

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE PACKAGED ICE ANTITRUST
LITIGATION

Case Number: 08-MD-01952
Honorable Paul D. Borman

THIS DOCUMENT RELATES TO:
INDIRECT PURCHASER ACTIONS

**ORDER GRANTING PRELIMINARY APPROVAL OF PROPOSED
SETTELMENT BETWEEN INDIRECT PURCHASER PLAINTIFFS AND
THE HOME CITY ICE COMPANY AND AUTHORIZING THE
DISSEMINATION OF REVISED NOTICES AND CLAIM FORM**

This matter comes before the Court on the Indirect Purchaser Plaintiffs' Motion for Preliminary Approval of Their Proposed Settlement With the Home City Ice Company and for Authorization to Disseminate Notice and Other Related Relief (ECF No. 529), as supplemented and revised in a submission filed on November 27, 2016 (ECF No. 533, Supplement to Indirect Purchaser Plaintiffs' Motion for Preliminary Approval of Their Proposed Settlement With the Home City Ice Company and For Authorization to Disseminate Notice With Revised Notices and Claim Form). The Court held a hearing on the motion for preliminary approval on November 17, 2016. For the reasons that follow, the Court GRANTS the motion and authorizes dissemination of the Revised Notices and Claim Form, in the form as attached to Plaintiffs' Supplement filing, ECF No. 533, Exs. 2-5.

I. BACKGROUND

This action is the lead case in the consolidated multidistrict litigation *In re Packaged Ice Antit. Litig.*, No. 08-mdl-1952. This multidistrict litigation involves consolidated actions of both direct purchaser plaintiffs (retail stores and gas stations) and indirect purchaser plaintiffs (individuals who purchased from retail stores and gas stations). The direct and indirect purchaser plaintiffs allege that the Defendants Reddy Ice Holdings, Inc. and its wholly owned subsidiary Reddy Ice Corporation (“Reddy Ice”), Arctic Glacier Income Fund, its wholly owned subsidiary Arctic Glacier, Inc. and Arctic Glacier Inc.’s wholly owned subsidiary Arctic Glacier International, Inc. (“Arctic Glacier”), and Home City Ice Company (“Home City”), conspired to allocate customers and markets throughout the United States, in violation of Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

The civil suits that form the basis for the present multidistrict litigation were spawned in large measure by a 2008 investigation by the Department of Justice (“DOJ”) into the packaged ice industry and the alleged anticompetitive conduct of its three largest players -- Reddy Ice, Arctic Glacier and Home City. On June 5, 2008, the Judicial Panel on Multidistrict Litigation (“JPML”) transferred all then-pending related civil actions to this District and ordered that they be consolidated for pretrial purposes in this Court. Subsequent related tag-a-long actions, involving both direct and indirect purchaser claims, have been similarly transferred

to this Court. This Court previously denied motions to dismiss both the Direct and Indirect Purchaser Complaints. *See In re Packaged Ice*, 723 F. Supp. 2d 987 (E.D. Mich. 2010) (Direct Purchasers); *In re Packaged Ice*, 779 F. Supp. 2d 642 (E.D. Mich. 2011) (Indirect Purchasers, Denying in Part and Granting in Part); *In re Packaged Ice*, No. 08-mdl-1952, 2011 WL 6178891 (E.D. Mich. Dec. 12, 2011) (Indirect Purchasers, Denying in Part and Granting in Part).

Subsequent to those decisions, two of the Defendants, Arctic Glacier and Reddy Ice, filed for bankruptcy protection and all of the claims in the direct purchaser action have now been resolved through settlement. On February 22, 2011, this Court granted final approval of a proposed settlement agreement between Home City and the Direct Purchaser Plaintiffs. (ECF No. 329.) On December 13, 2011, this Court granted final approval of a proposed settlement agreement between Arctic Glacier and the Direct Purchaser Plaintiffs. (ECF No. 406.) On November 13, 2012, this Court granted final approval of a settlement agreement between Reddy Ice and the Direct Purchaser Plaintiffs. (ECF No. 476.) On November 18, 2016, the Court received the Direct Purchaser Plaintiffs' Motion for Authorization to Make a Final Distribution of Settlement Funds. (ECF No. 532.) The Court will hold a hearing on the Direct Purchaser Plaintiffs' Motion on December 14, 2016. Approval of that motion will end the Direct Purchaser portion of this MDL.

