

NOTICE OF CLASS ACTION SETTLEMENT

Young v. Neurobrands, LLC, Case No. 4:18-cv-05907-JSW
United States District Court for the Northern District of California

IF YOU ARE A CITIZEN OF CALIFORNIA AND MADE A RETAIL PURCHASE OF A NEUROBRANDS BEVERAGE PRODUCT LABELED AS CONTAINING “NATURAL FLAVORS” AND “NO ARTIFICIAL COLORS OR FLAVORS” IN CALIFORNIA BETWEEN JANUARY 1, 2012 AND OCTOBER 15, 2020 FOR PERSONAL OR HOUSEHOLD USE AND NOT FOR RESALE, PLEASE READ THIS NOTICE CAREFULLY, AS IT DESCRIBES A SETTLEMENT THAT MAY AFFECT YOUR RIGHTS.

A federal court authorized this Notice. It is not a solicitation from a lawyer. YOU ARE NOT BEING SUED.

Included Products:

- NeuroSONIC Superfruit Infusion
- NeuroSONIC Orange Passion
- NeuroBLISS White Raspberry
- NeuroBLISS Citrus Berry
- NeuroBLISS Tropical Lychee
- NeuroPROTEIN Watermelon Mint
- NeuroPROTEIN Cherry Vanilla
- NeuroDAILY Tangerine Citrus
- NeuroGASM Passion Fruit

This Settlement resolves a lawsuit against Neurobrands, LLC (the “Defendant” or “Neurobrands”) alleging that Neurobrands’ Product labels claiming to contain “natural flavors” and “no artificial colors or flavors” are false and misleading because the Products actually contain the artificial flavoring ingredient dl-malic acid.

Neurobrands denies the allegations and any wrongdoing. Nonetheless, it has agreed to settle this lawsuit to avoid the cost and uncertainty of litigation. The parties have reached a settlement that would provide injunctive relief as detailed below in exchange for a waiver and release of injunctive relief claims. The Settlement does not provide money compensation to class members, and class members do not release any claims for monetary damages. Class Counsel will request that the Court award them reasonable attorneys’ fees and expenses as compensation for their obtaining Defendant’s agreement to make certain changes to its business practices.

You are not required to take any action. This Notice further explains the litigation, the Settlement, and how you may comment or object to the Settlement, if you want.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

Do Nothing	If you do nothing, then you will automatically receive benefits under this Settlement in the form of Defendant’s Product reformulations and/or labeling modifications that are further described in this notice. You will also give up your right to sue Defendant and certain related entities and individuals regarding any claims for injunctive relief that are part of or related to the Settlement. You will not give up any claims for monetary damages.
Object or Comment by September 8, 2021	If you are a Class Member, you may write to the Court about why you object to the Settlement. Objections must be in writing, must be submitted to the Court, and must be postmarked no later than September 8, 2021.
Appear in the lawsuit by September 8, 2021 and Attend a Hearing on October 8, 2021 at 9:00 a.m.	If you are a Class Member, you may ask to speak in Court about the fairness of the Settlement. You may enter your appearance in Court either pro se or through an attorney at your own expense if you so desire.

There is no need to submit a claim form. This Settlement provides benefits in the form of Product reformulations and/or labeling modifications that are further detailed on page five of this notice. If you do nothing, then you will automatically receive the benefits of this Settlement.

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BASIC INFORMATION

1. Why did I receive this Notice?

If you are a California citizen who purchased one of the Neurobrands Products described on page 1 of this Notice between January 1, 2012 and October 15, 2020, for personal or household use and not for resale or distribution (the “Class”), then you have a right to know about a proposed settlement (“Settlement”) in this class action lawsuit and your options in relation thereto, before the Court decides whether to give its final approval of the settlement.

This Notice explains the lawsuit, the Settlement, your legal rights, and what benefits are available. The Court overseeing the case is the United States District Court for the Northern District of California, and the case is known as *Young v. Neurobrands, LLC*, Case No. 4:18-cv-05907-JSW. Renee Young and Joycette Goodwin, the people who sued, are called the Plaintiffs, and the company they sued, Neurobrands, LLC, is called the Defendant.

2. What is this lawsuit About?

The Plaintiffs who filed the lawsuit allege that Neurobrands’ Product labels claiming to contain “natural flavors” and “no artificial colors or flavors” are false and misleading because the Products contain the ingredient dl-malic acid, which Plaintiffs claim functions as a flavor in the Products.

Neurobrands denies the allegations in the lawsuit, and the Court has not made any ruling on the merits of the lawsuit. To avoid the expense of further litigation, the parties have reached a settlement that is further described in this Notice.

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 Renee Young and Joycette Goodwin) represent the interests of similarly situated people who may have the same claims in common, but have not filed a lawsuit. All of these people are collectively referred to as a class. The persons who filed the lawsuit are called the Plaintiffs. The company or persons they sue is called the Defendant. One court resolves the issues for everyone in the class.

