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Monday, January 18, 2010 Last Update: 6:32 AM PT

Tyson Damages Capped at \$5 Million + Fees

By DAVID LEE

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(CN) - A federal judge signed off on a preliminary settlement of a class action charging Tyson Foods with falsely advertising that its chickens are raised without antibiotics. Tyson agreed to pay up to \$50 to anyone who bought poultry that was labeled antibiotic-free. Payments will be capped at \$5 million and do not include \$3 million in attorneys fees.


U.S. District Judge Richard D. Bennett, in Baltimore, granted preliminary approval for the settlement on Friday.

The plaintiffs say that since June 2007, in response to public demand for healthier, natural foods, Tyson embarked on a campaign to promote, label, and sell its chicken products as "raised without antibiotics" or "raised without antibiotics that impact antibiotic resistance in humans."

But the plaintiffs say that Tyson did inject its eggs with antibiotics and fed chickens feed containing antibiotics.

In a related case brought by Tyson's competitors, a court enjoined Tyson from making certain antibiotic-free claims, and in June of 2008, the U.S. Department of Agriculture similarly ordered Tyson to stop using the "raised without antibiotics" claim or any variation of it on its chicken labels.

Under the terms of the settlement, consumers have three ways to collect. Consumers who saved receipts can claim a refund of the actual purchase price up to \$50. Those without receipts can submit a sworn statement detailing the poultry they bought and receive up to \$10. Consumers who bought Tyson poultry at least once between June 2007 and April 2009 can receive a \$5 coupon toward purchase of additional Tyson products.

Class members who wish to exclude themselves from the settlement must do so in writing by April 19. A fairness hearing is set for May 7, to determine whether final approval of the settlement will be granted, whether the application for \$3 million in attorneys fees will be granted and whether requests for incentive awards for plaintiffs deposited in the litigation will be granted. 

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