

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE CATTLE AND BEEF ANTITRUST
LITIGATION

Case No. 0:20-md-01319 (JRT-JFD)

This Document Relates To:
IN RE DPP BEEF LITIGATION

**DECLARATION OF BRIAN
DEVERY IN SUPPORT OF
DIRECT PURCHASER
PLAINTIFFS' MOTION FOR
APPROVAL OF NOTICE PLAN
AND CLAIMS PROCESS**

I, Brian Devery, declare as follows:

1. I am a Director of Client Services with A.B. Data, Ltd. ("A.B. Data"). I am fully familiar with the facts contained herein based upon my personal knowledge, and if called as a witness, could and would testify competently thereto.

2. Previously, Eric Schachter submitted declarations, including the *Declaration of Eric Schachter in Support of Direct Purchaser Plaintiffs' Motion for Approval of Notice Plan and Claims Process* (Case No. 22-md-3031, ECF No. 356), outlining A.B. Data's credentials, including its experience in administering other direct purchaser antitrust protein matters. A.B. Data has been appointed as notice, claims, and/or settlement administrator in hundreds of large consumer, antitrust, securities, ERISA, insurance, and government agency matters. An updated profile of A.B. Data's background and capabilities, including representative case and client lists, is included as **Exhibit A**.

3. A.B. Data was selected by Direct Purchaser Plaintiffs to act as the Settlement Administrator and appointed by the Court to act as the Claims Administrator in the above-captioned action (the “Action”) for the settlement reached with the JBS Defendants (the “JBS Settlement”) and completed the Court-approved notice plans about the JBS Settlement and its claims process.

4. In consultation with Co-Lead Counsel, I prepared a proposed notice and claims administration plan (“notice plan”) for the proposed Settlement with Tyson Foods, Inc. and Tyson Fresh Meats, Inc. (collectively, “Tyson”).¹ This declaration will describe the proposed notice plan and how it will meet Federal Rule of Civil Procedure (“Rule 23”) requirements and provide due process to members of the Settlement Class. This declaration is based upon my personal knowledge and information provided to me by Co-Lead Counsel, my associates, and A.B. Data staff members.

NOTICE PLAN

5. The objective of the proposed notice plan is to provide the best practicable notice under the circumstances of the proposed settlement to potential members of the Settlement Class. The Settlement Class is defined as follows:

All persons and entities who directly purchased Beef² for use or delivery in the United States, whether fresh or frozen, made from one of the following

¹ Unless otherwise noted, all capitalized terms shall have the same meaning as in the Settlement Agreement between Direct Purchaser Plaintiffs and Tyson.

² For this settlement, “Beef” is defined as: Boxed beef and case-ready beef (i.e., beef that has been cut into subprimals and packaged for resale) made from Fed Cattle in the United States that is sold fresh or frozen. With the exception of case-ready beef, “Beef” excludes other meat from Fed Cattle that is further processed at another plant (e.g., by grinding; adding other ingredients; or cooking or curing) and excludes drop byproducts (e.g., trim,

primals: chuck, loin, rib or round from Defendants, or their respective subsidiaries or affiliates, from January 1, 2015 to February 29, 2020. For this lawsuit, beef excludes any product that is marketed as organic, grass-fed, kosher, halal, certified human, Wagyu, “American-Style Kobe Beef,” and any product that is cooked, marinated, seasoned, flavored, or breaded.

Excluded from the Settlement Class are Defendants; their officers, directors or employees; any entity in which a Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of a Defendant. Also excluded from this Settlement Class are any federal, state, or local government entities, any judicial officer presiding over this action; the members of the judicial officer’s immediate family and staff, and any juror assigned to this action.

6. The proposed notice plan (which is substantially similar to the previous notice plans implemented for the JBS Settlement) includes direct notice by mail and/or email to the members of the Settlement Class, supplemented by a media campaign as discussed below.

Direct Notice

7. As described in the Declaration of Eric Schachter in Support of Motion for Final Approval of the Class Action Settlement Between Direct Purchaser Plaintiffs and the JBS Defendants (Case No. 20-1319, ECF No. 605), A.B. Data received data files from Defendants with the names and contact information of potential Settlement Class members. A.B. Data electronically processed, consolidated, and deduplicated the data and utilized this information for direct notice for the JBS Settlement. The notice list contains records for a total of 4,697 entries.

fats, oils, hides, offal). The definition of “Beef” is limited to products derived from the loin, chuck, rib, and round primal cuts.

