

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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IN RE MUSHROOM DIRECT	X	
PURCHASER ANTITRUST	:	Master File No. 06-0620
LITIGATION	:	
	:	
THIS DOCUMENT RELATES TO:	:	
	:	
Cardile Mushrooms, Inc. and Cardile	:	
Brothers Mushroom Packaging, Inc.	:	
<hr/>	X	

**DECLARATION OF BRUCE E. GERSTEIN IN SUPPORT OF CLASS
PLAINTIFFS' MOTION TO SEVER AND FOR PRELIMINARY APPROVAL OF
PROPOSED SETTLEMENT AND APPROVAL OF THE FORM AND MANNER OF
NOTICE TO THE CLASS AND PROPOSED SETTLEMENT SCHEDULE**

I, Bruce E. Gerstein, declare as follows:

1. I am the managing partner in the law firm of Garwin Gerstein & Fisher, LLP, Lead Counsel for the Class (“Plaintiffs”).¹ I am submitting this declaration in support of Plaintiffs’ Motion to Sever and for Preliminary Approval of Proposed Settlement and Approval of the Form and Manner of Notice to the Class and Proposed Settlement Schedule.

2. The Class has entered into a Settlement Agreement with Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. (“CMI”) for \$100,000, subject to Rule 23(e) of the Federal Rules of Civil Procedure and Court approval, whereby Plaintiffs have agreed to dismissal of this litigation against CMI.

3. In exchange for this cash payment and other non-monetary consideration, Plaintiffs have agreed to dismissal of this litigation with prejudice against CMI, and a release set forth more fully in the Settlement Agreement itself. The Settlement Agreement, with its exhibit, is attached hereto as Exhibit 1 to this Declaration.

4. CMI is among the entities subject to the “most favored nation” provision (“MFN”) of the Giorgi settlement agreement that this Court finally approved on December 17, 2018 (ECF No. 915). As set out more fully in the accompanying memorandum of law, after reviewing CMI’s financial records, Class Counsel determined that the exception to the most favored nation provision in Paragraph 22(c)(i) of the Giorgi Settlement Agreement applied because of CMI is unable to pay a larger amount. Counsel for Giorgi also reviewed CMI’s financial records and agreed in writing to waive the MFN provisions as to CMI pursuant to Paragraph 22(a) of the Giorgi Settlement Agreement. The written waiver, a May 7, 2018 email from Moses Silverman, is attached hereto as Exhibit 2 to this Declaration.

¹ The Class was certified by the Court in an Order dated November 22, 2016 (D.E. 780) and is defined in that Order.

5. As set out more fully in the accompanying memorandum of law, the proposed Settlement satisfies all of the factors required for preliminary approval of a class action settlement under Rule 23 of the Federal Rules of Civil Procedure. The Settlement should therefore be preliminarily approved, and notification of the Settlement's terms should be provided to the Class as provided for in this motion. CMI should be severed from the May 20, 2019 trial so that these settlement proceedings can move forward without working any prejudice to CMI's or the Class' respective positions at trial.

6. Plaintiffs also submit for the Court's approval a proposed Order granting Plaintiffs' motion to sever and Preliminarily Approving the Settlement, attached hereto as Exhibit 3 to this Declaration, and the proposed forms of notice attached hereto as Exhibit 5 to this Declaration, which provide for notice by direct mailing and publication. For reasons more fully set forth in the accompanying memorandum of law, this form and manner of notice satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

7. Plaintiffs propose that Rust Consulting LLP ("Rust") be appointed as the settlement administrator. Rust is well-reputed within the legal, accounting and financial service fields, and frequently handles notice and claims administration in settlement of large, complex antitrust cases including in the dissemination of notice in this case of Plaintiffs' settlement with Giorgi Mushroom Co. and Giorgio Foods, Inc. (together, "Giorgi"), Kitchen Pride Mushroom Farms, Inc. ("Kitchen Pride"), and Creekside Mushrooms, Ltd. ("Creekside"). Rust's resume is attached hereto as Exhibit 4.

8. Plaintiffs propose the following schedule for the provision of notice; the motion for final approval of the settlement; the filing of objections; and the scheduling of the hearing on final approval:

CMI to serve notice pursuant to the Class Action Fairness Act of 2005	Within 10 days from the date of Plaintiffs' filing for preliminary approval
Dissemination of Notice to the Class in the form and manner proposed	To be completed within 30 days of entry of the Court's Preliminary Approval Order
Deadline for Class Members to object to the Settlement	Within 60 days of the entry of the Court's Preliminary Approval Order
Filing of Plaintiffs' motion for final approval of the Settlement and Class Counsel's application for expenses	Within 7 days from the expiration of deadline for Class members to object to the Settlement
Deadline for any Notice of Intention to Appear and Summary Statement of Objections to Settlement	No later than 30 days prior to the Fairness Hearing
Fairness Hearing	To Be Determined By the Court, but no less than 115 days following preliminary approval

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Date: April 16, 2019

/s/ Bruce E. Gerstein
Bruce E. Gerstein

EXHIBIT 1

EXECUTION COPY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE MUSHROOM DIRECT
PURCHASER ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

CASE NO. 06-cv-0620

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT by defendants Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. ("CMI) and the Direct Purchaser Plaintiffs' counsel on behalf of the Direct Purchaser Plaintiff Class ("Direct Purchaser Class" or "the Class") (as defined below) (collectively, the "Parties") in consolidated Direct Purchaser Class Action in In Re Mushroom Direct Purchaser Antitrust Litigation, 06-cv-0620, pending in the United States District Court of the Eastern District of Pennsylvania (the "Class Action"). The plaintiffs in the individual actions consolidated in In Re Mushroom Direct Purchaser Antitrust Litigation, 06-cv-0620, E.D.Pa. are not parties to this Settlement Agreement;

WHEREAS, Direct Purchaser Plaintiffs have alleged, among other things, that CMI entered into an agreement to restrain trade with the Eastern Mushroom Marketing Cooperative ("EMMC") and certain of its members in violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§1, 2, and Section 7 of the Clayton Act, 15 U.S.C. § 18, and caused the Class to incur significant damages;

WHEREAS, the Class has alleged that CMI participated, either directly or indirectly as a member of the defendant Mushroom Alliance, in the alleged unlawful conduct;

WHEREAS, CMI denies each and every one of the Class' allegations of unlawful conduct and characterizations thereof and has asserted a number of defenses to the Class' claims;

WHEREAS, the Class and CMI agree that this Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law or of any liability or wrongdoing by CMI or of the truth of any of the claims or allegations alleged in the Class Action or actions consolidated therein;

WHEREAS, arm's length settlement negotiations have taken place between counsel for the Class and counsel for CMI, and this Settlement Agreement, including its exhibits, which sets forth all of the terms and conditions of the settlement between CMI and the Class has been reached, subject to the final approval of the Court;

WHEREAS, Class counsel has concluded, after extensive discovery and investigation of the facts, and after carefully considering the circumstances of the Class Action and the applicable law, that it would be in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation against CMI, and to assure a benefit to the Class and further, that Class counsel consider the settlement set forth herein (the "Settlement") to be fair, reasonable, and adequate and in the best interests of the Class; and

WHEREAS, CMI has concluded, despite the belief of CMI that it is not liable for the claims asserted against it and has good defenses thereto, that it will enter into this Settlement Agreement solely to avoid the further expense, inconvenience and burden of this protracted litigation, and thereby to put to rest this controversy with valued business customers, and to avoid the risks inherent in uncertain complex litigation;

NOW THEREFORE, it is agreed by the undersigned, on behalf of CMI and the Class, that the Class Action and all claims of the Class be settled, compromised and dismissed on the merits and with prejudice as to the Released Party (defined below) and, except as hereinafter provided, without costs as to the Class or CMI, subject to the approval of the Court, on the following terms and conditions:

1. Definitions. The following terms, as used in this Settlement Agreement, have the following meanings:

a. "Class Counsel" shall refer to the law firm of Garwin Gerstein & Fisher LLP.

b. "Direct Purchaser Class" or "the Class" shall mean all persons and entities in the non-Western United States who purchased fresh agaricus mushrooms directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005. For group buying organizations and their members, direct purchasers are either: (1) members who have a significant ownership interest in or functional control over their organizations; or (2) if no member has such interest or control, the organizations themselves. The Class excludes the EMMC, its members and their parents, subsidiaries and affiliates. The non-Western United States refers to the following states which were in the six regions of the country which Direct Purchaser Plaintiffs claim were subject to the EMMC's pricing policies: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Wisconsin, Minnesota, Iowa, Kansas, Nebraska, Colorado, Oklahoma, Texas, Ohio, Missouri, Michigan, Indiana, Kentucky, West Virginia, Illinois and the District of Columbia.

c. “Class Period” shall mean the period from February 4, 2001 and August 8, 2005.

2. Counsel for the undersigned agree to recommend approval of this Settlement Agreement by the Court and to undertake their best efforts, including all steps and efforts contemplated by this Settlement Agreement and any other steps and efforts that may be necessary or appropriate, by order of the Court or otherwise, to carry out the terms of this Settlement Agreement. The Settlement is conditioned on Court approval of a class settlement. Class Counsel may delay presentation of this settlement to the Court until a time when the settlement can be presented to the Court in a group with other settlements in order to avoid duplicative notice and administration expenses.

3. Following execution of this Settlement Agreement and consistent with paragraph 6 below, the Class shall file with the Court a motion for preliminary approval of the Settlement. Class Counsel may delay filing a motion with the Court for preliminary approval of this settlement until a time when the settlement can be presented in a group with other settlements in order to avoid duplicative notice and administration expenses. The motion for preliminary approval shall request the entry of a preliminary approval order consistent with the terms of this Settlement Agreement. In the event that the Court preliminarily approves the Settlement, Direct Purchaser Plaintiffs shall provide Direct Purchaser Class members with notice of the Settlement by means of first class mail and publication notice pursuant to Rule 23 of the Federal Rules of Civil Procedure and any order of the Court governing notice.