The Indirect Purchaser Plaintiffs' action has proceeded along a less direct path, as explained in several prior Orders of the Court. To summarize, on May 18, 2012, the United States Bankruptcy Court for the Northern District of Texas granted final approval of a settlement agreement between the Indirect Purchaser Plaintiffs and Reddy Ice in the amount of \$700,000. Indirect Purchaser Plaintiffs' counsel, the Wild Law Group, has already received from that settlement fund \$233,333.33 in attorneys' fees plus \$80,000 for ongoing expenses. No distribution plan or allocation plan for the Reddy Ice settlement fund is currently in place. On February 17, 2014, the United States Bankruptcy Court for the District of Delaware granted final approval of a settlement agreement between the Indirect Purchaser Plaintiffs and Arctic Glacier in the amount of \$3,950,000. Indirect Purchaser Plaintiffs' counsel, the Wild Law Group, received attorneys' fees from that settlement in the amount of \$1.3 million plus \$305,000 in costs, \$1,000 for each class representative and a \$200,000 "kicker" out of the assets of the Arctic Glacier bankruptcy estate – not out of the settlement fund. A plan of allocation and distribution was approved in the Arctic Glacier proceeding. The claims process for the Arctic Glacier settlement has closed. Any funds not ultimately distributed from the Arctic Glacier settlement fund will remain in the Arctic Glacier bankruptcy estate. This Court had no involvement in the approval of either the

Reddy Ice or the Arctic Glacier settlement agreements, both of which were finalized in their respective bankruptcy proceedings.

The only remaining unresolved aspect of this MDL litigation that remains for determination by this Court is the proposed settlement agreement between Home City and the Indirect Purchasers that is presently before the Court for preliminary approval. In early 2016, the Court considered, but ultimately rejected, Plaintiffs' suggestion that the Home City settlement fund be combined with the Reddy Ice settlement fund for distribution purposes. *See* ECF No. 526, 8/9/16 Opinion and Order (denying motion for approval of amended and restated settlement agreement). Presently before the Court is the Indirect Purchaser Plaintiffs' motion for approval of the original March 7, 2012 Settlement Agreement between Home City and the Indirect Purchaser Plaintiffs that preceded the effort to combine the Reddy Ice settlement with this Home City settlement ("the Original Settlement Agreement"). The Indirect Purchaser Plaintiffs also seek approval of an agreement modifying that Original Settlement Agreement in certain limited respects.

For the reasons that follow, the Court GRANTS preliminary approval, preliminarily certifies the proposed settlement classes, appoints the Wild Law Group PLLC as class counsel, approves and authorizes dissemination of the Revised Notices and Claim Form submitted to the Court on November 27, 2016

(ECF No. 533, Exs. 2-5), preliminarily approves the proposed plan of allocation, orders a time frame for filing objections, opt outs and claim forms, schedules a final fairness hearing and authorizes Class Counsel to withdraw certain amounts from the Settlement Fund for the payment of ongoing expenses.

II. STANDARD OF REVIEW

Review and approval of class settlements involves a two step process: (1) preliminary approval of the proposed settlement and the proposed class and the method and form of class notice; and (2) final approval of the settlement following notice and hearing to determine fairness:

The first step in district court review of a class action settlement is a preliminary, pre-notification hearing to determine whether the proposed settlement is “within the range of possible approval.” Its purpose is to ascertain whether there is any reason to notify the class members of the proposed settlement and to proceed with a fairness hearing. Manual for Complex Litigation s 1.46, at 53-55 (West 1981). If the district court finds that a proposed settlement is “within the range of possible approval,” the next step is the fairness hearing. Class members are notified of the proposed settlement and the fairness hearing in which they and all interested parties have an opportunity to be heard. The goal of the hearing is to “adduce all information necessary for the judge to rule intelligently on whether the proposed settlement is ‘fair, reasonable, and adequate.’” *Id.* at 57.

