

THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE: §  
§  
COUNTRY FRESH HOLDING §  
COMPANY, INC., *et. al.*<sup>1</sup> § Case No.: 21-30574  
§  
Debtors. §  
§ Jointly Administered  
§

JOINT STIPULATION AND AGREED ORDER GRANTING AMENDED MOTION TO  
LIFT STAY AS TO INSURANCE ONLY  
(Related to Docket No.1006)

Janet S. Northrup, Chapter 7 Trustee of the above-referenced bankruptcy estate (the “Trustee”) and Malene Louis, Sauveur Louis, Sainforose Bernier, Jeanita Souffrant, Louise Marie Beaucejour, Bernard Presume, Jude Dominique, And Marie Dorvilier (the “Plaintiffs,” and together with the Trustee, the “Parties”) hereby enter into this stipulation and agreed order (the “Stipulation”) and agree as follows:

RECITALS

WHEREAS, On February 15, 2021 (the “Petition Date”), Country Fresh Holding Company, Inc *et. al.* (“Debtors”) filed a Voluntary Petition for Relief under Chapter 11 of the Bankruptcy Code. The Debtors operated as a debtor-in-possession from February 15, 2021, until June 21, 2021, when the Court entered its order of conversion to Chapter 7—*Order (I) Authorizing and approving the Conversion of the Chapter 11 Cases, (II) Extending the Designation Rights*

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<sup>1</sup>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.

*Period, and (III) Granting Related Relief* [Docket No. 719] (the “**Conversion Order**”). Thereafter, Janet S. Northrup was appointed as the Chapter 7 Trustee;

WHEREAS, prior to the Petition Date, the Plaintiffs commenced four civil lawsuits against Debtor Country Fresh of Pennsylvania, LLC in actions styled *Malene Louis v. Fedex Ground Package System, Inc. et al.*; *Sauveur Louis and Sainforose Bernier v. Fedex Ground Package System, Inc. et al.*; *Jeanita Souffrant, et al. v. Fedex Ground Package System, Inc. et al.*; and *Marie Dorvilier v. Fedex Ground Package System, Inc. et al.*; all pending in the Court of Common Pleas in Philadelphia County, PA under Consolidated Case No. 200600487 and in the case of Marie Dorvilier under Case No. 21020081 (the “**Philadelphia Lawsuits**”);

WHEREAS, since the Petition Date, the Philadelphia Lawsuits has been stayed by operation of the automatic stay pursuant to section 362 of the Bankruptcy Code;

WHEREAS, Plaintiffs assert certain of the Debtors’ insurance policies provide coverage applicable to the Philadelphia Lawsuits, including, but not limited to, underlying insurance policies with United States Fire Insurance Company with Policy Number 5068955538 and Markel American Insurance Company with Policy Number MKLM5EUL100137 and a commercial excess liability insurance policy with Everest National Insurance Company with Policy Number XC1EX00191-181 (collectively, the “**Policies**”);

WHEREAS, the Plaintiffs would like to proceed with the Philadelphia Lawsuits to execute, levy, and collect upon any judgment as may be obtained in the Philadelphia Lawsuits against the Debtor Country Fresh of Pennsylvania, LLC from proceeds of the Policies only, and not from any of the Debtors or their estates;

WHEREAS, the Parties have agreed to allow the Plaintiffs to modify the automatic stay pursuant to section 362 of the Bankruptcy Code, on the terms and conditions set forth in this

Stipulation, for the exclusive purpose of allowing the Plaintiffs to proceed solely against the proceeds of the Policies, and solely to the extent provided in this Stipulation.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, AND UPON APPROVAL BY THE BANKRUPTCY COURT OF THIS STIPULATION, IT IS HEREBY ORDERED THAT:**

1. The above recitals are incorporated by reference into this Stipulation with the same force and effect as if fully set forth hereinafter.

2. The automatic stay imposed by section 362 of the Bankruptcy Code is modified with respect to the Philadelphia Lawsuits, solely to the limited extent necessary to enable (a) the claims asserted in the Philadelphia Lawsuits to proceed to final judgment or settlement and (b) the Plaintiffs to recover any final judgment or settlement against Debtor Country Fresh of Pennsylvania, LLC solely from proceeds of the Policies, if any.

