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Case No. S18C-06-009 CAK

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 Transaction ID 66236179
 Case No. S18C-06-009 CAK



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.)	
)	C.A. No.: S18C-06-009 CAK
MOUNTAIRE CORPORATION, an)	
Arkansas corporation, MOUNTAIRE)	TRIAL BY JURY OF 12
FARMS, INC., a Delaware)	DEMANDED
corporation, and MOUNTAIRE)	
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 Mandalas 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. In addition to the publications currently listed in the Notice Plan, the Court understands that RG/2 will also include the following two publications: the News Journal and the Delaware State News.

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 Class 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:

<p>PROTHONOTARY (Court Clerk) Superior Court, Sussex County RE: Mountaire Class Action Sussex County Courthouse 1 The Circle, Suite 2 Georgetown, DE 19947</p>	<p>CLASS COUNSEL Chase Brockstedt, Esq. Re: Mountaire Class Action Baird Mandalas Brockstedt, LLC 1413 Savannah Rd, Suite 1 Lewes, DE 19958</p>	<p>DEFENDANTS’ COUNSEL Michael W. Teichman, Esq. Re: Mountaire Class Action Parkowski, Guerke & Swayze, P.A. 1105 N. Market Street, 19th Fl Wilmington, DE 19801</p>
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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

22. Plaintiffs’ Counsel shall file a Motion for Attorneys’ Fees and Reimbursement of Expenses (“Plaintiffs’ Motion for Attorneys’ Fees and Costs”) on or before 20 days after the entry of this Order.


23. The Parties shall file a Motion for Final Approval of the Settlement Agreement (the “Motion for Final Approval”) on or before 70 days after the entry of this Order along with any necessary supporting information.

24. A Fairness Hearing will be held before the Honorable Craig A. Karsnitz 10 days after the filing Motion for Final Approval, 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’ Motion for Attorneys’ Fees 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.

25. 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”).

26. 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 11th day of January, 2021



THE HONORABLE CRAIG A. KARSNITZ

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