IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

After arm's-length negotiations, including a mediation facilitated by Penny Conly Ellison, Esquire in the Third Circuit Court of Appeals, Plaintiffs/Class Representatives[1] in the above-captioned action, by and through their undersigned counsel, respectfully submit this Unopposed Motion pursuant to Federal Rule of Civil Procedure 23 for an Order that: (1) certifies the Class for settlement purposes only; (2) grants preliminary approval of the settlement terms outlined in the settlement agreement (the "Settlement Agreement") that the parties have negotiated, which is attached hereto as Exhibit A; (3)

[1] For the purposes of the Unopposed Motion and the related documents, the term "Plaintiffs" and "Class Representatives" refers to the collective group of Plaintiffs, including Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera. The term "Defendants" refers to MatlinPatterson Global Advisers, LLC, MatlinPatterson PE Holdings, LLC, MatlinPatterson Global Partners II, LLC, and MatlinPatterson Global Opportunities Partners II, L.P. Plaintiffs and Defendants shall collectively be referred to as the "Parties".

approves the form and manner of notice to class members; and (4) schedules a final fairness hearing for review and final approval of the settlement terms outlined in the Settlement Agreement to take place approximately forty five (45) days after the Preliminary Approval Date. A proposed Preliminary Approval Order, a proposed Order of Final Approval, and a proposed Judgment are attached to the Settlement Agreement as Exhibits 2 through 4.

The grounds for this motion are set forth in the Brief in Support of Unopposed Motion for such an order, filed concurrently herewith.

Respectfully Submitted,

DATED: SEPTEMBER 24, 2013

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EXHIBIT A

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (together with all exhibits, hereto, the "Settlement Agreement"), is by and between MatlinPatterson Global Advisers, LLC, MatlinPatterson PE Holdings, LLC, MatlinPatterson Global Partners II, LLC, and MatlinPatterson Global Opportunities Partners II, LP (collectively, "Defendants"), on the one hand, and Plaintiffs, Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Vaipan, Matt Wilson, Roxana Najera, Sara Villanueva, and Linda Jarvis, (the "Class Representatives"), individually and as class representatives for all similarly situated individuals (collectively, "Plaintiffs"), on the other hand. This Settlement Agreement memorializes the agreement of the parties hereto to fully, finally, and forever resolve, discharge, and settle certain claims, subject to the terms and conditions hereof.

RECITALS

WHEREAS, Premium Protein Products, LLC, a meat-packing business that owned and operated two plants in Hastings and Lincoln, Nebraska (the "Premium Plants"), and its former parent company, PPP Holdings, LLC (collectively, "Premium"), during pertinent times hereto, together employed over 350 people.

WHEREAS, Class Representatives allege that some or all of the Defendants operated as a "single employer" with Premium and were directly responsible for Premium's business decisions.

WHEREAS, Defendants deny that they operated as a "single employer" with Premium and/or were directly responsible for Premium's business decisions.

WHEREAS, Class Representatives contend that on or about June 10, 2009, the Premium Plants were closed and the employees (including Plaintiffs) were furloughed as a result, without having been given 60-days notice of said furlough under the Workers Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 *et seq.* ("WARN Act").

WHEREAS, on November 10, 2009, Premium filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the District of Nebraska, Docket Nos. 09-43291 and 09-4392 (the "Premium Bankruptcy"), and

Class Representatives contend that as a result thereof, Plaintiffs' employment was terminated permanently, again without having been given 60-days notice of said permanent termination under the WARN Act.

WHEREAS, the class whom the Class Representatives seek to represent includes themselves and all of those employees who were employed by Premium (in facilities with greater than 50 employees), and who would constitute "affected employees" under the WARN Act on the grounds that they suffered "employment losses" as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, and who did not receive notice under the WARN Act, (the "WARN Class"). All members of the WARN Class who have not timely become an Opt Out pursuant to the terms of the Settlement Agreement shall be referred to as the "WARN Class Members".

WHEREAS, in the Premium Bankruptcy, several former employees, Erin McDermott, Ms. Jarvis, and Ms. Villanueva, commenced an adversary action (and filed a proof of claim seeking class status) against Premium, which adversary action was dismissed voluntarily.

WHEREAS, Premium was discharged in the Premium Bankruptcy and the Premium Bankruptcy was closed after Premium sold its assets at auction, without making any payment to the Class Representatives or any of Premium's former employees on their WARN Act "class action proof of claims."

WHEREAS, on September 23, 2011, Ms. Jarvis and Ms. Villanueva filed a Complaint in the Federal District Court for the District of Delaware (the "Court"), captioned as *Jarvis, et al. v. MatlinPatterson Global Advisers, LLC,* Civil Action No. 1:11-cv-00864-LPS. The Court dismissed that complaint on *res judicata* grounds. Ms. Jarvis and Ms. Villanueva appealed to the Third Circuit and their appeal is still pending (the "First Action").

WHEREAS, Class Representatives filed a second Complaint against some of the Defendants on June 8, 2012, and a First Amended Complaint against all of the Defendants on August 15, 2012 (the "Second Action"). The First Action and the Second Action shall hereinafter be referred to collectively as "the Litigation". Defendants filed a Motion to Dismiss the First Amended Complaint, which the Court denied in part and granted in part on April 23, 2013.

WHEREAS, after weighing the uncertainty related to establishing the claims that are or could be made in the Litigation, overcoming the defenses available to Defendants, and achieving recovery for all potential WARN Class Members, as

well as the inherent risks, costs, and delays of litigation, the Class Representatives, by and through Class Counsel, have concluded that this Settlement Agreement represents a fair, adequate, and reasonable resolution to these matters.

WHEREAS, Class Counsel believes that it has conducted and continues to conduct a thorough investigation and evaluation of the facts and law relating to the matters set forth in the Litigation. Based on that, Class Counsel believes that it is in a position to fashion appropriate class relief by settlement with Defendants.

WHEREAS, the parties wish to memorialize the complete and full terms of a settlement of the Litigation. The parties propose to settle the claims in accordance with the terms, provisions and conditions of this Settlement Agreement, which Class Counsel believes are fair, reasonable and adequate, and beneficial to and in the best interests of all potential WARN Class Members.

NOW, THEREFORE, in consideration of the mutual promises contained in this Settlement Agreement, Defendants and the Class Representatives, on their own behalf and on behalf of the WARN Class Members (collectively, the "Settling Parties") hereby agree as follows:

DEFINITIONS

In addition to the terms already defined in the Introduction and Recitals above, the following terms have the meanings specified below, as used in all parts of this Settlement Agreement.

1. "Class Counsel" means Klehr Harrison Harvey Branzburg L.L.P.

2. "Class Notice" means the Notice, to be approved by the Court, substantially in the form attached hereto as Exhibit 1, which shall provide all potential WARN Class Members with notice of the terms of this Settlement Agreement, the procedures and dates for filing objections, the date of the Settlement Hearing, and the procedure for becoming an Opt-Out.

3. "Class Releasing Parties" and "Class Released Parties" both mean the Class Representatives and all WARN Class Members, together with their agents, representatives, attorneys, heirs, spouses, executors, administrators, successors, and assigns, and anyone claiming through them or to be acting on their behalf.

4. "Class Representatives" shall have the meaning ascribed to it in the Introduction.

5. "Common Fund" means the gross amount of consideration ultimately paid by Defendants as set forth in paragraph 22.

6. "Defendant Released Parties" and "Defendant Releasing Parties" both mean Defendants, as well as their current, future and former parents, subsidiaries and/or affiliated companies and their current, future and former shareholders, officers, directors, predecessors, trustees, advisors, consultants, partners, administrators, employees, agents, insurers, representatives, and attorneys of all of the foregoing and their respective heirs, executors, administrators, successors, and assigns, in any and all capacities, and any entity owned by, related to, or affiliated with any of the above.

7. "Effective Date" means the first day on which all of the following events have occurred: (a) all Settling Parties have executed this Settlement Agreement; (b) the Court has preliminarily approved the settlement; (c) the Court has entered an Order of Final Approval and Judgment dismissing the Second Action with prejudice; (d) the Order of Final Approval and Judgment has become a Final Order; (e) the Final Order in the First Action has been entered; and (f) the failure of any party to exercise the Termination Right.

8. "Fairness Hearing" means a hearing set by the Court for the purposes of: (i) reviewing and approving the fairness, adequacy, and reasonableness of this Settlement Agreement and associated settlement pursuant to class action procedures and requirements; and (ii) entering the Judgment.

9. "Final Order" means when: (i) the Order of Final Approval and the Judgment with prejudice is entered in the Second Action; and (ii) the time for the filing of any appeals has expired or, if there are appeals, approval of this Settlement Agreement and the Judgment has been affirmed in all respects by the appellate court of last resort to which such appeals have been taken and such orders are no longer subject to further appeal or review.

10. "Final Order in the First Action" means the Order dismissing the First Action with Prejudice.

11. "Judgment" means the judgment to be rendered by the Court approving this Settlement Agreement in final form, substantially in the form attached hereto as Exhibit 4.

12. "Litigation" shall have the meaning ascribed to it in the Recitals.

13. "Order of Final Approval" means a decision from the Court granting final approval of this Settlement Agreement and dismissing the Second Action with prejudice, substantially in the form attached hereto as Exhibit 3.

14. "Preliminary Approval Date" means the date on which the Court enters the Preliminary Approval Order.

15. "Preliminary Approval Order" means an order or orders of the Court, substantially in the form attached hereto as Exhibit 2, that shall, among other things:

(a) approve this Settlement Agreement, pursuant to Rule 23 of the Federal Rules of Civil Procedure, subject to completion of the class action settlement approval process;

(b) approve a final approval hearing notice pursuant to Rule 23(e) of the Federal Rules of Civil Procedure to the WARN Class advising the potential WARN Class Members of the proposed settlement and Fairness Hearing;

(c) certify the WARN Class, for settlement purposes only, and appoint Class Counsel as counsel for the Class Representatives and the WARN Class;[1]

(d) appoint each Class Representative as adequate representatives for the WARN Class for purposes of entering into and implementing this Settlement Agreement;

(e) find that the likelihood of final class action approval of this Settlement Agreement is sufficient to warrant the sending of the Class Notice to the WARN Class;

(f) approve the form and methodology of the Class Notice as reasonably and probably calculated, under all of the circumstances, to apprise the WARN Class of this Settlement Agreement, their rights, among other things, to become an Opt-Out and exclude themselves from the WARN Class Members or to object to the settlement and to

[1] By entering into this Settlement Agreement, Defendants do not concede that, in the event the Litigation continues and is not settled, the Class Representatives would be able to establish a right to class certification. Defendants hereby expressly preserve their right to challenge class certification in the event that the Litigation continues and is not settled.

attend the Settlement Hearing, as fully consistent with the requirements of due process under the United States Constitution and the Federal Rules of Civil Procedure; and

(g) schedule a date for the Fairness Hearing for the purposes of: (i) determining the fairness, adequacy, and reasonableness of this Settlement Agreement and associated settlement pursuant to class action procedures and requirements; and (ii) entering Judgment.