8. Direct notice will be provided via a Long-Form Notice (attached as **Exhibit B**) and claim packet (the “Notice Packet”) that will be mailed to potential Settlement Class Members with a known mailing address. Prior to sending the Notice Packets, A.B. Data will standardize and update all mailing addresses through the United States Postal Service (“USPS”) national change of address (“NCOA”) database. For any potential Settlement Class Member with a registered change of address, A.B. Data will mail the Notice Packet to the updated mailing address provided by the USPS. A.B. Data will track any mail returned as undeliverable by the United States Postal Service (“USPS”), and using third-party information providers to which we subscribe, attempt to ascertain an updated address and resend the Notice Packet.

9. A Short-Form Notice, attached as **Exhibit C**, formatted as an email (“Email Notice”), will also be sent to all potential Settlement Class Members with a known email address. The Email Notice will provide Settlement Class members with an electronic link to the settlement website, where they can obtain a claim form and other information. For the Email Notice, A.B. Data implements certain best practices to increase deliverability and bypass SPAM and junk filters and will be able to verify how many emails were successfully delivered.

10. The (mail and email) direct notice should reach the vast majority of Settlement Class members.

11. The Long-Form Notice and Email Notice sent directly to potential members of the Settlement Class, will include summary information about the Settlement and claims process, including: that this is a class action; the settlement amount; the Settlement Class

definition in plain and engaging language; that the Action alleges antitrust violations and price-fixing claims; that a member of the Settlement Class may appear through an attorney, ask to be excluded from the Settlement Class, and/or object to the Settlement; that a member of the Settlement Class can file a claim, but if they filed an approved claim in the earlier settlements (or receive a payment from the previous distribution), they will automatically be included, do not have to file another claim, and have the option to submit a purchase audit request to supplement or correct their known purchase information; the maximum amount of attorney's fees and expenses and service awards to be sought; the time and manner to request exclusion or submit an objection, claim, and purchase audit request; important dates and deadlines; the binding effect of a judgment on the Settlement Class; and that, if the Court grants final approval, the case will be dismissed against these Settling Defendants.

Media Notice

12. To supplement the direct notice efforts, A.B. Data will publish the Short-Form Notice one time in *Supermarket News* and *Nation's Restaurant News*, trade journals targeting supply chain executives and food industry professionals. A.B. Data will also implement a thirty-day digital media banner ad campaign on www.supermarketnews.com and www.nrn.com. The banner ad, updated based on the Short-Form Notice, will be substantially similar to the one used previously. A sample banner ad is attached as **Exhibit D**. The subscriber base for these trade journals and websites encompass many businesses responsible for procurement of beef and other businesses that fall within the Settlement Class definition. Comparable alternatives will be considered if any of these proposed

platforms will not accept legal notices or if inventory is not available at the time of placement.

Earned Media

13. A.B. Data will distribute a news release via PR Newswire's US1 Newswire to help the case gain more attention. The press release will reach traditional media outlets (television, radio, newspapers, magazines), news websites, and journalists nationwide. It will also be distributed to food-industry trade publications.

14. A.B. Data will also share information about the case with its followers on X, formerly known as Twitter.

WEBSITE AND TELEPHONE

15. To assist potential members of the Settlement Class in understanding the terms of the Settlement Agreement and their rights, A.B. Data will update and continue to maintain the case-specific toll-free telephone number and a case-specific website. Both are available in English and Spanish.

16. The toll-free telephone number is equipped with an automated interactive voice response system. The automated interactive voice response system presents callers with a series of choices to hear prerecorded information. The prerecorded information will be updated with information about the new Settlement and claims process. If callers need further help, they have an option to speak with a live operator during business hours. After business hours, callers may leave a voicemail message, and their call will be returned.

17. The case-specific website, www.BeefDirectPurchaserSettlement.com, provides, among other things, a summary of the case and important documents. It will

include all relevant documents, such as the Settlement Agreement, Preliminary Approval Order, Long-Form Notice, Claim Form, and Purchase Audit Request Form; important dates and deadlines; and any pertinent updates concerning the litigation or the Settlement approval process. It includes functionality for Settlement Class Members to submit their Claim and Purchase Audit Request Forms (and supporting documents) online.

