

SETTLEMENT AGREEMENT

The Plaintiff **Thomas Holst Knudsen**, by his Guardian Ad Litem, **Palle Knudsen**, on his own behalf and as proposed representative of the proposed Class (the “Plaintiffs”) and Consolidated Food Brands Inc. carrying on business as Fleetwood Sausage, hereby enter into this Settlement Agreement providing for the settlement of the claims described below, pursuant to the terms and conditions set out below, and subject to the approval of the Court of British Columbia;

WHEREAS Thomas Holst Knudsen, by his Guardian Ad Litem, Palle Knudsen, as proposed representative plaintiff (the “Plaintiff”) commenced Action No. L000093 in the British Columbia Supreme Court (the “Class Action”) against Consolidated Food Brands Inc. carrying on business as Fleetwood Sausage (“Fleetwood”);

AND WHEREAS the Class Action has not yet been certified by the Court as a class proceeding in British Columbia;

AND WHEREAS counsel for the Plaintiffs and the proposed class is the firm of Klein, Lyons (“Class Counsel”);

AND WHEREAS Fleetwood, despite its consent to this Settlement Agreement, denies any wrongdoing or legal liability arising in respect of any claims made or which could have been made in or in respect of the Class Action;

AND WHEREAS Fleetwood is prepared to consent to certification of the claims in the Class Action solely on the conditions that the Court approve this Settlement Agreement and the settlement process described herein;

AND WHEREAS the parties assert that there are common issues asserted in the proposed Class Action and the certification of settlement of the proposed Class Action as set forth in the Settlement Agreement is a preferable procedure for resolving the common issues and the Plaintiffs’ claims;

AND WHEREAS Fleetwood has similarly concluded that this Agreement is desirable in order to avoid the time, risk and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims related to the conduct by Fleetwood alleged in the Action;

AND WHEREAS Fleetwood intends by this Agreement to resolve all of the present and future claims against it for or relating in any way to the conduct by Fleetwood alleged in the Action;

AND WHEREAS Fleetwood and the Plaintiff have agreed upon a process to provide for the settlement of all claims made across British Columbia in the Proposed Class Action;

AND WHEREAS the parties agree that this Settlement Agreement, the certification of this Class Action, and any approval of the Settlement Agreement by the Court does not nor shall not constitute any admission by Fleetwood, or be used as any evidence against Fleetwood as liability for damages caused or for any other purpose in any other proceedings, present or future, except for the sole purpose of enforcing this Settlement Agreement;

NOW THEREFORE subject to the approval of the Courts, the parties hereby agree that the proposed Class Action and in particular, all claims contemplated, asserted and unasserted, and raised, directly or indirectly, shall be resolved as set forth in this Settlement Agreement as follows:

1. **Court Approval Hearing**

Promptly after execution of this Settlement Agreement, the parties shall jointly advise the Court of this Agreement and shall initiate a motion for an Order that shall:

- (a) approve this Agreement;
- (b) declare that this Agreement is fair and reasonable and in the best interests of the Class;
- (c) define the Class as set out in paragraph 3 below;

- (d) approve the form of notification of certification and settlement;
- (e) provide a time to opt in and opt out of the Class and Settlement;
- (f) provide that this Action shall stand dismissed without costs upon the conclusion of all claims of the Class.

2. Class Definition

The definition of the class in the certification order will be as follows:

“All residents of British Columbia who suffered personal injuries and tested positive for E.coli 0157:H7 during the period between September 23, 1999 and January 31, 2000 after consuming a Fleetwood Sausage product. Persons of legal capacity who have accepted a settlement offer and have signed a release in favour of the Defendant in respect of this matter are excluded from the class.”

3. Notice to Class Members

Class Counsel shall be responsible for sending the Notice of Certification and Settlement to the class members. The Notice of Certification and Settlement and a claim package will be sent to class members by direct mail. The above mentioned documents will be mailed by ordinary mail and a stamped self-addressed envelope to Class Counsel will be enclosed. Any communication by Class Counsel to class members will be as agreed by counsel or, failing agreement, as approved by the Court.

Class Counsel and Fleetwood shall be jointly responsible for obtaining the names and addresses of all those persons who tested positive for E. coli 0157:H7 between September 23, 1999 and January 31, 2000. These names shall be obtained from the British Columbia Centre for Disease Control or such other entities who are in possession thereof.

