

CLASS ACTION SETTLEMENT NOTICE

Your legal rights are affected whether you act or do not act. Read this notice carefully.

Attention Purchasers of Kirkland Signature Moist Flushable Wipes Between July 1, 2011 and May 31, 2017: You may be entitled to payment from a proposed class action settlement.

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

- A settlement (the “Settlement”) has been reached in the class action case of *Kurtz v. Kimberly-Clark Corp., et al.*, No. 1:14-cv-1142-PKC-RML (“Action”), pending in federal court in the Eastern District of New York (the “Court”).
- You may be included in a class certified by the Court for purposes of settlement (the “Settlement Class”) if you are an individual over the age of 18 who resides in the United States and who purchased in the State of New York any Kirkland Signature Moist Flushable Wipes (the “Product”), not for the purpose of resale, between July 1, 2011 and May 31, 2017.
- This Settlement will resolve claims of all Settlement Class Members against Costco Wholesale Corporation (“Costco” or “Defendant”) involving the Product. The lawsuit contends that the Product was inappropriately labeled and marketed as “flushable” and safe for sewer or septic systems. Costco denies these allegations and maintains that the wipes performed as advertised.
- In connection with this Settlement, each Settlement Class member who currently maintains a Costco membership and who does not opt out of the Settlement, and each Settlement Class member who does not currently maintain a Costco membership but submits a valid claim may be entitled to: one dollar and thirty cents (\$1.30) per package of Product purchased, with a minimum recovery of seven dollars and fifty cents (\$7.50) per Household (“Household” means, without limitation, all persons who share a single physical address), provided at least one Product package was purchased, and a maximum recovery of fifty-five dollars and ninety cents (\$55.90) per Household (Household shall be determined based on residential address). Recovery is limited to one claim per Household, regardless of how many persons reside at an address.
- Plaintiff’s counsel (“Class Counsel”) who brought the lawsuit will ask the Court for up to \$3,000,000 to be paid to them by Costco and non-party Nice-Pak Products, Inc. (“Nice-Pak”) as attorneys’ fees and expenses for investigating the facts, litigating the lawsuits, and negotiating the Settlement. They will additionally ask for \$10,000 for the named plaintiff, Dr. D. Joseph Kurtz (“Plaintiff”), who initially brought this lawsuit, to compensate him for taking on this litigation on behalf of the Settlement Class.
- The Settlement has been preliminarily approved by the Court. This notice summarizes the Settlement. For the precise terms and conditions of the Settlement, please: (i) see the Settlement Agreement, which is available at www.costcoflushablewipessettlement.com; (ii) contact the Claims Administrator by calling 1-877-514-0201 or writing to *Kurtz v. Kimberly-Clark Corp.* Claims Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134; or (iii) contact Class Counsel, Vincent M. Serra at Robbins Geller Rudman & Dowd LLP, 58 South Service Road, Suite 200, Melville, New York 11747.
- **PLEASE DO NOT CALL THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
SUBMIT A CLAIM FORM	<p>Submit a claim for payment online or by mail, if you do not currently maintain a Costco membership.</p> <p>Be bound by the Settlement and give up your right to sue or continue to sue Costco for the claims released by the Settlement.</p> <p>This is the only way to receive a payment from the Settlement, if you do not currently maintain a Costco membership.</p>	Must be received or submitted online by August 9, 2024
EXCLUDE YOURSELF (or "OPT OUT")	<p>Remove yourself from the Settlement Class and receive no payment by submitting a request for exclusion (or "opt out").</p> <p>This is the only option that allows you to bring or join another lawsuit against Costco related to the Product.</p> <p>You may not submit a claim or object to the Settlement if you exclude yourself, and will receive no payment from this Settlement if you exclude yourself.</p>	Must be received by August 9, 2024
OBJECT OR COMMENT	<p>Write to the Court about what you do or do not like about the Settlement, the amount of attorneys' fees and expenses, or the awards to Plaintiff.</p> <p>You may still submit a claim even if you object or comment and/or receive Settlement benefits.</p> <p>If you submit a claim and/or receive Settlement benefits, you will still be bound by the Settlement even if you object or comment.</p> <p>You cannot both request exclusion and also object.</p>	Must be received by August 9, 2024
GO TO THE FINAL APPROVAL HEARING	<p>Ask to speak in Court about the fairness of the Settlement, the amount of attorneys' fees, or the awards to the Plaintiff.</p> <p>You may still submit a claim and/or receive Settlement benefits, even if you go to the hearing.</p> <p>If you want your own attorney to represent you, you must pay for that attorney.</p>	<p>Hearing is August 30, 2024</p> <p>If you want to speak, you must submit a request to speak by August 9, 2024</p>
DO NOTHING	<p>If you are a current Costco member and Settlement Class Member, you will automatically receive a payment.</p> <p>If you do not currently maintain a Costco membership, you will receive no payment.</p> <p>You will release your claims, and have no right to sue later for the claims released by the Settlement.</p>	

