

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

**If you purchased Atkins Nutritionals Products, a
proposed class action settlement may affect your rights.**

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

- This Notice relates to a proposed settlement of three class action lawsuits captioned *Smith v. Atkins Nutritionals, Inc.*, Case No. 2:18-CV-04004-MDH (the “*Smith Case*”), pending in the Western District of Missouri, *Colella et al. v. Atkins Nutritionals, Inc.*, Case No. 17-cv-5867-KAM-SJB (the “*Colella Case*”), pending in the Eastern District of New York, and *Fernandez v. Atkins Nutritionals, Inc.*, Case No. 3:17-cv-01628-GPC-WVG (the “*Fernandez Case*”), pending in the Southern District of California, all involving similar claims and which allege that statements on Atkins Nutritionals, Inc. (“Atkins Nutritionals”) products’ packaging and in advertisements misled consumers regarding the impact of sugar alcohols, including maltitol, on blood sugar levels. Atkins Nutritionals denies that it violated the law in any way, but the parties have agreed to resolve the lawsuits by a proposed settlement to avoid incurring further expenses and burdens related to these lawsuits. The proposed settlement has been submitted to the United States District Court for the Western District of Missouri (the *Smith case*) for approval.
- The proposed settlement affects individuals who purchased Atkins Nutritionals products that contained any sugar alcohol (including but not limited to maltitol) or polyol (including but not limited to glycerin) during the Purchase Period. The Purchase Period is from January 1, 2013 to the present for purchases in New York, Missouri and/or California, and from January 1, 2014 to the present for purchases in any other state.
- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:	
SUBMIT A CLAIM FORM	The only way to get a payment if you are eligible for one.
ASK TO BE EXCLUDED	If you do not want to be included in the case and the settlement, you must exclude yourself. This is called “opting out.” This is the only option that allows you to sue Atkins Nutritionals for the issues resolved by this proposed settlement. If you “opt out,” you will not be able to submit a claim.
OBJECT	You may write to the Court about why you don’t like the proposed settlement.
GO TO A HEARING	You may ask to speak in Court about the fairness of the proposed settlement.
DO NOTHING	If you do nothing and the Court approves this proposed settlement, you will not be able to sue Atkins Nutritionals for the issues resolved by this proposed settlement, and you will get no payment under this settlement.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the proposed settlement. Payments will be made to eligible class members if the Court approves the settlement and after appeals (if any) are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this notice?

This Notice has been posted for the benefit of potential members of the class. If you are uncertain about whether you are a member of the class after reviewing this Notice, you may view additional details about the lawsuits and the proposed settlement at www.ANIClassSettlement.com. You may also contact the Settlement Administrator (identified below) at (888) 531-0208 or Class Counsel (identified below) at (816) 945-7110 (Williams Dirks Dameron LLC).

This Notice has been posted because members of a class have the right to know about a proposed settlement of class action lawsuits in which they are class members, and about all of their options, before the Court decides whether to approve the settlement. If the Court approves the settlement, and after objections or appeals relating to the settlement are resolved, the benefits provided for by the settlement will be available to members of the class.

This Notice explains the lawsuits, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. This Notice contains only a summary of the settlement.

The Court in charge of this proposed settlement is the United States District Court for the Western District of Missouri where the *Smith* Case is pending. The two other class actions (the *Colella* Case and the *Fernandez* Case), and the claims asserted in both of those cases, are also part of this settlement, and those cases have been “stayed,” or paused, pending the Western District of Missouri Court’s review of this settlement.

The plaintiffs are: Amanda Smith, Cheryl Fernandez, Joseph Colella, Joseph Timmerman, Kelly Styles Longo, Sandra Styles-Hovarth, Johanna Garcia, and Sharon Marie Betsill. Atkins Nutritionals is the Defendant in these cases.

2. What are the lawsuits about?

The lawsuits allege that Atkins Nutritionals’ representations related to its labeling, marketing, advertising, and sales of its products that contained any sugar alcohol (including but not limited to maltitol) or polyol (including but not limited to glycerin) were unfair, deceptive, and/or unlawful because, according to the plaintiffs, Atkins Nutritionals’ statement that sugar alcohols have a minimal impact on blood sugar is not accurate.