16. "Released Claims of the Class" means any and all claims, demands, any violations of law (whether federal, state, local, statutory, foreign, common law, or any other law, rule or regulation), any and all other obligations, suits, judgments, damages, debts, rights, remedies, causes of action, and liabilities of any nature whatsoever (including, without limitation, attorneys', accountants', consultants' and expert witness' fees and expenses), whether liquidated or unliquidated, fixed or contingent, accrued or un-accrued, matured or unmatured, known or unknown, suspected or unsuspected, foreseen or unforeseen, now existing or hereafter arising, in law, equity, or otherwise that have been, could have been, may be, or could be alleged or asserted by the Class Releasing Parties or any one of them, either directly or indirectly, on his or her own behalf, or on behalf of the WARN Class against the Defendant Released Parties, relating to, on the basis of, in connection with, arising out of, or related in any way to, in whole or in part: (a) the subject matter of any of the claims alleged or that could have been alleged in the Litigation; or (b) employment by Premium or the Defendants; provided that the term Released Claims of the Class shall not include: 1) benefits available under a 401k plan; or 2) any claim that cannot be waived by operation of law, including the right to file a charge or participate in an investigation by the Equal Employment Opportunity Commission or the National Labor Relations Board (however, the Class Releasing Parties waive any rights to receive any monetary relief in any such proceedings).

17. "Released Claims of Defendants" means any and all claims, demands, any violations of law (whether federal, state, local, statutory, foreign, common law, or any other law, rule or regulation), any and all other obligations, suits, judgments, damages, debts, rights, remedies, causes of action, and liabilities of any nature whatsoever (including, without limitation, attorneys', accountants', consultants' and expert witness' fees and expenses), whether liquidated or unliquidated, fixed or contingent, accrued or un-accrued, matured or unmatured, known or unknown, suspected or unsuspected, foreseen or unforeseen, now existing or hereafter arising, in law, equity, or otherwise that have been, could have

been, may be, or could be alleged or asserted by the Defendant Releasing Parties, or any one of them, either directly or indirectly, on their own behalf or on behalf of any one of them, against the Class Released Parties, relating to, on the basis of, in connection with, or arising out of, or related in any way to, in whole or in part: (a) the subject matter of any of the claims alleged or that could have been alleged in the Litigation; or (b) the Class Released Parties' employment with Premium or the Defendants.

18. "Request for the Dismissal of the First Action" means the "Joint Stipulation to Dismiss with Prejudice" or "Withdrawal of the Appeal" or a like document that shall be filed jointly by the parties, or unopposed by the defendants in the First Action, seeking the entry of a Final Order in the First Action. The Dismissal of the First Action shall be filed within five (5) days of the entry of the Final Order in the Second Action.

19. "Settlement Administrator" means one or more third party vendors that the Class Representatives or Class Counsel shall retain to administer the claims process, assist with the Class Notice, and pay all distributions and taxes required in connection with this Settlement Agreement. All fees, costs and expenses incurred by the Settlement Administrator shall be paid by Class Representatives or Class Counsel from the Common Fund.

20. "Settlement Payments" means the payments made to each WARN Class Member as derived from the formulae set forth in paragraph 24 and pursuant to paragraph 23, below.

21. "Termination Right" shall have the meaning ascribed to it in paragraph 34, below.

TERMS AND CONDITIONS OF SETTLEMENT

22. Consideration to WARN Class Members.

Subject to approval of this Settlement Agreement by the Court, certification of the WARN Class by the Court, the occurrence of the Effective Date and the terms of this Settlement Agreement, the WARN Class Members shall be granted, in full and complete satisfaction of Defendants' alleged liability to the WARN Class Members, subject to the Opt-Out Adjustment, the following consideration (the "Common Fund"):

One million two hundred thousand United States dollars ($1,200,000).

23. Deductions from the Common Fund.

Prior to distributions to the respective WARN Class Members, the amounts listed below in subparagraphs numbers 23(a) and 23(b) will be deducted from the Common Fund. Because there may be multiple distributions, some of the deductions will be on a percentage basis of each distribution (i.e., attorney's fees) while others will be on an actual cost basis (i.e., cost of third party administration).

(a) Service Payments ("Service Payments") of $32,500 total to the following former employees and Class Representatives for their assistance in pursuing these claims on behalf of all former employees:

Monte J. Woolery - $2,500
Linda Jarvis - $2,500
Sara Villanueva - $2,500
Rick Ostdiek - $2,500
Tysha Marie Smith - $1,500
Jacque S. Wood - $1,500
Kurt Glen - $1,500
Craig L. Moore - $1,500
Wayne E. Brown - $1,500
Shawn A. Mixon - $1,500
Stephen R. Porter - $1,500
Stephanie Linn Seawall - $1,500
Roxanna Kipp - $1,500
Javier Enriquez - $1,500
Ivette Riojas - $1,500
Laverne D. Loeffelholz - $1,500
Simona Smaranda Vaipan - $1,500
Matt Wilson - $1,500, and
Roxana Najera - $1,500.

(b) 33 1/3 % of the Common Fund for attorney's fees and reimbursement (which reimbursement shall not exceed $50,000) for all out-of-pocket expenses and costs incurred in connection with this Settlement Agreement, including, but not limited to, the costs and fees of the Settlement Administrator in administering the Settlement.

24. Plan of Allocation.

The Class Representatives and Class Counsel shall have the sole responsibility for the administration of the Class Notice and Settlement Payments contemplated by this Settlement Agreement for the benefit of all potential WARN Class Members, including the sole responsibility for determining the allocation of the Common Fund and for retaining, compensating and reimbursing the Settlement Administrator. The payments shall be distributed as follows:

(a) Each WARN Class Member will be entitled to a payment derived by allocating a pro rata amount to each WARN Class Member based on the maximum amount of his or her potential claim. The payments to the WARN Class Members shall be calculated as follows:

(i) Each WARN Class Member's "Individual WARN Claim" will be derived by calculating each WARN Class Member's daily rate, then multiplying that daily rate by 60 days.

(ii) The "Aggregate WARN Claim" will be calculated by adding all of the Individual WARN Claims together;

(iii) Each WARN Class Member's "Pro Rata Factor" will be calculated by dividing (1) each WARN Class Member's Individual WARN Claim by (2) the Aggregate WARN Claim;

(iv) The amount each WARN Class Member shall receive under this Settlement Agreement shall then be calculated by multiplying: (1) the total amount to be distributed (less that portion of settlement administration expenses, attorneys' fees, costs and Service Payments allocated to the Litigation as approved by the Court); by (2) each WARN Class Member's Pro Rata Factor.

The Settlement Administrator shall, within ten (10) business days after the Effective Date, (i) provide to the Defendants' Counsel and Class Counsel, at the addresses listed in paragraph 31 hereof, a list of each WARN Class Member and the amount each such individual will receive based upon the formulas set forth above; (ii) create a Qualified Settlement Fund, pursuant to Section 468B of the Internal Revenue Code and Treasury Regulations 1.468B-1 (the "QSF"); and (iii) provide to Defendants' Counsel, at the address listed in paragraph 31 hereof, proof

that the QSF has been lawfully established consistent with all governing statutes and regulations. Defendants shall, within ten (10) days of receiving such proof of the establishment of the QSF (as provided for in the preceding paragraph hereof), transfer the Common Fund to the QSF.

The Settlement Administrator shall mail via first class mail, postage prepaid, each respective Settlement Payment to each respective WARN Class Member within thirty (30) calendar days of the date on which Defendants transfer the Common Fund to the QSF.

The Settlement Administrator shall withhold any payroll tax withholdings required by federal, state or local law from the distributions to the WARN Class Members receiving payments under this Settlement Agreement and shall issue a Form W-2 reflecting such payments to each WARN Class Member and identifying the QSF and its Employer Identification Number as the employer on such W-2 Forms. The amounts withheld shall include (i) the employee portion of all applicable federal, state and local taxes and (ii) the employer portion of all applicable federal, state and local taxes, including, but not limited to, any employer obligations pursuant to the Federal Insurance Contributions Act and the Federal Unemployment Tax Act. The Settlement Administrator shall be responsible for paying to the relevant taxing authorities all required withholdings and taxes. For purposes of calculating applicable taxes, the Parties agree that 100% of the amounts to be paid to the WARN Class Members, with the exception of the Service Payments, shall constitute wages reportable on IRS Form W-2. The Service Payments shall be characterized as non-employee compensation and shall be reported by the Settlement Administrator to the Taxing Authorities on behalf of each recipient of a Service Payment on a Form 1099 issued to the recipient with his or her taxpayer identification number.

Defendants shall have no responsibility, liability or obligation with respect to (i) the apportionment and allocation of payments among the WARN Class Members as provided for in paragraph 24 hereof;[2] (ii) any taxes owed as a result of any Settlement Payments made pursuant to this Settlement Agreement; (iii) any costs or fees incurred in connection with the creation of the QSF, or the apportionment and allocation of payments among the WARN Class Members; (iv) the attorney fees and cost reimbursements provided for in paragraph 23(b) hereof; and/or (v) any other deductions or allocations made from the Common Fund in connection with this Settlement Agreement.

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[2] Defendants take no position regarding the formula provided for in paragraph 24(a) hereof.

25. Class Counsel Fees.

Subject to final approval by the Court, Class Counsel shall file a petition with the Court to obtain not more than 33 ⅓ % the Common Fund (without regard to any Opt-Outs), plus out-of-pocket expenses of up to $50,000.00 (inclusive of the cost of the Settlement Administrator), as payment in full for all work completed or to be completed in connection with the Litigation. Class Counsel shall file its fee petition along with the unopposed Motion for final approval of this Settlement Agreement. Defendants will not oppose the fee petition or solicit others to do so.

26. Reversion of Residual Funds

If any settlement checks mailed to the WARN Class Members have not been claimed for any reason, including settlement checks that have not been deposited, endorsed, or negotiated as of the 180th day after the Settlement Administrator mails the settlement checks to the most recent address of the WARN Class Members, such funds (the "Residual Funds") shall be disbursed first to pay any outstanding taxes or penalties owed to the applicable taxing authorities; then to any WARN Class Members who were unidentified at the time the Settlement Administrator issued the Class Notices, such claims being paid based on the formulas set forth herein; and then any balance, if over $5,000, re-distributed to the WARN Class Members on a pro-rata basis., and, if not over $5,000, then to a charity of the Settlement Administrator's choosing. Class Counsel and the Settlement Administrator will work cooperatively to locate updated addresses and promptly re-mail settlement checks to those WARN Class Members whose settlement checks were returned undeliverable. Settlement checks will also be re-mailed promptly to those WARN Class Members who report that their settlement checks were lost, inadvertently destroyed or never received. The 180th day will be calculated from the date of the most recent mailing.

27. Releases

(a) Release of Defendant Released Parties. Upon the Effective Date, each and every one of the Class Releasing Parties shall be deemed to have fully and forever released, relinquished and discharged the Released Claims of the Class against each and every of the Defendant Released Parties. This release shall be construed as broadly and as generally as possible as permitted by law.

