

COURT FILE NUMBER 1703 07203
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE EDMONTON
PLAINTIFF(S) ROSE ALZU and SHERRY HOHENACKER as REPRESENTATIVE PLAINTIFFS
DEFENDANT(S) SMUCKER FOODS OF CANADA CORP./CORP. DE PRODUITS ALIMENTAIRES SMUCKER DU CANADA and ARDENT MILLS ULC
DOCUMENT **ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

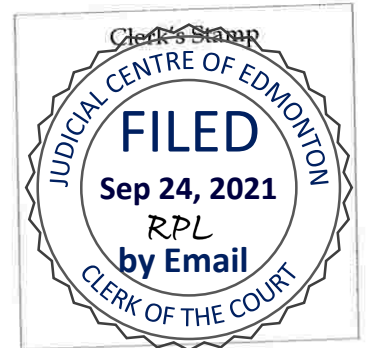
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DATE ON WHICH ORDER WAS PRONOUNCED:
NAME OF JUDGE WHO MADE THIS ORDER:
LOCATION WHERE ORDER WAS PRONOUNCED:

September 20, 2021
Justice P.B. Michalyszyn
Edmonton

UPON THE APPLICATION of the Plaintiff; AND UPON hearing the submissions from counsel; AND UPON reviewing the Affidavit of Rose Alzu sworn September 26,



2017 and the Affidavit of Rose Alzu sworn September 7, 2021; and on being advised that the parties have entered into a settlement agreement (the "Settlement Agreement");

THIS COURT ORDERS THAT:

1. Except to the extent that they are set out in or modified by this Order, the definitions set out in the Settlement Agreement, as attached at Schedule "A", apply to and are incorporated into this Order;
2. The "Settlement Class" is defined as:

All natural persons in Canada who: (a) consumed Recalled Flour and suffered a physical illness or other injury; (b) purchased Recalled Flour and suffered an economic loss; (c) purchased the Recalled Flour, which was not of merchantable quality or reasonably fit for the purpose of sale to consumers; or (d) purchased the Recalled Flour and suffered emotional distress.
3. The claims made on behalf of Settlement Class Members in respect of Released Claims in the within proceeding are certified as a national multi-jurisdictional class proceeding against the Defendants, for settlement purposes only;
4. Rose Alzu is appointed as the Representative Plaintiff for the Settlement Class;
5. Clint G. Docken, Q.C. of Guardian Law and Richard J. Mallett of James H. Brown & Associates LLP are appointed as Class Counsel;
6. The claims made on behalf of the Settlement Class Members in respect of Released Claims in the within proceeding are certified on the basis that the following issue is common to the Settlement Class:

(a) Are the Defendants liable to the Settlement Class?

7. The Approval Hearing Notice is approved and is to be substantially in the form attached hereto as Schedule “B”.
8. The Notice Plan for dissemination of the Approval Hearing Notice to Settlement Class members (the “Notice Plan”) is approved and is to be substantially as set out in the Notice Plan attached hereto as Schedule “C”;
9. The Approval Hearing Notice shall be disseminated in accordance with the Notice Plan;
10. To validly opt out, Settlement Class Members must deliver a written opt out request post marked no later than 105 days after the date of granting of this order and must be mailed to the Claims Administrator MNP Ltd. at 1500, 640 – 5th Avenue SW, Calgary, AB T2P 3G4, Attention: Mr. Rick Anderson.
11. MNP Ltd. is hereby appointed as the Claims Administrator pursuant to Section 2.17 of the Settlement Agreement;
12. No proceedings shall be commenced against the Claims Administrator, except with the written consent of the Claims Administrator or with leave of this Honourable Court;
13. For purposes of administration and enforcement of this Order, this Honourable Court will retain an ongoing supervisory role and MNP Ltd. acknowledges and attorns to the jurisdiction of this Honourable Court solely for the purpose of implementing, administering and enforcing this Order;
14. In the event final approval of the Settlement Agreement is not granted in accordance with its terms at the final Approval Hearing, or final approval is reversed on appeal, the certification for settlement purposes granted in this Order shall be of no force and effect and this proceeding shall be decertified by consent;

15. In the event final approval of the Settlement Agreement is not granted in accordance with its terms at the final Approval Hearing, or final approval is reversed on appeal, the Plaintiff will be at liberty to continue this proceeding and the Defendants retain the right to oppose certification and defend the claims made in this proceeding.

16. This Order may be executed in counterpart, electronically or by facsimile.



**JUSTICE OF THE COURT OF
QUEEN'S BENCH OF ALBERTA**

SCHEDULE "A"

CLASS ACTION SETTLEMENT AGREEMENT

Made as of June 23, 2021

BETWEEN

ROSE ALZU and SHERRY HOHENACKER

(the "Plaintiffs")

-and-

**SMUCKER FOODS OF CANADA CORP./CORP. DE PRODUITS ALIMENTAIRES
SMUCKER DU CANADA, and ARDENT MILLS ULC**

(the "Defendants")

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1. **PREAMBLE AND RECITALS**

This Settlement Agreement is made and entered into this 23rd day of June, 2021 by and among the Plaintiffs in the within proceeding (the "Action") on their own behalf and in their capacity as representative plaintiffs of the Class (as defined below), and the Defendants herein (collectively referred to as "the Parties"), by and through their counsel, providing for the settlement of all claims asserted or which could have been asserted against the Defendants by the Plaintiffs in the Action, pursuant to the terms and conditions set forth herein, subject to the approval of the Court as set forth herein;

WHEREAS, the Defendants deny any liability or wrongdoing and further deny that the Plaintiffs and Class Members have any justifiable claim for relief or that they have any liability to the Plaintiffs, or Class Members, and assert that they have numerous meritorious affirmative defences to the claims advanced by the Plaintiffs and Class Members;

WHEREAS, the Defendants assert that they would vigorously defend the Action if the Plaintiffs continued the Action against them;

WHEREAS, the Action has not yet proceeded to a contested leave and certification motion;

WHEREAS, extensive arm's length settlement negotiations have taken place between Plaintiffs' Counsel and counsel for the Defendants, including mediation before the Honourable Warren K. Winkler on October 10, 2018;

WHEREAS, as a result of these settlement negotiations, the Parties have entered into this Settlement Agreement, which embodies all the terms and conditions of the settlement between the Defendants and Plaintiffs, subject to approval of the Court;

WHEREAS, the Parties intend by this Settlement Agreement to resolve all past, present, and future claims of the Plaintiffs and all Class Members;

WHEREAS, the Parties shall seek an Order from the Court dismissing the Action, failing which Order this Settlement Agreement shall be void;

WHEREAS, the Defendants have agreed to pay the Settlement Amount for the benefit of the Class;

WHEREAS, the Parties agree that neither this Settlement Agreement nor any document relating thereto, nor any action taken to carry out this Settlement Agreement, shall be offered in evidence in any action or proceeding or in any court, administrative agency or other tribunal in Canada or elsewhere in the world for any purpose whatsoever other than to give effect to and enforce the provisions of this Settlement Agreement or to seek court approval of the Settlement Agreement;

WHEREAS, the Plaintiffs and their counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analysis of the facts and law applicable to the Plaintiffs' claims, and having regard to the burden and expense in prosecuting the Action, including the risks and uncertainties associated with protracted litigation, trials and appeals, the Plaintiffs and Class Counsel have concluded that this Settlement is fair, reasonable and in the best interests of the Plaintiffs and the Class Members they seek to represent;

WHEREAS, the Defendants have similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risks and expense of defending protracted litigation, and to resolve finally and completely the pending and potential claims of the Class Members;

NOW THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, by their respective counsel, **AGREE AS FOLLOWS:**

2. DEFINITIONS

The following terms, as used in this Settlement Agreement and its Exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and vice versa. Feminine pronouns and female references shall be deemed to include masculine, and vice versa, where appropriate.