- These rights and options—and the deadlines to exercise them—are explained in this notice. The deadlines may be moved, canceled, or otherwise modified, so please check the Settlement website at www.costcoflushablewipessettlement.com regularly for updates and further details.
- The Court in charge of this lawsuit still has to decide whether to finally approve the Settlement. Settlement payments will be made only if the Court approves the Settlement and after any appeals are resolved in favor of upholding the Settlement. This can take time. Please be patient.

Final Approval Hearing

On **August 30, 2024, at 10:00 a.m.**, the Court will hold a hearing (the “Final Approval Hearing”) to determine: (1) whether the Settlement is fair, reasonable, and adequate and should receive final approval; (2) whether the application for an award of attorneys’ fees and expenses brought by Class Counsel should be granted; and (3) whether the application for an award to Plaintiff who brought the lawsuit should be granted. The hearing will be held in a Courtroom to be determined at the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201, before the Honorable Pamela K. Chen. This hearing date may change without further notice to you. Consult the Settlement website at www.costcoflushablewipessettlement.com, or the Court docket in this lawsuit at ecf.nyed.uscourts.gov (perform a case number query using 1:14-cv-1142), for updated information on the hearing date and time.

Important Dates

August 9, 2024 Objection Deadline

August 9, 2024 Exclusion Deadline

August 9, 2024 Claim Form Deadline

August 30, 2024 Final Approval Hearing

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How Do I Know If I Am Affected By The Litigation And The Settlement?

The lawsuit involves wipes labeled as “flushable” and sold under the brand name Kirkland Signature Moist Flushable Wipes. For purposes of Settlement only, the Court has certified the Settlement Class. You are a member of the Settlement Class (“Settlement Class Member”) if, between July 1, 2011 and May 31, 2017, you (a person, not a commercial entity) reside in the United States and purchased one or more units of the Product in the State of New York, not for purpose of resale.

The Settlement Class excludes: (1) the Honorable Pamela K. Chen, the Honorable Robert M. Levy, mediator David Geronemus, mediator Michael Ungar, Esq., and any member of their immediate families; (2) any of Costco’s and Nice-Pak’s officers, directors, employees, or legal representatives; (3) Product purchases that have already been refunded or voided by Costco, Nice-Pak, or any other retailer; (4) Product purchases that were made for the purpose of resale, including purchases made by Costco business or commercial members; and (5) any person who timely opts out of the Settlement Class.

If you are a Settlement Class Member, you will be bound by the Settlement and judgment in this lawsuit, unless you request to be excluded, regardless of whether you submit a claim for monetary payment.

If the Settlement does not become effective (for example, because it is not finally approved, or the approval is reversed on appeal), then this litigation will continue on behalf of purchasers in New York. Specifically, a class of people who purchased the Product in New York between February 21, 2008 and March 1, 2017 (the “Certified Class”) has already been certified by the Court. To be clear, the Certified Class is somewhat different than the Settlement Class. The New York Class is defined as “All persons and entities who purchased Kirkland Signature Flushable Wipes in the State of New York between July 1, 2011 and March 1, 2017.” Members of the Certified Class have the same rights as all Settlement Class Members, as explained in this notice, except that they will remain part of the Action even if this Settlement is not approved, as specified in the section “Special Notice for Members of the Certified Class.”

What Is The Lawsuit About?

Plaintiff asserts that labeling on the Product that stated that the Products were “flushable” and were safe for sewer or septic systems, is false or misleading, and that the Product damaged or clogged plumbing pipes, septic systems, and sewage lines and pumps. Plaintiff alleges that Costco is liable for violation of New York General Business Law §349. Plaintiff seeks to pursue his claims on behalf of himself and others who purchased the Products in New York.

