

Meta v. Target Corp., et al

Welcome to the *Meta v. Target Corp., et al.* answers of frequently asked questions to provide class members with information regarding a proposed Class Action Settlement with Target Corp. (Target).

Target and Nice-Pak Products, Inc. have agreed to a proposed settlement of a class action lawsuit called *Christopher Meta v. Target Corp, et al.* Case No. 4:14-CV-0832 in the U.S. District Court for the Northern District of Ohio, relating to a product you may have purchased

1. What is this lawsuit about?

The lawsuit claims that certain Up & Up flushable toddler wipes manufactured by Nice-Pak were not flushable. Target and Nice-Pak deny these claims, and the court has not decided who is right or who is wrong. Instead the parties have agreed to settle this case to resolve the matter.

2. How do I know if I am a member of the settlement class?

You are a member of the Settlement class if you reside in the United States and bought Up & Up Flushable Toddler Wipes at any U.S. Target Store from April 18, 2010 through October 31, 2014. The wipes involved in this settlement were under the “Buckeye” product line, which was discontinued on October 31, 2014.

The settlement specifically excludes purchasers of Nice-Pak’s “Sigma” formulation and subsequent product formulations of Up & Up Flushable Toddler Wipes.

3. Why is this case being settled?

This case has been pending since April 2014. Since then, Plaintiff’s counsel has investigated the manufacture and labeling of Up & Up wipes. Defendant has produced more than 200,000 pages of documents for review by Plaintiff’s counsel. In addition, Plaintiff has taken five depositions of Defendants’ employees, former employees, and corporate representatives, in addition to depositions of non-party witnesses. The parties also have exchanged written responses, under oath, to questions posed by the other party. Plaintiff has also retained experts and deposed an expert for Defendants. In September 2016, the Court denied summary judgment to Defendants and certified a class of consumers.

Based on its investigation, Plaintiff’s Counsel has determined that there are significant risks of continuing the litigation. In particular, there may be substantial difficulties establishing: (1) that the Up & Up wipes were, in fact, manufactured in such a way that they would not be able to live up to “flushability” claims; (2) that the labeling was likely to deceive or confuse consumers; and (3) that a price premium can be attributed to the “flushability” claims. Thus, there was a substantial risk that class members would recover

only nominal damages, or nothing at all. Finally, any judgment in Plaintiff's favor would likely be appealed. Thus, even in the best case, it could take years to get relief for class members.

Since the filing of the Litigation, the Parties have engaged in several rounds of settlement discussions, including a day-long mediation with respected mediator Michael Ungar in February 2017, and a settlement conference with the Court in November 2017. This settlement was reached as a result of those efforts.

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.

4. What does the Settlement Provide?

Eligible Class Members who file a valid claim ***with a proof of purchase*** may be eligible to receive gift cards or coupons for Up & Up Wipes packs, based on the amount purchased. Eligible Class Members who file a valid claim ***without*** a proof of purchase may be eligible to receive a gift card or coupon for a capped amount based on amounts purchased. The cap for the gift cards is no more than 20 units at \$1.35 per unit (up to \$27). The cap for coupons is 20. If you have proof of purchase for more than 20 units you may receive 20 coupons for the first 20 purchases and a gift card in the amount of \$1.35 for each additional purchase. Please visit the web site www.UPANDUPWIPESSETTLEMENT.com for complete details.

5. How do I 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 and can be submitted electronically there, or a paper claim form can be printed and submitted by mail to Target Settlement Administrator, PO Box 11486, Birmingham, AL 35202-1486.

To receive a hard copy of the Claim form you may download a pdf version at the website www.UPANDUPWIPESSETTLEMENT.com, or you may request to receive a copy by mail, by calling toll free 888-878-1989.

6. How do I opt out of the settlement?

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

7. How may I 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) (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) (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);
- (vii) your full name, address, telephone number, and signature, and, if an attorney is representing you with the objection, the signature of your attorney; and
- (viii) 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

Plaintiff's Counsel

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

Defendants' Counsel

8. When and where is the Settlement Final Approval Hearing?

The Court will hold a final hearing 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, to consider whether to approve the settlement and a request for attorneys' fees, costs, and expenses to be paid by the settlement.

The motion for the fees, costs, and expenses will be posted on the settlement website after they are filed. You may attend this hearing, but you do not have to.

9. How can I get additional information?

Complete copies of the pleadings and other documents filed in this Litigation may be examined and copied during regular office hours at the Clerk of Courts, Carl B. Stokes U.S. Court House, 801 West Superior Avenue, Cleveland, Ohio 44113.

The Settlement Agreement, Claim Form and other information are also available at www.UPANDUPWIPESSETTLEMENT.com, or call the Settlement Administrator at 1-888-878-1989.