

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

CHRISTOPHER META, )  
 )  
 Plaintiff, ) CASE NO. 4:14-CV-0832  
 )  
 v. ) JUDGE DONALD C. NUGENT  
 )  
 TARGET CORP., et al. )  
 )  
 Defendants. )  
 )  
 )

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY**

**A COURT ORDERED THIS NOTICE TO BE POSTED. YOU MAY BE ELIGIBLE FOR BENEFITS FROM THE PROPOSED SETTLEMENT OF A CLASS ACTION FILED ON YOUR BEHALF. YOUR RIGHTS MAY BE AFFECTED BY THE SETTLEMENT. READ THIS NOTICE CAREFULLY.**

**YOU MUST RESPOND TO THIS NOTICE BY SUBMITTING A CLAIM FORM IN ORDER TO RECEIVE COMPENSATION. IF YOU DO NOT WANT TO BE PART OF THE SETTLEMENT, YOU MUST TAKE THE STEPS DESCRIBED IN THIS NOTICE BY SEPTEMBER 7, 2018. OTHERWISE, YOU MAY BE BOUND BY ALL OF THE TERMS OF THE PROPOSED SETTLEMENT.**

**WHAT THIS CASE IS ABOUT**

This is a proposed settlement of a class action lawsuit brought in the United States District Court for the Northern District of Ohio (the “Court”) against Target Corporation and Nice-Pak Products, Inc. A class action is a lawsuit in which one or more persons sue on behalf of others who have similar claims. The Members of this group are called the Class. The lawsuit is about Plaintiff’s claims alleging that certain Up & Up flushable toddler wipes sold from April 18, 2010 through October 31, 2014 were not “flushable.” Target and Nice-Pak deny Plaintiff’s claims and contend that the Up & Up flushable toddler wipes at issue were in fact “flushable.”

Plaintiff, Target and Nice-Pak have concluded that settlement is in their best interests because of the uncertainty, expenses, risks, and delays of litigation. The parties have reached a proposed settlement entitling eligible Class Members who timely submit a Claim form to receive a Target gift card and/or a Target coupon for a free package(s) of certain Up & Up wipes products, if the Court approves the settlement. After taking into account the risks and costs of further litigation, Plaintiff and his counsel believe that the terms and conditions of the settlement are fair, reasonable, adequate, and equitable, and that the settlement is in the best interest of the Settlement Class members. The Court in charge of this case still has to decide whether to approve the

settlement. Payments will be made if the Court approves the settlement. If there are appeals, payment will not be made until the appeals are resolved and the settlement becomes effective. Please be patient.

The Court has preliminarily approved the settlement as within the range of fair, reasonable, and adequate settlement. On August 7, 2018, at 9:00 a.m., at the United States District Court for the Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113, the Court will hold a Final Settlement Hearing to decide whether to issue final approval of the settlement. The hearing will be held in the courtroom of the Honorable Donald C. Nugent, which is Courtroom 15A. This hearing date may change without further notice to you. Consult the Settlement Website at [www.upandupwipessettlement.com](http://www.upandupwipessettlement.com), or the Court docket in this case available through PACER ([www.pacer.gov](http://www.pacer.gov)), for updated information on the hearing date and time.

The Court has certified a Class for settlement purposes. Members of the Class include:

All persons residing in the United States who purchased Up & Up flushable toddler wipes from April 18, 2010 through the discontinuation of the “Buckeye” product formulation on October 31, 2014. The Class specifically excludes purchasers of Nice-Pak’s “Sigma” formulation and subsequent product formulations of Up & Up flushable toddler wipes.