(b) Release of Class and Class Representatives. Upon the Effective Date, each and every one of the Defendant Releasing Parties shall be deemed to have fully and forever released, relinquished and discharged the Released Claims of Defendants against each and every of the Class Released Parties. This release shall be construed as broadly and as generally as possible as permitted by law.

(c) This Settlement Agreement covers and includes all claims of every kind and nature, past, present, known and unknown, suspected or unsuspected, which the Class Releasing Parties and the Defendant Releasing Parties may have against each other whether or not related to or arising out of the allegations of the Litigation.

(d) Upon and after the Effective Date, each Class Representative and WARN Class Member agrees that if any court, government agency, tribunal, or adjudicative body assumes jurisdiction over any Released Claim of the Class, then such WARN Class Member, at his or her own cost, will take all reasonable actions to ensure that the court, government agency, tribunal, or adjudicative body dismisses the matter with prejudice and will indemnify and hold harmless Defendants for any liability related thereto.

28. Denial and No Admission of Liability.

Defendants believe that the Class Representatives' factual and legal allegations are incorrect and specifically deny all liability to the Class Representatives and the WARN Class Members. Defendants have raised a number of defenses to the claims asserted in the Litigation.

The Settling Parties understand and agree that, by entering into this Settlement Agreement, Defendants expressly deny all of the claims asserted in the Litigation as to liability, damages, penalties, interest, fees, restitution, and any and all other forms of relief as well as the class action allegations. Neither the contents nor the existence of this Settlement Agreement may be admitted into evidence in the Litigation or in any other action or proceeding, except as may be required to: (a) approve, implement, or enforce this Settlement Agreement; (b) support or defend this Settlement Agreement on any appeal from the Judgment; or (c) enforce or assert a claim of *res judicata*, collateral estoppel, claim or issue preclusion,

settlement, release, merger, bar, or any similar claim or defense against a WARN Class Member.

This Settlement Agreement may not serve as evidence that Defendants have admitted liability to any WARN Class Member or any other person or entity on any ground.

If this Settlement Agreement does not become effective by its terms, Class Representatives and Class Counsel expressly understand and agree that Defendants retain and reserve the right to challenge all claims and allegations in the Litigation upon all legal, procedural, and factual grounds, and Class Representatives and Class Counsel agree not to take a position that this right has been waived in any manner whatsoever.

APPROVAL, NOTICE, AND OPT-OUTS

29. Preliminary Approval

The Class Representatives shall file a motion, which Defendants shall not oppose, for approval of this settlement with the Court pursuant to Federal Rule of Civil Procedure 23 ("Unopposed Motion") requesting an order: (i) certifying the Class for settlement purposes only; (ii) granting preliminary approval of the terms of this Settlement Agreement for class action settlement purposes; (iii) approving the form and manner of notices to all potential WARN Class Members; and (v) scheduling a Fairness Hearing date approximately forty-five (45) calendar days after the Preliminary Approval Date, subject to the Court's availability.

30. Class Notices

Class Notices shall provide all potential WARN Class Members with notice of the terms of this Settlement Agreement and the date of the Fairness Hearing, and the procedure for becoming an Opt Out of the WARN Class, or objecting to this Settlement Agreement. Within ten (10) calendar days of the Preliminary Approval Date, at the sole cost of Class Counsel, Class Counsel shall mail a Class Notice to each Class Representative and potential WARN Class Member at his or her last address of record.

31. Objections and Statements of Intent to Appear

The Class Notices shall provide that any WARN Class Member who wishes to object to the entry of the Order of Final Approval and Judgment must do so in writing, specifying his/her objections in detail and including any and all supporting

documents. Written objections and any statement of intent to appear at the Fairness Hearing must be sent so as to be actually received at least fifteen (15) business days before the date of the Fairness Hearing by the Clerk of Court for the United States District Court for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801 ("Clerk of Court"), and: (1) Class Counsel, Klehr Harrison Harvey Branzburg L.L.P., 1835 Market Street, Philadelphia, PA 19102-5003, Attn: Charles A. Ercole, Esq.; and (2) counsel for Defendants, Bracewell & Guiliani, 1251 Avenue of the Americas, 49th Floor, New York, New York 10020-1100 Attn: Michael C. Hefter and Daniel S. Meyers (collectively, the "Notice Parties"). Any objection of a WARN Class Member that is not received timely shall be barred from seeking review of the settlement by appeal or otherwise.

The filing of a statement of intent to appear does not guarantee the right to enter an appearance or participate at the Fairness Hearing. The Court alone will determine which, if any, WARN Class Members will be permitted to appear at and participate in the Fairness Hearing.

32. Responses

Class Representatives, Defendants, and Class Counsel may file responses to any objection with the Clerk of Court no later than ten (10) business days before the Fairness Hearing.

33. Opt-Outs

Only WARN Class Members (i.e., persons within the WARN Class who do not timely become an Opt Out pursuant to the procedures set forth herein) shall be entitled to be deemed a party to this Settlement Agreement and receive distributions hereunder. Completed opt-out forms must be sent so as to be received by Class Counsel and counsel for Defendants at the addresses indicated in paragraph 31, no later than ten (10) business days prior to the Fairness Hearing. Any Opt-Out shall retain his or her rights against Defendants and shall not be deemed to be a party to this Settlement Agreement.

34. Defendants' Option to Terminate

If the gross amount of claims against Defendants held by the Opt-Outs is greater than twenty percent (20%) of the Common Fund, Defendants, in their sole and absolute discretion, shall have the right to terminate, cancel and withdraw from this Settlement Agreement (the "Opt-Out Termination Right"); provided that Class Counsel must receive from Defendants, no later than five (5) calendar days prior to

the Fairness Hearing, written notice that Defendants are electing to exercise the Termination Right.

35. Fairness Hearing

In the Unopposed Motion, the Class Representatives shall request that the Court schedule the Fairness Hearing for a date forty-five (45) days after the Preliminary Approval Date, subject to the Court's availability. Prior to the Fairness Hearing and consistent with any orders of the Court: (a) the Class Representatives shall move the Court for entry of the Order of Final Approval (and the associated entry of Judgment), which motion Defendants will not oppose; and (b) Class Counsel shall file a Motion for Fees and Costs, consistent with this Settlement Agreement. To the extent possible, the motion seeking entry of the Order of Final Approval and Judgment shall be noticed for the same day as the Fairness Hearing. The Settling Parties shall use commercially reasonable efforts to secure entry of the Order of Final Approval and Judgment.

36. Dismissal With Prejudice of First Action

Within five (5) business days of the Final Order, the Settling Parties shall jointly file, or Plaintiffs shall file a Request for Dismissal of the First Action and/or any other documents as the Third Circuit or the Court may require to dismiss the First Action with prejudice. Defendants shall not oppose this relief requested.

MISCELLANEOUS PROVISIONS

37. Complete Agreement

This Settlement Agreement constitutes the entire agreement and understanding of the Settling Parties, and merges and supersedes any and all prior agreements or understandings (whether written or oral) between them regarding the subject matter set forth herein. No representations, warranties, or inducements have been made to any party concerning this Settlement Agreement or its exhibits other than those set forth herein. No Settling Party shall be bound by any condition, definition, warranty, or representation other than those expressly set forth herein.

38. Execution of Counterparts

This Settlement Agreement may be executed in one more counterparts, but each and every executed counterpart shall be deemed to be part of the same instrument. Delivery of an executed signature page of this Settlement Agreement

by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof. All exhibits to this Settlement Agreement are material and integral parts thereof and are fully incorporated into this Settlement Agreement by this reference.

39. Authority

Each undersigned individual represents and warrants that he or she has authority to execute this Settlement Agreement and all related documentation on behalf of the persons or entities listed by such signatory's signature block. Class Counsel represents and warrants that they are expressly authorized by the Class Representatives to take all necessary and appropriate action required or permitted to be taken by the WARN Class Members pursuant to this Settlement Agreement, and that they are expressly authorized to enter into any modifications or amendments to this Settlement Agreement that they deem to be appropriate.

40. Binding Effect

The Settling Parties represent that they have read this Settlement Agreement, that they know, understand, and fully appreciate their rights and responsibilities under this Settlement Agreement, and that they have voluntarily executed this agreement with the intent to be bound by its terms and conditions. The Settling Parties further state that they have been represented by counsel of their own choosing in this matter, and that they have had a full and reasonable opportunity to consult with this counsel prior to entering into this Settlement Agreement.

This Settlement Agreement shall be binding upon, and inure to the benefit of, the Settling Parties as well as their respective heirs, transferees, executors, administrators, personal representatives, legal representative, agents, attorneys, predecessors, successors, and assigns.

This Settlement Agreement is not designed to create, and in fact does not create, any third-party beneficiaries.

41. Ownership

Each Class Representative and each WARN Class Member represents and warrants that he or she is the sole legal and beneficial owner of the claims asserted by him or her in the applicable Litigation.

42. Cooperation

The Settling Parties recognize and acknowledge their shared intent to consummate this Settlement Agreement. As such, the Settling Parties agree to use commercially reasonable efforts to cooperate with one another to: (a) seek the Court's approval of this Settlement Agreement, including through obtaining any further assurances or additional instruments that are necessary to confirm and accomplish the purposes of this Settlement Agreement; (b) obtain entry of the Order of Final Approval and Judgment and for such order and judgment to become a Final Order; (c) dismiss the First Action with prejudice in accordance herewith; (d) defend against any appeal from the Judgment; and (e) prosecute any appeal from the denial of approval of the settlement - provided that Defendants are not obligated to take any affirmative position with respect to any class certification, attorneys' fees, costs, disbursements, or incentive payments awarded or not awarded by the Court, or with respect to the apportionment and allocation of payments among the WARN Class Members.

43. Amendment or Modification of the Agreement

This Settlement Agreement may not be altered, amended or modified except by written instrument executed by or on behalf of all Settling Parties.

44. Settlement Discussions

This Settlement Agreement is part of a proposed settlement of disputes. Nothing herein shall be deemed to be an admission of any kind. Pursuant to Rule 408 of the Federal Rules of Evidence, and any applicable state rules of evidence, this Settlement Agreement and the documents and negotiations relating thereto shall not be admissible into evidence in any proceeding other than a proceeding to enforce the terms of this Settlement Agreement.

45. Invalidity

If one or more provisions of this Settlement Agreement are, for any reason, rendered invalid, illegal, or unenforceable, in whole or in part, the remaining provisions of this Settlement Agreement shall continue in force and effect.

46. Negotiation and Drafting of the Agreement and Rules of Construction

The Settling Parties agree that they have equal bargaining power and that they negotiated this Settlement Agreement at arm's length. Class Counsel and counsel for Defendants drafted this Settlement Agreement jointly. None of the Settling Parties shall have any term or provision construed against such Settling Party solely by reason of such party having drafted the same. The language of all

parts of this Settlement Agreement shall be construed as a whole and according to the fair and reasonable meaning of the terms used, and shall not be construed for or against any party. Any canon of contract interpretation that leads to a contrary result shall not be applied in interpreting this Settlement Agreement.

