius, noting the class definition is subject to refinement based upon further development of the record, and can be expanded or contracted if the facts so warrant,” requiring only that there “be some evidence at [the certification] stage of the case that plaintiffs’ definition is reasonable”).

Here, the two Areas within Plaintiffs’ class definition are appropriate because they include within their respective boundaries the persons and properties impacted by Defendants’ alleged contamination and pollution.

B. Class Certification is appropriate under Rule 23(b)(3)

Plaintiffs have pled that class certification is appropriate here under Superior Court Rule 23(b)(3). Class treatment under Rule 23(b)(3) is appropriate where “the

questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.”

The two requirements, “predominance” and “superiority,” ensure that the class will be certified when it would “achieve economies of time, effort, and expense, and promote ... uniformity of decision as to persons similarly situated, without sacrificing procedural fairness or bringing about other undesirable results.” *Amchem Products, Inc. v. Windsor*, 521 U.S. 591, 615 (1997).

a. Common issues predominate over individualized issues.

The predominance requirement is met if “resolution of some of the legal or factual questions that qualify each class member’s case as a genuine controversy can be achieved through generalized proof, and if these particular issues are more substantial than the issues subject only to individualized proof.” *Moore v. PaineWebber, Inc.*, 306 F.3d 1247, 1252 (2d Cir. 2002) (citations omitted). “If there are genuinely common issues ... identical across all the claimants, issues moreover the accuracy of which is unlikely to be advanced by repeated proceedings, then it makes good sense, especially when the class is large, to resolve these issues in one fell-swoop while leaving the remaining, claimant-specific issues to individual follow-on proceedings.” *In re Methyl Tertiary Butyl Ether (MTBE) Products Liability Litig.*, 241 F.R.D. 435, 448 (S.D.N.Y.2007). Here, there are many common

issues of fact and law shared among all Plaintiffs. These factual issues include, but are not limited to, determinations of each Defendant's liability under each cause of action alleged by Plaintiffs, and their compliance with regulations and permits over time. Moreover, most individualized questions (such as causation, duration and intensity of exposure, and injury/damage) will be deferred to the Claims Adjudicator, and therefore the legal and factual issues involved for approval of the Settlement Agreement are predominately common issues.

b. *Superiority*

Under Rule 23, Plaintiffs must also show that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. A class action is superior where “class-wide litigation of common issues will reduce litigation costs and promote greater [judicial] efficiency.” *Valentino v. Carter-Wallace*, 97 F.3d 1227, 1234 (9th Cir.1996). Relitigation or repetitive discovery of the same core issues would be grossly inefficient and wasteful of the resources of the parties and the courts.”). Additionally, concerns about the manageability of a litigation class are not implicated by the proposed settlement class. Here, a class action settlement is plainly a superior means to resolve this matter as opposed to individualized litigation of individual issues.

VI. Fees and Expenses of Class Counsel

Plaintiffs' Counsel will file a Petition for legal fees and reimbursement of costs and expenses prior to the date of the Fairness Hearing. In this litigation, Plaintiffs' Counsel intends to request a legal fee of no more than 25%, and reimbursement of costs and expenses of up to \$2.5 million, from the \$65 million settlement fund.

VII. Conclusion

WHEREFORE, the parties respectfully request that the Court enter the attached Proposed Order which includes the following relief:

- A. Stay all proceedings in this action pending final disposition of the Settlement Agreement or any interim termination of the Settlement Agreement, except as to proceedings relating to the Settlement Agreement;
- B. Review the proposed Settlement Agreement and preliminarily approve it as being fair, reasonable, and adequate, entered into in good faith after arms' length negotiations between the parties;
- C. Preliminarily certify the class described at Section III.B, *supra*, for purposes of the Settlement Agreement;

- D. Preliminarily appoint Plaintiffs' Counsel as class counsel, and Gary Cuppels, Anna Marie Cuppels, Michael Harding, Anne Harding, Larry Miller, Ronald Tolson, and Patricia Tolson as Class Representatives.
- E. Designate RG/2 Claims Administration LLC as Claims Administrator;
- F. Approve the forms of Notice to the Class Members that includes deadlines for Class Members who wish to be excluded from or who object to the Settlement Agreement and order its dissemination to class members as provided in the Notice Plan.
- G. Authorize the scheduling of a Fairness Hearing at which class certification and the final approval of the proposed Settlement Agreement will be considered and, if appropriate, approved; and that the Court establish any other deadlines for the filing of any motions, objections, or other papers related to the proposed Settlement Agreement prior to the hearing date;
- H. That the Court set a Bar Date after which class members will be prohibited from asserting a claim for a portion of the settlement fund; and
- I. Clarify the identities of the Class Representatives and deem the Second Amended Complaint amended to conform with these changes.

Attorneys for Gary and Anna-Marie Cuppels and those similarly situated:

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Date: December 23, 2020

EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



Exhibit A

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS,)	
Individually and on behalf of all others)	
similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No.: S18C-06-009 CAK
)	
MOUNTAIRE CORPORATION, an)	
Arkansas corporation, MOUNTAIRE)	
F FARMS INC., a Delaware corporation,)	
MOUNTAIRE FARMS OF)	
DELAWARE, INC., a Delaware)	
Corporation,)	
)	
Defendants.)	

CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class Action Settlement Agreement and Release (“Agreement”) is made and entered into by and between Gary and Anna-Marie Cuppels, Larry Miller, individually and as Personal Representative of the Estate of Barbara Miller, Michael and Anne Harding, and Ronald and Patricia Tolson (collectively, “Class Representatives”), as individuals (and, in the case of Larry Miller, also as Personal Representative of the Estate of Barbara Miller) and on behalf of all others similarly situated (collectively with the Class Representatives, “Plaintiffs”), and Defendants Mountaire Corporation (“MC”), Mountaire Farms Inc. (“MFI”), and Mountaire Farms of Delaware, Inc. (“MFODI”) (collectively, “Defendants”) (collectively

with Plaintiffs, the “Parties”) and will be submitted to the Court for approval pursuant to Delaware Superior Court Rule of Civil Procedure 23(e).

RECITALS

WHEREAS, Plaintiffs filed a Class Action Complaint and two amended class action complaints in this matter captioned *Cuppels, et al. v. Mountaire Corporation, et al.*, C.A. No.: S18C-06-009 CAK (the “Action”) alleging various claims against Defendants for personal injuries, property damages, remediation, and other damages and relief related to alleged environmental contamination at or emanating from MFODI’s Millsboro, Delaware poultry processing facility, including its poultry processing plant, spray irrigation fields, land application fields, and related property on and nearby Route 24 east of Millsboro, Delaware (the “Facility”);

WHEREAS, the presently operative claims are contained in the Second Amended Class Action Complaint, filed by Plaintiffs on June 29, 2020;

WHEREAS, Plaintiffs moved the Court to certify a class action comprised of two classes of Plaintiffs for purposes of this Action over the opposition of Defendants, a groundwater class and an air class;

WHEREAS, Plaintiffs’ motion for class certification, and Defendants’ opposition, are pending before the Court;

WHEREAS, the Parties have engaged in extensive motion practice and discovery in this Action;

WHEREAS, Defendants have denied all liability with respect to all claims in this Action, including the assertion that this Action should be certified as a class action;

WHEREAS, Plaintiffs and Defendants now seek to resolve the Plaintiffs' claims that are raised in or could have been raised in this Action as further provided herein, and they have agreed to the terms of this Agreement;

WHEREAS, the State of Delaware Department of Natural Resources and Environmental Control ("DNREC") filed a complaint against MFODI on June 4, 2018 in the U.S. District Court for the District of Delaware ("District Court") captioned *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, Case No. 18-00838-MN-JLH (D. Del.) (the "District Court Case") for alleged violations related to operations at the Facility and environmental contamination at or emanating from the Facility;

WHEREAS, Gary and Anna-Marie Cuppels, in their capacities as proposed intervenors ("Intervenors"), moved to intervene in the District Court Case on June 29, 2018, and were granted intervention by the District Court on March 25, 2019;

WHEREAS, DNREC and MFODI lodged a proposed consent decree with the District Court on December 16, 2019, and subsequently lodged the First

Amended Agreement and [Proposed] Consent Decree (“First Amended Consent Decree”) on May 29, 2020, which Intervenors oppose;

WHEREAS, the Intervenors in the District Court case have also filed a motion for a preliminary injunction against MFODI, which is currently held in abeyance, and lodged a proposed complaint in intervention alleging various claims under federal law against MFODI;

WHEREAS, the Intervenors in the District Court Case have agreed to resolve their claims against MFODI in the District Court Case in a separate settlement in that case, including requirements for MFODI to conduct additional remedial measures beyond those required by the First Amended Consent Decree and a payment to Intervenors’ counsel (the same as Plaintiffs’ Counsel here) for their attorneys’ fees, costs, and expenses in the District Court Case; and

WHEREAS, the Parties agree that this Agreement has been negotiated at arms’ length and in good faith, and that settlement will avoid the expense, inconvenience, and uncertainty of continued litigation.

NOW, THEREFORE, IT IS AGREED by the undersigned on behalf of the Plaintiffs and Defendants, that the Action be settled and dismissed with prejudice in regards to all of Plaintiffs’ claims and requests for relief as set forth herein, subject to Court approval under Delaware Superior Court Rule of Civil Procedure 23, on the following terms and conditions:

DEFINITIONS

1. The following definitions are applicable to this Agreement.

Definitions contained elsewhere in this Agreement shall also be effective.

2. “Action” has the meaning set forth in the Recitals.

3. “Agreement” means this Class Action Settlement Agreement and

Release and all exhibits hereto.

4. “Attorneys’ Fees” mean all fees for services, exclusive of Costs and Expenses, that Plaintiffs’ counsel claim or could claim they are entitled to in connection with their investigation into, development of, litigation of, and settlement of this Action. For purposes of this Agreement, Attorney’s Fees shall not include any fees in connection with the District Court Case.

5. “Bar Date” means the deadline by which Class Members must register to participate in the claims process pursuant to this Agreement.

6. “Claims Adjudicator” means the third party or parties selected by the Plaintiffs and approved by the Court to adjudicate the claims made by the Participating Class Members.

7. “Claims Administrator” means the third party selected by the Plaintiffs, consented to by the Defendants, and approved by the Court to administer the QSF (as defined in Paragraph 37) and the claims process in accordance with this Agreement.

8. “Class Members” means those Persons who are part of the Settlement Class, and “Class Member” means any one such Person.

9. “Class Period” means May 1, 2000 to the date of the Court’s Preliminary Approval.

10. “Class Representatives” mean Gary and Anna-Marie Cuppels (except to the extent they are acting in their capacity as Intervenors in the District Court Case), Larry Miller, individually and as Personal Representative of the Estate of Barbara Miller, Michael and Anne Harding, and Ronald and Patricia Tolson.

11. “Conciliatory Agreement” means the agreement by and between DNREC, MFI and MFODI dated December 13, 2019.

12. “Costs and Expenses” mean any and all costs and expenses (including but not limited to costs and expenses for filing fees, court reporters, expert witnesses, consultants, litigation support, environmental sampling and analysis, supplies, travel, salaries, overhead, and incidentals) incurred by Plaintiffs or Plaintiffs’ counsel in connection with the investigation into, development of, litigation of, settlement of this Action, and implementation of this Agreement. Cost and Expenses shall not include any costs and expenses in connection with the District Court Case.

13. “Court” means the Superior Court of the State of Delaware.

14. “Date of Final Approval” means the later of the date of the Court’s final approval of this Agreement, the date of the expiration of the time for filing appeals (if no appeals are filed), and, should any appeals be filed, the date on which any and all appeals have been resolved in favor of upholding the final approval of the Agreement, including the running of the time for reconsideration or further appeals of that favorable resolution.

15. “Day” means a calendar day unless expressly stated otherwise.

16. “Defendants” mean MC, MFI, and MFODI, and “Defendant” means any one of them.

17. “District Court” has the meaning set forth in the Recitals.

18. “District Court Case” has the meaning set forth in the Recitals.

19. “DNREC” means the Delaware Department of Natural Resources and Environmental Control.

20. “Effective Date” has the meaning provided in Paragraph 80.

21. “Facility” has the meaning set forth in the Recitals.

22. “Final Approval” means a Court order, written or verbal, granting final approval of this Agreement under Delaware Rule of Civil Procedure 23.

23. “Final Approval Hearing” means the hearing, also known as a fairness hearing, at which the Court will consider the Parties’ motion for final approval of this Agreement and will hear any objections to this Agreement.

24. “First Amended Consent Decree” means the First Amended Agreement and [Proposed] Consent Decree lodged with the District Court in the District Court Case on May 29, 2020. The First Amended Consent Decree shall be construed to include any successor consent decree agreed to by all parties in the District Court Case should the District Court Judge not approve the First Amended Consent Decree.

25. “Intervenors” has the meaning set forth in the Recitals.

26. “MC” means Mountaire Corporation.

27. “MFI” means Mountaire Farms Inc.

28. “MFODI” means Mountaire Farms of Delaware, Inc.

29. “Notice of Objection” means a Class Member’s valid and timely written objection to this Agreement.

30. “Notice” means the Notice to be provided to all Class Members as described in Paragraph 55 and attached hereto as **Exhibit B**.

31. “Participating Class Members” means Class Representatives and all Class Members who do not submit a timely and valid Request for Exclusion on or prior to the Response Deadline.

32. “Parties” means Plaintiffs and Defendants, and a “Party” means any Plaintiff or Defendant.

33. “Person” means any individual or legal entity.

34. "Plaintiffs" means the Class Representatives as individuals (and, in the case of Larry Miller, also as Personal Representative of the Estate of Barbara Miller) and all others similarly situated as alleged in the Second Amended Complaint and shall be construed to include the Settlement Class.

35. "Plaintiffs' counsel" means Baird Mandalas Brockstedt, LLC and Schochor, Federico and Staton, P.A.

36. "Preliminary Approval" means a Court order, written or verbal, granting preliminary approval of this Agreement pursuant to a Motion for Preliminary Approval.

37. "Qualified Settlement Fund" or "QSF" means a fund established for the benefit of the Settlement Class as described in Paragraphs 48-50.

38. "Released Claims" means all allegations and claims of any kind, known or unknown, whether pursuant to federal, state, or local statutory law, common law, regulations, or other law that Plaintiffs made or could have made against any Releasee that arose, directly or indirectly, from or relate to (a) the matters alleged or that could have been alleged in the Action; (b) matters alleged or that could have been alleged in the District Court Case; (c) matters alleged or that could have been alleged in connection with any challenge to the Conciliatory Agreement; (d) matters alleged or that could have been alleged in *Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of*

Delaware, Inc., C.A. No. S18M-06-002-RFS (Del. Sup. Ct.); (f) Attorneys' Fees and Costs and Expenses; and (g) any other matters related to operation of, permitting of, or any alleged emissions, spills, and deposits of waste of any kind from or at the Facility or environmental contamination of any kind (including but not limited to wastewater, sludge and/or other biosolids, groundwater, surface water, and air emissions or odors) at or released from the Facility.

39. "Releasees" means Defendants, their successors, assigns, parent, subsidiaries, and affiliates, as well as each of their respective employees, representatives, officers, directors, shareholders, owners, agents, and attorneys, and "Releasee" means any one of the above.

40. "Request for Exclusion" means a timely and valid letter submitted by a Class Member indicating a request to be excluded (i.e., to opt-out) from the Agreement.

41. "Response Deadline" means the deadline by which Class Members must postmark or otherwise submit Requests for Exclusion or Notices of Objection.

42. "Settlement Amount" means the total amount of \$65.0 million dollars, inclusive of all Attorneys' Fees, Costs and Expenses, pre- and post-judgment interest, and any other expenses incurred, or to be incurred, by Plaintiffs, Plaintiffs'

counsel, the QSF, the Claims Administrator, and Claims Adjudicator, and claims of any other kind related to the Action.

43. “Settlement Class” shall have the meaning set forth in Paragraph 44.

SETTLEMENT CLASS

44. Definition of the Settlement Class. The Parties shall propose the following Settlement Class: “All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit A**, and not the Air Area, which is bounded by the dashed red line on **Exhibit A**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.”

45. Exclusions from the Settlement Class. The following are excluded from the Settlement Class: (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims

made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.

46. Effect of Agreement to Settlement Class Certification. The Parties agree that certification of the Settlement Class is for settlement purposes only. Should the Court fail to grant Preliminary Approval or Final Approval of the Settlement Class, or, should any Preliminary Approval or Final Approval be reversed on appeal, the Parties' agreement herein to class certification shall immediately be revoked without any further action needed. The Parties agree that their stipulation and agreement to class certification for purposes of this Agreement shall not be admissible in, or considered in connection with, the issue of whether a class should be certified in a contested or other non-settlement context in this Action, in the District Court Case, or in any other matter filed or to be filed. Plaintiffs furthermore expressly waive the right to argue that Defendants have waived, forfeited, or are otherwise estopped or precluded from opposing class certification based on any statements made in connection with this Agreement.

PRELIMINARY APPROVAL

47. Motion for Preliminary Approval. No later than 7 days after the Effective Date of this Agreement, Plaintiffs shall file with the Court a Joint Motion for Preliminary Approval which shall seek entry of an order that would, for settlement purposes only: (a) preliminarily certify the Settlement Class under

Delaware Superior Court Rule of Civil Procedure 23, (b) preliminarily approve this Agreement as fair, reasonable, and adequate, (c) approve the Notice, as described in Paragraph 55 and attached hereto as **Exhibit B**, and (d) seek other relief as agreed by the Parties. Defendants shall join the Motion for Preliminary Approval for settlement purposes only but, in doing so Defendants do not make any admission of fact, law, or liability.

QUALIFIED SETTLEMENT FUND

48. Establishment and Funding of QSF. The Parties shall establish a Qualified Settlement Fund (“QSF”) consistent with the Internal Revenue Code and applicable regulations at a bank determined by the Claims Administrator. Defendants shall fund the QSF in two installments: Defendants shall pay \$55.0 million into an escrow account (“Escrow Account”) pursuant to the escrow agreement (“Escrow Agreement,” as defined further below) by December 31, 2020 to be paid to the QSF as provided herein, and Defendants shall pay the remaining \$10.0 million to the QSF by December 31, 2021 (collectively, the “Settlement Amount”). (In the event that, by the time the second installment is due to be paid, the first installment has not yet been released from the Escrow Account pursuant to the terms of Paragraph 49 and pursuant to the Escrow Agreement, the second installment shall also be paid to the escrow account.) The Parties agree that Defendants shall have no obligation to make any other payments of any kind to

any Party or any Person other than payment of the Settlement Amount pursuant to this Agreement.

49. Terms of the Escrow Agreement. The terms of the Escrow Agreement shall provide that the Escrow Account shall be released to the QSF within 3 business days after the later of (a) the Date of Final Approval of the Agreement and (b) the date the District Court approves and enters the First Amended Consent Decree. (Until such time, the Escrow Account may be used to pay the costs and expense of the Claim Administrator, the Claim Adjudicator, and the financial institution at which the funds are held on deposit). The Escrow Agreement shall provide that all Escrow Account shall revert to Defendants in the event that (i) the Court does not approve this Agreement or (ii) the District Court does not approve the First Amended Consent Decree. The Escrow Account shall be established pursuant to an Escrow Agreement in substantially the form provided in **Exhibit C**.

50. Approval of the QSF. The Parties agree to seek Court approval for use of a QSF by separate motion. The Parties shall work in good faith to seek and obtain Court approval for the QSF. Should the Court not approve the QSF, the Parties shall confer in good faith in an effort to address the Court's concerns and to promptly seek approval for an amended QSF. No funds may be released to the Claims Administrator for the purpose of making payments to Plaintiffs or

Plaintiffs' Counsel prior to the Court's approval of the QSF and as otherwise provided in the Escrow Agreement.

51. Settlement Amount Not Considered Punitive Damages. The Parties agree that no amount of the Settlement Amount shall be considered punitive damages.

52. Claims Administrator. The Parties agree that the QSF shall be administered by the Claims Administrator selected by Plaintiffs, agreed to by Defendants, and approved by the Court.

ATTORNEYS' FEES AND COSTS AND EXPENSES

53. Attorneys' Fees and Costs and Expenses. The Parties agree that Plaintiffs' Counsel may seek Court approval for: (a) the payment of Attorneys' Fees in an amount of up to 25% of the Settlement Amount; and (b) Costs and Expenses not to exceed \$2.5 million. The Parties agree that the requested Attorneys' Fees and Costs and Expenses shall not include the payment of fees for, or the reimbursement of costs and expenses incurred in, the District Court Case. The Parties agree that Attorneys' Fees and Costs and Expenses approved by the Court shall be paid solely from the QSF. Defendants shall not oppose Plaintiffs' Counsel's application for Attorneys' Fees and Costs and Expenses to the extent they are within the limitations in this Paragraph. Should Plaintiffs' Counsel be awarded more than 25% of the Settlement Amount in Attorneys' Fees and/or Costs

and Expenses of more than \$2.5 million, Plaintiffs' Counsel shall refund the amount over 25% of the Settlement Amount in Attorneys' Fees and/or over \$2.5 million in Costs and Expenses, awarded and received as applicable, to the QSF for the benefit of the Settlement Class. The Claims Administrator or Defendants may enforce this provision and shall be held harmless by Plaintiffs' Counsel from any costs or fees in doing so.

54. Timing. Defendants agree that Plaintiffs' Counsel may seek their Attorneys' Fees and Costs and Expenses from the first installment of \$55.0 million, subject to approval of their application for Attorneys' Fees and Costs and Expenses by the Superior Court; provided that no such Attorneys' Fees and Costs and Expenses shall be paid until the QSF has both been approved by the Court and funds are permitted to be released from the QSF pursuant to Paragraph 49 and pursuant to the Escrow Agreement.

CLASS NOTICE AND DEADLINES

55. Notice to Class Members. As soon as practicable after Preliminary Approval, the Claims Administrator will provide Notice, as described in Paragraph 56, in accordance with the Notice Plan attached hereto as **Exhibit D**.

56. Contents of Notice. All known Class Members shall be mailed a Notice in substantially the form provided in **Exhibit B**, subject to Court approval. Such Notice includes, among other information: (a) information regarding the

nature of the Action; (b) a summary of the Agreement's principal terms; (c) the Settlement Class definition; (d) a general description of the claims adjudication and allocation process; (e) the dates that constitute the Class Period; (f) instructions on how to submit Requests for Exclusion or Notices of Objection; (g) the Response Deadline by which the Class Member must postmark or submit electronically Requests for Exclusion or Notices of Objections; (h) the claims to be released, (i) the date of the Final Approval Hearing; and (j) a description of the District Court Case, including that the settlement therein includes attorneys' fees, costs, and expenses in that case.

57. Request for Exclusion. Any Class Member wishing to opt out from the Agreement, other than Class Representatives, must sign and postmark or submit electronically a written Request for Exclusion to the Claims Administrator within the Response Deadline. In the case of Requests for Exclusion that are mailed to the Claims Administrator, the postmark date will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. In the case of Requests for Exclusion that are submitted electronically, the electronic time stamp (i.e., date and time received) on the electronic mail, as received by the Claims Administrator, shall be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Request for Exclusion whose timeliness cannot be ascertained shall be considered untimely. Class Members

who fail to submit a timely Request for Exclusion shall be considered Participating Class Members and shall be deemed to have waived all rights to opt out of the Agreement and shall be foreclosed from pursuing separate claims against the Defendants in this Action or any other proceeding. The Class Representatives agree that they shall not make a Request for Exclusion.

58. Time and Method of Filing Notice of Objection. To object to the Agreement, a Class Member must postmark a Notice of Objection to the following three addresses on or before the Response Deadline:

CLERK OF THE COURT	PLAINTIFFS' COUNSEL	DEFENDANTS' COUNSEL
Superior Court, Sussex County RE: Mountaire Class Action Sussex County Courthouse 1 The Circle, Suite 2 Georgetown, DE 19947	Chase Brockstedt, Esq. Re: Mountaire Class Action Baird Mandalas Brockstedt, LLC 1413 Savannah Rd, Suite 1 Lewes, DE 19958	Michael W. Teichman, Esq. Re: Mountaire Class Action Parkowski, Guerke & Swayze, P.A. 1105 N. Market Street, 19th Fl Wilmington, DE 19801

The Notice of Objection must be signed by the Class Member and state the reasons for the objection. In the case of Notices of Objection that are mailed to the Claims Administrator, the postmark date shall be the exclusive means to determine whether a Notice of Objection has been timely submitted. A Notice of Objection whose timeliness cannot be ascertained shall be considered untimely. Class Members who fail to submit a timely Notice of Objection in the manner specified above shall be deemed to have waived all objections to the Agreement and will be

foreclosed from making any objections, whether by appeal or otherwise, to the Agreement. Class Members who timely submit Notices of Objection shall have a right to appear at the Final Approval Hearing in the manner prescribed by the Court in order to have their objections heard by the Court. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to submit written objections to the Agreement or appeal from the Final Approval of the Agreement.

59. Notice of Objection. Any objection to the Agreement, including any of its terms or provisions, by a purported Class Member must set forth the following: (a) the Objector's full name, (b) the Objector's mailing address and place of residence, if different, (c) proof that the Objector is a Class Member (which may be satisfied by the Objector's address being within the Groundwater Area, the Air Area, or both), (d) the grounds for the objections and any documents supporting those objections, (e) whether the Objector is represented by separate legal counsel, and (f) whether the Objector or his/her counsel intends to appear before the Court at the Final Approval Hearing in the manner prescribed by the Court.

60. Reports Regarding Requests for Exclusion. The Claims Administrator shall provide the Parties' counsel with a weekly report regarding the number of Class Members who have submitted valid Requests for Exclusion. The Claims

Administrator shall provide the Parties' counsel a final report within 7 days after the Response Deadline.

61. Bar Date for Registration. The Notice shall provide a Bar Date by which Class Members who wish to participate in the claims process must register; provided that some of the Settlement Amount shall be segregated for Class Members who, in the sole discretion of the Claims Adjudicator, are determined to have good cause for late registration.

