

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

IN RE: PET FOOD PRODUCTS LIABILITY LITIGATION

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X

Civil Action No. 07-2867 (NLH) (All Cases)
MDL Docket No. 1850

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT
AND FINAL FAIRNESS HEARING**

IF YOU PURCHASED OR YOUR PET CONSUMED PET FOOD AND/OR TREAT PRODUCT(S) RECALLED AFTER MARCH 16, 2007, PLEASE READ THIS NOTICE CAREFULLY. THIS NOTICE IS TO INFORM YOU OF A PROPOSED SETTLEMENT THAT MAY AFFECT YOUR RIGHTS.

A federal court authorized this notice. This is not a solicitation from a lawyer or a notice of a lawsuit against you.

YOU MAY BENEFIT FROM READING THIS NOTICE. IF YOU WISH TO RECEIVE BENEFITS UNDER THE PROPOSED SETTLEMENT, YOU MUST SUBMIT A CLAIM FORM.

SUMMARY OF PROPOSED SETTLEMENT

- There is a proposed settlement of the class action lawsuits known as *In Re: Pet Food Products Liability Litigation*, MDL Docket No. 1850, Civil Action No. 07-2867 (NLH) (All Cases) that are pending in the U.S. District Court for the District of New Jersey and similar lawsuits pending in Canada.
- This proposed Settlement Agreement is with various companies and persons or entities that handled, distributed, purchased for resale and/or redistribution, supplied, manufactured and/or sold or offered for sale pet food and/or pet treats that may have contained contaminated wheat gluten or rice protein concentrate and were recalled beginning in March 2007, as well as certain companies, persons or entities that supplied that wheat gluten or rice protein concentrate ("Recalled Pet Food Products"). The settlement includes the United States and Canada. Complete lists of persons or entities involved and the Recalled Pet Food Products can be found at the settlement website, www.petfoodsettlement.com. You also may request a copy of the list by calling or writing to the Claims Administrator. Contact information for the Claims Administrator is at the end of this Notice.
- The defendants collectively have agreed to create a twenty-four million dollar (\$24,000,000.00) cash Settlement Fund from which eligible consumers and/or pet owners may receive a cash payment for up to 100% of all documented economic damages they incurred related to their purchase of or their pet's consumption of the Recalled Pet Food Products. Economic damage means the expenses you incurred related to your purchase or your pet's consumption of the Recalled Pet Food Products, including but not limited to veterinary screening or treatment bills, expenses related to your pet's illness and/or death, and other expenses such as lost wages and property damage.
- For each of your pets that used or consumed Recalled Pet Food Products, you may recover up to 100% of the reasonable economic damages you claim you suffered if you can supply documents showing the economic damage.
- In addition to compensation for expenses supported by documentation, you may also receive up to a \$900 payment per pet for other reasonable economic damages for which you do not have supporting documentation. You must still complete a claim form and provide information about your economic damages to be eligible for payment of your undocumented expenses.
- You are a member of the Class if you purchased Recalled Pet Food Products and/or your pet consumed the Recalled Pet Food Products.
- This Settlement applies to both Canadian and U.S. residents. However, there will be different timelines in Canada for completion of the various steps required to make a claim or to seek to be excluded from the Settlement. The timeline and dates in this document apply to U.S. residents only. If you are a Canadian resident and you purchased, used or obtained, or your pet used or consumed Recalled Pet Food Products, please visit the Canadian page of www.petfoodsettlement.com, or contact the Claims Administrator at 1-800-392-7785 for more information on the Canadian process.

Your Legal Rights Are Affected Even If You Do Not Act. Read This Notice Carefully.

SUMMARY OF CLASS MEMBERS' RIGHTS AND OPTIONS UNDER THE PROPOSED SETTLEMENT	
SUBMIT A CLAIM	The only way to get a payment. Submit your claim by mail, facsimile or email (pdf.) to the Claims Administrator no later than November 24, 2008 .
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to not be bound by the final judgment and release and to be part of any other lawsuit concerning the issues being settled now. You must exclude yourself from the Settlement Class by no later than August 15, 2008 .
COMMENT ON THE PROPOSED SETTLEMENT	Write to the Court about why you support or oppose the proposed Settlement.
GO TO A HEARING	Ask to speak to the Court about the proposed Settlement.
DO NOTHING	Get no payment. You will not be able to bring or be part of any other lawsuit concerning the issues being settled now, and you will be bound by the final judgment and release in this case.

