

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

**COUNTRY FRESH HOLDING
COMPANY, INC., *et. al.*¹**

Debtors.

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Case No.: 21-30574

Jointly Administered

**TRUSTEE'S *EXPEDITED* MOTION FOR ENTRY OF ORDER
APPROVING FORM AND MANNER OF NOTICE OF OBJECTION
DEADLINE FOR POSSIBLE PACA CLAIMANTS**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

***** Expedited consideration is requested as soon as the Court's calendar will allow.**

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU

¹ The Debtors in these Chapter 7 cases and the last four digits of each Debtors' taxpayer identification number are as follows: Country Fresh Holding Company Inc. (7822); Country Fresh Midco Corp. (0702); Country Fresh Acquisition Corp. (5936); Country Fresh Holdings, LLC (7551); Country Fresh LLC (1258); Country Fresh Dallas, LLC (7237); Country Fresh Carolina, LLC (8026); Country Fresh Midwest, LLC (0065); Country Fresh Orlando, LLC (7876); Country Fresh Transportation LLC (8244) CF Products, LLC (8404) Country Fresh Manufacturing, LLC (7839); Champlain Valley Specialty of New York, Inc. (9030); Country Fresh Pennsylvania, LLC (7969); Sun Rich Fresh Foods (NV) Inc. (5526); Sun Rich Fresh Foods (USA) Inc. (0429); and Sun Rich Fresh Foods (PA) Inc. (4661). The Debtors' principal place of business is 3200 Research Forest Drive, Suite A5, The Woodlands, TX, 77381.

WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

TO THE HONORABLE MARVIN ISGUR, UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Janet S. Northrup, the Chapter 7 Trustee (the “**Trustee**”) of the bankruptcy estate of Country Fresh Holding Company, Inc *et. al.* (“**Country Fresh**” or “**Bankruptcy Estates**”, or “**Debtors**”) Debtors in the above-styled Chapter 7 case (the “**Case**”), and files this *Motion to for Entry of Order Approving Form and Manner of Notice of Objection Deadline for Possible PACA Claimants* and would show the Court as follows.

Relief Requested

1. The Debtors’ businesses relied largely on delivery of fresh fruits and vegetables from vendors that qualify as PACA² licensees (“**PACA Vendors**”) subject to specific legislation affording the PACA Vendors unique rights.

2. The Court has ordered certain funds be escrowed for the payment of PACA Vendors. The Trustee intends to file a separate motion to pay all outstanding PACA claims existing against the debtors as of April 29, 2021 (the closing date of the sale of the Debtors’ assets) from these escrowed funds to finally resolve all PACA claims against the Bankruptcy Estates and to bar any further PACA claims against the Bankruptcy Estates. That motion will include a list of all outstanding PACA claims the Trustee seeks authority to pay and will seek to bar any further PACA claims against the Debtors.

3. To ensure notice to all possible PACA claimants, the Trustee will serve the forthcoming motion on all known PACA Vendors to the Debtors and on the parties on the list of

² Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §§ 499(a) *et seq.* (as modified from time, time, “**PACA**”).

unpaid debts filed by Debtors at Docket No. 761 in this case via first-class, U.S. mail, postage prepaid to the extent not served via ECF.

4. In addition, because the Trustee seeks to bar any further PACA claims against the Bankruptcy Estates via her forthcoming motion and to ensure that all potential PACA claimants receive notice of the motion and the objection deadline to that motion, the Trustee proposes the form of notice attached as **Exhibit “A”** (the “**Notice**”) to be published in the Wall Street Journal National Edition in addition to serving the motion on all known PACA Vendors to the Debtors and on the parties on the list of unpaid debts filed at Docket No. 761 (collectively, the “**Notice Procedure**”).

5. The Trustee believes that the Notice Procedures are the most effective and efficient manner to advise potential PACA claimants of the motion to finally resolve all PACA claims against the Debtors in this case.