Gautreaux v. Pierce, 690 F.2d 616, 621 n. 3 (7th Cir. 1982). The Indirect Purchaser Plaintiffs request the Court at this stage to conduct a limited inquiry into whether the proposed settlement with Home City has the “potential” for final approval and to determine whether there is reason enough to notify class members

and to proceed with a fairness hearing. *Berry v School Dist. of City of Benton Harbor*, 184 F.R.D. 93, 97 (W.D. Mich. 1998). A proposed settlement agreement should be preliminarily approved if “[t]he Court finds that the proposed settlement falls within the range of possible approval, does not disclose grounds to doubt its fairness, and includes no obvious deficiencies.” *International Union v. Ford Motor Co.*, Nos. 05-74730, 06-10331, 2006 WL 1984363 at * 4 (E.D. Mich. July 13, 2006). This preliminary determination can be made “on the basis of information already known, supplemented as necessary by briefs, motions, or informal presentations by parties.” *Manual for Complex Litigation* § 21.632 (4th ed. 2004). The Court’s only task is to determine “whether a proposed class action settlement deserves preliminary approval and lay the groundwork for a future fairness hearing.” *Alberto v. GMRI, Inc.*, 252 F.R.D. 652, 659 (E.D. Cal. 2008) (internal quotation marks and citations omitted). If necessary, the Court may require the parties to submit additional information following the preliminary fairness hearing in preparation for the final fairness hearing. *Id.*

III. ANALYSIS

A. Summary of The Terms of the Proposed Settlement Agreement and Modification

The March 7, 2012, Proposed Original Settlement Agreement provides for two separate classes of indirect purchasers, a nationwide class that will benefit from injunctive relief only and a separate class of indirect purchasers from select

states who will be entitled to a distribution from a \$2,700,000 settlement fund. (ECF No. 529, Ex. 2, March 7, 2012 Settlement Agreement Between Indirect Purchaser Plaintiffs and the Home City Ice Company.) Pursuant to an October 24, 2016 Modification Agreement executed by the parties, up to \$650,000 of the settlement fund may be used for Notice and claims administration costs. (ECF No. 529, Ex. 3, Modification Agreement to Settlement Agreement Between Indirect Purchaser Plaintiffs and the Home City Ice Company ¶ 4.) Interim Lead Counsel intends to seek an attorney fee award of up to \$900,000 of the settlement fund and reimbursement of expenses in an undisclosed amount.

Indirect Purchaser Plaintiffs propose an allocation plan, which is set forth in the Revised Notices and on the dedicated website, (ECF No. 533, Exs. 2-4) that provides the following monetary recoveries for purchasers in Settlement Class II: \$6 for 1 through 6 bags/blocks, \$12 for 7 through 12 bags/blocks (both with no required proof of purchase) and for more than 12 bags/blocks \$12 plus \$2 additional per bag/block, if proof of purchase is provided. Claims are limited to one per household and are not aggregated. If there are insufficient funds left in the Settlement Fund to pay all claims after deduction of expenses and attorneys' fees, payment amounts will be reduced to ensure all valid claimants receive some payment. If the Settlement Fund is not exhausted by the claims process after expenses and attorneys' fees are paid, there are three options presented that will be

subject to Court approval: (1) increase claim amounts proportionally; (2) re-open the claims filing period and/or provide additional notice to stimulate more claims filings; or (3) donate any unclaimed amounts to a charity approved by the Court from a list presented by the parties.

1. The Proposed Settlement Classes

The Proposed Settlement Agreement provides for two separate settlement classes:

Class I – All purchasers of Packaged Ice who purchased Packaged Ice in the United States indirectly from any of the Defendants or their subsidiaries or affiliates (including all predecessors thereof) at any time during the period from January 1, 2001 and March 6, 2008. Excluded from the Settlement Class are governmental entities and Defendants, including their parents, subsidiaries, predecessors or successors, Defendants’ co-conspirators, and the Releasees.

Class II - All purchasers of Packaged Ice who purchased Packaged Ice in Arizona, Arkansas, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, Utah, Vermont, West Virginia, Wisconsin and Wyoming, indirectly from any of the Defendants or their subsidiaries or affiliates at any time between January 1, 2001 and March 6, 2008. Excluded from the Settlement Class are governmental entities and Defendants, including their parents, subsidiaries, predecessors or successors, Defendants’ co-conspirators, and the Releasees.