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BASIC INFORMATION

1. Why Did I Get This Notice?

You received this Notice because: you requested a copy of the Notice through a toll-free number; you downloaded it through the settlement website; you previously submitted a claim form to Crawford & Company; or you received a payment from a defendant, Released Entity and/or their insurers in settlement or reimbursement of claims for injury, death or screening expenses associated with your pet's consumption of a Recalled Pet Food Product.

2. What Are The Lawsuits About?

The lawsuits claim that the defendants handled, distributed, purchased for resale and/or redistribution, supplied, manufactured and/or sold or offered for sale and recalled on and after March 16, 2007 Recalled Pet Food Products. The lawsuits allege that some of the Recalled Pet Food Products were made with contaminated wheat gluten and rice protein concentrate, which in some cases may have led to illness or death from conditions known as acute kidney or renal failure. The symptoms of these conditions include vomiting, tiredness, decreased appetite, increased urination, and/or increased drinking or water intake by the affected pet.

By agreeing to the proposed settlement described in this Notice, the defendants make no admission as to the truth of these allegations, and they deny any wrongdoing.

3. Why Is This A Class Action?

In a class action, one or more people called "class representatives" sue on behalf of themselves and other people who have similar claims. The people together are a "class" or "class members." A court must determine if a lawsuit or a settlement should proceed as a class action. If it does proceed as a class action, there may be a trial. A trial then decides the lawsuit for everyone in the class. Sometimes, the parties may settle without a trial.

The parties here have agreed to this settlement that includes pet owners in the United States and Canada who purchased, used or obtained or whose pets consumed the Recalled Pet Food Products. The Court has preliminarily approved this proposed settlement and will hold a Hearing to decide whether it should be finally approved. (See Question No. 19.) U.S. District Court Judge Noel L. Hillman is the presiding judge in this class action. A similar approval process will take place before various Canadian courts, at dates and times to be determined.

4. How Do I Know If I Am Included In The Proposed Class Action?

You are a member of the Settlement Class if you purchased or obtained, or your pets used or consumed Recalled Pet Foods Product(s), unless you are a member of the class certified by the Circuit Court of the First Circuit, State of Hawai'i in *Lum v. Menu Foods, Inc., et al.* (Civil No. 07-1-0849-05 (EEH)).¹

You need not do anything to become part of the Class, **but you must complete the Claim Form in order to be eligible to receive any benefit from the Settlement.**

As a Settlement Class member, you will be bound by all proceedings, orders, and judgments entered in connection with the proposed settlement and Settlement Agreement, including the release, covenant not to sue and dismissal with prejudice described below.

5. How Do I Determine If The Food I Purchased Was Recalled?

A list of the recalled products and defendants can be found at the settlement website, www.petfoodsettlement.com. You also may request a copy of the list by calling or writing to the Claims Administrator. Contact information for the Claims Administrator is provided at the end of this Notice.

BENEFITS OF THE PROPOSED SETTLEMENT—WHAT YOU MAY GET

6. What Does The Proposed Settlement Provide?

The Proposed Settlement provides for the creation of a twenty-four million dollar (\$24,000,000.00) Settlement Fund from which eligible consumers may receive up to a 100% cash payment for all documented, reasonable economic damages incurred as a result of their purchase or their pets' consumption of Recalled Pet Food Products, including veterinary treatment costs, death-related expenses, pet purchase price or new pet cost, property damages and other economic costs. Consumers who do not have documents supporting their claims for economic damages may still be eligible for cash reimbursement subject to a \$900 limit per pet.

¹ If you have questions regarding whether you are a member of the *Lum* class, you may contact the Claims Administrator. The contact information for the Claims Administrator is at the end of this Notice.