4. If the Court approves this Settlement Agreement, then the Parties hereto shall jointly seek entry of an order and final judgment:

a. as to the Class Action and each action consolidated therein, approving finally this settlement and its terms as being a fair, reasonable and adequate settlement as to the Direct Purchaser Class within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation pursuant to its terms;

b. directing that, as to CMI, the Class Action and each action consolidated therein be dismissed with prejudice and, except as provided for herein, without costs;

c. reserving exclusive jurisdiction over the Settlement and this Settlement Agreement, including the administration and consummation of this Settlement;

d. determining pursuant to Fed.R.Civ.P. 54(b) that there is no just reason for delay and directing that the judgment of dismissal shall be final and appealable; and

e. directing that, for a period of five years, the Clerk of the Court shall maintain the record of those members of the Direct Purchaser Class who have timely excluded themselves from the Direct Purchaser Class and that a certified copy of such records shall be provided to CMI, at its expense.

5. This Settlement Agreement shall become final and effective (“the Effective Date”) upon the occurrence of all of the following three events:

(i) it is approved by the Court as required by Rule 23(e) of the Federal Rules of Civil Procedure,

(ii) entry is made of the final judgment (Exhibit A hereto) of dismissal with prejudice as to CMI against all members of the Direct Purchaser Class who have not timely excluded themselves from the Class Action, and

(iii) the time for appeal from the Court’s approval of this Settlement Agreement as described in (i) hereof and entry of a final judgment as described in (ii) hereof has expired or, if appealed, approval of this Settlement Agreement and the final judgment have been affirmed in their entirety by the Court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review.

6. Settlement Payment to Direct Purchaser Class. Subject to the provisions herein, and in full, complete and final settlement of the Class Action, CMI shall pay \$100,000 in settlement of the Class Action, structured in four payments of \$25,000 each, as follows: the first payment will be paid immediately upon execution of the final Settlement Agreement, with the remaining payments to be made in three equal consecutive monthly installments, with the first installment due 60 days after execution of the Settlement Agreement. However in the event Plaintiffs elect to present the Settlement Agreement to the Court before all the installments have been paid, the installment schedule will no longer be operative and instead CMI shall pay the \$100,000 in full within 15 days of Plaintiffs notifying CMI of their intention to present the Settlement Agreement to the Court.

CMI shall also pay \$250,000 out of net distributable cash of CMI, with payments commencing after the obligation to CFS-4 IV is satisfied. The payment terms for Plaintiffs are that Plaintiffs will be paid 25% of the excess funds on a semi-annual basis, with a reconciliation to 50% annually, once CMI’s lending bank has analyzed the CPA reviewed annual financials, and confirmed CMI’s compliance with its obligations.

7. Cooperation. CMI has provided Plaintiffs’ counsel with an affidavit under penalty of perjury from Michael P. Cardile (“Initial Affidavit”) consistent with the facts provided in the memorandum attached hereto as Exhibit A. CMI agrees to cooperate with Plaintiffs as follows: (1) Mr. Cardile shall be made available at Plaintiffs’ request to provide additional written testimony, to provide deposition testimony and to appear at trial and provide trial testimony that is consistent with the Initial Affidavit, consistent with the comportment of an affirmative plaintiffs witness, and in accordance with the Federal Rules of Civil Procedure and any scheduling, discovery and case management orders entered in this litigation; (2) Mr. Cardile shall be made available to Plaintiffs to discuss the conduct alleged in their complaint, defendants’ defenses thereto and the facts described in Exhibit A; and (3) upon request, CMI shall produce additional CMI witnesses to provide deposition testimony and/or to appear at trial and provide trial testimony. Mr. Cardile agrees to submit to the jurisdiction of the Court to impose any sanctions or penalties for failure to testify in a manner consistent with the Initial Affidavit.

Notwithstanding the above, CMI shall not be expected to disclose any information learned exclusively through efforts or communications subject to the joint defense or common interest privilege.

8. In the event that this Settlement Agreement does not become final as required by paragraph 5, the Settlement Fund (net of CMI's share of the notice costs as provided in paragraph 11 below), including any and all income earned thereon, shall be returned to CMI, and any release or covenant not to sue pursuant to paragraph 13 below shall be of no force or effect. However, CMI's obligations under paragraph 7 shall remain in full force and effect and survive the termination of this agreement.

9. Any members of the Direct Purchaser Class who have not timely excluded themselves from the Class Action shall look solely to the Settlement Fund for settlement and satisfaction against CMI of all claims that are released hereunder.

10. The Direct Purchaser Class and their counsel may be reimbursed and indemnified solely out of the Settlement Fund for litigation expenses related to the costs of notice of this Settlement to Direct Purchaser Class members and the administration of the Settlement Fund. CMI shall not be liable for any costs, or fees or expenses of any of Direct Purchaser Class' respective attorneys, experts, advisors, agents and representatives but such costs, fees and expenses as approved by the Court shall be paid out of the Settlement Fund. In no event shall CMI have any liability with respect to the giving of notice of this Settlement to Direct Purchaser Class members, including, but not limited to, the expenses and cost of such notice.

11. After this Settlement Agreement becomes final pursuant to the provisions of paragraph 5 herein, counsel for the Direct Purchaser Class may seek to use the Settlement Fund to pay expenses and/or fees as ordered by the Court. After this Settlement Agreement becomes final, disbursements for litigation costs and expenses of distribution and administration of the Settlement Fund may be made from the Settlement Fund from time to time with approval of the Court. In the event the settlement is not approved for any reason, costs of notice shall be borne equally by the class and CMI. CMI's share of the costs of notice shall come out of the settlement funds before they are returned to CMI pursuant to the provisions of paragraph 8 above.

12. Release. In return for consideration described in paragraphs 3 and 5 above, upon the Court's Final Approval, CMI, and each of their present and former parents, principals, limited and general partners, affiliates, subsidiaries, divisions, stockholders, officers, directors, employees, agents, attorneys and any of their legal representatives (and the present and former limited and general partners, parents, affiliates, subsidiaries, divisions, employees, officers, directors, agents and legal representatives of each of the foregoing) and the predecessors, heirs, executors, administrators, successors and assigns of each such entity or individual (the "Released Party") shall be released and forever discharged from all manner of claims, demands, actions, suits, causes of action, damages whenever incurred, liabilities of any nature whatsoever, including costs, expenses, penalties and attorneys' fees, known or unknown, suspected or unsuspected, in law or equity, that Plaintiff or any member or members of the Class who have not timely excluded themselves from the Class Action against the Released Party, ever had, now

has, or hereafter can, shall or may have, directly, representatively, derivatively or in any other capacity, arising out of any conduct alleged or which could have been alleged in the Class Action relating to the purchase of mushrooms, prior to the date hereof (the "Released Claims").

Specifically excluded from the release is any other Defendant in this action or its present and former stockholders, officers, directors, employees, agents, attorneys and any of their legal representatives (and their predecessors, heirs, executors, administrators, successors and assign).

The Released Party covenants and agrees that hereafter, it shall not assert the release described herein to eliminate claims, if any, by a purchaser for conduct that is unrelated to the conduct alleged in any of the complaints consolidated in *In Re Mushroom Direct Purchaser Antitrust Litigation*, 06-cv-0620, E.D.Pa. that may have arisen, arose or may arise in the normal course of business (e.g. claims related to the quality mushrooms purchased).

13. If the Court declines to approve this Settlement Agreement, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment in substantially the form provided for in paragraph 4, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is reversed and the court on remand does not affirm the approval of this Settlement Agreement, then this Settlement Agreement shall be canceled and terminated, and shall become null and void upon the election of any party. A modification or reversal on appeal of any amount of Direct Purchaser Plaintiffs' Counsels' fees and expenses awarded by the Court from the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Settlement Agreement or such final judgment.

14. In the event that the Settlement does not become final in accordance with the terms hereof, then this Settlement Agreement shall be of no force or effect and, in any event, the parties hereto agree that this Settlement Agreement, including its exhibits, whether or not it shall become final, and any and all negotiations, documents and discussions associated with it shall be without prejudice to the rights of any party, shall not be deemed or construed to be an admission or evidence of any violation of any statute or law of any liability or wrongdoing by CMI or of the truth of any of the claims or allegations contained in the complaint or any other pleading, and evidence thereof shall not be discoverable or used directly or indirectly, in any way, whether in the Class Action or in any other action or proceeding. CMI expressly reserves all of its rights if the Settlement does not become final in accordance with the terms of this Settlement Agreement.

15. This Settlement Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto and to the Released Party to the extent permitted by law. Without limiting the generality of the foregoing, each and every covenant and agreement herein by Direct Purchaser Class and their counsel shall be binding upon all members of the Class and their assigns to the extent permitted by law.

16. This Settlement Agreement, and the Exhibits attached hereto contains an entire, complete, and integrated statement of each and every term and provision agreed to by and among the parties. This Settlement Agreement shall not be modified in any respect except by a writing executed by all the parties hereto.

17. Any inconsistency between this Settlement Agreement and the exhibits attached hereto shall be resolved in favor of this Settlement Agreement.

18. None of the parties hereto shall be considered to be the drafter of this Settlement Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

19. All terms of this Settlement Agreement and the Exhibits hereto shall be governed by and interpreted according to the substantive laws of the state of Pennsylvania without regard to its choice of law or conflict of laws principles.

