

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

**If you purchased any Babyganics Products
Between September 7, 2010 and June 26, 2018
You May be Eligible to Receive a Payment from a Class Action Settlement.**

A Federal Court authorized this notice. This is not a solicitation from a lawyer.

- A proposed nationwide Settlement has been reached in a class action lawsuit involving Babyganics Products. The Settlement resolves litigation over whether the Defendants allegedly violated state laws regarding the marketing and sale of Babyganics Products in the United States.
- You may be eligible to participate in the proposed Settlement, if it is finally approved, if you purchased any Babyganics Products between September 7, 2010 and June 26, 2018.
- The Settlement will provide payments to those who qualify. You will need to file a Claim Form to get a payment from the Settlement.
- Your legal rights are affected whether you act or don't act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

SUBMIT A CLAIM FORM BY OCTOBER 29, 2018	This is the only way to get a payment.
EXCLUDE YOURSELF BY OCTOBER 10, 2018	Get no payment from the Settlement. This is the only option that allows you to ever be a part of any other lawsuit against the Defendants about the legal claims in this case.
OBJECT BY OCTOBER 10, 2018	Write to the Court about why you think the settlement is unfair, inadequate, or unreasonable.
GO TO A HEARING NOVEMBER 14, 2018 AT 10:30 A.M.	Ask to speak in Court about the fairness of the Settlement.
FILE A NOTICE OF INTENT TO APPEAR OCTOBER 24, 2018	Your Notice of Intent to Appear must be filed with the Court and served on Class Counsel and Defendants' Counsel no later than this date.
DO NOTHING	Get no payment. Give up rights to ever sue the Defendants about the legal claims in this case.

- 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, www.babyganicssettlement.com regularly for updates and further details.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. **Why is there a notice?**

You have a 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 Southern District of New York (the “Court”), and the case is called *Mayhew et al. v. KAS Direct, LLC*, Case No. 7:16-cv-06981-VB. The individuals who sued are called the Plaintiffs, and the companies they sued, KAS Direct, LLC and S.C. Johnson & Son, Inc., are called the Defendants.

2. **What is this lawsuit about?**

The lawsuit alleges that the Defendants violated certain laws in marketing and sales of Babyganics Products, including the use of the terms “Babyganics,” “mineral-based,” and “natural.” The Settlement of this lawsuit will also resolve claims relating to subsets of Babyganics Products labeled with the terms “plant-based,” “tear-free,” and “SPF 50+.” Those claims were raised in the following cases: *Machlan v. S.C. Johnson, Inc.*, Case No. CGC-17-557613 (Sup. Ct. CA), later removed on April 28, 2017 to the District Court of the Northern District of California, No. 3:17-cv-02442 (certain Babyganics pre-moistened wipes with “plant”-related labeling); *Skeen v. KAS Direct, LLC, d/b/a/ Babyganics*, No. 1:17-cv-04119 (S.D.N.Y.) (certain Babyganics products with “tear-free”-related labeling); and *Carroll v. S. C. Johnson & Son, Inc.*, Case No. 1:17-cv-5828, (N.D. Ill.) (certain Babyganics and mineral-based sunscreen products with SPF 50+ labeling).

The Defendants deny any and all wrongdoing of any kind whatsoever, and deny any liability to Plaintiffs and to the Settlement Class.

3. **Why is this a class action?**

In a class action, one or more people, called “Class Representatives,” sue on behalf of people who have similar claims. All these people are in a “class” or “class members,” except for those who exclude themselves from the class. United States District Court Judge Vincent L. Briccetti in the United States District Court for the Southern District of New York is in charge of this class action.

4. **Why is there a Settlement?**

The Defendants are not admitting that they did anything wrong and both sides want to avoid the cost of further litigation. The Court has not decided in favor of the Plaintiffs or the Defendants. The Class Representatives and their attorneys think the Settlement is best for everyone who is affected. The Settlement provides the opportunity for Settlement Class Members to receive Settlement benefits.

WHO IS IN THE SETTLEMENT?

5. **How do I know if I am in the Settlement?**

The Settlement Class includes all persons and entities in the United States who made retail purchases of Covered Products from September 7, 2010 to June 26, 2018. Excluded from the Settlement Class are: (a) Defendants’ employees, officers, directors, agents, and representatives; (b) those who purchased Covered Products for the purpose of re-sale; (c) federal judges who have presided over this case; and (d) all Persons who have been properly excluded from the Settlement Class.

6. **Which Products are included in the Settlement?**

The Covered Products in this Settlement means any Babyganics product, regardless of product line, scent, and/or unit size, marketed and sold by the Defendants in the United States. For a list of eligible Babyganics Products, please visit the Settlement Website, www.babyganicssettlement.com.

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

If you are not sure whether you are a Settlement Class Member, or have any other questions about the Settlement Agreement, you should visit the Settlement Website, www.babyganicssettlement.com, or call the toll-free number, 1-888-332-0279.