The claims may be subject to certain limitations described below. (See Question No. 7.)

Settlement notice, administration costs, and attorneys' fees and expenses also will be paid out of the Settlement Fund.

All aspects of this proposed settlement are subject to Court approval in the United States and in Canada.

7. Are There Any Limits On The Amount I Can Recover?

A Claims Administrator unrelated to any party in this lawsuit will administer the settlement. The Claims Administrator will review all claims and expenses submitted and determine whether they are valid, reasonable and payable. (See Question No. 12.)

Eligible consumers may receive up to a 100% cash payment for all documented, reasonable economic damages incurred as a result of their purchase or their pets' consumption of Recalled Pet Food Products. Claims may be subject to certain limitations. First, the total amount of money available from the Settlement Fund to reimburse pet owners for healthy pet screening (or testing), in cases where the pet did not become ill or die is limited to a total of \$400,000. If this limit is reached, the part of your claim for testing your healthy pet will be pro-rated based on the ratio of the amount of your claim approved by the Claims Administrator to the total amount of all the approved claims for healthy pet screening. Second, the total amount of money available from the Settlement Fund for reimbursement of purchases of Recalled Pet Food is limited to a total of \$250,000. If this limit is reached, the part of your claim for reimbursement of Recalled Pet Food purchases will be pro-rated based on the ratio of the amount of your approved claim to the total amount of all the approved claims for Recalled Pet Food reimbursement. Third, if the total value of claims for all other economic damages—separate and apart from healthy pet screening claims and Recalled Pet Food purchase claims—exceed the total Settlement Fund amount available, the part of your claim for all other economic damages will be pro-rated based on the ratio of the amount of your approved claim to the total amount of all the approved claims for these other economic damages.

Claims for economic damages that are not supported with documentation are limited to a maximum of \$900 per pet.

8. What Happens If There Is Money Left Over In The Settlement Fund?

If valid claims submitted total less than the Settlement Fund amount available, the difference between the total claims and the Settlement Fund available will be paid to charitable organizations in the United States and in Canada that promote the health and well-being of pets.

9. How Do I Submit A Claim?

Attached to this Notice is a Claim Form. **YOU MUST FILL OUT AND SIGN THE CLAIM FORM AND SUBMIT IT TO THE CLAIMS ADMINISTRATOR, POSTMARKED, FAXED OR EMAILED (IN PDF. FORMAT) ON OR BEFORE NOVEMBER 24, 2008** and sent to:

In Re Pet Food Products Liability Litigation
Claims Administrator
c/o Heffler, Radetich & Saitta LLP
P.O. Box 890
Philadelphia, PA 19105-0890
claims@petfoodsettlement.com
Fax: 215-320-2004

IF YOU DO NOT SUBMIT YOUR SIGNED CLAIM FORM BY THIS DEADLINE, YOU WILL BE DEEMED TO HAVE WAIVED YOUR RIGHT TO RECEIVE ANY PAYMENT FROM THE SETTLEMENT FUND.

As part of your claim, you should provide as much documentation as you can relating to your economic damages, which means expenses. All information provided will be treated as confidential. In addition to the expenses for which you have documentation, you may be reimbursed for up to \$900 of economic damages per pet for which you do not have documentation, provided that the Claims Administrator determines that the claim is valid and reasonable.

The following are examples of documentation you might have for different types of economic damage. You may have different types of documentation from those mentioned. You should submit whatever you have.

Documentation of Recalled Pet Food purchases may include receipts, cancelled checks, credit card statements, copies of the product labels from the products, other records from the place of purchase, or any other records that could demonstrate you purchased the food and how much you paid.

Documentation of veterinary expenses may include veterinarian bills, veterinarian records, cancelled checks, receipts, credit card receipts or statements, or a statement from your veterinarian.

Death-related expenses may include the costs of euthanasia or putting your pet to sleep, necropsy or pet autopsy, cremation, burial, or other services. Documentation of these expenses may include veterinarian bills, veterinarian records, pet cemetery records, cancelled checks, receipts, credit card receipts or statements, or a statement from your veterinarian.