20. CMI and the Class hereby irrevocably submit to the exclusive jurisdiction of the United States District Court for the Eastern District of Pennsylvania, for any suit, action, proceeding or dispute arising out of or relating to this Settlement Agreement or the applicability of this Settlement Agreement and exhibits hereto. Without limiting the generality of the foregoing, it is hereby agreed that any dispute concerning the provisions of paragraph 13 or 14, including but not limited to any suit, action or proceeding by a plaintiff in which the provisions of paragraph 13 or 14 are asserted as a defense in whole or in part to any claim or cause of action or otherwise raised as an objection, constitutes a suit, action or proceeding arising out of or relating to this Settlement Agreement and Exhibits hereto.

21. No Admission. The Parties will acknowledge that the Settlement is a compromise of disputed claims and not an admission of liability and that the Settlement and all the documents and all the facts related thereto will not be admissible against the Parties except in connection with any dispute related to enforcement of the Settlement itself.

22. Nothing in this Settlement Agreement shall be deemed to confer any rights or benefits, or impose any obligations, on any person other than the members of the Direct Purchaser Class and Released Party.

23. Counterparts. This Settlement Agreement may be delivered by facsimiled signatures and executed in several counterparts, each of which together shall be deemed to be one and the same instrument.

24. Subject to the provisions of Paragraphs 12 and 13, each member of the Direct Purchaser Class expressly waives and releases, upon the Settlement Agreement becoming final, any and all provisions, rights and benefits conferred by California Civil Code Section 1542, which reads:

Section 1542. Certain Claims Not Affected by General Release.
A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

or by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to California Civil Code Section 1542. Each member of the Direct Purchaser Class may hereafter discover facts other than or different from those which he, she or it knows or believes to be true with respect to the claims which are the subject matter of the provisions of Paragraphs 13 and 14. Nevertheless, each member of the Direct Purchaser Class hereby expressly waives and fully, finally and forever settles and releases, upon the Settlement Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim with respect to the subject matter of the provisions of Paragraphs 13 and 14, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

25. The waiver by any Party of any breach of this Settlement Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Settlement Agreement.

26. This Settlement Agreement constitutes the entire agreement among and between the Parties. This Settlement Agreement shall not be modified in respect except by a writing executed by all the Parties.

By: 
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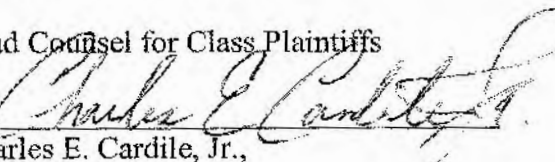
By: 
Charles E. Cardile, Jr.,
President
Cardile Mushrooms, Inc.

EXHIBIT A
TO
EXHIBIT 1

AFFIDAVIT OF MICHAEL P. CARDILE, SR.

I Michael P. Cardile, Sr. being duly sworn according to law deposes and says I am the Vice-President of Cardile Mushroom, Inc. ("CMI") and held such office during the period of time when CMI was a member of the Eastern Mushroom Marketing Cooperative ("EMMC"). I was the officer of CMI who was responsible for attending meetings of the EMMC and otherwise participating in the affairs of the EMMC and therefore have personal knowledge of certain aspects of the EMMC and its operations. I am also aware of the matter captioned as In re Mushroom Direct Purchaser Antitrust Litigation, Case No. 06-0620 in the United States District Court for the Eastern District of Pennsylvania (the "Litigation"). In connection with the Lawsuit, on January 9, 2008, I was deposed in the law offices of Buchanan, Ingersoll & Rooney at their offices located at 1835 Market Street, 14th floor, Philadelphia Pennsylvania. I make the following additional statements in connection with the Litigation and the operations of the EMMC.

1) I am competent to testify at trial and agree if subpoenaed I will testify at trial in the Litigation.

2) Prior to the formation of the EMMC, the competitive landscape among mushroom growers was very "cut-throat." CMI had to cut its prices to obtain or retain market share. CMI had no ability to set prices and EMMC members competed with each other aggressively on price. After the formation of the EMMC, EMMC members continued to compete on price, but only with pricing at or above the EMMC minimum pricing schedule and policies. After joining the EMMC and implementing the minimum pricing schedule and policies, for two to four years CMI was able to maintain the same volumes it had sold to customers before the formation of the EMMC because the EMMC members honored the minimum pricing schedule and policies.

3) Shah Kazemi from Monterey Mushroom and John Pia were the first ones to approach me and to my knowledge spearheaded the effort to solicit membership in the Eastern Mushroom Marketing Cooperative (EMMC). Shah Kazemi referred to the success that he said that he had with the West Coast Mushroom Marketing Association ("WMMA"). Our first meeting was in a hotel in Philadelphia. Shah Kazemi and John Pia were the 2 main speakers at that time and referred to the WMMA as a model or example of the type of organization the EMMC would become. The proposed members of the EMMC all had some mushroom packing and distribution interests. The EMMC membership did not include growers without distribution interests. Mr. Kazemi advised the group that forming a cooperative organization would be a good vehicle to collectively increase the mushroom prices the members were able charge their customers.

4) The purpose of the EMMC was to act collectively to raise the selling prices of the members' affiliated distributors instead of those distributors competing on price as they had previously. CMI understood that the EMMC members were expected to apply the EMMC pricing schedule and policies to the sales of their affiliated distributors, even if they were not members of the EMMC. For instance, for CMI, Cardile Mushrooms was the EMMC member but per the EMMC's rules, Cardile Packaging implemented the minimum pricing schedule and

policies. The minimum pricing policies and schedule resulted in an increase in mushroom prices to customers, which in turn resulted in higher profits from the sale of mushrooms by the mushroom distributors. The primary purpose of the EMMC was to increase the selling prices of the EMMC members' affiliated distributors to their customers. The EMMC pricing policies applied to and were implemented at the distribution level. To ensure that the minimum pricing policy was effective, the cooperative's goal was to obtain 90-plus % of the mushroom production market in the regions where the EMMC would operate. The establishment of minimum pricing policies was also designed to eliminate the dumping of mushrooms at low prices by the larger mushroom grower/packers. Obtaining the 90-plus percent participation was to my understanding the reason smaller grower/packers like Cardile were invited into the organization by the larger members.

5) CMI followed the EMMC's minimum pricing schedule and policies and I believe 90-95% of the mushrooms sold by EMMC members were in compliance with the EMMC policies (*i.e.*, sold at or above the EMMC minimums) for the first two to four years of the EMMC's existence. As time went on some members found ways to cheat the pricing structure by providing customers with other economic benefits such as advertising and up front marketing money. The EMMC put in place enforcement mechanisms to police cheating among the members and discussed disputes among the members at membership meetings. CMI was involved in one such dispute concerning EMMC member Kaolin and its affiliated distributor South Mill Atlanta. The dispute concerned a company called Fresh Marketing/Market Fresh which was dumping mushrooms at below EMMC minimum prices into the Atlanta market. The mushrooms were being sold by South Mill to Fresh Marketing and were being delivered directly from Kaolin/South Mill in Kennett Square to South Mill's depot in Atlanta. South Mill would then deliver the mushrooms to Fresh Marketing's customers who were also customers of Cardile at prices that were below the EMMC minimum pricing schedule. When the dispute was discussed among the EMMC members, John Pia, one of the owners of Kaolin/South Mill was revealed to also be a 50% owner of Fresh Marketing. Thus Kaolin/South Mill was effectively undercutting Cardile by using Fresh Marketing as a cover.

6) The EMMC implemented a Supply Control Program involving the acquisition of mushroom farms that were defunct to insure that moving forward the land would not be used to grow mushrooms. Members were assessed a fee by the EMMC in order to fund the farm purchases. [REDACTED]


[REDACTED] To my recollection there were a couple of small growers and a larger grower that had gone out of business. No farms acquired by the EMMC were currently growing mushrooms. The idea in buying the farms was to support the EMMC's minimum pricing policy by preventing the poundage previously yielded by such farms from returning to the mushroom supply chain.

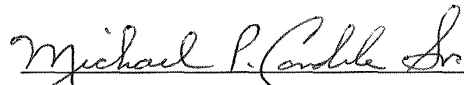
7) The EMMC's attorneys told the proposed EMMC members that they had to be

growers as a precondition for membership in the EMMC and for the EMMC members to have immunity from liability under the Capper-Volstead Act. The members were told that if the EMMC included any non-grower members, the Capper-Volstead immunity would be blown. I knew by attending the monthly meetings that there was an issue with certain companies being eligible to join the EMMC because they were not growers. In order to gain control of as much of the mushroom supply as possible, the EMMC made efforts to qualify these non-grower-mushroom distributors for membership in the EMMC. There were discussions at the meetings as to how these companies could qualify for EMMC membership. Some of the suggestions were to have the companies with no growing affiliation enter into some type of economic arrangement with a growing operation. The particular details as to how a non-grower might be qualified for membership in the EMMC were addressed by the EMMC board, its President and EMMC's outside counsel Saul Ewing. Once the attorneys approved the ideas presented to them, the President and the board of the EMMC gave us their findings at the meetings and the membership voted on their recommendations to have those members approved.

8) One specific example I remember concerned EMMC member Leone Pizzini & Son, Inc. Pizzini's owner, Linda Pizzini initially had difficulty in joining the EMMC because Pizzini was a mushroom distributor rather than a grower or affiliated with a grower. At the suggestion of EMMC's counsel, she was advised that to "officially" become a member of the EMMC she needed to affiliate in some manner with a grower. My understanding was that Ms. Pizzini was advised to enter into an arrangement with a mushroom grower in order to qualify for membership in the EMMC. I now understand that the arrangement Ms. Pizzini entered into was to rent mushroom doubles to her nephew who used them to grow mushrooms. Qualifying distribution firms to join the EMMC further supported the minimum pricing policy established by the EMMC. The larger members conferred with the attorneys at Saul Ewing to help insure that companies like Pizzini that were not growers could bring themselves into compliance so they could be part of the EMMC. I am aware that various mushroom distributors such as Cutone and To-Jo were not growers, but sought membership in the EMMC and either directly joined or indirectly joined by starting a grower that became a member.

