

NOTICE OF PROPOSED CLASS LITIGATION SETTLEMENT

Hawkins v. Kroger Co., Case No. 3:15-cv-2320-JM-AHG (S.D. Cal.)

United States District Court for the Southern District of California

**THIS NOTICE CONCERNS YOUR LEGAL RIGHTS.
PLEASE READ IT CAREFULLY.**

A federal court authorized this Notice. It is not a solicitation from a lawyer.

YOU ARE NOT BEING SUED.

IF YOU ARE A CALIFORNIA RESIDENT WHO purchased, in California, Kroger Bread Crumbs, between January 1, 2010 and before December 31, 2015 (the “Class Period”), for personal or household use and not for resale or distribution, **YOU MAY BE ENTITLED TO A CASH PAYMENT.**

This settlement resolves a lawsuit against The Kroger Company (“Kroger” or “Defendant”) alleging that Kroger Bread Crumbs were falsely advertised.

Kroger denies the allegations and any wrongdoing. Nonetheless, it has agreed to settle to avoid the cost and uncertainty of litigation. The parties have reached a settlement that provides a payment in exchange for a waiver and release of your claims. By participating in the settlement, you waive and release any claims against Kroger concerning the marketing and labeling of Kroger Bread Crumbs.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM BY SEPTEMBER 20, 2021	The only way to get a monetary payment. Postmark or submit your claim form online.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY SEPTEMBER 20, 2021	If you ask to be excluded, you will not get a settlement payment. You also will not be bound by this case and keep any right you might have to sue related to the claims in this lawsuit.
OBJECT OR COMMENT BY SEPTEMBER 20, 2021	You may file a written objection no later than September 20, 2021 and/or appear at the final approval hearing to tell the Court why you believe the proposed settlement is unfair, unreasonable, or inadequate. If you ask to be excluded, you cannot also file an objection.
DO NOTHING	If you do nothing, you will receive no portion of the settlement fund and, if the settlement is approved, you will also give up any right you may have to sue regarding any claims that are part of the settlement.

- These rights and options, and the deadlines to exercise them, are further explained in this notice.
- The Court is in charge of this litigation and still has to decide whether to approve the settlement. The settlement benefits will be paid as soon as possible after the Court approves the settlement and after any appeals are resolved.
- If you have any questions, then please read on and visit www.KBCLawsuit.com.

1. Why did I receive this notice?

If you are a California resident who purchased Kroger Bread Crumbs in any packaging size or iteration during the Class Period, for personal or household use and not for resale or distribution, then you should know about a settlement in this class action and your options.

You also may have received this notice because you requested more information after reading the summary notice about the settlement.

If the Court approves the settlement, and any objections and appeals are resolved, an administrator approved by the Court will distribute settlement payments.

This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is this lawsuit about?

The lawsuit alleges that Kroger Bread Crumbs were falsely advertised as containing “0g Trans Fat.”

Kroger denies these allegations, and the Court has made no decision on their merit.

3. What is a class action and who is involved?

In a class action lawsuit, one or more people, called class representatives (in this case Shavonda Hawkins) represent the interests of similarly situated people who have the same claims, but have not filed a lawsuit. Together these people are a class. The person who filed the lawsuit is called the plaintiff and class representative. The company they sue is called the defendant. One court resolves the issues for everyone in the class – except for those people who choose to exclude themselves from the class.

4. Why is there a proposed settlement?

The Court has not decided in favor of either side. Kroger denies all allegations in the lawsuit. Kroger is settling simply to avoid the expense, inconvenience, and inherent risk of litigation, as well as the related disruption to its business. The plaintiff and her attorneys assert that the proposed settlement is in the best interests of the class because it provides an appropriate recovery now while avoiding the risk, expense, and delay of pursuing a lawsuit through trial and any appeals. There would be no guarantee of success for either side if the lawsuit were pursued through trial and any appeals, but both sides would have to deal with expenses and delays.

5. How Do I Know If I Am Part of the Proposed Settlement?

You are a part of the settlement class if you are a California resident who purchased in California Kroger Bread Crumbs during the Class Period of January 1, 2010 to December 31, 2015. The product must have been purchased for personal or household use and not for resale or distribution.

You are not a part of the settlement class if you are (1) any judicial officer presiding over the lawsuit, (2) officers, directors, and employees of Kroger, or (3) any person who properly executes and files a timely request for exclusion.

If you are unsure whether you are included in the settlement class, you can go to www.KBCLawsuit.com, or you can call 1-833-427-8627, and ask for free help.

THE PROPOSED SETTLEMENT BENEFITS

6. What does the proposed settlement provide?

Settlement Fund

The proposed settlement will provide for \$780,000.00 to be paid into a settlement fund. Notice and administrative expenses of \$79,635 are to be paid out of this \$780,000 settlement fund. The remaining \$700,365 will be split between individuals who submit valid claim forms.