Depending on when and if you bought a new pet, reimbursement may include either the cost of the new pet or, in some cases, the cost of your deceased pet. If you purchased a new pet before May 22, 2008 (the date on which these settlement terms became public) you may be entitled to receive (1) the cost or fair market value of the deceased pet, whichever is higher, or (2) the cost of your new pet. If you did not buy a new pet before May 22, 2008, you may be entitled to receive the cost or fair market value of the deceased pet. Documentation of these expenses may include a bill, a receipt, credit card statement, cancelled check, AKC or CKC registration, Cat Fancier's Association certificate, third party appraisal or other documentation of the cost or fair market value of the pet.

The Claim Form must be signed. By signing your claim form, you will be swearing that the information you submit is true and accurate. You will also be authorizing the Claims Administrator to contact you and/or your veterinarian for more information to help evaluate your claim.

10. I Do Not Have Complete Documents Or I Do Not Have Any Documents. What Should I Do?

Even if you do not have documents that support your claim for economic damage, you may be eligible to receive payment for valid and reasonable economic damages. Submit a completed Claim Form describing your claims for undocumented economic damages in as much detail as possible and explain why you do not have supporting documentation. Claims for undocumented economic expenses may be paid up to a \$900 maximum per pet.

11. What If I Have Already Recovered Money From Defendants?

Some Settlement Class members may have already submitted claims and been reimbursed by one of the defendants or an insurance company for expenses associated with the Recalled Pet Food Products. There is a place to report this information on the Claim Form. If you have been previously reimbursed by a defendant or an insurance company, then the reimbursed amount will be deducted from the total amount that may be owed to you as part of the settlement. If the total amount of your previous reimbursement exceeds the total amount that you are entitled to under this settlement, then you will not receive any further reimbursement as part of this settlement.

12. How Are Payments Determined?

A Claims Administrator appointed by the Court will determine whether a claim is reasonable, valid and payable from the Settlement Fund based on information you provide on the Claim Form. The Claims Administrator is a neutral party, not affiliated with either plaintiffs or defendants. The Claims Administrator has complete and final authority to determine the amount to be paid on each claim and its decision shall be final, binding and cannot be appealed.

COMMENTING ON THE PROPOSED SETTLEMENT

13. Can I Comment On, Or Object To, The Proposed Settlement?

If you have comments about, or disagree with, any aspect of the Proposed Settlement, you may express your views to the Court in writing. The written response should include your name, address, telephone number and a brief explanation of your comment or reason for objection. The document **must** be signed to ensure the Court's review. The response must be postmarked on or before September 12, 2008, and mailed to

Clerk of Court
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets, Room 1050
Camden, NJ 08101

Your document must clearly state that it relates to Civil Action Number: 07-2867 (NLH), MDL No. 1850.

You must also send a copy of your comment or objection by first class mail to one of the attorneys for the Settlement Class (listed under Question 14 below) and one of the attorneys for the Defendants listed below, not later than **September 12, 2008**.

Mary E. Gately
DLA PIPER US LLP
500 8th Street, NW
Washington, DC 20004

Craig A. Hoover
HOGAN & HARTSON
555 Thirteenth Street, NW
Washington, DC 20004

D. Jeffrey Ireland
FARUKI IRELAND & COX P.L.L.
500 Courthouse Plaza, SW
10 North Ludlow Street
Dayton, OH 45402

Mark C. Goodman
**SQUIRE, SANDERS &
DEMPSEY L.L.P.**
One Maritime Plaza, Suite 300
San Francisco, CA 94111

If you are a Canadian resident, you will have to follow a different process to make a comment on the proposed Settlement. Information on this process for Canadian residents is available at www.petfoodsettlement.com, or by contacting the Claims Administrator.