I affirm to the best of my knowledge and belief that the aforementioned statements are true and correct in all material respects. I hereby certify that the foregoing statements are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment relating to unsworn falsification to authorities.


SWORN TO AND SUBSCRIBED
BEFORE ME THIS 11th DAY
OF March, 2018 ~~2018~~ 2019


Michael P Cardile, Sr.

AARON LUCIAN TARASCHI
Notary Public
STATE OF DELAWARE
My Commission Expires 6/14/2020

EXHIBIT 2

Jonathan Gerstein

From: Silverman, Moses <msilverman@paulweiss.com>
Sent: Monday, May 7, 2018 6:12 PM
To: Jonathan Gerstein; Bruce Gerstein
Cc: Rubin, Jacqueline P; Kosman, Maxwell
Subject: Cardile Settlement and the Exception to the MFN in Giorgi's Settlement Agreement

As counsel for Giorgi Mushroom Co. and Giorgi Foods, Inc. ("Giorgi"), I confirm that we have been briefed on and reviewed documentation concerning Cardile's financial condition and have advised you and counsel for Cardile that Giorgi will not challenge Plaintiffs' determination that an exception to the most favored nation provisions of the Giorgi Settlement Agreement exists pursuant to Paragraph 22(c)(i) because of Cardile's inability to pay the settlement amount based on the Settlement Percentage defined in Paragraph 21. Giorgi takes no position regarding the fairness of the Cardile Settlement consideration.

Moses Silverman | Partner ([Bio](#))
Paul, Weiss, Rifkind, Wharton & Garrison LLP
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+1 212 373 3355 (Direct Phone) | +1 212 492 0355 (Direct Fax)
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This message is intended only for the use of the Addressee and may contain information that is privileged and confidential. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please erase all copies of the message and its attachments and notify us immediately.

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

	x
IN RE MUSHROOM DIRECT	:
PURCHASER ANTITRUST	:
LITIGATION	:
	:
THIS DOCUMENT RELATES TO:	:
	:
	:
Cardile Mushrooms, Inc. and Cardile	:
Brothers Mushroom Packaging, Inc.	x

[PROPOSED] ORDER

Upon review and consideration of the Class Plaintiffs' settlement agreement with Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. ("CMI") and all the exhibits thereto (collectively, the "Settlement Documents") and Direct Purchaser Class Plaintiffs' ("Plaintiffs" or "the Class") Motion to Sever CMI from the May 20, 2019 trial and for Preliminary Approval of Proposed Settlement with CMI on behalf of themselves and the Class, and the attachments thereto, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. Upon review of the record, the Court finds that the proposed settlement between the Class and CMI, which was arrived at by arm's-length negotiations by highly experienced counsel, is within the range of fairness and in the best interest of the members of the class. The settlement is therefore **PRELIMINARILY APPROVED**, subject to further consideration at the Fairness Hearing provided for below.
2. The proposed settlement is on behalf of:

All persons and entities in the non-Western United States who purchased fresh *agaricus* mushrooms directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005 (the “Class Period”). For group buying organizations and their members, direct purchases are either (1) members who have a significant ownership interest in or functional control over their organizations; or (2) if no member has such interest or control, the organizations themselves. The Class excludes the EMMC, its members and their parents, subsidiaries, and affiliates.

3. The Court previously found that the Class meets all the requirements of Fed. R. Civ. Pro. 23 (D.E. 780).
4. The form of notice to the Class attached as an exhibit to Plaintiffs’ Motion for Preliminary Approval --- namely the written notice for mailing to all known Class members and summary publication in *Progressive Grocer* --- satisfies the requirements of Rule 23(e) of the Federal Rules of Civil Procedure and due process, is otherwise fair and reasonable, and is thus approved for dissemination to the Class.
5. Lead Counsel shall retain Rust Consulting LLC (“Rust”) as notice and claims administrator to assist in providing notice to the Class regarding the Settlement and communicating with Class members. All expenses incurred by Rust must be reasonable, are subject to Court approval, are subject to the provisions of the Escrow Agreement, and shall be payable solely from the Settlement Fund.
6. Class Plaintiffs shall cause Rust to complete mailing of the Long-Form Notice to the Class and submission of Summary Notice for publication within 30 days of entry of this Order.
7. Class Members shall have until 60 days after entry of this Order to object to the settlement.

8. A hearing on final settlement approval (“Fairness Hearing”) shall be held before this Court on _____, 2019, at _____.m. Eastern time, in the courtroom assigned to the Honorable Berle M. Schiller, U.S.D.J., at the United States District Court for the Eastern District of Pennsylvania, James A. Byrne U.S. Courthouse, 601 Market Street, Philadelphia, PA 19106. [To be determined by the Court, but not earlier than 115 days after entry of this Order.] At the Fairness Hearing, the Court will consider, *inter alia*, (a) the fairness, reasonableness, and adequacy of the Settlement; and (b) whether entry of a Final Judgment and Order terminating this litigation as to CMI, in the form submitted by the parties to the Settlement Agreement, should be entered. The Fairness Hearing may be rescheduled or continued; in such event, the Court will furnish all counsel with appropriate notice. The Court may approve the Settlement with only such material modifications (if any) as may be agreed to in a writing signed by all of the parties to the Settlement, if appropriate, without further notice to the Class.
9. Plaintiffs’ motion for final approval of the Settlement shall be due within 67 days of entry of this Order. All briefs and materials relevant to final approval of the Settlement and entry of the final judgment proposed by the parties to the Settlement Agreement shall be filed with the Court and served on the following counsel:

On behalf of Class Counsel, Plaintiffs, and the Class:

Bruce E. Gerstein
Garwin Gerstein & Fisher LLP
88 Pine Street, 10th Floor
New York, NY 10005
Lead Counsel, Direct Purchaser Class

On behalf of CMI:

Gary J. McCarthy, Esquire
McCarthy Weidler P.C.
2000 Market Street, Suite 2820
Philadelphia, PA 19103
Counsel for CMI

10. To be valid, any Notice of Intention to Appear and Summary Statement of Objections to the proposed settlement filed by a Class member must be postmarked no later than 30 days prior to the Fairness Hearing. Except as herein provided, no person or entity shall be entitled to object to the terms of the proposed Settlement. All persons and entities who fail to file a Notice of Intention to Appear as well as a Summary Statement as provided above shall be deemed to have waived any such objection by appeal, collateral attack or otherwise and will not be heard in person at the Fairness Hearing.
11. All proceedings in the Direct Purchaser Class Action against CMI are hereby **SEVERED**, and **STAYED** until such time as the Court renders a final decision regarding the approval of the Settlement and, if it approves the Settlement, enters final judgment as and in the form provided in the Settlement Agreement and dismisses this action with prejudice. This Order shall not act as a stay to any other continuing proceedings in *In Re Direct Purchaser Mushroom Antitrust Litigation*.
12. In the event the Settlement does not become final pursuant to the Settlement Agreement, then litigation of this action will resume in a reasonable manner consistent with the terms of the Settlement Agreement, to be approved by the Court upon joint application by the parties hereto. Further, a new trial date for CMI will be scheduled by the Court.
13. In the event the Settlement Agreement and the Settlement is terminated in accordance with its provisions, then the Settlement Agreement, the Settlement, and all related proceedings shall, except as expressly provided to the contrary in the applicable

Settlement Agreement, become null and void, shall have no further force and effect, and Plaintiffs shall retain full rights to assert any and all causes of action against CMI and any applicable Released Party, and CMI and the Released Parties shall retain any defenses and counterclaims thereto. The action shall thereupon revert forthwith to its procedural and substantive status prior to the date of filing of the Motion for Preliminary Approval and shall proceed as if the Settlement Agreement and all other related orders and papers had not been executed; and upon application of counsel for CMI and Lead Counsel for the Class, this Court shall enter an order authorizing the parties to resume and complete the action.

14. Neither this Order nor the Settlement Agreement nor any other Settlement-related document nor anything contained herein or therein or contemplated hereby or thereby nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement shall constitute, be construed as, or be deemed to be evidence of or an admission or concession by CMI as to the validity of any claim that has been or could have been asserted against them or as to any liability by them or as to any matter set forth in this Order.

IT IS SO ORDERED.

Dated: _____

Hon. Berle M. Schiller
United States Court District Judge
U.S. District Court, Eastern District of
Pennsylvania

EXHIBIT 4



Qualifications Summary

This document outlines Rust Consulting's qualifications to serve as the administrator for class action, mass tort, and regulatory settlements, as well as to perform other similar, complex and time-sensitive matters. It includes summary information categorized as follows:

- Firm Overview
- Practice Area Organization
- Personnel
- Services
- Representative Case Experience
- Data and System Security

Firm Overview

Rust Consulting, Inc., an Exela brand, is a consulting and administration firm that ranks among the industry leaders in the class action field. Rust provides public and private sector clients a full complement of services required to administer legal settlements and other complex or time-sensitive programs. These services include consulting; project management; data management; notification; contact centers and websites; claims processing; and fund management, distribution, and tax reporting.

Rust grew out of the Rust Consulting Group, which was founded in 1976 by Ron Rust as a litigation support firm that pioneered the use of computer technology in litigation support. In 1988, the Group administered its first class action settlement; in 1995, Rust Consulting, Inc. was established as a separate operating entity to focus on legal settlement administration. Since then, Rust has administered more than 6,000 settlements and projects.

Headquartered in Minneapolis, Rust also has offices in Faribault, Minn., Los Angeles, and San Francisco. Our subsidiary Kinsella Media maintains a Washington, D.C., location.

