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8 *Local Counsel for Plaintiff Westmoreland*
Employee Retirement Fund

10 **SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **COUNTY OF MARICOPA**

12 WESTMORELAND COUNTY
13 EMPLOYEE RETIREMENT FUND, a
14 public pension fund, individually and on
behalf of all others similarly situated,

15 Plaintiff,

16 v.

17 INVENTURE FOODS INC., a foreign
18 corporation, TERRY MCDANIEL,
individual, STEVE WEINBERGER,
19 individual, WILLIAM BLAIR &
20 COMPANY, L.L.C., a foreign limited
liability company, CANACCORD
21 GENUITY, a foreign corporation, and
22 ROTH CAPITAL PARTNERS, a foreign
partnership,

23 Defendants.

No. CV2016-002718

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
SETTLEMENT AND PROVIDING
FOR NOTICE**

(Assigned to the Honorable Randall
Warner)

24 WHEREAS, the parties to the above-entitled action (the "Litigation") entered into
25 a Stipulation of Settlement dated as of April 24, 2018 (the "Stipulation"), which is subject
26 to review by this Court and which, together with the Exhibits thereto, sets forth the terms

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1 and conditions for the Settlement of the claims alleged in the Litigation; and the Court
2 having read and considered the Stipulation and the accompanying documents; and the
3 parties to the Stipulation having consented to the entry of this Order; and all capitalized
4 terms used herein having the meanings defined in the Stipulation;

5 NOW, THEREFORE, IT IS HEREBY ORDERED, this ___ day of _____
6 2018, that:

7 1. The Court preliminarily finds that:

8 (a) the Settlement resulted from informed, extensive arm's-length
9 negotiations, including mediation under the direction of an experienced mediator, Robert
10 Meyer;

11 (b) the Settlement is sufficiently fair, reasonable, and adequate to warrant
12 providing notice of the Settlement to the Class; and

13 (c) the Class is certified solely for purposes of this Settlement, and the
14 Class, as defined in the Stipulation, consists of: "all Persons who purchased the common
15 stock of Inventure pursuant or traceable to Inventure's shelf registration statement on
16 Forms S-3 and S-3/A (Registration No. 333-196795), prospectus dated August 28, 2014,
17 and/or prospectus supplement dated September 11, 2014, issued in connection with
18 Inventure's secondary public offering of 4.1 million shares of common stock which closed
19 on or about September 14, 2014." Excluded from the Class are each of the Defendants,
20 their directors and officers; members of their immediate families; any entity in which a
21 Defendant has a controlling interest (but in the case of the Underwriter Defendants, only
22 such entities in which they have a majority ownership interest); any Person who timely
23 and validly requests exclusion from the Class; and the heirs, successors, and assigns of
24 any such excluded party. Notwithstanding the foregoing, the Class shall include any
25 investment company or pooled investment fund, including, but not limited to, mutual fund
26 families, exchange-traded funds, fund of funds and hedge funds, in which the Underwriter

1 Defendants, or any of them, have, has or may have a direct or indirect interest, or as to
2 which any Underwriter Defendant's affiliates may act as an investment advisor, but as to
3 which any Underwriter Defendant alone or together with any of its respective affiliates is
4 neither a majority owner nor the holder of a majority beneficial interest. The "Class
5 Period" means the period beginning on September 12, 2014 through and including April
6 23, 2015.

7 2. A hearing (the "Final Approval Hearing") is hereby scheduled to be held
8 before the **Honorable Pamela Gates (101 West Jefferson, Courtroom 912, Phoenix,**
9 **Arizona) on September 28, 2018 at 1:30 p.m.** for the following purposes:

10 (a) to finally determine whether this Litigation satisfies the applicable
11 prerequisites for class action treatment under Rule 23 of the Rules of Civil Procedure for
12 the Superior Courts of Arizona;

13 (b) to determine whether the proposed Settlement is fair, reasonable, and
14 adequate, and should be approved by the Court;

15 (c) to determine whether the Judgment as provided under the Stipulation
16 should be entered;

17 (d) to determine whether the proposed Plan of Allocation should be
18 approved by the Court as fair, reasonable and adequate;

19 (e) to consider Class Counsel's application for an award of attorneys'
20 fees and expenses;

21 (f) to consider Plaintiff's request for the payment of the time and
22 expenses they incurred in prosecuting this Litigation on behalf of the Class; and

23 (g) to rule upon such other matters as the Court may deem appropriate.

24 3. The Court reserves the right to approve the Settlement with or without
25 modification and with or without further notice to the Class and may adjourn the Final
26 Approval Hearing without further notice to the Class. The Court reserves the right to enter

1 the Judgment approving the Settlement regardless of whether it has approved the Plan of
2 Allocation, Class Counsel's request for an award of attorneys' fees and expenses and the
3 payment of time and expenses of Plaintiff in its representation of the Class.