14. Who Are The Attorneys Appointed to Represent the Settlement Class?

The Court has appointed the following law firms as Class Counsel to represent the Settlement Class:

Sherrie Savett
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103

Kenneth A. Wexler
WEXLER TORISEVA WALLACE LLP
55 West Monroe Street, Suite 3300
Chicago, IL 60603

Steve W. Berman
**HAGENS BERMAN SOBOL
SHAPIRO LLP**
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101

Stuart A. Davidson
**COUGHLIN STOIA GELLER RUDMAN
& ROBBINS LLP**
120 E. Palmetto Park Road, Suite 500
Boca Raton, FL 33432

Scott A. Kamber
KAMBEREDELSON LLC
11 Broadway, 22nd Floor
New York, NY 10004

William M. Audet
AUDET & PARTNERS LLP
221 Main Street, Suite 1460
San Francisco, CA 94105

Canadian lawyers have been appointed to represent the Settlement Class in Canada. A list of the Canadian lawyers and their contact information is available at www.petfoodsettlement.com or from the Claims Administrator.

15. How Will The Lawyers Be Paid?

Since the lawsuits began in March 2007, many law firms have devoted substantial resources and expenditures in addressing the issues raised by the pet food recall on behalf of Settlement Class Members purely on a contingent basis, and these law firms have received no compensation for their services or reimbursement of their expenses. As part of the proposed Settlement, United States Class Counsel will ask the Court to approve an amount of attorneys' fees not to exceed 25% of the Settlement Fund and for reimbursement of expenses. Counsel for plaintiffs in the Canadian actions will seek an amount for their attorneys' fees not to exceed 6% of the Settlement Fund and for reimbursement of expenses.

16. Should I Get My Own Lawyer?

You do not need to hire your own lawyer. However, if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance. (See Question No. 21.) Hiring a lawyer to appear for you in the lawsuit will be at your own expense.

17. Dismissal with Prejudice and Release Of Claims

If the Court approves the proposed Settlement, it will enter a judgment that will dismiss the litigation with prejudice as to all claims against all defendants. In addition, defendants and any and all entities and individuals that are alleged to have handled, distributed, purchased for resale and/or redistribution, supplied, manufactured and/or sold or offered for sale Recalled Pet Food Products ("Released Entities") will receive from the Settlement Class (except for those persons that have timely opted out of the Settlement) a release and discharge of all claims, demands, actions, suits, and/or causes of action that have been brought or could have been brought, are currently pending or were pending, or are ever brought in the future, by any Settlement Class Member against any Defendant or Released Entity, in any forum in Canada or the United States (including their territories and, in the case of the United States, Puerto Rico), whether known or unknown, asserted or unasserted, under or pursuant to any statute, regulation, common law or equity, that relate in any way, directly or indirectly, to facts, acts, events, transactions, occurrences, courses of conduct, representations, omissions, circumstances or other matters referenced in any claim raised (including, but not limited to, any claim that was raised against any Released Entity) in the Pet Food Recall Litigation.

Released Claims do not include any claims for breach of this Settlement Agreement, nor any claims, demands, actions, suits, or causes of action that have been brought, could have been brought, or are brought in the future by any Defendant or Released Entity against any other Defendant or Released Entity, for indemnity or any other claim. Nothing in this Agreement shall in any way be construed to limit or prevent any Defendant or Released Entity from bringing any claims, demands, actions, suits, or causes of action against another Defendant or Released Entity for indemnity or any other claim related to the Recalled Pet Food Products and/or the Recall.

This means that all Settlement Class Members who have not opted out of the settlement will be forever barred from bringing, continuing, or being part of any claim or lawsuit against the Released Entities (listed at www.petfoodsettlement.com), and their personnel, representatives, insurers, and related companies. If you fall within the class definition and do not want to be prevented from bringing, continuing, or being a part of such a lawsuit, you must exclude yourself from the Settlement Class and proposed Settlement as explained below in Paragraph 18.

In addition, the Settlement Agreement includes a covenant not to sue the Released Entities for Released Claims.

