

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
TACOMA DIVISION

EVAN BROWN, Individually and on Behalf  
of All Others Similarly Situated,

Plaintiff,

v.

PAPA MURPHY'S HOLDINGS, INC. and  
WELDON SPANGLER,

Defendants.

Case No. 19-cv-05514-BHS

FINAL JUDGMENT AND ORDER OF  
DISMISSAL WITH PREJUDICE

1 This matter came before the Court for hearing pursuant to the Preliminary Approval Order  
2 dated January 11, 2022, on the application of the Settling Parties for approval of the Settlement  
3 set forth in the Stipulation of Settlement dated November 29, 2021 (the “Stipulation”).

4 WHEREAS, this Order of Dismissal is “with prejudice”;

5 WHEREAS, due and adequate notice has been given to the Settlement Class as required  
6 in the Preliminary Approval Order;

7 WHEREAS, the Court conducted a hearing on May 2, 2022, at 11:00 a.m. to consider,  
8 among other things: (i) whether the terms and conditions of the Settlement are fair, reasonable,  
9 and adequate, and should therefore be approved, and (ii) whether a judgment should be entered  
10 dismissing the Litigation with prejudice as against the Defendants;

11 WHEREAS, consistent with the Preliminary Approval Order, all Settlement Class  
12 Members had the opportunity to exclude themselves from the proposed Settlement Class; to  
13 object to the proposed Settlement; and to be heard with regard to the proposed Settlement,  
14 including by appearing and speaking at the hearing held on May 2, 2022; and

15 WHEREAS, the Court has considered all papers filed and proceedings held herein and  
16 otherwise is fully informed in the premises, and good cause appearing;

17 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

18 1. This Final Judgment and Order of Dismissal with Prejudice (“Order and Final  
19 Judgment”) incorporates by reference the definitions in the Stipulation, and all terms used herein  
20 shall have the same meanings as set forth in the Stipulation, unless otherwise set forth herein.

21 2. This Court has jurisdiction over the subject matter of the Litigation and over all  
22 Settling Parties to the Litigation, including all Settlement Class Members.

23 3. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby  
24 affirms its determinations in the Preliminary Approval Order and finally certifies for purposes of  
25 settlement only: (i) a Settlement Class defined as all record holders and all beneficial holders of  
26 Papa Murphy’s common stock who purchased, sold, or held such stock during the period from

1 and including April 25, 2019, the date of the Tender Offer and the date of filing of the Schedule  
2 14D-9, through and including May 22, 2019, the Expiration Time, including any and all of their  
3 respective predecessors, successors, trustees, executors, administrators, estates, legal  
4 representatives, heirs, assigns and transferees; (ii) Monteverde & Associates PC is certified as  
5 Lead Counsel and Breskin, Johnson & Townsend PLLC is certified as Liaison Counsel; and (iii)  
6 Lead Plaintiff is certified as the class representative. Excluded from the Settlement Class are: (i)  
7 Defendants; (ii) the Directors; (iii) each Supporting Stockholder, as that term is defined in the  
8 Recommendation Statement, who entered into a Tender and Support Agreement in connection  
9 with the Tender Offer; (iv) members of the immediate families of each of the Defendants,  
10 Directors, and Supporting Stockholders; (v) any entity in which any of the Defendants, Directors,  
11 or Supporting Stockholders has a controlling interest; (vi) the legal representatives, heirs,  
12 successors, administrators, executors, and assigns of any of the Defendants, Directors, and  
13 Supporting Stockholders; and (vii) any Persons or entities who properly exclude themselves by  
14 filing a valid and timely request for exclusion.

15 4. For purposes of settlement only, the Court hereby affirms its determinations in the  
16 Preliminary Approval Order and finds that the prerequisites for a class action under Rules 23(a)  
17 and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) Settlement Class  
18 Members are so numerous that joinder of all Settlement Class Members in the class action is  
19 impracticable; (b) there are questions of law and fact common to the Settlement Class which  
20 predominate over any individual questions; (c) the claims of the Lead Plaintiff are typical of the  
21 claims of the Settlement Class; (d) Lead Plaintiff and his counsel have fairly and adequately  
22 represented and protected the interests of the Settlement Class Members; and (e) a class action is  
23 superior to other available methods for the fair and efficient adjudication of the controversy,  
24 considering, (i) the interests of the Settlement Class Members in individually controlling the  
25 prosecution of the separate actions, (ii) the extent and nature of any litigation concerning the  
26 controversy already commenced by the Settlement Class Members, (iii) the desirability or

1 undesirability of concentrating the litigation of these claims in this particular forum, and (iv) the  
2 difficulties likely to be encountered in the management of the class action.