(ECF No. 529, Pls.’ Mot. Ex. 2, Settlement Agreement ¶¶ 11, 13.)

The Proposed Settlement Agreement further provides that in the event that a new indirect purchaser class action brought under the law of a state other than

those states covered in Settlement Class II, Home City has the right until final approval to add that state to the Class II states provided Home City first moves to dismiss those claims and is denied such relief. Home City also agrees to pay the increased notice costs associated with any states that are added to the Class II states in such a manner. (Settlement Agreement ¶ 32.)

2. The Proposed Settlement Amount and Injunctive Relief

The Proposed Settlement Agreement provides for Injunctive Relief to Class I and Class II Members and Monetary Relief to only Class II Members.

a. The Settlement Amount (available for distribution only to Class II members)

The Proposed Settlement Agreement provides that:

Home City shall pay or cause to be paid the Settlement Amount of two million seven hundred thousand Dollars (\$2,700,000) in settlement of the Action. The Settlement Amount shall be wire transferred by Home City within fifteen (15) business days after the Execution Date. The Settlement Payment shall be paid into the Settlement Fund, which shall be established as an escrow account designated by Class Counsel, and administered in accordance with the provisions of Section G of this Agreement. In the event that the Court denies preliminary approval, the Settlement Payment shall be returned to Home City.

(ECF No. 529, Pls.' Mot. Ex. 2, Settlement Agreement ¶ 25.) This amount has been transferred into an escrow account of the Wild Law Group PLLC and is federally insured. The Modification Agreement gives Class Counsel certain rights

and places certain limitations on Class Counsel's handling of the Settlement Fund. (ECF No. 529, Ex. 3, Modification Agreement ¶ 5.)

b. Injunctive Relief (available to Class I and Class II)

The Proposed Settlement Agreement provides that Home City shall consent to entry of an injunction that provides:

Home City is hereby enjoined from entering into any combination, conspiracy or agreement with Arctic Glacier International, Inc., Reddy Ice Corporation or other person or entity or organization to allocate Packaged Ice customers, territories or markets, or raise, fix, maintain, or stabilize the price of Packaged Ice that would be considered a per se unlawful restraint of trade under Section 1 of the Sherman Act.

(ECF No. 529, Pls.' Mot. Ex. 2, Settlement Agreement ¶ 26.) The injunction lasts for a period of three (3) years and does not prohibit Home City from entering into lawful joint venture arrangements or acquisitions or from establishing or maintaining co-packing relationships in the course of their business. *Id.*

3. Notice

The October 24, 2016 Modification Agreement provides that: "Pursuant to an order granting preliminary approval, notice of the settlement and claims generation shall be done in a manner ordered by the Court." (ECF No. 529, Ex. 3, Modification Agreement ¶ 3.) The Revised Notices, which explain the nature of the action in general terms and also explain what class members are entitled to receive, along with their rights to object and exclude themselves, are attached to

the Indirect Purchaser Plaintiffs' Supplemental Brief as Exhibits 2-4. (ECF No. 533, Exs. 2-4.) Plaintiffs are providing direct mail notice to all Arctic Glacier claimants. For the remaining millions of consumers, as to whom individual notice would be impractical, Plaintiffs will advertise in both Parade and USA Today, which have an aggregate circulation of 22,000,000. Plaintiffs also will employ an internet outreach program that will direct consumers to a dedicated website. The Court concludes that the Revised Notices are "reasonably calculated under all the circumstances to apprise Class Members of the pendency of the action and to afford them an opportunity to object." *UAW v. General Motors Corp.*, 497 F.3d 615, 629 (6th Cir. 2007).

4. The Claims and Releases

The Claims are defined as any and all actions . . . that are related to the subject matter of this MDL Litigation. (Settlement Agreement ¶ 1.) Releasers are defined by the Class to which they belong, i.e. Class I Releasers and Class II Releasers. *Id.* ¶¶ 7, 9. Releasees are defined as Home City and all of its officers, directors, affiliates etc. not including any of the Reddy Ice or Arctic Glacier entities. *Id.* ¶ 6.