Atkins Nutritionals disputes Plaintiffs’ allegations, denies all liability to Plaintiffs and the class, and has asserted numerous defenses to these lawsuits. No court has found that Atkins Nutritionals has violated the law in any way. No court has found that Plaintiffs could recover any certain amount in this litigation.

Although the Western District of Missouri Court has authorized notice to be given of the proposed settlement, this Notice does not express the opinion of the Court on the merits of the claims or defenses asserted by either side of the lawsuits.

3. Why are these class actions?

In a class action, one or more people called Class Representatives sue on behalf of other people who have similar claims. The people together are a “class” or “class members.” The customers who sued Atkins Nutritionals — and all the class members like them — are called Plaintiffs. The company they sued (in this case, Atkins Nutritionals) is called the Defendant. One court resolves the issues for everyone in the class – except for those who choose to exclude themselves from the class. The Class Representatives in this proposed settlement are Amanda Smith, Cheryl Fernandez, Joseph Colella, Joseph Timmerman, Kelly Styles Longo, Sandra Styles-Hovarth, Johanna Garcia, and Sharon Marie Betsill. U.S. District Judge Douglas Harpool is in charge of this proposed class action settlement.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Atkins Nutritionals. Instead, both sides agreed to a settlement. That way, they avoid the cost and risks of a trial, the people affected will get injunctive relief, and eligible customers will receive compensation. The Class Representatives and their attorneys think the settlement is best for everyone.

WHO IS IN THE SETTLEMENT?

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

You are a part of the settlement if you purchased Atkins Nutritionals products that contained any sugar alcohol (including but not limited to maltitol) or polyol (including but not limited to glycerin) during the Purchase Period. The Purchase Period is from January 1, 2013 to the present for purchases in New York, Missouri and/or California, and from January 1, 2014 to the present for purchases in any other state.

6. Which Atkins Nutritionals products are included in the settlement?

All Atkins Nutritionals products that contained any sugar alcohol (including but not limited to maltitol) or polyol (including but not limited to glycerin) and were sold during the Purchase Period, including but not limited to: Dark Chocolate Almond Coconut Crunch; Caramel Double Chocolate Crunch; Dark Chocolate Decadence, Chocolate Coconut Bar, Peanut Butter Cups, Chocolate Peanut Candies, Chocolate Chip Cookie Dough, Chocolate Peanut Butter, Chocolate Peanut Butter Pretzel, Sweet & Salty Trail Mix, Classic Trail Mix, Caramel Chocolate Nut Roll, Coconut Almond Delight, Marshmallow Mudslide Bar, Chocolate Oatmeal Fiber, Chocolate Candies, Caramel Nut Chew Bar, Chocolate Caramel Mousse Bar, Chocolate Covered Almonds, Milk Chocolate Covered Squares, Peanut Caramel Cluster Bar, Strawberry Almond, Peanut Butter Granola, Blueberry Greek Yogurt, Chocolate Chip Granola, Cinnamon Bun, Cookies n’ Crème, Cashew Trail Mix, Chocolate Chip Crisp, Chocolate Hazelnut, Peanut Butter Fudge Crisp, Pecan Caramel Clusters, Milk Chocolate Caramel Squares, Nutty Fudge Brownie, Peanut Fudge Granola Bar, Mocha Almond Bar, Raspberry Chia Bar, Chocolate Almond Caramel Bar, Vanilla Pecan Crisp Bar, Lemon Bar, White Chocolate Macadamia Nut, Triple Chocolate Bar, Caramel

Chocolate Peanut Nougat Bar, Cranberry Almond Bar, Peanut Butter Protein Wafer Crisp, Lemon Vanilla Protein Wafer Crisp, and Chocolate Mint Protein Wafer Crisp. The Purchase Period is from January 1, 2013 to the present for purchases in New York, Missouri and/or California, and from January 1, 2014 to the present for purchases in any other state.

As part of this settlement, Atkins Nutritionals has agreed to remove the statement that sugar alcohols “minimally impact blood sugar” from all of its products that contain any sugar alcohol (including but not limited to maltitol) or polyol (including but not limited to glycerin).