3. The Plaintiffs agree and acknowledge that: (a) any amounts recovered by the Plaintiffs by a final order or settlement in the Philadelphia Lawsuits as to Debtor Country Fresh of Pennsylvania, LLC are limited solely to proceeds from the Policies, if any, and not from the Debtors, their estates, or their successors and (b) as against Debtor Country Fresh of Pennsylvania, LLC, the Plaintiffs must prosecute the Philadelphia Lawsuits (and enforce any judgment obtained on account of the same) solely with respect to proceeds available from the Policies, if any.

4. Neither the Debtors, their estates, nor their successors shall be required to fund costs associated with (a) any self-insured retention or deductible liability, (b) any obligation to post any security or deposit with any non-debtor defendants or any insurance carrier pursuant to the terms of an applicable insurance policy, if any, or (c) any other costs of any kind, including, without limitation, attorneys' fees and expenses or amounts due for any non-debtor defendants' or

insurance carriers' claims based on indemnification obligations or applicable insurance policies, if any, against the Debtors, their estates, or their successors in the Philadelphia Lawsuits.

5. Any judgment(s) obtained by the Plaintiffs in the Philadelphia Lawsuits shall not be asserted as a claim in these chapter 11 cases.

6. The Plaintiffs shall not seek any recovery from the Debtors, their estates, or their successors for any amounts that may be awarded to the Plaintiffs in the Philadelphia Lawsuits.

7. The Plaintiffs shall file this Stipulation in the County Court, or any court in which the Philadelphia Lawsuits is then pending, after the approval by the Bankruptcy Court within ten (10) business days after the entry of this Stipulation.

8. By entering into this Stipulation, the Debtors are not waiving and will not be deemed to have waived any available rights, counterclaims, or defenses, including at law, equity, or otherwise, with respect to the Philadelphia Lawsuits.

9. Neither this Stipulation nor any negotiations and writings in connection with this Stipulation will in any way be construed as or deemed to be evidence of or an admission on behalf of either Party regarding any claim or right that such Party may have against the other Party.

10. Each of the Parties to this Stipulation represents and warrants that it is duly authorized to enter into and be bound by this Stipulation.

11. The attorneys for the Plaintiffs and the Trustee represent and warrant that the Plaintiffs and the Trustee have full knowledge of, and have consented to, this Stipulation and that the attorneys for the Plaintiffs and the Trustee have full authority to execute this Stipulation on behalf of the Plaintiffs and the Trustee.

12. Neither this Stipulation, nor any terms contained herein shall be offered in evidence in any legal proceeding or administrative proceeding among or between the Parties, other than as

may be necessary: (a) to obtain approval of and to enforce this Stipulation, (b) to seek damages or injunctive relief in connection therewith, or (c) to prove that the automatic stay has been modified to allow prosecution of the Philadelphia Lawsuits in accordance with the terms of this Stipulation.

13. The Bankruptcy Court retains exclusive jurisdiction with respect to any disputes arising from or other actions to interpret, administer, or enforce the terms and provisions of this Stipulation.

14. This Stipulation is subject to the approval of the Court and shall be of no force and effect unless and until an order approving the same is entered. If this Stipulation is not approved by the Court, it shall be null and void and shall not be referred to, or used for any purpose, by any of the Parties except as to this Paragraph 14.

15. This Stipulation shall not be modified, altered, amended, or vacated without written consent of the Parties hereto. Any such modification, alteration, amendment or vacation, in whole or in part, shall be subject to the approval of the Court.

16. This Stipulation contains the entire agreement by and between the Trustee and the Plaintiffs with respect to the subject matter hereof, and all prior understandings or agreements, if any, are merged into this Stipulation.

DATED: \_\_\_\_\_, 2021.

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HONORABLE MARVIN ISGUR,  
UNITED STATES BANKRUPTCY JUDGE

AGREED:

/s/ Margaret M. McClure

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*/s/ Heather Heath McIntyre*

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