4. Settlement Terms

Any prior settlement negotiated by the Defendant and an infant claimant coming within the proposed class definition prior to November 15, 2000 and whose settlement has not yet been

formally approved by the Public Guardian and Trustee will be subject to the terms of this settlement agreement and will be adjusted upwards, if necessary, so that infants receive as much as they would be entitled to under the terms of the class settlement.

(1) Category 1

Category 1 will include all those claimants who were not admitted to hospital as a result of the claimants' infection with E.coli 0157:H7;

Fleetwood will pay to each eligible Category 1 member a lump sum payment of \$4,000 and reimbursement of all reasonable and documented special damages suffered by them or their family members as a direct result of the claimants' infection.

(2) Category 2

Category 2 will include all those claimants who were admitted to hospital for less than 30 days as a result of the E.Coli 0157:H7 infection and whose symptoms arising from it have now resolved;

Fleetwood will pay to each eligible Category 2 member a lump sum payment of \$7,500.

Fleetwood will pay to each eligible Category 2 member an additional lump sum payment of \$700 for each day or part thereof spent in hospital and reimbursement of all reasonable and documented special damages suffered by them or their family members as a direct result of the claimants' infection.

(3) Category 3

Category 3 will include all those claimants not falling within Category 1 or 2 and who provide medically supported evidence of continuing symptoms relating to injuries as a result of their E.Coli 0157:H7 infection. Category 3 will also include all claimants who were admitted to hospital for 30 days or longer as a result of their E.Coli 0157:H7 infection.

Category 3 class members will receive payments as agreed by the class member and Fleetwood. If the parties are unable to agree, the dispute will be mediated. The class member and counsel for Fleetwood, both acting reasonably, will agree on the appointment of a mediator. Disputes not resolved through mediation shall be referred to and resolved by a referee appointed by the Court whose decision shall be binding on the parties and shall not be subject to further appeal or review. The costs of the mediation and/or referee will be borne by Fleetwood.

(4) Exceptional Category 1 Claims

A Category 1 claimant who has medically supported evidence of continuing symptoms relating to the E.Coli 0157:H7 infection may, with leave of the Court, have his or her claims adjudicated in the same manner as a Category 3 claimant. If leave of the Court is denied, the claimant will have 30 days to opt out of the Class Proceeding.

(5) Settlement Involving Minors

All Category 3 and Exceptional Category 1 settlements involving minors will be subject to the approval of the Public Guardian and Trustee and the Court, in accordance with the provisions of the *Infants Act*.

6. Administration of Settlement

(1) Proof of Membership in Class and Damages

Each Claimant will complete a Statutory Declaration verifying that:

- (a) he or she was a resident of British Columbia on the date of the Certification Order; and
- (b) he or she consumed a Fleetwood Sausage product between September 23, 1999 and January 31, 2000 and suffered personal injuries as a result; and
- (c) he or she is of legal capacity adult and has not already accepted a settlement offer in respect of this matter.

- (d) For infant claims, the minor's parent or guardian will complete a Statutory Declaration verifying that:
- (e) the minor was a resident of British Columbia on the date of the Certification Order; and
- (f) the minor consumed a Fleetwood Sausage product between September 23, 1999 and January 31, 2000 and suffered personal injuries as a result.

(2) Membership in the class will be proven by submitting:

- (a) the Statutory Declaration referred to above;
- (b) test results verifying infection with E.coli 0157:H7 during the period between September 23, 1999 and January 31, 2000; and

(3) Supporting Documentation

Together with a completed and executed Claim Form, each Claimant must mail to Class Counsel, postmarked by the requisite date, the following Supporting Documentation;

- (a) appropriate medical records documenting each injury for which the Claimant has claimed for compensation;
- (b) a photocopy of the Claimant's Birth Certificate or other acceptable proof of the Claimant's date of birth; and
- (c) an authorization permitting Fleetwood to obtain relevant Medical Records;

(4) Special Damages and Hospitalization

- (a) where special damages are claimed, the claimant must complete a statutory declaration explaining the nature, amount and explanation of the special damages being claimed together with supporting documentation and applicable receipts;

- (b) where a period of admission to hospital is being claimed, the claimant must attach copies of the relevant hospital records of the dates, time, place and reasons for admission to hospital.
- (c) where wage loss is being claimed, the claimant must provide an authorization permitting Fleetwood to obtain wage loss verification from the claimant's employer.