2.1 **"Action"** means the within class action commenced in the Court of Queen's Bench of Alberta, bearing Court File No. 170307203;

2.2 **"Administrative Costs"** means settlement administration costs, including any reasonable costs paid to third party notice providers and consultants (including fees, disbursements, and applicable taxes) and/or print, online, or radio media for the preparation and dissemination of the Notices. It excludes the internal costs of Class Counsel, including professional, paralegal and staff time, and disbursements, and taxes relating to the preparation and dissemination of the Notices;

2.3 **"Approval Hearing"** means the hearing at which the Parties to the Action will seek the approval of the Court of the Settlement Agreement;

2.4 **"Approval Hearing Notice"** means the court-approved notice that advises Class Members of the Approval Hearing as more particularly detailed in Exhibit "A";

2.5 **"Approval Hearing Notice Order"** means the Order of the Court that appoints the Claims Administrator and approves the Approval Hearing Notice and Notice Plan as more particularly described in Sections 3 and 4 herein and which is attached as Exhibit "B";

2.6 **"Approval Hearing Notice Plan"** means the plan for disseminating the Approval Hearing Notice that shall be pursuant to the protocols outlined in Exhibit "C" or in such other form as agreed to by the Parties and as may be approved by the Court;

2.7 **"Approval Order"** means the Order of the Court that approves this Settlement Agreement, and which is attached as Exhibit "D";

2.8 **"Approved Claims"** shall mean the Claims of Class Members that have been approved for payment(s) by the Claims Administrator pursuant to the Distribution Protocol as more particularly detailed in Exhibit "I";

2.9 **"CFIA"** means the Canadian Food Inspection Agency;

2.10 **"Claim"** means a claim made by or on behalf of a Claimant for compensation pursuant to the Settlement Agreement;

2.11 **"Claimant"** means a Class Member who has submitted a Claim Package within the Claim Period;

2.12 **"Claim Notice"** means the Court-approved notice that advises Class Members of the Court Approval of the Settlement Agreement and the procedure for making a Claim, as provided for in Section 4 and Exhibit "E";

2.13 **"Claim Notice Date"** means the date upon which the Claim Notice is first published in any of the publications and/or social media websites identified in Exhibit "F";

2.14 **"Claim Notice Plan"** means the plan for disseminating the Claim Notice that shall be pursuant to the protocols outlined in Exhibit "F" or in such other form as may be approved by the Court;

2.15 **"Claim Package"** means all the materials required to be submitted in order for a Claim to be considered, as defined and described more particularly in Exhibit "G";

2.16 **"Claim Period"** means the period set by the Court for Class Members to make a claim;

2.17 **"Claims Administrator"** means the person proposed by Class Counsel and appointed by the Court to administer the Settlement Amount in accordance with the provisions of the Settlement Agreement and the Distribution Protocol;

2.18 **"Class" or "Class Members"** means, for the purposes of this Settlement, all natural persons in Canada who: (a) consumed Recalled Flour and suffered a physical illness or injury; (b) purchased Recalled Flour and suffered an economic loss; (c) purchased the Recalled Flour, which was not of merchantable quality or reasonably fit for the purpose of sale to consumer; or (d) purchased the Recalled Flour and suffered emotional distress;

2.19 **"Class Counsel"** means the firms James H. Brown & Associates and Higgerty Law and has the same meaning as "Plaintiffs' Counsel";

2.20 **"Class Counsel Fees"** means the legal fees, disbursements, and applicable taxes of Class Counsel, as approved by the Court;

2.21 **"Compensatory Payments"** means the amounts to be paid to Claimants with Approved Claims, the values of which shall be assessed and determined by the Claims

Administrator in accordance with the Distribution Protocol (Exhibit "I"), subject to any of the limitations contained therein;

2.22 **"Court"** means the Court of Queen's Bench of Alberta;

2.23 **"CPA"** means the *Class Proceedings Act*, SA 2003, c C-16.5;

2.24 **"Day"** means calendar day as used herein for the purposes of calculating various time frames;

2.25 **"Defendants"** means Smucker Foods of Canada Corp./Corp. De Produits Alimentaires Smucker Du Canada and Ardent Mills ULC;

2.26 **"Deficiency Letter"** means the letter the Claims Administrator shall send to Claimants to advise of deficiencies in submitted Claim Packages and shall be in the form attached as Exhibit "H";

2.27 **"Distribution Protocol"** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as more particularly detailed in Exhibit "I", as approved by the Court;

2.28 **"Effective Date"** means the date when a Final Order has been received from the Court approving this Settlement;

2.29 **"Final Order"** means a final judgment or order entered by the court in respect of the approval of this Settlement Agreement once the time to appeal such judgment or order has expired without any appeal being taken, if an appeal lies and there is a person with standing to appeal, or once there has been affirmation of the approval of this Settlement Agreement upon a final disposition of all appeals;

2.30 **"Health Care Costs"** has the meaning ascribed to it in Section 12.1;

2.31 **"Notices"** means the Approval Hearing Notice and the Claim Notice;

2.32 **"Notice Plans"** means the Approval Hearing Notice Plan and the Claim Notice Plan set out in Exhibits "C" and "F", respectively;

2.33 **"Opt-Out Claimant"** means a person who opts-out, in accordance with the requirements for opting-out, who would have been a Class Member had he or she not opted-out;

2.34 **"Opt-Out Deadline"** means sixty (60) days from the publication of the Approval Hearing Notice;

2.35 **"Opt-Out Threshold"** means the threshold amount agreed upon by the Parties in confidential Exhibit "J" hereto, which if exceeded shall give the Defendants, at their own discretion, the right to terminate the Settlement Agreement;

2.36 **"Party"** means any one of the Plaintiffs, or the Defendants and may be referred to herein collectively as "the Parties";

2.37 **"Plaintiffs"** means Rose Alzu and Sherry Hohenacker;

2.38 **"Plaintiffs' Counsel"** means the firms James H. Brown & Associates, and Higgerty Law, and has the same meaning as "Class Counsel";

2.39 **"Proceeding"** means any proceeding or enforcement process in any court or tribunal;

2.40 **"Public Health Insurers"** or **"PHI"** means all of the Canadian Provincial and Territorial Health Insurers;

2.41 **"Recalled Flour"** refers to all of the flour and wheat brands with expiry dates referred to in the March 29, 2017, April 12 & 16, 2017 recall notices and any further recall notices issued by CFIA up until and including March 1, 2021 regarding *E.coli* tainted flour from the Defendants' facilities, including without limitation, the May 26, 2017, June 15 & 19, 2017 recall notices;

2.42 **"Released Claims"** means any and all manners of claims, actions, causes of action, suits, elections as to remedy, rights, debts, sums of money, payments, obligations, reckonings, contracts, agreements, executions, promises, damages, liens, judgments, punitive damages, aggravated damages, exemplary damages, and demands of an economic kind, type, or nature and whatsoever, both at law and in equity, whether direct or indirect, whether class, individual, or otherwise in nature, whether personal or

subrogated, whether past, present, or future, mature or not yet mature, known or unknown, suspected or unsuspected, contingent or non-contingent, whether based on federal, provincial, state, territorial, or municipal law, statute, ordinance, regulation, code, contract, common law, or any other source, or any claim that the Plaintiff or Class Members ever had, now have, may have, or hereafter can, shall, or may ever have against the Releasees in any other court, tribunal, arbitration panel, commission, agency, or before any governmental and/or administrative body, or any other adjudicatory body, on the basis of, connected with, arising from, or in any way whatsoever relating to the purchase and consumption of Recalled Flour and any claims which were raised or could have been raised in the Action. Released Claims include, without limitation, all claims for damages, including but not limited to punitive, aggravated, statutory and other multiple damages or penalties of any kind; or remedies of whatever kind or character, known or unknown, that are now recognized by law or equity or that may be created and recognized in the future by statute, regulation, judicial decision, or in any other manner; injunctive and declaratory relief; economic or business losses or disgorgement of revenues or profits; costs or lawyers' fees; and prejudgment and post-judgment interest;

2.43 **"Releasees"** means the Defendants and, as applicable, each of their present and former parents, officers, directors, employees, stockholders, agents, attorneys, suppliers, distributors, reorganized successors, spin-offs, assigns, holding companies, related companies, subsidiaries, affiliates, joint ventures, partners, members, divisions, predecessors, servants, representatives, insurers and their successors, heirs, executors, administrators, trustees, insurers, and assigns of each of the foregoing;

2.44 **"Settlement"** means the proposed settlement of the Action, as defined herein, pursuant to the terms set forth in this Settlement Agreement;

2.45 **"Settlement Agreement"** means this agreement, including all Exhibits hereto;

2.46 **"Settlement Amount"** means the maximum amount of CAD \$1,547,975.00 to be paid by the Defendants, subject to reversion to the Defendants of any residual amounts remaining after Compensatory Payments are made and any Class Counsel Fees that are not approved by the Court. The Settlement Amount includes:

- (a) the sum of CAD \$937,975.00 to be paid for Compensatory Payments;

- (b) the sum of CAD \$310,000.00 for Class Counsel Fees;
- (c) the maximum amount of CAD \$150,000.00 for Administrative Costs; and
- (d) the maximum amount of CAD \$150,000.00 for Health Care Costs.