In addition, in connection with this settlement, Atkins Nutritionals has discontinued, or has agreed to discontinue within the next two (2) years, the following twelve (12) products containing sugar alcohols: Dark Chocolate Almond Delight Snack Bar; Dark Chocolate Decadence Bar; Classic Trail Mix; Marshmallow Mudslide Bar; Cinnamon Bun Meal Bar; Strawberry Almond Meal Bar; Chocolate Oatmeal Fiber Bar; Chocolate Hazelnut Snack; Sweet and Salty Trail Mix; Coconut Almond Delight; Dark Chocolate Almond Coconut Crunch; and Cashew Trail Mix.

Further, Atkins Nutritionals has discontinued, or has agreed to discontinue within the next two (2) years, the use of maltitol, a particular sugar alcohol, in the following nine (9) products: Chocolate Chip Granola Meal Bar; Chocolate Peanut Butter Meal Bar; Peanut Butter Granola Meal Bar; Blueberry Greek Yogurt Bar; Chocolate Peanut Butter Pretzel; Triple Chocolate Snack Bar; Caramel Double Chocolate Crunch Snack Bar; Chocolate Chip Crisp Snack Bar; and Cranberry Almond Snack Bar. Atkins Nutritionals also has agreed to endeavor in good faith to discontinue or reduce the amount of maltitol, within the next two (2) years in the following two (2) products: Caramel Nut Roll Snack Bar and Caramel Chocolate Peanut Nougat Snack Bar.

Finally, this settlement creates a settlement fund for cash awards to be paid to each member of the class who purchased one or more of the following products during the applicable time period and submits a valid claim form: Chocolate Covered Candies, Chocolate Peanut Candies, Milk Chocolate Caramel Squares, Peanut Butter Cups, and Chocolate Caramel Mousse bars (the “More Than 10 Grams Of Maltitol Products”).

If you are uncertain as to whether you are a member of the class, additional information is available at www.ANIClassSettlement.com. You may also contact the Settlement Administrator at (888) 531-0208 or Class Counsel at (816) 945-7110 (Williams Dirks Dameron LLC) to find out more information.

THE SETTLEMENT BENEFITS

7. What does the settlement provide?

The settlement provides several benefits. As described above, Atkins Nutritionals has agreed to: (1) change its labels to remove the allegedly incorrect statements about the impact of sugar alcohols and polyols on blood sugar, (2) discontinue several products containing sugar alcohols, (3) reformulate several products to reduce or eliminate maltitol, (4) create a settlement fund for payments to class members who purchased the More Than 10 Grams Of Maltitol Products, and (5) as described below, to potentially make a donation to the American Diabetes Association. The first three benefits (relabeling, discontinuance, and reformulation) are sometimes referred to as “injunctive relief.” The fourth benefit is sometimes referred to as monetary or cash compensation. The fifth benefit is sometimes referred to as “*cy pres*” relief.

The costs to Atkins Nutritionals of relabeling, discontinuance, and reformulation are at least \$3 million. The value of that injunctive relief is more than that. The cash settlement fund from which monetary or cash compensation may be paid is \$3.8 million. If the total amount of cash awards is less than \$500,000, then Atkins Nutritionals will pay the difference up to \$500,000 to the American Diabetes Association as the charitable, *cy pres* recipient.

The Settlement Administrator will make payments to eligible class members from the settlement fund as follows:

- Each class member who provides evidence of purchase of a More Than 10 Grams Of Maltitol Product during the Purchase Period, including a qualifying claim form and a proof of purchase, will receive an amount equal to the 25% of the average national purchase price for each More Than 10 Grams Of Maltitol Product. There is no individual cap or maximum that class members in this category can recover, subject to pro rata adjustments in the event that the total amount of all approved claims, attorneys' fees and costs, Class Representative service awards, and class settlement administration costs exceeds the amount in the settlement fund.
- Each class member who provides evidence of purchase of a More Than 10 Grams Of Maltitol Product during the Purchase Period in the form of only a claim form (but without proof of purchase) will receive an amount equal to 10% of the average national purchase price for each More Than 10 Grams Of Maltitol Product. Class members in this category are limited to \$100 per class member in aggregate cash awards, which also are subject to pro rata adjustments in the event that the total of all approved claims, attorneys' fees and costs, Class Representative service awards, and class settlement administration costs exceeds the amount in the settlement fund.
- The average national purchase prices of the More Than 10 Grams Of Maltitol Products are as follows:
 - Chocolate Covered Candies
 - 5-pack (5 oz) boxes: \$5.14
 - Chocolate Peanut Candies
 - 5-pack (6 oz) boxes: \$5.21
 - 12-pack +1 (15.6 oz) boxes: \$10.92
 - Milk Chocolate Caramel Squares
 - 5-pack (6.1 oz) boxes: \$5.13
 - Peanut Butter Cups
 - 5-pack (6 oz) boxes: \$5.33
 - 12-pack +1 (15.6 oz) boxes: \$9.12
 - Chocolate Caramel Mousse bars
 - 5-pack (6.1 oz) boxes: \$5.24

