

NOTICE OF CLASS ACTION SETTLEMENT

Stephen Hadley et al. v. Kellogg Sales Co., No. 16-cv-4955-LHK (N.D. Cal.)

The United States District Court has authorized this notice.

This is not a solicitation from a lawyer.

You may be a Class Member entitled to a Cash Refund if you purchased Kellogg's Raisin Bran, Smart Start, or Frosted Mini-Wheats cereals between August 29, 2012 and May 1, 2020:

THIS NOTICE CONCERNS YOUR LEGAL RIGHTS, WHICH ARE AFFECTED WHETHER YOU ACT OR DON'T. PLEASE READ IT CAREFULLY.

Summary of Your Legal Rights & Options	
Submit a Claim Form	Obtain compensation from the Settlement. The only way to get a monetary payment. Claim Forms must be submitted online at the Settlement Website, www.CerealClaims.com , or mailed to the Class Administrator by September 7, 2021.
Ask to be Excluded	Opt out of the Settlement, get no benefits from it, and retain your claims. You may ask to be excluded from the Settlement, in which case your individual claims will not be released if the Settlement is approved by the Court. But if you ask to be excluded, you cannot obtain compensation from the Settlement. Opt-Out Forms must be submitted online at the Settlement Website, www.CerealClaims.com , or mailed to the Class Administrator by September 7, 2021.
Object	Tell the Court why you believe the proposed Settlement is unfair, unreasonable, or inadequate. You may mail to the Class Administrator or file with the Court a written objection no later than September 7, 2021 and/or appear at the Final Approval Hearing to tell the Court why you believe the proposed Settlement is unfair, unreasonable, or inadequate.
Do Nothing	Stay in the Settlement, await the outcome, give up certain rights. By doing nothing, you will get no compensation from the Settlement, and give up any right you may have to sue Kellogg separately about the same legal claims in this lawsuit.

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Basic Information

1. Why is there a Notice?

You have the right to know about a proposed Settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement.

The court in charge of this case is the United States District Court for the Northern District of California (the “Court”), and the case is called *Stephen Hadley et al. v. Kellogg Sales Co.*, Case No. 16-cv-4955-LHK (N.D. Cal.). The case is assigned to the Honorable Lucy H. Koh. The individuals who sued are called the Class Representatives. Those persons are Stephen Hadley, Melody DiGregorio, Eric Fishon, Kerry Austin, and Nafeesha Madyun. The company they sued, Kellogg Sales Company (“Kellogg”), is called the Defendant.

2. What is this lawsuit about?

The lawsuit alleges Kellogg violated certain laws in labeling certain breakfast cereals with claims that made the products seem healthy, when they were in fact unhealthy due to their high added sugar content. Kellogg denies any and all wrongdoing and has asserted various defenses that it believes are meritorious.

3. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this case, Stephen Hadley, Melody DiGregorio, Eric Fishon, Kerry Austin, and Nafeesha Madyun), sue on behalf of people who have similar claims, all of whom are a class, or class members. Bringing a case as a class action allows the adjudication of many similar claims that might be economically too small to bring in individual actions. One court resolves the issues for all class members, except for those who exclude themselves from the class.

4. Why is there a settlement?

Kellogg denies that it did anything wrong. Both sides have agreed to a Settlement, which will allow both sides to avoid the risk and cost of further litigation. The Court has not decided in favor of the Class or Kellogg. The Class Representatives and their attorneys think the Settlement is best for the Class.

Who is in the Settlement?

5. How do I know if I am part of the Settlement?

The Class includes all persons in the United States who, between August 29th, 2012 and May 1st, 2020 (the “Class Period”), purchased in the United States, for household use and not for resale or distribution, one of the Class Products. The Class Products include the following:

- Kellogg’s Original Raisin Bran and Kellogg’s Raisin Bran Crunch cereals in a package stating “heart healthy.”
- Kellogg’s Smart Start Original Antioxidants cereal in a package stating “heart healthy” and/or “lightly sweetened.”

Questions? Visit www.CerealClaims.com or call toll free 1-844-907-1160

- Kellogg’s Frosted Mini-Wheats Bite Size (Original, Maple Brown Sugar, Strawberry, or Blueberry varieties), Big Bites (Original variety), Little Bites (Chocolate or Cinnamon Roll varieties), or Touch of Fruit in the Middle (Mixed Berry and Raspberry varieties) cereals in a package stating “lightly sweetened.”