62. Defendants' Right to Renegotiate or Withdraw. (a) If the Claims Administrator reports that more than 5% of all Class Members or more than 5% of solely Class Members for the Groundwater Area filed timely Requests for Exclusion, at Defendants' sole election the Parties shall meet and confer in good faith to discuss whether changes could be made to the Agreement to reduce the number of opt-outs, to enter into an amended Agreement including any agreed changes, and to seek Court approval of such amended Agreement in a superseding Motion for Preliminary Approval. If the Parties are unable to reach agreement among themselves, they shall seek the assistance of a mediator or the Court. If the Parties are still not able to reach agreement, at Defendants' sole election the Parties shall jointly move to withdraw the Agreement. (b) If the Claims Administrator reports that more than 10% of all Class Members or more than 10% of solely Class Members for the Groundwater Area filed timely Requests for Exclusion, at

Defendants' sole election the Parties shall jointly move to withdraw the Agreement. The Parties agree to seek a date for the Final Approval Hearing at least 21 days after the deadline for Requests for Exclusion so that they have time to meet the requirements of this Paragraph. They also agree to work in good faith to seek additional time from the Court to meet the requirements of this Paragraph.

CLAIMS PROCESS

63. Individual Settlement Payment Adjudications. The Parties agree that the payments to qualifying Participating Class Members shall be determined by the Claims Adjudicator. The claims process shall include consideration of all of the Participating Class Members' claims for damages, including but not limited to personal injuries for air and/or groundwater exposure, property damages, , nuisance, negligence, gross negligence, recklessness, negligence per se, trespass, unjust enrichment, medical monitoring, wrongful death, and survival. For the Participating Class Members in the Groundwater Area, the claims process shall consider past and future out-of-pocket expenses for water testing and alternative water supplies or treatment systems.

64. Claims Administration and Adjudication Costs. All administrative costs for the administration and allocation of the QSF, including but not limited to the cost of the QSF, the Claims Administrator, the Claims Adjudicator, and any court-approved administrators, trustees, allocators, or other personnel and the costs

of providing notices to, and other communications with, the Settlement Class as described below, shall be paid from the QSF. Plaintiffs will not seek any further fees, costs, or other expenses from Defendants, and Defendants shall have no responsibility or liability for the administration or costs of the QSF or to provide any further funding to the QSF.

65. Any and All Other Costs. The Parties agree that each Party will bear any other fees, costs, or other expenses associated with this Action and the execution of this Agreement that they have incurred or may incur.

66. Agreement Binds All Participating Class Members. Any Class Member who does not affirmatively opt out of the Settlement Class by submitting a timely and valid Request for Exclusion pursuant to Paragraph 57 shall be bound by all of the terms of this Agreement, including those pertaining to the Released Claims, as well as any judgment that may be entered by the Court if it grants Final Approval.

67. Medicare Addendum and Liens. Any Participating Class Member who is a Medicare recipient or who is Medicare eligible and who receives compensation for personal injury damages pursuant to the claims process pursuant to this Agreement shall be required to execute a Medicare Addendum in substantially the form set forth in **Exhibit E**. Such Participating Class Member shall be responsible for any liens or reimbursement rights by any hospital,

ambulance service, or other medical provider, Medicare, Medicaid, insurance company, or attorney enforceable against the proceeds of this settlement or against the Releasees, their insurers or the persons, firms, or corporations making the payment herein. If such a lien or reimbursement right is asserted against the proceeds herein or against Releasees, their insurers, or any person, firm, or corporation making payment herein, then, in consideration of the damages payment made such Participating Class Member covenants: (i) to obtain such asserted lien or reimbursement right; (ii) to pay and satisfy, including on a compromise basis, such asserted lien or reimbursement right; and (iii) to obtain a written release of Releasee, their insurers, and the persons, firms or corporations making the damages payment herein or, alternatively, agree to indemnify and hold harmless said parties from any costs, expenses, attorney's fees, claims, actions, judgments, or settlements resulting from the assertion or enforcement of such lien or reimbursement right by any entity having such lien or reimbursement right.

Any Participating Class Member who receives compensation for personal injury damages pursuant to the claims process pursuant to this Agreement but does not execute the Medicare Addendum in substantially the form set forth in Exhibit E, represents that such Participating Class Member is not a Medicare recipient and/or is not Medicare eligible.

68. Alternative Approach. As an alternative to Paragraph 67 and the Medicare Addendum, the Parties may agree upon an alternative approach, such as the use of a lien resolution administrator that is responsible for (a) identifying all potential Medicare liens for each Participating Class Member, (b) causing lienholders to be reimbursed for any injury-related medical expenses paid in connection with the events underlying the Released Claims; and (c) ensuring that all liens are fully and finally released before settlement funds are disbursed to Participating Class Members. If the Parties have so agreed prior to the conclusion of the claims process pursuant to the Plan of Allocation, the alternative shall be used in lieu of Paragraph 67 and the Medicare Addendum.

69. Cooperation Regarding Liens. Each Participating Class Member agrees to cooperate fully in identifying liens applicable to that Participating Class Member, or resolving any claims for reimbursement associated with lien applicable to the Participating Class Member. In connection with this obligation, each Participating Class Member agrees to execute any supplemental documents or correspondence, provide any additional information, and to take all additional actions that may be necessary or appropriate to identify or resolve a lien.

70. No Set Aside Required. The parties recognize that Medicare is a secondary payor and do not intend to shift to Medicare the burden of paying for the past and/or future medical care allegedly caused by the actions of Defendants.

This Agreement is based upon a good faith resolution of a disputed claim. The Parties made every reasonable effort to adequately protect Medicare's interest and incorporate such into the settlement terms and to comply with both federal and state law. The future medical needs of the Participating Class Members and their Medicare status shall be considered by the Claims Adjudicator. Based upon these considerations, the Parties have concluded that no set aside or similar arrangement should be established.

71. Administration of Taxes. The Claims Administrator shall be responsible for issuing to Plaintiffs, Participating Class Members, and Plaintiffs' Counsel IRS Forms 1099-MISC or any other tax forms as may be required by law for all amounts paid pursuant to this Agreement.

72. Tax Liability. Defendants make no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiffs and Participating Class Members are not relying on any statement, representation, or calculation by Defendants or by the Claims Administrator in this regard.

73. Unredeemed Individual Settlement Payment Checks. Individual Settlement Payment checks returned as undeliverable or remaining unredeemed for more than 180 days after issuance shall be allocated to Participating Class Members at the discretion of the Claims Adjudicator.

FINAL APPROVAL

74. Final Approval Hearing and Final Approval. The Notice shall provide the date for the Final Approval Hearing. Plaintiffs' Counsel shall be responsible for drafting all documents and making all arrangements required by the Court that are necessary to obtain Final Approval, subject to an opportunity for Defendants to review and revise such documents, to the extent such documents are to be filed jointly or by consent. Plaintiffs' Counsel shall also be responsible for drafting the Attorneys' Fees and Costs and Expenses application to be heard by the Court.

75. Continued Jurisdiction. Upon Final Approval, the Court shall retain continuing jurisdiction solely for purposes of addressing (a) the interpretation and enforcement of the terms of the Agreement, (b) administrative matters, and (c) such other matters as may be appropriate under Court rules or as set forth in this Agreement. Provided, however, that there shall be no right to review of decisions of the Claims Adjudicator by this Court.

76. Certificate of Completion. Upon completion of the administration of the QSF, the Claims Administrator shall provide a written declaration under oath to certify such completion to the Court and to counsel for all Parties.

RELEASE AND OTHER OBLIGATIONS

77. Release. In consideration of and in exchange for the terms and conditions of this Agreement, and upon the release of the escrow funds as provided

in Paragraph 49 and pursuant to the escrow agreement, the Participating Class Members fully and forever release the Releasees from the Released Claims. With respect to the Released Claims, the Participating Class Members expressly waive all rights they may have with respect to the subject matter of the Released Claims.

78. Additional Covenants. (a) In the event that the District Court has not yet entered the First Amended Consent Decree, Participating Class Members (other than Intervenors who are bound by a separate agreement), shall not oppose entry of the First Amended Consent Decree in the District Court Case; (b) Participating Class Members shall not oppose any existing permitting or other proceeding related to implementation of and consistent with the terms of the First Amended Consent Decree; (c) Participating Class Members shall not raise any other claims against any Releasee to the same extent that DNREC would be barred from raising such claims against MFODI pursuant to Article XIII of the First Amended Consent Decree; (d) Participating Class Member (other than Intervenors who are bound by a separate agreement) shall not challenge the Conciliatory Agreement with DNREC; and (e) Participating Class Members shall withdraw any other pending challenges or objections in any other proceeding that are related to this matter or the First Amended Consent Decree. MFODI agrees to comply with the substance of the First Amended Consent Decree and the Conciliatory Agreement and to cooperate with DNREC in the satisfaction of its obligations under the same.

Participating Class Members reserve their rights to seek to enforce the First Amended Consent Decree in the event of a substantial and material breach of Defendant's obligations thereunder. Class Representatives further agree that, prior to Final Approval, they will not take any actions against any Releasee that would be inconsistent with these Additional Covenants.

TERMINATION

79. Termination of Agreement. In the event that (a) the Court does not order Final Approval of the Agreement (b) Final Approval is not upheld on appeal, if any appeals are filed, (c) Defendants seek to terminate the Agreement pursuant to Paragraph 62, or (d) the Agreement does not become final for any other reason, then this Agreement will be null and void. Any order or judgment entered by the Court in furtherance of this Agreement will likewise be treated as void from the beginning.

GENERAL TERMS AND CONDITIONS

80. Effective Date. This Agreement shall become effective once agreed to and executed by all Parties. The effective date of this Agreement shall be the date of the last signature below; provided, however, that the Agreement remains subject to the Preliminary Approval and Final Approval of the Court and the terms and conditions herein.

81. Bound by Agreement. The Parties agree that they intend this Agreement to be fully enforceable and binding on all Parties and that the Agreement shall be admissible and subject to disclosure in any proceeding to enforce its terms.

82. Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties.

83. Acknowledgement that Agreement is Fair and Reasonable. The Parties believe this Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Agreement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of the Agreement.

84. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Agreement only, except that (a) Plaintiffs or Plaintiffs' counsel may appeal any reduction to the Attorneys' Fees and Costs and Expenses below the amount they request from the Court but within the amount permitted by Paragraph 53, (b) any Party may appeal any Court order that materially alters the Agreement's terms, and (c) any Party may appeal any

decision not to approve the Agreement, in whole or part, or any other decision that is materially adverse to the Agreement and the Parties.

85. Cooperation. The Parties and their counsel shall cooperate with each other and use their best efforts to achieve the implementation of the Agreement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties may seek assistance of the Court to resolve such disagreement.

86. Public Statements Concerning the Agreement. Upon relief from the Court, the Parties intend to make a joint public statement concerning the Agreement.

87. No Effect on First Amended Consent Decree. Nothing in this Agreement shall, in any way, alter or effect MFODI's obligations under the First Amended Consent Decree.

88. Modification. No provision of this Agreement may be modified except by a subsequent writing signed by all of the Parties.

89. Entire Agreement. Except for the settlement in the District Court Case between Intervenors and MFODI, this Agreement contains the entire agreement between the Parties on this subject matter. Nothing in this Agreement shall be construed to alter, supersede, amend, or terminate any provision of any

other agreement, including but not limited to the settlement in the District Court Case.

90. Construction. Each of the Parties represents that it has been represented by counsel of its choice in the negotiation and drafting of this Agreement. Accordingly, this Agreement shall not be strictly construed against any Party on the ground that the rules for the construction of contracts requires resolution of any ambiguity against the party drafting the document. Each of the Parties further represents that its counsel has completely explained to it the terms of this Agreement, and that it fully understands and voluntarily accepts those terms.

91. Severability. If any provision of this Agreement is deemed invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

92. Assignment. The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged. This Agreement is not assignable.

93. No Admission. Neither this Agreement nor any of its provisions shall operate or be construed as an indication, inference, presumption, admission, or as evidence relative to any fact, issue of law, issue of liability, or any other matter on

the part of any of the Parties. Neither this Agreement nor any action taken pursuant to this Agreement shall be filed or offered or received in evidence in any action or proceeding except, and only to the extent necessary to enforce its terms.

94. Costs of Agreement. The Parties shall bear their own costs, expenses, attorneys' and paralegals' fees, consultants' fees, and other fees incurred in connection with the negotiation of, preparation of, execution of, and compliance with this Agreement.

95. Circumvention. The Parties shall not circumvent their obligations pursuant to this Agreement by seeking to have any third party take any action that the Parties themselves are prohibited from taking.

96. Persons Not Party to this Agreement. The Parties reserve all rights against persons and entities not Parties to this Agreement, and this Agreement shall not be deemed to create any rights whatsoever as a third-party beneficiary or otherwise in any person or entity that is not a Party other than Releasees.

97. Governing Law, Venue, and Jurisdiction. This Agreement shall be construed and interpreted in accordance with the laws of the Delaware without reference to its conflicts of law principles. The Parties agree that personal jurisdiction over them shall be proper and the exclusive venues for any action arising out of or related to this Agreement shall be in the Court.

98. Authority. The undersigned representatives of each of the Parties certifies that they are authorized to enter into this Agreement and to bind such Party to all of its terms and conditions.

99. Counterparts. This Agreement may be executed in any number of counterparts (whether by email, PDF, or original), each of which will be deemed to be an original and all of which together will constitute the same instrument.

In witness thereof, the Class Representatives on behalf of Plaintiffs and Defendants have executed this Agreement on the date following each signature below.

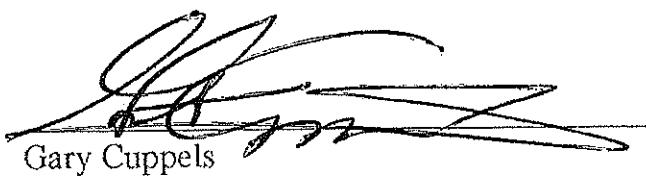
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CLASS SETTLEMENT AGREEMENT AND RELEASE IN *CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.*

AGREED TO FOR PLAINTIFFS:

12/22/20

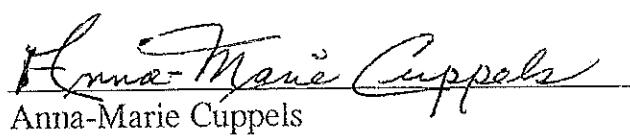
Date



Gary Cuppels

12/22/20

Date



Anna-Marie Cuppels

CLASS SETTLEMENT AGREEMENT AND RELEASE IN CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.

AGREED TO FOR PLAINTIFFS:

12/22/2020

Date

Ronald Tolson

Ronald Tolson

12/22/2020

Date

Patricia Tolson

Patricia Tolson

CLASS SETTLEMENT AGREEMENT AND RELEASE IN *CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.*

AGREED TO FOR PLAINTIFFS:

12-22-20
Date

Larry Miller
Larry Miller

12-22-20
Date

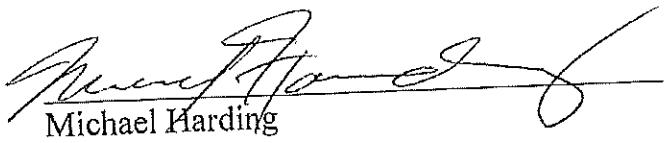
Larry Miller
Larry Miller, as Personal Representative for
The Estate of Barbara Miller

CLASS SETTLEMENT AGREEMENT AND RELEASE IN *CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.*

AGREED TO FOR PLAINTIFFS:

12-23-2020

Date


Michael Harding

12-23-2020

Date


Anne C. Harding

Counsel for Plaintiffs:

12-23-20



Date

Philip C. Federico

12-23-20



Date

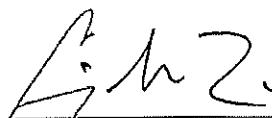
Chase T. Brockstedt

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE IN
*CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.***

AGREED TO FOR MOUNTAIRE CORPORATION:

12-23-20

Date

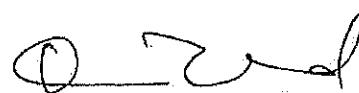


Name: Craig S. Lur
Title: CFO

AGREED TO FOR MOUNTAIRE FARMS INC.:

12-23-20

Date



Name: Kevin Garland
Title: CEO

AGREED TO FOR MOUNTAIRE FARMS OF DELAWARE, INC.:

12-23-20

Date



Name: Kevin Garland
Title: CEO

Counsel for Defendants:

Date

Michael W. Teichman

Date

Lisa C. McLaughlin

Date

Timothy K. Webster

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE IN
*CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.***

AGREED TO FOR MOUNTAIRE CORPORATION:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS INC.:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS OF DELAWARE, INC.:

Date

Name:

Title:

Counsel for Defendants:

12/23/2020

Date

Michael W. Teichman

Lisa C. McLaughlin

Date

Timothy K. Webster

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE IN
*CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.***

AGREED TO FOR MOUNTAIRE CORPORATION:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS INC.:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS OF DELAWARE, INC.:

Date

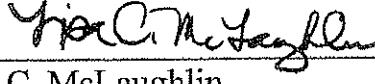
Name:

Title:

Counsel for Defendants:

Date

Michael W. Teichman

Date
Lisa C. McLaughlin

Date

Timothy K. Webster

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE IN
*CUPPELS, ET AL. V. MOUNTAIRE CORP., ET AL.***

AGREED TO FOR MOUNTAIRE CORPORATION:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS INC.:

Date

Name:

Title:

AGREED TO FOR MOUNTAIRE FARMS OF DELAWARE, INC.:

Date

Name:

Title:

Counsel for Defendants:

Date

Michael W. Teichman

Date

Lisa C. McLaughlin

Date
12/23/2020

Timothy K. Webster

Exhibit A

Settlement Class Map

(filed as Exhibit B to Joint Motion)

Exhibit B

Form of Notice

(filed as Exhibit G to Joint Motion)

Exhibit C

CONFIDENTIAL

ESCROW AGREEMENT

This Escrow Agreement dated December 23, 2020 is made by and among Mountaire Farms of Delaware, Inc. ("MFODI"), on behalf of itself, Mountaire Corporation, and Mountaire Farms Inc. (collectively, together with MFODI, "Defendants"), Gary and Anna-Marie Cuppels, Larry Miller, individually and as Personal Representative of the Estate of Barbara Miller, Michael and Anne Harding, and Ronald and Patricia Tolson ("Class Representatives") on behalf of themselves and other similarly situated (collectively, together with Class Representatives, "Plaintiffs"), through their counsel of record, Schochor, Federico and Staton, P.A., and Baird Mandala Brockstedt LLC ("Class Counsel"), The Huntington National Bank, as escrow agent ("Escrow Agent"), and upon deposit into the QSF (as hereinafter defined) RG/2 Claims Administration LLC ("Claims Administrator").

RECITALS

A. This Escrow Agreement governs the deposit, investment and disbursement of the settlement funds that, pursuant to the Class Action Settlement Agreement and Release (the "Settlement Agreement") dated December 23, 2020 attached hereto as Exhibit A, entered into by and among Plaintiffs and Defendants in the class action captioned *Cuppels, et al. v. Mountaire Corp., et al.*, No. S18C-06-009 (Sup. Ct.) (the "Superior Court Case") pending in the Superior Court of Delaware (the "Court").

B. Pursuant to the terms of the Settlement Agreement, Defendants shall pay or cause to be paid in cash the total amount of Sixty Five Million Dollars and no/100 (\$65,000,000.00), payable in two (2) separate installments in accordance with the terms of the Settlement Agreement and this Escrow Agreement, for all claims for damages and all other relief sought by Plaintiffs in the Second Amended Complaint and that could have been sought or awarded, including attorneys' fees, costs, and other expenses (construed broadly to include, but not be limited to, attorneys' fees, litigation expenses, pre- and/or post-judgment interest, and court costs) in the Superior Court Case and all other matters as described in the Settlement Agreement (the "Settlement Amount").

C. Also pursuant to the terms of the Settlement Agreement, Plaintiffs and Defendants agree to establish a Qualified Settlement Fund ("QSF") to hold the Settlement Amount. The QSF is subject to Court approval. Defendants are required to establish and fund an escrow account to receive the first installment of Fifty Five Million Dollars and no/100 (\$55,000,000.00) by December 31, 2020, in advance of the Court's consideration of the Settlement Agreement and the request to establish a QSF.

D. The disbursements contemplated by this Escrow Agreement are subject to the Superior Court Date of Final Approval of both the Settlement Agreement and a settlement class pursuant thereto under Del. Supr. Ct. R. 23(b) (the "Court Order") and the date the District Court approves and enters the First Amended Consent Decree in *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, Case No. 18-00838-MN-JLH (D. Del.) (the "District Court Case") (which for purposes hereof is construed to

include any successor consent decree agreed by all parties in the District Court matter should the District Court disapprove the First Amended Consent Decree).

E. Unless otherwise defined herein, all capitalized terms shall have the meaning ascribed to them in the Settlement Agreement. For reference throughout this Escrow Agreement, “Date of Final Approval” is defined in the Settlement Agreement and herein to mean the later of the date of the Court’s final approval of the Settlement Agreement, the date of the expiration of the time for filing appeals (if no appeals are filed), and, should any appeals be filed, the date on which any and all appeals have been resolved in favor of upholding the final approval of the Settlement Agreement, including the running of the time for reconsideration or further appeals of that favorable resolution.

AGREEMENT

1. Appointment of Escrow Agent. The Escrow Agent is hereby appointed to receive, deposit and disburse the Settlement Amount upon the terms and conditions provided in this Escrow Agreement, the Court Order, the Settlement Agreement and any other exhibits or schedules later annexed hereto and made a part hereof.

2. The Escrow Account. The Escrow Agent shall establish and maintain an escrow account titled as *Cuppels, et al. v. Mountaire Corp., et al.* Class Settlement Fund, No. S18C-06-009 (Del. Sup. Ct.) (the “Escrow Account”). In accordance with the Settlement Agreement, MFODI, on behalf of Defendants, shall cause the Settlement Amount to be deposited into the Escrow Account in up to two installments with the first installment deposited by December 31, 2020 in the amount of Fifty-Five Million Dollars and no/100 (\$55,000,000.00). The second installment of Ten Million Dollars and no/100 (\$10,000,000.00) will be deposited into the Escrow Account by December 31, 2021; provided, however, that if disbursement has been effected pursuant to Section 7 below prior to the due date for the second installment, the second installment shall be paid directly to the QSF Account as provided below rather than into the Escrow Account. Escrow Agent shall receive the installment payment(s) into the Escrow Account; the installment payment(s) and all interest accrued thereon and other gains, minus allowable expenses as provided herein, shall be referred to herein as the “Escrow Fund.” The Escrow Fund shall be held and invested on the terms and subject to the limitations set forth herein, and shall be released by Escrow Agent only in accordance with the terms and conditions hereinafter set forth, consistent with the Settlement Agreement.

3. Investment of Escrow Fund. At the written direction of Class Counsel, Escrow Agent shall invest the Escrow Fund exclusively in instruments or accounts backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof, including a U.S. Treasury Fund or a bank account that is either (a) fully insured by the Federal Deposit Insurance Corporation (“FDIC”) or (b) secured by instruments backed by the full faith and credit of the United States Government. Defendants shall not bear any responsibility for or liability related to the investment of the Escrow Fund by the Escrow Agent.

4. Escrow Fund Subject to Jurisdiction of the Court. Subject at all times to any event causing reversion under Section 7(b) or termination under Section 8, the Escrow Fund shall

become subject to the jurisdiction of the Court after the entry of the Court Order and the passage of the Date of Final Approval until such time as the Escrow Fund shall be distributed, pursuant to the Settlement Agreement and on further order(s) of the Court.

5. Tax Payments of Escrow Fund. All taxes with respect to the Escrow Fund shall be treated as and considered to be a cost of administration of the Escrow Fund and the Escrow Agent shall timely pay such taxes out of the Escrow Fund without prior order of the Court. Any tax withholdings shall be effected from the Escrow Fund as needed before the QSF is established or before reversion. The Claims Administrator shall be responsible for the timely and proper preparation and delivery of any necessary documentation for signature by all necessary parties, and the timely filing of all tax returns and other tax reports required by law. The Claims Administrator may engage an accounting firm or tax preparer to assist in the preparation of any tax reports or the calculation of any tax payments due as set forth in Sections 5 and 6 and the expense of such assistance shall be paid from the Escrow Fund by the Escrow Agent at the Claims Administrator's direction. The Escrow Fund shall be used to indemnify and hold MFODI harmless for any taxes that may be deemed to be payable by MFODI by reason of the income earned on the Escrow Fund, and Escrow Agent as directed by the Claims Administrator, shall establish such reserves as are necessary to cover the tax liabilities of the Escrow Fund and the indemnification obligations imposed by this paragraph. This indemnity shall survive termination of this Escrow Agreement. If the Escrow Fund is returned to MFODI pursuant to the terms of the Settlement Agreement or Court Order, MFODI shall provide Escrow Agent with a properly completed Form W-9.

6. Tax Treatment & Report. By the later of (i) Date of Final Approval of the Settlement Agreement by the Court and (ii) the date the District Court approves and enters the First Amended Consent Decree, a QSF Account shall be established and treated at all times as a "Qualified Settlement Fund" within the meaning of Treasury Regulation §1.468B-1 (the "QSF Account"). The Claims Administrator and MFODI shall timely make such elections as necessary or advisable to fulfill the requirements of such Treasury Regulation, including the "relation-back election" under Treas. Reg. § 1.468B-1(j)(2) if necessary to the earliest permitted date. For purposes of §468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the "administrator" of the Qualified Settlement Fund shall be the Claims Administrator. The Claims Administrator shall timely and properly prepare and deliver to all necessary parties for signature, and file all necessary documentation for any elections required under Treas. Reg. §1.468B-1. The Claims Administrator shall timely and properly prepare and file any informational and other tax returns necessary or advisable with respect to the Qualified Settlement Fund and the distributions and payments therefrom including without limitation the returns described in Treas. Reg. §1.468B-2(k), and to the extent applicable Treas. Reg. §1.468B-2(1).

7. Disbursement Instructions

- (a) The Escrow Fund less withheld taxes and Escrow Agent fees shall be paid to the QSF Account upon the later of the Court Order establishing the Date of Final Approval of both the Settlement Agreement and a settlement class and the date the District Court approves and enters the First Amended Consent Decree.