B. Preliminary Approval of the Proposed Settlement Agreement

Upon consideration of (1) the Indirect Purchaser Plaintiffs' Motion For Preliminary Approval Of Their Proposed Settlement With The Home City Ice

Company And For Authorization To Disseminate Notice And Other Related Relief (Doc. # 529), (2) the Supplement To Indirect Purchaser Plaintiffs' Motion For Preliminary Approval Of Their Proposed Settlement With The Home City Ice Company And For Authorization To Disseminate Notice With Revised Notices and Claim Form (Doc. # 533) (the "Supplement"), and (3) the arguments presented by counsel at the preliminary approval hearing held on November 17, 2016, the Court finds as follows:

1. **Preliminary Findings on the Potential of the Proposed Settlement for Final Approval:** The Court finds that the terms of the proposed March 7, 2012 Settlement Agreement Between Indirect Purchaser Plaintiffs And The Home City Ice Company (ECF No. 529, Ex. 2), including the modification thereto dated October 24, 2016 (ECF No. 529, Ex. 3), (collectively the "Proposed Settlement Agreement") is preliminarily approved, subject to further consideration and subject to final determination following notice to the proposed Settlement Classes and a Final Fairness Hearing provided for below. The Court preliminarily finds that the Proposed Settlement Agreement (a) has potential for final approval as being fair, adequate and reasonable; (b) is the product of serious, informed, arms-length non-collusive negotiations; (c) has no obvious deficiencies; (d) does not improperly grant preferential treatment to Class Representatives; (e) falls within the range of possible approval; and (f) does not disclose grounds to doubt its fairness, so that

notice of the Proposed Settlement Agreement should be disseminated as provided in this Order.

2. **Preliminary Class Certification:** For purposes of this proposed settlement only, and pending final approval of the Proposed Settlement Agreement after a Final Fairness Hearing, the Court preliminary finds that the prerequisites for a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure have been met and conditionally certifies proposed Settlement Classes consisting of:

Settlement Class I

All purchasers of Packaged Ice¹ who purchased Packaged Ice in the United States indirectly from any of the Defendants or their subsidiaries or affiliates (including all predecessors thereof) at any time during the period from January 1, 2001 to March 6, 2008. Excluded from Settlement Class I are governmental entities, Defendants, including their parents, subsidiaries, predecessors or successors, and Defendants' co-conspirators as well as The Home City Ice Company and its past and present officers, directors, individual shareholders, employees, and the successors, heirs, and executors of each of the foregoing and each of The Home City Ice Company's subsidiaries, and divisions and the predecessors and successors-in-interest of each.

And,

Settlement Class II

All purchasers of Packaged Ice who purchased Packaged Ice in Arizona, Arkansas, California, District of Columbia, Florida, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, South Dakota,

¹ "Packaged Ice" means ice packaged in bags as well as ice sold in blocks.

Tennessee, Utah, Vermont, West Virginia, Wisconsin and/or Wyoming, indirectly from any of the Defendants or their subsidiaries or affiliates (including all predecessors thereof) at any time during the period from January 1, 2001 to March 6, 2008. Excluded from Settlement Class II are governmental entities, Defendants, including their parents, subsidiaries, predecessors or successors, Defendants' co-conspirators as well as The Home City Ice Company and its past and present officers, directors, individual shareholders, employees, and the successors, heirs, and executors of each of the foregoing and each of The Home City Ice Company's subsidiaries, and divisions and the predecessors and successors-in-interest of each.

3. **Preliminary Class Findings:** The Court preliminarily finds that certification of the proposed Settlement Classes is warranted because: (a) the members of the proposed Settlement Classes are so numerous that joinder is impracticable; (b) there are questions of law and fact common to the proposed Settlement Classes; (c) Plaintiffs' claims present issues that are typical of the proposed Settlement Classes; (d) Plaintiffs and Class Counsel (as defined below) will fairly and adequately represent and protect the interests of the Proposed Settlement Classes. The Court further preliminarily finds that with respect to Settlement Class I, The Home City Ice Company has acted on grounds that apply generally to Settlement Class I, so that final injunctive relief is appropriate respecting Settlement Class I as a whole. The Court further preliminarily finds that with respect to Settlement Class II, issues of law and fact common to Proposed Settlement Class II predominate over any issues affecting only individual members of the Proposed Settlement Class II and that settlement of this action with respect

to Defendant Home City Ice Company is superior to other means available for fairly and efficiently adjudicating the controversy.