SETTLEMENT BENEFITS

8. What does the Settlement provide?

The Settlement provides for a Settlement Fund in the amount of \$2,215,000 to pay (1) Eligible Claims submitted by Settlement Class Members; (2) Attorneys' Fees and Expenses; (3) Notice and Claim Administration Expenses; and (4) any Service Awards made by the Court to Plaintiffs. Settlement Class Members who timely submit valid Claim Forms are entitled to receive a cash payment from the Settlement. The actual amount recovered by each Settlement Class Member will not be determined until after the Claim Period has ended and all Claims have been calculated.

9. What can I get from the Settlement?

If you submit a valid Claim Form by the deadline, you can get a payment from the Settlement. If, after subtracting from the Settlement Fund amount the Attorneys' Fees and Expenses, Notice and Claim Administration Expenses, and any Service Awards made by the Court to Plaintiffs, the funds remaining are insufficient to pay all of the Approved Claims, then Settlement Class payments will be reduced proportionately.

10. What am I giving up to stay in the Class?

Unless you exclude yourself from the Settlement, you cannot sue the Defendants, continue to sue, or be part of any other lawsuit against the Defendants about the claims released in this Settlement. It also means that all of the decisions by the Court will bind you. Below is a summary of Released Claims. The full Release is described more fully in the Settlement Agreement and describes exactly the legal claims that you give up if you stay in the Settlement Class. The Settlement Agreement is available at the Settlement Website, www.babyganicssettlement.com.

"Released Claims" means, with the exception of claims for personal injury, any and all suits, actions, claims, liens, demands, actions, causes of action, obligations, rights, damages, or liabilities of any nature whatsoever, contingent or absolute, matured or unmatured, including Unknown Claims (as defined below), whether arising under any international, federal, state, or local statute, ordinance, common law, regulation, principle of equity or otherwise, that actually were, or could have been, asserted in the Litigation, including, but not limited to, claims which are based on any assertion or contention that the packaging of Covered Products, including the labels, or Advertising based on the content of those labels were inaccurate, misleading, false, deceptive or fraudulent. Released Claims include claims or potential claims arising from any purchases of the Covered Products from September 7, 2010 to the date of the Court's preliminary approval. Released claims also specifically include the claims raised in the lawsuits captioned *Machlan v. S.C. Johnson, Inc.*, Case No. CGC-17-557613 (Sup. Ct. CA), later removed on April 28, 2017 to the District Court of the Northern District of California, No. 3:17-cv-02442, concerning a subset of the Covered Products (certain Babyganics pre-moistened wipes with "plant"-related labeling); *Skeen v. KAS Direct, LLC, d/b/a/ Babyganics*, No. 1:17-cv-04119 (S.D.N.Y.) concerning a subset of the Covered Products (certain Babyganics products with "tear-free"-related labeling); and *Carroll v. S. C. Johnson & Son, Inc.*, Case No. 1:17-cv-5828, (N.D. Ill.) concerning a subset of the Covered Products (certain Babyganics and mineral-based sunscreen products with SPF 50+ labeling).

HOW TO GET A PAYMENT

11. How can I get a payment?

To be eligible to receive a payment from the Settlement, you must complete and submit a timely Claim Form. You can complete and submit your Claim Form online at the Settlement Website, www.babyganicssettlement.com. The Claim Form can be downloaded from the Settlement Website as well. You can request a Claim Form be sent to you by sending a written request to the Settlement Administrator by mail or by email.

MAIL: Babyganics Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103

EMAIL: info@babyganicssettlement.com

Please read the instructions carefully, fill out the Claim Form, and mail it postmarked no later than **October 29, 2018** to the Settlement Administrator: Babyganics Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103, or submit your Claim Form online at the Settlement Website, www.babyganicssettlement.com, by **October 29, 2018**.

If you do not submit a valid Claim Form by the deadline, you will not receive a payment.

12. When will I get my payment?

Payments will be mailed to Settlement Class Members who send in valid and timely Claim Forms after the Court grants “final approval” to the Settlement and after any and all appeals are resolved. If the Court approves the Settlement after a hearing on November 14, 2018, there may be appeals. It’s always uncertain whether these appeals can be resolved, and resolving them can take time.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don’t want a payment from the Settlement, and you want to keep the right to sue or continue to sue the Defendants on your own about the claims released in this Settlement, then you must take steps to get out. This is called excluding yourself—or it is sometimes referred to as “opting out” of the Settlement Class.

13. How do I get out of the Settlement?

To exclude yourself (or “Opt-Out”) from the Settlement, you must complete and mail to the Settlement Administrator a written request that includes the following:

- Your name and address;
- The name of the case: *Mayhew et al. v. KAS Direct, LLC*, Case No. 7:16-cv-06981-VB;
- A statement that you want to be excluded from this Settlement; and
- Your signature. Your exclusion request must be personally signed.