The following chart summarizes the claim and payment process:

IF YOU PURCHASED AN ATKINS NUTRITIONALS PRODUCT CONTAINING MORE THAN 10 GRAMS OF MALTITOL:		
You Must Submit a Claim Form to Recover Money	Do you have Proof of Purchase (Yes or No)?	Payment
Submit a properly completed claim form	If you <i>do</i> have proof of purchase for your Atkins Nutritionals products:	You will receive up to 25% of the average national purchase price for each More Than 10 Grams Of Maltitol Product that you purchased. There will be no individual cap or limit on the amount of recovery for these purchases.
	If you <i>do not</i> have proof of purchase for your Atkins Nutritionals products:	You will receive up to 10% of the average national purchase price for each More Than 10 Grams Of Maltitol Product that you purchased. Your recovery will be limited to \$100 for these purchases.

HOW YOU GET A PAYMENT – SUBMITTING A CLAIM FORM

8. How can I get a payment?

To receive a payment, you must have purchased one or more of the More Than 10 Grams Of Maltitol Products and submit a claim form to the Claims Administrator, which is available on this website. You may complete, electronically sign, and submit the claim form, and upload any proofs of purchase, by visiting the website at www.ANIClassSettlement.com. You may also print the claim form from this website and mail the completed and signed claim form, along with any proofs of purchase, to the Claims Administrator at:

Smith, et al. v. Atkins Nutritionals, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

The claim form and any proofs of purchase must be postmarked or submitted online **NO LATER THAN APRIL 27, 2020**.

9. When would I get my payment?

The Court will hold a hearing on JUNE 25, 2020 at 11:00 a.m. in Courtroom 4B at the following location:

U.S. District Court for the Western District of Missouri
80 Lafayette Street
Jefferson City, Missouri 65101

The Court will decide at the hearing whether to finally approve the settlement. If the settlement is approved, there may be appeals which may take additional time to resolve. Payments to members of the class will be made only if the settlement is approved and after any appeals are final. This may take some time, so please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Atkins Nutritionals, on your own, about the issues to be resolved by this proposed settlement, then you must take steps to exclude yourself. This is called “opting out” of the class.

10. How do I get out of the settlement?

To ask to be excluded, you must submit a request for exclusion to the Claims Administrator indicating that you want to be excluded from the Class. Be sure to include your name, address, telephone number, and signature. You must mail your exclusion request postmarked no later than **April 27, 2020** to the Claims Administrator at:

Smith, et al. v. Atkins Nutritionals, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

You cannot exclude yourself on the phone or by email. If you submit a request for exclusion, you will not get any settlement payment that you may have been eligible to receive, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Atkins Nutritionals in the future.

11. If I don't exclude myself, can I sue Atkins Nutritionals for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Atkins Nutritionals for the claims that this settlement resolves and that are described in the Release in the Settlement Agreement, available at www.ANIClassSettlement.com. If you have a pending lawsuit against Atkins Nutritionals, speak to your lawyer in that case immediately. You may have to exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is **April 27, 2020**.

12. If I exclude myself, can I get monetary benefits from this settlement?

No. If you exclude yourself, you are not eligible to submit a claim form or to receive any money in this settlement. But, you may sue, continue to sue, or be part of a different lawsuit against Atkins Nutritionals, whether seeking monetary or injunctive relief.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court decided that the law firm Williams Dirks Dameron LLC is qualified to represent you and all other class members. These lawyers are called “Class Counsel.” You will not be charged for these lawyers. More information about the law firm, their practices, and their lawyers’ experience is available at: www.williamsdirks.com. Their phone number is: (816) 945-7110 (Williams Dirks Dameron LLC).

Class Counsel represents the interests of the Settlement Class. You may hire your own attorney to advise you, but if you hire your own attorney, you will be responsible for paying that attorney’s fees.