6. What if I am still not sure if I am included in the Settlement?

If you are not sure whether you are a Class Member, or have any other questions about the Settlement, you should visit the Settlement Website, www.CerealClaims.com, or call the Settlement Administrator toll-free at 1-844-907-1160.

What are the Terms of the Settlement?

7. What types of relief does the Settlement provide?

The Settlement provides both monetary and injunctive relief to all Class Members. Class Members who make claims will be entitled to monetary compensation, on a *pro rata* basis, depending on which and how many boxes of cereal they purchased during the Class Period.

Kellogg has also agreed to revise the Class Products’ labeling in numerous ways to address the Class’s claims, as described further in response to Question 13 below.

8. What is the Settlement Fund?

As part of the Settlement, Kellogg has agreed to establish a \$13,000,000, non-reversionary Settlement Fund to pay all Settlement Expenses, including the costs of Class Notice and Administration, attorneys’ fees and costs, service awards for the Class Representatives, and Cash Awards for Class Members who make claims.

9. What can I get from the Settlement?

Class Members who timely submit a valid approved claim are entitled to compensation. Each timely, valid claimant will receive a payment based on the type and estimated amount of Class Products purchased during the Class Period. Based on the estimated number of claims that will be made, the estimated average Cash Award is approximately \$16.09. However, the actual amount of the Cash Award any individual receives will depend on both the number of claims made, and each claimant’s purchase history, and may be significantly more or less than \$16.09.

10. What am I giving up to get a payment?

If you are a Class Member, unless you exclude yourself from the Settlement, you cannot sue Kellogg, continue to sue, or be part of any other lawsuit against Kellogg about the claims released in this Settlement. It also means that all decisions by the Court will bind you. The Released Claims and Released Kellogg Persons are defined in the Settlement Agreement and describe the legal claims that you give up (or “release”) if you stay in the Settlement. The Released Claims relate to the Class Products and issues raised in the lawsuit. The Settlement Agreement is available on the Settlement Website, www.CerealClaims.com.

11. How do I make a claim?

Class Members wishing to make a claim must either (a) visit the Settlement Website, www.CerealClaims.com, and submit a claim form online, or (b) print, fill out, and mail the claim form to the Class Administrator at the following address:

Hadley v. Kellogg Sales Co. Class Administrator
P.O. Box 5098
Baton Rouge, LA 70821

The deadline for submitting a claim is September 7, 2021.

12. When will I get my Cash Award?

Cash Award payments will be made to Class Members who make valid and timely claims after the Court grants “final approval” to the Settlement, and after any appeals are resolved. If the Court approves the Settlement, there may be appeals. It is always uncertain when these appeals will be resolved, and resolving them can take time.

13. What injunctive relief does the Settlement provide?

As part of the Settlement, after being given a reasonable period of time to make and implement them, Kellogg has agreed to make the following changes with regards to certain claims on the labels of the Class Products that were challenged in this lawsuit:

- **“Heart Healthy.”** So long as more than 10% of their calories per serving come from added sugar, Kellogg will remove or modify references to heart health on Smart Start and Raisin Bran as follows:

Smart Start. In approximately November 2019, Kellogg removed and, for a period of no less than one (1) year after June 15th, 2021, will not use any heart health references on Smart Start’s packaging.

Raisin Bran. Starting in approximately April 2020, Kellogg limited, and for a period of no less than one (1) year after June 15th, 2021, Kellogg will continue to limit any “heart health” claims on Raisin Bran’s packaging to approximately the bottom half of the principal and reverse display panels. In so doing, Kellogg will not increase the size of any “heart health” claim beyond what was in use relative to a given box size during the Class Period.

- **“Healthy.”** Except as set forth above with respect to “Heart Health” claims on Raisin Bran, for a period of no less than one (1) year from June 15th, 2021, so long as more than 10% of their calories per serving come from added sugar, Kellogg will use the term “healthy” on the Class Products only consistently with 21 C.F.R. § 101.65(d)(ii), *i.e.*, in connection with an explicit or implicit claim about a nutrient of the type required to be labeled in the Nutrition Facts Box.
- **“Lightly Sweetened.”** In approximately December 2019, Kellogg removed, and, for a period of no less than one (1) year from June 15th, 2021, will not use the term “lightly sweetened” to describe Frosted Mini-Wheats and Smart Start cereals, so long as more than 10% of their calories per serving come from added sugar.
- **“No High Fructose Corn Syrup.”** For a period of no less than one (1) year after June 15th, 2021, Kellogg will not use the statement, “No High Fructose Corn Syrup” (or any equivalent

phrases, such as “No HFCS,” or “made without high fructose corn syrup”) on any Class Product, so long as more than 10% of its calories per serving come from added sugar.