EXCLUSION PROCESSING

18. The Long Form Notice includes specific instructions on how to request exclusion from the Settlement Class. A.B. Data will receive, track, and report all exclusion requests and circulate copies to the parties.

CLAIMS

19. Settlement Class Members who did not previously file a claim in the JBS Settlement must submit a timely, valid claim through the case-specific website or by mail to be eligible to get a payment from this Settlement.

20. To the extent possible, the Claim Form (blank form attached as **Exhibit E**, pre-populated form attached as **Exhibit F**) included in the Notice Packet will be pre-populated to include each Settlement Class Member's purchase information with respect to each Defendant and Co-Conspirator, based on the Defendants' and Co-Conspirators' records. The Claim Form will also contain a personal Unique ID Number that the Settlement Class Member can utilize to file claims online through the case website. Prepopulating the Claim Form with known purchase information, where possible, will simplify the claims process for most Settlement Class Members by eliminating the need for them to independently verify all Settlement Class purchases.

21. Settlement Class Members who filed a valid claim in the JBS Settlement do not have to submit another Claim Form to participate in this Settlement. However, due to changes between the settlement class definition from the JBS settlement, class members who submitted additional documentation to supplement their claims amount for the JBS settlement may need to do so again for the Tyson settlement. Any class member may submit additional documentation for the Tyson settlement – even if they did not do so for the JBS settlement – but it is not required. Settlement Class Members who disagree with or wish to supplement their known purchase information will be able to do so by completing a Purchase Audit Request Form, attached as **Exhibit G**.

22. In an effort to reduce the time and cost of processing fraudulent claim submissions, A.B. Data will utilize Defendants' data to programmatically review and identify invalid submissions. Additionally, A.B. Data estimates that it should be able to identify roughly 40% of raw claims as fraudulent using current configurations of front-end screening tools and strategies utilized to mitigate fraud. A.B. Data is constantly monitoring, updating configurations and implementing new tools to address ever-evolving fraud tactics.

23. Payments to eligible Settlement Class Members will be made by secure bank wire transfer or hard copy check but will not be distributed until the Court grants final approval of the Settlement, any objections and appeals are resolved, and the Court approves distribution of the Settlement funds.

CONCLUSION

24. It is my opinion, based on my individual expertise and experience and that

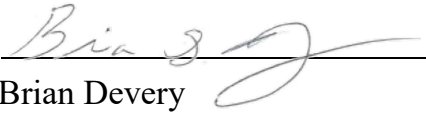
of my A.B. Data colleagues, that the proposed notice plan is designed to effectively reach potential members of the Settlement Class, will deliver plain language notices that will capture the attention of the reader, and will provide relevant information in an informative and easy to understand manner that is necessary to effectively understand the rights and options under the terms of the Settlement Agreement. This proposed notice plan is estimated to reach over 70% of the Settlement Class.³ This reach is similar to those approved by other courts and within the range recommended and considered reasonable by the Federal Judicial Center's *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide*.⁴ This notice plan conforms to the standards employed by A.B. Data in similar notification plans. For all these reasons, in my opinion, the proposed notice plan satisfies the requirements of Rule 23 due process.

25. A.B. Data will disclose all related entities that it intends to engage in this litigation. A.B. Data does not have and will not enter into an agreement or financial arrangement with another entity from which it receives any financial compensation in any way related to this Settlement or litigation other than compensation expressly agreed to and directed by Class Counsel. A.B. Data does not have a personal relationship (including, but not limited to, familial, romantic, or financial/business) with any Class Counsel employee, partner, and/or owner.

³ The overall reach may be higher than this estimate. The trade publication advertising and earned media are not measured, so their contribution to the overall reach is not calculated.

⁴ The *Judges' Class Action Notice and Claims Process Checklist and Plain Language Guide* states: "The lynchpin in an objective determination of the adequacy of a proposed notice effort is whether all the notice efforts together will reach a high percentage of the class. It is reasonable to reach between 70-95%."

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 17th day of April, 2026, in Oakdale, New York.

By:  _____
Brian Devery