3. ORDER APPROVING THE APPROVAL HEARING NOTICE AND APPOINTING THE CLAIMS ADMINISTRATOR

3.1 Upon execution of this Settlement Agreement, the Plaintiffs and Defendants shall jointly move for the Approval Hearing Notice Order from the Court.

4. APPROVAL HEARING NOTICE

4.1 The Approval Hearing Notice shall be in the form set out in Exhibit "A" and shall be disseminated pursuant to the protocols outlined in Exhibit "C" or in such other form as may be agreed by the Parties and approved by the Court.

4.2 The Claims Administrator shall collect all written objections to the Settlement received prior to the deadline set out in the Approval Hearing Notice and shall file all such objections with the Court and provide copies to Class Counsel and Counsel for the Defendants upon receipt.

5. ORDER APPROVING THE SETTLEMENT AGREEMENT

5.1 Following dissemination of the Approval Hearing Notice, the Plaintiffs shall move for the Approval Order from the Court.

6. EFFECT OF NON-APPROVAL AND AMENDMENT TO SETTLEMENT AGREEMENT

6.1 In the event the Court fails to approve the Settlement Agreement in its entirety, the Parties reserve for themselves the right to amend this Settlement Agreement and any such amendment shall be in writing.

6.2 If this Settlement Agreement is not approved by the Court:

- (a) this Settlement Agreement shall be null and void and shall have no force or effect and no Party to this Settlement Agreement shall be bound by any of its terms except those of this paragraph; and

- (b) this Settlement Agreement, and all negotiations, statements and proceedings relating to this Settlement Agreement shall be without prejudice to the rights of all Parties, all of whom shall be restored to their respective positions existing immediately before this Settlement Agreement.

6.3 The Parties agree that whether or not it is approved by the Court, this Settlement Agreement and the fact of its negotiation and execution shall not constitute any admission by the Defendants or be used against the Defendants for any purpose in this or any other proceeding in Canada or elsewhere in the world and, without limiting the generality of the foregoing, this Settlement Agreement and the fact of its negotiation and execution shall not constitute an admission or be used by anyone (whether or not a party to these proceedings) in an effort to establish any of the alleged facts, or the jurisdiction of the Canadian courts over any foreign party.

7. SETTLEMENT AGREEMENT EFFECTIVE

7.1 This Settlement Agreement shall become effective on the Effective Date, unless otherwise expressly provided herein.

8. SETTLEMENT BENEFITS

8.1 Pursuant to this Settlement Agreement, and subject to its terms and conditions, including approval by the Court, the Defendants agree to pay the Settlement Amount in full and final settlement of the Released Claims, contingent upon the dismissal with prejudice of the Action.

8.2 The Settlement Amount shall be all-inclusive, and the Defendants shall have no obligation to pay any amount in addition to the Settlement Amount.

8.3 Subject to Court approval, the following benefits and expenses shall be paid from the Settlement Amount:

- (a) CAD \$937,975.00 to be paid for Compensatory Payments;
- (b) CAD \$310,000.00 for Class Counsel Fees, such unapproved portion of the legal fees will be returned to the Defendants;
- (c) Maximum Amount of CAD \$150,000.00 for Administrative Costs; and

- (d) Maximum Amount of CAD \$150,000.00 for any Health Care Costs subject to the distribution as set out in paragraph 12.1.1.

8.4 The Defendants will not incur any taxes, liabilities, obligations, or responsibility regarding the investment, payment or distribution of the Settlement Fund or monies deposited into it.

9. PAYMENT SCHEDULE

9.1 Class Counsel shall directly fund the costs associated with implementing the Approval Hearing Notice Plan as they come due, as well as the costs associated with translating the Settlement Agreement. Class Counsel is entitled to be reimbursed for these costs from the Settlement Amount following the Final Order.

9.2 The Defendants shall, within thirty (30) days of the Final Order, pay the Settlement Amount to the Claims Administrator who shall, upon receipt of such funds, pay:

- (a) a maximum of CAD \$150,000.00 to Class Counsel for Administrative Costs; and
- (b) Class Counsel Fees, as approved by the Court, up to a maximum of CAD \$310,000.00.

9.3 After making the payments set out in Section 9.2, the Claims Administrator shall deposit the remaining balance of the Settlement Amount into a single interest-bearing account, from which the sum of CAD \$937,975.00 shall be paid for all Compensatory Payments, in accordance with the Distribution Protocol, Exhibit "I".

9.4 Within ninety (90) days following the final adjudication of all submitted Claims, on notice to all Parties, the Claims Administrator shall distribute Compensatory Payments to all Claimants with Approved Claims, subject to any *pro rata* reductions as may be required based on the number and value of all Approved Claims and the money remaining from the Settlement Amount.

9.5 The Defendants shall make their respective compensation/refund programs available throughout the Claim Period.

10. WAIVER OF LIMITATION DEFENCE

10.1 Subject to Court approval, for the purposes of making a Claim under this Settlement Agreement, no Claimant shall be considered ineligible to receive Compensatory Payment on the basis of any statute of limitation, prescription period or any other limitation or prescription defence, including tolling of any applicable statute of limitation.

11. ROLE OF CLAIMS ADMINISTRATOR

11.1 The Claims Administrator and any person appointed to assist in the administration of the Settlement must sign and adhere to a confidentiality statement, in a form satisfactory to the Parties, by which it agrees to keep confidential any information concerning Claimants, Class Members, Public Health Insurers or the Defendants, and the Claims Administrator shall institute and maintain procedures to ensure that the identity of all Claimants, and Class Members, and all information regarding their Claims and submissions will be kept strictly confidential and will not be provided to any person except as may be provided for in this Settlement Agreement or as may be required by law.

11.2 The Claims Administrator shall be required to administer all monies payable under the Settlement Agreement, except as specifically provided for herein, and to process all Claim Packages and adjudicate all Claims in accordance with this Settlement Agreement.

11.3 The Claims Administrator shall invest all funds in its possession under this Settlement Agreement pursuant to the investment standards and authorized investments provided for in Section 3 of the *Trustee Act* R.S.A. 2000, c. T-8 with a Chartered Canadian Bank.

11.4 All interest earned on the Settlement Amount, once paid by the Defendants to the Claims Administrator, shall be added to and treated in the same manner as the Settlement Amount. All taxes payable on any interest which accrues in the relation to the Settlement Amount shall be paid by the Claims Administrator from the Settlement Amount as may be required by law. The Claims Administrator shall take all reasonable steps to minimize the imposition of taxes upon the Settlement Amount and shall be

responsible for any and all tax reporting and payment requirements arising from this Settlement, including all interest income earned by the Settlement Amount, all such tax payments to be made by the Claims Administrator from the Settlement Amount.

11.5 The Claims Administrator shall offer services in both French and English.

11.6 Subject to its duties herein, the Claims Administrator shall report quarterly to Class Counsel the number of Claim Packages received in that quarter, as well as the name, address, telephone number, fax number (if any) and e-mail address (if any) of all Class Members who have filed Claim Packages and the decision made in respect of each Claim, and when deemed necessary by the Claims Administrator or Class Counsel, special meetings may be called, on reasonable notice to all Parties. The Claims Administrator shall report quarterly to Defendants' counsel on the number of Claims received and the decision made in respect of each Claim.

11.7 The Claims Administrator shall be subject to removal by the Court for cause, on a motion by any Party on reasonable notice to all other Parties and the Claims Administrator.

11.8 In the event that the Claims Administrator is unable to continue to act for any reason, the Parties shall propose a substitute Claims Administrator, whose appointment shall be subject to the approval of the Court.