4. **Class Counsel and Class Representatives:** This Court appoints Wild Law Group PLLC as Class Counsel for the Proposed Settlement Classes, and Plaintiffs Lawrence J. Acker, Rich Aust, Brian W. Buttars, Nathan Croom, Robert DeLoss, James Feeney, Lehoma Goode, Ian Groves, Beverly Herron, Ainello Mancusi, Ron Miastkowski, Brandi Palombella, Karen Prentice, Brian Rogers, Patrick Simasko, John Spellmeyer, Wilton E. Spencer, Jr., Wayne Stanford, Joe Sweeney and Samuel Winnig as the Class Representatives for the Proposed Settlement Classes.

5. **Proposed Allocation Plan:** The Court preliminary approves the proposed allocation plan set forth in the Short Form and Long Form notices, and the Proposed Website, as annexed to the Supplement as Exhibits 2-4 (ECF No. 533, Exs.2-4).

6. **Claims Process:** The Court approves the Claim Form annexed to the Supplement as Exhibit 5 (ECF No. 533, Ex. 5) for use in mailing. An identical Claim Form may be used for on-line claims and on-line submission of claims is permitted. The claims process shall begin by February 15, 2017 and continue at least until May 17, 2017. Rust Consulting is approved as the Settlement administrator.

7. **Notice:** The Court approves the Short Form notice (the “Short Form notice”) and Long Form notice (the “Long Form notice”; collectively, the “Notices”) annexed as Exhibits “2” and “3”, respectively, to the Supplement (ECF No. 533, Exs. 2, 3), and the website layout reflected in the pages annexed as Exhibit “4” to the Supplement (ECF No. 533, Ex. 4). The Court finds the following manner of publication of the Notices constitutes the best practicable notice under the circumstances as well as, valid, due and sufficient notice to all persons entitled thereto and complies fully with the requirements of Federal Rule of Civil Procedure 23 and the due process requirements of the United States Constitution:

- a. By February 15, 2017, and before the Short Form notice is mailed and published, Class Counsel shall cause the website to go live, including having the on-line claims process operational and posting the Long Form notice on the website.
- b. By February 15, 2017, Class Counsel are hereby directed to cause the Short Form notice to be published on one occasion in *Parade* magazine and a weekday edition of the *USA Today*.
- c. By February 15, 2017, Class Counsel is directed to cause to be mailed the Short Form notice to each claimant in the Arctic Glacier settlement made known to Class Counsel.

- d. By June 30, 2017, Class Counsel shall cause to be filed with the Clerk of this Court an affidavit or declaration of the person under whose general direction the publication and mailing of the Short Form notice was made, showing the publication and mailing were made in accordance with this Order.
- e. During the period after publication of the Short Form Notice and by May 17, 2017, Class Counsel shall cause an internet outreach program, described generally in ECF No. 529, Ex. 10, to be employed.

8. Final Fairness Hearing and Hearing on Class Counsel's Motion For Attorneys' Fees and Expenses: The Court will hold a Final Fairness Hearing on **July 11, 2017 at 11:00 a.m.** at the Theodore Levin United States Courthouse, 231 West Lafayette Blvd., Courtroom 737, Detroit, MI 48226, to determine the fairness, reasonableness and adequacy of the Proposed Settlement Agreement and whether the Proposed Settlement Agreement should be finally approved and judgment entered thereon. At the hearing, the Court will also consider whether to grant Class Counsel's Motion For Attorneys' Fees and Expenses. Any Settlement Class member who follows the procedures set forth in this Order and the Long Form notice may appear and be heard at this Hearing. The Hearing may be postponed or continued without further notice to the proposed Settlement Classes.

9. **Requests for Exclusion From Proposed Settlement Class II:** All requests for exclusion from proposed Settlement Class II, as more fully explained in the Long Form notice, shall be postmarked no later than **May 17, 2017**, and shall also comply with the requirements set forth in that Long Form notice. Settlement Class I members cannot exclude themselves from Settlement Class I.