- (b) All of the Escrow Fund will revert to MFODI on the earlier of the date (i) the Superior Court disapproves the Superior Court Settlement Agreement, (ii) the District Court disapproves the First Amended Consent Decree, or (iii) in conformance with termination provisions of Settlement Agreement Section 78, upon notice solely from MFODI or its counsel.
- (c) After the Date of Final Approval and after the District Court approves and enters the First Amended Consent Decree, and establishment of the QSF, the Claims Administrator may release funds from the QSF Account only in accordance with the Settlement Agreement and the Court Order.
- (d) Class Counsel may, without further order of the Court or authorization by MFODI, instruct Escrow Agent to disburse the funds necessary to pay reasonable class notice and administration expenses upon application by the Claims Administrator with notice to all Parties and ten (10) days to object.
- (e) Disbursements other than those described in this Section 7, the Court Order and the Settlement Agreement must be authorized by an order of the Court.
- (f) In the event funds transfer instructions are given (other than in writing at the time of execution of this Agreement), whether in writing, by facsimile, e-mail, telecopier or otherwise, Escrow Agent will seek confirmation of such instructions by telephone call back when new wire instructions are established, to the person or persons designated in subparagraphs (a) and (b) above, and Escrow Agent may rely upon the confirmations of anyone purporting to be the person or persons so designated. It will not be reasonably necessary to seek confirmation if Escrow Agent receives written letters authorizing a disbursement from each of the law firms required in subparagraphs (a) and (b), as applicable, on their letterhead and signed by one of the persons designated in subparagraphs (a) and (b). To assure accuracy of the instructions it receives, Escrow Agent may record such call backs. If Escrow Agent is unable to verify the instructions, or is not satisfied with the verification it receives, it shall not execute the instruction until all issues have been resolved. The persons and telephone numbers for call backs may be validly changed only in a writing that (i) is signed by the party changing its notice designations, and (ii) is received and acknowledged by Escrow Agent. MFODI and Class Counsel agree to notify Escrow Agent of any errors, delays or other problems within thirty (30) days after receiving notification that a transaction has been executed. If it is determined that the transaction was delayed or erroneously executed as a result of Escrow Agent's error, Escrow Agent's sole obligation is to pay or refund the amount of such error and any amounts as may be required by applicable law. Any claim for interest payable will be at the then-published rate for United States Treasury Bills having a maturity of ninety-one (91) days.
- (g) The Escrow Agent shall not be liable for any losses, costs or expenses arising directly or indirectly from the Escrow Agent's reliance upon and compliance with

such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The party providing electronic instructions agrees: (i) to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Escrow Agent, including, without limitation, the risk of the Escrow Agent acting on unauthorized instructions, and the risk or interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting instructions to the Escrow Agent and that there may be more secure methods of transmitting instructions than the method(s) selected by the Escrow Agent; and (iii) that the security procedures (if any) to be followed in connection with its transmission of instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances.

8. Termination of Settlement. If the Settlement Agreement terminates in accordance with its terms, Class Counsel and MFODI shall notify the Escrow Agent. Upon such notification, the balance of the Escrow Fund, together with any interest earned thereon, less any administrative expenses paid or actually incurred in accordance with the terms of the Settlement Agreement but not yet paid, and any unpaid taxes due, as determined by the Claims Administrator, shall be returned to MFODI.

9. Fees. Escrow Agent shall be entitled to compensation for its services as stated in the fee schedule attached as Exhibit B. All fees and expenses of Escrow Agent shall be paid solely from the Escrow Fund or the Qualified Settlement Fund, as applicable. The Escrow Agent may pay itself such fees from the Escrow Fund or the Qualified Settlement Fund, as applicable only after such fees have been approved for payment by the Escrow Agent and in accordance with the terms of the Settlement Agreement. If Escrow Agent is asked to provide additional services, a separate agreement and fee schedule will be entered into.

10. Duties, Liabilities and Rights of Escrow Agent. This Escrow Agreement sets forth all of the obligations of Escrow Agent, and no additional obligations shall be implied from any other agreement, instrument or document unless referenced herein.

- (a) Escrow Agent may act in reliance upon any instructions, notice, certification, demand, consent, authorization, receipt, power of attorney or other writing delivered to it by the Parties or the Claims Administrator, as provided herein, without being required to determine the authenticity or validity thereof or the correctness of any fact stated therein, the propriety or validity of the service thereof, or the jurisdiction of the court issuing any judgment or order. Escrow Agent may act in reliance upon any signature which is reasonably believed by it to be genuine, and may assume that such person has been properly authorized to do so.
- (b) Escrow Agent may consult with independent legal counsel of its selection in the event of any dispute or question as to the meaning or construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected to the extent Escrow Agent acts in accordance with the reasonable opinion and instructions of counsel. Escrow Agent shall have the right to reimburse

itself for reasonable legal fees and reasonable and necessary disbursements and expenses actually incurred from the Escrow Account only (i) upon approval by the Claims Administrator or (ii) pursuant to an order of the Court.

- (c) Escrow Agent, or any of its affiliates, is authorized to manage, advise, or service any money market mutual funds in which any portion of the Escrow Fund or the Qualified Settlement Fund, as applicable may be invested.
- (d) Escrow Agent is authorized to hold any treasuries held hereunder in its federal reserve account.
- (e) Escrow Agent shall not bear any risks related to the investment of the Escrow Fund in accordance with the provisions of paragraph 3 of this Escrow Agreement. The Escrow Agent will be indemnified by the Escrow Fund or the Qualified Settlement Fund, as applicable, and held harmless against, any and all claims, suits, actions, proceedings, investigations, judgments, deficiencies, damages, settlements, liabilities and expenses (including reasonable legal fees and expenses of attorneys chosen by the Escrow Agent) as and when incurred, arising out of or based upon any act, omission, alleged act or alleged omission by the Escrow Agent or any other cause, in any case in connection with the acceptance of, or performance or non-performance by the Escrow Agent of, any of the Escrow Agent's duties under this Agreement, except as a result of the Escrow Agent's bad faith, willful misconduct or gross negligence.
- (f) Upon distribution of all of the funds in the Escrow Account pursuant to the terms of this Escrow Agreement and any orders of the Court, Escrow Agent shall be relieved of any and all further obligations and released from any and all liability under this Escrow Agreement, except as otherwise specifically set forth herein.
- (g) In the event any dispute shall arise between the parties with respect to the disposition or disbursement of any of the assets held hereunder, the Escrow Agent shall be permitted to interplead all of the assets held hereunder into a court of competent jurisdiction located within the State of Delaware, and thereafter be fully relieved from any and all liability or obligation with respect to such interpleaded assets. The parties further agree to pursue any redress or recourse in connection with such a dispute, without making the Escrow Agent a party to same.

11. Non-Assignability by Escrow Agent. Prior to creation and approval of the Qualified Settlement Fund, Escrow Agent's rights, duties and obligations hereunder may not be assigned or assumed without the written consent of MFODI and Class Counsel, and after the creation and approval of the Qualified Settlement Fund, written consent of the Claims Administrator.

12. Resignation of Escrow Agent. Escrow Agent may, in its sole discretion, resign and terminate its position hereunder at any time following one hundred and twenty (120) days prior written notice to the parties to this Escrow Agreement. On the effective date of such resignation, Escrow Agent shall deliver this Escrow Agreement together with any and all related instruments

or documents and all funds in the Escrow Account to the successor Escrow Agent, subject to this Escrow Agreement. If a successor Escrow Agent has not been appointed prior to the expiration of one hundred and twenty (120) days following the date of the notice of such resignation, then Escrow Agent may petition the Court for the appointment of a successor Escrow Agent, or other appropriate relief. Any such resulting appointment shall be binding upon all of the parties to this Escrow Agreement.

13. Notices. Notice to the parties hereto shall be in writing and delivered by hand-delivery, facsimile, electronic mail or overnight courier service, addressed as follows:

If to MFODI:

Craig S. Lair
1901 Napa Valley Dr.
Little Rock, AR 72212
501-399-8876
clair@mountaire.com

Michael W. Teichman
Parkowski, Guerke & Swayze
1105 N. Market Street, 19th Floor
Wilmington, DE 19801
302-594-3331
mteichman@pgslegal.com

Timothy K. Webster
Sidley Austin LLP
1501 K Street NW
Washington, DC 20005
Telephone: 202-736-8136
E-mail: twebster@sidley.com

If to the Class Counsel:

Philip C. Federico
Schochor, Federico and Staton, P.A.
1211 St. Paul Street
Baltimore, MD 21202
Telephone: 410-234-1000
E-mail: pfederico@sfspa.com

Chase T. Brockstedt
Baird Mandala Brockstedt LLC
1413 Savannah Rd., Suite 1
Lewes, DE 19958
Telephone: 302-645-2262
E-mail: chase@bmbde.com

If to the Claims Administrator:

Cuppels, et al. v. Mountaire Corp, et al.
c/o RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479
Telephone: 1-866-RG2-4955
Telephone: 1-215-979-5551
E-mail: info@rg2claims.com

If to Escrow Agent:

THE HUNTINGTON NATIONAL BANK
Rose Kohles, Vice President
1150 First Avenue, Suite 501
King of Prussia, PA 19406
Telephone: (215) 430-5289
E-mail: rose.kohles@huntington.com

Susan Brizendine, Trust Officer
Huntington National Bank
7 Easton Oval – EA5W63
Columbus, Ohio 43219
Telephone: (614) 331-9804
E-mail: susan.brizendine@huntington.com

14. Patriot Act Warranties. Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56), as amended, modified or supplemented from time to time (the “Patriot Act”), requires financial institutions to obtain, verify and record information that identifies each person or legal entity that opens an account (the “Identification Information”). The parties to this Escrow Agreement agree that they will provide the Escrow Agent with such Identification Information as the Escrow Agent may request in order for the Escrow Agent to satisfy the requirements of the Patriot Act.

15. Entire Agreement. This Escrow Agreement, including all Schedules and Exhibits hereto, constitutes the entire agreement and understanding of the parties hereto. Any modification of this Escrow Agreement or any additional obligations assumed by any party hereto shall be binding only if evidenced by a writing signed by each of the parties hereto. To the extent this Escrow Agreement conflicts in any way with the Settlement Agreement, the provisions of the Settlement Agreement shall govern.

16. Governing Law. This Escrow Agreement shall be governed by the law of the State of Delaware in all respects. The parties hereto submit to the jurisdiction of the Court, in connection with any proceedings commenced regarding this Escrow Agreement, including, but not limited to, any interpleader proceeding or proceeding Escrow Agent may commence pursuant to this Escrow Agreement for the appointment of a successor Escrow Agent, and all parties hereto submit to the jurisdiction of such Court for the determination of all issues in such proceedings, without regard to any principles of conflicts of laws, and irrevocably waive any objection to venue or inconvenient forum.

17. Termination of Escrow Account. The Escrow Account will terminate after all funds deposited in it, together with all interest earned thereon and other gains, less permissible expenses, are disbursed, and all obligations of Escrow Agent have been complied with in accordance with the provisions of the Settlement Agreement and this Escrow Agreement.

18. Attorney-in-fact. The Class Counsel is hereby appointed as the exclusive agent, proxy and attorney-in-fact for the Settlement Class. The Class Counsel shall have the exclusive authority to act for and on behalf of the Settlement Class, including (a) to consummate transactions contemplated herein, including executing and delivery any necessary documents (with such modifications or changes therein as to which the Class Counsel, in their sole discretion, shall have consented), (b) to communicate to, and receive all communications and notices from, MFODI and/or the Escrow Agent , and (c) to do each and every act, implement any decision and exercise any and all rights which the Settlement Class are permitted to do or exercise under this Escrow Agreement.

19. Miscellaneous Provisions.

- (a) Counterparts. This Escrow Agreement may be executed in one or more counterparts, each of which counterparts shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Escrow Agreement.
- (b) Further Cooperation. The parties hereto agree to perform such further acts and things and to execute and deliver such other documents as Escrow Agent may request from time to time in connection with the administration, maintenance, enforcement or adjudication of this Escrow Agreement in order (a) to give Escrow Agent confirmation and assurance of Escrow Agent's rights, powers, privileges, remedies and interests under this Escrow Agreement and applicable law, (b) to better enable Escrow Agent to exercise any such right, power, privilege or remedy, or (c) to otherwise effectuate the purpose and the terms and provisions of this Escrow Agreement, each in such form and substance as may be acceptable to Escrow Agent.
- (c) Non-Waiver. The failure of any of the parties hereto to enforce any provision hereof on any occasion shall not be deemed to be a waiver of any preceding or succeeding breach of such provision or any other provision.

[SIGNATURE PAGES FOLLOW]

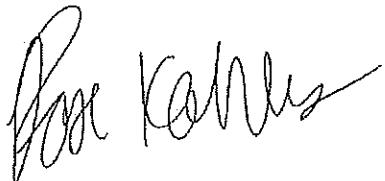
IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date first above written.

RG/2 CLAIMS ADMINISTRATION LLC, as Claims Administrator

By: 
Michael Gillen, President

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date first above written.

THE HUNTINGTON NATIONAL BANK, as Escrow Agent

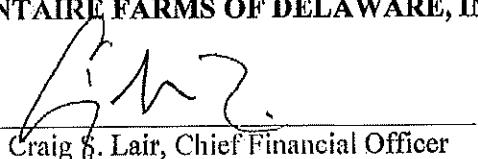


By: _____
Rose Kohles, Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date first above written.

MOUNTAIRE FARMS OF DELAWARE, INC.

By:



Craig S. Lair, Chief Financial Officer

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the date first above written.

CLASS COUNSEL

BAIRD MANDALAS BROCKSTEDT, LLC

By: Chase T. Brockstedt
Chase T. Brockstedt, Esq., Partner

SCHOCGOR FEDERICO & STATON, P.A.

By: Philip C. Federico
Philip C. Federico, Esq., Partner

Exhibit A

Settlement Agreement
(to be attached)

Exhibit B

Fees of Escrow Agent

Acceptance Fee:

Waived

The Acceptance Fee includes the review of the Escrow Agreement, acceptance of the role as Escrow Agent, establishment of Escrow Account(s), and receipt of funds.

Annual Administration Fee:

Waived

The Annual Administration Fee includes the performance of administrative duties associated with the Escrow Account including daily account management, generation of account statements to appropriate parties, and disbursement of funds in accordance with the Escrow Agreement. Administration Fees are payable annually in advance without proration for partial years.

Out of Pocket Expenses:

Waived

Out of pocket expenses include postage, courier, overnight mail, wire transfer, and travel fees.

Exhibit D

Notice Plan

(filed as Exhibit F to Joint Motion)

Exhibit E

**CLASS ACTION SETTLEMENT AND RELEASE EXHIBIT __:
MEDICARE ADDENDUM**

In further consideration for the Class Action Settlement Agreement and Release (hereinafter "Agreement") to which this Medicare Addendum is attached and incorporated therein, Mountaire Corporation, Mountaire Farms Inc., and Mountaire Farms of Delaware, Inc. and their successors, assigns, parent, subsidiaries, and affiliates, as well as each of their respective employees, representatives, officers, directors, shareholders, owners, agents, and attorneys, the Claims Administrator, the Claims Adjudicator(s), and Plaintiffs' counsel (all collectively referred to as "Releasees") rely on the following representations and warranties made by _____ ("Releasor").

I. Representations and Warranties

Releasor and Releasee agree that all representations and warranties made herein shall survive settlement.

A. Medicare Secondary Payer.

Releasor acknowledges and agrees that the parties hereto have taken reasonable steps to comply with the requirements of 42 U.S.C. § 1395y(b) and the related rules and regulations (hereinafter collectively "MSP"), and that they will continue to do so.

B. MSP applicability.

1. Releasor represents and warrants that Releasor is or was Medicare eligible;
2. Releasor is aware of Medicare's potential interest in this settlement to the extent Medicare has made any conditional payments for medical services or items received by Releasor pursuant to MSP, and related to the injury, or illness giving rise to this settlement, and arising from or related to the matters forming the basis of the claims against Releasee by Releasor;
3. Releasor represents and warrants that they have provided the information to Releasee necessary to comply with any applicable reporting obligations under MSP.

C. Releasor's responsibility for reimbursement of Medicare claims.

1. Releasor represents and warrants that they or their agent have notified Medicare and/or its contractor related to MSP (hereinafter inclusively "Medicare") of the claim(s) giving rise to this settlement.
2. Releasor represents and warrants that in exchange for payment of Releasor's claims from the Settlement Amount paid by Releasees, they shall reimburse Medicare for any conditional payments made by Medicare that

are subject to repayment from the proceeds of this settlement and/or arising from or related to the matters forming the basis of the claims asserted by Releasor. Releasor represents and warrants that it is their responsibility, and not Releasees' responsibility (or any other person or entity), to reimburse Medicare from the proceeds of the settlement less Procurement Costs as defined by 42 C.F.R. § 411.37.

II. Indemnification

In addition to and without limiting any other language in the Agreement, Releasor agrees to indemnify and hold harmless Releasees from and against any and all claims, demands, actions, causes of action, liabilities, debts, liens, obligations, damages, expenses, subrogated interests, and losses of every kind or character that have been or may in the future be asserted against the Releasees by Medicare, the Centers for Medicare and Medicaid Services (including any successor agencies) ("CMS"), any persons or entities acting on behalf of Medicare or CMS, or any other person or entity, including but not limited to the Releasor, that are related to, arise out of, or are in connection with MSP and are related to this Agreement.

This indemnification obligation includes all damages and costs incurred by Releasee, including but not limited to attorney's fees incurred by or on behalf of Releasees, fines and penalties, multipliers, costs, interest, expenses and judgments.

Notwithstanding any other provision of the Agreement to the contrary, Releasor shall not be obligated to defend or indemnify Releasee in relation to any fines or penalties which are through no fault of Releasor, and which resulted solely from the fault of Releasee or its counsel and insurers with regard to reporting obligations under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act or any successor act.

III. Reliance on Representations and Warranties

In agreeing to the Agreement and funding the settlement, Releasees are relying on the representations and warranties of Releasor regarding Releasor's Medicare status and the actions Releasor has represented they have taken and/or will take to satisfy any and all Medicare claims pertaining to the matters forming the basis of Releasor's claims.

If the above representations are not correct and/or the above actions are not performed, it is acknowledged and agreed that Releasor is in material breach of this Medicare Addendum and the Agreement. In addition, nothing contained in this Medicare Addendum shall be construed to limit the rights of Releasees to pursue all available remedies at law or in equity for breach of this Medicare Addendum or the Agreement, including but not limited to any damages, legal fees and costs or expenses for Releasor's failure to adhere to the representations and warranties contained herein.

IV. Release

By executing this Medicare Addendum, and in addition to the release set forth in the Agreement, Releasor hereby releases and forever discharges Releasee of and from any and all claims or potential claims that Releasor has or might have in the future arising out of or relating in any way, directly or indirectly, to any action or conduct of commission or omission by or on behalf of Releasees with respect to (a) reporting of this settlement to Medicare, CMS or to any persons or entities acting on behalf of Medicare or CMS, or (b) any claim, inquiry, investigation, or other action by or on behalf of Medicare, CMS or any persons or entities acting on behalf of Medicare or CMS relating to conditional payments by Medicare or future rights to such conditional payments or Medicare benefits. Releasor specifically agrees and recognizes that the claims and potential claims released in this paragraph include, but are not limited to, any claims or potential claims to a private cause of action under 42 U.S.C. § 1395y(b)(3), and any claims based on any loss or potential loss of Medicare benefits or future entitlement to Medicare benefits, based on or relating to anything that any of the Releasees may do or fails to do with respect to reporting of this settlement or with respect to reimbursement of conditional payments made by Medicare.

Executed in _____ County, _____ this _____ day of
_____, 2021.

RELEASOR

STATE OF _____, COUNTY OF _____, to wit:
On the _____ day of _____, 2021, before me personally appeared
Releasor, to me known to be the person named in the foregoing Release, and who executed
the foregoing Release and acknowledged to me that he/she has read the Release and
understands the contents thereof and that he/she voluntarily executed the same.

WITNESS

EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



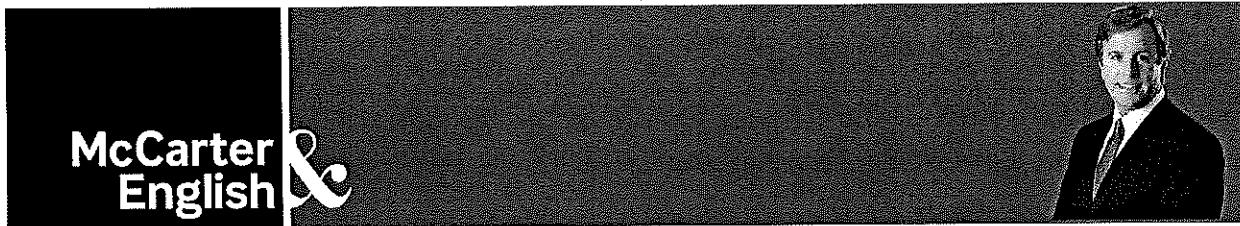
Exhibit B



EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



Exhibit C



David A. White

Partner | Wilmington Office Managing Partner | Wilmington | 302.984.6370
dwhite@mccarter.com

Creditors' Rights | Bankruptcy, Restructuring & Litigation | Alternative Dispute Resolution & Mediation | Bankruptcy | Bankruptcy Litigation | Financial Institutions

David White is the Office Managing Partner of the firm's Wilmington office and is a partner in the Bankruptcy & Restructuring Group. He is skilled in the areas of alternate dispute resolution, complex commercial litigation and toxic tort litigation. He also represents financial institutions and secured creditors in commercial loan workouts, related litigation, and bankruptcy. He was recently honored by being named a Fellow of the American College of Civil Trial Mediators. David has developed long-lasting ties with his clients who have relied upon his counsel in connection with collection and restructuring of troubled commercial loans and in defense of claims against lenders, including lender liability claims. In conjunction with his active ADR and litigation practice, David serves on the firm's Pro Bono Committee, Accounts Receivable Committee, Ethics Committee, and Associates Mentoring Committee.

Upon graduation from law school in 1986, David served a 2-year clerkship in the U.S. District Court for the District of Delaware. In that capacity, he served as the first law clerk to The Honorable Sue L. Robinson.

From 1988-1993, David served as a Deputy Attorney General for the State of Delaware. He represented several executive agencies in state and federal court litigation, including the Department of Education, the State Board of Education, the Department of Homeland Security, Division of State Police, Division of Motor Vehicles, Division of Emergency Management, and the Department of Correction.

From 1993-2001, David was in private practice. His practice was primarily in the areas of commercial litigation, commercial and consumer loan workouts, bankruptcy, and real estate. He was a frequent lecturer in the areas of bankruptcy and debt collection for the National Business Institute and the Lorman Business Institute. During this period, David also served as a Special Deputy Attorney General for the Appeals Division of the Department of Justice and was often retained as a hearing officer for the Department of Health & Social Services for Adult Abuse Registry cases, the Delaware State University, and several local public school districts in employment matters.

In 2001, David was appointed to the Delaware Superior Court as a Commissioner. He served on the Superior Court until March 2008. His responsibilities included presiding over all pretrial matters and motions pertaining to Court's complex mass tort litigation and presiding over other criminal and civil proceedings within his statutory jurisdiction. He also devoted a substantial amount of time to mediating and arbitrating pending civil cases.

From 2006-2008, David taught a civil litigation course for the University of Delaware, Division of Professional and Continuing Studies, receiving Excellence in Teaching awards in 2007 and 2008.

More recently, David served as the lead attorney in a significant pro bono, Superior Court Criminal Rule 61 post-conviction matter involving Lawrence Johnson, an inmate serving a double life sentence without probation for a homicide he marginally participated in when he was 15 years old. Mr. Johnson was a lookout for adult co-defendants who shot and killed a gun store clerk during the commission of a robbery. The post-conviction motion sought an individualized sentencing hearing in accordance with the June, 2012 decisions of the U.S. Supreme Court in *Miller v. Alabama* and *Jackson v. Hobbs*. In Miller and Hobbs, the U.S.

Supreme Court ruled that the automatic imposition of a life sentence for homicide offenses violated the 8th Amendment's prohibition against cruel and unusual punishment. The cases extended the landmark, 2010 decision in *Graham v. Florida*, to all juvenile offenders, including those convicted of homicide offenses. On April 2, 2013, after having served nearly 18 years behind bars, Mr. Johnson was resentenced by the Superior Court and placed on probation. He has begun the important re-entry phase of his life in an effort to integrate back into society.

David also remains committed to maintaining the high standards of the Delaware Bar as an elected member of the Executive Committee of the Delaware State Bar Association from 2003-2010 and 2013-2014, and as an active member of the Professional Guidance Committee. He is also committed to the larger community. Since 2008 he has been the Firm's liaison to the Delaware Combined Campaign for Justice, which supports the important work of the Community Legal Aid Society, Inc. ("CLASI"), Delaware Volunteer Legal Services, Inc. ("DVLS"), and the Legal Services Corporation of Delaware, Inc. In 2008 David established the Firm's annual sponsorship of the Ronald McDonald House of Delaware 5K Race. Proceeds from the race help the Ronald McDonald House in its mission to provide a safe and affordable "home away from home" to families of seriously or chronically ill or injured children who are being treated at area hospitals. He also volunteers at the Emmanuel Dining Room, was recently named to the Board of Directors of the Ministry of Caring Guild, and serves on the Board of Trustees of the Children's Beach House, a non-profit organization, located in Lewes, Delaware. David also serves as the legal advisor to the Justin W. Jennings Foundation, a non-profit organization located in Bethany Beach, Delaware whose goal is to maintain and support a home where families dealing with childhood cancer can enjoy a place of respite and family time.