Costco denies that there is any factual or legal basis for Plaintiff’s allegations. Costco contends that the labeling of the Product was truthful and not misleading, and that the Product did not cause property damage in well-maintained plumbing systems. Costco therefore denies any liability. Costco also denies that Plaintiff or any other members of the Settlement Class have suffered injury or are entitled to monetary or other relief. Costco further contends that, following a two-year investigation, the U.S. Federal Trade Commission finalized a Consent Order with Nice-Pak on October 30, 2015, which permits Costco and Nice-Pak to continue labeling, advertising, and marketing the Product as “flushable.”

The Court has not determined the merits of these arguments, or whether Plaintiff or Costco are correct.

What Does Plaintiff Seek To Recover In The Lawsuit?

The lawsuit contends that, if Costco had not engaged in the labeling, marketing, and advertising that Plaintiff challenges, the price of the Product would have been lower. Plaintiff seeks to recover, on behalf of a class of individuals who purchased the Product in New York (except for purchases made for resale), the dollar amount of the price “premium” that is attributable to the alleged misrepresentations, or statutory damages under New York General Business Law §349, and Plaintiff originally sought to pursue claims for property damage that he allegedly incurred as a result of using Costco’s flushable wipes.

Costco denies that there is any legal entitlement to a refund, damages, or any other monetary relief.

Why Is This Lawsuit Being Settled?

Class Counsel has investigated the manufacturing, marketing, labeling, and performance of the Product. Costco has produced thousands of pages of documents for review by Class Counsel. Class Counsel have taken depositions of Costco and Nice-Pak employees. The parties also have exchanged written responses to questions posed by the other party. Class Counsel have also obtained documents from third parties, including wastewater treatment professionals and INDA (the trade association for manufacturers of flushable wipes). Class Counsel also retained two experts to evaluate the Product and the Class’s damages, and have had extensive consultations with wastewater professionals. Plaintiff and his expert witnesses have been deposed. One of Plaintiff’s expert witnesses submitted six separate expert declarations, and both expert witnesses and a wastewater professional provided testimony before the Court at evidentiary hearings.

Since the initiation of this litigation, Plaintiff and Costco, through their counsel, have participated in substantial settlement discussions, both formal and informal, including before a third-party mediator. This Settlement was reached following those efforts.

After taking into account the risks and costs of further litigation, Plaintiff and his counsel believe that the terms and conditions of this Settlement are fair, reasonable, adequate, and equitable, and that this Settlement is in the best interest of the Settlement Class Members. This Settlement provides immediate monetary relief to the Settlement Class without the cost, time, and expense of litigating, which can take years.

What Is The Settlement?

Costco and Nice-Pak will provide monetary payments to Settlement Class Members and to Class Counsel and Plaintiff, as described in the next sections.

What Can I Get In The Settlement?

Each Settlement Class Member who currently maintains a Costco membership and who does not opt out of the Settlement, and each Settlement Class Member who does not currently maintain a Costco membership but submits a valid claim, shall receive a payment of one dollar and thirty cents (\$1.30) for each Product unit purchased during the Settlement Class Period (July 1, 2011 and May 31, 2017), regardless of the price the Settlement Class Member paid for the Product or the number of wipes contained in each package, subject to the following: (i) a minimum of seven dollars and fifty cents (\$7.50) will be paid to each Settlement Class Member, regardless of the number of Product units purchased by that Settlement Class Member; (ii) a maximum of fifty-five dollars and ninety cents (\$55.90) (*i.e.*, a maximum of 43 Product units) shall be paid to any one Household for such purchases; and (iii) only one claim may be submitted per Household (Household shall be determined based on residential address). Settlement Class Members will be eligible to receive their settlement sums regardless of whether their claims are corroborated by proofs of purchase.

There is a \$2 million cap on cash payments to Settlement Class Members, inclusive of class settlement administration costs, and thus individual cash payment amounts may be reduced *pro rata* (proportionately) so that the total amount of all payments to Settlement Class Members and administration costs does not exceed the cap.

How Do I Make A Claim?