47. Reliance on Information

Each Settling Party has conducted and is relying upon his, her, or its own investigation, counsel, and advisors in entering into this Settlement Agreement, and waives the right to assert any claim of fraud in the inducement related to the decision to enter into this Settlement Agreement.

48. Continuing Jurisdiction

The Court shall retain exclusive jurisdiction to implement and enforce the terms of this Settlement Agreement. The Settling Parties submit to the continuing and exclusive jurisdiction of the Court for these purposes.

49. Attorneys' Fees, Costs, and Expenses; Taxes

Except as otherwise explicitly provided herein, each Settling Party and Class Member shall bear its own attorneys' fees, costs and expenses. Additionally, except as otherwise explicitly provided herein, Class Representatives, Class Members, and Class Counsel shall each be responsible for the timely payment of all federal, state, local, and foreign taxes owed on any payments received pursuant to this Settlement Agreement.

50. Choice of Law

This Settlement Agreement and the exhibits hereto shall be considered to have been negotiated, executed, delivered, and wholly performed in the State of Delaware. As such, the Settling Parties' rights and obligations shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without giving effect to that State's choice of law principles.

[SIGNATURE PAGES BELOW]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have caused this Settlement Agreement to be executed.

DATED: _____, 2013 By: _____
Monte Woolery

DATED: _____, 2013 By: _____
Linda Jarvis

DATED: _____, 2013 By: _____
Sara Villanueva

DATED: _____, 2013 By: _____
Tysha Marie Smith

DATED: _____, 2013 By: _____
Jacque S. Wood

DATED: _____, 2013 By: _____
Kurt Glen

DATED: _____, 2013 By: _____
Craig L. Moore

DATED: _____, 2013

By: _____
Wayne E. Brown

DATED: _____, 2011

By: _____
Shawn A. Mixon

DATED: _____, 201

By: _____
Stephen R. Porter

DATED: _____, 2013

By: _____
Stephanie Linn Seawall

DATED: _____, 2013

By: _____
Roxanna Kipp

DATED: _____, 2013

By: _____
Javier Enriquez

DATED: _____, 2013

By: _____
Ivette Riojas

DATED: _____, 2013

By: _____
Rick Ostdiek

DATED: _____, 2013

By: _____
Laverne D. Loeffelholz

DATED: _____, 2013

By: _____
Simona Vaipan

DATED: _____, 2013

By: _____
Matt Wilson

DATED: _____, 2013

By: _____
Roxana Najera

DATED: _____, 2013

By: _____
Charles A. Ercole
David S. Eagle
Lee D. Moylan
Class Counsel

FOR Defendants:

MatlinPatterson Global Advisers LLC

DATED: _____, 2013

By: _____
Robert H. Weiss, Esq.
General Counsel

MatlinPatterson Global Opportunities Partners II LP, by its investment manager, MatlinPatterson Global Advisers LLC

DATED: _____, 2013

By:_____
Robert H. Weiss, Esq.
General Counsel

MatlinPatterson Global Partners II LLC

DATED: _____, 2013

By:_____
Robert H. Weiss, Esq.
General Counsel

MatlinPatterson PE Holdings LLC

DATED: _____, 2013

By:_____
Robert H. Weiss, Esq.
General Counsel

EXHIBIT 1

NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION, DATE AND TIME OF FINAL FAIRNESS HEARING, AND RIGHT TO OBJECT TO THE PROPOSED SETTLEMENT

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS.

TO: Former employees of Premium Protein Products, LLC and/or PPP Holdings LLC (together "Premium"), who were employed by Premium, and who suffered employment losses without cause as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, when Premium filed for bankruptcy under Chapter 11 of the United States Bankruptcy Code, and who did not receive at least 60 days' written notice in advance of such employment losses.

SUBJECT: Proposed settlement of claims to recover up to 60 days' wages and benefits pursuant to the Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 et seq. (the "WARN Act").

DATE: _____, 2013

IN ORDER FOR YOU TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE YOUR DISTRIBUTION, YOU DO NOT NEED TO DO ANYTHING.

Introduction

A class action lawsuit entitled *Woolery et al v. MatlinPatterson Global Advisors, LLC, et al.*, Case Number: 12-726-RGA (the "Woolery Lawsuit"), is currently pending in the United States District Court for the District of Delaware (the "Court"). The parties to the Woolery Lawsuit have reached an agreement on terms for a proposed settlement, which are outlined in a settlement agreement (the "Settlement Agreement"), under which, among other things, the Class Representatives, WARN Class Members, and Class Counsel (as defined below) would receive payments.

The Court has preliminarily approved the settlement and Ordered that this Notice be sent to all who may be affected by it before the Court grants final approval.

You are receiving this Notice because you have been identified as a member of the Class. This Notice informs you of the developments in the Woolery Lawsuit; explains what a class action is and who qualifies as a WARN Class Member in this case, summarizes the principal terms of the settlement; and explains your rights under the class certification (including your right to opt of out of the Class) and the settlement (including your right to file objections to it).

The Nature of the Lawsuit

Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall,

Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera (collectively, "Plaintiffs"), on behalf of themselves and other similarly situated former employees of Premium, alleged in a First Amended Complaint, filed on August 15, 2012, that they were terminated without cause due to mass layoffs and/or plant closings carried out on or about June 10, 2009 and/or due to permanent plant closings on November 10, 2009. Plaintiffs claim that, under the WARN Act, they were entitled to receive written notice 60 days in advance of their respective terminations. Plaintiffs contend that they did not receive proper notice and believe that they, therefore, are entitled to an award of 60 days' wages and benefits, reduced by the value of wages and benefits for the number of days of any advance written notice that Premium and/or Defendants properly provided. Plaintiffs also allege that MatlinPatterson Global Advisers, LLC, MatlinPatterson PE Holdings, LLC, MatlinPatterson Global Partners II, LLC, and MatlinPatterson Global Opportunities Partners II, L.P. ("Defendants") operated as a "single employer" with Premium as defined by the WARN Act, and are, therefore, responsible for Premium's alleged violations of the WARN Act.

Similarly, two other former employees, Sara Villanueva and Linda Jarvis, acted as Class Representatives for the same class as is involved in the Woolery Lawsuit and made the same allegations against some of the Defendants and other entities affiliated with Defendants. That matter still is pending in the Federal Court of Appeals for the Third Circuit (the "First Action"). Unless specifically stated otherwise, the following is a description of the Woolery Lawsuit.

The Defendants' Response

Defendants filed an Answer to the Plaintiffs' First Amended Complaint. In the Answer, Defendants strongly denied the Plaintiffs' allegations. Defendants contend, *inter alia*, that they are not a "single employer" as defined by the WARN Act or otherwise.

What is a Class Action and Who Is Involved?

In a class action lawsuit, one or more individuals called Class Representatives (in this case (the Woolery Lawsuit), they are Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera), sue on behalf of themselves and other people who have similar claims. The Class Representatives and those who have similar claims together are called the "WARN Class" or "WARN Class Members." The company or companies sued are called the Defendant(s). One court resolves the issues for everyone in the WARN Class, except for those people who choose to exclude themselves from the WARN Class. The WARN Class Members' claims are legally and factually similar, and, as such, resolving those claims through a class action can be more efficient than having many individual lawsuits.

Who is a Class Member?

On _____, the Court tentatively certified the WARN Class in this case for settlement purposes only. That means that Plaintiffs and Defendants have agreed to recognize that a Class exists so that they can settle the case, but if the settlement does not become final for any reason, Plaintiffs will have to prove that a Class should be recognized again, and Defendants may argue that a Class should not be recognized. Additionally, Plaintiffs must still demonstrate that the WARN Class meets all of the requirements for a class under federal law.

For these purposes, the Court has decided that the WARN Class includes each Plaintiff and any other former employee of Premium who suffered an employment loss without cause as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, or within 30 days prior to these dates, and who did not receive notice under the WARN Act.

No Admission of Liability

Defendants have agreed to the proposed settlement solely for settlement purposes. This Notice shall not be read or interpreted as an admission of liability by Defendants. To the contrary, Defendants deny that they violated any laws or engaged in any wrongdoing.

Class Counsel and Class Representatives

Plaintiffs who initiated the Woolery Lawsuit are represented by Charles A. Ercole and Lee D. Moylan from the law firm of Klehr Harrison Harvey Branzburg, LLP, 919 Market Street, Suite 1000, Wilmington, DE 19801 ("Class Counsel"). The Court appointed Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera as Class Representatives.

The Settlement and the Final Fairness Hearing

Plaintiffs and Defendants recently agreed to the terms of a settlement that, with the Court's final approval, would resolve the Woolery Lawsuit filed against the Defendants in the Court.

The terms of the settlement are set out in full in the Settlement Agreement. You may request the complete text of the Settlement Agreement by contacting Lee D. Moylan of Klehr Harrison Harvey Branzburg LLP, through the contact information above. The information below explains the principal terms of the Settlement Agreement. This section is only a summary, though, and the terms as set forth in the Settlement Agreement control if there is any inconsistency.

Under the Settlement Agreement:

- The Defendants agree to provide Plaintiffs with the following consideration (the "Common Fund"):

    - One Million Two Hundred Thousand dollars ($1,200,000).

- Plaintiffs and all WARN Class Members (i.e., those who do not opt out of the settlement) agree to release any and all claims against Defendants that arise from or relate to the facts and circumstances of this litigation or any other claims against Defendants other than claims that cannot be waived by operation of law.

- Payments shall be allocated among the Class Representatives and WARN Class Members (and Class Counsel for attorneys' fees and costs) as set forth in the Settlement Agreement. The Class Representatives and Class Counsel shall have the sole responsibility for administering these payments for the benefit of all WARN Class Members and, for retaining an administrator to do so. The Defendants shall have no responsibility or obligation with respect to the apportionment and allocation of payments.

- Class Counsel will file a motion seeking Court approval for attorneys' fees of 33 1/3% of the Common Fund, as well as reimbursement for out-of-pocket costs and the cost of third party administration of the settlement of no more than $50,000 as payment in full for their work in these cases. The Defendants will not oppose Class Counsel's request.

- The settlement is contingent on the value of the opt-outs equaling less than twenty percent (20%) of the Common Fund; if opt-outs total more than 20% of the Common Fund, the Defendants will have the option to cancel or withdraw from the settlement.

- The settlement will become effective only after: (1) the Court preliminarily approves the Settlement Agreement; (2) the Court enters final approval of the Settlement Agreement through an Order and Judgment; (3) the Order and Judgment is either affirmed on appeal, the last remaining appeal challenging it is dismissed with prejudice, or, if no appeal is filed, the time for filing an appeal expires; (4) the First Action is dismissed with prejudice; and (5) the failure of any party to exercise a right to terminate based on the opt out threshold set forth above.

- If the Court does not approve the settlement, the Defendants expressly reserve all rights to challenge all claims and allegations in the First Amended Complaint upon all legal, procedural, and factual grounds, including but not limited to the ability to assert any defense, privilege, or counterclaim.