- **“Wholesome,” “Nutritious,” and “Benefits.”** For a period of no less than one (1) year after June 15th, 2021, Kellogg will only use the words “wholesome,” “nutritious,” or “benefits” (and variations, such as “wholesomeness,” “nutrition,” or “beneficial”) on the Class Products in connection with a specific ingredient or nutrient, and shall not use those words to describe any Class Product as a whole, so long as more than 10% of its calories per serving come from added sugar.

Excluding Yourself from the Settlement

14. How do I get out of the Settlement?

If you do not want to be bound by the Settlement, you must request to be excluded from the Settlement. If you request to be excluded, you will retain any individual rights you have against Kellogg and will not be deemed to have individually “released” Kellogg from any of the Released Claims. However, you will *not* be eligible to receive compensation under the Settlement, as described above. You also may not object to the Settlement if you request to be excluded.

To exclude yourself (or “opt-out”) from the Settlement, you must visit the Settlement Website, www.CerealClaims.com, and either complete and submit the Opt-Out Form online, or print, complete, and mail the Opt-Out Form to the Class Administrator at the following address:

Hadley v. Kellogg Sales Co. Class Administrator
P.O. Box 5098
Baton Rouge, LA 70821

To be timely, an Opt-Out Form must be submitted online or postmarked on or before September 7, 2021.

15. If I don’t exclude myself, can I sue Kellogg for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Kellogg for the claims that this Settlement resolves. If you have a pending lawsuit, speak to your lawyer in that lawsuit to determine whether you must exclude yourself from this Settlement to continue your own lawsuit. If you properly exclude yourself from the Settlement, you shall not be bound by any orders or judgments entered in the Action relating to the Settlement.

16. If I exclude myself, can I still get a Settlement payment?

No. You will not get any money from the Settlement if you exclude yourself. If you exclude yourself from the Settlement, do not submit a Claim Form asking for benefits.

Objecting to the Settlement

17. How do I tell the Court if I do not like the Settlement?

If you are a Class member, you can object to the Settlement if you do not think it is fair, reasonable, or adequate, including Class Counsel’s motion for an award of attorney’s fees and costs and expenses, and/or the requested service award payments to the Class Representatives.

Questions? Visit www.CerealClaims.com or call toll free 1-844-907-1160

The Court cannot order a larger settlement or award you more based on your individual circumstances; the Court can only approve or deny the Settlement as it is presented.

If you wish to object, your Objection must contain:

- (a) The name of this Action (*Hadley et al. v. Kellogg Sales Co.*, No. 16-cv-4955-LHK (N.D. Cal.)), and a statement that the document is an objection;
- (b) Your full name, address and telephone number or, if objecting through counsel, your lawyer's name, address, and telephone number;
- (c) A statement of the Class Product(s) you bought during the Class Period;
- (d) A clear and concise statement of your objection, as well as any facts and law supporting the objection; and
- (e) You and/or your attorney's signature.

To be considered by the Court, your objection must, by September 7, 2021, either be filed with the Court or mailed to the following address:

Hadley v. Kellogg Sales Co. Class Administrator
P.O. Box 5098
Baton Rouge, LA 70821

If you do not comply with these procedures and the deadline for objections, you may waive your opportunity to have your Objection considered at the Final Approval Hearing or otherwise to contest the approval of the Settlement or to appeal from any orders or judgments entered by the Court in connection with the proposed Settlement. You will still be eligible to receive settlement benefits if the Settlement becomes final, even if you object to the Settlement.

Objecting Class members may appear at the Final Approval Hearing but are not required to do so. Class Members that wish to appear, are requested, but not required to mail to the Class Administrator at the above address or file with the Court in advance of the Hearing, a Notice of Intent to Appear.

Instructions and requirements for objecting are set forth in the Court's Preliminary Approval Order, which is available on the Class Settlement Website, www.CerealClaims.com.

18. What is the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself from the Settlement. Excluding yourself from the Settlement is telling the Court that you do not want to be part of the Settlement. If you exclude yourself from the Settlement, you have no basis to object to the Settlement because it no longer affects you.

The Lawyers Representing You

19. Do I have a lawyer in the case?

Yes. The Court has appointed The Law Office of Jack Fitzgerald, PC, and Jackson & Foster LLC as Class Counsel. The lawyers representing you will be paid, only with the Court's approval, from the Settlement Fund, as explained below in Question 20. If you want to be represented by your own lawyer, you may hire one at your own expense.