4. Why Is There a Proposed Settlement?

The Court has not decided in favor of either side. Neurobrands denies all allegations in the lawsuit. Neurobrands is settling simply to avoid the expense, inconvenience, and inherent risk of litigation, as well as the related disruption to its business. The Plaintiffs and their 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.

WHO IS INCLUDED IN THE PROPOSED SETTLEMENT

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 citizen who purchased the Neurobrands Products listed below for household or personal use and not for resale, from January 1, 2012 to October 15, 2020 (the “Class Period”):

- NeuroSONIC Superfruit Infusion
- NeuroSONIC Orange Passion;
- NeuroBLISS White Raspberry;
- NeuroBLISS Citrus Berry;
- NeuroBLISS Tropical Lychee;
- NeuroPROTEIN Watermelon Mint;
- NeuroPROTEIN Cherry Vanilla;
- NeuroDAILY Tangerine Citrus; and
- NeuroGASM Passion Fruit.

You are not a part of the Settlement Class if you are Defendant or Defendant’s officers, directors, employees, agents and affiliates, or the Court and its staff.

If you are still not sure whether you are included in the Settlement Class, you can go to www.NeurobrandsClassAction.com to consult additional information.

THE PROPOSED SETTLEMENT BENEFITS

6. What Are The Benefits of the Proposed Settlement?

Defendant has agreed to use its best efforts to reformulate the Products to remove DL-malic acid as an ingredient. The reformulation efforts include seven months of Product reformulation research and development and testing.

If after using best efforts Defendant determines that one or more of the reformulated Products are not scientifically or commercially feasible, Defendant has agreed to modify its packaging, labeling and advertising for all Products containing dl-malic acid by:

- Adding “(DL-malic acid)” after “malic acid” in the ingredient list of all Products that contain dl-malic acid as an ingredient;
- Replacing the phrase “no artificial colors or flavors” with “no artificial colors” from the labeling and advertising of all Products that contain dl-malic acid as an ingredient;
- Modifying its website to disclose that the Products may also contain synthetic malic acid or other acidulants; and
- Adding an asterisk or similar reference after or adjacent to the “natural flavors” representation on the top front of each Product label, which directs consumers to the statement “*Learn More at [the URL or webpage of the Neurobrands website] containing the disclosure of synthetic malic acid in the Products.

All such labeling modifications are permanent, unless and until Defendant changes its Product formulation to remove all DL-malic acid from the Products.

Attorneys' Fees and Incentive Awards

Defendant has also agreed to pay reasonable attorneys' fees and costs (including the costs to administer this Settlement), and Class Representative incentive awards to the named Plaintiffs. Class Counsel may request attorneys' fees and costs from the Defendant of no more than \$750,000, and incentive awards to the named Plaintiffs of \$5,000 each. The final amount of attorneys' fees and costs and Class Representative incentive awards will be determined by the Court.

No Opt-Outs

Because the Plaintiffs are seeking only injunctive relief (e.g., reformulation and labeling changes) and because Defendant is only agreeing to injunctive relief, class members cannot opt out of the Settlement. This means that all members of the Settlement Class will be bound by the Settlement if the Court approves it.

YOUR RIGHTS AND CHOICES - OBJECTING TO THE PROPOSED SETTLEMENT

You can tell the Court that you object to the Settlement or any particular part of it.

7. How Do I Tell the Court That I Object to the Proposed Settlement?

You can ask the Court to deny approval by filing an objection. If you are a Class Member, you or an attorney on your behalf may object to the Settlement. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval of a Settlement, none of the agreed-upon reformulation or labeling changes in the Settlement will be required to be implemented, and the lawsuit will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing and made only to the Court. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. **If you appear through your own attorney, you are responsible for hiring and paying that attorney.**

All written objections and supporting papers must: (a) clearly identify the case name and number: (*Young v. Neurobrands, LLC*, Case No. 4:18-cv-05907-JSW), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, Oakland Division, 1301 Clay Street, Oakland, CA 94612, or by filing them in person at any location of the United States District Court for the Northern District of California, and (c) be filed or postmarked on or before September 8, 2021.

Any objection shall contain a caption or title that identifies it as "Objection to Class Settlement in *Young v. Neurobrands, LLC*, Case No. 4:18-cv-05907-JSW" and also shall contain information sufficient to identify and contact you (or your attorney, if any), as well as a clear and concise statement of your objection, documents sufficient to establish the basis for your standing as a Class Member, i.e., verification under oath as to the approximate date(s) and location(s) of your purchase(s) of the Products, the facts supporting the objection, and the legal grounds on which the objection is based.