- Deductions from Common Fund: Prior to distributions to the respective WARN Class Members, the amounts listed below in subparagraphs (a)

and (b) will be deducted from the Common Fund. Because there may be multiple distributions, some of the deductions will be on a percentage basis of each distribution (i.e., attorney's fees) while others will be on an actual cost basis (i.e., cost of third party administration).

(a) Service payments of $32,500 total to the following former employees and Class Representatives for their assistance in pursuing these claims on behalf of all former employees:

Monte J. Woolery - $2,500
Linda Jarvis - $2,500
Sara Villanueva - $2,500
Rick Ostdiek - $2,500
Tysha Marie Smith - $1,500
Jacque S. Wood - $1,500
Kurt Glen - $1,500
Craig L. Moore - $1,500
Wayne E. Brown - $1,500
Shawn A. Mixon - $1,500
Stephen R. Porter - $1,500
Stephanie Linn Seawall - $1,500
Roxanna Kipp - $1,500
Javier Enriquez - $1,500
Ivette Riojas - $1,500
Laverne D. Loeffelholz - $1,500
Simona Smaranda Vaipan - $1,500
Matt Wilson - $1,500, and
Roxana Najera - $1,500

(b) 33 1/3 % of the Common Fund for attorney's fees (without regard to any opt-outs) and reimbursement (not to exceed $50,000) for out-of-pocket expenses and the cost of administering the Settlement. These fees and expenses/costs, if granted, will come out of the total distribution to the WARN Class; individual WARN Class Members will not have to pay Class Counsel on their own.

- Allocation of payments among the WARN Class Members. Each WARN Class Member will be entitled to a payment derived by allocating a pro rata amount to each WARN Class Member based on the maximum amount of his or her potential claim. The payments to WARN Class Members shall be calculated as follows:

(a) Each WARN Class Member's "Individual WARN Claim" will be derived by calculating each WARN Class Member's daily rate, then multiplying that daily rate by 60 days.

(b) The "Aggregate WARN Claim" will be calculated by adding all of the Individual WARN Claims together;

(c) Each WARN Class Member's "Pro Rata Factor" will be calculated by dividing (1) each WARN Class Member's Individual WARN Claim by (2) the Aggregate WARN Claim;

(d) The amount each WARN Class Member shall receive under this Settlement Agreement shall then be calculated by multiplying: (1) the total amount to be distributed (less that portion of settlement administration expenses, attorneys' fees, costs and Service Payments allocated to the Litigation as approved by the Court); by (2) each WARN Class Member's Pro Rata Factor.

The Court has preliminarily approved the Settlement Agreement for the purposes of notifying all WARN Class Members, but the Settlement Agreement will not take final effect unless and until the Court decides, at a Final Fairness Hearing, that it is a fair, reasonable, and adequate resolution for each case. The Final Fairness Hearing will take place on _____, 2013 at _____ _.m. in the U.S. District Court, District of Delaware, 844 N. King Street, Room 4209, Wilmington, DE 19801. If the Court decides not to approve the Settlement Agreement at the Final Fairness Hearing, the Parties have agreed to continue with the litigation as if the settlement had never been reached, and nothing in the Settlement Agreement will be considered to be an admission of liability or a waiver of rights.

How Do I Participate In The Settlement?

IN ORDER FOR YOU TO PARTICIPATE IN THE SETTLEMENT AND RECEIVE YOUR DISTRIBUTION, YOU DO NOT NEED TO DO ANYTHING.

Your Right to be Excluded from the Class

If you wish to be excluded from the WARN Class in the Woolery Lawsuit—which also means to remove yourself from the WARN Class, and is sometimes called "opting out" of the Class—you will not get any money or benefits from the Woolery Lawsuit under the settlement. Likewise, if the Court does not approve the settlement and the litigation continues, you will not be entitled to any money or benefits that WARN Class Members receive later. If you opt out, though, you will have the right to bring a claim on your own, through an attorney of your own choosing, against Defendants. However, Defendants may have defenses to your claims, including that the date for filing such claims has passed. If you opt out, you will not be legally bound by the Court's judgments in the Woolery Lawsuit.

If you want to opt out of the WARN Class, you must sign and mail copies of the attached Exclusion Form by certified mail, return receipt requested, to (i) Klehr Harrison Harvey Branzburg, LLP, 1835 Market Street, Philadelphia, Pennsylvania 19103, ATTN: Charles A. Ercole; and (ii) Bracewell & Guiliani, 1251 Avenue of the Americas, 49th Floor, New

York, New York 10020-1100 Attn: Michael C. Hefter and Daniel S. Meyers. The Exclusion Form must be postmarked by no later than _____, 2013. All Exclusion Forms postmarked after that date will not be effective, and any person who sends a late Exclusion Form will nevertheless be a member of the WARN Class in the Woolery Lawsuit and will be bound in the same way and to the same extent as all other WARN Class Members, provided that he or she otherwise qualifies as a WARN Class Member.

Objections

If you want to remain a member of the WARN Class, you must next decide whether you approve of the settlement. If you do, and do not wish to object to it, you need not do anything at this time. However, if you believe that the settlement is unfair, unreasonable, or otherwise improper for any reason, including because of the amount of attorneys' fees, you must make a formal objection to it. To object, you must state, in writing: (1) the name and case number of this case as it appears on the first page of this document; (2) your name, address, and telephone number; (3) your specific objection(s) to the settlement, providing in detail the reason(s) why you believe that the settlement is improper; and (4) whether you intend to appear either in person or through an attorney of your choosing to make the objection at the Final Fairness Hearing.

All objections must be mailed to the Clerk of Court for the U.S. District Court, District of Delaware, 844 N. King Street, Room 4209, Wilmington, DE 19801. Additionally, copies of each objection must be mailed to: (1) Class Counsel, ATTN: Charles A. Ercole, Klehr Harrison Harvey Branzburg, LLP, 1835 Market Street, Philadelphia, Pennsylvania 19103; and (2) counsel for the Defendants, ATTN: Michael Hefter and Daniel Meyers, Bracewell & Giuliani, LLP, 1251 Avenue of the Americas, New York, New York 10020. All objections must be received by both the Clerk and counsel for both parties no later than _____, 2013.

As noted above, if you choose to make an objection, you have the right to appear either in person or through an attorney of your choosing at the Final Fairness Hearing to make your objection before the Court. You are not required to make your objection either in person or through an attorney. If you elect to retain an attorney for this purpose, though, your attorney must file an appearance and a statement of your objections with the Court no later than _____, 2013. Copies of that appearance and the written objections must be mailed to Class Counsel and counsel for the Defendants at their addresses above.

Right to Appear by Counsel

In addition to the right to hire an attorney of your choosing to file objections, you also have the right to be represented by an attorney of your choosing in all other stages of this case. If you elect to hire an attorney, you may be responsible to pay any fees and costs that the attorney charges.

The Court Has No Position on the Merits

Although it has preliminarily approved the settlement, the Court has taken no position on the merits of Plaintiffs' claims or Defendants' defenses.

Additional Information

If you wish to receive any additional information or if you need assistance in this matter, please contact Charles A. Ercole, Klehr Harrison Harvey Branzburg, LLP, at (215) 569-2700. *Please do not call or contact the Court or Defendants' counsel for information about this case.*

EXCLUSION FORM

Monte J. Woolery, et al. v. Matlin Patterson Global Advisors, LLC
United States District Court for the District of Delaware
844 N. King Street, Room 4209, Wilmington, DE 19801
Case Number: 12-726-RGA

I, the undersigned, have read the foregoing Notice of Proposed Settlement of Class Action, Date and Time of Final Fairness Hearing, and Right to Object to the Proposed Settlement.

I **DO NOT** want to participate in the above Class Action and **DO NOT** wish to be bound by the outcome of the Class Action or receive any potential benefits of the Class Action.

_____ _____
Signature Address

_____ _____
Name (print or type) Telephone

_____
Date

Send completed form to:
Klehr Harrison Harvey Branzburg, LLP
1835 Market Street
Philadelphia, PA 19103
Attn: Charles A. Ercole

AND

Bracewell & Guiliani LLP
1251 Avenue of the Americas, 49th Floor
New York, New York 10020-1100
Attn: Michael C. Hefter and Daniel S. Meyers

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

[PROPOSED] ORDER GRANTING PRELIMINARY APPROVAL OF THE PROPOSED CLASS ACTION SETTLEMENT

Upon considering the Unopposed Motion for Preliminary Approval of Settlement (the "Motion") of the Plaintiffs in the above-captioned action seeking, *inter alia*, an Order that (1) certifies the Class for settlement purposes only; (2) grants preliminary approval of the settlement terms outlined in the settlement agreement (the "Settlement Agreement") that the parties have negotiated, which is attached to the Unopposed Motion as Exhibit A; (3) approves the form and manner of notice to class members; and (4) schedules a final fairness hearing for review and final approval of the settlement terms outlined in the Settlement Agreement to take place approximately forty five (45) days after the Preliminary Approval Date, the Court finds as follows:

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as provided herein.

2. The Court hereby tentatively certifies, for settlement purposes only, the WARN Class. The Court recognizes that this Class likely meets all of the

requirements for class certification under Federal Rule of Civil Procedure ("Federal Rule") Rules 23(a)(1)–(4) and (b)(3). To the extent that the Settlement Agreement is not finally approved or otherwise does not become effective, Defendants retain all rights to challenge the certification of the Class notwithstanding the tentative certification contained herein. The WARN Class is defined as follows:

> Former employees of Premium Protein Products, LLC and/or PPP Holdings LLC (together "Premium"), who were employed by Premium, and who became "affected employees" under the WARN Act because they suffered "employment losses" as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, and who did not receive 60-days notice under the WARN Act of said furloughs and permanent plant closing.

3. Each member of the WARN Class who does not Opt Out of the Settlement Agreement shall be hereinafter referred to as a "WARN Class Member." The law firm of Klehr Harrison Harvey Branzburg, LLP is appointed to be Class Counsel for the WARN Class.

4. The named plaintiffs, Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera are appointed to be Class Representatives.

5. The Settlement Agreement is approved as fair and reasonable under Federal Rule of Civil Procedure Rule 23 and, subject to ultimate approval at the Fairness Hearing scheduled herein, the Settlement Agreement is preliminarily approved for class action settlement purposes.

6. Notice in the form proposed in the Motion and the Brief in Support and attached to the Settlement Agreement as Exhibit 1 shall be served by first class mail, postage prepaid, to each potential WARN Class Member at his or her last known address. This form of notice is reasonably and probably calculated, under all of the circumstances, to apprise the potential WARN Class Members of the settlement and their rights to opt out or object to it and to attend the Fairness Hearing, consistent with the due process requirements under the United States Constitution and Federal Rule 23(c)(2)(B) and 23(e).

7. Class Counsel shall mail this notice to all potential class members within 10 days of the date of this Order.

8. Within 10 days after mailing this notice, Class Counsel shall file and serve a statement under oath constituting proof of such mailing.