Payments to settlement class members who submit a valid claim form

Settlement class members who submit a timely and valid claim will receive an estimated \$17.50 total if their claims are not documented by receipts, and up to \$100 if documented by receipts.

The amount will be adjusted upward or downward so the whole amount is paid out to class members who submit valid claims.

Class members who submit valid claims, but who do not cash the settlement check within 90 days, will have the funds donated to the American Heart Association. In addition to these unclaimed funds, Kroger will make a separate donation of \$21,000 to the American Heart Association.

Incentive Award to the Plaintiff

Subject to Court approval, class counsel is seeking a \$7,000 incentive award for the class representative, Shavonda Hawkins.

HOW TO GET A PAYMENT- SUBMITTING A CLAIM FORM

7. How can I obtain a portion of the settlement?

Settlement class members who wish to receive a portion of the settlement fund must fully complete and submit a claim form, along with any supporting documentation, September 20, 2021.

You can obtain a claim form on the internet at www.KBCawsuit.com

Read the instructions carefully, fully complete the form, and submit it online at www.KBCLawsuit.com.

Alternatively, you may submit your claim form by mailing it to the following address:

Kroger Bread Crumbs Litigation
c/o Classaura Class Action Administration
1718 Peachtree St NW #1080,
Atlanta, GA 30309

8. How Can I Obtain a Claim Form?

You can obtain a claim form in one of three ways:

- i. Online: You can make a claim entirely online. Most people use this method. You can also download and print out a claim form at www.KBCLawsuit.com.
- ii. By phone: Call toll-free, 1-833-427-8627 to arrange for a claim form to be sent to you by either U.S. mail or e-mail.
- iii. By U.S. Mail: You may write to Kroger Bread Crumbs Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309. Be sure to include your name and mailing address.

YOUR RIGHTS AND CHOICES - EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT

If you do not want to receive the settlement payment and wish to preserve the right you may have to sue about the labeling of Kroger Bread Crumbs on your own, then you must take affirmative steps to opt out of the settlement.

9. How do I exclude myself from the settlement?

To exclude yourself from the settlement class, you must either: (1) send a written request for exclusion that must be received no later than September 20, 2021 to: Kroger Bread Crumbs

Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309, or (2) submit a request for exclusion online through the settlement website.

Your Request for Exclusion must contain: (1) the name of the lawsuit, *Hawkins v. Kroger Co.*, Case Number 3:15-cv-2320-JM-AHG”; (2) your full name, current address, and telephone number; (3) a clear statement of intention to exclude yourself such as “I wish to be excluded from the Settlement Class”; and (4) your signature. You may also get an exclusion request form at www.KBCLawsuit.com. You cannot exclude yourself by telephone or by e-mail.

Your request for exclusion must be on behalf of yourself. You may not include multiple persons on a single request for exclusion.

If you ask to be excluded, you will not get a settlement payment and cannot object to the settlement. You may be able to sue (or continue to sue) Kroger in the future.

10. If I don’t exclude myself, can I sue Kroger later?

If you do not properly and timely submit a Request for Exclusion, you waive your right to opt out, you will be deemed to be a member of the settlement class, you give up any right you may have to sue for the claims the settlement resolves, and you will be bound by the terms of the settlement agreement. If you have a pending lawsuit against Kroger, other than this lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this settlement class to continue your own lawsuit. Remember, any request for exclusion must be signed, mailed, and postmarked or submitted online by no later than September 20, 2021. Excluded from the settlement and release is anything to do with a personal injury claim.

11. If exclude myself, can I get a payment from the settlement fund?

No. If you exclude yourself, you will not receive a payment from the settlement fund.

YOUR RIGHTS AND CHOICES - OBJECTING TO THE PROPOSED SETTLEMENT

12. How do I tell the court that I object to the settlement?

If you are a member of the Class, you may object to the settlement. In doing so, you must give reasons why you think the Court should not approve it, and the Court will consider your views.

The objection must contain the following:

- (i) a reference, to the name and number of the lawsuit, which is *Hawkins v. Kroger Co.*, Case Number 3:15-cv-2320-JM-AHG;
- (ii) your full, legal name, residential address, telephone number, and email address (and your lawyer’s name, business address, telephone number and email address if you are objecting through counsel);

- (iii) a statement describing your membership in the settlement class, including a verification under oath as to the time and place of your purchase, and name of the retailer from whom you purchased Kroger Bread Crumbs;
- (iv) a written statement of all grounds for the objection, accompanied by any legal support for such objection;
- (v) copies of any documents upon which the objection is based and exhibits you will offer at the final approval hearing;
- (vi) a statement of whether you intend to appear at the final approval hearing, and if you are objecting through counsel, you must also state the identity of all attorneys who will appear at the final approval hearing on your behalf;
- (vii) a list of any other objections you or your counsel have submitted to class actions, whether in state or federal court, in the previous two years; and
- (viii) your signature.