### **THE PROPOSED SETTLEMENT**

If you are a Class Member and the settlement is approved and you timely submit a Claim form, you may be entitled to receive a Target gift card or a Target coupon for a free package(s) of certain Up & Up wipes products. The settlement allows eligible Class Member who timely submit claims to elect their recovery. For each unit of Up & Up flushable toddler wipes purchased from April 18, 2010 through October 31, 2014, a Class Member can opt to receive either a \$1.35 Target gift card or a coupon for a unit of current Up & Up wipes manufactured by Nice-Pak (double 48-count package or equivalent depending on wipes product). The number of units for which a Class Member can recover a Target gift card or a coupon for current product shall be capped at 20 units. If the Class Member provides proof of purchase for any number of units purchased during the Class period, there shall be no cap imposed on the gift card amount the Class Member is entitled to recover. If a Class Member who provides proof of purchase chooses to receive a coupon for current product, the number of units for which that Class Member can receive a coupon shall be capped at 20 units. Recovery for any number of units in excess of 20 units for such a Class Member shall be in the form of a gift card in the amount of \$1.35 per unit. More information, including a copy of the Settlement Agreement, is available at [www.upandupwipessettlement.com](http://www.upandupwipessettlement.com). You may also view the settlement agreement and other documents in this case on file with the Clerk of Court, United States District Court for the Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113.

Plaintiff will apply to the Court for an award of attorneys’ fees and expenses not to exceed a total of \$1,615,000.00 on behalf of the counsel who have represented Plaintiff and the Class in this class action. In addition, the named Plaintiff in this case may apply to the Court for a

class representative payment award of up to \$10,000. This payment is designed to compensate the named Plaintiff for the time, effort, and risks he undertook in pursuing this litigation

### **RIGHT TO REMAIN IN THE CLASS OR OPT OUT**

Class Members may ask for a payment, exclude themselves from the settlement, object to it, ask to speak at the Fairness Hearing, or do nothing.

#### **1. To make a claim for payment:**

To remain in the settlement and receive a payment, you must submit the Claim form no later than September 7, 2018. **If your Claim form is not submitted by September 7, 2018, you will not receive payment.** An online Claim form is available at [www.upandupwipessettlement.com](http://www.upandupwipessettlement.com) and can be submitted electronically there, or a paper claim form can be printed and submitted by mail. To receive a hard copy of the Claim form by mail, please call Toll Free 888-878-1989 to request one. If you remain in the Class, your interests will be represented by class counsel without additional cost, and you will be bound by all orders and judgments entered by the Court, whether favorable or unfavorable to the Class.

If the Court approves the proposed settlement and you do not timely request to be excluded from the Class, you will release (give up) all claims against Target and Nice-Pak relating to this lawsuit, except your right to receive a settlement payment, if eligible. For further information, please see Section **13** of the Settlement Agreement.

#### **2. To opt-out:**

If you do not want to be in the Class you must mail written notice of your intent to exclude yourself from the class to the address set forth below so that it is postmarked by July 9, 2018. If you timely exclude yourself, you will not receive any benefit available under the proposed settlement and you will not be bound by any orders or judgments entered in this case. To be excluded, your written notice must state "I request to be excluded from the Meta v. Target Corporation and Nice-Pak, Inc. settlement class." Your written notice also must contain your name and address, and must be signed and dated by you. Your written notice to be excluded from the Class must be signed by the Class Member, and not by anyone else as a representative of a Class Member (unless the Class Member is deceased or incapacitated). Failure to comply with any of these requirements may result in your written notice to be excluded from the Class being invalid. If you wish to exclude yourself from the class, mail written notice of your request for exclusion to the following address:

Target Settlement Administrator  
PO Box 11486  
Birmingham, AL 35202-1486

### **CLASS COUNSEL**

The Court has designated the following attorneys to represent the Class in this lawsuit:

Dennis R. Lansdowne  
Stuart E. Scott  
Jeremy A. Tor  
SPANGENBERG, SHIBLEY & LIBER LLP  
1001 Lakeside Avenue East, Suite 1700  
Cleveland, Ohio 44114

Hassan Zavareei  
Andrew J. Silver  
TYCKO & ZAVEREEI LLP  
1828 L Street, N.W., Suite 1000  
Washington DC 20036

You will not be separately charged for the services of counsel representing the Class in this lawsuit. You have the right (but do not need) to retain your own attorney in this matter, but if you do, you will be responsible for paying your own attorneys' fees and expenses.