Finally, each member of the Settlement Class that has not timely elected to opt out of the settlement and Settlement Class shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by federal law, state law, foreign law or principles of common law, any rights that may have the effect of limiting the releases set forth above. This agreement shall include a waiver of any rights pursuant to Section 1542 of the California Civil Code and any similar, comparable or equivalent provision. California Civil Code Section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

18. What If I Do Not Want To Be Part Of The Settlement?

If you do not want to be a member of the Settlement Class and participate in the proposed Settlement, then BY NO LATER THAN AUGUST 15, 2008, you must send a signed statement to that effect that includes your name, address and telephone number to the following:

In Re Pet Food Products Liability Litigation
Claims Administrator
c/o Heffler, Radetich & Saitta LLP
P.O. Box 890
Philadelphia, PA 19105-0890

TO BE CONSIDERED TIMELY AND TO EFFECTIVELY OPT OUT OF THE SETTLEMENT, YOUR COMPLETED AND SIGNED OPT OUT NOTICE MUST BE POST MARKED BY NO LATER THAN AUGUST 15, 2008. IF IT IS NOT POSTMARKED BY THAT DATE, YOUR RIGHT TO OPT OUT WILL BE DEEMED WAIVED AND YOU WILL BE BOUND BY ALL ORDERS AND JUDGMENTS ENTERED IN CONNECTION WITH THE SETTLEMENT.

If you choose to opt out of the settlement and the Settlement Class you will not receive any payment under the settlement and your claims against the Released Entities will not be released. You will also not be allowed to comment on or object to the proposed Settlement.

Any member of the Settlement Class who or which opts out of the settlement can change their mind and rejoin the Settlement Class. To do so, you must within seven (7) days prior to the Final Approval Hearing, deliver to Class Counsel (listed above in Paragraph 14) and the Claims Administrator a written revocation of your request to opt out.

THE COURT'S FINAL APPROVAL HEARING

19. When And Where Will The Court Decide On Whether To Grant Final Approval Of The Proposed Settlement?

The U.S. District Court will hold a Final Approval Hearing on October 14, 2008 at 9:30 a.m. to consider whether the proposed Settlement is fair, reasonable and adequate. At the Hearing, the Court will decide whether to approve the proposed Settlement and the request for attorneys' fees and reimbursement of expenses. If comments or objections have been timely received, the Court will consider them at this time.

Note: The Hearing may be postponed to a different date without additional notice. Updated information will be posted on the settlement website, www.petfoodsettlement.com.

Canadian courts will hold similar hearings at dates and times to be determined.

20. Must I Attend The Final Approval Hearing?

Attendance is not required, even if you properly mailed a written response. If you or your personal attorney still want to attend the Hearing, you are welcome to at your expense. However, it is not necessary that either of you attend. As long as your comment or objection was postmarked before the deadline, the Court will consider it.

21. May I Speak At the Final Approval Hearing?

If you want your own lawyer instead of Class Counsel to speak at the Final Approval Hearing, you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance should include the name and number of the lawsuit Civil Action Number: 07-2867 (NLH), MDL No. 1850, and state that you wish to enter an appearance at the Final Approval Hearing. It also must include your name, address, telephone number and signature. Your Notice of Appearance **must** be postmarked on or before September 12, 2008. You cannot speak at the Hearing if you ask to be excluded from the Proposed Settlement Class or are not submitting a Claim Form now.

The Notice of Appearance must be filed with the Court at the following address:

Clerk of Court
Mitchell H. Cohen Building & U.S. Courthouse
4th & Cooper Streets, Room 1050
Camden, NJ 08101

The Notice of Appearance must be filed using the following Civil Action Number: 07-2867 (NLH), MDL No. 1850.

GETTING MORE INFORMATION

22. Where Do I Obtain More Information?

You can look at and copy the legal documents filed with the Court at any time during regular office hours at the Office of the Clerk of Court, Mitchell H. Cohen Building & U.S. Courthouse, 4th & Cooper Streets, Room 1050, Camden, NJ 08101.

In addition, if you have any questions about the lawsuit or this Notice, you may:

- Visit the Pet Food Settlement website at www.petfoodsettlement.com
- Call the Claims Administrator toll free 1-800-392-7785
- Write or fax to: Pet Food Settlement Administrator

In Re Pet Food Products Liability Litigation
Claims Administrator
c/o Heffler, Radetich & Saitta LLP
P.O. Box 890
Philadelphia, PA 19105-0890
Fax: 215-320-2004