Practice Area Organization

Rust administers programs spanning diverse subject matter. The depth and breadth of our legal settlement administration experience spans all practice areas, with teams focused on antitrust, consumer, finance, insurance and healthcare, labor and employment, product liability, and securities matters. We work with governmental agencies at all levels – federal, state, and local – on matters often involving private and sensitive data. Our services also lend themselves to our clients' non-settlement needs, including data breach responses, recalls, and remediation programs.

Our leadership and certain operations and client services personnel focus on specific practice areas relevant to our clients, deepening their subject matter expertise and directly relevant experience.

Personnel

Our permanent staff of approximately 200 includes professionals with backgrounds and disciplines including project management, information technology, finance, law, and operations. This cross-functional, innovative team includes experts in their respective disciplines, such as CPAs, Ph.D.s, attorneys, and PMPs.

Rust's team includes some of the most experienced practitioners in the industry, with much of that experience Rust-specific. Our executive leadership team averages nearly 20 years of Rust experience, our senior vice presidents average nearly 14 years, and our functional directors average over 17 years.

Services

The Rust team provides high quality administrative services for matters of any size and scope. Specific approaches may vary depending upon the requirements of each individual matter; however, the below services are typical of our engagements.

Preliminary Consulting

Rust consults with clients prior to settlement to help anticipate otherwise identified issues that may arise in the management of complex data sets, providing notice, processing claims, and distributing funds, leading to delays and additional costs.

Project Management

Our project management personnel prepare plans of notice and administration, create or customize project tracking tools and reports, and oversee the creation of project-specific databases designed to house and capture appropriate information for use in claims administration. Throughout the administration process, project management personnel coordinate all activities between the parties, vendors, and internal Rust departments to ensure work is completed accurately and according to any service level agreements, internal standards, settlement documents, etc. We provide regular and on-demand reports and statistics to the appropriate parties and raise potential issues requiring their attention, as necessary. Upon completion of each major phase of administration, or as required, we prepare declarations or affidavits attesting to the scope and results of our work.

Data Management

The secure and efficient handling of data underlies all aspects of claims administration; Rust creates and customizes data management processes, databases, applications to meet the unique needs of each settlement or project. Tasks associated with data management throughout administration may include:

- Intaking original client data.
- Normalizing data for cross-platform usability, such as meeting mailing or other outreach requirements.
- Consolidating and deduplicating data from multiple sources.
- Extracting data for standard or customized trace services.
- Extracting data for mailing or other outreach.
- Calculating awards.



Notification

Rust disseminates hundreds of millions of notices annually by mail and email. We also work with our subsidiary Kinsella Media, the leading provider of notice to unidentified audiences and the only firm in the nation with two qualified, court-recognized notice experts, to develop and implement notice plans.

With respect to legal settlements, these notice programs notify class members or other affected individuals of their legal rights and options. With respect to data breach responses, recalls, or remediation, these programs inform affected individuals about the situations and any options those affected individuals may have.

Among our notification-related services are:

- Designing notice programs (through Kinsella Media).
- Drafting plain language materials (through Kinsella Media).
- Designing and proofreading notice materials.
- Locating unidentified individuals and updated addresses.
- Printing and mailing.
- Processing and forwarding undeliverable mail.
- Opining about notice program adequacy (through Kinsella Media).

Contact Centers

Rust supports the programs we administer through an assortment of contact center services including call centers, websites, and email support up to 24/7 and for class members and other affected individuals worldwide.

Our call center services include inbound and outbound calls in our own domestic, in-house call centers. These call centers are located in our two Minnesota locations, typically contain approximately 800 workstations, and are readily expandable to meet the needs of specific programs. In 2013, our call centers supported several large programs by simultaneously staffing well over 1,000 customer service representatives (CSRs).

To provide high levels of service on complex matters to class members and our clients' customers, Rust maintains a robust, permanent core group of call center employees, comprising managerial, supervisory, and customer service resources. We engage additional call center staff on a project basis as required. All CSRs—permanent or temporary—undergo background checks and training on Rust's policies and technology, customer service fundamentals, and project-specific information. Typical engagements include English- and Spanish-speaking CSRs, while we provide support in additional languages, as required. In one case, Rust CSRs took live inbound calls in 10 languages.

In lieu of or in conjunction with live customer service, Rust builds and maintains automated Interactive Voice Response (IVR) systems. These systems provide 24/7 service to toll-free numbers and include menus of prerecorded options such as program overviews, frequently asked questions and answers, and options for requesting forms or filing claims. Rust's IVR systems regularly support English- and Spanish-language speakers and can be programmed to support other languages, as required. In one case, Rust managed IVR support including translations of information pre-recorded by native speakers in 67 languages.



Claims Processing

Rust develops or executes claims processing or adjudication programs as required by the diverse terms of our engagements. We use several proprietary software applications and tested, streamlined processes to provide the most appropriate solutions for each engagement's needs, whether for paper or online claims. Our systems automate the claims administration process:

- Receipt.
- Link to class member database record.
- Data capture.
- Review of supporting documentation.
- Initial adjudication.
- Deficiency processing.
- Final adjudication.
- Rejection letters.
- Reporting/affidavits.

To meet the needs of each engagement, our systems can be configured to give clients or authorized parties secure online access to claimant data and reporting, or to class members to facilitate online claims filing.

Fund Management, Distribution, and Tax Reporting

Rust annually distributes billions of dollars associated with settlements and similar programs.

- Quality assurance - Positive pay
- Various fraud detection/prevention measures

Tax reporting

- Simultaneously manages more than 500 distribution and interest-bearing accounts containing billions of dollars.
- Tax identification numbers (federal and state).
- Qualified Settlement Fund (QSF) determination.
- Claimant award taxability and reporting.
- W-9 review.
- Quarterly 1120-SF tax deposits.
- Annual 1120-SF tax returns (600+ annually).
- IRS & State 1099 & 1042-S reporting and transmission.
- Backup withholding deposits and 945 annual reporting.
- Employment payroll taxes: 941, 940, SUTA, SIT, and local income taxes.



Representative Case Experience

Having administered more than 6,000 projects, a complete listing of our experience is voluminous. However, the below tables demonstrate the scope of our experience and capacity.

Note: All numbers are rounded

Notices	Case
83 million	Confidential consumer settlement
31 million	<i>In re Lawnmower Engine Horsepower Marketing and Sales Practices Litigation</i> , No. 2:08-md-01999 (E.D. Wis.).
24 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
15.7 million	<i>Blessing v. Sirius XM Radio</i> , No. 09-cv-10035 (S.D.N.Y.).
14 million	<i>In re Groupon Marketing and Sales Practices Litigation</i> , 3:11-md-02238, MDL No. 2238 (S.D. Cal.).

Distributed	Case
\$3.6 billion	Independent Foreclosure Review
\$1.5 billion	National Mortgage Settlement
\$800 million	<i>Naef v. Masonite Corp.</i> , No. CV 944033 (Ala. Cir. Ct. Mobile County).
\$800 million	<i>Microsoft I-V Cases</i> , J.C.C.P. No. 4106 (Cal. Super. Ct. San Francisco County).
\$762 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04 Civ. 8141 (S.D.N.Y.). (PwC, Company, Starr, and Gen Re Settlements)

Claims	Case
3.5 million	<i>In re Compact Disc Minimum Advertised Price Antitrust Litigation</i> , MDL No. 1361 (D. Me.).
3.2 million	<i>In re American International Group, Inc. Securities Litigation</i> , No. 04-cv-8141 (S.D.N.Y.) (Company, PwC, Starr, and Gen Re settlements).
3 million	Abbott Infant Formula Settlements
2.8 million	<i>Fogel v. Farmers Group, Inc.</i> , No. BC300142 (Cal. Super. Ct. Los Angeles County).
1.2 million	National Mortgage Settlement

Calls	Case
3.6 million	Independent Foreclosure Review
1.5 million	<i>Dyson v. Flagstar Corp.</i> , No. DKC93-1503 (D. Md.).
1.4 million	National Mortgage Settlement
1.3 million	Abbott Infant Formula Settlements
1 million	<i>Naef v. Masonite Corp.</i> , No. CV 94-4033 (Ala. Cir. Ct. Mobile County).



Data and System Security

The secure handling of data, systems, and applications is of utmost importance to Rust and its clients. As such, Rust actively mitigates potential threats by adhering to a complex set of best practices, including documented and audited processes and a business continuity plan to ensure uninterrupted, secure service. As part of this “unified compliance posture,” Rust:

- Has received system Certification & Accreditation under the Federal Information Security Management Act (“FISMA”) for two federal agencies. The framework for FISMA compliance is driven by the National Institute of Standards and Technology (“NIST”), which provides a unified security framework spanning three major security control classes (technical, operational, and management) and 18 control areas with more than 250 security controls.
- Complies with and adheres to Privacy Shield Principles, which cover notice and choice, disclosures and transfers, data security, data integrity, access to and removal of personal information, and enforcement and dispute resolution.
- Undergoes an annual SSAE18 SOC 2 Type II Report audit of our data and system security controls and protocols.
- Complies with applicable laws, such as the Gramm-Leach-Bliley Act (GLBA), also known as the Financial Modernization Act of 1999, which controls how financial institutions deal with individuals’ private information.
- Has implemented controls to prevent unauthorized access or disclosure, maintain data accuracy, and ensure the appropriate use and confidentiality of information, either for its own purposes or on behalf of our clients.
- Has put in place appropriate physical, electronic, and managerial procedures to safeguard and secure the information we process.
- Processes personal information only in ways compatible with the purpose for which it was collected or subsequently authorized to do.



EXHIBIT 5

DRAFT LONG FORM NOTICE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE MUSHROOM DIRECT PURCHASER ANTITRUST LITIGATION

Master File No. 06-620
(Schiller, J.)