11.9 The Claims Administrator shall determine the eligibility of all Claims submitted by or on behalf of Class Members and shall determine the amounts payable in respect of all Approved Claims, all in accordance with the Distribution Protocol.

11.10 All decisions of the Claims Administrator shall be final and not subject to review or appeal.

11.11 No Proceeding shall be commenced or continued against the Claims Administrator except with the written consent of the Claims Administrator or with leave of the Court.

11.12 The Claims Administrator shall provide the name, date of birth, date of loss, and provincial health number for each Approved Claimant to each applicable PHI for the purpose of allowing each PHI to quantify its claims.

12. PAYMENTS TO PUBLIC HEALTH INSURERS

12.1 Upon the Effective Date and in accordance with Sections 8.3 and 9 of this Settlement Agreement, the Claims Administrator shall deduct the sum of CAD \$150,000 from the Settlement Amount and shall thereafter distribute this amount to the Public Health Insurers in accordance with directions provided by the Public Health Insurers and this Settlement Agreement.

12.1.1 If the claims submitted by Public Health Insurers exceed \$150,000.00 and if there are any monies remaining in the Fund after the payment of all claims, expense and other payments as set out in paragraph 9.2 (a) and (b) and 9.3, then the PHI's claims in excess of \$150,000.00 shall be paid from the Settlement Amount. Thereafter any funds remaining shall revert to the Defendants.

12.2 All payments made under this Settlement Agreement shall be full and final and include all obligations, payments or costs potentially payable to the Public Health Insurers in relation to all Health Care Costs.

12.3 All payments made by the Defendants to the Public Health Insurers are conditional on them executing releases in the form attached as Exhibit "K".

12.4 In the event of any disputes, controversies or claims arising out of or in connection with the Health Care Costs, the Parties agree that they shall try to negotiate a resolution by submitting these issues to a mediation to be finally determined by reference to the Honourable Warren K. Winkler.

13. RELEASE OF RELEASEES

13.1 Upon the Effective Date, and for consideration provided in this Settlement Agreement, each Class Member, who is not an Opt-Out, will fully, finally and forever release, relinquish, acquit and discharge the Releasees from and for the Released Claims, and shall not now or hereafter institute, maintain, or assert on their own behalf, on behalf of the Class, or on behalf of any other person or entity, any Released Claim or Released Claims.

13.2 Without limiting any other provision herein, upon the Effective Date, each Class Member who is not an Opt-Out, whether or not he or she submits a claim, or otherwise

receives an award, will be deemed by the Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from all Released Claims.

13.3 The Parties agree that, upon the Effective Date, each Class Member who is not an Opt-Out, whether or not he or she submits a claim or otherwise receives an award, will be forever barred and enjoined from continuing, commencing, instituting, or prosecuting any action, litigation, investigation, or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum, or any other forum, directly, representatively, or derivatively, asserting against any of the Releasees any Released Claims.

14. DISMISSAL OF THE ACTION

14.1 Class Counsel shall bring such motions as are necessary to dismiss the Action with prejudice and without costs as against the Defendants.

15. TERMINATION

15.1 This Settlement Agreement shall automatically terminate if the Court does not issue the Approval Order in the form attached as Exhibit "D", if final court approval is not granted, or if the Court declines to dismiss the Action against the Defendants.

15.2 This Settlement Agreement may be terminated by the Defendants if:

- (a) The Opt-Out Threshold (as particularized in the confidential Exhibit "J") is exceeded;
- (b) The releases and covenants contemplated in Section 13 are not abided by;
- (c) the form and content of the Approval Hearing Notice or Claim Notice approved by the Court departs in a material respect from the form and content agreed upon by the Parties and attached as Exhibits "A" and "F".

15.3 Any order, ruling or determination made by the Court with respect to Class Counsel Fees or the Distribution Protocol set out in Exhibit "E" shall not be deemed to be a material modification of all, or part of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

15.4 In the event this Settlement Agreement is terminated in accordance with its terms:

- (a) the Parties will be restored to their respective positions prior to the execution of this Settlement Agreement;
- (b) this Settlement Agreement shall be null and void and will have no further force and effect and no effect on the rights of the Parties except as specifically provided for herein;
- (c) this Settlement Agreement, and all negotiations, statements and proceedings relating to this Settlement Agreement shall be without prejudice to the rights of all Parties, all of whom shall be restored to their respective positions existing immediately before this Settlement Agreement; and
- (d) The Parties agree that whether or not it is approved by Court, this Settlement Agreement and the fact of its negotiation and execution shall not constitute any admission by the Defendants or be used against the Defendants for any purpose in this or any other proceeding in Canada or elsewhere in the world and, without limiting the generality of the foregoing, this Settlement Agreement and the fact of its negotiation and execution shall not constitute an admission or be used by anyone (whether or not a party to these proceedings) in an effort to establish any of the alleged facts, the jurisdiction of the Canadian courts over any foreign party or the certification of these or other proceedings in any province.

15.5 Notwithstanding the provisions of Section 15.4, if this Agreement is terminated, the provisions of this Section and Sections 2,17.1, 18.7 and the Recitals and Definitions applicable thereto, shall survive termination and shall continue in full force and effect.

16. CLASS COUNSEL'S FEES AND DISBURSEMENTS

16.1 Concurrently with the Settlement Approval Hearing, Class Counsel shall seek approval of their fees, disbursements and applicable taxes in accordance with their retainer agreements with the Plaintiffs.

17. NO ADMISSION OF LIABILITY

17.1 The Parties agree that, whether or not this Settlement Agreement is finally approved or is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or any wrongdoing or liability by the Releasees, or the truth of any of the claims or allegations made in the Action.

18. MISCELLANEOUS

18.1 Amendments to the Settlement Agreement

- (a) Where the Parties agree that an amendment is necessary to the Settlement Agreement, a motion may be brought on consent to the Court for the purpose of approving said amendment to the terms of this Settlement Agreement.

18.2 Construction of Agreement

- (a) Except as set out herein with respect to the Distribution Protocol, this Settlement Agreement shall be deemed to have been mutually prepared by the signatories hereto and shall not be construed against any of them solely by reason of authorship.
- (b) The headings used in this Settlement Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Settlement Agreement.

18.3 Entire Agreement

- (a) This Settlement Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and supersedes all prior understandings, representations, negotiations, discussions, and agreements, either oral or written, which may have occurred prior to the execution of this Settlement Agreement. There are no other representations between the Parties in connection with the subject matter

of this Settlement Agreement except as specifically set forth herein and none have been relied upon by the Parties in entering into this Settlement Agreement.

18.4 Ongoing Authority

- (a) Following the Final Order, the Court will retain exclusive jurisdiction over the Action, and over all Parties named or described herein, as well as all Class Members.
- (b) Following the Final Order, the Court will also retain exclusive jurisdiction over this Settlement Agreement to ensure that all payments and disbursements are properly made, and to interpret and enforce the terms, conditions and obligations of this Settlement Agreement.

18.5 Applicable Law

- (a) The Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Alberta.

18.6 Communication with Class Members

- (a) All written communications from the Claims Administrator to Class Members shall be made by regular mail and email where available to such Class Member's last mailing address provided by the Class Member to the Claims Administrator. Class Members shall keep the Claims Administrator apprised of their current mailing address.

18.7 Confidentiality of and Access to Class Member Information

- (a) Any information provided by or regarding a Class Member or otherwise obtained pursuant to this Settlement Agreement shall be kept strictly confidential and shall not be disclosed, except to appropriate persons to the extent necessary to process claims, and/or to provide benefits under this Settlement Agreement, or as otherwise expressly provided in this Settlement Agreement. All Class Members shall be deemed to have consented to the disclosure of all this information for these purposes.

- (b) Class Counsel shall have access to all information maintained by the Claims Administrator regarding Class Members, and the processing and payment of claims.

18.8 Notices

- (a) All communications to be provided pursuant to or in connection with this Settlement Agreement shall be in writing and shall be delivered personally or sent by overnight delivery service, costs prepaid to the Parties at the addresses set forth below, or to such other individuals and addresses as Class Counsel or the Defendants may designate from time to time.

If to Class Counsel:

JAMES H. BROWN AND ASSOCIATES
2400 Sun Life Place
10123 – 99 Street
Edmonton, Alberta T5J 3H1

Attention: Rick Mallett

- and -

GUARDIAN LAW GROUP LLP
342 4 Avenue S.E.
Calgary, AB T2G 1C9

Attention: Clint Docken, Q.C.