YOUR RIGHTS AND CHOICES - APPEARING IN THIS LAWSUIT

8. Can I Appear or Speak in the lawsuit About the Proposed Settlement?

You may participate and speak for yourself in the lawsuit about the proposed Settlement. This is called making an appearance. You can also have your own lawyer appear in court and speak for you, but you must pay for the lawyer yourself.

9. How Can I Appear in this lawsuit?

If you want yourself or your own lawyer (instead of Class Counsel) to participate or speak for you in this lawsuit, you must file a “Notice of Appearance” with the Court. The Notice of Appearance must list the name, address and telephone number of the attorney, if any, who will appear on your behalf.

If you do not request participation in the final approval hearing by filing a Notice of Appearance, you will not be able to participate in the final approval hearing.

Your Notice of Appearance can also state that you or your lawyer would like to speak at the Court’s Final Approval Hearing on the proposed Settlement. If you submit an Objection and would like to speak about the Objection at the Court’s Final Approval Hearing, both your Notice of Appearance and your Objection should include that information.

Your Notice of Appearance must be signed, mailed, and postmarked by September 8, 2021, to the Court at:

Class Action Clerk
United States District Court
Northern District of California
Oakland Division
1301 Clay Street
Oakland, CA 94612

IF YOU DO NOTHING

10. What Happens If I Do Nothing At All?

You do not have to take any action to receive the benefits of the Settlement. If the Settlement is approved by the Court, you will not be able to seek injunctive and other non-monetary equitable relief against Neurobrands about the subject matter of this lawsuit ever again. The Settlement will not affect your right to seek monetary relief from the Defendant.

THE LAWYERS REPRESENTING YOU

11. Do I Have a Lawyer in this Case?

The Court has appointed the Law Offices of Ronald A. Marron, APLC as legal counsel for the Settlement Class. The law firm is called Class Counsel. You will not be charged for these lawyers.

12. Contacting Class Counsel

Class Counsel may be contacted as follows:

LAW OFFICES OF RONALD A. MARRON

Ronald A. Marron

ron@consumersadvocates.com

Michael T. Houchin

mike@consumersadvocates.com

Lilach Halperin

lilach@consumersadvocates.com

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

13. How Will The Lawyers Be Paid?

Class Counsel has not yet received any payment for prosecuting this lawsuit, nor have they been reimbursed for any out-of-pocket expenses they have incurred. When they ask the Court to approve the Settlement, Class Counsel will also make a motion to the Court to approve and award attorneys' fees and a reimbursement of expenses to Class Counsel, in a total amount of up to \$750,000. No matter what the Court decides with regard to the requested attorneys' fees, members of the Settlement Class will never have to pay anything toward the fees or expenses of Class Counsel. 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

The Court will hold a hearing to decide whether to approve the Settlement. You have the right to attend or speak at the hearing, but do not have to do so.

14. 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 Northern District of California, Oakland Division, 1301 Clay Street, Oakland, CA 94612 on October 8, 2021 at 9:00 a.m. to decide whether the Settlement is fair, reasonable, and adequate, as well as to determine the amount of attorneys' fees and costs and incentive fees to award.

The date of the Final Approval Hearing may change without further notice to the Class. Class Members are advised to check the settlement website or the Court's PACER site to confirm that the date has not been changed.

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 attorneys' fees and expenses. We do not know how long it will take the Court to make these decisions.

15. 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 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, but it is not necessary.

FINAL SETTLEMENT APPROVAL

16. What Is The Effect of Final Settlement Approval?

If the Court grants final approval of the Settlement and any appeals have been exhausted, the Released Parties (as defined in the Settlement Agreement), including Neurobrands, will be released from any and all claims for injunctive relief, other similar equitable relief, or any relief available under Federal Rule of Civil Procedure 23(b)(2) (which does not include any potential claims for monetary damages of any kind), whether known or known, existing, suspected, or unsuspected, that were or reasonably could have been asserted based on the factual allegations in this Litigation. The released claims expressly do not include any personal injury claims regarding the Products.

Each Settlement Class Member shall also be deemed to have waived and relinquished, to the fullest extent permitted by law, the provisions, rights and benefits of California Civil Code section 1542 (and equivalent, comparable, or analogous provisions of the laws of the United States or any state or territory thereof, or of the common law). 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.”

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

GETTING MORE INFORMATION

17. 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.NeurobrandsClassAction.com, by contacting the Settlement Administrator (at the address listed below), by contacting class counsel (see section above, “Contacting Class Counsel”), by accessing the Court docket in this case, for a fee, through the Court’s Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, Oakland Division, 1301 Clay Street, Oakland, CA 94612 between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

By visiting the website located at www.NeurobrandsClassAction.com, you will find the Plaintiffs’ operative Complaint, the Settlement Agreement, Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement, and other important documents in the case.

You may also contact the Settlement Administrator by email at: info@NeurobrandsClassAction.com.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO
INQUIRE ABOUT THIS SETTLEMENT.**

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