9. All potential WARN Class Members must file any objections or elect to opt out of the class on or before _____, 2013.

10. Within 10 days after the opt-out deadline has expired, Class Counsel shall file and serve a statement under oath listing the names of all potential class members who elected to opt out of the WARN Class.

11. The Parties shall file any responses to any objections filed by a potential WARN Class Members on or before _____, 2013.

12. The Class Representatives and/or Class Counsel shall be responsible for sending any and all legally mandated notices of the settlement, including those required under 28 U.S.C. § 1715(b).

13. The Court shall hold a Fairness Hearing, at which it shall consider whether to grant final approval to the settlement, on _____, 2013 at _____ _.m. The Court shall hear any objections to the settlement at this time.

IT IS SO ORDERED.

DATED:_____

_____
The Honorable Richard G. Andrews
United States Court Judge for the District of Delaware

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF THE CLASS ACTION SETTLEMENT

Upon considering the Unopposed Motion for Preliminary Approval of Settlement (the "Motion") (D.I. ___) of the Plaintiffs in the above-captioned action seeking, *inter alia*, an Order granting final approval of the settlement terms outlined in the Settlement Agreement, attached to the Motion as Exhibit A, the Court finds as follows:

1. In this action, the Court tentatively certified the WARN Class for settlement purposes only in its Order Granting Preliminary Approval of the Class Action Settlement entered on _____ __, 2013 (D.I. __). This certification was subject to the Plaintiffs' obligation to demonstrate that the WARN Class satisfies all of the applicable requirements for class certification under Rule 23 of the Federal Rule of Civil Procedure ("Federal Rule"), for final approval of the settlement.

2. For good cause shown, the Court finds that the WARN Class should be certified for settlement purposes only. In this regard, the Court finds that, pursuant to the

requirements of Federal Rules 23(a)(1)–(4) and (b)(3), and for the sole purposes of settlement:

a. The Members of the WARN Class are ascertainable and so numerous that joinder of the WARN Class Members is impracticable;

b. There are questions of law or fact common to the WARN Class;

c. The claims of the Class Representatives are typical of the claims of the respective WARN Class Members;

d. The Class Representatives have fairly and adequately protected the interests of their respective WARN Class Members;

e. The law firm of Klehr Harrison Harvey Branzburg, LLP, which is serving as Class Counsel for the WARN Class Members, is qualified and well-suited to serve as counsel in this action; and

f. A class action is superior to other available methods for efficient adjudication of these controversies and common issues predominate over the individual issues in this matter.

3. The WARN Class Members received due notice of the proposed settlement, as well as information regarding their rights to opt out of the WARN Class, object to the settlement, and appear in person or by counsel at the Final Fairness Hearing. This notice was proper and sufficient under the circumstances, constitutes the best notice practicable under the circumstances for all of the WARN Class Members, and fully satisfies all due process requirements under the United States Constitution. The Court finds that no other notice is required.

4. The Court held a Final Fairness Hearing on _____ ___, 2013, at which it considered whether to grant final approval of the settlement, offered the WARN Class Members the opportunity to raise objections, and gave Plaintiffs and Defendants the opportunity to respond to the objections.

5. After conducting this hearing, the Court specifically finds, based on the test for evaluating fairness under Rule 23(a) set forth in *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975), that:

a. Further litigation in this matter will be complex, protracted, and expensive;

b. The WARN Class Members have reacted favorably to the settlement;

c. Plaintiffs and Defendants engaged in extensive discovery to define their respective positions before entering in to the settlement;

d. Plaintiffs would have faced significant risks in establishing liability at trial;

e. Plaintiffs would have faced significant risks in establishing damages at trial;

f. Plaintiffs would have faced significant risks in maintaining the class action form through trial;

g. It is doubtful that Defendants would be liable for a judgment greater than the amount set forth in the Settlement Agreement;

h. The settlement falls well within the realm of reasonableness when considering the best possible recovery under the circumstances in this case; and

i. The settlement falls well within the realm of reasonableness when considering the risks of continued litigation.

6. Having analyzed the additional factors set forth in *Prudential Insur. Co. Am. Sales Litig. Agent Actions*, 148 F.3d 283, 323 (3d Cir. 1998), the Court also finds that the settlement provides a satisfactory method for the WARN Class Members to opt out if they so desire, that the amount of attorneys' fees requested is reasonable, and that the procedure for processing individual claims under the settlement is reasonable.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. The WARN Class is certified for settlement purposes only;

2. The Settlement is APPROVED under Federal Rule 23(e) as a fair, reasonable, and adequate resolution for this action. The Parties are hereby authorized to implement the settlement according to its specified terms as outlined in the Settlement Agreement.

3. The WARN Class Members who did not opt out of the settlement, along with their successors and assigns, have fully released and discharged any and all claims as set forth in the Settlement Agreement.

It IS ORDERED.

DATED:_____

_____

The Honorable Richard G. Andrews
United States Court Judge for the District of Delaware

EXHIBIT 4

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

[PROPOSED] JUDGMENT

This matter came for a hearing on an unopposed Motion ("Motion") (D.I. ___) submitted by the Plaintiffs in the above-captioned matter for approval of the settlement agreement ("Settlement Agreement"), a copy of which is attached to the Motion as Exhibit A. Due and adequate notice has been provided to the class of claimants in this action. The Court has reviewed and considered the Settlement Agreement; all of the papers and proceedings in this case; all of the oral and written comments that were received regarding the terms of the proposed settlement set forth in the Settlement Agreement; and the record in this action. With good cause appearing,

IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. For the purposes of this Judgment, the Court adopts all of the defined terms as set forth in the Settlement Agreement;

2. The Court has jurisdiction over the subject matter of this action, along with jurisdiction over each named plaintiff, class member, and defendants;

3. As set forth more fully in the Order Granting Final Approval of the Class Action Settlement entered on _____, ____, 2013, the Court has determined that the WARN Class Members received fair and adequate notice of the settlement, and that the settlement represents a fair, reasonable and adequate resolution to this matter. The Parties are therefore directed to perform in accordance with the terms of the Settlement Agreement.

4. Except for the claims of those individually who have validly and timely requested to be excluded from the WARN Class in this litigation, all of the Released Claims of Defendants and the Released Claims of the Class (the "Released Claims") as specifically defined in the Settlement Agreement are dismissed with prejudice as to the Class Representatives and the WARN Class Members. The WARN Class Members are hereby ordered to take any steps necessary to comply with all other releases that appear in the Settlement Agreement. Within five (5) business days of the date hereof, the Parties shall file whatever documents are required to withdraw the appeal in the First Action or to dismiss the First Action with prejudice.

5. Neither the Settlement Agreement nor any act performed or document executed pursuant to or in furtherance of it: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or any wrongdoing of the Defendants Released Parties or Class Released Parties (the "Released Parties"); or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Released Parties in any civil, criminal, or administrative proceeding in any court, administrative agency or tribunal. The Released Parties may file the Settlement Agreement and/or this Judgment in any other action that

has been brought or may be brought against them to support a defense or counterclaim based on the principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, claim preclusion, issue preclusion, or any similar defense or counterclaim.

6. Only those WARN Class Members who elected to not opt out of the WARN Class shall be entitled to relief under this Judgment, or to take under the settlement. Neither this Judgment nor the Settlement Agreement create any unpaid residual or residue.

7. For good cause shown, the Court orders that Class Counsel shall receive 33 1/3% of the Common Fund, plus reimbursement of out of pocket expenses of up to $50,000 in full for their work in this case. The Court finds that this fee request is fair and reasonable under the circumstances of this case.

8. The Court reserves exclusive and continuing jurisdiction over the above-captioned action and all parties thereto for the sole purpose of supervising the implementation, enforcement, construction, administration, and interpretation of the settlement terms as set forth in the Settlement Agreement and this Judgment.

9. This document shall constitute a Judgment under Rule 58 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

DATED:_____

_____

The Honorable Richard G. Andrews
United States Court Judge for the District of Delaware

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

BRIEF IN SUPPORT OF UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

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Attorneys for Plaintiffs

Dated: September 24, 2013

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

OTHER AUTHORITIES

Plaintiffs,[1] by and through their undersigned counsel, collectively submit this Brief in Support of their Unopposed Motion seeking, among other relief, preliminary approval of the terms of the class action settlement, as set forth in the settlement agreement attached to the Unopposed Motion as Exhibit A ("Settlement Agreement") that the parties have negotiated. The proposed Settlement Agreement provides valuable consideration to the Plaintiffs and the members of the class in the above-captioned action, provides adequate and appropriate notice to all affected persons, and provides a mechanism for members of the class to opt out of, or object to, the terms of the Settlement Agreement. The Parties agree that the terms of the settlement are fair, just, and reasonable, and that preliminary approval of the Settlement Agreement is warranted.

This Court has jurisdiction over the Unopposed Motion pursuant to 28 U.S.C. §§ 157(b)(1)-(2), 1331, and 1334. This Court is a proper venue for this proceeding pursuant to 28 U.S.C. §§ 1408(2) and 1409(e). Federal Rule of Civil Procedure 23 provides the predicates for the relief sought herein.

I. PROCEDURAL HISTORY

Premium Protein Products, LLC and PPP Holdings, LLC (collectively, "Premium"), a meat-packing business, owned and operated two plants in Hastings and Lincoln, Nebraska (the "Premium Plants") that, during pertinent times hereto, employed

[1] For the purposes of the Unopposed Motion and the related documents, the term "Plaintiffs" and "Class Representatives" refers to the collective group of Plaintiffs, including Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson, and Roxana Najera.. The term "Defendants" refers to MatlinPatterson Global Advisers, LLC, MatlinPatterson PE Holdings, LLC, MatlinPatterson Global Partners II, LLC, and MatlinPatterson Global Opportunities Partners II, L.P. Plaintiffs and Defendants shall collectively be referred to as the "Parties".

over 350 people. Plaintiffs allege that some or all of the Defendants operated as a "single employer" with Premium and were directly responsible for Premium's business decisions, which allegations Defendants deny. On or about June 10, 2009, the Premium Plants were closed and the employees (including Plaintiffs) were furloughed as a result, without having been given 60-days notice of said furlough under the Workers Adjustment and Retraining Notification Act, 29 U.S.C. §§ 2101 *et seq.* ("WARN Act"). In addition, on November 10, 2009, Premium filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the District of Nebraska, Docket Nos. 09-43291 and 09-4392 (the "Premium Bankruptcy"), and, as a result, Premiums' employees (including Plaintiffs) were terminated permanently, again without having been given 60-days notice of said permanent closing under the WARN Act.

In the Premium Bankruptcy, several former employees, Erin McDermott, Linda Jarvis, and Sara Villanueva, commenced an adversary action (and filed a proof of claim seeking class status) against Premium (the "Adversary Action"), which adversary action was dismissed voluntarily. The Premium Bankruptcy was closed and Premium was discharged after Premium sold its assets at auction, without making any payment to the Class Representatives or any of Premium's former employees on their WARN Act "class action proof of claims."