If to the Defendants' Counsel:

STIKEMAN ELLIOTT LLP
5300 Commerce Court West - 199 Bay Street
Toronto, ON M5L 1B9

Attention: Alan D'Silva and Daniel Murdoch
Counsel for the Defendants, Ardent Mills ULC

MCCARTHY TÉTRAULT LLP
Barristers & Solicitors
7th Avenue SW, Suite 4000
Calgary, AB T2P 4K9

Attention: Kara L. Smythe

- and -

MCCARTHY TÉTRAULT LLP
Suite 5300, TD Bank Tower
66 Wellington Street West
Toronto, ON M5K 1E6

Attention: Christopher Hubbard

Counsel for the Defendant,
Smucker Foods of Canada Corp./Corp. de Produits Alimentaires Smucker
du Canada

18.9 Confidentiality

- (a) The Parties agree that no public statements shall be made regarding the Action or its settlement, which are in any way inconsistent with the terms of the Settlement Agreement. In particular, the Parties agree that any public statements regarding this Action will indicate clearly that the settlement has been negotiated, agreed and approved by the Court of Queen's Bench Alberta without any admissions or findings of liability or wrongdoing, and without any admissions or conclusions as to the truth of any of the facts alleged in the Proceedings, all of which are specifically denied.
- (b) The Parties and their counsel agree that when commenting publicly on the Action settled pursuant to this Settlement Agreement, they shall, except as may be required by law or for the Defendants to meet their business needs, decline to comment in a manner that places the conduct of any Party in a negative light or reveals anything said during the settlement negotiations.

18.10 French Translation

- (a) A French translation of this Settlement Agreement shall be prepared, the cost of which shall be shared between Class Counsel and the Defendants and both versions shall be official and shall have equal weight.

18.11 Interpretation of Agreement

- (a) All disputes relating to the proper interpretation of this Settlement Agreement shall be resolved by application to the Court.

18.12 Execution and Processing of Settlement Agreement

- (a) The Parties and their respective counsel shall expeditiously do all things as may be reasonably required to give effect to this Settlement Agreement.
- (b) The Parties agree that this Settlement Agreement may be executed by their respective counsel.
- (c) The Parties agree that this Settlement Agreement may be executed in counterparts, each of which shall be deemed to be an original for all purposes and executed counterparts taken together shall constitute the complete Settlement Agreement.

The Parties have executed this Settlement Agreement as of the date on the cover page.


RICHARD J. MALLET

By: 
Name: James H. Brown & Associates
Title: Class Counsel


CLINT G. DOCKEN

By: 
Name: Guardian Law Group LLP
Title: Class Counsel

**SMUCKER FOODS OF CANADA CORP./ CORP. DE
PRODUITS ALIMENTAIRES SMUCKER DU CANADA**

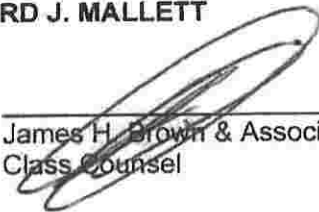
By: 
Name: McCarthy Tétrault LLP
Title: Counsel for the Defendant, Smucker Foods
of Canada Corp./Corp. De Produits
Alimentaires Smucker Du Canada

ARDENT MILLS ULC

By: 
Name: Stikeman Elliott LLP
Title: Counsel for the Defendant, Ardent Mills
ULC

The Parties have executed this Settlement Agreement as of the date on the cover page.

RICHARD J. MALLET

By: 
Name: James H. Brown & Associates
Title: Class Counsel


CLINT G. DOCKEN

By: _____
Name: Guardian Law Group LLP
Title: Class Counsel

**SMUCKER FOODS OF CANADA CORP./ CORP. DE
PRODUITS ALIMENTAIRES SMUCKER DU CANADA**

By: _____
Name: McCarthy Tétrauld LLP
Title: Counsel for the Defendant, Smucker Foods
of Canada Corp./Corp. De Produits
Alimentaires Smucker Du Canada

ARDENT MILLS ULC


By: _____
Name: Stikeman Elliott LLP
Title: Counsel for the Defendant, Ardent Mills
ULC

The Parties have executed this Settlement Agreement as of the date on the cover page.


RICHARD J. MALLET

By: 
Name: James H. Brown & Associates
Title: Class Counsel


CLINT G. DOCKEN

By: _____
Name: Guardian Law Group LLP
Title: Class Counsel

**SMUCKER FOODS OF CANADA CORP./ CORP. DE
PRODUITS ALIMENTAIRES SMUCKER DU CANADA**

By: 
Name: McCarthy Tétrault LLP
Title: Counsel for the Defendant, Smucker Foods
of Canada Corp./Corp. De Produits
Alimentaires Smucker Du Canada

ARDENT MILLS ULC


By: _____
Name: Stikeman Elliott LLP
Title: Counsel for the Defendant, Ardent Mills
ULC

TAB A

**SMUCKERS/ARDENT MILLS FLOUR CLASS ACTION
NOTICE OF PROPOSED SETTLEMENT**

Your rights might be affected by if you purchased or consumed recalled flour

Smucker Foods of Canada Corp./Corp. de Produits Alimentaires Smucker Du Canada and Ardent Mills ULC have agreed to pay up to CDN \$1,547,975.00 to resolve all claims including bodily injury claims alleged as a result of having consumed certain E-coli tainted flour as recalled by notices including on March 29, April 12 and 16, May 26, June 15 and 19, 2017.

The proposed settlement must be approved by the Court. An application to approve the settlement will be heard in Edmonton, Alberta on _____, 2021 at _____.

Proposed Distribution of the Settlement Funds

At the settlement approval hearing, the Alberta Court will be asked to approve a protocol for distribution of the settlement funds. Visit www.____ for more information. After the approval hearing, a further notice will be distributed regarding the process and deadline for filing a claim. To ensure that you receive this notice, please register online at www.____.

Excluding Yourself or Objecting.

The Alberta Court has certified this action as a class action. If you do not want to be part of the class action, you can exclude yourself ("opt-out") by sending a request to opt-out by _____, 2021. If you wish to object to the settlement, you must send a written objection to MNP Ltd. by _____, 2021. Visit www.____ for more information.

The law firms of James H. Brown & Associates LLP and Guardian Law Group LLP are Class Counsel. At the court application, Class Counsel will request approval of legal fees, disbursements and GST of \$310,000.00.

QUESTIONS? VISIT www.____.

Email: _____ or call 1-800 _____

TAB B

Exhibit "B"
Clerk's Stamp

COURT FILE NUMBER 1703 07203

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF(S) ROSE ALZU and SHERRY HOHENACKER as REPRESENTATIVE PLAINTIFFS

DEFENDANT(S) SMUCKER FOODS OF CANADA CORP./CORP. DE PRODUITS ALIMENTAIRES SMUCKER DU CANADA

DOCUMENT **Approval Hearing Notice Order**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Richard J. Mallett
James H. Brown and Associates
2400 Sunlife Place
10123 99 Street
Edmonton, Alberta T5J 3H1
Tel: (780) 428-0088
Fax: (780) 428-7788

Clint Docken, Q.C.
Guardian Law
Ground Floor, Riverfront Pointe
342 4 Ave S.E.
Calgary, AB T2G 1C9
Tel: 403-457-7778
Fax: 1-877-517-6373

DATE ON WHICH ORDER WAS PRONOUNCED:

NAME OF JUDGE WHO MADE THIS ORDER:

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton

UPON THE APPLICATION filed by the Plaintiff, Sherry Hohenacker; **AND UPON READING** the Affidavit of Sherry Hohenacker, sworn _____; **AND UPON HEARING** submissions from counsel;

IT IS HEREBY ORDERED THAT:

1. The Approval Hearing Notice is approved and is to be substantially in the form attached hereto as Schedule "A".
2. The Notice Plan for dissemination of the Approval Hearing Notice to putative settlement class members (the "Notice Plan") is approved and is to be substantially as set out in the Notice Plan attached hereto as Schedule "B";
3. The Approval Hearing Notice shall be disseminated in accordance with the Notice Plan;
4. MNP Ltd. is hereby appointed as the Claims Administrator pursuant to Section 2.17 of the Class Action Settlement Agreement;
5. No proceedings shall be commenced or against the Claims Administrator, except with the written consent of the Claims Administrator or with leave of this Honourable Court;
6. For purposes of administration and enforcement of this Order, this Honourable Court will retain an ongoing supervisory role and MNP Ltd. acknowledges and attorns to the jurisdiction of this Honourable Court solely for the purpose of implementing, administering and enforcing this Order.