10. **Objections:** Any member of Settlement Class I may object to any part of the settlement that impacts the rights of Settlement Class I members. Any Settlement Class II member may object to any part of or the entire settlement. Anyone who excludes himself or herself from Settlement Class II may object only to any part of the settlement that impacts the rights of Settlement Class I members because he or she is also a member of Settlement Class I. Any Settlement Class member may object to Class Counsel's Motion For Attorneys' Fees and Expenses.

11. Any objections must be in writing and postmarked no later than **May 17, 2017** and include the name of this litigation (*In re Packaged Ice Antitrust Litigation*, No. 08-md-1952 (PDB) (E.D. Mich.)) and the objector's signature. Copies of any objection must be postmarked no later than **May 17, 2017** and mailed to the addressees at the following addresses:

12.

Court	Class Counsel	Defense Counsel
Clerk of Court United States District Court for the Eastern District of Michigan 231 West Lafayette Blvd, 5th Floor Detroit, Michigan 48226	Matthew S. Wild Wild Law Group PLLC 2590 Aaron Lane Winston Salem, NC 27106	Michael A. Roberts Graydon Head & Ritchey LLP 312 Walnut Street, Suite 1800 Cincinnati, OH 45202

Any objector (with an attorney at his or her own expense or without an attorney) who wants to speak at the hearing to approve the Proposed Settlement or Class Counsel's Motion For Attorneys' Fees and Expenses must send a letter stating his or her intention to appear to the three addressees listed above. The letter must provide the objector's name, address, telephone number, signature, and identify an *indirect* purchase of Packaged Ice from a Defendant or a subsidiary or affiliate of a Defendant from January 1, 2001 to March 6, 2008. Notice of intention to appear must be received at the three addresses above no later than **June 30, 2017**. Settlement Class members do not need to appear at the hearing. Settlement Class members may also choose to object without appearing at the hearing.

13. **Motion for Final Approval:** Class Counsel shall file with the Court their motion for final approval of the Proposed Settlement Agreement no later than **June 7, 2017**.

14. **Motion for Attorneys' Fees and Expenses:** Class Counsel shall file with the Court their motion for attorneys' fees and expenses no later than **May 3, 2017**.

15. **Payment of Certain Costs:** The Court finds that the account set forth in the Proposed Settlement Agreement is a qualified settlement fund ("QSF") pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder. Class Counsel are, in accordance with the Proposed Settlement Agreement, authorized to expend up to \$650,000 from the QSF for expenses associated with notice, claims generation, settlement administration, and bank or brokerage fees. Class Counsel are also, in accordance with the Proposed Settlement Agreement, authorized to pay expenses associated with taxation matters (including bank fees incurred for wire transfers) incurred in relation to the QSF, including for such matters as securing taxation advice, preparation and filing of appropriate tax returns and payments of tax liabilities, from the QSF (except that no such amounts shall exceed \$2,500 more than any aggregate income earned or that has been earned by the QSF).

16. **Cooperation:** Counsel for the parties are hereby authorized to jointly use reasonable procedures in connection with approval and administration of the Settlement that are not inconsistent with this Order or the Settlement Agreement, including making, without further approval of the Court, minor changes to the

form or content of the Notices, and other exhibits that they jointly agree are reasonable or necessary. **Class counsel shall advise this Court in writing, prior to implementing such changes, of any changes to the Notices and Exhibits that are approved in this Order.**

17. **Use of Order:** Under no circumstances shall this Order be construed, deemed or used as an admission, concession or declaration by or against The Home City Ice Company of any fault, wrongdoing, breach or liability. Nor shall this Order be construed, deemed or used as an admission, concession or declaration by or against the named Plaintiffs or the Proposed Settlement Classes that their claims lack merit or that the relief requested is inappropriate, improper or unavailable, or as a waiver by any party of any defenses or claims he, or she may have. Neither this Order, nor the Proposed Settlement Agreement nor any other settlement documents, shall be offered or received in evidence or otherwise used in this or any other action or proceeding or in any arbitration, except to consummate or enforce the Proposed Settlement Agreement or terms of this Order.

IT IS SO ORDERED

s/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: December 7, 2016

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 7, 2016.

s/Deborah Tofil

Deborah Tofil

Case Manager (313)234-5122