**YOUR RIGHT TO APPEAR AND OBJECT TO THE SETTLEMENT**

Unless you request to be excluded from the Class, you may file a Notice of Intent to Object to any aspect of the proposed settlement or the application by Plaintiff's counsel for attorneys' fees, but you will be bound by the orders and judgments entered in this case, even if the Court does not agree with your objections. In order to object, you must timely send a written Notice of Intent to Object that includes (i) the case name and case number of this Action; (ii) the specific reasons for your objection(s), as well as a detailed statement of the factual and legal reasons you have for each objection; (iii) any evidence you may present at the Final Settlement Hearing in support of your objection(s), including the names and addresses of witnesses and a summary of their proposed testimony, and copies of any written evidence; (iv) the name and address of the lawyer(s), if any, who are representing you in making the objection or who may be entitled to compensation in connection with your objection; (v) documents or testimony sufficient to establish that you are a member of the Class; (vi) a detailed list of any other objections you or your counsel have submitted to any class action in any state or federal court in the United States in the previous five years (or affirmatively stating that no such prior objection has been made); (iii) your full name, address, telephone number, and signature, and, if an attorney is representing you with the objection, the signature of your attorney; and (iv) whether you and/or your counsel intend to appear at the Hearing.

In order to be effective, the Notice of Intent to Object must be filed with the Court by July 9, 2018, and copies sent to the following addresses, postmarked by July 9, 2018:

Clerk of Courts  
Carl B. Stokes U.S. Court  
House  
801 West Superior Avenue  
Cleveland, Ohio 44113

Spangenberg, Shibley &  
Liber LLP  
Attn: Stuart E. Scott  
1001 Lakeside Avenue East,  
Suite 1700  
Cleveland, Ohio 44114

Tucker Ellis LLP  
Attn: Karl A. Bekeny  
950 Main Avenue,  
Suite 1100  
Cleveland, Ohio 44113

Plaintiff's Counsel

Defendants' Counsel

The Court will not entertain objections, nor allow appearances at the Final Settlement Hearing, unless you comply with the requirements and deadlines for a Notice of Intent to Object set forth above. The Court will not consider any objections filed after July 9, 2018. Late objections will be deemed to have been waived. Any judgment entered in this lawsuit will include and be binding on all Class Members who have not timely requested exclusion from the Class, even if they object to the proposed settlement. By filing an objection, you consent to the jurisdiction of the Court, including to any order of the Court to produce documents or provide testimony prior to the Final Fairness Hearing. If you object to the settlement but still want to submit a claim in the event the Court approves the settlement, you must still submit a timely claim according to the instructions described above.

### **ADDITIONAL INFORMATION**

This Notice is only a summary of the litigation and the proposed settlement, which is set forth in detail in a Settlement Agreement, which you may view online at [www.upandupwipessettlement.com](http://www.upandupwipessettlement.com). For more details about the litigation and the proposed settlement, you may view the pleadings, Settlement Agreement, and other documents on file in this case during the business hours at the Clerk of Courts United States District Court for the Northern District of Ohio, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113.

If you have any questions about the settlement, visit [www.upandupwipessettlement.com](http://www.upandupwipessettlement.com), call Toll Free 888-878-1989, or contact Plaintiffs' counsel listed above.

**PLEASE DO NOT CALL THE COURT, CLERK OF COURT, TARGET CORPORATION, NICE-PAK PRODUCTS, INC., OR COUNSEL FOR TARGET CORPORATION AND NICE-PAK PRODUCTS, INC. REGARDING THIS MATTER.**

Dated: April 5, 2018

The Honorable Donald C. Nugent  
United States District Court for the Northern  
District of Ohio