You must mail your exclusion request, postmarked no later than **October 10, 2018** to:

Class Action Opt-Outs
ATTN: Babygenics Settlement
PO BOX 30456
Philadelphia, PA 19103

If you don’t include the required information or submit your request for exclusion on time, you will remain a Settlement Class Member and will not be able to sue the Defendants about the claims in this lawsuit.

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

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

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

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

OBJECTING TO THE SETTLEMENT

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

A Settlement Class Member may object to the proposed Settlement. A Settlement Class Member may object to the Settlement either on his or her own without an attorney, or through an attorney hired at his or her expense. Any objection must be in writing, signed by the Settlement Class Member (and his or her attorney, if individually represented), filed with the Court, with a copy delivered to Class Counsel and Defendants’ Counsel, at the addresses set forth below, no later than **October 10, 2018**. Any objection shall contain a caption or title that identifies it as “Objection to Class Settlement in *Mayhew et al. v. KAS Direct LLC*, Case No. 7:16-cv-06981-VB.”

The written objection must include: (a) a heading which refers to the Action; (b) the objector’s name, address, telephone number, and, if represented by counsel, his/her counsel; (c) a declaration submitted under penalty of perjury that the objector purchased Covered Products during the period of time described in the Settlement Class definition or receipt(s) reflecting such purchase(s); (d) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel; (e) a statement of the objection and the grounds supporting the objection; (f) copies of any papers, briefs, or other documents upon which the objection is based; (g) the name and case number of all objections to class action settlements made by the objector in the past five (5) years; and (h) the objector’s signature.

Your objection, along with any supporting material you wish to submit, must be filed with the Court, with a copy delivered to Class Counsel and Defendants’ Counsel no later than **October 10, 2018** at the following addresses:

Court	Class Counsel	Class Counsel
The United States District Court for the Southern District of New York The Hon. Charles L. Brieant Jr. Federal Building and Courthouse 300 Quarropas Street White Plains, NY 10601	Clayton D. Halunen Amy E. Boyle Halunen Law 1650 IDS Center, 80 So. 8th St. Minneapolis, MN 55402	Charles Joseph LaDuca Katherine Van Dyck Cuneo Gilbert & LaDuca, LLP 4725 Wisconsin Avenue NW, Suite 200 Washington, DC 20016
Class Counsel	Defendants’ Counsel	
Jason P. Sultzer The Sultzer Law Group PC 77 Water Street, 8th Floor New York, NY 10005	Hannah Y. Chanoine O’Melveny & Myers LLP 7 Times Square New York, NY 10036	

17. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you don’t 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 don’t 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

18. Do I have a lawyer in this case?

Yes. The Court has appointed these lawyers and firms as “Class Counsel,” meaning that they were appointed to represent all Settlement Class Members: Clayton Halunen and Amy Boyle of Halunen Law; Charles Joseph LaDuca and Katherine Van Dyck of Cuneo Gilbert & LaDuca, LLP; and Jason Sultzer of The Sultzer Law Group PC.

You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

19. How will the lawyers be paid?

Class Counsel intends to file a motion on or before September 26, 2018 seeking \$733,333.33, in Attorneys’ Fees and Expenses. The fees and expenses awarded by the Court will be paid from the Settlement. The Court will determine the amount of fees and expenses to award. Class Counsel will also request that \$3,500.00 be paid from the Settlement to each of the named Plaintiffs who helped the lawyers on behalf of the whole Class.

THE COURT'S FAIRNESS HEARING

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

The Court will hold a Fairness Hearing on **November 14, 2018** at 10:30 a.m. at the United States District Court for the Southern District of New York, before the Honorable Vincent L. Briccetti, United States District Judge, in Courtroom 620, in the Hon. Charles L. Brieant Jr. Federal Building and Courthouse, 300 Quarropas Street, White Plains, NY 10601.

At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider how much to pay 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. We do not know how long these decisions will take.

21. 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 send an objection, you don't have to come to Court to talk about it. As long as you filed and mailed your written objection on time to the proper addresses, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

22. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear." Please refer to question 16 above for more information.

Your Notice of Intent to Appear must be filed with the Court and served on Class Counsel and Defendants' Counsel no later than **October 24, 2018**.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, you will not get a payment from the Settlement. Unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendant about the legal issues in this case, ever again.

GETTING MORE INFORMATION

24. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the First Amended Joint Stipulation of Settlement. You can review a complete copy the Settlement Agreement and other information at the Settlement Website, www.babygenicssettlement.com. If you have additional questions or want to request a Claim Form, you can visit the Settlement Website, www.babygenicssettlement.com. You can also write to the Settlement Administrator by mail or email, or call toll-free.

MAIL: Babygenics Settlement Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103

EMAIL: info@babygenicssettlement.com

PHONE: 1-888-332-0279

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

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE CONCERNING THIS CASE.