J.C.Q.B.A.

TAB C

Approval Hearing Notice Plan

A. Notice by Mail and Email

1. The Claims Administrator, within 45 days of the grant of the Approval Hearing Notice Order, shall mail the Approval Hearing Notice to each mailing address of record for putative members of the Class and will email the Approval Hearing Notice to all putative members of the Class for whom valid email addresses are known to Class Counsel.
2. Any addressees within the Province of Quebec shall receive the Approval Hearing Notice in both French and English.

B. Newspaper Notice

3. The Approval Hearing Notice will, within 45 days of the grant of the Approval Hearing Notice Order, be published once in the following papers:
 - a. *The Globe and Mail*
 - b. *The National Post*
 - c. *Calgary Herald*
 - d. *Edmonton Journal*
 - e. *Vancouver Sun*
 - f. *Winnipeg Free Press*
 - g. *Halifax Chronicle-Herald*
 - h. *Saint John Telegraph Journal*
 - i. *Charlottetown Guardian*
 - j. *St. John's Telegram*
 - k. *Le Journal de Montreal*
 - l. *Montreal La Presse*
 - m. *Saskatoon Star Phoenix*
 - n. *Regina Leader Post.*

C. Class Counsel Notice

4. The Approval Hearing Notice shall be placed on the respective websites of Class Counsel.

D. Claims Administrator

5. The Claims Administrator shall within 45 days of the grant of the Approval Hearing Notice Order create a Settlement Website that will include all necessary and pertinent information for putative members of the Class.
6. The Settlement Website will permit putative members of the Class to submit opt-out forms online.
7. The Settlement Website will include information that the Parties jointly agree to post concerning the nature of the case and the status of the Settlement, including relevant pleadings such as the Statement of Claim in the Action and the materials filed in support of applications.
8. The Claims Administrator will take steps to ensure that the Settlement Website is optimized for searching and that it is mobile-friendly.

TAB D

Exhibit "D"
Clerk's Stamp

COURT FILE NUMBER 1703 07203

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE EDMONTON

PLAINTIFF(S) ROSE ALZU and SHERRY HOHENACKER as REPRESENTATIVE PLAINTIFFS

DEFENDANT(S) SMUCKER FOODS OF CANADA CORP./CORP. DE PRODUITS ALIMENTAIRES SMUCKER DU CANADA

DOCUMENT **Approval Order**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Richard J. Mallett
James H. Brown and Associates
2400 Sunlife Place
10123 99 Street
Edmonton, Alberta T5J 3H1
Tel: (780) 428-0088
Fax: (780) 428-7788

Clint Docken, Q.C.
Guardian Law
Ground Floor, Riverfront Pointe
342 4 Ave S.E.
Calgary, AB T2G 1C9
Tel: 403-457-7778
Fax: 1-877-517-6373

DATE ON WHICH ORDER WAS PRONOUNCED:

NAME OF JUDGE WHO MADE THIS ORDER:

LOCATION WHERE ORDER WAS PRONOUNCED: Edmonton

ON THE APPLICATION of the Plaintiff; and hearing the submissions of Counsel for the Plaintiff and the Defendant and upon reading the pleadings and materials filed, and on being advised that the Plaintiff and the Defendants have entered into a settlement

agreement dated _____, 2021 (the "Settlement Agreement"); and on being advised that the Plaintiff and the Defendants consent to this Order;

THIS COURT ORDERS that:

1. The Settlement Agreement, as attached at Schedule "A" is incorporated into this Order in its entirety and forms part of this Order, and the definitions in the Settlement Agreement shall be applied in interpreting this Order.
2. In the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. The Settlement Agreement is fair, reasonable and in the best interests of the Class and is hereby given final approval pursuant to section 35 of the *Class Proceedings Act*, SA 2003, c 0-16.5 and shall be implemented in accordance with its terms and the terms of this Order.
4. This Order, including the Settlement Agreement, is binding upon the Parties and on every Class Member whether or not the Class Member claims or receives monetary compensation or value under the Settlement Agreement, unless the Class Member opted out before the expiry of the Opt Out Deadline.
5. This Order, including the Settlement Agreement, is binding upon each such Class Member including those persons who are minors or mentally incapable and the requirements of Rules 2.11 and 2.19 of the *Alberta Rules of Court* are dispensed with in respect of this proceeding.
6. The persons listed in the List of Opt-Outs, as attached at Schedule "B" and incorporated into this Order, have validly exercised their right to opt-out and are not Class Members.
7. Upon the Effective Date, the Releasees are forever, finally and absolutely released by the Class Members from the Released Claims.
8. Upon the Effective Date, Class Members are barred from making any claims or taking or continuing any proceeding arising out of, or relating to, the Released Claims, except as otherwise expressly provided for in the Settlement Agreement, against any Releasee or other person, corporation or entity that might claim damages and/or contribution and indemnity or other relief against any of the Defendants.

9. This Honourable Court will retain continuing jurisdiction over the Settlement for the purposes of implementing, interpreting and enforcing the Settlement Agreement and this Order subject to the terms and conditions set out in the Settlement Agreement and this Order.
10. A payment by the Defendants to Class Counsel for Class Counsels' Fees in the amount of \$310,000.00, plus applicable taxes, is approved and is to be paid by the Defendants within 30 days after the Effective Date.
11. On notice to the Court, but without further order of the Court, the Parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any of the provisions in the Settlement Agreement.
12. This Order may be endorsed in counterpart, electronically or by facsimile.

J.C.Q.B.A

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO THE TERMS OF THIS ORDER:

TAB E

**SMUCKERS/ARDENT MILLS FLOUR CLASS ACTION
NOTICE OF SETTLEMENT APPROVAL AND CLAIM PROCESS**

A settlement, which resolves the action in its entirety, has been approved by the Alberta Court in the class action relating to the spring 2017 recall of flour products processed and distributed by Smucker Foods of Canada Corp./Corp. de Produits Alimentaires Smucker Du Canada and Ardent Mills ULC.

The settlement provides up to \$1,547,975.00 CND to resolve bodily injury claims (i.e. claims for illness as a result of having consumed the recalled flour). In return for the Settlement Amount, Smucker Foods of Canada Corp./Corp. de Produits Alimentaires Smucker Du Canada and Ardent Mills ULC have received releases and the class action has been dismissed.

Distribution of the Settlement Funds

The Alberta Court approved a protocol for the distribution of the Settlement Amount. Class Members can obtain additional information about the Distribution Protocol online at [website] or by calling 1-800 ____.

Claim Deadline

Class Members who wish to receive compensation from the Settlement Amount must submit a properly completed claim form with supporting documentation to the Claims Administrator MNP Ltd. online at www.____, no later than _____. If you do not have internet access, please call MNP Ltd. at 1-800 _____.

QUESTIONS? VISIT www.____.

Email: _____ or call 1-800 _____

TAB F

Claim Notice Plan

A. Notice by Mail and Email

1. The Claims Administrator, within 45 days of the grant of the Claim Notice Order, shall mail the Claim Notice to each mailing address of record for class members and will email the Claim Notice to all class members for whom valid email addresses are known.
2. Any addressees within the Province of Quebec shall receive the Claim Notice in both French and English.

B. Newspaper Notice

3. The Claim Notice will, within 45 days of the grant of the Claim Notice Order, be published once in the following papers:
 - a. *The Globe and Mail*
 - b. *The National Post*
 - c. *Calgary Herald*
 - d. *Edmonton Journal*
 - e. *Vancouver Sun*
 - f. *Winnipeg Free Press*
 - g. *Halifax Chronicle-Herald*
 - h. *Saint John Telegraph Journal*
 - i. *Charlottetown Guardian*
 - j. *St. John's Telegram*
 - k. *Le Journal de Montreal*
 - l. *Montreal La Presse*
 - m. *Saskatoon Star Phoenix*
 - n. *Regina Leader Post.*

C. Class Counsel Notice

4. The Claim Notice shall be placed on the respective websites of Class Counsel.

D. Claims Administrator

5. The Settlement Website will continue to include information that the Parties jointly agree to post concerning the nature of the case and the status of the Settlement, including the Final Approval Order.

