

NOTICE OF CLASS ACTION SETTLEMENT

Damien Monteleone v. The Nutro Company, et al.

Case No. 2:14-cv-00801-ES-JAD, United States District Court for the District of New Jersey, Newark Division

ATTENTION ALL PERSONS WHO PURCHASED ULTRA™ BRAND DRY DOG KIBBLE PRODUCTS AND/OR ULTRA™ BRAND DOG BISCUIT PRODUCTS WITH A GUARANTEED ANALYSIS REFERENCING *BACILLUS*

A Federal Court has ordered distribution of this notice in connection with the settlement of a class action. This is not a solicitation.

THE ACTION AND THE SETTLEMENT. This Notice concerns a proposed settlement of a class action lawsuit filed against THE NUTRO COMPANY and MARS, INCORPORATED (“Defendants”). The lawsuit alleges that Defendants violated the law by labeling and selling Nutro’s Ultra™ brand dry dog kibble (between April 1, 2007 and June 30, 2009) and/or Ultra™ brand dog biscuits (between April 1, 2007 and April 30, 2011) with a “Guaranteed Analysis” regarding the amount of *Bacillus* Species contained therein. Plaintiff believes he has viable claims, both individually and on behalf of a nationwide class of consumers (excluding California consumers), against Defendants and Defendants believe they have valid defenses. Notwithstanding, Plaintiff and Defendants (collectively the “Parties”) have agreed to settle the matter even though the Court has not held a trial or ruled in favor of either party on any disputed issues. It is important to note that notwithstanding the accuracy of the afore-mentioned *Bacillus* labeling, **at no time were animals ever harmed or at risk due to the presence or lack thereof of *Bacillus* in the dog food products at issue in this litigation.** Rather, the allegation (if proven true) would establish that an additive (a probiotic) was substantially missing from the dog food products.

WHO IS ENTITLED TO TAKE PART IN THE SETTLEMENT. If you reside in the United States (excluding residents of California) and purchased an Ultra™ brand dry dog kibble product (between April 1, 2007 and June 30, 2009) and/or an Ultra™ brand dog biscuit product (between April 1, 2007 and April 30, 2011) that contained a “Guaranteed Analysis” regarding the amount of *Bacillus* Species contained therein, you are a Class Member and a proposed class action settlement (“Settlement”) could affect your legal rights. You may be entitled to file a claim for a cash payment from a fund that will be created by the Settlement. This Notice is only a summary. You can obtain the full class action notice, which explains the Settlement and your rights under it, by visiting www.ultradogfoodsettlement.com. Without admitting liability, Defendants have agreed to provide Class Members (who do not opt out and who return a valid claim form establishing their class membership) with either a \$2.00 check or a \$5.00 Gift Certificate towards the purchase of Nutro dog food products (Class Members can also elect to donate their claim to charity). Nutro also has agreed to pay court-approved attorneys’ fees and expenses (in an amount *not to exceed* \$375,000.00) and a class representative incentive award (in an amount *not to exceed* \$5,000.00).

HOW TO MAKE A CLAIM. If you are a Class Member and wish to receive a settlement payment, you must fill out and submit a valid Claim Form. Claim Forms can be obtained or filled out online at the following website(s): www.ultradogfoodsettlement.com or www.nutro.com. This must be done no later than **October 18, 2015**.

FINAL JUDGMENT AND RELEASE OF ALL CLAIMS. If the Court approves the proposed settlement, it will enter a final judgment in the action on the merits as to all Class Members who do not request to be excluded from the Class. All Class Members who submit claims, and all Class Members who do not validly and timely request to be excluded from the proposed Settlement, shall be subject to a binding judgment. Such Class Members will be forever barred from bringing their own lawsuits and shall be deemed to have released Defendants and their agents from all claims, causes of action or losses of whatever kind or nature that were asserted or could have been asserted in the lawsuit listed in this notice or that arise from that lawsuit.

NOTICE OF SETTLEMENT APPROVAL HEARING. The United States District Court for the District of New Jersey, Newark Division, will hold a hearing on December 7, 2015 at 10:30 a.m., in the Martin Luther King Building & U.S. Courthouse, located at 50 Walnut Street, Newark, New Jersey 07101, to consider whether to grant final approval to the proposed Settlement and Class Counsel’s request for attorneys’ fees and costs, incentive awards to representative Plaintiffs, and certain settlement administration expenses. You have the right to appear at the hearing, although you do not have to. You may comment on, or object to, the terms of the proposed settlement by **October 18, 2015**. The full notice describes how to submit comments or objections.

TO EXCLUDE YOURSELF FROM THE SETTLEMENT. If you do not wish to participate in or be bound by the Settlement, you must exclude yourself as described in the full notice, by **October 18, 2015**, or you will be barred from prosecuting any legal action against Defendants related to the settled claims. If you exclude yourself, you may NOT file a claim and you will not receive any compensation under the Settlement. To view the full notice or fill out a Claim Form, please visit www.ultradogfoodsettlement.com or www.nutro.com.

DO NOT CONTACT THE COURT WITH QUESTIONS

YOU MAY GET MORE INFORMATION OR SUBMIT A CLAIM AT WWW.ULTRADOGFOODSETTLEMENT.COM