(5) Procedure for Payments

- (a) To participate in the settlement, Class Members must provide notice of their claim to Fleetwood on or before the registration deadline set by Court.
- (b) All claims to Fleetwood will be sent through Class counsel or its authorized agent to counsel for Fleetwood.
- (c) Approved claims will be paid to Claimants after deduction of Class Counsel fees and disbursements.

(6) Disputed Claims

- (a) Fleetwood may refuse to pay a claim if it can be demonstrated on a balance of probabilities that the claimant is not a member of the class.
- (b) Fleetwood may refuse to pay a claim if it can be shown on a balance of probabilities that the special damages or period of admission to hospital has not been proven.
- (c) If Fleetwood refuses to pay a claim or disputes the amount being claimed, the class member or Fleetwood may request a mediation. The cost of the mediation will be shared equally. If Fleetwood and the class member are unable to resolve the claim by mediation, it will be forwarded to a Referee appointed by the Court whose decision shall be binding on the parties and shall not be subject to further

appeal or review. The costs of the Referee will be paid by the unsuccessful party, as determined at the discretion of the Referee.

(d) If a class member and Fleetwood are not in agreement as to the membership of a class member in Category 3, the matter will be resolved by application to the Court.

(e) For any disputed claims, Fleetwood shall have the same rights to document discovery, examinations for discovery and independent medical examinations as are provided for by Rules 26 – 32A of the Supreme Court Rules. Any reasonable taxable costs shall be paid by Fleetwood.

(7) Release

Each Claimant will, as a condition of receipt of the Settlement amount, sign a release in a form to be agreed upon by counsel. Failing agreement of counsel, the terms of the Release will be settled by Court Order.

8. Opting Out of the Settlement Agreement

All persons who fall within the definition of the Class but who do not want to be a member of the proposed Class Action must opt out of the Class on or before the deadline set by the Court.

9. Miscellaneous

(1) The consent of Fleetwood to the Approval Motions is expressly acknowledged to be without prejudice to the rights of Fleetwood to dispute certification on any issue raised or which could have been raised in the Class Action in any Court or at any future time should Court approval thereof not be obtained.

(2) Upon Court approval, Class Members (other than those who validly opt out of the class proceeding) shall be deemed to have accepted the Settlement Agreement and to have released Fleetwood and any of Fleetwood's successors, parents,


subsidiaries, assigns, affiliates, and past, present, future directors, officers, lawyers, employees, agents, consultants, advisors, and other representatives of any type (collectively, "the Released Parties") from any and all claims, law suits, demands and causes of action that were asserted or could have been asserted by or on behalf of or through the Plaintiffs or any Class Member individually, collectively or otherwise, based upon any conduct of Fleetwood or the released parties in respect of the matters which were asserted or could have been asserted in the Class Action.

- (3) Nothing in the Settlement Agreement shall constitute or be deemed to constitute a waiver by Fleetwood of defences based on statutes of limitation or repose, prescription periods or any other limitation or prescription defence with respect to any Class Member who opts out of the Settlement Agreement, is deemed to opt out of the Settlement Agreement, or, in the event the Settlement Agreement is terminated, brings or continues an action against Fleetwood, subject to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.
- (4) Upon Court approval and the expiry of each of the relevant deadlines and payment of all claims, the parties will file a consent to the dismissal of the Class Action with prejudice on a without costs basis together with any other documents which may be necessary for the dismissal of the Class Action.
- (5) This Settlement Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior understandings, representations, negotiations, discussions, and agreements, whether oral or written, which may have occurred prior hereto. There are no other warranties or representations between the parties in connection with the subject matter of this Settlement Agreement, except as specifically set forth herein and no such other warranties or representations have been relied upon by the parties in entering into the Settlement Agreement.

- (6) This Settlement Agreement is governed by the law of the Province of British Columbia.
- (7) This Settlement Agreement may be executed in counterparts.
- (8) The parties acknowledge that they have required that this Settlement Agreement and all related documents be prepared in English.
- (9) Class Counsel may apply for approval of a fee payable by Class Members for claims settled pursuant to this Settlement Agreement. Approval of this fee is not a condition of this Settlement. Fleetwood will take no position on any such application.

Dated at Vancouver this 29th day of December, 2000.

Thomas Holst Knudsen, the Representative
Plaintiff, by his counsel, David A. Klein.



Consolidated Food Brands Inc. carrying on business
as Fleetwood Sausage by its counsel, James D.
Morin