TAB G

**SMUCKERS/ARDENT MILLS CLASS ACTION GLOBAL SETTLEMENT
BODILY INJURY CLAIM FORM**

Section 1 - Class Member Identification

Class Member Last Name _____ First Name: _____

Address _____ P.O. Box _____

City _____ Province _____

Postal Code _____

Birth Date: Year _____ Month _____ Day _____

Provincial Health Care Number _____

Date of Death (if applicable) Year _____ Month _____ Day _____

Please attach the official death certificate

Home Phone _____ Work Phone _____

Section 2 - Representative Claimant Identification

This section is to be completed only if you are submitting a claim as the Representative of a Class Member. You **MUST provide proof of your authority to act as the representative of a Class Member.**

I am applying on behalf of a Class Member who is:

- A minor (under 18 years of age)**

Please enclose: (1) a copy of your authority to act (i.e. long-form birth certificate, baptismal certificate, court order or other proof of guardianship); and (2) a completed Acknowledgement of Responsibility (see Schedule A).

- A person under legal disability**

Please enclose a copy of your authority to act (i.e. power of attorney, etc.)

- Deceased**

Please enclose a copy of your authority to act (i.e. will, court order, etc.)

Representative Claimant Last Name _____ First Name _____

Address _____ P.O. Box _____

City _____ Province _____

Postal Code _____

Home Phone _____ Work Phone _____

Section 3 - Legal Representative Identification

This Section is to be completed **ONLY** if a lawyer or agent is representing the Claimant. If you complete this section, all correspondence will be sent to your legal representative.

Name of Law Firm or Agency _____

Lawyer's or Agent's Last Name _____ First Name _____

Address _____ P.O. Box _____

City _____ Province _____

Postal Code/Zip Code _____

Phone _____ Fax _____

Section 4 - Bodily Injury Claim

Section 4(A) — Description of Symptoms

I, _____, hereby declare under penalty and perjury that the Class Member consumed Recalled Flour and suffered the following injury or illness as a result:

Please check all symptoms that the Class Member experienced:

- diarrhea (watery or bloody).
- moderate to severe stomach cramps or tenderness
- nausea
- vomiting
- other gastrointestinal symptoms. Please specify: _____

Please Indicate duration of symptoms:

- up to 6 days
- greater than 6 days. Please specify duration of symptoms: _____
- between 3 and 12 months: Please specify how many months: _____
- over 12 months: Please specify how many months: _____

Was the class member admitted overnight into a hospital?

- yes. Please specify name of hospital and duration of hospitalization:

Name of Hospital: _____

Number of Days: _____

- no

If the class member was hospitalized, was his or her illness treated with any of the following methods?

- intravenous rehydration
- blood transfusion
- kidney dialysis

If the class member was treated with one or more of the above methods, for how many days or months was her or she treated?

Duration of treatment _____

Did the class member experience minor, moderate OR serious complications as described below?

- experienced **minor** complications. Minor complications include complications that were resolved without surgical intervention or invasive medical procedures, did not require admission into an ICU, and did not require ongoing medical intervention. Please describe:

- experienced **moderate** complications. Moderate complications include complications that were resolved without surgical intervention or highly invasive medical procedures, did not require admission into an ICU, but required ongoing medical intervention for a period greater than 30 days, or involved impaired organ function for up to 90 days. Please describe:

- experienced **serious** complications. Serious complications include complications that required surgical intervention, blood transfusion or kidney dialysis or involved serious complications that lasted more than 12 months or impaired organ function over 90 days or death. Please describe:

Did the class member experience impaired organ function?

- yes

Please describe _____

For how many days or months? _____

- no

Did the class member require organ removal/transplantation?

- yes

Please describe _____

- no

Did the class member undergo surgery to treat his or her illness?

- yes

Please describe _____

- no

Was the class member diagnosed with haemolytic uremic syndrome (HUS)?

- yes

- no

Did the class member die as result of his or her illness?

- yes

- no

Section 4(B) Supporting Medical Documentation

Supporting medical documentation is as follows:

- (a) Statutory Declaration that the Class Member consumed Recalled Flour and suffered illness or injury as a result (the "Statutory Declaration"); and
- (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with *E. coli* O121 infection

And where applicable:

- i. Test results from a cultured stool sample obtained and tested within 45 days of the onset of illness confirming the presence of *E. coli* O121 bacteria;
- ii. Test results from a blood sample obtained and tested confirming the presence of antibodies keyed to at least one antigen of *E. coli* O121 bacteria; or
- iii. Test results from a urine sample obtained and tested within 14 days of the onset of illness, confirming the presence of *E. coli* O121 bacteria

Section 5 — Release of Claims

I verify that I have / have not received compensation through other proceedings or private out-of-class settlements and/or provided a release in respect of the recall. If you have received compensation or released claims, please provide the details here:

Compensation: \$ _____

Details of Claims Released: _____

Section 6 - Claimant Declaration and Authorization

The undersigned hereby consents to the disclosure of the information contained herein to the extent necessary to process this claim for benefits. The undersigned acknowledges and understands that this Claim Form is an official Court document sanctioned by the Court that presides over the Settlement and submitting this Claim Form to the Claims Administrator is equivalent to filing it with a Court.

The undersigned-hereby authorizes the Claims Administrator to contact the Class Member as required in order to administer the claim.

After reviewing the information that has been supplied on this Claim Form, the undersigned declares under penalty of perjury that the information provided in this Claim Form is true and correct to the best of his/her knowledge, information and belief.

Date: _____

Claimant's Signature (or Claimant's Representative)

Printed Name of Claimant (or Claimant's Representative)

Date: _____

Signature of Claimant's Lawyer (if any)

Printed Name of Claimant's Lawyer

SCHEDULE A - GUARDIAN'S ACKNOWLEDGMENT OF RESPONSIBILITY

(Minors' Property Act (Section 8))

This acknowledgment of responsibility is given by:

Name (name of guardian): _____

Address: _____

1. This acknowledgment of responsibility relates to the minor, _____
(name of minor); who was born on: _____ (day, month, year).
2. I am the minor's guardian because I am:
 - the minor's mother or father
 - appointed guardian by the deed or will of the minor's parent,
_____ (name of parent) who is now deceased
 - appointed guardian by a court order dated _____ (date of
guardianship order).
3. I have the power and responsibility to make day-to-day decisions affecting the minor.
4. I request the Claims Administrator to deliver to me, to hold as trustee for the minor, money payable to the minor pursuant to the Settlement.
5. I will use or expend the money only for the minor's benefit.
6. When the minor reaches the age of 18 years I will account to the minor and transfer the balance of the money remaining at that time to the minor.

Date _____

Guardian's Signature _____

Witness _____

TAB H

EXHIBIT "H"
DEFICIENCY LETTER

We are the Claims Administrator with respect to this Class Action Settlement.

We acknowledge receipt of your Claim Package in this matter.

We note the following deficiencies:

The deadline for you to provide a response to the deficiencies is 45 days from the date of this letter. Any additional information which is received by our office within 45 days from the date of this letter will be considered in determining the eligibility of your claim and any amount payable in respect of an Approved Claim in accordance with the Distribution Protocol.

All decisions of the Claims Administrator are final and not subject to any review.