**NOTICE OF PROPOSED PARTIAL SETTLEMENT AND
HEARING REGARDING SETTLEMENT**

PLEASE READ THIS NOTICE FULLY AND CAREFULLY. A SETTLEMENT HAS BEEN PROPOSED IN THIS PENDING CLASS ACTION LITIGATION THAT MAY AFFECT YOUR RIGHTS. IF YOU ARE A MEMBER OF THE CLASS DESCRIBED BELOW, YOU MAY BE ENTITLED TO SHARE IN THIS SETTLEMENT FUND.

TO: All persons and entities in the non-Western United States who purchased FRESH AGARICUS MUSHROOMS directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005.

A federal court has authorized this notice. It is not a solicitation from a lawyer.

This Notice is being sent pursuant to Federal Rule of Civil Procedure 23 and an Order of the United States District Court for the Eastern District of Pennsylvania (the "Court"). You were previously notified through a notice sent to you by first class mail and/or by publication in Progressive Grocer that Direct Purchasers of fresh agaricus mushrooms have filed a lawsuit against the Eastern Mushroom Marketing Cooperative (EMMC); Robert A. Ferranto trading as Bella Mushroom Farms¹; Brownstone Mushroom Farms; To-Jo Fresh Mushrooms, Inc.; Cardile Mushrooms, Inc.; Cardile Brothers Mushroom Packaging, Inc.; Country Fresh Mushroom Co.; Forest Mushroom Inc.; Franklin Farms, Inc.; Gino Gaspari & Sons, Inc.; Giorgi Mushroom Company; Giorgio Foods, Inc.; Kaolin Mushroom Farms, Inc.; South Mill Mushroom Sales, Inc.; Leone Pizzini and Son, Inc.; LRP-M Mushrooms LLC²; Modern Mushroom Farms; Sher-Rockee Mushroom Farm; C& C Carriage Mushroom Co.; Oakshire Mushroom Farm, Inc.; Phillips Mushroom Farms, Inc.; Harvest Fresh Farms, Inc.; Louis M. Marson, Jr. Inc.; Mario Cutone Mushroom Co., Inc.; M.D. Basciani & Sons,

¹ Buona Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

² Manfredini Enterprises, Inc., not a defendant in this litigation, is its affiliated distributor.

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Inc.³; Monterey Mushrooms, Inc.; Masha & Toto, Inc., trading as M & T Mushrooms⁴; W & P Mushroom, Inc.; Mushroom Alliance, Inc.; Creekside Mushrooms Ltd.; Kitchen Pride Mushroom Farms, Inc.; J-M Farms, Inc.; United Mushroom Farms Cooperative, Inc.; and John Pia (collectively, the “Defendants”),⁵ alleging that they violated the antitrust laws by fixing the prices, and restricting the supply, of fresh agaricus mushrooms. The lawsuit has been certified as a class action by Judge Thomas N. O’Neill of the United States District Court for the Eastern District of Pennsylvania and is known as *In re Mushroom Direct Purchaser Antitrust Litigation*, No. 06-620.

The purpose of this notice is to inform you of:

(a) a proposed settlement by the Class with two of the defendants identified above, Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. (collectively referred to as “CMI”) (for \$100,000) that has been preliminarily approved by the Court; and

(b) a hearing is scheduled to held on [INSERT DATE], before The Honorable Berle M. Schiller, United States District Judge of the U.S. District Court of the Eastern District of Pennsylvania, in Courtroom 13B at United States Courthouse, 601 Market Street, Philadelphia, PA 19106 (the “Fairness Hearing”).

The purpose of the Fairness Hearing will be to consider whether to approve the proposed settlement between the Class and CMI as fair, reasonable, adequate, and in the best interests of the Class. Plaintiffs will move the Court at a future date for disbursement of the settlement funds to the class. The Court may continue or reschedule the hearing; if the Court does so, the Class Plaintiffs will advise the Class by posting a conspicuous notice at www.garwingerstein.com. Whether or not the above-referenced settlement is approved, the litigation will continue against the non-settling defendants.

Class members who do not wish to object to the Proposed Settlement need not appear at the hearing. If you previously excluded yourself from the Direct Purchaser Class, however, you cannot object to CMI Settlement. Any Class member may appear at the hearing in person or by duly authorized attorneys and show cause why the Proposed Settlement should not be approved as fair, reasonable and adequate. However, no Class member shall be heard in opposition to the Proposed Settlement, and no paper or brief submitted by any Class member shall be received or considered by the Court unless, on or

³ Basciani Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

⁴ Robert Masha Sales, Inc., not a defendant in this litigation, is its affiliated distributor.

⁵ Defendants dispute that purchases made from the identified non-defendant affiliated distributors (Buona Foods, Inc., Manfredini Enterprises, Inc., Basciani Foods, Inc., Robert Masha Sales, Inc.,) as well as other mushroom distributors who are also not defendants in this case may be included in this case. That issue will ultimately be resolved in this case.

DRAFT LONG FORM NOTICE

before [INSERT DATE], the Class member electronically files a notice of intention to appear and a statement of the position to be asserted and the grounds therefor, together with any supporting papers or brief, referring to In re Mushroom Direct Purchaser Antitrust Litigation, Master file Number 06-620 with the Clerk of the Court, United States District Court for the Eastern District of Pennsylvania, Federal Courthouse, U.S. Courthouse, 601 Market Street, Philadelphia, Pennsylvania 19106. Copies of any such objection, and any supporting papers or brief shall also be sent by first-class mail, postage prepaid, postmarked no later than, [INSERT DATE], to Plaintiffs' Lead Counsel, whose addresses are listed below, and Plaintiffs' Lead Counsel shall serve CMI's Counsel with copies of same.

Class members also are hereby advised of their right to object or appear at the Fairness Hearing or to elect to exclude themselves from the Class, as explained below.

YOUR LEGAL RIGHTS AND OPTIONS	
DO NOTHING	By doing nothing, you may be entitled to share in recovery from the above-referenced settlement. All of the Court's orders will apply to you and legally bind you.
OBJECT TO THE SETTLEMENT	If you want to object to all or any part of the proposed settlement, write to the Court about why you do not like the proposed settlement.
GET MORE INFORMATION	If you would like to obtain more information about the Lawsuit, you can send questions to the lawyers identified in this notice.
GO TO A HEARING	If you have submitted a written objection to the Settlement, you may (but do not have to) attend the Court hearing about the Settlement and present your objection to the Court. You may attend the hearing even if you do not file a written objection, but you will only be allowed to speak at the hearing if you file written comments in advance of the hearing.

These rights and options – **and the deadlines to exercise them** – are explained in this Notice.

BASIC INFORMATION

1. Why did I get this notice?

You received this notice because you may have purchased Fresh Agaricus Mushrooms in the non-Western United States directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at some point between February 4, 2001 and August 8, 2005, and therefore you may be a member of the Class certified by the Court. The Class definition is set forth in response to Question 9.

2. What are Fresh Agaricus Mushrooms?

Fresh Agaricus Mushrooms are the common table variety, and include white (young) and brown (aged, also sometimes called “Portobello” or “crimini”) mushrooms. Fresh Agaricus mushrooms are mushrooms of the quality required to be resold as fresh unprocessed mushrooms whether or not they are ultimately processed before resale. Agaricus mushrooms of a quality that can only be sold for processing or that cannot otherwise be sold as fresh are not included in the definition of Fresh Agaricus Mushrooms.

3. Which states and territories are included in the non-Western United States?

The non-Western United States refers to the states east of the Rocky Mountains (Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Vermont), and the District of Columbia.

4. Who are the Defendants in this case?

The companies that have been sued are called the “Defendants.” In this case, the Defendants are: the Eastern Marketing Cooperative (EMMC); Robert A. Ferranto trading as Bella Mushroom Farms⁶; Brownstone Mushroom Farms; To-Jo Fresh Mushrooms, Inc.; Cardile Mushrooms, Inc.; Cardile Brothers Mushroom Packaging, Inc.; Country Fresh Mushroom Co.; Forest Mushroom Inc.; Franklin Farms, Inc.; Gino Gaspari & Sons, Inc.; Giorgi Mushroom Company; Giorgio Foods, Inc.; Kaolin Mushroom Farms, Inc.; South Mill Mushroom Sales, Inc.; Leone Pizzini and Son, Inc.; LRP-M Mushrooms LLC⁷; Modern Mushroom Farms; Sher-Rockee Mushroom Farm; C& C Carriage Mushroom Co.; Oakshire Mushroom Farm, Inc.; Phillips Mushroom Farms, Inc.; Harvest Fresh Farms, Inc.; Louis M. Marson, Jr. Inc.; Mario Cutone Mushroom Co., Inc.; M.D. Basciani & Sons,

⁶ Buona Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

⁷ Manfredini Enterprises, Inc., not a defendant in this litigation, is its affiliated distributor.

Inc.⁸; Monterey Mushrooms, Inc.; Masha & Toto, Inc., trading as M & T Mushrooms⁹; W & P Mushroom, Inc.; Mushroom Alliance, Inc.; Creekside Mushrooms Ltd.; Kitchen Pride Mushroom Farms, Inc.; J-M Farms, Inc.; United Mushroom Farms Cooperative, Inc.; and John Pia (collectively, the “Defendants”).¹⁰

5. What is this lawsuit about?

Plaintiffs allege that the Defendants conspired to fix the price of fresh agaricus mushrooms sold in the non-Western United States (*i.e.* east of the Rocky Mountains) between February 4, 2001 and August 8, 2005 in violation of the federal antitrust laws. Among other things, Plaintiffs contend that the Defendants agreed to pricing policies and written price lists that established the price at which Defendants and their affiliated distributors would sell to direct purchasers in each of the six regions that make up the non-Western United States. Plaintiffs further contend that Defendants engaged in a Supply Control Program designed to limit the supply of fresh agaricus mushrooms and increase their price. This Supply Control Program included the acquisition and/or lease of mushroom farms in order to transfer them subject to deed restrictions that prohibited the production of mushrooms on those properties.