On September 23, 2011, Ms. Jarvis and Ms. Villanueva filed a Class Action Complaint in the Federal District Court for the District of Delaware (the "Court"), captioned as *Jarvis, et al. v. MatlinPatterson Global Advisers, LLC,* Civil Action No. 1:11-cv-00864-LPS. The Court dismissed that complaint on *res judicata* grounds based on the voluntary dismissal of the Adversary Action. Ms. Jarvis and Ms. Villanueva

appealed to the Federal Court of Appeals for the Third Circuit and their appeal is still pending (the "First Action").

Plaintiffs filed another Complaint against some of the Defendants on June 8, 2012, and a First Amended Complaint against all of the Defendants on August 15, 2012 (the "Second Action"). The First Action and the Second Action shall hereinafter be referred to collectively as "the Litigation." Defendants filed a Motion to Dismiss the First Amended Complaint, which the Court denied in part and granted in part on April 23, 2013. The class whom Plaintiffs seek to represent includes themselves and all of those employees who were employed by Premium at the Premium Plants, and who became "affected employees" under the WARN Act because they suffered "employment losses" as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, and who did not receive 60-days notice under the WARN Act of said furlough and permanent plant closing (the "WARN Class"). All members of the WARN Class who do not timely become an Opt Out pursuant to the terms of the Settlement Agreement shall be referred to as the "WARN Class Members".

Defendants filed an Answer to the First Amended Complaint and have denied liability on the basis that they cannot be liable as a "single employer" with Premium under the WARN Act, and have asserted several affirmative defenses, including that Plaintiffs failed to state a claim upon which relief may be granted. Defendants have responded to extensive discovery requests Plaintiffs have propounded, including producing thousands of pages of documents. Also, the Parties have conducted an analysis of the possible damages in this case and have evaluated the strength of

Defendants' defenses. After weighing the uncertainty related to establishing the claims that are or could be made in the Litigation, overcoming the defenses available to Defendants, and achieving recovery for the Class Members, as well as the inherent risks, costs, and delays of litigation, Plaintiffs/Class Representatives, by and through Class Counsel, have concluded that the Settlement Agreement represents a fair, adequate, and reasonable resolution to these matters. Similarly, after weighing the uncertainty related to establishing their defenses and the inherent risks, costs, and delays of litigation, Defendants, by and through their respective undersigned counsel, seek to settle the claims that are or could have been raised in the Litigation, through the Settlement Agreement. Class Counsel has conducted and continues to conduct a thorough investigation and evaluation of the facts and law relating to the matters set forth in the Litigation. Based on that, Class Counsel believes that it is in a position to fashion appropriate class relief by settlement with Defendants. The parties propose to settle the claims in accordance with the terms, provisions and conditions of this Settlement Agreement, which Class Counsel believes are fair, reasonable and adequate, and beneficial to and in the best interests of the Class Members.

Moreover, on the claims in the First Action and Second Action, the Parties engaged in mediation at the Third Circuit before Penny Conly Ellison, Esquire, on October 10, 2012 and February 6, 2013, respectively. Although a settlement was not reached in those discussions, the Parties had an opportunity to explore the strengths and weaknesses of each sides' case before a neutral third party, Ms. Ellison. Ultimately, as discovery was coming to a close, the Parties reengaged in discussions in early August

2013 and, after several weeks of negotiations, agreed on the terms set forth in the Settlement Agreement.

II. TERMS OF THE SETTLEMENT AGREEMENT

The Parties fully memorialized the terms of the settlement in the Settlement Agreement, attached to the Unopposed Motion as Exhibit A. The principal terms of the Settlement Agreement are as follows[2]:

- The Parties agree to certification, for settlement purposes only, of the following Class:
    - The "WARN Class" shall consist of all those employees who were employed by Premium at the Premium Plants, and who became "affected employees" under the WARN Act because they suffered "employment losses" as a direct and proximate result of the furloughs, permanent plant closings and/or mass layoffs on June 10, 2009 and/or November 10, 2009, and who did not receive 60-days notice under the WARN Act of said furlough and permanent plant closing.
- Plaintiffs and all participating WARN Class Members agree to release any and all claims against Defendants that arise from or relate to the facts and circumstances of this litigation or any other claims against Defendants other than claims that cannot be waived by operation of law.

[2] The summary of the principal terms of the Settlement Agreement set forth herein is solely for the convenience of the Court and parties in interest and shall not be construed to modify terms of the Settlement Agreement in any respect. If there is any inconsistency between the summary and the Settlement Agreement, the terms of the Settlement Agreement control. Capitalized terms not otherwise defined herein have the meanings given to such terms in the Settlement Agreement.

- The Defendants agree to provide Plaintiffs with the following (the "Common Fund"):
    - One Million Two Hundred Thousand dollars ($1,200,000).
- Payments shall be allocated among the Class Representatives and WARN Class Members (and Class Counsel for attorneys' fees and costs) as set forth in the Settlement Agreement. The Class Representatives and Class Counsel shall have the sole responsibility for administering these payments from the Common Fund for the benefit of all WARN Class Members, or for retaining an administrator to do so. The Defendants shall have no responsibility or obligation with respect to the apportionment and allocation of payments among the WARN Class Members, including no responsibility for any of the costs or fees incurred in connection with making such payments, providing notice to WARN Class Members or retaining or compensating the administrator.
- Class Counsel will file a motion seeking Court approval for attorneys' fees of 33 1/3% of the Common Fund, as well as reimbursement from the Common Fund for out-of-pocket costs and the cost of third party administration of the settlement of no more than $50,000 as payment in full for their work in these cases. The Defendants will not oppose Class Counsel's request.
- The settlement is contingent on the value of the opt-outs equaling less than twenty percent (20%) of the Common Fund; if opt-outs total more than

20% of the Common Fund, the Defendants will have the option to cancel or withdraw from the settlement.

- The settlement will become effective only after: (1) the Court preliminarily approves the Settlement Agreement; (2) the Court enters final approval of the Settlement Agreement through an Order and Judgment; (3) the Order and Judgment is either affirmed on appeal, the last remaining appeal challenging it is dismissed with prejudice, or, if no appeal is filed, the time for filing an appeal expires; (4) the First Action is dismissed with prejudice; and (5) the failure of any party to exercise a right to terminate based on the opt out threshold set forth above.
- If the Court does not approve the settlement, the Defendants expressly reserve all rights to challenge all claims and allegations in the First Amended Complaint and in the First Action upon all legal, procedural, and factual grounds, including but not limited to the ability to assert any defense, privilege, or counterclaim.

The Class Representatives and Class Counsel believe that this settlement is fair and reasonable, and that it offers satisfactory consideration for the WARN Class Members in exchange for a full release of liability related to the facts and circumstances underlying this litigation. Likewise, the Defendants believe that the settlement falls well within the range of reasonableness, and that resolving these matters through settlement is in the best interest of Defendants.

III. BASIS FOR RELIEF SOUGHT

In their Unopposed Motion, Plaintiffs respectfully request that the Court enter an order that: (1) certifies the proposed Class for settlement purposes only; (2) grants preliminary approval of the settlement terms as outlined in the Settlement Agreement; (3) approves the form and manner of notice to Class Members; and (4) schedules a final fairness hearing for review and final approval of the settlement terms as outlined in the Settlement Agreement to take place approximately forty five (45) days after the Preliminary Approval Date. Defendants do not oppose this relief. A proposed order to that effect is attached to the Settlement Agreement as Exhibit 2.

A. The Court should recognize that the Class likely satisfies the requirements for class certification.

The preliminary approval process for a class settlement includes two components—certifying any uncertified classes and granting final approval. A class may only be certified if it meets each of the four prerequisites for certification in Federal Rule 23(a)(1) through (4) and at least one of the requirements in Federal Rule 23(b). *See Baby Neal v. Casey*, 43 F.3d 48, 55 (3d Cir. 1994). These requirements must be met regardless of whether the parties seek certification for trial or for settlement purposes only. *In re Prudential Ins. Co. Am. Sales Litig. Agent Actions*, 148 F.3d 283, 307–08 (3d Cir. 1998) ("*In re Prudential Insur.*").

For preliminary approval of the Settlement and the form of Notices to class, the Plaintiffs ask that the Court accept as true the allegations set forth in the Complaint regarding the applicable requirements of Federal Rule 23. (*See First Amended Complaint,* at ¶¶ 53-64) as well as those set forth in the Declaration of Charles A. Ercole, Esquire, attached hereto as Exhibit A.. For the limited purpose of obtaining the Court's approval

of the Settlement Agreement, Defendants do not oppose this request, while reserving all rights in the event that the Court does not approve the Settlement Agreement.

B. The Court should grant preliminary approval of the Settlement Agreement and schedule a final fairness hearing.

The Court should preliminarily approve the Settlement Agreement and schedule a final fairness hearing. Ordinarily, a court reviewing a proposed class action settlement will evaluate whether the agreement was obtained fairly before issuing notice to class members. *See In re Gen. Motors Corp. Pick-Up Truck Fuel Tank Prods. Liability Litig.*, 55 F.3d 768, 785 (3d Cir. 1995) ("*GM Trucks*"). "The judge must make a preliminary determination on the fairness, reasonableness, and adequacy of the settlement terms and must direct the preparation of notice of the certification, proposed settlement, and date of the final fairness hearing." Manual for Complex Litigation (Fourth) § 21.632 (2004). This inquiry is free from the strictures involved in the final review process; the Court:

> is required to determine only whether the proposed settlement discloses grounds to doubt its fairness or other obvious deficiencies such as unduly preferential treatment of class representatives or segments of the class, or excessive compensation of attorneys, and whether it appears to fall within the range of possible approval.

Mehling v. New York Life Ins. Co., 246 F.R.D. 467, 472 (E.D. Pa. 2007) (quotation omitted). Indeed, the analysis is satisfied with basic indicia of fairness, including that: (1) the negotiations were conducted at arm's length; (2) the parties engaged in sufficient discovery; (3) the settling parties (through their counsel) have experience in class litigation; and (4) only a fraction of class members object. *See GM Trucks*, 55 F.3d at 785. The settlement here falls well "within the range of possible approval" under this standard, especially considering the strong judicial policy favoring resolution of litigation before trial. *See id.* at 805.

First, the Parties engaged in arm's length negotiations, each with representation by competent, experienced counsel who engaged in extensive bargaining, including two days of formal mediation with Penny Conly Ellison, Esquire, in the Third Circuit Court of Appeals Mediation Program, as well as multiple informal sessions conducted in person as well as via letter, e-mail, and telephone conference. The proposed Settlement Agreement is the result of these hard-fought, non-collusive efforts.

Second, the Parties engaged in significant formal and informal exchanges of information prior to reaching the proposed Settlement Agreement, including information concerning the scope of the class, a comprehensive analysis of potential damages, and the production of thousands of pages of documents relating to the merits of the Plaintiffs' claims, to the Defendants' defenses, and to damages. These efforts helped elucidate the range of possible issues for all Parties, and made it clear to the Parties that settlement is preferable to continued litigation over the complex matters involved in these cases.

