

## **FIRST AMENDMENT TO SETTLEMENT AGREEMENT AND RELEASE**

Pursuant to section 31 of that certain July, 2021 Settlement Agreement and Release (the “Agreement”) by and among Pepperidge Farm, Incorporated and Douglas Brett, Terrence Fox, Steven Pulford and Mark Ryan (the “Named Plaintiffs”), and the class of individuals whom the Named Plaintiffs have been preliminarily certified to represent in the matter known as *Douglas Brett et al v. Pepperidge Farm, Incorporated*, Connecticut Superior Court, Docket Number X10-UWY-CV-14-6023215-S, hereby amend their July, 2021, undersigned counsel, on behalf of their clients, hereby amend the Agreement as follows.

Section 7 of the Agreement is amended to read

7. **Calculation of Settlement Amounts.** The “Net Settlement Amount” will be preliminarily allocated to both Named Plaintiff Settlement Class Members and Non-Named Plaintiff Settlement Class Members consistent with the plan attached hereto as Exhibit 4. The Settlement Administrator will calculate the Total Possible Settlement Payment to each Named Plaintiff and Non-Named Plaintiff Settlement Class Member. Non-Named Plaintiff Settlement Class Members will be considered “Qualified Claimants” eligible to receive Final Individual Settlement Amounts only if they do not opt out of the Settlement.

Section 16 of the Agreement is amended to read:

16. **Distribution of Settlement Payments.**

When and if the Court enters the Final Order and Judgment approving the Settlement, and the Effective Date has passed, the Settlement Administrator shall prepare a final list of all Qualified Claimants and of the Named Plaintiffs. The Settlement Administrator shall provide this list to Pepperidge Farm within 5 days after the Effective Date. For each Qualified Claimant and Named Plaintiff on this list, the Settlement Administrator will calculate the amounts due to the Qualified Claimant or Named Plaintiff and issue checks payable to him/her/it.


All settlement payments to Named Plaintiffs and Qualified Claimants shall be reported on an IRS 1099 without withholdings. Named Plaintiffs and Qualified Claimants must pay their own portion of taxes on the settlement payments. Named Plaintiffs and Qualified Claimants shall be exclusively liable for any and all tax liability, and will indemnify Pepperidge Farm for any and all claims, damages, costs, and expenses (including reasonable attorneys’ fees) arising from their failure to pay any and all taxes they owe as a result of the settlement payments they receive. The Service Enhancements to the Named Plaintiffs shall be reported on an IRS 1099 without withholdings. Named Plaintiffs must pay their own portion of taxes on the Service Enhancements.

Section 22 of the Agreement is amended to read:

- 22. Settlement Checks.** Settlement checks sent to Qualified Claimants and Named Plaintiffs shall include a “Stale Date” that is at least one hundred eighty (180) days after the date the checks are issued. The Settlement Administrator shall send a reminder postcard to any Qualified Claimant or Named Plaintiff who or that has not cashed a check ninety days following the mailing of the settlement check. Settlement checks sent to Qualified Claimants or Named Plaintiffs that remain uncashed after the Stale Date shall be cancelled. Those Qualified Claimants and Named Plaintiffs who fail to cash their settlement checks will be deemed to have waived irrevocably any right in or claim to a settlement share but the Settlement Agreement shall remain binding upon, and the Qualified Claimant Release shall remain binding upon them if they are Qualified Claimants (for avoidance of doubt, such Qualified Claimant will not release FLSA claims nor, if a Current Distributor, be bound by the Revised Consignment Agreement). Funds from uncashed settlement checks shall be disbursed as set forth in Paragraph 23.


For the avoidance of doubt, nothing in this amendment revises or limits the releases given by Named Plaintiffs in section 12 of the Agreement, nor grants any Named Plaintiff the ability to opt out of the Settlement.

**CLASS COUNSEL:**


  
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Adam S. Mocchiolo  
Pulman & Comley, LLC

Dated: August 12, 2021

**COUNSEL FOR PEPPERIDGE FARM,  
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Dated: \_\_\_\_\_, 2021

  
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Dated: August 12, 2021