Education

Widener University Delaware Law School, JD, 1986

- Law Review, *The Delaware Journal of Corporate Law*, vol. 11
- President, Moot Court Honor Society
- Contributing Editor, *Delaware Law Forum*

University of Delaware, BA, 1982

Bar Admissions

Delaware

Court Admissions

U.S. District Court, District of Delaware

U.S. Court of Appeals, Third Circuit

U.S. Supreme Court

Memberships & Affiliations

Delaware State Bar Association

Executive Committee

Professional Guidance Committee

Member

American College of Civil Trial Mediators

Fellow

Special Discovery Master Panel, U.S. District Court, District of Delaware

Member

Delaware State Bar Association Committee on Judicial Compensation

Member

Carpenter-Walsh Pro Bono Inn of Court

Member

Superior Court Trial Practice forum

Steering Committee

University of Delaware, Division of Professional and Continuing Studies

Faculty

2006-2008

Ministry of Caring Guild

Board of Directors

Children's Beach House, Lewes, DE

Board of Directors

Recognitions

Top Lawyers, Alternative Dispute Resolution, *Delaware Today*, 2015-2020

Alerts

US Supreme Court's Ruling Favors Debt Collectors in Fair Debt Collection Practices Act Decision, Bankruptcy & Commercial Litigation Alert, 12.20.2019

Univar Defeats State of Delaware's First Attempt to Enforce Administrative Subpoena Since the State's 2017 Amendment of the Delaware Escheats Law, Delaware Law Update, 4.10.2019

Third Circuit Upholds Finding that Purchaser of Debt Is Subject to the Requirements of the Fair Debt Collection Practices Act, Bankruptcy Alert, 3.12.2019

Third Circuit Reminds Debt Collectors Of Notice Requirement, Bankruptcy & Restructuring Alert, 8.1.2017

SCOTUS Issues Another Decision Affecting Parties Who Attempt to Collect on Debts, Bankruptcy & Restructuring Alert, 5.29.2017

District of Delaware Ruling Reminds Parties of the Danger of Narrow Arbitration Provisions, Bankruptcy & Restructuring Alert, 5.9.2017

Shrewsbury v. Bank of N.Y. Mellon: Altering the Landscape of Foreclosure Actions in Delaware or Much Ado About Nothing?, Bankruptcy & Restructuring Alert, 5.2.2017

Articles

Shrewsbury and Its Impact on Delaware Foreclosure Actions, Law360, 5.9.2017

Speaking Engagements

ADR Panelist at Delaware Trial Lawyers' Convention, Delaware Trial Lawyers Association 2015 Annual Convention, 5.12.2015

Quoted

Delaware Fertile and Competitive Ground for Rookie Law Associates, *Delaware Business Times*, 1.11.2017



EFiled: Dec 28 2020 10:58AM EST
Transaction ID 66211450
Case No. S18C-06-009 CAK



Exhibit D

ERIC D. GREEN
PRINCIPAL
RESOLUTIONS, LLC
PROFESSOR (ret.)
BOSTON UNIVERSITY SCHOOL OF LAW

Address:

Office: RESOLUTIONS, LLC
125 High Street, Suite 2205
Boston, Massachusetts 02110
(617) 556-0800

Education:

Brown University
Class of 1968, A.B. with Honors

Harvard Law School, Cambridge, Massachusetts
Class of 1972, J.D. Magna Cum Laude; Knox Memorial Traveling Fellowship Award 1972-73, Harvard Law Review Editor and Executive Editor, Vols. 84-85; Harvard Civil Rights-Civil Liberties Law Review, co-author, Summer Research Project Note, Vol. 6

Cambridge University, Cambridge, England
Research Student in Criminology
Knox Fellow, 1972-1973

Professional Membership & Activities:

State Bar of California; State Bar of Massachusetts; U. S. District Courts for N.D. Cal., C.D. Cal., D. Mass. Special Master, Northern District of Ohio, Ohio Asbestos Litigation; D. Mass. Massachusetts Asbestos Litigation; Guardian Ad Litem, Ahearn Class Action Settlement, E.D. Texas; Mediator, Suffolk County Superior Court Mediation Program; Governors Working Group on Alternative Dispute Resolution (Gov. Dukakis); American Bar Association, Section on Litigation (Conference Coordinator, 1982)
ABA/Harvard/NIDR Conference on The Lawyer's Changing Role in Resolving Disputes), Individual Rights, Legal Education, and Criminal Justice. Center for Public Resources (CPR) Legal Program on Reducing The Cost of Business Disputes. Advisor, CPR Judicial Panel. Member, National Panel of Commercial Arbitrators, American Arbitration Association. Boston Bar Association, Long Range Planning Committee and Board of Editors, Boston Bar Journal. Association of American Law Schools, Chairman, Section on Alternative Dispute Resolution. Honorary member American College of Civil Trial Mediators (Lifetime Achievement Award 2001). Member of Board of Directors for The International Institute for Conflict Prevention & Resolution (CPR).

Employment Experience:

- 1997 - Present: Founder, Principal
RESOLUTIONS, LLC
125 High Street, Suite 2205
Boston, Massachusetts 02110
- 2014 – Present Monitor of the Residential Mortgage Backed Securities Settlements between the Department of Justice and various states and each of Bank of America, Mortgage Stanley, and Goldman Sachs
- 1982 – 1997: Founder, Director, Chief Mediator
J·A·M·S/ENDISPUTE, Inc.
73 Tremont Street
Boston, Massachusetts 02108
- 1977 - 2008: Professor
Boston University School of Law
765 Commonwealth Avenue
Boston, Massachusetts 02215
- Fall, 1979: Visiting Professor
Harvard Law School
Cambridge, Massachusetts 02138
- June - August, 1978: Attorney Advisor to the Regional Director
Los Angeles Regional Office
Federal Trade Commission
11000 Wilshire Boulevard
Los Angeles, California 90024
- 1974 - 1977: Partner - General Civil Litigation
Munger, Tolles & Olson
612 South Flower Street
Los Angeles, California 90014
- 1973 - 1974: Law Clerk
Chambers of Justice Benjamin Kaplan
Massachusetts Supreme Judicial Court
Boston, Massachusetts 02210

1961 - 1981: Surveyor/Draftsman/General Counsel/Board of Directors
Green International, Inc.
504 Beaver Street
Sewickley, Pennsylvania 15143

Teaching Experience:

Professor, Boston University School of Law -- taught courses in Evidence, Alternative Dispute Resolution, Constitutional Law, The Legal Method, and Free Press Issues.

Visiting Professor, Harvard Law School, Fall 1979 -- taught course in Evidence.

Lecturer in Law, Harvard Law School, Fall 2016 -- Evidence

Awards:

Recipient of 2001 Lifetime Achievement Award, American College of Civil Trial Mediators

Recipient of 2010 James F. Henry Award, The International Institute for Conflict Prevention & Resolution (CPR)

Selected as one of the Lawdragon 500 Leading Judges in America. March 2006.

Major Publications:

Settling Large Case Litigation: An Alternate Approach (with Marks & Olson), 11 Loyola of Los Angeles Law Review 493 (1978).

Avoiding the Legal Logjam -- Private Justice, California Style, Dispute Management (1981).

An Ounce of Prevention: Dispute Resolution by Contract (with Jacobs), Dispute Management (1981).

The Mini-Trial Approach to Complex Litigation, Dispute Management (1981).

Proceedings of the Intercorporate Disputes Task Force: Expanded Use of the Mini-Trial, Private Judging, Neutral-Expert Fact Finding, Patent Arbitration, and Industry Self-Regulation, Dispute Management (1981).

The CPR Legal Program Mini-Trial Handbook, in Corporate Management, New York: Matthew Bender & Co., Inc., 1982.

Problems, Cases and Materials on Evidence (with Nesson), Little, Brown & Co. 1983, with Teaching Manual and 1984 Supplement.

"A Comprehensive Approach to the Theory and Practice of Dispute Resolution," 34 Journal of Legal Education 245 (June 1984).

Dispute Resolution (with Goldberg & Sander), Little Brown & Co., Fall 1985.

"A Heretical View of the Mediation Privilege," 2 Ohio State Journal on Dispute Resolution 1 (1986).

"Corporate Alternative Dispute Resolution," 1 Ohio State Journal on Dispute Resolution 285 (1986).

Probability and Inference in the Law of Evidence, (with Tillers), Kluwer Academic Publishers, 1988.

Federal Rules of Evidence: with Selected Legislative History and New Cases and Problems, (with Nesson), Little, Brown and Company (1988).

Rhode Island Rules of Evidence with Advisory Committee Notes & Case Law Developments, Salem, N.H.: Butterworth Legal Publishers (1990).

Problems, Cases and Materials on Evidence, 2nd Edition (with Nesson), Little, Brown & Co. 1994, with Teaching Manual and 1994 Supplement.

Rhode Island Rules of Evidence, (Issue 4) Butterworth Legal Publishers, October 1994.

What Will We Do When Adjudication Ends? We'll Settle in Bunches: Bringing Rule 23 Into the Twenty-first Century, 44 UCLA L. Rev. 1773 (1997).

Future Claimant Trusts and "Channeling Injunctions" to Resolve Mass Tort Environmental Liability in Bankruptcy: The Met-Coil Model, (with Patton & Harron), Volume 22, Emory Bankr. Dev. J. 157 (2005).

Re-examining Mediator and Judicial Roles in Large, Complex Litigation: Lessons from Microsoft and Other Megacases, 86 Boston University Law Review 5 (2006).

Prepackaged Asbestos Bankruptcies: Down but Not Out, (with Fitzpatrick, Patton, Harron & Turner), 63 NYU Annual Survey of American Law 4 (2008).

Other Articles, Addresses, Studies, and Testimony

"Preventive Detention: An Empirical Analysis," 6 Harvard Civil Rights-Civil Liberties Law Review (1971). An original field study sponsored by the American Bar Foundation into the incidence and prediction of recidivism during pre-trial release--extensively reprinted and distributed by the American Bar Foundation Law Review Research Series.

Author, primarily responsible for "The Supreme Court, 1970 Term, Coolidge v. New Hampshire," 85 Harvard Law Review 327, 1971.

Editor, Fletcher, "Fairness and Utility in Tort Theory," 85 Harvard Law Review 537 (1972); Cox, "Labor Law Pre-emption Revisited," 85 Harvard Law Review 1337 (1972); "Recent Case, J.E. Bernard & Co. v. United States," 85 Harvard Law Review 1478 (1972).

Alternative Dispute Resolution in Complex Civil Cases, (MCLE-NELI 1981) (Editor).

"Resolution of Business Disputes Outside the Courts" 4 Corporate Counsel Review, June, 1981.

"Mini-Trials Now Used in Government Contract Dispute" Dispute Resolution, Summer, 1982.

"Growth of the Mini-Trial," 9 Litigation 12, Fall 1982.

"James H. Chadbourn (in Memoriam)," 96 Harvard Law Review 1982.

"Ohio Asbestos Litigation: Case Management Plan and Case Evaluation and Apportionment Process," presented to Hon. Thomas D. Lambros, U.S. District Court, Northern District Ohio, by Special Masters Green and McGovern, December 1, 1983.

"Getting Out of Court - Private Resolution of Civil Disputes," 28 Boston Bar Journal 11, May/June 1984.

"Reading the Landscape of ADR -- The State-of-the-Art of Extra-Judicial Forms of Dispute Resolution," First Annual Judicial Conference of the United States Court of Appeals for the Federal Circuit, 1984.

"Asbestos Litigation: Addressing the Problem -- One Court's Strategy," 8 State Court Journal 19 (with Lambros, J. and McGovern), Winter 1984.

"The Life of the Mediator: To be or Not to Be . . . Accountable?", 1 Negotiation Journal: On the Process of Dispute Settlements (with Goldberg and Sanders), July 1985.

"Use of the Mini-Trial in Ocean Related Disputes, in Coastal Zone and Continental Shelf Conflict Resolution: Improving Ocean Use and Resource Dispute Management" MIT Sea Grant Report Series, 1985.

"Private Judging: A New Variation of Alternative Dispute Resolution," 21 Trial 36, 1985.

"Saying You're Sorry," Negotiation Journal (with Goldberg & Sander), July 1987.

"Litigation, Arbitration or Mediation: A Dialogue," 75 American Bar Association Journal 70, (with Goldberg & Sander), 1989.

"Voluntary ADR: Part of the Solution" 29 Trial Magazine 35, April 1993.

"The General Counsel's Guide to ADR in the 1990's: A Negotiation-Based Approach," Business Lawyer; North Carolina Bar Association: Corporate Counsel Section, 1995.

"The Role of the Broker in Residential Real Estate Transactions," A Report to the Federal Trade Commission (with B. Brown).

Chairman, Keynote Speaker and Editor, "Getting Out of Court: Alternative Dispute Resolution in Complex Civil Cases," Massachusetts Continuing Legal Education Program, May, 1981.

Testimony before the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States, re proposed amendments to the Federal Rules of Civil Procedure, October, 1981.

Coordinator and Speaker: First Annual Corporate Dispute Resolution Institute, Northwestern Law School, November, 1982.

"Teaching Alternative Dispute Resolution in Law Schools," AALS Workshop October, 1982, Harvard Law School.

"Reducing and Mitigating Institutional Disputes: The Causes and Effects of Corporate and Private Institutional Disputes With Government, Employees, Consumers and Each Other." in The Lawyer's Changing Role in Resolving Disputes (forthcoming). (This paper was presented at the "National Conference on the Lawyer's Changing Role in Resolving Disputes," October, 1982, at Harvard Law School, published in The Lawyer's Changing Role in Resolving Disputes, (ed. with Marks and Sander), will be the major publication of the National Conference held at Harvard in October, 1982. Law & Business Department of Harcourt, Brace, Javonovitch.

Minnesota Continuing Legal Education Program 1982.
Speaker, American Arbitration Association Workshop on Alternative Dispute Resolution, March, 1983.

"Alternatives to Litigation," Eight Annual Judicial Conference of the District of Columbia, June, 1983.

"Private Resolution of Corporate Disputes," ABA Committee on Corporate Counsel, Annual Meeting, 1984.

"Resolution of Corporate Disputes," Southeastern Corporate Law Institute, 1984.

"Alternative Dispute Resolution," The American Lawyer Conference on "Coming of Age in the '80s - How Corporate Counsel can Cope with Success," 1984.

Speaker and Program Chairman, "Cost-Effective Dispute Resolution and Management," Center for Public Resources Dispute Management Education Program, to more than a dozen corporate legal staffs 1982-1983.

"Alternative Dispute Resolution of Patent and Antitrust Cases," PLI Patent and Antitrust Conference, 1984.

"International Commercial Dispute Resolution: Courts, Arbitration, and Mediation - Introduction,' 15 BU International L.J. 175 (1997).

"Advancing Individual Rights Through Group Justice," and "A Post - *Georgine* Note," 30 U.C. Davis L. Rev. 791 (1997).

Law School Administrative and Committee Activities

Committees

Faculty Council Rep. (1993 - 1994)
Placement and Clerkship (Chairman, 1978-79)
Clinical (Chairman, 1982) (Primarily responsible for Rhode Island Correctional Clinical Program Proposal)
Appointments (Co-Chairman, Minority Recruitment Subcommittee, 1980-82)
Combined Degrees Programs
J.D. Program (primarily responsible for Upper-Class Writing Requirement Program Proposal)

Advisor, Environmental Law Society

Judge, Albers & Stone Moot Court Competitions

Other Professional and Community Membership Activities:

Reporter to the Advisory Committee on Proposed Rules of Evidence for Rhode Island.

Special Master, United States District Court, Northern District of Ohio, Ohio Asbestos Litigation.

Conference Coordinator, Harvard Law School/ABA, National Conference on the Lawyer's Role in Resolving Disputes (October 14-16, 1982).

Executive Committee and Chairman, AALS Section on Alternative Dispute Resolution.

Member, AALS Sections on Evidence and Alternative Dispute Resolution

Consultant and Member, Center for Public Resources, Inc. ("CPR"), Legal Project on Reducing the Costs of Business Disputes; also former Chairman, CPR Task Force on

Inter-corporate Disputes and former Co-Chairman, CPR Dispute Management Education Program.

Chairman, New England Sierra Club Legal Committee (1981).
Consultant, FTC Real Estate Brokerage Investigation (1979).

Editor, Organizer, MCLE-NELI 1981 Seminar on Alternative Dispute Resolution in Complex Civil Cases.

Founder and Chairman, Open Arms, Inc. (non Profit Refugee resettlement group).

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Transaction ID 66209721

Case No. S18C-06-009 CAK



Exhibit E

PLAN OF ALLOCATION

Should the Court grant final approval of the Settlement Agreement following the Fairness Hearing, this Plan of Allocation will govern the allocation of compensation to Participating Class Members in this Action (also referred to as Claimants herein). The total settlement proceeds to be allocated will be determined by deducting Court-approved legal fees, costs, and expenses (including the costs of administering the settlement) from the \$65 million Class Action Settlement Amount. The entirety of the net proceeds will be distributed to the eligible Participating Class Members who establish their damages pursuant to this plan. Unless specified herein, capitalized terms have the same meaning ascribed to them in the Settlement Agreement.

Initial Allocation

The steps in the Initial Allocation process are as follows:

Appointment of Claims Adjudicators: Plaintiffs' Counsel will engage the services of the Honorable Irma Raker (Ret.), or another individual or entity approved by the Court, to serve as Claims Adjudicator. If approved, the Hon. Irma Raker (Retired) will serve as the Claims Adjudicator and will evaluate all participating class members for compensation. Judge Raker may also utilize David White as a consultant and/or assistant adjudicator.

The Honorable Irma Raker (Ret.) has extensive experience in class action allocation, having recently led the distribution of settlement proceeds from a \$190 million settlement to approximately 9,000 claimants in *Jane Doe No. 1, et al. v. Johns Hopkins Hospital, et al.*, No. 24-C-13-001041 (Md. Cir. Ct. 2014) (class action settlement of claims of surreptitious photographing and inappropriate touching brought by former patients against gynecologist Dr. Nikita Levy and Johns Hopkins University). Judge Raker has also served as an Associate Judge of the District Court of Maryland, Montgomery County from 1980 to 1982, Associate Judge of the Circuit Court for Montgomery County Maryland from 1982 to 1992, and on the Maryland Court of Appeals from 1994 until her retirement in 2008. The Honorable Irma Raker's CV is attached as Exhibit 1 to this Allocation Plan.

David White is a Delaware attorney with experience in alternative dispute resolution and toxic tort litigation. Mr. White also served as a Commissioner for the Delaware Superior Court from 2001 to 2008, where he presided over pretrial matters pertaining to the Court's mass tort litigation. Mr. White has also been actively involved in this litigation for several years as a mediator and Court Appointed Special Discovery Master. Mr. White brings subject matter expertise to the allocation team based on his long-term involvement and knowledge of this matter.

Appointment of Claims Administrator: Plaintiffs' Counsel propose to engage RG/2 Claims Administration LLC to serve as the Claims Administrator and

will furnish all Registrations to the Claims Adjudicators for their consideration. RG/2 is a boutique class action claims administration firm with a nationwide presence founded by seasoned class action practitioners and highly credentialed tax professionals. The Claims Administrator will collect and provide the Claims Adjudicators with any information (including medical records or other supporting information provided by the Claimant) that is necessary to evaluate the Claimant's claims.

Evaluation of Claims: The Claims Adjudicators will evaluate each individual claim. The Claims Adjudicators will review all applicable information and personally meet each class member, if necessary (via telephone, videoconference, or in person as appropriate). The Claims Adjudicators will consult subject matter experts including S.S. Papadopoulos (hydrogeology), John Purdum (air modeling), William Meggs, M.D. (toxicology); James Dahlgren, M.D. (toxicology); Catherine Zeman, Ph.D. (epidemiology); and Kenneth Acks (property diminution), as necessary, to provide expertise related to the exposure, health effects, or likely property diminution, as applicable, for each Participating Class Member. The CVs of these experts are available upon request.

The Claims Adjudicators will also evaluate eligibility to be a Participating Class Member, should there be any question as to eligibility. The Parties also

generally agree that any ambiguity with respect to eligibility should be resolved in favor of finding eligibility where feasible.

Calculation of Damages: The process for awarding damages is set forth in “Damages Criteria and Categories, Related Factors and Special Damages” below.

The Claims Adjudicators will consider each of the Damages Criteria for each Claimant. With respect to most of the identified Damages Criteria, the Claimant’s damages will be categorized as none, mild, moderate, or severe. The Claims Adjudicators will be responsible for assigning a fixed monetary damage amount to each Damage Severity Category within each of the applicable Damage Criteria. The Claims Adjudicators may also award Special Economic Damages, where appropriate, in consideration of costs for related medical bills, water treatment, water testing, and other related damages actually incurred. The amount allocated to each Claimant will be the sum of the monetary damage awards for each of the applicable Damages Criteria, and any Special Economic Damages. The Claims Adjudicators will not award damages for claims unrelated to the alleged contamination at issue in this Action.

Notification of Award: The Claims Adjudicators will notify each Claimant of the amount allocated, or of a decision on eligibility (if applicable), in an Initial Notification. The Initial Notification will include notice reminding each Claimant that they continue to be bound by the terms and conditions of the Settlement Agreement, including the release, and will also include the required Medicare

Addendum. Claimants may appeal the Initial Notice as provided below. If no timely appeal is made, and the Medicare Addendum has been returned (where applicable), the Claims Adjudicators will authorize a Final Notice and including payment of the claim. If a timely appeal is made, the Final Notice will not be issued until after the appeal process is concluded. At that time, and after the Medicare Addendum has been returned (where applicable), the Claims Adjudicators will authorize a Final Notice consistent with the appeal outcome and including payment of the claim. The Claims Adjudicator shall have the discretion to delay the issuance of Final Notices and payment of claims until after the Appeal process has been completed for all Claimants.

In the event that the Parties agree to an alternative approach to the Medicare Addendum before the Initial Notices are sent, such as a lien resolution administrator, as contemplated under the Settlement Agreement, Claimants shall not be required to submit a Medicare Addendum.

Appeal

If any Claimant disagrees with their allocated Injury Category and Award, or any determination as to eligibility, they may appeal the Initial Notice. The appeal shall be made within 30 days after the mailing of Initial Notice to that person by providing to the Claims Adjudicators a written request to reconsider the allocation and/or eligibility determination and by including any new information that should

be considered by the Claims Adjudicators during such reconsideration. The Claims Adjudicators will notify such persons of a decision within 45 days after receiving such written request to reconsider. The decision on the Initial Notice or the appeal if made, shall then be final and not subject to further review.

Claimants shall be advised that an appeal of their Initial Notice may result in the Claims Adjudicator determining that their claim payment remain the same, be increased, or *be decreased*.

Claimant shall be barred from bringing any action against the Releasees (as defined in and to the extent set forth in the Settlement Agreement), Plaintiffs' Counsel, the Claims Adjudicators, or the Claims Administrators, concerning the allocation received.

Reserve Allocations

Late Filed Claims: The Claims Adjudicators shall reserve two million dollars (\$2,000,000) of the total Class Action Settlement Amount the payment of claims submitted after the Bar Date. The Claims Adjudicators shall have the sole discretion to make any distribution from the reserve allocation, considering whether the Claimant is a minor or whether extraordinary circumstances otherwise prevented a Claimant from submitting a timely Registration. At the discretion of the Claims Adjudicators, some or all of this reserve allocation may be maintained for one year following the Court's approval of the Settlement Agreement, provided that none of

the reserve allocation is maintained after that date. At the discretion of the Claims Adjudicators, the remaining balance of the reserve allocation may be added to the Latent Injury Trust Fund described below.

Latent Injury Claims: To the extent that members of the Class who may show signs of harm that may only be manifested, and require treatment, at some later time following the conclusion and final approval of the initial allocation, a latent injury trust fund shall be set aside for the purpose of compensating Class members who develop substantiated latent injuries (the “Latent Injury Trust Fund”). The Latent Injury Trust Fund shall be made up of an initial cash amount of \$2,000,000.00. Should a member of the Settlement Class, over the course of the five (5) years following Final Approval of the proposed Settlement Agreement, develop documented, causally related medical symptoms requiring medical treatment unknown to the Class member as of the Bar Date, such Class member may apply to the Claims Administrator for funds from the Latent Injury Trust Fund, solely to pay for such treatment. Such funds as may remain in the Latent Injury Trust Fund as of five (5) years following the Court's approval of the Settlement Agreement.

Distribution of Residual Funds: At the discretion of the Claims Adjudicators, but no later than six months after the expiration of the five year period for submission of claims to the Latent Injury Trust Fund, any remaining funds from the reserve allocations for late filed claims and the Latent Injury Trust Fund shall be

distributed to the Participating Class Members on a pro rata basis consistent with the Final Notice made by the Claims Administrator, accounting for the resolution of any appeals made of any such Initial Allocation.

Damages Criteria and Categories, Related Factors, and Special Damages

Damages Criteria and Categories:

The Claims Adjudicator will consider the following four criteria of damages and related criteria (collectively referred to herein as “damages”):

- (1) Type and severity of personal injuries, including wrongful death and survival claims, associated with exposure to alleged groundwater contamination and/or air pollution associated with the alleged contamination at issue in this Action in the Groundwater Area, the Air Area, or both, as applicable;
- (2) Risk of future personal injury and necessity for medical monitoring, based on exposure to groundwater contamination and/or air pollution associated with the alleged contamination at issue this Action, as applicable;
- (3) Degree of property diminution or loss of enjoyment of real property associated with alleged groundwater contamination and/or air pollution in the Groundwater Area, the Air Area, or both, as applicable associated with the alleged contamination at issue in this Action (this criteria is not applicable to individuals who are only Claimants because they were employed full-time in Groundwater Area, the Air Area, or both); and
- (4) The necessity for an alternative water supply or water treatment system (this criteria is only applicable to Claimants who currently own or reside in the Groundwater Area)

With respect to criteria 1, 2, and 3 above, damages will be categorized as:

Category 1: no identified damages

Category 2: mild/minor damages

Category 3: moderate damages

Category 4: severe damages

With respect to criteria 4 above, damages will be categorized as either (1) requiring alternative water or water treatment system (to the extent not already required to be provided through the First Amended Consent Decree) or (2) not requiring any alternative water or water treatment system. Damages, if any, will awarded in consideration of the estimated cost of the alternative water or water treatment system.

The Claims Adjudicators will be responsible for assigning monetary damages amounts for each category within each of the four damage criteria.

Only those Participating Class Members within the Air Area will be considered for damages related to alleged air pollution, and only those within the Groundwater Area will be considered for damages related to potential groundwater contamination. Claimants who have owned property, leased property, or resided in both areas may be considered for both types of damages. Claimants who did not own or lease property or reside in both areas and are only Claimants because they were employed full-time in the Groundwater Area, the Air Area, or both, may not be considered for damages related to criteria 3 or 4, which only apply to Claimants who owned property, leased property, or resided in the Settlement Class areas.

Factors for Consideration:

The Claims Adjudicator may consider the following non-exclusive list of factors in arriving at an allocation of the settlement proceeds which is fair and reasonable, and

considers the relative merit and compensable damages for each claim consistent with Delaware law.