Third, putative Class Counsel, Charles A. Ercole of Klehr Harrison Harvey Branzburg, LLP, has substantial experience in prosecuting large scale class and collective actions on behalf of employees and, specifically, WARN Act class actions such as this one. *See* Ex. A, Certification of Charles A. Ercole. The attorneys for the Defendants are similarly familiar with class action litigation. Counsel for all parties understand the significance of settlement in this arena, and have advised their clients of the benefits and drawbacks of settlement.

Accordingly, Plaintiffs respectfully request that the Court preliminarily approve the Settlement Agreement and send notice to the Class Members in the form attached to the Settlement Agreement as Exhibit 1. Defendants do not oppose this request.

C. The proposed form of notice to the Class Members is the best notice practicable under the circumstances.

If the Court preliminarily approves the Settlement Agreement and schedules a final fairness hearing, the Class Members must be notified. *See* Fed. R. Civ. P. Rules 23(c)(2) and (e)(1). For classes certified under Federal Rule 23(b)(3), "the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort." Fed. R. Civ. P. Rule 23(c)(2)(B). Such notice must be sent to the Class Members in advance of the final fairness hearing so that these individuals may have a full and fair opportunity to object.

Plaintiffs submit that sending this proposed notice by first class mail, postage prepaid, to each potential WARN Class Member at his or her last known address is the best notice practicable under the circumstances. *See Parks v. Portnoff Law Assocs.*, 243 F. Supp.2d 244, 250 (E.D. Pa. 2003) (noting that this form of notice is appropriate); Manual for Complex Litigation (Fourth) § 21.311 (2004) (stating that such notice is preferred when the names and addresses of most class members are known).

As for content, the notices must explain in clear, concise, and easily understandable language: (1) "the nature of the action;" (2) "the definition of the class certified;" (3) "the class claims, issues, or defenses;" (4) "that a class member may enter an appearance through an attorney if the member so desires;" (5) "that the court will exclude from the class any member who requests exclusion;" (6) "the time and manner for requesting exclusion;" and (7) "the binding effect of a class judgment on members under Rule 23(c)." Fed. R. Civ. P. Rules 23(c)(2)(B)(i)–(vii). The notices also must

reasonably inform Class Members of the settlement and their rights under it. Fed. R. Civ. P. Rule 23(e)(1); *In re Prudential Insur.*, 148 F.3d at 327.

Mindful of these standards, the Plaintiffs propose that the Notice of Class Certification of Proposed Settlement of Class Action and Fairness Hearing attached to the Settlement Agreement as Exhibit 1 to be used for these purposes and be sent by first class mail, postage prepaid, to each potential Class Member at his or her last known address. The notice meets all of the above requirements by briefly summarizing the litigation and the terms of the settlement, by explaining the bounds of the Class and the claims against the Defendants, by providing information on opting out, filing objections, and appearing through counsel, by noting the relevant time limits, and by explaining the binding nature of this settlement if the Class Member elects not to opt out.

As for timing, no "standard" notice period exists; rather, courts have broad discretion to fashion a reasonable time frame under the circumstances. *See Harris v. Reeves*, 761 F. Supp. 382, 393 (E.D. Pa. 1991). In this regard, the Plaintiffs propose that Class Counsel will send the notices to Class Members within ten days of the date that this Court issues an Order Granting Preliminary Approval of the Proposed Settlement. Class Counsel will then file and serve a statement under oath in this Court within 10 days after mailing these notices as proof of mailing.

The Plaintiffs also propose that Class Members must file any objections to the settlement so that the objections are actually received at least fifteen (15) business days before the date of the Fairness Hearing by the Clerk of Court for the United States District Court for the District of Delaware, 844 North King Street, Wilmington, Delaware 19801 ("Clerk of Court"), and: (1) Plaintiffs' Counsel, Klehr Harrison Harvey Branzburg,

LLP, 1835 Market Street, Philadelphia, PA 19102-5003, Attn: Charles A. Ercole, Esq.; and (2) counsel for Defendants, Bracewell & Guiliani, 1251 Avenue of the Americas, 49th Floor, New York, New York 10020-1100 Attn: Michael C. Hefter and Daniel S. Meyers. The Plaintiffs request that they have the option to file responses to any objections no later than 10 days prior to the Fairness Hearing. The Plaintiffs further propose that Class Members must send their completed out-out forms so that they are received by Plaintiffs' Counsel and Defendants' counsel no later than ten (10) business days prior to the Fairness Hearing. Within five days after the opt-out deadline has expired, Plaintiffs' Counsel shall file and serve a statement under oath listing the names of all potential class members who elected to opt out of the Class. These deadlines provide all involved with a reasonable amount of time to weigh their options without unduly delaying these cases. The Plaintiffs also request that the Court schedule the final fairness hearing to take place approximately forty five (45) days after the preliminary approval date.

Defendants do not oppose these requests.

IV. CONCLUSION

The Plaintiffs respectfully request that this Court enter an order that: (1) certifies the Class for settlement purposes only; (2) grants preliminary approval of the settlement terms as outlined in the Settlement Agreement; (3) approves the form and manner of notice to Class Members; and (4) schedules a final fairness hearing for review and final approval of the settlement terms as outlined in the Settlement Agreement to take place approximately forty five (45) days after the Preliminary Approval Date. For the limited purpose of obtaining the Court's approval of the Settlement Agreement, Defendants do

not oppose this request, while reserving all rights in the event that the Court does not approve the Settlement Agreement. Following the final fairness hearing, we respectfully request that the Court, after reviewing any objections, enter a second order finally approving the Settlement Agreement and granting any other relief that is just and proper.

Respectfully Submitted,

DATED: SEPTEMBER 24, 2013

/s/ David S. Eagle

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Attorneys for Class

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Monte J. Woolery, et al. Individually and as Class Representatives,	)	Civil Action
Plaintiffs,	)	C.A. No. 1:12-cv-00726 (RGA)
vs.	)	
MatlinPatterson Global Advisers, LLC, et al.,	)	
Defendants.	)	

CERTIFICATION OF CHARLES A. ERCOLE

I, Charles A. Ercole do hereby certify that:

1. I make the following certification based on my own personal knowledge and, if called to testify, I would and could do so under oath as follows.

2. I am a member of the following bars: Commonwealth of Pennsylvania; State of New Jersey; United States District Court for the Middle District of Pennsylvania; United States District Court for the Eastern District of Pennsylvania; United States District Court for the District of New Jersey; United States Court of Appeals for the Third Circuit; and the United States Supreme Court.

3. I am a partner in the law firm of Klehr Harrison Harvey Branzburg, LLP, chair of the firm's labor and employment group, and counsel for the Class Representatives - Monte J. Woolery, Tysha Marie Smith, Jacque S. Wood, Kurt Glen, Craig L. Moore, Wayne E. Brown, Shawn A. Mixon, Stephen R. Porter, Stephanie Linn Seawall, Roxanna Kipp, Javier Enriquez, Ivette Riojas, Rick Ostdiek, Laverne D. Loeffelholz, Simona Smaranda Vaipan, Matt Wilson,

and Roxana Najera ("Class Representatives") - on their own behalf and as representatives of a Class of other persons similarly situated ("collectively, Plaintiffs"). In addition to the named Class Representatives, our firm has been directly engaged by additional former employees of Premium – Sara Villanueva and Linda Jarvis.

4. This declaration is submitted in support of the Motion for Preliminary Approval of Class Action Settlement.

5. I have discussed the relief sought herein with counsel for Defendants and have been informed that, for the limited purpose of obtaining the Court's approval of the Settlement Agreement, Defendants do not oppose this motion, though in the event that the Court does not approve the Settlement Agreement, Defendants reserve all rights.

Class Claims

6. The proposed class members are numerous. Over 350 employees were furloughed in June 2009, or within 30 days thereof, and terminated when facilities owned and/or operated by with Premium Protein Products, LLC and PPP Holdings, LLC ("Premium") were permanently closed in November 2009.

7. The claims of the Class Representatives and the members of the proposed Class have common questions of law and fact. For example, all of the Class Representatives and members of the proposed Class allege that they are entitled to wages and benefits as a result of the Defendants' failure to comply with the WARN Act because Defendants operated the businesses as a "single employer" .

8. The Class Representatives' claims are typical of the claims of the Class. All such claims arise out of Defendants' failure to provide required advance notice of termination under

the WARN Act. The Class Representatives and the Class members have suffered common injuries arising out of Defendants' common course of conduct. In my investigation, I am not aware that any Class members are presenting unique claims or are subject to unique defenses.

9. The Class Representatives will fairly and adequately protect the interest of the Class members as they are diligently pursuing their claims against Defendants. The Class Representatives cooperated throughout the litigation with the prosecution of this action.

10. The questions of law and fact common to the Class predominate over any questions affecting only individual members. As indicated above, the common questions of law and fact are substantial in nature. In this case there are virtually no individual questions aside from the common questions.

11. The class action method is superior to other available methods for the fair and effective adjudication of this controversy because of the size of the Class and because the damages suffered by members of the Class may be relatively small when compared to the expense and burden of individual litigation.

Qualifications of Counsel

12. Klehr Harrison and I have represented thousands of employees and served as lead or co-lead counsel in numerous employment class action lawsuits, primarily WARN Act cases. *See, e.g., Classic Kitchens, LLC, et al.*, Case No. 01-20393 (Bkr. E.D. Pa. 2001) (lead defense counsel); *In Re Charter Behavioral Health Systems, Inc., et al.*, Case No. 00-00989-01089) (Bkr. D. De. 2000); *Justin Abreau v. Oakwood Homes Corporation, et al., C.A. 0213396 (Bankr. D. Del. 2002); In Re USF Red Star Worker Notification Litigation, MDL 1655 (E.D. Pa. 2005); In Re McGraw v. Independence Blue Cross, Docket No. 000171 (Pa. Ct. Common Pleas 2007); Rocco v. Sears, et al. No. 06-2868 (D.N.J. 2008); Riley v. Hoboken Wood Flooring, C.A. No.*

2:07-cv-05666, (D.N.J. 2009); Caccamo and Harnois v. Mortgage Lenders Network, Adv. No. 07-51415 (D. Del. 2009); Perez v. American Remanufacturers Inc., Adv. No. 06-50819 (Bankr. D. Del. 2010); Fleetwood Travel Trailers, No. 6:09-ap-01114-MJ (Bankr. C.D. Ca. 2010); *Sane v. Liberty Fibers Corp., Adv. No. 06-05049 (Bankr. M.D. Tenn. 2011); In re Qimonda North America, et al., Adv. No. 09-50192 (Bankr. D. Del. 2011); Smith v. Arrow Trucking, No. 09-cv-810 (N.D. Okla. 2011); Excel Storage Products Case No. 10-07862 (RNO) (pending Bankr. M.D. Pa.); MF Global Holdings Adv. Pro. No. 11-02880 (MG) (pending in S.D.N.Y.).*

13. Klehr Harrison's Litigation Department has approximately 30 attorneys, as well as several paralegals to assist in the class action litigation.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Charles A. Ercole

Dated: 9/23/13