

If You Purchased Benecol Spreads, You Could Be Entitled To Money From A Class Action Settlement

A federal court authorized this notice. This is not a solicitation from a lawyer.

- A Settlement Agreement has been reached in a class action lawsuit against Johnson & Johnson and McNeil Nutritionals, LLC (“Defendants”), Case No. 2:15-cv-01733-MCE-DB in the United States District Court for the Eastern District of California.
- The lawsuit is related to Benecol Regular and Light Spreads (“Benecol Spreads”). Purchasers have alleged that the labeling of Benecol Spreads claims that the product contains “No Trans Fats” and “No Trans Fatty Acids,” but that Benecol Spreads contain Trans Fats through the use of partially hydrogenated oils, and as such the labels on Benecol Spreads are false and misleading. Defendants deny the allegations and contend that the label is not misleading and clearly identified that the product contained insignificant amounts of Trans Fats.
- If you purchased Benecol Spreads between January 1, 2008 and December 31, 2011, you may be entitled to payment under the Settlement reached in the case.
- As part of this Settlement, Defendants have agreed to pay Settlement Class Members who do not have Proof of Purchase \$5 per tub for Benecol Spreads purchased between January 1, 2008 and December 31, 2011, for up to four (4) tubs of Benecol Spreads in total (*i.e.*, up to \$20). Settlement Class Members with a Proof of Purchase may receive a full refund for as many tubs of Benecol Spreads purchased between January 1, 2008 and December 31, 2011 for which they have a Proof of Purchase. A qualifying “Proof of Purchase” shall mean documentary evidence (e.g., a receipt, a transaction on a store loyalty card) establishing the purchase of Benecol Spreads, the date of purchase, and the purchase price.
- You must submit a valid Claim Form to receive any benefits under this Settlement.

**YOUR LEGAL RIGHTS ARE AFFECTED EVEN IF YOU DO NOTHING,
SO READ THIS NOTICE CAREFULLY.**

YOUR LEGAL RIGHTS AND OPTIONS	
FILE A CLAIM	The only way to get benefits under this Settlement. You must file a claim by February 25, 2022 .
DO NOTHING	Get no benefits. Give up your rights to sue Defendants about the legal claims in this case.
EXCLUDE YOURSELF	Get no benefits. This is the only option that may allow you to sue Defendants over the claims being resolved by this Settlement. You must exclude yourself by January 26, 2022 .
OBJECT	Write the Court about why you do not think this Settlement is fair, reasonable, or adequate. You must object by January 26, 2022 .
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement. The Court will hold a Final Approval and Fairness Hearing on March 24, 2022 at 2:00 p.m. at the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, CA 95814.

BASIC INFORMATION

1. Why did I get this notice?

This notice explains that the Court has allowed, or “preliminarily approved,” a class action settlement that may affect you. You have legal rights and options that you may exercise under this Settlement. Judge Morrison C. England, Jr. of the United States Court for the Eastern District of California is overseeing this class action. The lawsuit is known as *Martinelli v. Johnson & Johnson, et al.*, Case No. 2:15-cv-01733-MCE-DB.

2. What is this lawsuit about?

The lawsuit is about whether Defendants allegedly misrepresented the trans fat content of Benecol Spreads by labeling them as containing “No Trans Fats” when, in fact, they did contain trans fat.

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, Plaintiff JoAnn Martinelli) sue on behalf of other people who have similar claims. The people together are a “Class” or “Class Members.” The named plaintiff who sued – and all the Class Members like them – are called the “Plaintiffs.” The companies they sued (in this case, Johnson & Johnson and McNeil Nutritionals, LLC) are called the “Defendants.” One court resolves the issues for everyone in the Class – except for those people who choose to exclude themselves from the Class.

4. Am I part of this Class?

If you purchased a Benecol Spread for personal use in the United States between January 1, 2008 and December 31, 2011, you are a Class Member. The Settlement does not include: (i) Defendants and their respective officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; and (iii) the Judge assigned to evaluate the fairness of this settlement.

5. Why is this lawsuit a class action?

The Court preliminarily approved this class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts.

More information about why the Court preliminarily approved the class action settlement is in the Court’s Order Preliminarily Approving the Class Action Settlement, which is available at www.BenecolSettlement.com.

THE CLAIMS IN THE LAWSUIT

6. What does the lawsuit complain about?

Plaintiff alleges that the Defendants misrepresented the trans fat content of Benecol Spreads by labeling them as containing “No Trans Fats” when, in fact, they did contain trans fat.

Defendants deny the allegations and contend that the label is not misleading and clearly identified that the product contained insignificant amounts of Trans Fats. You can read Plaintiff’s First Amended Complaint at www.BenecolSettlement.com.

7. How do Defendants respond?

Defendants deny that they misrepresented the trans fat content of Benecol Spreads, deny any wrongdoing, and deny the Plaintiff's allegations. You can read Defendants' Answer to the First Amended Complaint at www.BenecolSettlement.com.

8. Why is there a settlement?

To avoid the cost, risk, and delay of litigation, the Parties reached a Settlement as to the claims of Plaintiff and the Settlement Class.

YOUR RIGHTS AND OPTIONS

You have to decide now whether to stay in the Class or ask to be excluded before **January 26, 2022**.