If you do not have access to Electronic Case Filing (“ECF”), your objection must be signed and submitted to the Court, along with any supporting documents, so that it is received no later than September 20, 2021 by the Court. Information on how to file case documents is at the Court website at www.casd.uscourts.gov.

A copy of your objection ***must*** also be signed and mailed, along with any supporting documents to the settlement administrator and each of the following two addresses, so that it is ***received by*** September 20, 2021.

Class Counsel

Gregory S. Weston
THE WESTON FIRM
1405 Morena Blvd., Suite 201
San Diego, CA 92110
Email: greg@westonfirm.com

Counsel for The Kroger Company.

Jacob M. Harper
DAVIS WRIGHT TREMAINE, LLP
865 South Figueroa St., Suite 2400
Los Angeles, CA 90017
Email: jharper@dwt.com

13. What’s the difference between objecting and excluding?

Objecting is explaining to the Court why it should deny approval to the settlement, while keeping you a part of the Class.

Excluding yourself simply removes you from the Class. If you exclude yourself, you will not be eligible to file an objection or to appear at the final approval hearing.

14. What happens if I do nothing at all?

If you do nothing, you will get no payment from the settlement fund. But unless you timely excluded yourself, you also will not be able to start a new lawsuit, continue with a lawsuit, or be part of any other lawsuit against Kroger about the subject matter of this lawsuit ever again.

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court has appointed The Weston Firm as legal counsel for the settlement class. The law firm is called Class Counsel.

16. How will the lawyers be paid?

Class Counsel has not yet received any payment for prosecuting this lawsuit, nor been reimbursed for expenses like expert witness and filing fees. When they ask the Court to approve the settlement, Class Counsel will also make a motion to the Court to approve and award fees and expenses of up to \$400,000. This amount, if the Court approves it, will be paid by the Defendant. No matter what the Court decides, the attorneys will not be asking you to pay them money. Class counsel will seek final approval of the settlement on behalf of all members of the settlement class. You may hire your own lawyer to represent you in this lawsuit if you wish, but it will be at your own expense.

THE COURT'S FINAL APPROVAL HEARING

17. When and where will the court decide whether to approve the settlement?

The Court overseeing this case will hold a final approval hearing at the federal courthouse located at the U.S. District Court for the Southern District of California, 221 W. Broadway, San Diego, CA 92101 in Courtroom 5D on November 15, 2021 to decide whether the settlement is fair, reasonable, and adequate, as well as to determine the amount of attorney fees and costs and incentive award. If there are objections, the Court will consider them at the final approval hearing. After the final approval hearing, the Court will decide whether to approve the settlement and whether to grant class counsel's request for fees and expenses. We do not know how long it will take the Court to make these decisions.

18. Do I Have to Come to the Hearing?

You are not required to attend the hearing, but you are welcome to attend at your own expense. If you support the settlement, the best way to show this is by submitting a valid claim for a settlement payment on the settlement website.

If you send an objection, you do not have to appear in Court to present it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

FINAL SETTLEMENT APPROVAL

19. What is the effect of final settlement approval?

If the Court grants final approval of the settlement and all appeals have been exhausted, the Released Parties (as defined in the Settlement Agreement) will be released of and from any and all claims asserted or which could have been asserted in the litigation, including all claims relating to the manufacturing, preparation, handling, distribution, advertising, marketing, packaging, sale, labeling, promotion, and ingredients of Kroger Bread Crumbs. Class Members' claims of a *personal injury* resulting from a defect in Kroger Bread Crumbs or their packaging are specifically not included in the Released Claims.

If the Court does not approve the settlement, this lawsuit will proceed as if no settlement had been attempted.

If the settlement is not approved and litigation resumes, there is no guarantee of payment to the settlement class.

GETTING MORE INFORMATION

20. Are there more details about the settlement?

This Notice is only intended to provide a summary of the proposed Settlement. You may obtain the complete text of the settlement agreement at www.KBCLawsuit.com.

The settlement website located at www.KBCLawsuit.com also has the settlement payment claim form, the request for exclusion form, and several of the key documents from the case such as the Class Action Complaint.

You may also contact the Settlement Administrator by email at: Contact@KBCLawsuit.com, or by writing to Kroger Bread Crumbs Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309.

PLEASE DO NOT CALL OR DIRECT ANY INQUIRIES TO THE COURT.

This notice is given with the approval and at the direction of the Court.