3 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court hereby  
4 approves the Settlement set forth in the Stipulation and finds that the Settlement is, in all respects,  
5 fair, reasonable, and adequate to the Settlement Class.

6 6. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the Court finds that  
7 the Settlement is fair, reasonable, and adequate as to each of the Settling Parties, and that the  
8 Settlement set forth in the Stipulation is hereby finally approved in all respects, and the Settling  
9 Parties are hereby directed to perform its terms.

10 7. Accordingly, the Court authorizes and directs implementation of the terms and  
11 provisions of the Stipulation, as well as the terms and provisions hereof. The Court hereby  
12 dismisses with prejudice and without costs, the Litigation and all claims contained therein, and  
13 the Released Claims, defined as any and all claims, rights and causes of action, duties, obligations,  
14 demands, actions, debts, sums of money, suits, contracts, agreements, promises, damages and  
15 liabilities, whether known or unknown, contingent or non-contingent, derivative or direct, or  
16 suspected or unsuspected, including any claims arising under federal or state statutory or common  
17 law or any other law, rule or regulation, whether foreign or domestic, that have been asserted,  
18 could have been asserted, or could be asserted in the future against defendants Papa Murphy's  
19 and Weldon Spangler ("Defendants"), MTY Food Group Inc. ("MTY"), and any and all of their  
20 related parties, including, without limitation, any and all of their current or former parents,  
21 subsidiaries, predecessors, successors, affiliates, divisions, investment funds, joint ventures and  
22 general or limited partnerships, and each of their respective current or former officers, directors,  
23 trustees, partners, members, contractors, auditors, principals, agents, managing agents,  
24 employees, attorneys, accountants, investment bankers, financial advisors, including without  
25 limitation North Point Advisors LLC, underwriters, insurers in their capacities as such, as well as  
26 each of the Defendants' immediate family members, heirs, executors, personal or legal

1 representatives, estates, beneficiaries, predecessors, successors and assigns (collectively,  
2 “Defendants’ Released Parties”), that arise out of or relate in any way to: (i) the Action and the  
3 allegations in the Action, (ii) the Tender Offer; or (iii) the Recommendation Statement.  
4 Notwithstanding the aforementioned, the following claims are explicitly excluded: all claims (1)  
5 related to the enforcement of this Settlement, and (2) between Defendants or Defendants’  
6 Released Parties, on the one hand, and their respective insurers on the other.

7 8. Upon the Effective Date hereof, and as provided in the Stipulation, without further  
8 action by anyone, Lead Plaintiff and each and every Settlement Class Member, in his, her, or its  
9 capacity as a purchaser, seller, or holder of Papa Murphy’s stock, and anyone claiming through  
10 or on behalf of any of them, shall be deemed to have, and by operation of this Order and Final  
11 Judgment shall have, fully, finally, and forever resolved, discharged, relinquished, released,  
12 waived, settled, and dismissed with prejudice any and all of the Released Claims (including,  
13 without limitation, Unknown Claims) against Defendants and each and all of Defendants’  
14 Released Parties, regardless of whether a Settlement Class Member executes and delivers a Proof  
15 of Claim and Release, except that claims relating to the enforcement of the Settlement shall not  
16 be released.

17 9. Upon the Effective Date hereof, and as provided in the Stipulation, without further  
18 action by anyone, Defendants shall be deemed to have, and by operation of this Order and Final  
19 Judgment shall have, fully, finally, and forever released, relinquished, and discharged Lead  
20 Plaintiff, each and all of the Settlement Class Members, and Plaintiff’s Counsel from all  
21 Plaintiff’s Released Claims (including, without limitation, Unknown Claims), and shall forever  
22 be enjoined from prosecuting such claims.