Basis for Emergency Consideration

6. The Trustee holds approximately \$3.5 Million which was escrowed for the payment of PACA claims in this case. PACA claimants must be paid before these escrowed funds may be released. PACA claimants were given a deadline of July 9, 2021 to file pre-petition claims including asserting interest and attorneys’ fees. Conversion Order, Docket 719, para. 10. The Trustee has reviewed such claims and desires to pay valid PACA claimants as soon as possible given the facts and circumstances of this case, the amount of time that PACA claims have remain unpaid, and the potential for ongoing interest accrual. The Trustee asserts that emergency consideration by the Court is warranted so that all remaining PACA claims and issues may be dealt with as expeditiously as possible. Approval of the Notice Procedures is a threshold matter and the Trustee asserts should be accomplished as soon as possible.

7. Once the Notice Procedures are approved, the Trustee intends to file a motion that will address all outstanding PACA claims owed by the Debtors as of April 29, 2021 and bar any further PACA claims against the Bankruptcy Estates.

Relief Requested

8. The Trustee believes that the Notice Procedures are necessary to ensure that all potential PACA claimants are afforded the opportunity to submit any PACA claims against the Bankruptcy Estates and to finally resolve all outstanding PACA claims against the Bankruptcy Estates, so that the escrowed funds may be used to pay outstanding PACA claims.

WHEREFORE, the Trustee prays that the Court grant this Motion on an expedited basis and for such other relief as to which she may be entitled.

Dated: August 27, 2021.

Respectfully submitted,

/s/ Heather Heath McIntyre

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**ATTORNEYS FOR JANET S. NORTHRUP,
CHAPTER 7 TRUSTEE**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 27, 2021, a true and correct copy of the foregoing document has been served on (i) parties receiving ECF notice via ECF in the above-referenced case, and (ii) parties listed on the attached Master Service List via first-class, U.S. mail, postage prepaid to the extent not served via ECF;

/s/ Heather Heath McIntyre
Heather Heath McIntyre

EXHIBIT “A”

**NOTICE OF DEADLINE TO ASSERT PACA CLAIMS AGAINST COUNTRY FRESH,
SUN RICH FRESH FOODS, AND AFFILIATES**

Country Fresh Holding Company Inc., Country Fresh Midco Corp., Country Fresh Acquisition Corp., Country Fresh Holdings, LLC, Country Fresh LLC, Country Fresh Dallas, LLC, Country Fresh Carolina, LLC, Country Fresh Midwest, LLC, Country Fresh Orlando, LLC, Country Fresh Transportation LLC, CF Products, LLC, Country Fresh Manufacturing, LLC, Champlain Valley Specialty of New York, Inc., Country Fresh Pennsylvania, LLC, Sun Rich Fresh Foods (NV) Inc., Sun Rich Fresh Foods (USA) Inc., and Sun Rich Fresh Foods (PA) Inc. (collectively “Country Fresh”) filed for chapter 11 bankruptcy on February 15, 2021, which case was converted to one under chapter 7 on June 21, 2021 in the United States Bankruptcy Court for the Southern District of Texas (Case No. 21-30574).

If you believe you have a claim arising prior to April 29, 2021, to assert against Country Fresh pursuant to the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §§ 499(a) *et seq.* (“PACA”) you must file a written objection with the United States Bankruptcy Court for the Southern District of Texas to the pending *Trustee’s Motion for Authority (A) to Pay All Remaining Pre-Closing PACA Claims from the PACA Escrow Reserve, (B) to Release any Remaining Escrowed Funds to the Trustee and (C) for Related Relief* on or before _____, 2021. The objection must also include any invoices that you assert are unpaid along with corresponding proof of delivery of product and all other relevant documents demonstrating entitlement to payment.

If you fail to timely file a written objection, you will be absolutely barred, estopped, and enjoined from later asserting any claims pursuant to PACA against Country Fresh and you will not receive any distribution from the Country Fresh chapter 7 bankruptcy estates.