

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

If you purchased certain Almond Breeze almondmilk, almondmilk coconut or cashew blend, almondmilk creamer, almondmilk nog, or yogurt alternative products, you may be eligible for a payment from a class action Settlement.

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

- A Settlement has been reached with Blue Diamond Growers in a class action lawsuit about the marketing and labeling of certain almondmilk, almondmilk coconut or cashew blend, almondmilk creamer, almondmilk nog, and yogurt alternative products.
- You are included in this Settlement as a Class Member if you purchased certain Almond Breeze almondmilk, almondmilk coconut or cashew blend, almondmilk creamer, almondmilk nog, or yogurt alternative products from April 15, 2014 through May 17, 2021.
- Your rights are affected whether you act or don't act. Please read this Notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
SUBMIT A CLAIM	The only way to receive a payment from this Settlement. If you submit a Claim Form, you will give up the right to sue Blue Diamond Growers in a separate lawsuit about the legal claims this Settlement resolves.	December 7, 2021
EXCLUDE YOURSELF	Get no payment. This option allows you to sue, continue to sue, or be part of another lawsuit against Blue Diamond Growers related to the legal claims this Settlement resolves.	August 4, 2021
OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	If you do not exclude yourself from the Settlement, you may object to it by writing to the Court about why you don't like the Settlement. If you object, you may also file a claim for a payment. You may object to the Settlement and ask the Court for permission to speak at the Final Approval Hearing about your objection.	August 4, 2021
DO NOTHING	Unless you exclude yourself, you are automatically part of the Settlement. If you do nothing, you will not get a payment from this Settlement and you will give up the right to sue, continue to sue, or be part of another lawsuit against Blue Diamond Growers about the legal claims resolved by this Settlement.	No Deadline

- 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 Settlement.

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BASIC INFORMATION

1. Why was this Notice issued?

A court authorized this Notice because you have a right to know about the proposed Settlement of this class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, your legal rights, what benefits are available, and who can receive them.

The Honorable Cathy Seibel of the United States District Court for the Southern District of New York is overseeing this class action. The case is known as *Biegel, et al. v. Blue Diamond Growers*, Case No. 7:20-cv-03032-CS (S.D.N.Y.). The people that filed this lawsuit are called the “Plaintiffs” and the company they sued, Blue Diamond Growers, is called the “Defendant.”

2. What is this lawsuit about?

This lawsuit is about the marketing and labeling of certain Blue Diamond Growers almondmilk, almondmilk coconut or cashew blend, almondmilk creamer, almondmilk nog, and yogurt alternative products. Plaintiffs allege that the Defendant made false and misleading claims regarding the labeling of certain products as “vanilla” or “vanilla with other flavors.” The Defendant denies all of the allegations in the Litigation.

3. What is a class action?

In a class action, one or more people called Class Representatives (in this case Lauren Biegel, Greg Maroney, Stephen Bradshaw, Angela Farve, Ryan Cosgrove, Clive Rhoden, and Christina Henderson) sue on behalf of other people with similar claims. Together, the people included in the class action are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

4. Why is there a Settlement?

The Court did not decide in favor of Plaintiffs or Defendant. Instead, the Plaintiffs and Defendant agreed to a Settlement. This way, they avoid the cost and burden of a trial and the people affected can get benefits. The Class Representatives and their attorneys think the Settlement is best for all Class Members.

WHO IS IN THE SETTLEMENT

5. Who is in the Settlement?

The Settlement Class includes all consumers in the United States who purchased the Products from April 15, 2014 through May 17, 2021 (the “Class Period”).

The Products include almondmilk, almondmilk coconut or cashew blend, almondmilk creamer, almondmilk nog, and yogurt alternative products manufactured and labeled by Blue Diamond Growers during the Class Period that include reference to vanilla, including but not limited

to, the word “vanilla” or the phrase “vanilla with other natural flavors,” on the front pack or in the ingredient statement. For a complete list of Products, please visit www.AlmondBreezeSettlement.com.