9. What relief is available to Settlement Class Members and how do I receive benefits?

To obtain a recovery, you must submit a Claim Form. **This is the only way to get a payment.**

Defendants have agreed to pay Settlement Class Members who do not have Proof of Purchase \$5 per tub for Benecol Spreads products purchased between January 1, 2008 and December 31, 2011, for up to four (4) tubs of Benecol Spreads in total (*i.e.*, up to \$20).

Settlement Class Members with a Proof of Purchase may receive a full refund for as many tubs of Benecol Spreads purchased between January 1, 2008 and December 31, 2011 for which they have a Proof of Purchase.

A qualifying "Proof of Purchase" shall mean documentary evidence (e.g., a receipt, a transaction on a store loyalty card) establishing the purchase of Benecol Spreads, the date of purchase, and the purchase price.

10. How much will the Class Representative receive?

The Class Representative, Plaintiff JoAnn Martinelli, will receive a portion of the settlement as Settlement Class Member should she opt to submit a Claim. The Class Representative will also receive a payment of up to \$7,500 as an Incentive Award for having filed and pursued this action. Any Incentive Award is subject to Court approval.

11. What happens if I do nothing at all?

By doing nothing, you are staying in the Class. By staying in the Class, all of the Court's orders will apply to you, and you give Defendants a "release." A release means you cannot sue or be part of any other lawsuit against Defendants about the claims or issues in this Lawsuit (relating to Benecol Spreads), and you will be bound by the Settlement.

12. Why would I ask to be excluded?

If you exclude yourself from the Class – which is sometimes called "opting-out" of the Class—you won't get any money or benefits from this Settlement. However, you may then be able to separately sue or continue to sue Defendants for the legal claims that are the subject of this lawsuit. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action.

If you bring your own lawsuit against Defendants after you exclude yourself, you will have to hire

and pay your own lawyer for that lawsuit, and you will have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Defendants, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

13. How do I exclude myself from the Class?

To exclude yourself from the Class, you must send a written request for exclusion *that is received no later than January 26, 2022*, to:

Benecol Spreads Settlement
c/o JND Legal Administration
P.O. Box 91426
Seattle, WA 98111

Your request for exclusion *must* contain: (1) the name of this lawsuit, *Martinelli v. Johnson & Johnson, et al., Case No. 2:15-cv-01733-MCE-DB*; (2) your full name and current address; (3) a clear statement of intention to exclude yourself such as “I wish to be excluded from the Class;” and (4) your signature. You may also get an Exclusion Request form at www.BenecolSettlement.com.

14. How do I object to the Settlement?

Any Settlement Class Member who does not request to be excluded from the Settlement Class may object to the Settlement. In order to exercise this right, you must submit a written objection to the Settlement Administrator. The objection must state your name and address, must include information sufficient to demonstrate membership in the Settlement Class, must state the specified grounds for each objection asserted, and must state whether you intend to appear at the final approval hearing. The final approval hearing is scheduled for **March 24, 2022 at 2:00 p.m.**

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in this case?

The Court appointed Bursor & Fisher, P.A. to represent the Plaintiff and all Class Members as “Class Counsel.” More information about this law firm, its practices, and its lawyers’ experience is available at www.bursor.com.

16. Should I get my own lawyer?

If you choose to remain in the Class, you do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will be responsible for paying that lawyer. For example, you can ask him or her to appear in Court for you if you want someone other than Class Counsel to speak for you.

17. How will the lawyers be paid?

Class Counsel will petition the Court for up to one-third of the total value of the Settlement, plus their costs and expenses of suit. You will not have to pay these fees, costs, and expenses. If the Court grants Class Counsel’s request, the fees, costs, and expenses will be or paid separately by Defendants.

THE FAIRNESS HEARING

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

The Court will hold a Final Approval and Fairness Hearing on **March 24, 2022 at 2:00 p.m.** to determine whether the proposed Settlement is fair, reasonable, and adequate and in the best interests of the class, and to rule on applications for compensation for Class Counsel and an incentive award for the Plaintiff. At that hearing, the Court will be available to hear any objections and arguments concerning the fairness of the proposed Settlement.

YOU ARE **NOT** REQUIRED TO ATTEND THIS HEARING TO BENEFIT FROM THIS SETTLEMENT. The hearing may be postponed to a later date without notice. The Court may hold the hearing in person at the Robert T. Matsui United States Courthouse, 501 I Street, Sacramento, CA 95814, via Zoom, or telephonically. Instructions on how to appear at the hearing will be available on the settlement website, www.BenecolSettlement.com

If you have objected to the settlement and intend to appear at the Final Approval Hearing, either with or without counsel, you must serve your notice on the Settlement Administrator, by January 26, 2022. *See Question 14* for complete instruction on objecting to the Settlement and appearing at the Fairness Hearing.

GETTING MORE INFORMATION

19. Are more details available?

Visit the website, at www.BenecolSettlement.com, where you will find the Court's Order Preliminarily Approving the Class Action Settlement, the Plaintiff's First Amended Complaint, Defendants' Answer, and an Exclusion Request Form.

You may also contact Class Counsel by email at info@bursor.com, or by writing to Benecol Spreads Settlement, c/o JND Legal Administration, P.O. Box 91426, Seattle, WA 98111.

PLEASE DO NOT CALL OR WRITE TO THE COURT FOR INFORMATION OR ADVICE.

DATED: September 28, 2021

**BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT CALIFORNIA**