(1) Exposure to Alleged Groundwater Contamination in the Groundwater Area:

- Current or former residence within Groundwater Area, and proximity of residence to spray irrigation and sludge fields utilized by Mountaire.
- Exposure to potentially contaminated well water, including:
 - use of well for drinking water;
 - rate of consumption of well water;
 - presence or absence of water treatment system effective at removing nitrates; and
 - well testing results.
- Duration and period of time over which class member resided within Groundwater Area.

(2) Exposure to Alleged Air Pollution in the Air Pollution Area:

- Current or former residence within Air Area, and distance of residence from sources of potential air pollution, including the Mountaire facility and storage lagoons.
- Actual exposure to potential air pollution, including observed historic odors.
- Duration and period of time over which class member were potentially exposed within the Air Area.

(3) Personal Injury Category Damages:

- Diagnosed and/or reported medical conditions associated with nitrates, for those Participating Class Members within the Groundwater Area.
- Diagnosed and/or reported medical conditions associated with hydrogen sulfide, for those Participating Class Members within the Air Area.

(4) Property Diminution Damages:

- Real property characteristics.
- Period and duration of property ownership.
- Claimant supplied appraisals, valuations, property sale history or related information.
- Location of the property relative to the Facility

Special Economic Damages:

In addition to the above damage categorization, Claimants may be eligible for additional Special Damages, including but not limited to past medical and other unreimbursed expenses, which will consider the following:

- Claimant supplied medical bills resulting from medical conditions associated with nitrate, for those within Groundwater Area.
- Claimant supplied medical bills resulting from medical conditions associated with hydrogen sulfide exposure, for those within the Air Pollution Area.
- Claimant supplied costs and expenses for alternative water supply, water testing, and water filtration, for those within the Groundwater Area.

Exhibit 1

IRMA S. RAKER
Bethesda, MD
(301) 518-7030

JUDICIAL EXPERIENCE:

Court of Appeals of Maryland, Judge, 1994-2008; Senior Judge, 2008-Present
Circuit Court for Montgomery County, Associate Judge, 1982-1994
District Court of Maryland, Associate Judge, 1980-1982

LEGAL EXPERIENCE:

Certified Mediator and Arbitrator, 2008-Present
American Arbitration Association, Arbitrator and Mediator, 2015-Present
Sachs, Greenebaum and Tayler, Partner, 1979-1980
State's Attorney's Office for Montgomery County, Assistant State's Attorney, 1973-1979

EDUCATION:

Certified Mediator:

American Bar Association, 2007
Appellate Mediation, Maryland Court of Special Appeals, December 2009-Present

Law School:

Washington College of Law of The American University, Juris Doctor, December 1972

Post-Graduate Studies:

The Hague Academy of International Law, The Hague, Holland, July 1959

Undergraduate Studies:

Syracuse University, Bachelor of Arts, June 1959

BAR MEMBERSHIPS:

Court of Appeals of Maryland, 1973
Court of Appeals of the District of Columbia, 1974
United States District Court for the District of Maryland, 1977
United States Court of Appeals for the Fourth Circuit, 1977

TEACHING ACTIVITIES:

National:

Washington College of Law of The American University, Adjunct Professor, Trial Practice, 1980-Present
Maryland Judicial Institute, faculty member, 1984-2008

International:

The Court of Bosnia and Herzegovina, Sarajevo, Lecturer, April 2005

Taiwan High Court, Taiwan, Lecturer, May 2001

Consultant at Conference for Newly Independent States, Leiden, The Netherlands,

November 1995

PROFESSIONAL ACTIVITIES:

Senior Judges Committee, Maryland Judicial Conference, 2015-Present

Maryland Access to Justice Commission, Chair, 2008-2014

Maryland Judicial Conference, Judicial Compensation Committee, Chair, 1997-2008

Attorney General's and Lt. Governor's Family Violence Council, 1995

Maryland Special Committee to Revise Article 27, Crimes and Punishment, Annotated Code of Maryland

Maryland Judicial Conference, Executive Committee, elected to represent Sixth Judicial Circuit, Legislative Committee, 1985-1989

Commission to Study Bail Bond and Surety Industry in Maryland, appointed by Chief Judge Murphy to represent Maryland Judicial Conference, 1981

District Court Committee on Criminal Law and Motor Vehicle Matters, Chairperson, appointed by Chief Judge Sweeney, 1981-1982

Attorney Grievance Commission of Maryland, Inquiry Committee, 1978-1981

Maryland State Bar Association:

Maryland Bar Foundation, Fellow, 1989-Present

Board of Governors, elected 1981, 1982, 1985, 1986, 1990

Standing Committee to Draft Pattern Jury Instructions in Civil and Criminal Cases, Chair; Sub-Committee to Draft Pattern Instructions in Criminal Cases, Chair, 1980-2012; Member, 1980-Present

Criminal Law and Practice Section Council, Chair, 1983-1984; Member, 1973-Present; Section Council Member, 2008, 2011-2013

Montgomery-Prince George's Continuing Legal Education Institute, Inc., Board of Trustees, 1997

Special Committee on Law Related Education, 1983-2012

Judicial Administration Section Council, Member, 1994

Special Committee on the Centennial of the Maryland State Bar Association, Member, 1994

Judicial Administration Section Council, 1994-1998

Special Committee on Judicial Selection and Tenure, 1979

Special Committee on Environmental Law, 1978-1979

Special Committee on Trial by Jury, 1988-1993

Special Committee on Law Practice Quality, 1989-1992

American Bar Association:

American Bar Association Fellow

Criminal Justice Standards Committee Task Force on Diversion and Special Courts, Chair, 2006-2010

Criminal Justice Standards Committee, Chair, 2002-2004, Chair, 1995-1996, Member, 1994-1996

Criminal Justice Standards Pretrial Release and Speedy Trial Task Force, 1999-2001
ABA Bar Foundation Fellow, 1994-Present
Criminal Justice Section Council, elected 3-year term, 1997
Criminal Justice Standards Committee Task Force on Trial by Jury and Discovery, 1991-1993
Committee on Rights of Victims in the Criminal Justice System, 1992
Ad Hoc Committee on the Indigent Defense Crisis, 1992-1993
Judicial Division International Courts Committee, 2006

Montgomery County Bar Association:

Bar Leaders, Montgomery County Bar Foundation
Executive Committee, elected 1979-1980
Criminal Law Section, Chairperson, 1978-1979
Ethics Committee, 1977-1978
Nominating Committee, 1977-1978
Circuit Court Committee
Correctional Reform Committee
Committee on Administration of Justice

American Law Institute, elected 1997, Member

American Inns of Court:

Fahy Inn, Executive Committee & Charter Member, 1983-1985
J. Dudley Digges Inn, 1985-2000
Alan J. Goldstein Inn, President, 1995-1996

PUBLICATIONS:

Article, *Fourth Amendment and Independent State Grounds*, 77 MISS. L.J. 401 (2007)
Note, *The New "No-Knock" Provisions and its Effect on the Authority of the Police to Break and Enter*. 20 Am. U. L. Rev. 467 (1970-71)

HONORS:

Simon E. Sobeloff Law Society Sobeloff Award, 2016
Public Justice Center - Access to Justice, 2014
Maryland Bar Foundation, H. Vernon Eney Award, June 2009
Maryland State's Attorney's Association Leadership Award, 2008
American Bar Association, Margaret Brent Women Lawyers of Achievement Award, August, 2007
Lady Justice Award, National Association of Women Judges, District 4, 2007
The Daily Record's Leadership in Law Award, 2001
National Association of Social Workers' Public Citizen of the Year Award, 2001
Certificate of Appreciation presented by Montgomery County Bar Association for contribution to the Mentor-Mentee Program, 2000
Outstanding Jurist Award presented by Montgomery County Bar Association, 2000
Recognized by *The Daily Record* as one of "Maryland's Top 100 Women," 1998, 1999, 2001 and 2003
The Daily Record's Circle of Excellence, 2001

Midwood High School Alumni Association, Lifetime Achievement Award, 1999
Girl Scouts of Central Maryland, Distinguished Women Award, 1999
Montgomery County Bar Association Century of Service Award, 1999
The American University, Washington College of Law Distinguished Alumna Award, 1999

Included in *Women of Achievement in Maryland History*, a historical reference book on extraordinary achievements of women in Maryland American Red Cross, Maryland Chapter, Elizabeth Dole Woman of Achievement Award, 1998

Who's Who in America, Who's Who in American Law, Who's Who of American Women, Who's Who in the East

Syracuse University Alumni Club of Greater Baltimore, Outstanding Alumnus, Spokesperson & Jurist, 1996

Margaret Brent Trailblazers Award presented by The American Bar Association Commission on Women in the Profession and The Women's Bar Association of Maryland, 1995

New York Bar Foundation, Award of Appreciation, 1995

Outstanding Syracuse University Alumna Award in Commemoration of 125th Anniversary of the founding of Syracuse University, 1995

Rita C. Davidson Award, Recipient of Annual Award, Women's Bar Association of Maryland, 1995

Ninth Annual Dorothy Beatty Memorial Award for Significant Contribution to Women's Rights, Women's Law Center, 1994

Robert C. Heeney Award, Recipient of Annual Award, Maryland State Bar Criminal Law Section, 1993

Women Legislators of Maryland, The General Assembly, Citation, in recognition of outstanding contributions to the advancement and welfare of women in Maryland, 1989

Congregant of Excellence, awarded by Adas Israel Men's Club, 1988

"Celebration of Women" Award, Pioneer Women Na'amat Outstanding Service on Behalf of Victims of Family Violence, 1985

Montgomery County Government Certificate of Appreciation and Recognition for contribution to a more responsive approach to the problems of domestic violence, 1983

Montgomery County Government Award for Outstanding Contribution to the Task Force on Battered Spouses, 1982

Montgomery County Government Certificate of Appreciation and recognition for two years of outstanding work to promote the safety and dignity of women as a member of the Montgomery County Sexual Offenses Committee, 1977

Lawyer's Cooperative Publishing Company and Bancroft Whitney awards for highest grade in Torts, Criminal Procedure and Modern Land Transactions, 1971-1973

American University Law Review, Associate Editor, 1972

Lura E. Turley Prize, American University, 1972

Merit Scholarship to Attend Hague Academy of International Law, 1959

Pi Sigma Alpha, National Political Science Honorary, 1958

Deans List, Syracuse University, 1957-1959

PROFESSIONAL ASSOCIATIONS:

American Bar Association, 1974-2013
Maryland State Bar Association, 1973-Present
Montgomery County Bar Association, 1973-Present
Women's Bar Association of Maryland, 1974-Present
Women's Bar Association of the District of Columbia, 1978-Present
National Association of Women Judges, 1980-Present, Maryland Chapter, elected
Treasurer, 1991; elected President, Maryland Chapter, 1994
The International Academy of Trial Judges, 1989-Present
National District Attorney's Association, 1973-1980
Network 2000, 1996-2011
The Women's Forum of Washington, DC, 2004-2012
Cosmos Club, Member, 2008-Present

CIVIC ACTIVITIES:

Washington College of Law, Dean's Advisory Council, Member, 1998-2009
Syracuse University's Maxwell School of Citizenship and Public Affairs Advisory Board,
Member, 1996-2004
Bethesda-Chevy Chase YMCA Committee of Management, 1995-2004
Montgomery County Task Force on Battered Spouses, 1981
Montgomery County Advisory Committee on Environmental Protection, 1980
Montgomery County Crisis Center, Citizens Advisory Board, 1979, 1980
Montgomery County Advisory Committee to County Executive on Child Abuse, 1976-
1977; Battered Spouses, 1977-1978
Montgomery County Sexual Offenses Committee, 1976, 1977
West Bradley Citizens Association, Treasurer, Vice-President, 1964-1968

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Case No. S18C-06-009 CAK



Exhibit F

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS	:	
et al., individually and on behalf of others	:	
similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. NO.: S18C-06-009 CAK
	:	
MOUNTAIRE CORPORATION,	:	
MOUNTAIRE FARMS INC., and	:	
MOUNTAIRE FARMS OF DELAWARE,	:	
INC.,	:	
	:	
Defendants.	:	

DECLARATION OF MICHAEL J. LEE REGARDING NOTICE PLAN

I, MICHAEL J. LEE, declare as follows:

1. I am over 21 years of age and am not a party to this action. This declaration is based on my personal knowledge, information provided by the staff of RG/2 Claims Administration, LLC ("RG/2"), and information provided by Mitchell + Resnikoff ("M+R"). If called as a witness, I could and would testify competently to the facts stated herein.

2. I am the Chief Operating Officer at RG/2, which has been retained as the Claims Administrator responsible for administering the Notice Plan ("Notice Plan") and the claims administration processes for the above-captioned action. RG/2 is a leader in class action settlement administration that provides settlement administration services and notice plans for class actions involving consumer rights, securities, product liability, environmental, employment, and discrimination. I have experience in all areas of class action settlement administration including notification planning including direct notice by mail and email, print publication

notice, and digital publication notice methodologies. Since 2000, RG/2 Claims has administered in excess of \$1.8 billion in class action settlement proceeds.

3. A copy of RG/2's firm background and capabilities is attached hereto as Exhibit 1. I, and in consultation with counsel in the present litigation and M+R designed the Notice Plan for the settlement in the above- captioned action ("Settlement"). The Declaration of Ron Resnikoff of Mitchell + Resnikoff is attached hereto as Exhibit 2.

4. This Declaration describes and, together with the exhibits, constitutes the proposed Notice Plan for the Settlement. The Notice Plan was developed by RG/2 and M+R to reach the Class consistent with other effective court-approved notice programs, and the Federal Judicial Center's (FJC) Judges' Class Action Notice and Claims Process Checklist and Plain Language guide.

PROPOSED NOTICE PLAN

5. The objective of the proposed Notice Plan is to provide notice of the proposed Settlement to members of the Proposed Class ("Class Members" or "Class") that satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

6. I have been provided the proposed Class Definition set forth within the Joint Motion for Preliminary Certification of Class Action Settlement Agreement and other Relief.

7. In consideration of the proposed Class Definition, we have designed the Notice Plan that includes the following elements:

- (a) Direct Mailed Notice, also referred to herein as the Long Form Notice (the proposed Notice is separately attached to the Settlement);
- (b) Publication Notice;

- (c) A dedicated settlement website through which Class Members can obtain detailed information about the Settlement and access the Long Form Notice and case documents and file a registration form (also referred to herein as the Claim Form);
- (d) A toll-free telephone number that Class Members can obtain additional information about the Settlement and request a copy of the Long Form Notice and Claim Form; and
- (e) A press release in a form acceptable to the parties.

8. At the conclusion of the notice campaign, RG/2 will provide a final declaration verifying implementation of the Notice Plan.

DIRECT MAILED NOTICE

9. Direct mailed Notice (i.e., the Long Form Notice) will be provided by First-Class mail to all Class Members whose addresses are identified as residing within the Groundwater Area, the Air Area, or both.

10. Based upon information provided by counsel, the parties have a shape file which can be utilized to identify mailing addresses for potential Class Members. Utilizing the US Postal Services National Change of Address and record locator services, RG/2 expects to be able to find complete information for class members that will allow for the delivery of a notice packet by First-Class Mail to identified class members. For all notices returned as undeliverable, RG/2 will: (1) skip-trace addresses and mail Notice to the most recent available addresses identified, and (2) mail a second Notice to the Current Resident at the property located within the class area.

PUBLICATION NOTICE

11. The Class definition also includes former owners and residents of the properties in the Groundwater Area and/or Air Area as well as those employed full-time in those areas (other than excluded members). In order to reach these class members, RG/2 will publish a Publication Notice in a form acceptable to the parties in 6 Delaware Newspapers with a combined circulation of 76,375 and *USA Today*. Collectively, the print publications will reach over 680,000.

12. The Publication Notice will inform potential class members of the existence of the Settlement and instructions on how to find the settlement website and participate in the settlement administration.

13. The Notice Plan calls for the Publication Notice to be placed four times for publication in the following newspapers over a period of 60 days:

- *Cape Gazette*
- *Coastal Point*
- *Laurel Star*
- *Seaford Star*
- *Delaware Wave*
- *Delaware Coastal Press*

14. The Notice Plan calls for the Publication Notice to be placed one time for publication in the following newspaper:

- *USA Today*

SETTLEMENT WEBSITE

15. Prior to the launch of the Notice Plan, RG/2 will establish a settlement website for the purposes of disseminating the Notice and related content.

16. RG/2 will work with the counsel to update the case website to finalize the content to for the website and the claims portal. The website will provide Class Members with general information about the Settlement consistent with the Long Form Notice, including answers to

frequently asked questions, important dates and deadline information, a summary of Settlement benefits, the ability to download a registration form, a collection of downloadable Court documents related to the litigation and the settlement (including the Long Form and Publication Notices, online Claim Form, Settlement Agreement, and Preliminary Approval Orders), and the contact information for the Claims Administrator.

TOLL-FREE HELPLINE

17. Prior to the launch of the notice campaign, RG/2 will make available a toll-free number to assist potential Class Members and any other persons seeking information about the Settlement. The helpline will be staffed by live operators during normal business hours and will be fully automated and will operate 9:00 AM to 5:00 PM, 5 days a week. Callers will have the option to leave a message in order to speak with the Claims Administrator who will return their call within 24 hours.

18. The toll-free helpline will include a voice response system that allows callers to listen to general information about the Settlement, listen to responses to frequently asked questions ("FAQs"), or request a paper version of the Long Form Notice and Claim Form.

19. RG/2 will work with Counsel to finalize responses to the FAQs that will incorporate the information contained in the Court-approved Class Notice that will provide accurate answers to anticipated questions about the Settlement.

PRESS RELEASE

20. M+R will issue a press release in a form acceptable to the parties consisting of the Notice to be distributed via *PRNewswire*.

EXHIBITS

21. Attached hereto are true and correct copies of the following exhibits:

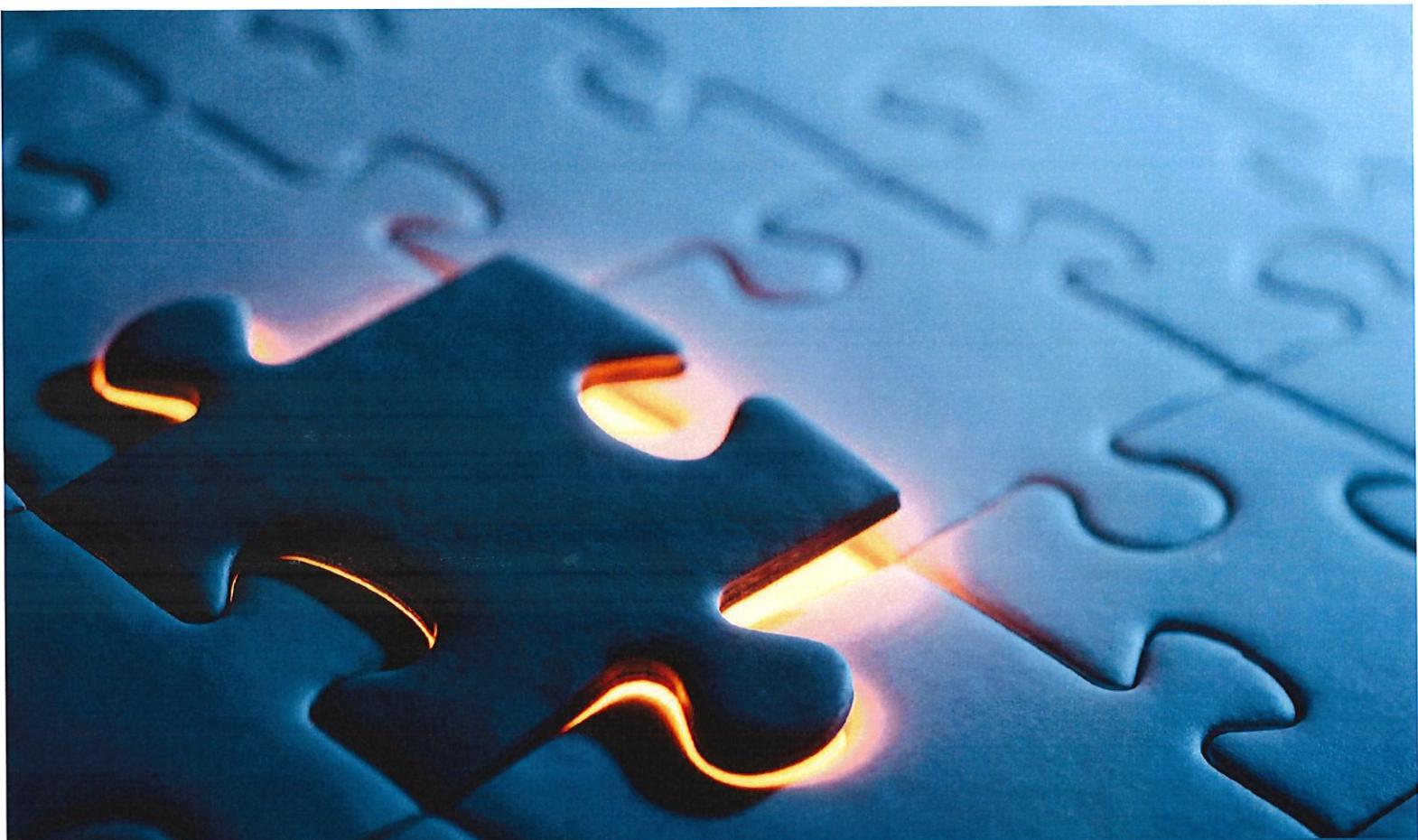
- (a) Exhibit 1: Background information on RG/2 Claims Administration LLC
- (b) Exhibit 2: The Declaration of Ron Resnikoff of Mitchell + Resnikoff
- (c) Exhibit 3: Notice Plan Cost Estimate

Pursuant to 10 *Del. C.* §3927, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and was executed in Hamilton, NJ on December 23, 2020.



Michael J. Lee

EXHIBIT 1



**SETTING A NEW STANDARD IN
CLASS ACTION CLAIMS ADMINISTRATION**

PHILADELPHIA • NEW YORK • ATLANTA • SAN DIEGO • SAN FRANCISCO

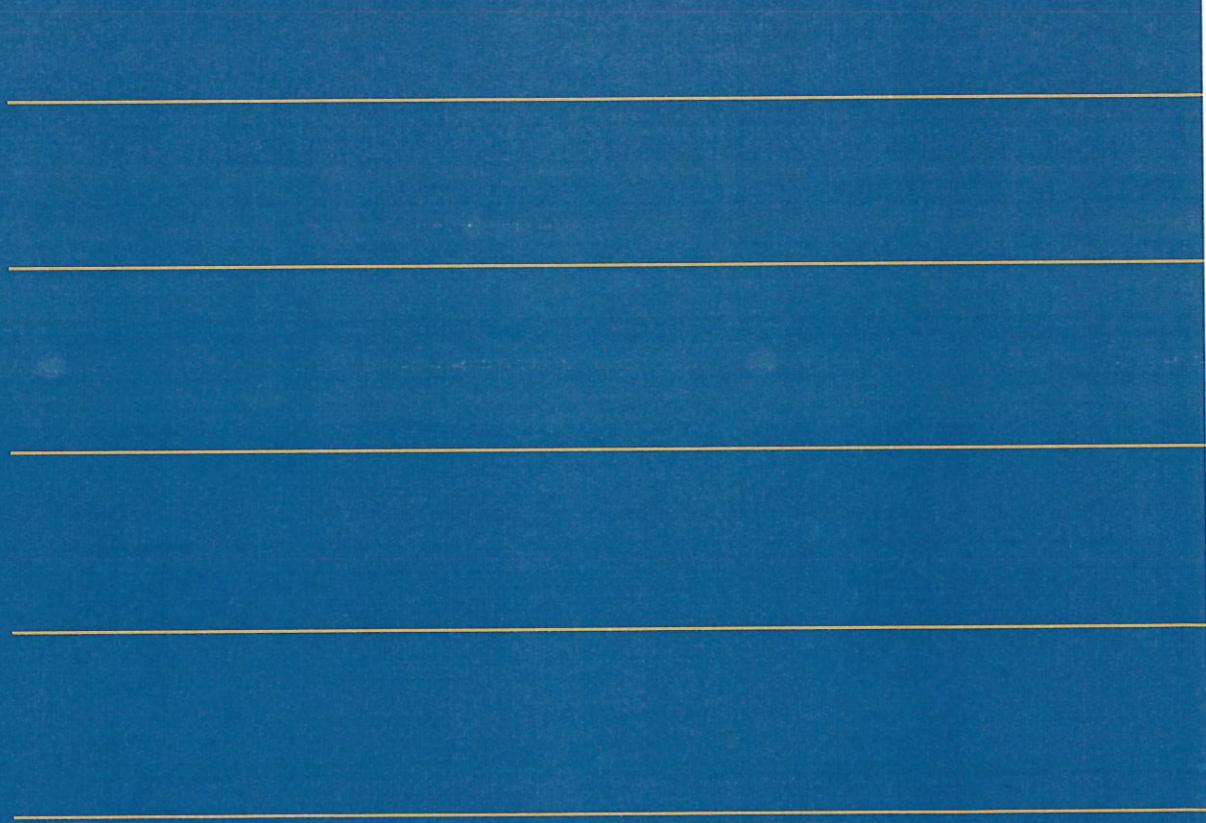


TABLE OF CONTENTS

-
- 4 Class Action Experience**
-
- 5 Cutting-Edge Technology and Skilled Resources**
-
- 6 Experienced Professionals**
-
- 9 Full Life-Cycle Support for Your Class Action**
-
- 10 Range of Services**
-

Class Action Experience

High-Quality Service at Competitive Rates

RG/2 Claims seasoned professionals utilize their vast class action experience, tax and financial management resources to deliver high-quality service at competitive rates.

RG/2 Claims is a boutique class action claims administration firm with a nationwide presence founded by seasoned class action practitioners and highly credentialed tax professionals. Our leadership team has a collective 100 years' experience working in the field of class action litigation and settlement administration to leverage for the benefit of counsel. Our team of driven class action attorneys, **highly credentialed CPAs and forensic accountants** approach each matter with a personal goal to shepherd the settlement through the process from settlement negotiations through final approval. Our personal attention and care ensures that the administration is handled in a seamless manner that allows counsel to proceed with the knowledge and confidence that their settlement will receive the attention and care that they demand. In addition, our operations and IT personnel bring individualized innovations to each engagement, driving the notice and settlement administration to conclusion. We have the experience to handle large settlements with the personal attention and care expected from a boutique firm.