4 4. The Court approves the form, substance and requirements of the Notice of
5 Proposed Settlement of Class Action (the "Notice"), the Proof of Claim and Release (the
6 "Proof of Claim") and the Summary Notice of Proposed Settlement of Class Action (the
7 "Summary Notice"), annexed hereto as Exhibits A-1, A-2 and A-3, respectively.

8 5. The Court approves the appointment of Angeion Group as the Claims
9 Administrator.

10 (a) The Claims Administrator shall cause the Notice and the Proof of
11 Claim, substantially in the forms annexed hereto, to be mailed, by first class mail, postage
12 prepaid, within twenty-one (21) calendar days of this Order, to all Class Members who
13 can be identified with reasonable effort, including through transfer and ownership records
14 from Inventure's secondary public offering which closed on or about September 14, 2014,
15 to be made available to the Claims Administrator by Defendants within ten (10) calendar
16 days after the entry of the Preliminary Approval Order.

17 (b) The Claims Administrator shall cause the Summary Notice to be
18 published once in the national edition of *Investor's Business Daily*, and once over the
19 *Business Wire*, within ten (10) calendar days after the mailing of the Notice.

20 6. Class Counsel shall, at least fourteen (14) calendar days before the Final
21 Approval Hearing, file with the Court and serve on Defendants' Counsel proof, by
22 affidavit or declaration, of such mailing of the Notice and publication of the Summary
23 Notice.

24 7. The form and content of the Notice and the Summary Notice, and the
25 method set forth herein of notifying the Class of the Settlement and its terms and
26 conditions, meet the requirements of Arizona law and due process, constitute the best

1 notice practicable under the circumstances, and shall constitute due and sufficient notice
2 to all persons and entities entitled thereto.

3 8. In order to be entitled to participate in the Net Settlement Fund, in the event
4 the Settlement is consummated in accordance with its terms set forth in the Stipulation,
5 each Class Member shall take the following actions and be subject to the following
6 conditions:

7 (a) Within one-hundred and twenty (120) calendar days after the entry of
8 the Preliminary Approval Order or such other time as set by the Court, each Person
9 claiming to be an Authorized Claimant shall be required to submit to the Claims
10 Administrator a completed Proof of Claim, substantially in a form contained in Exhibit A-
11 2 attached hereto, signed under penalty of perjury.

12 (b) Except as otherwise ordered by the Court, any and all Class Members
13 who fail to timely submit a valid Proof of Claim within such period, or such other period
14 as may be ordered by the Court or otherwise allowed, shall be forever barred from
15 receiving any payments or distribution pursuant to the Stipulation and from the Net
16 Settlement Fund, but will in all other respects be subject to and bound by the provisions of
17 the Stipulation, the releases contained therein, and the Judgment. A Proof of Claim shall
18 be deemed to be submitted when mailed, if received with a postmark indicated on the
19 envelope and if mailed by first-class or overnight U.S. Mail and addressed in accordance
20 with the instructions on the Proof of Claim Form. Notwithstanding the foregoing, Class
21 Counsel may, in its discretion, accept for processing late submitted claims so long as the
22 distribution of the Net Settlement Fund to Authorized Claimants is not materially delayed.

23 (c) As part of the Proof of Claim, each Class Member shall submit to the
24 jurisdiction of the Court with respect to the claim submitted, and shall (subject to
25 effectuation of the Settlement) release all Released Claims as provided in the Stipulation.
26

1 9. Class Members shall be bound by all determinations and judgments in this
2 Litigation, whether favorable or unfavorable, unless they request exclusion from the Class
3 in a timely and proper manner, as follows: A Class Member wishing to make such
4 request for exclusion shall, no later than thirty (30) calendar days prior to the date
5 scheduled herein for the Final Approval Hearing, mail a request for exclusion in written
6 form by first class mail postmarked to the Claims Administrator's address designated in
7 the Notice. Such request for exclusion shall be written, signed and contain the following
8 information: (i) name, address and telephone number of the person seeking exclusion; (ii)
9 number of shares purchased pursuant or traceable to the SPO; (iii) prices or other
10 consideration paid for such shares; (iv) the date of each purchase and sale transaction; and
11 (v) a statement that the Person wishes to be excluded from the Settlement. Members of the
12 Class may not exclude themselves by filing requests for exclusion as a group or class, but
13 must in each instance individually and personally execute the request. The request for
14 exclusion shall not be effective unless it is made in writing within the time stated above,
15 and the exclusion is accepted by the Court. Class Members requesting exclusion from the
16 Class shall not be entitled to receive any payment out of the Net Settlement Fund as
17 described in the Stipulation and Notice.

18 10. The Court will consider objections to the Settlement, the Plan of Allocation,
19 the payment of Plaintiff's time and expenses, and/or the award of attorneys' fees and
20 expenses. Any person wanting to object may do so in writing and/or by appearing at the
21 Final Approval Hearing.