A copy of Plaintiffs’ Revised Consolidated Class Action Amended Complaint filed on November 13, 2007 (the “Complaint”) is available at www.garwingerstein.com.

Plaintiffs allege that Defendants’ conduct violated the antitrust laws. Plaintiffs further allege that they and the other members of the Class were injured by having to pay artificially-inflated prices for their purchases of fresh agaricus mushrooms.

Defendants deny Plaintiffs’ allegations, and deny that any Class member is entitled to damages or other relief. Defendants also deny that any of their conduct violated any applicable law or regulation. Defendants further deny that the Class members have suffered any injury or damages. Defendants have raised the indirect purchaser defense as to persons or entities that purchased from any of their affiliated distribution companies.

Defendants have also claimed immunity from the Antitrust Laws under the Capper-Volstead Act. The Court has ruled that Defendants have no claimed immunity. Defendants have preserved this issue for appeal. A trial of these claims is set to begin on May 20, 2019.

⁸ Basciani Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

⁹ Robert Masha Sales, Inc., not a defendant in this litigation, is its affiliated distributor.

¹⁰ Defendants dispute that purchases made from the identified non-defendant affiliated distributors (Buona Foods, Inc., Manfredini Enterprises, Inc., Basciani Foods, Inc., Robert Masha Sales, Inc.) as well as other mushroom distributors who are also not defendants in this case may be included in this case. That issue will ultimately be resolved in this case.

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THE COURT HAS NOT DECIDED WHETHER ANY DEFENDANT VIOLATED ANY LAWS. THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF PLAINTIFFS' CLAIMS AGAINST ANY DEFENDANT, OR THE DEFENSES ASSERTED BY ANY DEFENDANT.

The class action is known as *In re Mushroom Direct Purchaser Antitrust Litigation*, Master Docket No. 06-620 (E.D. Pa.). Judge Berle M. Schiller of the United States District Court for the Eastern District of Pennsylvania is overseeing this class action.

6. What is a class action?

A class action is a type of lawsuit in which one or more entities, called "Class Representatives," sue on behalf of other entities with similar claims to obtain monetary or other relief for the benefit of the entire group. In a class action lawsuit, one court resolves the issues for everyone in the Class, except for those Class Members who exclude themselves (*i.e.*, "opt out") from the Class.

In this case, the court-appointed Class Representatives are Wm Rosenstein & Sons Co.; Associated Grocers, Inc.; M. Robert Enterprises, Inc.; M.L. Robert, II, L.L.C.; and Market Fare, LLC.

7. Why is this lawsuit a class action?

In an Order entered on November 22, 2016, the Court determined that the Lawsuit can proceed as a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. A redacted copy of the Court's Class Certification Order may be found at www.garwingerstein.com.

Specifically, the Court has found that:

- the number of Class members is too large to practically join them in a single case;
- there are questions of law or fact common to the Class;
- the claims of the Class Representatives (listed in response to Question 6) are typical of the claims of the rest of the Class;
- the Class Representatives will fairly and adequately protect the Class's interests;
- common legal questions and facts predominate over any questions affecting only individual members of the Class; and
- a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

8. Has the Court identified Class common claims, issues, or defenses?

Yes. In its Order certifying the Class, the Court found that there were common classwide claims and issues, including:

- whether there has been a violation of the antitrust laws (including, whether Defendants agreed to fix prices and restrict output);
- whether Class members suffered an injury from the claimed antitrust violations (*i.e.* whether Class members were overcharged as a result of Defendants' price fixing and supply restrictions); and

- aggregate damages suffered by the Class as a result of Defendants' conduct.

WHO IS IN THE CLASS

9. Am I part of the Class?

Prior notice of the Court's November 22, 2016 Order was disseminated by first class mail and published in the May 2018 issue of Progressive Grocer to inform you that the Court has certified the following Class:

All persons or entities in the non-Western United States who purchased fresh agaricus mushrooms directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005 (the "Class Period"). For group buying organizations and their members, direct purchasers are either: (1) members who have a significant ownership interest in or functional control over their organizations; or (2) if no member has such interest or control, the organizations themselves. The Class excludes the EMMC, its members and their parents, subsidiaries and affiliates.

The non-Western United States refers to the following states which were in the six regions of the country which plaintiffs claim were subject to the EMMC's pricing policies: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Wisconsin, Minnesota, Iowa, Kansas, Nebraska, Colorado, Oklahoma, Texas, Ohio, Missouri, Michigan, Indiana, Kentucky, West Virginia, Illinois, and the District of Columbia.

Only purchases in the non-Western United States of fresh agaricus mushrooms ***directly*** from one or more of the Defendants, **their co-conspirators, and/or owned or controlled affiliated distributors** are covered by this lawsuit. If you are located outside the non-Western United States, you are ***not*** a member of the Class. If you ***only*** bought fresh agaricus mushrooms from a source other than any of the Defendants, **their co-conspirators, and/or owned or controlled affiliated distributors**, you are ***not*** a member of the Class. If you are the EMMC, one of its members, or a parent, subsidiary, or affiliate of an EMMC member, you are ***not*** a member of the Class. If you do not meet the Class definition this Notice does not apply to you.

If you are not sure whether you are part of the Class, you may call or write to the lawyers in this case at the telephone numbers or addresses listed in Question 13 below.

The Proposed Partial Settlement and Status Of the Settlement Funds

As referenced above, the Class has entered a proposed settlement with Defendants Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. (collectively referred to as "CMI").

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Subject to the terms and conditions of the settlement agreement with CMI, which is on file with the Court as Exhibit 1 to Class Plaintiffs' April 16, 2019 Motion for Preliminary Approval, a copy of which is also available at www.garwingerstein.com, CMI has agreed to pay \$100,000 in cash for the benefit of the Class upon final Court approval of the settlement. CMI has also agreed to cooperate with the Class in its continuing litigation against the non-settling defendants. CMI does not admit any wrongdoing or liability on its part.

If the Settlement is approved by the Court, CMI and their respective present and former parents, subsidiaries, divisions, affiliates, stockholders, officers, directors, employees, agents and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") shall be released and forever discharged from liability for all claims that were or could have been brought by Class Plaintiffs and members of the Class in this case (the "Released Claims"). Each member of the Class covenants and agrees that it shall not seek to establish liability against any Released Party based, in whole or in part, upon any of the Released Claims. Any disputes arising under or relating to the Settlement Agreement, including, but not limited to, the releases in the Settlement Agreements, will be resolved in the U.S. District Court for the Eastern District of Pennsylvania.

The foregoing text is only a summary of the settlement with CMI. A full copy of the Settlement Agreement, including the release, is attached as Exhibit 1 to Class Plaintiffs' April 16, 2019 Motion for Preliminary Approval on public file with the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106. Class Counsel have made copies readily available at www.garwingerstein.com.

Certain individual direct purchasers who have brought their own lawsuits against defendants may have simultaneously but separately settled their own claims against CMI. These individual plaintiffs will not share in the proposed settlement with the Class.

The Court preliminarily approved the proposed settlement with CMI by Order dated [INSERT DATE]. The Court found the proposed settlement, upon preliminary review, to be within the range of reasonableness.

Accordingly, the Court has set a Fairness Hearing on [INSERT DATE] in order to determine whether the proposed settlement with CMI should finally be approved.

The Plan of Allocation for the Settlement Funds

In the event the proposed settlement is approved by the Court and becomes final, the Settlement Fund will be distributed in accord with a Plan of Allocation approved by the Court. The Plan of Allocation will be based upon proofs of claim to be filed by class members at a later time. You may be required as a condition of participating in the recovery to present evidence of your purchases of fresh agaricus mushrooms during the period February 4, 2001 to August 8, 2005.

At this time, Class Counsel do not intend to ask the Court to distribute any part of the Settlement Fund to any of the class members. In the event the proposed settlement is approved by the Court and becomes final, on a future date, when this case is fully resolved

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by trial or future settlement, counsel will ask the Court to approve a distribution plan for the entire recovery plus interest and less administrative expense, taxes, attorney fees and expenses and incentive payments to the Class Representatives. The Plan of Allocation will be based upon proofs of claim to be filed by class members at a later time. You may be required as a condition of participating in the recovery to present evidence of your purchases of fresh agaricus mushrooms during the period February 4, 2001 to August 8, 2005. At this time, Class Counsel do not intend to ask the Court to distribute any part of the Settlement Fund to any of the class members. On a future date, when this case is fully resolved by trial or future settlement, counsel will ask the Court to approve a distribution plan for the entire recovery plus interest and less administrative expense, taxes, attorney fees and expenses and incentive payments to the Class Representatives.

IF YOU DO NOTHING**10. What happens if I do nothing?**

If you do nothing, you will have the right to share in the recovery from the settlement between the Class and CMI.

THE LAWYERS REPRESENTING YOU**11. Do I have a lawyer in this case?**

The Court has decided that the Law Firm listed below is qualified to represent you and all Class Members as Lead Class Counsel. Lead Class Counsel is also working with additional Law Firms to prosecute this Lawsuit on behalf of the Class (together, "Class Counsel"). Class Counsel are experienced in handling similar cases against other companies.

Lead Class Counsel

Garwin Gerstein & Fisher LLP
88 Pine Street, 10th Floor
New York, NY 10005
Tel.: 212-398-0055
Fax: 212-764-6620

Contact: Bruce E. Gerstein, Esq.
Jonathan Gerstein, Esq.