RG/2 Claims recognizes that cutting-edge technology is the key to efficient and reliable claim processing. Our IT Group, including an experienced web design team, enables RG/2 Claims to employ technologies used to enhance accuracy, efficiency and interaction of all participants in the claims process. Our approach focuses on analysis of case needs, development of solutions to maximize resources and reduce costs through accurate and efficient data collection and entry, and ongoing maintenance and support. Throughout the entire claims process, our goal is to (1) optimize completeness, accuracy and efficiency of the data management system, including online integration; (2) validate critical fields and data; and (3) track opt-outs and claimant responses. RG/2 Claims' proprietary database application provides a **single source for managing the entire claims administration process and expediting decision making and resource management**. From the initial mailing through distribution of settlement funds and reconciliation of distributed payments, RG/2 Claims' **CLEVERPay®** system centralizes data, facilitating information sharing and efficient communication.



Cutting-Edge Technology and Skilled Resources

The CLEVerPay® System: A proprietary and revolutionary application developed exclusively by RG/2 Claims.

At RG/2 Claims, we developed a proprietary and customizable database with the goal of providing single-source management throughout the claims administration process, expediting decision making and resource management.

From the initial mailing through distribution of settlement funds and reconciliation of payments, RG/2 Claims' CLEVerPay® system centralizes the entire process while providing information sharing and communications solutions.

Our CLEVerPay® system is a robust and user-friendly resource that can be easily customized to meet your administration and distribution needs. We recognize how essential it is for data to be clean, centralized and readily accessible. RG/2 Claims' CLEVerPay® system has the capacity to assimilate and analyze large amounts of raw data from multiple inputs, to convert that raw data into useful information and to distribute the useful information in a variety of formats.

The integration of these elements results in timely and accurate distribution of secure payments generated from RG/2 Claims' single-source CLEVerPay® system.

For more information, please visit our website to download our CLEVerPay® System Datasheet at:
<http://www.rg2claims.com/pdf/cleverPayDatasheet.pdf>.

Experienced Professionals Always There When You Need Us

RG/2 Claims principals have hands-on experience in both class action practice and settlement administration. Our combined access to resources and institutions allows us to deliver superior value-added service in all aspects of settlement administration.



GRANT RAWDIN, Esq., CFP®, CEO and co-founder, is an attorney, an accountant and a Certified Financial Planner™ practitioner. *Worth* magazine named him one of the “Best Financial Advisors in America.” Mr. Rawdin’s professional background includes more than 25 years of legal and accounting experience focused in tax, business, investment analysis, legal claims and class action settlement administration. Mr. Rawdin has a juris doctor degree from Temple University Beasley School of Law and a B.A. in English from Temple University, and he is admitted to practice law in Pennsylvania and New Jersey.

rawdin@rg2claims.com



MICHAEL A. GILLEN, CPA, CFE, CFF, President and co-founder, has more than 25 years of experience in many facets of litigation consulting services, with particular emphasis on criminal and civil controversies, damage measurement, fraud and embezzlement detection, forensic and investigative accounting, legal claims and class action settlement administration and taxation. He assists numerous attorneys and law firms in a variety of litigation matters. Mr. Gillen graduated from La Salle University with a B.S. in Accounting.

mikegillen@rg2claims.com



MICHAEL J. LEE, CFA, COO, the chief architect of our proprietary CLEVerPay® system is a Chartered Financial Analyst with extensive experience in litigation consulting services, including damage assessment, measurement, evaluation, legal claims and class action settlement administration. Additionally, Mr. Lee has about a decade of experience in the financial services industry, with particular emphasis on securities valuation, securities research and analysis, investment management policies and procedures, compliance investigations and portfolio management in global equity markets. Mr. Lee has a B.S. in Business Administration with a dual major in Finance and Management from La Salle University and an M.B.A. in Finance from the NYU Stern School of Business.

mlee@rg2claims.com



MELISSA BALDWIN, Director of Claims Administration—Employment and Consumer, has over 18 years of experience in the administration of class action matters, with focuses on project management, client communication, notice coordination, claims processing and auditing, and distribution in the class action practice areas of antitrust, consumer and labor and employment. As Notice and Correspondence Coordinator, Ms. Baldwin assisted in the administration of an antitrust matter involving nine defendant banks, which included over 47 million class members and the subsequent distribution of the \$330 million Settlement Fund to the valid class members. Ms. Baldwin has a B.S. in Business Administration from Drexel University.

mbaldwin@rg2claims.com



TINA M. CHIANGO, Director of Claims Administration—Securities and Antitrust, has over 20 years of experience in the administration of class action matters. Ms. Chiango focuses on project management; this includes establishing procedures and case workflow, client communications, notice coordination, overseeing the processing and auditing of claims, distribution to the class and preparing reports and filings for the court. Over the last 20 years, Ms. Chiango has worked on a broad spectrum of class action settlements including securities, antitrust, consumer and mass tort, among others. Ms. Chiango has a B.S. in Business Administration with a major in Accounting from Drexel University.

tchiango@rg2claims.com



WILLIAM W. WICKERSHAM, Esq., Senior Vice President, Business Development and Client Relations, focuses his practice on assisting clients in navigation of the claims administration process from pre-settlement consultation through disbursement in all class action practice areas, including, but not limited to, antitrust, consumer, labor and employment, and securities. As a seasoned director of client relations, he advises counsel on settlement administration plans and manages many large and complex class action settlements. Mr. Wickersham has also appeared in federal court on several occasions to successfully support counsel in the settlement approval process including complex securities, environmental and wage and hour matters. As a former securities class action attorney, he brings over a decade's worth of experience in the class action bar as a litigator and as a claims administrator. As a litigator, Mr. Wickersham was involved in several high profile litigations which resulted in recoveries for investors totaling over \$2.5 billion. Mr. Wickersham has a juris doctor degree from Fordham University School of Law, a B.A. from Skidmore College and is admitted to practice law in New York.

wwwickersham@rg2claims.com



CHRISTOPHER J. TUCCI, Esq., Vice President, Business Development and Client Relations, focuses on guiding clients through the class action claims administration process from pre-settlement consultation to innovative notice campaigns, to quality and cost-effective administration, to the ultimate distribution of funds. He advises clients on the administrative solutions for consumer, employment, securities, and antitrust class action. Mr. Tucci is recognized as an expert in the financial services legal community and is a sought after national speaker on litigation management, financial services laws, data security breaches, corporate investigations, and in-house counsel best practices. As a former senior in-house litigator for nearly two decades, he has extensive experience managing litigation for global financial services corporations, including dozens of securities, wage & hour, and consumer class actions matters. Mr. Tucci brings a unique perspective to class action matters with his deep practical experience in the management of litigation including selecting and managing outside counsel, handling internal investigations, communicating with state and federal regulators, and managing litigation from inception through settlement or dismissal. Mr. Tucci has a juris doctor degree from Widener University School of Law, a B.A. from the University of Delaware, and is admitted to practice in Pennsylvania and New Jersey.

ctucci@rg2claims.com

Locations



PHILADELPHIA

30 South 17th Street • Philadelphia, PA 19103-4196
P 215.979.1620 • **F** 215.979.1695



NEW YORK

1540 Broadway • New York, NY 10036-4086
P 212.471.4777 • **F** 212.692.1020



ATLANTA

1075 Peachtree Street NE, Suite 2000 • Atlanta, GA 30309-3929
P 404.253.6904 • **F** 404.253.6905



SAN DIEGO

750 B Street, Suite 2900 • San Diego, CA 92101-4681



SAN FRANCISCO

Spear Tower • One Market Plaza, Suite 2200 • San Francisco, CA 94105-1127
P 415.957.3011 • **F** 415.957.3090



Full Life-Cycle Support for Your Class Action

With You Every Step of the Way

Whether engaged as a court-appointed settlement administrator, claims agent or disbursing agent, RG/2 Claims offers a complete range of claims, settlement administration and investment management services, including but not limited to:

PROFESSIONAL CASE MANAGEMENT CONSULTING

RG/2 Claims provides custom pre-settlement consultation and highly personalized attention throughout the life cycle of settlement administration. Each retention begins with an in-depth consultation concerning the specific needs of the case. Our professionals routinely and proactively identify administrative concerns and identify and propose solutions that avoid delay and remove unpredictability from the equation. We work through a coordinated approach involving a core of specialists that are intimately familiar with the case entrusted to our care. Our retentions result in effective and efficient solutions and greater peace of mind for busy lawyers.

NOTIFICATION PLANNING AND CAMPAIGNS

Whether routine or innovative, RG/2 Claims designs cost-effective and thorough notification plans that will suit your budget whether the settlement is national in scope or highly localized. RG/2 Claims guides you through the array of notice publication options at your disposal in a variety of media formats.

WEBSITE DESIGN

RG/2 Claims can assist in the design and hosting of a website specific to the client's needs to allow for document posting, as well as pertinent information and deadlines about the case. RG/2 Claims can also provide various options for claims filing, which includes an online portal that allows claimants to submit their claims and supporting documentation through the website.

CLAIMS PROCESSING

RG/2 Claims utilizes a proprietary and customizable database that provides a single-source management tool throughout the claims administration process, expediting decision making and resource management. RG/2 Claims' proprietary and sophisticated CLEVerPay® system centralizes the entire process while providing information sharing and communications solutions, from the initial mailing through distribution of settlement funds and reconciliation of payments.

DISTRIBUTION AND TAX SERVICES

RG/2 Claims' in-house tax, accounting and financial services professionals provide disbursement services, including management of checking, sweep, escrow and related cash accounts, as well as non-cash assets, such as credits, gift cards, warrants and stock certificates. RG/2 Claims' in-house CPAs provide a broad array of accounting services, including securing private letter rulings from the IRS regarding the tax reporting consequences of settlement payments, the preparation of settlement fund tax returns and the preparation and issuance of IRS Forms 1099 and W-2.

Range of Services

Offering Unparalleled Value

RG/2 offers a range of quality value-added services for your class action administration.

SECURITIES

RG/2 Claims' highly experienced team uses its various resources to locate beneficial holders of securities, including working with the Depository Trust Company and a proprietary list of nominee firms to identify and mail notices to the class. With RG/2 Claims' CLEVerPay system, claims are processed efficiently and accurately using our proprietary damage grid that calculates class member damages in accordance with a broad array of complex plans of allocation. Claims are automatically flagged through a validation process so RG/2 Claims can communicate with class members concerning their claims and can assist them in filing claims that are complete and properly documented. Once ready for distribution, RG/2 Claims conducts an audit of the claims to insure against calculation errors and possible fraudulent claims. Once the audit is completed, RG/2 Claims calculates distribution amounts for eligible class members in accordance with the plan of allocation and issues checks and any applicable tax documents. RG/2 Claims is also often called upon to act as the Escrow Agent for the Settlement Fund, investing the funds and filing all required tax returns.

ANTITRUST

Because of the high-dollar settlements involved in most antitrust cases and potential large recoveries on behalf of class members, RG/2 Claims understands the importance of accuracy and attention to detail for these cases. RG/2 Claims works with counsel to arrive at the best possible plan to provide notice to the class. With RG/2 Claims' CLEVerPay system, claims filed with a large volume of data, which is common in an antitrust case, can be quickly and easily uploaded into our database for proper auditing. Our highly-trained staff consults with counsel to apply an audit plan to process claims in an efficient manner while ensuring that all claims meet class guidelines. Once ready for distribution, RG/2 Claims calculates check amounts for eligible class members in accordance with the plan of allocation and will issue checks (including wire transfers for large distributions) as well as any necessary tax documents. RG/2 Claims is also available to act as the Escrow Agent for the Settlement Fund, investing the funds and filing all required tax returns.

EMPLOYMENT

With an experienced team of attorneys, CPAs, damage experts and settlement administrators, RG/2 Claims handles all aspects of complex employment settlements, including collective actions, FLSA, gender discrimination, wage-and-hour and, in particular, California state court class and PAGA settlements. RG/2 Claims utilizes technological solutions to securely receive and store class data, parse data for applicable employment information, personalize consents forms or claim forms, collect consents or claims electronically, calculate settlement amounts and make payments through our proprietary CLEVerPay system. Our proprietary database also allows for up-to-the-minute statistical reporting for returned mail, consents or claims received and exclusions submitted. Our CPAs concentrate on withholding and payroll issues and IRC section 468(B) compliance and reporting. Customizable case-specific websites allow for online notification and claims filing capabilities. With Spanish/English bilingual call center representatives on-staff, class members are provided immediate attention to their needs.

CONSUMER

RG/2 Claims handles a wide range of complex consumer matters with notice dissemination to millions of class members and with settlements involving cash, coupons, credits and gift cards. Our experienced claims administrators are available to provide guidance on media, notice and distribution plans that are compliant with the Class Action Fairness Act and the state federal rules governing notice, and that are most beneficial to the class. Our proprietary CLEVerPay system provides a secure and efficient way to track class member data, claims and payments. Integrated with our database, we can provide a user-friendly claims filing portal that will allow class members to complete a static claim form or log-in using user-specific credentials to view and submit a claim personalized just for that user. A similar online portal can be provided as a highly cost-effective method for distribution where the class member can log in to obtain coupons, vouchers or credits as their settlement award.

Effective administration requires proactive planning and precise execution. Before we undertake any matter, we work with you to develop a specific plan for the administration of your case. The service plan is comprehensive, complete and tailored to your specific needs.

RG/2 CLAIMS PROVIDES THE SERVICES SUMMARIZED BELOW:

- Technical consultation during formulation of settlement agreement, including data collection criteria and tax consequences
- Design and development of notice and administration plan, including claim form design and layout
- Claim form and notice printing and mailing services
- Dedicated claimant email address with monitoring and reply service
- Calculation and allocation of class member payments
- Claim form follow-up, including issuing notices to deficient and rejected claims
- Mail forwarding
- Claimant locator services
- Live phone support for claimant inquiries and requests
- Claim form processing
- Claim form review and audit
- Check printing and issuance
- Design and hosting of website access portals
- Online claim receipt confirmation portal
- Ongoing technical consultation throughout the life cycle of the case
- Check and claim form replacement upon request

WE ALSO PROVIDE THE FOLLOWING OPTIONAL SERVICES:

- Periodic status reporting
- Customized rapid reporting on demand
- Issue reminder postcards
- Consultation on damage analyses, calculation and valuation
- Interpretation of raw data to conform to plan of allocation
- Issue claim receipt notification postcards
- Online portal to provide claims forms, status and contact information
- Dedicated toll-free claimant assistance line
- Evaluation and determination of claimant disputes
- Opt-out/Objection processing
- Notice translation
- Integrated notice campaigns, including broadcast, print and e-campaigns
- Pre-paid claim return mail envelope service
- Web-based claim filing
- 24/7 call center support
- Damage measurement and development of an equitable plan of allocation

WE ALSO PROVIDE CALCULATION AND WITHHOLDING OF ALL REQUIRED FEDERAL AND STATE TAX PAYMENTS, INCLUDING:

- Individual class member payments
- Qualified Settlement Fund (QSF) tax filings
- Employment tax filings and remittance
- Generation and issuance of W-2s and 1099s
- Integrated reporting and remittance services, as well as client-friendly data reports for self-filing

**Don't see the service you are looking for?
Ask us. We will make it happen.**



FOR MORE INFORMATION, PLEASE CONTACT:

WILLIAM W. WICKERSHAM, Esq.

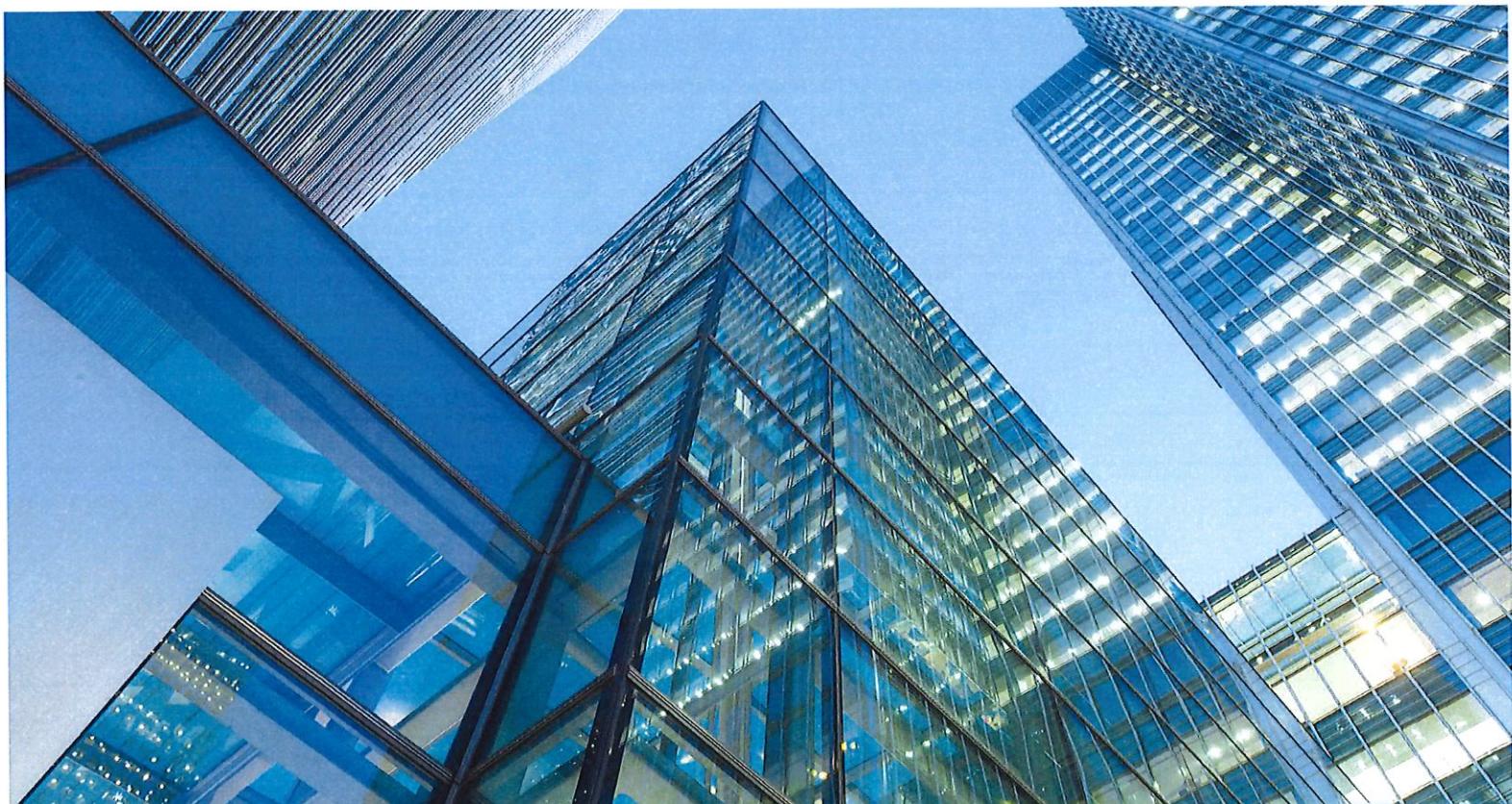
Senior Vice President

Business Development and Client Relations

Phone: 917.531.8241

Email: wwwickersham@rg2claims.com

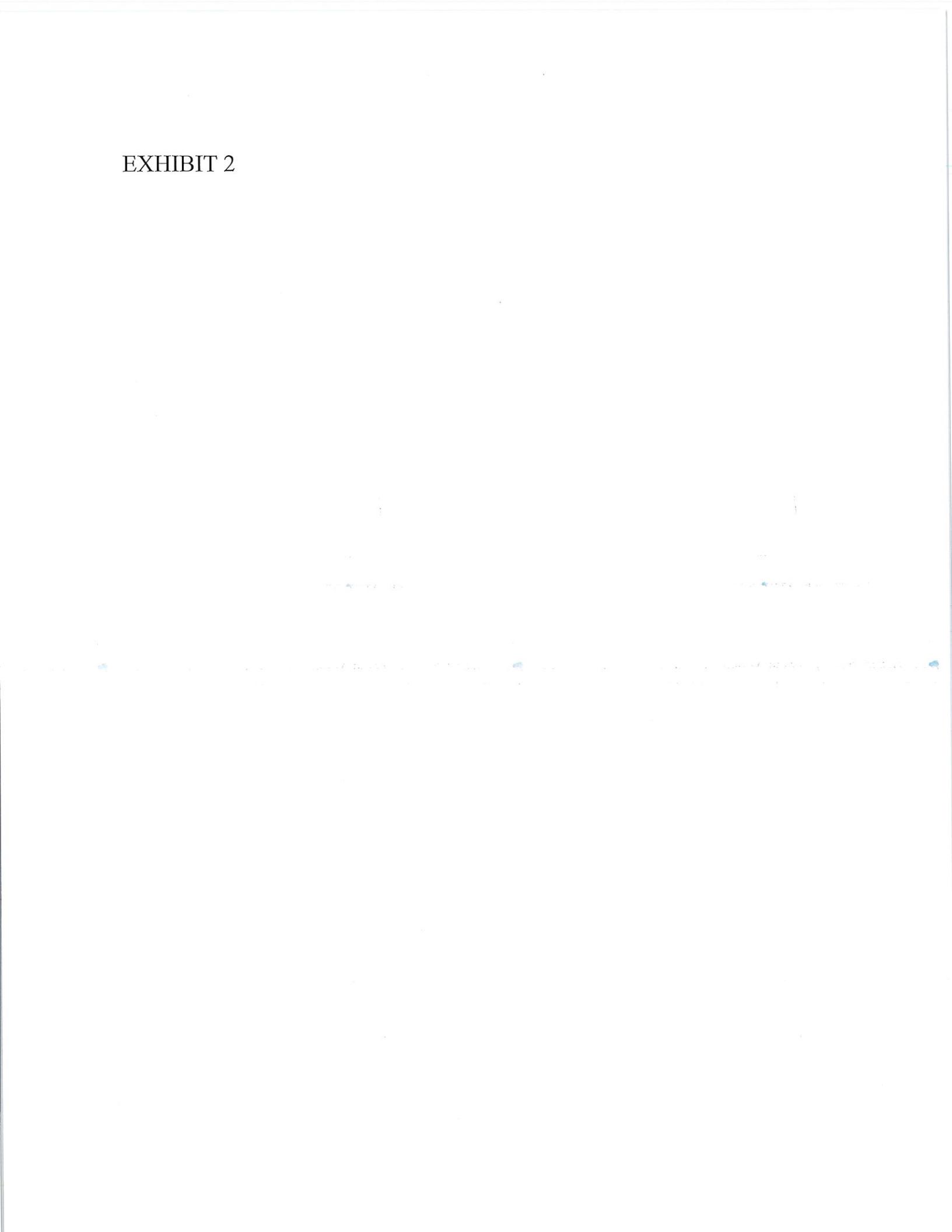
WWW.RG2CLAIMS.COM



BOUTIQUE ADMINISTRATOR WITH
WORLD-CLASS CAPABILITIES

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EXHIBIT 2



IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS	:	
et al., individually and on behalf of others	:	
similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. NO.: S18C-06-009 CAK
	:	
MOUNTAIRE CORPORATION,	:	
MOUNTAIRE FARMS INC., and	:	
MOUNTAIRE FARMS OF DELAWARE,	:	
INC.,	:	
	:	
Defendants.	:	

DECLARATION OF RON RESNIKOFF

I, RONALD B. RESNIKOFF, declare as follows:

1. I am over 21 years of age and am not a party to this action. I have personal knowledge of the facts stated herein and, if called as a witness, could and would testify competently thereto.
2. I am the Founder and CEO of Mitchell + Resnikoff (“M+R”), an advertising and marketing firm based in Jenkintown, PA. My firm has been asked by RG/2 Claims Administration LLC (“RG/2”) to partner in the design and execution of the proposed Notice Plan for the settlement in the above-captioned action (the “Settlement”).
3. I have more than 49 years of experience in marketing communications, direct marketing and advertising. In the past 49 years, I have focused on direct marketing and targeting using online (once it came into vogue) and offline channels in addition to founding M+R in 1988, a successor company to Mitchell & Company that started in 1970.
4. Our work at M+R has evolved since its inception to include designing, executing, and analyzing digital, direct marketing/mail and offline (print) advertising and communications campaigns. The technologies and tools described herein are well-accepted, leading practices in

the digital advertising world and are transferable and applicable to the execution of an effective class action notice plan.

5. This Declaration describes advertising industry trends and practices as well as the media approach and methodology for the Notice Plan for the Settlement.

6. M+R and RG/2 constructed the Notice Plan to be consistent with, and to take advantage of, how individuals consume media and locate information today. Specifically, in addition to providing print publication notice, when appropriate we leverage digital components including mobile and desktop web banners,-paid search and social media. Leveraging the ways in which today's consumer accesses media enables us to construct a robust, action-oriented notification plan. In addition, as we constructed the Notice Plan, we considered the available coverage information about the Defendant's class. This information enables us to better target our Notice Plan and reach potential Settlement Class Members. Specifically, the Notice efforts will target likely residents of properties that were affected by the environmental exposure.

7. The Claims Administrator shall be responsible for executing a direct mail campaign which will include mailing the Notice of Proposed Settlement and related content via USPS First-Class Mail to the owners of all current properties located within the Class Area as identified through the use of a shape file that defines the boundaries of the Class Area. To the extent that properties are identified which include non-resident owners, the Notice of Proposed Settlement and related content will be mailed to the owner as well as to "Current Resident" at the property address. The Claims Administrator will log all returned mail and skip-trace addresses and remail Notice to any current mailing addresses identified. Additionally, the Claims Administrator will issue a second notice to "Current Resident" at the property address.

8. The Claims Administrator will also maintain a case website where Class Members will be able to access current information regarding the case status, review Court documents, and file their Registration Forms via an electronic claim portal.

9. The print media campaign, consists of six local newspapers covering Sussex county, DE. The total one-time circulation is 76,375. Each ad will run four times during the

campaign for a total circulation of 305,500. The newspaper campaign is intended to be supportive of the targeted direct mail campaign. In addition, the notice will be published one time in the national edition of USA Today with a daily circulation of 609,826 for a Friday edition.

