

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE BROILER CHICKEN ANTTITRUST  
LITIGATION

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This Document Relates To:

*All End-User Consumer Plaintiff Actions*

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JOHN ANDREN,

Objector.

Case No. 1:16-cv-08637

Honorable Thomas M. Durkin

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**OBJECTOR ANDREN'S MOTION TO STRIKE OR OTHERWISE EXCLUDE  
CONSIDERATION OF, FOR THE PURPOSES OF DECIDING THE  
EUCP'S RENEWED FEE REQUEST, THE DECLARATIONS  
OF PROFS. FITZPATRICK (Dkt. 5048-1) AND KLONOFF (Dkt. 5050-1)**

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Objector John Andren respectfully moves for this court to strike the Declarations of Brian T. Fitzpatrick and Robert Klonoff (Dkts. 5048-1 and 5050-1)—at least for the purpose of deciding the End-User Consumer Plaintiffs (“EUCP”) attorneys’ fee award. In that alternative, Andren moves to have the opportunity to depose any expert the Court intends to rely upon in deciding EUCP counsel’s renewed fee motion.

The parties’ joint scheduling order permits Andren to file this motion, and it sets forth the schedule for any response and reply in subsequent weeks. Dkt. 6849. The joint scheduling order does not anticipate a separate hearing to resolve this motion, but Andren will argue his motion through counsel if it would assist the Court.

On October 5, 2023, counsel for Andren reached out to EUCP counsel to determine whether they would stipulate that the Court need not rely on these two declarations filed by other plaintiffs, in lieu of Andren filing this motion. In response to Andren’s inquiry, EUCP’s advised they “do not believe it is appropriate to stipulate what a court may or may not consider.”

WHEREFORE, for the reasons stated in the accompanying Memorandum, the declarations of Fitzpatrick and Klonoff should be stricken at least for the purpose of deciding EUCP counsel’s fee award because they are unhelpful, contrary to controlling law, commit serious methodological errors that make them unreliable and thus inadmissible under Rule 702, and are in any event legal opinion not admissible as expert testimony. Alternatively, Andren moves for the opportunity to depose any expert the Court intends to rely upon.

Dated: October 6, 2023

/s/ M. Frank Bednarz

M. Frank Bednarz, (ARDC No. 6299073)

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**CERTIFICATE OF SERVICE**

The undersigned certifies he electronically filed the foregoing Motion to Strike via the ECF system for the Northern District of Illinois, thus effecting service on all attorneys registered for electronic filing.

Dated: October 6, 2023

/s/ M. Frank Bednarz