23 10. Upon the Effective Date hereof, and as provided in the Stipulation, without further  
24 action by anyone, Lead Plaintiff and each and every Settlement Class Member, in his, her, or its  
25 capacity as a purchaser, seller, or holder of Papa Murphy’s stock, and anyone claiming through  
26 or on behalf of any of them, shall be forever barred and enjoined from commencing, instituting,

1 asserting, maintaining, enforcing, aiding, prosecuting, or continuing to prosecute any action or  
2 proceeding in any forum (including, but not limited to, any state or federal court of law or equity,  
3 any arbitral forum, any tribunal, administrative forum, or the court of any foreign jurisdiction, or  
4 any other forum of any kind), any and all of the Released Claims (including, without limitation,  
5 Unknown Claims), against Defendants and each and all of Defendants' Released Parties,  
6 regardless of whether such Settlement Class Member executes and delivers a Proof of Claim and  
7 Release, except that claims relating to the enforcement of the Settlement shall not be released.

8       11. Upon the Effective Date hereof, and as provided in the Stipulation, without further  
9 action by anyone, Lead Plaintiff and each and every Settlement Class Member, in his, her, or its  
10 capacity as a purchaser, seller, or holder of Papa Murphy's stock, and anyone claiming through  
11 or on behalf of any of them, shall covenant or be deemed to have covenanted not to sue any of  
12 Defendants and Defendants' Released Parties with respect to any and all Released Claims  
13 (including, without limitation, Unknown Claims).

14       12. In accordance with the PSLRA as codified at 15 U.S.C. § 78u-4(f)(7)(A), (a) all  
15 obligations of any Defendant or Defendants' Released Party to any Settlement Class Member  
16 arising out of the Litigation are discharged, and (b) any and all claims for contribution arising out  
17 of the Litigation or any of the Released Claims (i) by any person or entity against Defendants or  
18 any of the Defendants' Released Parties, and (ii) by Defendants or any of the Defendants'  
19 Released Parties against any person or entity, other than as set out in 15 U.S.C. § 78u-  
20 4(f)(7)(A)(ii), are hereby permanently barred, extinguished, discharged, satisfied, and  
21 unenforceable.

22       13. The terms of the Stipulation and of this Order and Final Judgment shall be forever  
23 binding on Lead Plaintiff, all other Settlement Class Members (regardless of whether or not any  
24 individual Settlement Class Member submits a Proof of Claim and Release or seeks or obtains a  
25 distribution from the Net Settlement Fund), and Defendants, as well as their respective, heirs,  
26 executors, administrators, predecessors, successors, and assigns. Notwithstanding anything else

1 herein, the Settlement and this Judgment shall not be binding as to the Settlement Class Members  
2 listed on Exhibit A hereto (the “Opt-Out Shareholder List”), who submitted requests for exclusion  
3 from the Settlement Class.

4 14. The Escrow Agent shall maintain the Settlement Fund in accordance with the  
5 requirements set forth in the Stipulation. Defendants and Defendants’ Released Parties shall have  
6 no liability, obligation, or responsibility whatsoever for the administration of the Settlement or  
7 disbursement of the Net Settlement Fund.

8 15. The Notice given to the Settlement Class: (a) was implemented in accordance with  
9 the Preliminary Approval Order entered on January 11, 2022, (b) was the best notice practicable  
10 under the circumstances to all Persons entitled to notice of these proceedings and of the matters  
11 set forth therein, including the proposed Settlement set forth in the Stipulation, (c) was reasonably  
12 calculated under the circumstances to apprise Settlement Class Members of (i) the pendency of  
13 the Litigation; (ii) the effect of the proposed Settlement (including the releases contained therein);  
14 and (iii) their right to object to any aspect of the proposed Settlement, exclude themselves from  
15 the Settlement Class, and/or appear at the Final Approval Hearing, (d) was reasonable and  
16 constituted due, adequate, and sufficient notice to all persons and entities entitled to receive notice  
17 of the proposed Settlement, and (e) fully satisfied the requirements of Rule 23 of the Federal  
18 Rules of Civil Procedure, the requirements of due process, the requirements of the PSLRA, and  
19 all other applicable law and rules. The Court further finds that the notice provisions of the Class  
20 Action Fairness Act, 28 U.S.C. § 1715, were fully discharged. Therefore, it is determined that  
21 all members of the Settlement Class are bound by the Order and Final Judgment herein.