10. A press release consisting of the Notice will be distributed to media.

M+R BACKGROUND

11. Over the past 49 years, my company and our media partners and team of digital experts, has planned, managed, executed, and reported on-hundreds of individual digital media and traditional media (TV, Print, Radio, Out-of-Home (OOH)) executions for some of the country's major consumer brand advertisers and business-to-business organizations. M+R clients have included AmeriGas, SEI Investments, AAA MidAtlantic, Aramark, American Education Services/PHEAA, EP Henry, McGraw Hill/FW Dodge, Fulton Bank, JP Morgan Chase, Visa International, WL Gore, Marlin Leasing, National Gaucher Foundation, and MBNA, Tarkett, Zurich Payroll.

12. In my past 30 years as CEO of M+R, I have overseen all aspects of digital and traditional media executions, ranging from strategy development, direct marketing targeting and creative design, to planning, to identification of media partners, to integration of technology, to media buying, to optimizations of media executions and analysis. M+R, its media partners and team of digital experts have managed more than \$15 million in digital and traditional media and direct marketing executions. I have hired and trained more than 50 employees over the years and integrated third-party, industry-leading technologies and providers such as Google and Epsilon.

CONNECTION TO THE NOTICE WEBSITE

13. All communications in the form of newspaper ads, PR release and direct mail will drive readers to the Settlement website by including the URL.

CONCLUSION

14. Based on my experience in designing and executing offline marketing plans, as well as industry best practices, it is my opinion that the direct mail notice, associated skip tracing, local newspaper publication notice, national newspaper notice in *USA Today* and press

release components of the Notice Plan represent the best notice practicable under the circumstances to reach in excess of an estimated 70% of likely Settlement Class Members.

Pursuant to 10 Del.. C. §3927, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and was executed in Jenkintown, PA on December 23, 2020.



Ronald B. Resnikoff

EXHIBIT 3



**Estimate of Fees and Costs for Notice Services related to:
*Gary and Anna Marie Cuppels et al. v. Mountaire Corporation***

	<u>Amount</u>
<i>Design & Development</i>	
Start Up - Development of Case-Specific Notice Plan	\$ 2,300
<i>Case Intake</i>	
Compile Address Data for Current and Former Residents	\$ 1,500
Review Notice, Design and Typeset Notice	\$ 525
Web Design Static Website with Court Documents	\$ 1,200
Develop Claim Portal for Collecting Registration Forms	\$ 3,500
Monthly maintenance (months)	\$ 900
Subtotal: Setup Cost	\$ 9,925
Publication Notice	\$ 18,697
4x Placement of Summary Notice in the Following Publications:	
	<u>Circulation 1x</u> <u>Circulation 4x</u>
Cape Gazette	21,000 84,000
Coastal Point	18,000 72,000
Laurel Star	1,625 6,500
Seaford Star	2,750 11,000
Delaware Wave	17,000 68,000
Delaware Coastal Press	16,000 64,000
	76,375 305,500
1x Placement of Summary Notice in the Following Publication:	
	<u>Circulation 1x</u>
USA Today	609,826
Issue Press Release	\$ 850
Project Management/Creative	\$ 3,000
<i>Class Member Identification & Notification</i>	\$ 5,260
Print 16-page Notice Mailer	3,000 \$ 1.25 \$ 3,750
NCOA and Mail	\$ 250
Postage	3,000 \$ 0.42 \$ 1,260
<i>Notice Follow Up</i>	\$ 1,564
Process Returned Notices	300 \$ 0.75 \$ 225
Skip Trace	300 \$ 1.25 \$ 375
Remail Notice to Former Resident	225 \$ 1.75 \$ 150
Issue new notice to "Current Resident" at returned address	300 \$ 1.75 \$ 525
Postage	525 \$ 0.55 \$ 289
Subtotal: Notification Cost	\$ 25,521



**Estimate of Fees and Costs for Notice Services related to:
*Gary and Anna Marie Cuppels et al. v. Mountaire Corporation***

	<u>Quantity</u> (hours/pieces)	<u>Rate</u>	<u>Amount</u>
<i>Claimant Communications</i>			
Set up Toll-Free Customer Service Line			\$ 750
Monthly Maintenance	12	\$ 150.00	\$ 1,800
Estimated Call Volume	300		
Total Minutes	1,200	\$ 0.15	\$ 180
Live Operator*			
Total Minutes	400	\$ 1.10	\$ 440
Email Responses	100	\$ 4.50	\$ 450
Subtotal: Claimant Communications			\$ 3,620
<i>Opt-Out Processing</i>			
Open Mail, Log In	15	\$ 0.75	\$ 11
Process Opt-out requests and report	15	\$ 4.50	\$ 68
Import Portal Claims	585	\$ 1.25	\$ 731
Review of Claims Providing Proof	135	\$ 3.75	\$ 506
Process Paper Claim Submissions	315	\$ 4.50	\$ 1,418
Issue deficiency/Denial letters/emails	50	\$ 1.25	\$ 63
Process responses to deficiency letters	25	\$ 3.00	\$ 75
Postage	50	\$ 0.55	\$ 28
Subtotal: Processing			\$ 2,899
<i>Tax Reporting</i>			
Set up Qualified Settlement Fund in accordance with 468B			\$ 250
QSF Tax preparation including quarterly estimated tax payments and annual tax filings (per year)	2	\$ 1,250	\$ 2,500
Subtotal: Tax Reporting			\$ 2,750
Case Management, Data Analysis, Data Warehousing, Technical Support and Reporting to Counsel and the Court.			\$ 11,370
Subtotal: Project Management			\$ 11,370
Total Estimated Cost for Implementing Notice Plan			\$ 56,085

EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



Exhibit G

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS,)
individually and on behalf of all others)
similarly situated,)
Plaintiffs,)
) C.A. No.: S18C-06-009 CAK
v.)
)
MOUNTAIRE CORPORATION, and)
Arkansas corporation, MOUNTAIRE)
F FARMS, INC., a Delaware corporation, and)
MOUNTAIRE FARMS OF DELAWARE,)
INC., a Delaware corporation.)
Defendants.)
)
)

NOTICE OF PROPOSED SETTLEMENT

*A state court directed this notice. This is not a solicitation from a lawyer. You are not being sued.
However, your legal rights are affected by the information contained in this Notice.*

SUMMARY

- This Notice concerns your potential entitlement to recover compensation for alleged groundwater and air contamination from the Millsboro, Delaware poultry processing facility owned by Mountaire Farms of Delaware, Inc. Read this Notice carefully as it concerns your legal rights and contains deadlines for participation.
- A \$65,000,000.00 proposed settlement (“Class Action Settlement”) has been reached that offers payments to the “Mountaire Settlement Class” consisting of: all Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit A**, and not the Air Area, which is bounded by the dashed red line on **Exhibit A**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.
- Excluded from the definition of the class are: (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.
- The total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member’s injuries

and damages. Each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

- Plaintiffs alleged that Defendants disposed of contaminated wastewater and liquefied sludge on lands near Plaintiffs' residences and properties. Plaintiffs alleged that this wastewater and sludge have seeped into the groundwater throughout the area, causing nitrates and other contaminants to enter Plaintiffs' drinking water wells, resulting in health effects and reduced property values. Plaintiffs further alleged that Defendants' wastewater treatment plant and their spray irrigation and sludge disposal operations emit air pollutants, including malodorous hydrogen sulfide and ammonia that reach Plaintiffs' residences and properties at levels causing Plaintiffs to suffer health effects and to endure nuisance conditions preventing and devaluing the use of their properties. Defendants deny Plaintiffs' allegations but have chosen to settle the case in order to achieve a final resolution of this matter and resolve the uncertainty associated with litigation.
- In addition to this Class Action Settlement, in another case in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN), Mountaire has agreed to engage in certain additional activities to prevent future harm to the groundwater, reduce air emissions and provide residents an avenue to report and receive follow-up on air pollution complaints in the form of a First Amended Consent Decree before the Federal Court for approval. The Parties estimate that the aggregate value of these separate commitments is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies. Further information about the Federal Case, including resolution of claims by Intervenors in that case, is set forth below.
- The Court in charge of this case still has to decide whether to approve the Settlement. If it does, and after any appeals are finally resolved, payments will be made to those who have filed a valid claim and suffered compensable injuries and damages.

**Your legal rights are affected whether you act or don't act.
Please read this notice carefully.**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

REGISTER PROPERLY

You must register to be considered for payment from this Class Action Settlement. You may do so by either (1) visiting the Mountaire Settlement website at [to be inserted] _____, and completing the Registration Form online at that site, or (2) mailing the completed Registration Form attached to this Notice as Exhibit B to the following address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com

	<p>Email: info@rg2claims.com</p> <p>You must complete the Registration Form and submit it by mail postmarked on or before by [to be inserted], 2021 or online through the Mountaire Settlement website on or before [to be inserted], 2021, in order to be considered for payment through the Class Action Settlement. Those who fail to register by this date by mail or through the Mountaire Settlement website will NOT be eligible for compensation.</p>
OPT OUT	<p>You can exclude yourself from this settlement if you do not want to participate in this Class Action Settlement. If you own/owned, reside/resided, or are/were employed at property in the Settlement Class Area and you wish to opt out of the Settlement Class, you must send a written request to opt out, postmarked on or before [to be inserted] - to the following address:</p> <p>Cuppels v. Mountaire Class Action Settlement Administrator RG/2 Claims Administration LLC PO Box 59479 Philadelphia, PA 19102-9479 Phone: (866) 742-4955 Web: www.rg2claims.com Email: info@rg2claims.com</p> <p>A Request for Exclusion ("Opt Out") Form is attached hereto as Exhibit C</p>
OBJECT	<p>If you wish to participate in the Class Action Settlement, but wish to object in whole or part to the proposed Settlement, you must do so on or before [to be inserted], 2021. Whether or not you object to the Settlement, you must register if you wish to be considered for compensation from this Settlement should the Settlement be approved. You cannot both request to be excluded and object.</p>
GO TO A HEARING	<p>The Court will hold a hearing on the fairness of the proposed settlement on [to be inserted], 2021, either (a) the Sussex County Superior Courthouse, 1 The Circle, Georgetown, DE 19947 or (b) virtually, due to the ongoing threat to public health posed by COVID-19. At this hearing, you can ask to speak in Court about the fairness of the proposed Class Action Settlement if you have filed a timely objection to the proposed Settlement. You may be represented by an attorney if you choose to attend this hearing; however, you do not need to come to the hearing or speak to be considered for possible compensation. You only need to properly register to be considered for compensation.</p>
DO NOTHING	<p>You do not need to take any action if you do not wish to be excluded from the Settlement Class. However, if you take no action you will receive no benefits from the Class Action Settlement. You will also give up any rights you have to sue Mountaire Farms of Delaware, Inc.; Mountaire Farms Inc.; and</p>

	Mountaire Corporation for injuries or damages related to groundwater contamination or air pollution (<i>See question 7</i>).
--	--

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION **PAGE 4**

1. Why is there a notice?
2. What is this litigation about?
3. Why is this a class action?
4. Why is there a Settlement?

WHO IS PART OF THE SETTLEMENT..... **PAGE 5**

5. Who is included in the Settlement?
6. What if I am not sure whether I am included in the Settlement?

THE SETTLEMENT BENEFITS **PAGE 5**

7. What does the Settlement provide?
8. How much compensation will I receive?
9. How do I register?

THE LAWYERS REPRESENTING YOU..... **PAGE 6**

10. Do I have a lawyer in the case?
11. How will the lawyers be paid?

OPT-OUT OF THE SETTLEMENT..... **PAGE 7**

12. How do I exclude myself from this settlement?

OBJECTING TO THE SETTLEMENT **PAGE 7**

13. How do I object to this settlement?

THE FINAL APPROVAL HEARING..... **PAGE 8**

14. When and where will the Court decide whether to approve the Settlement?
15. Do I have to attend the hearing?
16. May I speak at the hearing?

IF YOU DO NOT REGISTER **PAGE 9**

17. What happens if I do not register?

GETTING MORE INFORMATION **PAGE 10**

18. How do I get more information?

BASIC INFORMATION

1. Why is there a notice?

A Court authorized this notice because you have a right to know about a proposed settlement of a class action lawsuit known as *Cuppels v. Mountaire*, C.A. No.: S18C-06-009 CAK (the “Lawsuit”), and about all of your options before the Court decides whether to approve the Settlement. This notice explains the Lawsuit, the Settlement, and your legal rights.

Judge Craig Karsnitz of the Delaware Superior Court, in and for Sussex County, is overseeing this case. The people who sued are called the “Plaintiffs.” Mountaire Farms of Delaware, Inc; Mountaire Farms, Inc.; and Mountaire Corporation are the “Defendants.”

2. What is this litigation about?

Plaintiffs alleged that Defendants disposed of contaminated wastewater and liquefied sludge on lands near Plaintiffs’ residences and properties. Plaintiffs alleged that this wastewater and sludge have seeped into the groundwater throughout the area, causing nitrates and other contaminants to enter Plaintiffs’ drinking water wells, resulting in health effects and reduced property values. Plaintiffs further alleged that Defendants’ wastewater treatment plant and their spray irrigation and sludge disposal operations emit air pollutants, including malodorous hydrogen sulfide and ammonia that reach Plaintiffs’ residences and properties at levels causing Plaintiffs to suffer health effects and to endure nuisance conditions preventing and devaluing the use of their properties. Defendants have denied these allegations but have chosen to settle the case in order to achieve a final resolution of this matter and resolve the uncertainty associated with litigation.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” sue on behalf of themselves and other people with similar claims. Together, all the people with similar claims are members of a “Settlement Class.” Plaintiffs have pursued this matter as a class action in an effort to efficiently resolve this litigation with respect to all who may be affected by Mountaire’s alleged groundwater contamination and air pollution.

4. Why is there a Settlement?

The Court has not decided in favor of the Plaintiffs or the Defendants. Instead, both sides have agreed to a proposed Settlement. By agreeing to the proposed Settlement, the parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, Settlement Class Members who have timely registered will be considered for compensation. The Class Representatives and Class Counsel believe the proposed Settlement is best for everyone who is affected. Although Defendants have agreed to this Settlement, they do not admit any factual allegations against them, any legal issues, or any liability.

WHO IS PART OF THE SETTLEMENT

5. Who is affected by the Settlement?

The Parties seek final approval of a Settlement Class that includes All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit A**, and not the Air Area, which is bounded by the dashed red line on **Exhibit A**; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.

Excluded from the definition of the class are (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.

To participate in this settlement, and potentially qualify for compensation, you must register properly.

6. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are in the Settlement Class, or if you have any other questions about the proposed Settlement, visit the Mountaire Settlement website at www._____com [to be inserted]. [Defendants reserve the right to review and approve the website] You also may contact Class Counsel. (See question 17 for contact information). Please do not call or write the Delaware Superior Court.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

The Defendants have agreed to pay \$65,000,000.00 (the “Class Action Settlement Amount”) to resolve the Settlement Class Members’ claims. In exchange for this payment, Settlement Class Members who do not request to be fully excluded will fully release any known or unknown claims, which were alleged or could have been alleged in the Lawsuit. Specifically, Settlement Class Members will not be permitted to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants for all allegations and claims of any kind, known or unknown, whether pursuant to federal, state, or local statutory law, common law, regulations, or other law that Plaintiffs made or could have made against any Defendant that arose, directly or indirectly, from or relate to (a) the matters alleged or that could have been alleged in the Lawsuit; (b) matters alleged or that could have been alleged in *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN); (c) matters

alleged or that could have been alleged in connection with any challenge to the December 13, 2019 Conciliatory Agreement between the Delaware Department of Natural Resources and Environmental Control, Mountaire Farms of Delaware, Inc. and Mountaire Farms Inc.; (d) matters alleged or that could have been alleged in *Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. S18M-06-002-RFS (Del. Sup. Ct.); (f) attorneys' fees, costs, and expenses; and (g) any other matters related to operation of, permitting of, or any alleged emissions from or at the Facility or environmental contamination of any kind (including but not limited to wastewater, sludge and/or other biosolids, groundwater, surfacewater, and air emissions or odors) at or released from the Facility.

The amount of Settlement funds paid out to each individual will depend on the number of valid and timely claims made by Settlement Class Members (See question 8 below), and the severity of injuries and damages suffered by each Class Member.

The Class Action Settlement Amount will be used to pay eligible Claimants as approved by the Court; the fund will also be used to pay attorneys' fees, enhancement awards to the Class Representatives, costs, and expenses approved by the Court. The Class Action Settlement Amount reflects the total amount that Defendants will pay in this matter, not including the amount paid in connection with another case in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN), the resolution of which requires Mountaire to comply with the First Amended Consent Decree, and requires MFODI to engage in certain additional activities to prevent future harm to the groundwater and provide residents an avenue to report and receive follow-up on air pollution complaints. The Parties estimate that the aggregate value of these separate commitments is expected to be approximately \$120 million for incurred and contracted costs, exclusive of long-term operation and maintenance and contingencies.

A portion of the Settlement funds may be set aside for eligible claimants who fail to timely register due to exigent circumstances and for latent injuries. The claims adjudicator will have the discretion to consider such claims, with any award subject to Court approval.

8. How much compensation will I receive?

Each Settlement Class Member who files a valid and timely claim as described herein shall be considered for possible compensation by an impartial third party adjudicator who will consider the facts of your claim. Your allocation will be paid from the Settlement Fund after a Court approves the allocation and deduction of attorneys' fees, any enhancement awards to Class Representatives, notice and administration costs, and related fees and expenses and/or payment of any liens.

9. How do I register?

You must register to participate in this settlement on or before _____, 2021. You may do so by visiting [www.\[to be inserted\].com](http://www.[to be inserted].com), and completing the Registration Form online

at that site, or mailing the completed Registration Form attached to this Notice as Exhibit B to the following address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

You must complete the Registration Form and submit it by mail postmarked on or before [to be inserted] _____, 2021 or online through the Mountaire Settlement website by [to be inserted] _____, 2021 in order to be considered for payment through the Class Action Settlement. Those who fail to register by mail or through the Mountaire Settlement website will NOT be eligible for compensation.

After you register, it is important to notify RG/2 Claims Group by phone or email of any change in your address or phone number.

After you have registered, and if this settlement is approved by the Court, you may be required to submit additional information and documentation to support your claim. You will be contacted to provide this information at a later date. You should also check the website at [www.\[to be inserted\].com](http://www.[to be inserted].com) for any updates.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

The Court has appointed a number of lawyers as “Class Counsel” to represent all members of the Settlement Class. They include:

Philip C. Federico
Brent P. Ceryes
Schochor, Federico and Staton, P.A.,

Chase T. Brockstedt
Stephen A. Spence
Baird Mandala Brockstedt, LLC

The court-approved fees for these lawyers will be paid out of the Class Action Settlement (*see* question 11). You may hire another attorney at your own expense to object to the Settlement or for any other purpose related to this notice. You do not need to have an attorney to participate in this Settlement. You only need to properly register once to be eligible for possible compensation.

11. How will the lawyers be paid?

Class Counsel intend to request a legal fee of up to 25 percent of the Class Action Settlement Amount, plus reimbursement of reasonable, actual out-of-pocket expenses incurred in prosecuting the Class Action, which are not to exceed \$2,500,000.00. The fees and expenses must be approved by the Court and will be paid out of the Class Action Settlement Amount that Defendants will pay under the Settlement Agreement. The Court will decide the amount of fees and costs to be paid. This does not include legal fees and reimbursement of expenses that Class Counsel will receive in connection with a separate settlement agreement for another lawsuit in Federal Court, *State of Delaware Department of Natural Resources & Environmental Control v. Mountaire Farms of Delaware, Inc.*, C.A. No. 18-838 (MN).

OPT-OUT OF THE SETTLEMENT

12. How can I exclude myself from the settlement?

If you owned, leased, resided on, or were employed on a full-time basis at, property in the Settlement Class Area, the geographic parameters of which are shown on the map attached as Exhibit A, on or after May 1, 2000, you may choose to opt-out and be excluded from the Settlement Class. If you opt out of the Settlement Class, you will not be eligible to participate in the distribution of the settlement proceeds. If you do not opt out of the Settlement Class, you will not be able to commence any other litigation, arbitration, or other proceeding against the Defendants in any other forum concerning the subject matter of this case and you will be bound by the terms of the Settlement Agreement. If you own property or reside in the Settlement Class Area and you wish to opt out of the Settlement Class, you must send a written request to opt out, postmarked on or before _____[to be inserted]_____, 2021- to the following address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

A Request for Exclusion (“Opt Out”) Form is attached hereto as Exhibit C

OBJECTING TO THE SETTLEMENT

13. How do I object to the Settlement?

If you wish to participate in this settlement, but wish to object to any part of the proposed Settlement, or the Settlement as a whole, you must submit a letter or other written document that includes the following:

- 1) Your full name, address and telephone number. If you have or if you hire your own attorney, your attorney's full name, address and telephone number;
- 2) A written statement of all grounds for your objection accompanied by any legal support for the objection (if any);
- 3) A statement of whether you intend to appear at the Final Fairness (Approval) Hearing;
- 4) Proof of membership in the Class; and
- 5) Your signature or that of your attorney (if you have one or if you hire one).

You must mail your objection to each of the following three (3) addresses, **and** your objection must be postmarked no later than _____ [to be inserted] _____, 2021:

CLERK OF THE COURT	PLAINTIFFS' COUNSEL	DEFENDANTS' COUNSEL
Superior Court, Sussex County RE: Mountaire Class Action Sussex County Courthouse 1 The Circle, Suite 2 Georgetown, DE 19947	Chase Brockstedt, Esq. Re: Mountaire Class Action Baird, Mandalas, Brockstedt, LLC 1413 Savannah Rd, Suite 1 Lewes, DE 19958	Michael W. Teichman, Esq. Re: Mountaire Class Action Parkowski, Guerke & Swayze, P.A. 1105 N. Market Street, 19th Fl Wilmington, DE 19801

If you are a member of the Settlement Class, and do not wish to participate in this settlement, you can exclude yourself from this settlement, as set forth above.

THE FINAL FAIRNESS (APPROVAL) HEARING

The Court will hold a hearing to decide whether to approve the proposed Settlement and any requests for attorneys' fees and expenses ("Final Fairness Hearing").

14. When and where will the Court decide whether to approve the proposed Settlement?

The Court has scheduled a Final Fairness Hearing on _____ [to be inserted] _____, _____ at _____ [to be inserted] _____, _____ pm, at the Sussex County Superior Courthouse, 1 The Circle, Georgetown, DE 19947. However, in light of the continuing threat COVID-19 poses to public health, the hearing may be held virtually. Please check the Mountaire Settlement website at [www._____ \[to be inserted\] _____.com](http://www._____ [to be inserted] _____.com) for updates regarding the location of the hearing. The hearing may be moved to a different date or time without additional notice. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for attorneys' fees, costs and expenses, and for any Enhancement Awards to the Class Representatives. If there are objections, the Court will also consider them at that time. At or after the hearing, the Court will decide whether to approve the Settlement, fees and expenses, and any Enhancement Awards.

15. Do I have to attend the hearing?

No. Class Counsel will answer any questions the Court may have. If you send an objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, to the proper addresses, and it complies with the other requirements set forth above, the Court will consider it.

YOU DON'T NEED TO COME TO THE HEARING OR SPEAK TO BE CONSIDERED FOR POSSIBLE COMPENSATION AS A CLASS MEMBER. YOU ONLY NEED TO PROPERLY REGISTER ONCE TO BE CONSIDERED FOR COMPENSATION AS A CLASS MEMBER.

16. May I speak at the hearing?

If you have timely and properly objected, you may ask the Court for permission to speak at the Final Fairness Hearing. To do so, your filed objection must include a statement of whether you intend to appear at the Final Fairness Hearing.

HOWEVER, YOU DON'T NEED TO COME TO THE HEARING OR SPEAK TO BE CONSIDERED FOR POSSIBLE COMPENSATION AS A CLASS MEMBER. YOU ONLY NEED TO PROPERLY REGISTER ONCE TO BE CONSIDERED FOR COMPENSATION AS A CLASS MEMBER.

IF YOU DO NOT REGISTER

17. What happens if I do not register?

If you **do not** register on or before ____[to be inserted]_____, and this proposed Settlement is approved by the Court, you will be bound by the Judgment entered by the Court, and by the terms and obligations of the Settlement Agreement, and you may not receive any benefits whatsoever from the Settlement. This also means that you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against any of the Mountaire entities described in Section 7 of this notice.

As referenced above, if this proposed Settlement is approved, you may be required to submit additional information and documentation to support your claim. You will be contacted to provide this information at a later date. **It is important that you keep your registration information current, by reporting any changes in your address or telephone number to the RG/2 Claims Group at the contact information listed on page **.** Failure to provide that information may also prevent you from being considered for compensation from this Settlement.

GETTING MORE INFORMATION

18. How do I get more information?

This Notice summarizes the proposed Settlement, and is also available at the website [www.
\[to be inserted\].com](http://www.[to be inserted].com). If you are a member of the Settlement Class and have any questions about the terms of the Settlement Agreement or would like to review the Settlement Agreement or any other documents related to this notice, you may

1. Write or call the Class Action Administrator:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

2. Contact Class Counsel through the Class Action website at [www.
\[to be inserted\].com](http://www.[to be inserted].com).

3. Write or call Class Counsel:

Chase Brockstedt, Esq.
Re: Mountaire Class Action
Baird, Mandalas, Brockstedt, LLC
1413 Savannah Rd, Suite 1
Lewes, DE 19958
(302) 645-2262

4. Request copies in person at the Clerk's Office at the Sussex County Superior Court:

Sussex County Courthouse
1 The Circle, Suite 2
Georgetown, DE 19947

Do not call the Sussex County Superior Court or Mountaire or Mountaire's Counsel.

Exhibit A



Exhibit B

Class Action Registration Form

To participate in the \$65 million settlement described in the Notice of Proposed Settlement, Class Members must submit this Registration Form to the Claims Administrator.

Your Registration Form must be postmarked on or before [to be inserted] for it to be valid. Alternatively, you may register your claim online at [to be inserted]. Your online claim must be submitted on or before [to be inserted] for it to be valid.

A separate registration form must be completed for each Claimant. Claims on behalf of minors should be submitted on the minor's behalf by a parent or guardian (separately from any claims made by the parent or guardian for themselves).

Your Registration Form must be submitted to:

Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

You may contact the Class Administrator toll-free at 1-866-742-4955 to determine whether you are eligible and to receive assistance with completing the this Registration Form.