TAB I

SCHEDULE - DISTRIBUTION PROTOCOL

Level	Severity (Proposal)	Compensation (Proposed)	Evidence
1	Class Member suffered <u>one</u> of the following symptoms: i. Diarrhea (watery or bloody); ii. Moderate to severe stomach cramps or tenderness iii. Nausea; or iv. Vomiting.	\$1,000 (< 7 days) \$2,000 (> 6 days)	(a) Statutory Declaration that the Class Member consumed Recalled Flour and suffered illness or injury as a result (the "Statutory Declaration"); and (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection
2	Class Member suffered <u>two or more</u> of the following symptoms: i. Diarrhea (watery or bloody); ii. Moderate to severe stomach cramps or tenderness iii. Nausea; or iv. Vomiting.	\$1,500 (< 7 days) \$3,000 (> 6 days)	(a) Statutory Declaration; and (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection
3	A. Class Member suffered one or more of the symptoms listed in Level 1 <u>and</u> ; B. Suffered medium-term (i.e. between 3 and 12 months) Level 1 symptoms or other gastrointestinal symptoms.	Level 1 or 2 Plus \$500 for each month of symptoms over 3 months.	(a) Statutory Declaration; and (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection
4	Suffers one or more symptoms <u>and</u> was hospitalized for 7 days or less.	\$7,500 Plus \$500/d hospital	(a) Statutory Declaration; and (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection
5	Suffers one or more symptoms <u>and</u> ; was hospitalized for more than 7 days; was diagnosed with HUS; experienced moderate complications for more than 30 days; <u>or</u> suffered	\$25,000 Plus \$500/d hospital (max \$10,000)	(a) Statutory Declaration; and (b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a

	impaired organ function for up to 90 days.		<p>physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection, and one of the following forms of evidence:</p> <p>i. Test results from a cultured stool sample obtained and tested within 45 days of the onset of illness confirming the presence of <i>E. coli</i> O121 bacteria;</p> <p>ii. Test results from a blood sample obtained and tested confirming the presence of antibodies keyed to at least one antigen of <i>E. coli</i> O121 bacteria; or</p> <p>iii. Test results from a urine sample obtained and tested within 14 days of the onset of illness, confirming the presence of <i>E. coli</i> O121 bacteria</p>
6	Suffers one or more symptoms <u>and</u> : underwent surgery; blood transfusion <u>or</u> kidney dialysis; experienced serious complications; suffered over 12 months; suffered impaired organ function over 90 days; or <u>died</u> .	\$50,000 Plus \$500/d hospital (max \$15,000)	<p>(a) Statutory Declaration; and</p> <p>(b) Physician's notes, hospital admission records, or other medical documents created during or soon after illness by a physician, hospital or other medical professional recording symptoms consistent with <i>E. coli</i> O121 infection, and one of the following forms of evidence:</p> <p>i. Test results from a cultured stool sample obtained and tested within 45 days of the onset of illness confirming the presence of <i>E. coli</i> O121 bacteria;</p> <p>ii. Test results from a blood sample obtained and tested confirming the presence of antibodies keyed to at least one antigen of <i>E. coli</i> O121 bacteria; or</p> <p>iii. Test results from a urine sample obtained and tested within 14 days of the onset of illness, confirming the presence of <i>E. coli</i> O121 bacteria</p>

TAB J

Opt-Out Threshold
(CONFIDENTIAL)

EXHIBIT "J"

Effective as of the _____ day of June, 2021

Between

ROSE ALZU and SHERRY HOHENACKER

(the "Plaintiffs")

and

**SMUCKER FOODS OF CANADA CORP./CORP. DE PRODUITS ALIMENTAIRES
SMUCKER DU CANADA, and ARDENT MILLS ULC**

(the "Defendants")

The Parties agree each with the other that:

1. The definitions and recitals set out in the Settlement Agreement apply to and are incorporated into this agreement.
2. The Defendants' opt-out threshold is _____.
3. The Parties agree to keep the contents of this agreement confidential and that this agreement will be disclosed to, but not filed with, the Court of Queen's Bench of Alberta (Edmonton), provided that this agreement may be relied upon for the purposes of section 2.34, 15.2(a) of the Settlement Agreement and the limitations expressed herein do not prohibit the reference to this agreement and the Opt-Out Threshold in any materials filed, or submissions made, on the application contemplated in section 15.2 of the Settlement Agreement.
4. This agreement shall be governed by, construed and interpreted in accordance with the laws of the Province of Alberta.
5. This agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same document, and a facsimile signature shall be deemed an original signature for the purposes of executing this agreement.

The Plaintiffs and Defendants have executed this agreement as of the dates indicated below.

Date: _____

RICHARD J. MALLETT

By: _____
Name: James H. Brown & Associates
Title: Class Counsel

Date: _____

CLINT G. DOCKEN

By: _____
Name: Guardian Group Law LLP
Title: Class Counsel

Date: _____

**SMUCKER FOODS OF CANADA CORP./ CORP.
DE PRODUITS ALIMENTAIRES SMUCKER DU
CANADA**

By: _____
Name: McCarthy Tétrault LLP
Title: Counsel for the Defendant, Smucker
Foods of Canada Corp./Corp. De
Produits Alimentaires Smucker Du
Canada

Date: _____

ARDENT MILLS ULC

By: _____
Name: Stikeman Elliott LLP
Title: Counsel for the Defendant, Ardent
Mills ULC

**SMUCKERS/ARDENT MILLS FLOUR CLASS ACTION
NOTICE OF PROPOSED SETTLEMENT**

Your rights might be affected by if you purchased or consumed recalled flour

Smucker Foods of Canada Corp./Corp. de Produits Alimentaires Smucker Du Canada and Ardent Mills ULC have agreed to pay CDN \$1,547,975.00 to resolve all claims including bodily injury claims alleged as a result of having consumed certain E-coli tainted flour as recalled by notices including on March 29, April 12 and 16, May 26, June 15 and 19, 2017.

The proposed settlement must be approved by the Court. An application to approve the settlement will be heard in Edmonton, Alberta on _____, 2021 at _____.

Proposed Distribution of the Settlement Funds

At the settlement approval hearing, the Alberta Court will be asked to approve a protocol for distribution of the settlement funds. Visit [www. _____](http://www._____) for more information. After the approval hearing, a further notice will be distributed regarding the process and deadline for filing a claim. To ensure that you receive this notice, please register online at [www. _____](http://www._____).

Excluding Yourself or Objecting.

The Alberta Court has certified this action as a class action. If you do not want to be part of the class action, you can exclude yourself ("opt-out") by delivering a written opt-out request post marked no later than _____, 2021 to MNP Ltd. at 1500, 640 – 5th Avenue SW, Calgary, AB, T2P 3G4. If you wish to object to the settlement, you must send a written objection to MNP Ltd. by _____, 2021. Visit [www. _____](http://www._____) for more information.

The law firms of James H. Brown & Associates LLP and Guardian Law Group LLP are Class Counsel. At the court application, Class Counsel will request approval of legal fees, disbursements and GST of \$310,000.00.

QUESTIONS? VISIT [www. _____](http://www._____)

Email: _____ or call 1-800 _____

SCHEDULE "C"

Exhibit "C"

Approval Hearing Notice Plan

A. Notice by Mail and Email

1. The Claims Administrator, within 45 days of the grant of the Approval Hearing Notice Order, shall mail the Approval Hearing Notice to each mailing address of record for putative members of the Class and will email the Approval Hearing Notice to all putative members of the Class for whom valid email addresses are known to Class Counsel.
2. Any addressees within the Province of Quebec shall receive the Approval Hearing Notice in both French and English.

B. Newspaper Notice

3. The Approval Hearing Notice will, within 45 days of the grant of the Approval Hearing Notice Order, be published once in the following papers:
 - a. *The Globe and Mail*
 - b. *The National Post*
 - c. *Calgary Herald*
 - d. *Edmonton Journal*
 - e. *Vancouver Sun*
 - f. *Winnipeg Free Press*
 - g. *Halifax Chronicle-Herald*
 - h. *Saint John Telegraph Journal*
 - i. *Charlottetown Guardian*
 - j. *St. John's Telegram*
 - k. *Le Journal de Montreal*
 - l. *Montreal La Presse*
 - m. *Saskatoon Star Phoenix*
 - n. *Regina Leader Post.*

C. Class Counsel Notice

4. The Approval Hearing Notice shall be placed on the respective websites of Class Counsel.

D. Claims Administrator

5. The Claims Administrator shall within 45 days of the grant of the Approval Hearing Notice Order create a Settlement Website that will include all necessary and pertinent information for putative members of the Class.
6. The Settlement Website will permit putative members of the Class to submit opt-out forms online.
7. The Settlement Website will include information that the Parties jointly agree to post concerning the nature of the case and the status of the Settlement, including relevant pleadings such as the Statement of Claim in the Action and the materials filed in support of applications.
8. The Claims Administrator will take steps to ensure that the Settlement Website is optimized for searching and that it is mobile-friendly.