14. How will the lawyers be paid?

Class Counsel will ask the Court for attorneys’ fees and out-of-pocket expenses incurred during the case, in an amount not to exceed twenty-five percent (25%) of the total settlement value, defined for purposes of this request as \$6.8 million and will also seek service payments of \$40,000 total for the Class Representatives. The Court may award attorneys’ fees, expenses, and service awards less than these requested amounts. Atkins Nutritionals has agreed not to oppose these requests for fees, expenses, and service awards.

OBJECTING TO THE PROPOSED SETTLEMENT

You can tell the Court that you don’t agree with the settlement or some part of it.

15. How do I tell the Court that I don’t like settlement?

If you are a Class Member, you can object to the settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your view.

To object, you must file or send a written objection to the Court and the lawyers identified below saying that you object to the settlement in *Smith v. Atkins Nutritionals, Inc.*, No. 18-4004. The written statement must include: (a) your full name, address and telephone number and those of your counsel, if any; (b) all objections and a statement of any evidence you may wish to introduce in support of your objections; (c) a statement as to whether you intend to appear at the Final Approval Hearing; (d) your signature; (e) the case name and case number (*Amanda Smith, individually and as a representative of the class v. Atkins Nutritionals, Inc.*, Case No. 2:18-cv-04004-MDH); and (f) a list of any other objections submitted by you or your counsel to any class actions submitted in any state or federal court in the United States in the previous five years. The written statement shall also include an averment under penalty of perjury that you purchased an Atkins Nutritionals product that contained a sugar alcohol or a polyol during the Purchase Period,

which is from January 1, 2013 to the present for purchases in New York, Missouri and/or California, and from January 1, 2014 to the present for purchases in any other state.

Mail the objection to each of these places no later than **April 27, 2020**:

The Court: U.S. District Court for the Western District of Missouri
Clerk's Office
80 Lafayette Street
Jefferson City, Missouri 65101

Class Counsel: Matthew Dameron
Williams Dirks Dameron LLC
1100 Main Street, Suite 2600
Kansas City, Missouri 64105

Defense Counsel: Michael J. Duvall
Dentons US LLP
601 South Figueroa Street, Suite 2500
Los Angeles, California 90017-5704

All objections must be postmarked no later than **April 27, 2020** to be valid. Any member of the Settlement Class who does not file and serve an objection in the time and manner described above will not be permitted to raise that objection later.

16. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the settlement. Excluding yourself is telling the Court that you do not want to be part of the settlement. If you exclude yourself, you have no basis to object because the lawsuit and settlement no longer affect you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

17. When and where will the Court decide whether to approve the settlement?

The Court will hold a fairness hearing on **June 25, 2020** at 11:00 a.m. in Courtroom 4B at the U.S. District Court for the Western District of Missouri, 80 Lafayette Street, Jefferson City, Missouri 65101. The purpose of the hearing is to determine the fairness, reasonableness, and adequacy of the terms of the settlement, including the payment of Class Counsel's fees and expenses and any service awards to the Class Representatives. If there are objections, the Court will consider them. Judge Harpool will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

18. Do I have to come to the hearing?

No. Class Counsel will represent the class at the hearing, but you are welcome to come at your own expense. If you send any objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, if you wish, but it's not necessary.

19. May I speak at the hearing?

You may ask the Court for permission to speak at the hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Smith v. Atkins Nutritionals, Inc.*" Be sure to include your name, address, telephone number and your signature.

Your Notice of Intention to Appear must be postmarked no later than **April 27, 2020**, and be sent to the Clerk of the Court, Class Counsel and Defense Counsel, at the addresses on pages 9-10, in question 15. You cannot speak at the hearing if you excluded yourself.

IF YOU DO NOTHING

20. What happens if I do nothing at all?

If you do nothing, you will remain part of the settlement class, release your claims against Atkins Nutritionals described in the settlement agreement, and get no money from this settlement that you may have been eligible to receive. Unless you exclude yourself, you won't be able to start a new lawsuit, continue with a lawsuit, or be part of any other lawsuit against Atkins Nutritionals about the issues resolved by the proposed settlement, ever again.

GETTING MORE INFORMATION

21. Are there more details available?

This Notice is only a summary. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by visiting the website at www.ANIClassSettlement.com, or you can request them from Class Counsel identified in question 13.