To make a claim, if you do not currently maintain a Costco membership, you must fill out the claim form available at www.costcoflushablewipessettlement.com. You can print the claim form and mail it to the Claims Administrator at *Kurtz v. Kimberly-Clark Corp.* Claims Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134, or you can submit the claim form online. Claim forms must be submitted online or received, not just postmarked, by August 9, 2024. If you currently maintain a Costco membership, you do not need to submit a claim. Costco will identify Settlement Class Members and the number of Product units purchased and issue the appropriate check to the mailing address on file.

What Does Plaintiff And Their Counsel Get?

To date, Class Counsel have not been compensated for their work on this with respect to Costco. As part of the Settlement, Class Counsel may apply to the Court to award them up to \$3,000,000.00 from Costco and Nice-Pak to pay their attorneys' fees and expenses. The Court will determine how much to award Class Counsel.

In addition, Plaintiff Dr. Kurtz may apply to the Court for an award of \$10,000. This award is designed to compensate Plaintiff for his time and effort in pursuing the lawsuit against Costco on behalf of the Settlement Class. The Court will determine how much to award Plaintiff.

Neither an award of attorneys' fees and expenses to Class Counsel nor any awards to Plaintiff will affect compensation to Settlement Class Members from the Settlement.

Plaintiff and their counsel will file a motion with the Court on or before **July 26, 2024**, in support of their applications for attorneys' fees and expenses and awards to Plaintiff. A copy of that motion will be available on the Settlement website (www.costcoflushablewipessettlement.com).

The Court will determine the amount of fees and expenses awarded to the attorneys and the amount of Plaintiff's award.

What Claims Are Released By The Settlement?

This Settlement releases all "Plaintiff's Released Claims" by Settlement Class Members (whether or not they file a valid claim) against Costco and its affiliates. "Plaintiff's Released Claims" is defined in the Settlement Agreement as any and all claims, suits, debts, liens, demands, rights, causes of action, continuing prosecutions, obligations, controversies, damages, costs, expenses, attorneys' fees, or liabilities, of any nature, whether arising under local, state, federal, or foreign law, whether by statute, regulation, contract, common law, or equity, that arise from or relate to the claims and allegations in the Complaint, including, but not limited to, unknown claims, and the acts, facts, omissions, or circumstances that were or could have been alleged by Plaintiff in the lawsuit related to any wipe products (flushable and non-flushable) currently or formerly manufactured, marketed, or sold by Costco or any of its affiliates. Plaintiff's Released Claims shall in all respects be construed as broadly as possible as to the claims asserted, including but not limited to all property damage, consistent with all applicable law, to effect complete finality over the lawsuit with respect to Costco. Once the Settlement is approved, the Settlement Class Members will also be bound to the same release. Plaintiff's Released Claims does not include the release of claims for personal injury arising out of the use of the Product. For further information regarding the releases, please see Section VII of the Settlement Agreement, available at www.costcoflushablewipessettlement.com.

Can I Exclude Myself From The Settlement?

You can exclude yourself (or "opt out") from the Settlement Class if you wish to retain the right to sue Costco separately for the claims released by the Settlement. If you exclude yourself, you cannot file a claim or object to the Settlement, and will not be entitled to any monetary payments from the Settlement. You do not need to exclude yourself if you merely want to retain a right to sue for personal injury arising out of your use of the Product.

To exclude yourself, you must complete and submit the online exclusion request form at the Settlement website (www.costcoflushablewipessettlement.com), or download and submit the online exclusion request form to the Claims Administrator via first-class mail at *Kurtz v. Kimberly-Clark Corp.* Claims Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134. Exclusion requests must be made online or received (not postmarked) by mail by **August 9, 2024**.

So-called "mass" or "class" opt outs shall not be allowed.

Can I Object To or Comment on The Settlement?

You can ask the Court to deny approval of the Settlement by submitting an objection. If the Court denies approval to the entire Settlement, no Settlement payments will be made, and the lawsuit will continue. If that is what you want to happen, you must object.

You can also ask the Court to disapprove the requested payments to Plaintiff and to their counsel. Even if those payments are disapproved or adjusted, no additional money will be paid to Settlement Class Members.

You can also tell the Court what you like about the Settlement.

You can exercise any of the above options regardless of whether or not you file a claim, but not if you exclude yourself from the Settlement Class. If you exclude yourself from the Settlement Class by submitting an opt-out request, you cannot object or comment on the Settlement.