22 (a) To the extent any person wants to object in writing, such objections
23 and any supporting papers, accompanied by proof of membership in the Class, shall be
24 filed with the Clerk of the Superior Court's Office, Maricopa County, Arizona, 201 W.
25 Jefferson St., Phoenix, AZ 85003, and copies of all such papers shall be served no later
26 than thirty (30) calendar days prior to the date scheduled herein for the Final Approval

1 Hearing, upon Kimberly Donaldson Smith, Chimicles & Tikellis LLP, 361 W. Lancaster
2 Avenue, Haverford, PA 19041, on behalf of Plaintiff and the Class.

3 (b) Persons who intend to object in writing to the Settlement, the Plan of
4 Allocation, or the request for an award of attorneys' fees and expenses and/or the request
5 for the payment of Plaintiff's time and expenses in representing the Class and desire to
6 present evidence at the Final Approval Hearing must include in their written objections
7 copies of any exhibits they intend to introduce into evidence at the Final Approval
8 Hearing. If an objector hires an attorney to represent him, her or it for the purposes of
9 making an objection, the attorney must both effect service of a notice of appearance on
10 counsel listed above and file it with the Court by no later than thirty (30) calendar days
11 prior to the date scheduled herein for the Final Approval Hearing. A Class Member who
12 files a written objection does not have to appear at the Final Approval Hearing for the
13 Court to consider his, her or its objection.

14 (c) Any Class Member who does not make his, her, or its objection in the
15 manner provided shall be deemed to have waived such objection and shall be foreclosed
16 from making any objection to the fairness or adequacy of the Settlement set forth in the
17 Stipulation, to the Plan of Allocation, and to the award of attorneys' fees and expenses to
18 Plaintiff's Counsel and Plaintiff for their time and expenses.

19 (d) In addition, upon the filing of an objection, Class Counsel may seek
20 leave of Court to take the deposition of the objecting Class member pursuant to the Rules
21 of Civil Procedure for the Superior Courts of Arizona at an agreed-upon time and
22 location, and to obtain any evidence relevant to the objection. Failure by an objector to
23 make himself or herself available for a deposition or comply with expedited discovery
24 may result in the Court striking the objection.

25 11. Defendants' counsel and Plaintiff's Counsel shall promptly furnish each
26 other with copies of any and all objections that come into their possession.

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12. All papers in support of the Settlement, the Plan of Allocation, and any application by Class Counsel for attorneys' fees and expenses and payment of Plaintiff's time and expenses shall be filed fourteen (14) calendar days prior to the deadline in paragraph 10 for objections to be filed. All reply papers shall be filed and served at least seven (7) calendar days prior to the Final Approval Hearing.

13. The Settlement Amount will be funded by certain of Inventure's insurers, as set forth in the Stipulation.

14. All funds held in the Settlement Fund by the Escrow Agent shall be deemed and considered to be *in custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to the Stipulation and/or further order(s) of the Court.

15. Pending final determination of whether the Settlement should be approved, Plaintiff, all Class Members, and each of them, and anyone who acts or purports to act on their behalf, shall not institute, commence, maintain or prosecute, and are hereby barred and enjoined from instituting, commencing, maintaining or prosecuting, any action in any court or tribunal that asserts any Released Claims against any Released Party.

16. All reasonable expenses incurred in identifying and notifying Class Members, as well as administering the Settlement Fund, shall be paid as set forth in the Stipulation. In the event the Settlement is not approved by the Court, or otherwise fails to become effective, neither Plaintiff nor any of its counsel shall have any obligation to repay any amounts actually and properly disbursed, or due and owing from the Settlement Fund as provided for in the Stipulation.

17. If any specified condition to the Settlement set forth in the Stipulation is not satisfied and Plaintiff or Defendants elect to terminate the Settlement, then, in any such event, the Stipulation, including any amendment(s) thereof, shall be null and void, of no further force or effect without prejudice to any party, and may not be introduced as

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evidence or referred to in any action or proceedings by any person or entity for any purpose, and each party shall be restored to his, her or its respective position as it existed on August 25, 2017.

18. The Court may adjourn or continue the Final Approval Hearing without further written notice.

19. The Court retains exclusive jurisdiction over the Litigation to consider all further matters arising out of or connected with the Settlement. The Court may approve the Settlement, with such modifications as may be agreed by the Settling Parties, if appropriate, without further notice to the Class.

IT IS SO ORDERED.

Dated: _____

HONORABLE RANDALL WARNER

eSignature Page 1 of 1

Filing ID: 9397433 Case Number: CV2016-002718
Original Filing ID: 9287534

Granted with Modifications



/S/ Randall Warner Date: 6/3/2018
Judicial Officer of Superior Court

ENDORSEMENT PAGE

CASE NUMBER: CV2016-002718

SIGNATURE DATE: 6/3/2018

E-FILING ID #: 9397433

FILED DATE: 6/6/2018 8:00:00 AM

ANNE M CHAPMAN

LAURA M KAM

LINCOLN COMBS