22 16. Separate orders shall be entered regarding the proposed Plan of Allocation and Lead  
23 Counsel’s motion for attorneys’ fees and expenses as allowed by the Court. Any plan of  
24 allocation submitted by Lead Counsel or any order entered regarding any attorneys’ fee and  
25 expense application shall in no way disturb or affect this Order and Final Judgment and shall be  
26 considered separate from this Order and Final Judgment.

1           17. Neither this Order and Final Judgment, the Stipulation, the Supplemental  
2 Agreement, nor any of their terms or provisions, nor any of the negotiations, discussions,  
3 proceedings connected thereto, nor any act performed or document executed pursuant to or in  
4 furtherance of the Stipulation or the Settlement: (a) is or may be deemed to be or may be used as  
5 an admission of, or evidence of, the validity of any of the allegations in the Litigation or of the  
6 validity of any Released Claim, or of any wrongdoing or liability of any Defendants or  
7 Defendants' Released Parties; or (b) is, or shall be deemed to be, or shall be used as an admission  
8 of any fault or omission of any Defendants or Defendants' Released Parties in any statement,  
9 release, or written documents issued, filed, or made; or (c) is or may be deemed to be or may be  
10 used as an admission of, or evidence of, any fault, liability, wrongdoing, negligence, or omission  
11 of any Defendants or Defendants' Released Parties in any civil, criminal, or administrative  
12 proceeding in any court, arbitration proceeding, administrative agency, or forum or tribunal in  
13 which any Defendants or Defendants' Released Parties are or become parties; or (d) is or may be  
14 deemed to be or may be used as an admission or evidence that any claims asserted by Lead  
15 Plaintiff lacked merit or that the amount recoverable was not greater than the Settlement Amount,  
16 in any civil, criminal, or administrative proceeding in any court, administrative agency, or other  
17 tribunal. Defendants, Defendants' Released Parties, Lead Plaintiff, Settlement Class Members,  
18 and their respective counsel may file the Stipulation and/or this Order and Final Judgment in any  
19 action that may be brought against them in order to support a defense or counterclaim based on  
20 principles of res judicata, collateral estoppel, release, good faith settlement, judgment bar or  
21 reduction or any other theory of claim preclusion or issue preclusion or similar defense or  
22 counterclaim. The Settling Parties may file the Stipulation and/or this Order and Final Judgment  
23 in any proceedings that may be necessary to consummate or enforce the Stipulation, the  
24 Settlement, or the Order and Final Judgment.

25           18. Without affecting the finality of this Order and Final Judgment in any way, this  
26 Court hereby retains continuing exclusive jurisdiction over: (a) implementation of this Settlement



1 and any award or distribution of the Settlement Fund, including interest earned thereon; (b)  
2 disposition of the Settlement Fund; (c) hearing and determining applications for attorneys' fees  
3 and expenses and interest in the Litigation; and (d) all Settling Parties hereto for the purpose of  
4 construing, enforcing, and administering the Stipulation.

5 19. The Court finds that during the course of the Litigation, the Settling Parties and  
6 their respective counsel at all times complied with the requirements of Federal Rule of Civil  
7 Procedure 11.

8 20. In the event that the Settlement does not become effective in accordance with the  
9 terms of the Stipulation, or the Effective Date does not occur, or in the event that the Settlement  
10 Fund, or any portion thereof, is returned to the Defendants as required under the terms of the  
11 Stipulation, then this Order and Final Judgment shall be rendered null and void to the extent  
12 provided by and in accordance with the Stipulation and shall be vacated and, in such event, all  
13 orders entered and releases delivered in connection herewith shall be null and void to the extent  
14 provided by and in accordance with the Stipulation.

15 21. Without further approval from the Court, the Settling Parties are hereby authorized  
16 to agree and to adopt such amendments or modifications of the Stipulation or any exhibits  
17 attached thereto to effectuate the Settlement that: (i) are not materially inconsistent with this  
18 Order and Final Judgment; and (ii) do not materially limit the rights of Settlement Class Members  
19 in connection with the Settlement. Without further order of the Court, the Settling Parties may  
20 agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

21 22. The Court directs immediate entry of this Order and Final Judgment by the Clerk  
22 of the Court.

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IT IS SO ORDERED.

DATED this 2nd day of May, 2022.



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BENJAMIN H. SETTLE  
United States District Judge

**EXHIBIT A – OPT-OUT SHAREHOLDER LIST**

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- Ron R. Schoeler and Shirley Schoeler (60 FRSH shares)