Any objection must include: (1) the case name and number, *Kurtz v. Kimberly-Clark Corp., et al.*, No. 1:14-cv-1142-PKC-RML (E.D.N.Y); (2) your name, address, and telephone number and, if available, your email address, and if you are represented by counsel, the name of your counsel; (3) a statement of all grounds for the objection, accompanied by any legal support for such objection; (4) a statement as to whether you intend to appear and be heard at the Final Approval Hearing, either with or without counsel; (5) a statement of your membership in the Settlement Class, including all information required by the claim form; (6) a detailed list of any other objections submitted by you or your counsel to any class actions submitted in any court, whether state or otherwise, in the United States in the previous five (5) years. If you and/or your counsel have not objected to any other class action settlement in any court in the United States in the previous five (5) years, you shall affirmatively state so in the written materials provided in connection with the objection to this Settlement; and (7) your signature and the signature of your duly authorized counsel or other duly authorized representative (along with documentation setting forth such representation). Failure to include this information and documentation may be grounds for overruling and striking your objection.

All written objections, requests to appear, and supporting papers must be mailed to the Claims Administrator or counsel for Plaintiff at the addresses shown on the Settlement website (www.costcoflushablewipessettlement.com), who will then file all objections, requests to appear, and supporting papers with the Court. Documents must be *received*, not merely postmarked, on or before **August 9, 2024**.

You may also appear at the Final Approval Hearing, either in person or through your own counsel. If you appear through your own counsel, you are responsible for paying that counsel. To appear at the Final Approval Hearing, you need to file a written objection to the Settlement and a written request to the Court for permission to appear, which must be filed with or received by the Court before **August 9, 2024**.

When Will The Court Decide If The Settlement Is Approved?

The Court will hold a Final Approval Hearing on **August 30, 2024, at 10:00 a.m.** to consider whether to finally approve the Settlement. The Final Approval Hearing will be held in the United States District Court, Eastern District of New York, before the Honorable Pamela K. Chen, in a Courtroom to be determined. The hearing is open to the public. However, only persons who have filed an objection and a request to appear at the hearing—due 21 days before the Final Approval Hearing—may actually address the Court. This hearing date may change without further notice to you.

Consult www.costcoflushablewipessettlement.com or the Court docket in this lawsuit at ecf.nyed.uscourts.gov (perform a case number query using 1:14-cv-1142) for updated information on the Final Approval Hearing date and time.

Special Notice For Members Of The Certified Class

As noted above, the Certified Class is different than the Settlement Class and includes “[a]ll persons and entities who purchased Kirkland Signature Flushable Wipes in the State of New York between July 1, 2011 and March 1, 2017.” This section provides further information about the rights specific to members of the Certified Class.

All sections of this notice apply to you. You have the right to make a claim under this Settlement, object to the Settlement, or exclude yourself, just like other members of the Settlement Class. If the Settlement is not approved, or if the Effective Date does not occur for any other reason, as further explained in the Settlement Agreement, and you have not excluded yourself from the Settlement Class, the litigation will continue on your behalf as a member of the Certified Class in the Action. The Court has already appointed Plaintiff Dr. D. Joseph Kurtz and Class Counsel to represent the interests of the Certified Class.

If the litigation continues, and a judgment is obtained against the Certified Class in favor of Costco, that judgment will prevent you from bringing a separate lawsuit against Costco for the claims that were or could have been litigated in this lawsuit. If the litigation continues, and a judgment is obtained against Costco in favor of the Certified Class, and you are entitled to any portion of that judgment, you will receive further notification about your rights.

How Do I Get More Information?

You can inspect many of the court documents connected with this lawsuit at www.costcoflushablewipessettlement.com. Other papers filed in this lawsuit are available by accessing the Court docket in this lawsuit at ecf.nyed.uscourts.gov (perform a case number query using 1:14-cv-1142), or by visiting the office of the Clerk of the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY, 11201, from 8:30 a.m. to 4:45 p.m., Monday through Friday, excluding federal holidays.

You can also obtain additional information by contacting the Claims Administrator through the Settlement website (www.costcoflushablewipessettlement.com) or by calling 1-877-514-0201 or writing to *Kurtz v. Kimberly-Clark Corp.* Claims Administrator, P.O. Box 301134, Los Angeles, CA 90030-1134 or by emailing to info@costcoflushablewipessettlement.com.