6. Are there exceptions to being included?

Yes. The Settlement Class does not include: the Released Parties, any government entities, persons who made such purchase for the purpose of resale, persons who made a valid, timely request for exclusion, and Hon. Cathy Seibel and Randall W. Wulff, and any members of their immediate family.

If you are not sure whether you are included in the Settlement Class, you can ask for free help by emailing the Claims Administrator at Questions@AlmondBreezeSettlement.com or calling the Claims Administrator at 1-855-720-0721. You may also view the Settlement Agreement at www.AlmondBreezeSettlement.com.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

Blue Diamond Growers has agreed to make payments to Class Members who submit valid Claim Forms. Each Household is limited to and may only submit a single Claim Form.

8. How much will my payment be?

If you submit a valid Claim Form with Proof of Purchase, you will receive a cash payment of \$1.00 for each Product purchased, up to a maximum of twenty (20) Products. If the total dollar amount of valid claims submitted with proof of purchase is more than \$1,250,000, payments will be reduced on a *pro rata* basis (equally proportioned).

If you submit a valid Claim Form without Proof of Purchase, you will receive a cash payment of \$0.50 for each Product purchased, up to a maximum of ten (10) Products. If the total dollar amount of valid claims submitted without proof of purchase is more than \$750,000, payments shall be reduced on a *pro rata* basis (equally proportioned).

9. What claims am I releasing if I stay in the Settlement Class?

Unless you exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Defendant about any of the legal claims this Settlement resolves. The “Released Claims” section in the Settlement Agreement describes the legal claims that you release if you remain in the Settlement Class. The Settlement Agreement can be found at www.AlmondBreezeSettlement.com.

HOW TO GET A PAYMENT—MAKING A CLAIM

10. How do I submit a claim and get a cash payment?

You must complete and submit a Claim Form by **December 7, 2021**. Claim Forms may be submitted online at www.AlmondBreezeSettlement.com or printed from the website and mailed to the Claims Administrator at *Blue Diamond Growers* Settlement, c/o Claims Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. Claim Forms submitted by mail must be **received by** the Claims Administrator no later than **December 7, 2021**.

You may contact the Claims Administrator to request a Claim Form by telephone 1-855-720-0721, by email: Questions@AlmondBreezeSettlement.com, or U.S. mail at *Blue Diamond Growers* Settlement, c/o Claims Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103.

11. What is the deadline for submitting a claim?

Claims must be submitted online by **December 7, 2021**. Claim Forms submitted by mail must be **received by** the Claims Administrator no later than **December 7, 2021**.

12. When will I get my payment?

The Court will hold a Final Approval Hearing on **September 8, 2021** at 11:15am ET, to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether appeals will be filed and, if so, how long it will take to resolve them. Settlement payments will be distributed as soon as possible, if and when the Court grants final approval to the Settlement and after any appeals are resolved.

The date and time of the Final Approval Hearing is subject to modification by the Court so check www.AlmondBreezeSettlement.com for updates.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has appointed the law firms of Sheehan & Associates, P.C., Shub Law Firm LLC, and Reese LLP to represent you and the Settlement Class. These attorneys are called Class Counsel. You will not be charged for their services.

14. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel works for you. If you want your own lawyer, you may hire one at your own expense.

15. How will the lawyers be paid?

Class Counsel will ask the Court for an award of attorneys' fees and costs of up to \$550,000. They will also ask the Court to approve a \$3,571.42 incentive award for each of the Class Representatives. The Court may award less than these amounts. If approved, these fees, costs and awards will be paid separately by the Defendant and will not reduce the amount of money available to Class Members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

16. How do I opt out of the Settlement?

If you do not want to receive any benefits from the Settlement, and you want to keep your right, if any, to sue the Defendant on your own about the legal issues in this case, then you must take steps to exclude yourself from the Settlement Class. This is called “opting out” of the Settlement Class. The deadline for requesting exclusion from the Settlement is **August 4, 2021**.