You must also sign this form on the signature line at the bottom of the last page to be eligible to participate in the settlement fund.

I. Claimant Information:

Claimant First Name Claimant Middle Name Claimant Last Name

If you are completing this Registration Form on behalf of someone else (e.g., a deceased person, an incapacitated person, a minor, or a legal entity), please complete the following, and complete the contact information in Section III below on your own behalf.

Your First Name Your Middle Name Your Last Name

What is your relationship to the Person upon whose behalf you have completed this Fact Sheet?
(e.g., parent, guardian, Estate Administrator)

II. Qualifying Street Address:

Identify property address wholly or partly within the class area which you owned, leased, resided on, or were employed full-time at any time between May 1, 2000 to the present. If you have owned, leased, resided, or were employed full-time at multiple property addresses within the class area, identify the most recent address, and indicate below.

Address

City _____ State _____ Zip _____

I owned leased resided at was employed full-time at the property at the above address.

Approximate duration of ownership, lease, residency, or full-time employment at this address:

_____ to _____

I have have not owned, leased, resided at, or was employed full-time at multiple properties within the class area from May 1, 2000 to present.

III. Contact and Identifying Information:

My contact information is the same as the Qualifying Street Address listed above.

Address

City _____ State _____ Zip _____

Telephone: _____
Home _____ Cell _____ Work _____

Email: _____

Date of Birth: _____
MM DD YY

Date:

Signature:

Exhibit C

Request for Exclusion

I wish to be excluded from the Class in Cuppels v. Mountaire Corp. et. al., C.A. No.: S18C-06-009 CAK, and I understand that by excluding myself, I will not be able to get any money or benefit from the settlement.

Signature

Printed Name

Current Address

Current Telephone Number

Please send this Request for Exclusion by First Class U.S. Mail to:

Mountaire Class Action Exclusions
c/o RG/2 Claims Administration LLC
P.O. Box 59479
Philadelphia, PA 19102-9479

It must be postmarked no later than _____.

EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



Exhibit H

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS,)
individually and on behalf of all others)
similarly situated,)
Plaintiffs,)
) C.A. No.: S18C-06-009 CAK
v.)
)
MOUNTAIRE CORPORATION, and)
Arkansas corporation, MOUNTAIRE)
FARMS, INC., a Delaware corporation, and)
MOUNTAIRE FARMS OF DELAWARE,)
INC., a Delaware corporation.)
Defendants.)
)
)

SUMMARY NOTICE OF PROPOSED SETTLEMENT

To: All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at property located in whole or part within a defined geographic area near Millsboro, Delaware, as described more precisely in maps setting forth the Class Definition available at [www.\[to be inserted\].com](http://www.[to be inserted].com), or available from the Claims Administrator and/or Plaintiffs' Counsel, identified below, subject to certain exclusions.

YOU ARE HEREBY NOTIFIED, pursuant to Delaware Superior Court of Civil Procedure 23 and an Order of the Delaware Superior Court, that the Court-appointed Class Representatives, on behalf of themselves and all members of the Class, and Mountaire Farms of Delaware, Inc., Mountaire Farms Inc., and Mountaire Corporation ("Mountaire" or the "Defendants"), have reached a proposed settlement of the claims in the above-captioned class action (the "Action") in the amount of \$65,000,000 (the "Settlement"). This Settlement is intended to provide compensation for personal injury and property damage associated with alleged groundwater and air contamination from the Millsboro, Delaware poultry processing facility owned by Mountaire Farms of Delaware, Inc.

The Court has scheduled a Final Fairness Hearing on [to be inserted] ___, ___ at ___[to be inserted]___, ___ pm, at the Sussex County Superior Courthouse, 1 The Circle, Georgetown, DE 19947. However, in light of the continuing threat COVID-19 poses to public health, the hearing may be held virtually. Please check the Mountaire Settlement website at [www.\[to be inserted\].com](http://www.[to be inserted].com) for updates regarding the location of the hearing. The hearing may be moved to a different date or time without additional notice. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for attorneys' fees, costs and expenses, and for any monetary awards to the Class Representatives for their service as such ("Enhancement Awards"). If there are objections, the Court will also consider them at that time. Following the hearing, the Court will decide whether to approve the Settlement, attorney fees and expenses, and any Enhancement Awards.

**IF YOU ARE A MEMBER OF THE CLASS, YOUR RIGHTS WILL BE
AFFECTED BY THE PROPOSED SETTLEMENT AND YOU MAY BE ENTITLED TO
A MONETARY PAYMENT.** If you have not yet received a full Notice and Registration Form (together, the "Notice") explaining the details of the lawsuit and the proposed settlement, you may obtain copies of these documents by visiting the website of the Claims Administrator, [www.\[to be inserted \].com](http://www.[to be inserted].com), or by contacting the Claims Administrator at:

Cuppels v. Mountaire Class Action Claims Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

Settlement Website: [www.\[to be inserted \].com](http://www.[to be inserted].com)

Inquiries, other than requests for the Registration Form or for information about the status of a claim, may also be made to Class Counsel:

Chase Brockstedt, Esq.
Re: Mountaire Class Action
Baird, Mandalas, Brockstedt, LLC
1413 Savannah Rd, Suite 1
Lewes, DE 19958
(302) 645-2262

If you are a Class Member, you must register to be considered for payment from this Class Action Settlement. You may do so by either (1) visiting the Mountaire Settlement website at [to be inserted], and completing the Registration Form online at that site, or (2) mailing the completed Registration Form to the Claims Administrator identified above. You must complete the Registration Form and submit it by mail postmarked on or before by [to be inserted], 2021 or online through the Mountaire Settlement website on or before [to be inserted], 2021, in order to be considered for payment through the Class Action Settlement. Those who fail to register by this date by mail or through the Mountaire Settlement website will NOT be eligible for compensation.

If you are a Class Member and wish to exclude yourself from the Class, you must submit a request for exclusion in accordance with the instructions set forth in the Notice such that it is *received no later than [to be inserted]*. If you properly exclude yourself from the Class, you will not be bound by any judgments or orders entered by the Court relating to the Settlement, whether favorable or unfavorable, and you will not be eligible to share in the distribution of the Settlement Fund.

If you wish to participate in the Class Action Settlement, but wish to object in whole or part to the proposed Settlement, you must do so by first class mail in accordance with the instructions set forth in the Notice on or before _____[to be inserted]_____, 2021.

**PLEASE DO NOT CONTACT THE COURT, DEFENDANTS, OR
DEFENDANTS' COUNSEL REGARDING THIS NOTICE.**

DATED: _____, 202____

BY ORDER OF THE COURT
DELAWARE SUPERIOR COURT

EFiled: Dec 23 2020 05:31PM EST
Transaction ID 66209721
Case No. S18C-06-009 CAK



Exhibit I

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS et al., individually and on behalf of others similarly situated,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C.A. NO.: S18C-06-009 CAK
	:	
MOUNTAIRE CORPORATION, MOUNTAIRE FARMS INC., and MOUNTAIRE FARMS OF DELAWARE, INC.,	:	
	:	
Defendants.	:	

DECLARATION OF GARY CUPPELS

1. My name is Gary Cuppels. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.
2. I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.
3. I have resided at 26650 Carlisle Drive, Millsboro, DE 19966 since 2000. I am therefore a member of the proposed Class.
4. In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.
5. Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

6. I was informed by my attorneys of the general duties of a Class Representative, and agreed to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

7. I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

8. I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

9. I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

10. I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

11. I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

12. Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the

certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in order to be included or excluded from the class.

13. I support the settlement as a fair and adequate outcome for the class.

14. I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16 day of

DECEMBER (month) 2020 (year).


Gary Cuppels
Gary Cuppels

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS
et al., individually and on behalf of others
similarly situated,

Plaintiffs,

v.

C.A. NO.: S18C-06-009 CAK

MOUNTAIRE CORPORATION,
MOUNTAIRE FARMS INC., and
MOUNTAIRE FARMS OF DELAWARE,
INC.,

Defendants.

DECLARATION OF ANNA-MARIE CUPPELS

1. My name is Anna-Marie Cuppels. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

2. I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

3. I have resided at 26650 Carlisle Drive, Millsboro, DE 19966 since 2000. I am therefore a member of the proposed Class.

4. In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

5. Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

6. I was informed by my attorneys of the general duties of a Class Representative, and agreed to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

7. I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

8. I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

9. I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

10. I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

11. I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

12. Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the

certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in order to be included or excluded from the class.

13. I support the settlement as a fair and adequate outcome for the class.

14. I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16 day of

December (month) 2020 (year).

Anna M. Cuppels
ANNA M. CUPPELS
Anna-Marie Cuppels

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS
et al., individually and on behalf of others
similarly situated,

Plaintiffs,

v.

C.A. NO.: S18C-06-009 CAK

MOUNTAIRE CORPORATION,
MOUNTAIRE FARMS INC., and
MOUNTAIRE FARMS OF DELAWARE,
INC.,

Defendants.

DECLARATION OF MICHAEL HARDING

1. My name is Michael Harding. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

2. I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

3. I have resided at 26265 Hollyville Road, Millsboro, DE 19966 since 2014. I am therefore a member of the proposed Class.

4. In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

5. Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

6. I was informed by my attorneys of the general duties of a Class Representative, and agreed to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

7. I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

8. I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

9. I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

10. I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

11. I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

12. Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the

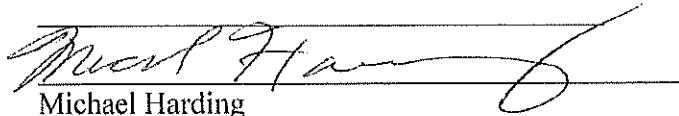
certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in order to be included or excluded from the class.

13. I support the settlement as a fair and adequate outcome for the class.

14. I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16 day of
December(month) 2020(year).


Michael Harding

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS
et al., individually and on behalf of others
similarly situated,

Plaintiffs,

v.

C.A. NO.: S18C-06-009 CAK

MOUNTAIRE CORPORATION,
MOUNTAIRE FARMS INC., and
MOUNTAIRE FARMS OF DELAWARE,
INC.,

Defendants.

DECLARATION OF ANNE HARDING

1. My name is Anne Harding. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

2. I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

3. I have resided at 26265 Hollyville Road, Millsboro, DE 19966 since 2014. I am therefore a member of the proposed Class.

4. In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

5. Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

6. I was informed by my attorneys of the general duties of a Class Representative, and agreed to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

7. I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

8. I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

9. I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

10. I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

11. I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

12. Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the

certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in order to be included or excluded from the class.

13. I support the settlement as a fair and adequate outcome for the class.

14. I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16 day of
December (month) 2020 (year).
Anne C Harding

Anne Harding

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS
et al., individually and on behalf of others
similarly situated,

Plaintiffs,

v.

C.A. NO.: S18C-06-009 CAK

MOUNTAIRE CORPORATION,
MOUNTAIRE FARMS INC., and
MOUNTAIRE FARMS OF DELAWARE,
INC.,

Defendants.

**DECLARATION OF LARRY MILLER, INDIVIDUALLY AND AS PERSONAL
REPRESENTATIVE OF THE ESTATE OF BARBARA MILLER**

1. My name is Larry Miller. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

2. I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

3. I have resided at 30415 Smiling Wolf Lane, Millsboro, DE 19966 since 1972. I am therefore a member of the proposed Class.

4. In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

5. Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

6. I was informed by my attorneys of the general duties of a Class Representative, and agreed to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

7. I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

8. I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

9. I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

10. I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

11. I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

12. Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the

certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in order to be included or excluded from the class.

13. I support the settlement as a fair and adequate outcome for the class.

14. I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 17 day of

Dec (month) 2020 (year).

Larry Miller

Larry Miller, Individually and as Personal Representative of the Estate of Barbara Miller

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS :
et al., individually and on behalf of others :
similarly situated, :
:
Plaintiffs, :
:
v. : C.A. NO.: S18C-06-009 CAK
:
MOUNTAIRE CORPORATION, :
MOUNTAIRE FARMS INC., and :
MOUNTAIRE FARMS OF DELAWARE, :
INC., :
:
Defendants. :

DECLARATION OF RONALD TOLSON

My name is Ronald Tolson. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

I have resided at 26658 Hollyville Road, Millsboro, DE 19966 since 1999. I am therefore a member of the proposed Class.

In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

I was informed by my attorneys of the general duties of a Class Representative, and agreed

to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in

order to be included or excluded from the class.

I support the settlement as a fair and adequate outcome for the class.

I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16th day of
DECEMBER (month) 2020 (year).

RONALD TOLSON

Ronald Tolson

Ronald Tolson

IN THE SUPERIOR COURT FOR THE STATE OF DELAWARE

GARY and ANNA-MARIE CUPPELS :
et al., individually and on behalf of others :
similarly situated, :
:
Plaintiffs, :
:
v. : C.A. NO.: S18C-06-009 CAK
:
MOUNTAIRE CORPORATION, :
MOUNTAIRE FARMS INC., and :
MOUNTAIRE FARMS OF DELAWARE, :
INC., :
:
Defendants. :

DECLARATION OF PATRICIA TOLSON

My name is Patricia Tolson. I am over 18 years of age. I am fully competent to make this declaration. I have personal knowledge of the facts stated here, and they are true and correct to the best of my knowledge, under penalty of perjury.

I am a Plaintiff in the above-referenced class action lawsuit. I understand that I have been offered as a Class Representative.

I have resided at 26658 Hollyville Road, Millsboro, DE 19966 since 1999. I am therefore a member of the proposed Class.

In this case, I have alleged, on behalf of myself and others, that the Defendants engaged in unlawful and negligent conduct, resulting in groundwater contamination and air pollution.

Through this lawsuit, I sought to recover compensatory damages caused by the Defendants' unlawful and negligent conduct, including damages related to both groundwater contamination and air pollution.

I was informed by my attorneys of the general duties of a Class Representative, and agreed

to represent the interests of all class members, including those potentially impacted by Defendants' air pollution and water contamination, with the goal of establishing the liability of Defendants, and recovering monetary damages for members of the Class.

I agreed to fulfill these duties to the best of my ability, to respond to discovery, to attend all hearings, depositions, meetings and trial as necessary to fulfill such duties, and to fulfill any additional duties that might arise through the course of this litigation in order to serve the best interests of all other persons similarly situated.

I have been informed that there is a proposed \$65 million settlement which would resolve all claims related to this matter. Class counsel has fully explained to me the terms and conditions of this settlement.

I understand that each Settlement Class Member who files a valid and timely claim shall be considered to receive a portion of the \$65,000,000.00 settlement amount, after a Court-approved deduction of attorneys' fees and expenses, notice costs, fees and administration costs, and, if applicable, payment of any liens, including any Medicare/Medicaid liens.

I understand that the total recovery for each Settlement Class Member will depend on how many of those Class Members submit a valid and timely claim, as well as the severity of each Class Member's injuries and damages.

I also understand that as a class member I have a right to opt out of the settlement class and/or object to the class settlement in court.

Class counsel has shown me the definition of the settlement class, which they propose should be used in the Class Notice notifying class members about this case, the certification of the class in this case, the scope of that class, the claims in the case, and what class members must do in

order to be included or excluded from the class.

I support the settlement as a fair and adequate outcome for the class.

I support the class settlement because it is a fair and reasonable resolution of this matter, given the strength of the claims and potential defenses to this litigation. I further believe that this settlement will fairly compensate the members of class.

Pursuant to 10 Del. C. §3927, I declare under penalty of perjury under the laws of Delaware that the foregoing is true and correct.

Executed on the 16th day of

December (month) 2020 (year).

Patricia Tolson

Patricia Tolson

Patricia Tolson



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

GARY and ANNA-MARIE)
CUPPELS, et al., individually and on)
behalf of all others similarly situated,)
Plaintiffs,)
v.)
MOUNTAIRE CORPORATION, an)
Arkansas corporation, MOUNTAIRE) TRIAL BY JURY OF 12
F FARMS, INC., a Delaware) DEMANDED
corporation, and MOUNTAIRE)
F FARMS OF DELAWARE, INC., a)
Delaware corporation.)
Defendants.)

**ORDER GRANTING PRELIMINARY APPROVAL OF
CLASS SETTLEMENT AGREEMENT AND OTHER RELIEF**

Gary Cuppels, Anna Marie Cuppels, Michael Harding, Anne Harding, Larry Miller, individually and on behalf of the Estate of Barbara Miller, Ronald Tolson, and Patricia Tolson, by and on behalf of others similarly situated (“Plaintiffs”), and Defendants Mountaire Corporation, Mountaire Farms of Delaware, Inc., and Mountaire Farms Inc. (collectively, “Defendants”), having entered into a proposed Settlement Agreement in this Action, and the Court having duly considered the proposed Class Action Settlement Agreement and Release (the “Settlement Agreement”), the parties’ Joint Motion for Preliminary Approval of Class Action Settlement Agreement and Other Relief (the “Motion”), and the arguments and documentation presented in support thereof:

The Motion is GRANTED and it is further ORDERED as follows:¹

PRELIMINARY APPROVAL

1. The Court finds that the Settlement Agreement, including all exhibits thereto including the Plan of Allocation attached as Exhibit E to the Motion, is preliminarily approved as fair, reasonable, and adequate and within the range of reasonableness for preliminary settlement approval. The Court finds that: (a) the Settlement Agreement resulted from extensive arm's length negotiations through mediation and direct discussion; and (b) the Settlement Agreement and accompanying Plan of Allocation and other documentation are sufficient to warrant notice of the Settlement Agreement to Settlement Class Members and a full hearing on the approval of the Settlement Agreement.

2. All proceedings in this action shall remain stayed pending the Court's order on Plaintiffs' Motion for Final Approval of the Settlement Agreement or any interim termination of the Settlement Agreement, except as to proceedings relating to the Settlement Agreement.

¹ For purposes of this Order, the Court adopts the definitions set forth in the Settlement Agreement.

PRELIMINARY FINDINGS ON CLASS CERTIFICATION

3. Pursuant to the Settlement Agreement and for purposes of the Motion only, the Court preliminarily certifies the following Settlement Class pursuant to Delaware Superior Court Rule 23:

All Persons who, on or after May 1, 2000, owned, leased, resided on, or were employed on a full-time basis at: (a) property located in whole or part within the Groundwater Area, which is geographically bounded by the solid blue line on **Exhibit B** to the Motion, and not the Air Area, which is bounded by the dashed red line on **Exhibit B** to the Motion; (b) property located in whole or part within the Air Area, but not the Groundwater Area; and (c) property located in whole or part within both the Groundwater Area and the Air Area.

Excluded from the definition of the class are : (1) Defendants; (2) any entity in which Defendants have a controlling interest; (3) any Person with an ownership interest in Defendants; (4) any current or former officer or director of Defendants; (5) any current or former employee of any Defendant for any potential exposure during their employment by such Defendant; (6) Persons who have entered into separate settlement agreements with any Defendant related to claims similar to those claims made in the Action; and (7) the legal representatives, successors, or assigns of Defendants.

4. In connection with this preliminary certification, the Court makes the following findings for purposes of the Motion and Settlement Agreement only:

- a. The Settlement Class appears to be so numerous that joinder of all members is impracticable;
- b. The class definition is ascertainable, and the class is defined using objective criteria that establish a membership with definitive boundaries;

- c. There appear to be questions of law or fact common to the Settlement Class for purposes of determining whether this Settlement should be approved;
- d. The Class Representatives' claims appear to be typical of the claims being resolved through the proposed Settlement;
- e. The Class Representatives appear to be capable of fairly and adequately protecting the interests of the Settlement Class;
- f. The questions of law or fact common to the Settlement Class predominate over individual questions, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

5. The Court appoints as class representatives Gary Cuppels, Anna Marie Cuppels, Michael Harding, Anne Harding, Larry Miller, Ronald Tolson, and Patricia Tolson.

6. Plaintiffs Heather Betts, Elizabeth Berger, William Hale, Herber Emelitio Gomez-Hernandez, Jill Gomez, Isaura Hernandez-Perez; Dean Daisey, Barbara Daisey, Arthur Selby, and Wendy Selby are not considered class representatives for purposes of this Order, but shall be subject to the terms of the Settlement Agreement to the extent they satisfy the criteria for membership in the

class. At the request of the Parties, the Second Amended Complaint shall be deemed to conform to this Order.

7. The Court appoints Chase Brockstedt Esq., Stephen A. Spence, Esq., and the law firm of Baird Mandala Brockstedt, LLC; and Philip C. Federico, Esq., Brent P. Ceryes, Esq., and the law firm of Schochor, Federico & Staton, P.A. as Class Counsel.

NOTICE AND ADMINISTRATION

8. The Court hereby designates RG/2 Claims Administration LLC as Claims Administrator.

9. The Court finds that giving Class Members notice of the Settlement Agreement is justified under Rule 23(e) because, as described above, the Court will likely be able to approve the Settlement under Rule 23(e) and certify the Settlement Class for purposes of judgment.

10. Plaintiffs, through the Claims Administrator, shall provide publication notice of this Preliminary Approval Order and the Settlement Agreement pursuant to the Notice Plan set forth in Exhibit F to the Motion.

11. The Court finds that the program of class notice described in the Notice Plan and the manner of its dissemination is consistent with Superior Court Rule 23(c)(2). The program of class notice represents the best practicable notice under the circumstances and is reasonably calculated to apprise Class Members of the

nature of this litigation; the scope of the Settlement Class; a summary of the class claims; that the Court will exclude the Class Member if they so request by a specified date; that the judgement will include all members who do not request exclusion; and that any member who does not request exclusion may object to the terms of this settlement and/or enter an appearance through their counsel.

12. The Court further finds that the class notice program constitutes due, adequate, and sufficient notice to all persons entitled to receive notice such that it meets the requirements of due process and Superior Court Rule 23(e).

13. Notice shall be initiated within 7 days of the entry of this Order. The Notice shall provide specific dates for the deadlines set forth below. If any deadline falls on a weekend or holiday, the deadline shall run until the end of the next business day.

EXCLUSIONS AND OBJECTIONS

14. Class Members who wish to opt-out and exclude themselves from the Settlement may do so by notifying the Claims Administrator in writing postmarked no later than 40 days after the entry of this Order.

15. To be valid, each request for exclusion must:

- Include the Class Member's full name, address, and telephone number;

- Include the statement: “I want to be excluded from C.A. No.: S18C-06-009 CAK, and understand that by excluding myself, I will not be able to get any money or benefits from the settlement” or substantially similar clear and unambiguous language;
- Include the Class Member’s signature; and
- Be mailed to the Claims Administrator at this address:

Cuppels v. Mountaire Class Action Settlement Administrator
RG/2 Claims Administration LLC
PO Box 59479
Philadelphia, PA 19102-9479
Phone: (866) 742-4955
Web: www.rg2claims.com
Email: info@rg2claims.com

16. If a Class Member’s request for exclusion is materially defective as to the requirements listed above (and detailed in the Notice), the Claims Administrator will send the Class Member a letter advising of the defect(s) and give the Class Member an opportunity to cure. If a Class Member fails to cure the request for exclusion, the Claims Administrator will have no further obligation to give notice of a need to cure.

17. All Class Members who do not opt out and exclude themselves from the Settlement Class shall be bound by the terms of the Settlement Agreement upon entry of a final approval order and judgment.

18. Settlement Class Members who wish to object to the Settlement Agreement or Plaintiffs' Counsel's application for an award of attorneys' fees may do so in a written submission to the Court, postmarked no later than 40 days after the entry of this Order.

19. Only Settlement Class Members who have filed such written notices of objection will be entitled to be heard at the Fairness Hearing, unless the Court orders otherwise.

20. A written objection must:

- Include the Class Member's full name, address and telephone number;
- If represented by counsel, include their attorney's full name, address and telephone number;
- Include a written statement of all grounds for your objection accompanied by any legal support for the objection (if any);
- Include a statement of whether the Class Member intends to appear at the Final Fairness (Approval) Hearing;
- Include proof of membership in the Class; and
- Include the Class Member's Signature or that of their attorney, if any; and
- Be mailed to each of the following three addresses:

CLERK OF THE COURT	PLAINTIFFS' COUNSEL	DEFENDANTS' COUNSEL
Superior Court, Sussex County RE: Mountaire Class Action Sussex County Courthouse 1 The Circle, Suite 2 Georgetown, DE 19947	Chase Brockstedt, Esq. Re: Mountaire Class Action Baird Mandala Brockstedt, LLC 1413 Savannah Rd, Suite 1 Lewes, DE 19958	Michael W. Teichman, Esq. Re: Mountaire Class Action Parkowski, Guerke & Swayze, P.A. 1105 N. Market Street, 19th Fl Wilmington, DE 19801

21. Any Settlement Class Member who does not timely submit a written objection in accordance with the procedures listed above (and detailed in the Notice), shall be deemed to have waived any objection, shall not be permitted to object to the Settlement, and shall be precluded from seeking any review of the Settlement Agreement and/or the final approval order and judgment by appeal or other means.

FINAL APPROVAL AND HEARING SCHEDULE

21. The Parties shall file a Motion for Final Approval of the Settlement Agreement, and Plaintiffs' Counsel shall file an Application for Attorneys' Fees and Reimbursement of Expenses (the "Final Motion and Fee Application") on or before 70 days after the entry of this Order along with any necessary supporting information.

22. A Fairness Hearing will be held before the Honorable Craig A. Karsnitz 10 days after the filing Final Motion and Fee Application, subject to the Court's availability, at either (a) the Sussex County Superior Courthouse, 1 The Circle,

Georgetown, DE 19947 or (b) virtually, due to the ongoing threat to public health posed by COVID-19, for the purpose of determining (i) whether the Settlement Class should be certified; (ii) whether the Settlement Agreement is fair, adequate, and reasonable, (iii) whether to enter a Final Judgment in this Action; and (iv) to consider Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of expenses and costs. The Parties shall contact the Court for a specific date and time of the Fairness Hearing which shall be included in the notice.

23. To the extent that the Court enters final judgment after the Fairness Hearing, the deadline for Settlement Class Members to register as Claimants for potential distributions from the settlement fund shall be 70 days after the entry of this Order (the "Bar Date").

24. The Court may, for good cause shown by any party, extend any of the deadlines set forth in the Order without further notice to the Settlement Class.

SO ORDERED, this _____ day of _____, 202_____

THE HONORABLE CRAIG A. KARNSNITZ