12. Should I get my own lawyer?

You do not need to hire your own lawyer because Lead Class Counsel is working on your behalf. However, if you wish to do so, you may retain your own lawyer at your own expense. You may enter an appearance in this case through your own lawyer, if you choose to do so.

13. How will the lawyers be paid?

In the future, the Court will be asked to approve reasonable attorney's fees, as well as reimbursement of expenses Class Counsel have advanced on behalf of the Class from the settlement with the Class and CMI and any previous settlements or further recoveries

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obtained as a result of a trial or settlement on behalf of the Class. If the Court grants Class Counsel's requests, fees and expenses would either be deducted from any money obtained for the Class, or the Court may order the Defendants to pay attorney's fees and costs in addition to any damage award to the Class. Members of the Class will not have to pay any attorney's fees or expenses.

GETTING MORE INFORMATION

14. How do I get more information?

If you have questions about this case or want to get additional information, you may call or write to the Lead Class Counsel (contact information is listed in response to Question 13), or to **[INSERT NOTICE ADMINISTRATOR'S CONTACT INFORMATION]**. You may also get additional information by visiting www.garwingerstein.com.

**PLEASE DO NOT WRITE OR CALL THE COURT
OR THE CLERK'S OFFICE FOR INFORMATION.**

DATE: _____, 2019

BY THE COURT

Honorable Berle M. Schiller, Jr.
United States District Judge

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**SUMMARY NOTICE OF PROPOSED PARTIAL SETTLEMENT AND
HEARING REGARDING SETTLEMENT**

TO: All persons and entities in the non-Western United States who purchased FRESH AGARICUS MUSHROOMS directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005, YOUR RIGHTS COULD BE AFFECTED BY A CLASS ACTION LAWSUIT.

You were previously notified through a notice sent to you by first class mail and/or by publication in Progressive Grocer that Direct Purchasers of fresh agaricus mushrooms have filed a lawsuit against the Eastern Mushroom Marketing Cooperative (EMMC); Robert A. Ferranto trading as Bella Mushroom Farms¹; Brownstone Mushroom Farms; To-Jo Fresh Mushrooms, Inc.; Cardile Mushrooms, Inc.; Cardile Brothers Mushroom Packaging, Inc.; Country Fresh Mushroom Co.; Forest Mushroom Inc.; Franklin Farms, Inc.; Gino Gaspari & Sons, Inc.; Giorgi Mushroom Company; Giorgio Foods, Inc.; Kaolin Mushroom Farms, Inc.; South Mill Mushroom Sales, Inc.; Leone Pizzini and Son, Inc.; LRP-M Mushrooms LLC²; Modern Mushroom Farms; Sher-Rockee Mushroom Farm; C&C Carriage Mushroom Co.; Oakshire Mushroom Farm, Inc.; Phillips Mushroom Farms, Inc.; Harvest Fresh Farms, Inc.; Louis M. Marson, Jr. Inc.; Mario Cutone Mushroom Co., Inc.; M.D. Basciani & Sons, Inc.³; Monterey Mushrooms, Inc.; Masha & Toto, Inc., trading as M & T Mushrooms⁴; W & P Mushroom, Inc.; Mushroom Alliance, Inc.; Creekside Mushrooms Ltd.; Kitchen Pride Mushroom Farms, Inc.; J-M Farms, Inc.; United Mushroom Farms Cooperative, Inc.; and John Pia (collectively, the “Defendants”),⁵ alleging that they violated the antitrust laws by fixing the prices, and restricting the supply, of fresh agaricus mushrooms. The lawsuit has been certified as a class action by Judge Thomas N. O’Neill of the United States District Court for the Eastern District of Pennsylvania and is known as *In re Mushroom Direct Purchaser Antitrust Litigation*, No. 06-620. Defendants deny that

¹ Buona Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

² Manfredini Enterprises, Inc., not a defendant in this litigation, is its affiliated distributor.

³ Basciani Foods, Inc., not a defendant in this litigation, is its affiliated distributor.

⁴ Robert Masha Sales, Inc., not a defendant in this litigation, is its affiliated distributor.

⁵ Defendants dispute that purchases made from the identified non-defendant affiliated distributors (Buona Foods, Inc., Manfredini Enterprises, Inc., Basciani Foods, Inc., Robert Masha Sales, Inc.) as well as other mushroom distributors who are also not defendants in this case may be included in this case. That issue will ultimately be resolved in this case.

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they were subject to and violated the antitrust laws. Defendants also deny that the Class was impacted or suffered any compensable losses as a result of the EMMC's policies at issue in this case. The Court has not decided whether Defendants did anything wrong. These issues will ultimately be resolved in this case.

The Class certified is: All persons or entities in the non-Western United States who purchased fresh agaricus mushrooms directly from an Eastern Mushroom Marketing Cooperative (EMMC) member or one of its co-conspirators or its owned or controlled affiliates, agents, or subsidiaries at any time between February 4, 2001 and August 8, 2005 (the "Class Period"). For group buying organizations and their members, direct purchasers are either: (1) members who have a significant ownership interest in or functional control over their organizations; or (2) if no member has such interest or control, the organizations themselves. The Class excludes the EMMC, its members and their parents, subsidiaries and affiliates. The non-Western United States refers to the following states which were in the six regions of the country which plaintiffs claim were subject to the EMMC's pricing policies: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Alabama, Mississippi, Arkansas, Louisiana, Wisconsin, Minnesota, Iowa, Kansas, Nebraska, Colorado, Oklahoma, Texas, Ohio, Missouri, Michigan, Indiana, Kentucky, West Virginia, Illinois, and the District of Columbia. If you do not meet these requirements, this Notice does not apply to you.

The purpose of this notice is to inform you that a proposed partial settlement has been reached. Plaintiffs have entered a proposed settlement with Defendants Cardile Mushrooms, Inc. and Cardile Brothers Mushroom Packaging, Inc. (collectively referred to as "CMI"). The Court has preliminarily approved the proposed settlement with CMI.

Subject to the terms and conditions of the settlement agreement with CMI, which is on file with the Court as Exhibit 1 to Class Plaintiffs' April 16, 2019 Motion for Preliminary Approval, a copy of which is also available at www.garwingerstein.com, CMI has agreed to pay \$100,000 in cash for the benefit of the Class upon final Court approval of the settlement. CMI has also agreed to cooperate with the Class in its continuing litigation against the non-settling defendants. CMI does not admit any wrongdoing or liability on its part.

If the Settlement is approved by the Court, CMI and their respective present and former parents, subsidiaries, divisions, affiliates, stockholders, officers, directors, employees, agents and any of their legal representatives (and the predecessors, heirs, executors, administrators, successors and assigns of each of the foregoing) (the "Released Parties") shall be released and forever discharged from liability for all claims that were or could have been brought by Class Plaintiffs and members of the Class in this case (the "Released Claims"). Each member of the Class covenants and agrees that it shall not seek to establish liability against any Released Party based, in whole or in part, upon any of the Released Claims. Any disputes arising under or relating to the Settlement Agreement, including, but not limited to, the releases in the Settlement Agreements, will be resolved in the U.S. District Court for the Eastern District of Pennsylvania.

The foregoing text is only a summary of the settlement with CMI. A full copy of the Settlement Agreement, including the release, is attached as Exhibit 1 to Class Plaintiffs'

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April 16, 2019 Motion for Preliminary Approval on public file with the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, PA 19106. Class Counsel have made copies readily available at www.garwingerstein.com.

Mailed Notice. If you believe you are a member of the Class but have not yet received the more detailed Notice of Proposed Partial Settlement (“Mailed Notice”), you may obtain a copy of the Mailed Notice (that includes additional information regarding objections to the settlement as well as deadlines for asserting those objections, if any), by contacting the Notice Administrator at: **[INSERT NOTICE ADMINISTRATOR’S CONTACT INFORMATION]**.

Objecting to the Settlement. If you object to all or any part of the proposed settlement, write to the Court about why you do not like the proposed settlement. If you previously excluded yourself from the Direct Purchaser Class, however, you cannot object to CMI Settlement. Any Notice of Intention to Appear and Summary Statement of Objections to the proposed CMI settlement filed by a Class member must be postmarked no later than **[INSERT DATE]**, 30 days prior to the Fairness Hearing, which will be held on **[INSERT DATE]**, before The Honorable Berle M. Schiller, United States District Judge of the U.S. District Court of the Eastern District of Pennsylvania, in Courtroom 13B at United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

If You Do Nothing. You will share in recovery from the CMI settlement.

Although not required, you may also hire your own attorney at your own expense and enter an appearance in the case through your own lawyer, if you so desire.

In the event the proposed settlement is approved by the Court and becomes final, the Settlement Fund will be distributed in accord with a Plan of Allocation approved by the Court. The Plan of Allocation will be based upon proofs of claim to be filed by class members at a later time. You may be required as a condition of participating in the recovery to present evidence of your purchases of fresh agaricus mushrooms during the period February 4, 2001 to August 8, 2005. At this time, Class Counsel do not intend to ask the Court to distribute any part of the Settlement Fund to any of the class members. On a future date, when this case is fully resolved by trial or future settlement, counsel will ask the Court to approve a distribution plan for the entire recovery plus interest and less administrative expense, taxes, attorney fees and expenses and incentive payments to the Class Representatives.

Getting More Information. If you have questions, need additional information, or want to receive the Mailed Notice, please contact the Notice Administrator **[NOTICE ADMINISTRATOR]**, as set forth above. You may also get additional information by visiting www.garwingerstein.com.

**PLEASE DO NOT WRITE OR CALL THE COURT
OR THE CLERK’S OFFICE FOR INFORMATION.**

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DATE: _____, 2019

BY THE COURT

Honorable Berle M. Schiller,
United States District Judge