To exclude yourself from the Settlement, you must submit a written request for exclusion online or by mail. Your request for exclusion must include: (1) your name; (2) your current address; (3) a statement that you are a Class Member and you purchased one or more of the Products during the Class Period and wish to be excluded from the Settlement in *Biegel v. Blue Diamond Growers*, Case No. 7:20-cv-03032; and (4) your signature. Your request for exclusion must be submitted online or mailed to the Claims Administrator so it is **received by August 4, 2021**:

Blue Diamond Growers Settlement
ATTN: Exclusion Request
PO Box 58220
Philadelphia, PA 19102

If you exclude yourself, you are telling the Court you do not want to be part of the Settlement. You will not be eligible to receive a payment if you exclude yourself.

COMMENTING ON OR 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 like it or a portion of it. You can give reasons why you think the Court should not approve it. The Court will consider your views.

Your objection must include: (i) the case name and number: *Biegel v. Blue Diamond Growers*, Case No. 7:20-cv-03032-CS; (ii) the name, address and telephone number of the objector; (iii) the name, address, and telephone number of all counsel (if any) who represent the objector, including any former or current counsel who may be entitled to compensation for any reason if the objection is successful, and legal and factual support for the right to such compensation; (iv) documents or testimony sufficient to establish membership in the Settlement Class; (v) a detailed statement of any objection asserted, including the grounds therefor; (vi) whether the objector is, and any reasons for, requesting the opportunity to appear and be heard at the final approval hearing; (vii) the identity of all counsel (if any) representing the objector who will appear at the final approval hearing and, if applicable, a list of all persons who will be called to testify in support of the objection; (viii) copies of any papers, briefs, or other documents upon which the objection is based; (ix) a detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class Litigations submitted in any state or federal court in the United States in the previous five (5) years (or affirmatively stating that no such

prior objection has been made); and (x) the objector's signature, in addition to the signature of the objector's attorney (if any).

Your written objection may be submitted by mail, express mail, electronic transmission, or personal delivery, but to be timely, it must be **delivered to** the Claims Administrator (not just postmarked or sent) by **August 4, 2021**:

Blue Diamond Growers Settlement
ATTN: Objections
PO Box 58220
Philadelphia, PA 19102

You or your attorney may speak at the Final Approval Hearing about your objection. To do so, you must include a statement in your objection indicating that you or your attorney intend to appear at the Final Approval Hearing. Remember, your objection must be delivered to the Claims Administrator by **August 4, 2021**.

18. What is the difference between objecting and excluding?

Objecting is 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 opting out and telling the Court that you do not want to be part of the Settlement. If you opt out of the Settlement, you cannot object to it because it no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

19. When is the Court's Final Approval Hearing?

The Court will hold a Final Approval Hearing at 11:15am ET on **September 8, 2021**, in Courtroom 621 located at The Hon. Charles L. Briant Jr. Federal Building and United States Courthouse, 300 Quarropas St., White Plains, New York. At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and costs, as well as the Class Representatives' incentive awards. If there are objections, the Court will consider them. Judge Seibel will listen to people who have asked to speak at the hearing (*see* Question 17 above). After the hearing, the Court will decide whether to approve the Settlement.

The date or time of the Final Approval Hearing may change. Be sure to check the Settlement Website, www.AlmondBreezeSettlement.com, for any updates.

20. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you send an objection, you do not have to come to the Final Approval Hearing to talk

about it. If you delivered your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

IF I DO NOTHING

21. What happens if I do nothing at all?

If you are a Class Member and you do nothing, you will give up the rights explained in Question 9, including your right to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Blue Diamond Growers and the Released Parties about the legal issues resolved by this Settlement. In addition, you will not receive a payment from this Settlement.

GETTING MORE INFORMATION

22. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.AlmondBreezeSettlement.com.

If you have additional questions, you may contact the Claims Administrator by email, phone, or mail:

Email: Questions@AlmondBreezeSettlement.com

Toll-Free: 1-855-720-0721

Mail: *Blue Diamond Growers* Settlement, c/o Claims Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103

Publicly filed documents can also be obtained by visiting the office of the Clerk of the United States District Court for the Southern District of New York or reviewing the Court's online docket.