Questions? Visit www.CerealClaims.com or call toll free 1-844-907-1160

20. How will the lawyers be paid?

Class Counsel spent considerable time and effort prosecuting this matter on a purely contingent fee basis, and advanced the expenses of the litigation, in the expectation that they would receive a fee, and have expenses reimbursed, only if there was a benefit created for the Class. Class Counsel will file a motion on or before August 3rd, 2021 seeking an award of fees of no more than thirty percent of the Settlement Fund (equivalent to \$3.9 million), and reimbursement of case expenses totaling approximately \$1,180,923, plus any expenses incurred after June 15th, 2021. Class Counsel will also ask the Court, on behalf of the Class Representatives, for service awards as follows: \$10,000 for Stephen Hadley, and \$5,000 each for Melody DiGregorio, Eric Fishon, Kerry Austin, and Nafeesha Madyun.

After Class Counsel's motion for attorneys' fees, expenses, and service awards is filed on or before August 3rd, 2021, it will be posted on the Settlement Website, www.CerealClaims.com, and you will have an opportunity to review and comment on the motion via an Objection. The Court will then determine the amount of fees, expenses, and service awards, which will be paid from the Settlement Fund.

Notice and Administration Expenses

21. How will notice and administration expenses be paid?

Using the Class Administrator's estimates regarding the Class size and likely claims rate, notice and administration expenses, to be paid from the Settlement Fund, are currently estimated to be \$630,045.

The Court's Final Approval Hearing

22. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing (sometimes called a "fairness hearing") on November 18th, 2021, at 1:30 p.m., in Courtroom 8 of the United States Courthouse, 280 S. 1st Street, San Jose, California 95113. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate and may also consider how much to award to Class Counsel and the Class Representatives. If there are objections, the Court will consider them at this time. After the hearing, the Court will decide whether to approve the Settlement.

23. Do I have to come to the hearing?

No. Class Counsel will answer any questions that the Court may have, but you may come at your own expense. If you submit an objection, you do not have to come to the Court to talk about it. If you timely mail your written objection to the Class Administrator (see Question 17 above), Class Counsel will submit it to the Court on your behalf for consideration. You may also pay your own lawyer to attend, but it is not necessary.

24. May I speak at the hearing?

Yes. You may appear and speak at the Final Approval Hearing. Although it is not required, if you intend to appear and speak, you are requested to mail notice of your intent to appear no later than September 7, 2021, to the same address identified above for objections (see Question 17). Persons who opt out, however, may not appear and be heard.

If You Do Nothing

25. What happens if I do nothing at all?

If you do nothing, you will not get a payment from the Settlement but you will still be bound by the release. Unless you exclude yourself, if the Settlement is approved, you will not be able to start a lawsuit, or be part of any other lawsuit against Kellogg regarding claims based on the identical factual predicate as the Released Claims in this case.

Getting More Information

26. How can I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement and in case documents, available at the Settlement Website, www.CerealClaims.com. If you have additional questions, you can visit the Settlement Website or contact the Class Administrator:

By Mail: Hadley v. Kellogg Sales Co. Class Administrator
P.O. Box 5098, Baton Rouge, LA 70821-5098

By Email: info@CerealClaims.com

By Phone (Toll Free): 1-844-907-1160

Updates will be posted at the Settlement Website, as information about the Settlement process becomes available.

You are also welcome to contact Class Counsel with any questions:

By Email: jack@jackfitzgeraldlaw.com

By Phone: (619) 215-1742

For a more detailed statement of the matters involved in the litigation or the Settlement, you may review the various documents on the Settlement Website, and/or the other documents filed in this case by visiting, during business hours, the Clerk's Office at the United States District Court for the Northern District of California, Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, Room 2112, San Jose, California 95113, file: *Hadley et al. v. Kellogg Sales Co.*, No. 16-cv-4955-KOH, or by accessing the docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at www.pacer.gov.

* * *

PLEASE DO NOT TELEPHONE OR ADDRESS ANY QUESTIONS ABOUT THE CASE OR SETTLEMENT TO THE CLERK OF THE COURT OR TO THE JUDGE. THEY ARE NOT PERMITTED TO ANSWER YOUR QUESTIONS. THE COURT EXPRESSES NO VIEW AS TO THE MERITS OF ANY CLAIMS OR DEFENSES ASSERTED BY ANY PARTY TO THE ACTION.

Questions? Visit www.CerealClaims.com or call toll free 1-844-907-1160