

# EXHIBIT “F”

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## **Confidential Class Action Settlement with Daily Harvest and Stone Gate Foods Proposed Allocation Model French Leek and Lentil Crumbles with Tara in 2022**

There are four defendants in this action, Daily Harvest, Stone Gate Foods, Smirk's, and Molinos. Based on information collected through discovery, we have learned that Daily Harvest has \$17,000,000 in insurance coverage, and Stone Gate has \$5,999,000 in insurance coverage to cover plaintiff's claims. Only Daily Harvest and Stone Gate have thus far engaged in mediation of the claims.

A partial settlement with Daily Harvest and Stone Gate is being considered where, in exchange for releases of Daily Harvest and Stone Gate, Daily Harvest and Stone Gate would agree to tender the entire amount of their combined insurance (approximately \$22,999,000) toward paying the claims of the injured parties. At the same time, Daily Harvest and Stone Gate will assign their contractual indemnity claims against Smirk's and Molinos to plaintiff. Plaintiff's claims against Smirk's and Molinos would be preserved and the current litigation against them would continue.

Under this proposal, a Settlement Administrator would be appointed by the court to administer the distribution of funds among those injured. Here, the approximately \$22,999,000 in proposed settlement money ("Settlement Fund"), minus the initial hold back amount, if any, and administrative fees, would be separated into multiple categories (see below) with the goals of ensuring that: (a) every claimant can reliably count on a base level of compensation with potential enhancements; and (b) the Settlement Administrator has a significant amount of money to award enhancements to claimants at his discretion. Under this proposal, a claimant is eligible to receive awards from the multiple categories listed below, as well as an enhancement from the Settlement Administrator.

The Settlement Administrator's fees and expenses (*e.g.*, Notice and Class Administration) will be paid out of the Settlement Fund up to a limit of \$459,980. If more than \$459,980 is deemed necessary, the Settlement Administrator will bill Marler Clark Inc., PS., which will be solely responsible for paying those costs.

Again, this would be a partial settlement as it involves money coming from only two of the four defendants, namely Daily Harvest and Stone Gate. In short, a settlement with Daily Harvest and Stone Gate does not end the litigation. It will,

however, provide those injured with some intermediate and more immediate monetary relief.

## **Categories**

### **Category 1: \$500,000**

1A: This category will be used to compensate equally those claimants on a prorated bases (not to exceed \$500 each) who suffered consequential monetary damages arising from or related to another person's personal injuries arising from consumption of French Leek and Lentil Crumbles with tara in 2022.

1B: This category will be used to compensate equally those claimants on a prorated basis (not to exceed \$1,000 each) whose personal injury illness is verified to be causally related to the consumption of French Leek and Lentil Crumbles with tara in 2022 but did not receive medical treatment. Any unused amount will be utilized in Category 5.

### **Category 2: \$4,335,000**

This category will be used to compensate equally the approximately 289 claimants whose personal injury illness is verified to be causally related to the consumption of French Leek and Lentil Crumbles with tara in 2022 and who received medical treatment but were not hospitalized (estimated to be \$15,000 gross each). In addition, these claimants would be eligible for a Settlement Administrator enhancement as provided in Category 5. Any unused amount will be utilized in Category 5.

### **Category 3: \$5,580,000**

This category will be used to compensate equally the approximately 186 claimants whose personal injury illness is verified to be causally related to the consumption of French Leek and Lentil Crumbles with tara in 2022 and were hospitalized (estimated to be \$30,000 gross each). To qualify for this category, the claimant must have been admitted to a hospital. ER visits do not qualify. In addition, these claimants would be eligible for a Settlement Administrator enhancement as provided in Category 5, including, but not limited to an enhancement for the

number of days of hospitalization. Any unused amount will be utilized in Category 5.

**Category 4: \$4,200,000**

This category will be used to compensate equally the approximately 42 cholecystectomy claimants whose personal injury illness is verified to be causally related to the consumption of French Leek and Lentil Crumbles with tara in 2022 (estimated to be \$100,000 gross each). In addition, these claimants would receive a Category 3 award (for a total award of \$130,000 gross) and would be eligible for a Settlement Administrator enhancement, including, but not limited to an enhancement for the number of days of hospitalization. Any unused amount will be utilized in Category 5.

**Category 5: \$7,885,000**

This is the Settlement Administrator's discretionary category. This category will be used to pay any category 2, 3 or 4 shortfalls, if any. Based on the evidence submitted, he may enhance awards for any claimant whose injury is verified to be causally related to the consumption of French Leek and Lentil Crumbles with tara in 2022. It is agreed that the following are factors, among others, that merit consideration for enhancement, but do not require enhancement for any given claim (listed in no order of priority or gravity):

- Proof of consumption and documentation of an injury
- Any causally related invasive procedure, e.g., ERCP (endoscopic retrograde cholangiopancreatogram) or liver biopsy
- Number of days of hospitalization
- Any causally related complication of hospitalization that extended care needs post-hospitalization, e.g., wound infection, severe disruption of GI function
- Chronic physical or mental symptoms causally related to illness documented by MD or DO
- Causally related miscarriage documented by MD or DO and related damage
- Other documented factors
- To correct errors or omissions in scoring the above categories

There will be no awards for punitive damages or loss of consortium.

The estimated amounts per claim in categories 2 to 4 are the best estimates available based upon the anticipated number of claims. If there are materially more claims than expected, then the awards in categories 2 through 4 will be ratably reduced.

All claimants agree to present claims to the Settlement Administrator using a universal submission form that may be supplemented by claimants' counsel.

Following the assessment of enhancement awards by the Settlement Administrator, claimants' counsel shall have 20 days to appeal to the Settlement Administrator for increased awards to specific clients. The Settlement Administrator will then issue final, binding awards.