

If you are a retailer of beer or liquor who paid a late fee to Markstein Beverage Co. of Sacramento, you could get a full refund from a class action settlement.

A court authorized this Notice. It is not a solicitation from a lawyer.

- A settlement has been reached with Markstein Beverage Co. of Sacramento (Markstein) in a class action lawsuit alleging that Markstein charged more than is allowed for late fees on the purchase of beer or liquor.
- You are included in this settlement if you paid or were assessed a late fee by Markstein at any time after October 9, 2016 or if you have a current contract with Markstein that calls for payment of more than 1% per month for late fees.
- Those included in the settlement will receive a payment reimbursing the actual amount of late fees they paid to Markstein over 1% per month during the Class Period or will have their contracts modified to prevent any such charges in the future.
- Your rights are affected whether you act or don't act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you do nothing, you will receive reimbursement of any late fees actually paid to Markstein in excess of 1% per month, have any such unpaid late fees written off and/or have your contract revised to prohibit such payments in the future.
ASK TO BE EXCLUDED DEADLINE: FEBRUARY 5, 2022	Get out of this lawsuit. Get no benefits from it. Keep the right to file your own lawsuit. This is the only option that allows you to sue, continue to sue, or be part of another lawsuit against Markstein related to the legal claims this settlement resolves. However, you will give up the right to get a payment from this settlement.
OBJECT TO THE SETTLEMENT DEADLINE: FEBRUARY 5, 2022	Write to the Court about why you don't like the settlement. If you do not exclude yourself, you may object and retain a claim for a cash payment.
GO TO A HEARING	Appear and speak at the Fairness Hearing on March 4, 2022 .

- 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 the 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. The Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, and who can get them.

Judge Kevin Culhane of the Superior Court of California, Sacramento County is overseeing this class action. The case is known as *Antigua Cantina and Grill, Inc. v. Markstein Beverage Co. of Sacramento*, pending in the Superior Court of California, Sacramento County, Case No. 4-2020-00286915-CU-BC-GDS. (the “Lawsuit” or “Litigation”). The people that filed this Lawsuit are called the “Plaintiffs” and the company they sued, Markstein, is called the “Defendant.”

2. What is this Lawsuit about?

The Lawsuit claims that Markstein charged a late fee on invoices for the sale of alcoholic beverages that are unpaid, in whole or in part, on the 43rd day after the date of delivery. Plaintiff alleged that Bus. & Prof. Code § 25509(a) only permits a late fee equal to one percent (1%) of the unpaid balance to be charged on the 43rd day after delivery, and each 30 days thereafter. Plaintiff alleges that Markstein charges a late fee of two percent (2%) – the 1% referenced by § 25509(a), plus a Carrying Charge equal to an additional 1%. Plaintiff asserted causes of action for Declaratory Relief, Breach of Contract, Money Had and Received, Open Book Account, and violations of California’s Unfair Competition Law (Cal. Bus. and Prof. Code § 17200 *et seq.*). Plaintiff sought compensatory damages, restitution of amounts paid by putative class members for the overcharges, injunctive relief, costs, and attorneys’ fees.

Markstein denies the claims and allegations in this Lawsuit.

3. What is a class action?

In a class action, one or more people called Class Representatives or Representative Plaintiffs (in this case, Antigua Cantina and Grill, Inc.) sue on behalf of other people with similar claims. Together, these people 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 the Representative Plaintiff, the Class, or Markstein. Instead, the parties agreed to a settlement. This way, they avoid the cost and burden of a trial and the people affected can get benefits. The Representative Plaintiff and its attorneys think the settlement is the best outcome for all Class Members.

WHO IS INCLUDED IN THE SETTLEMENT

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

You are included in the settlement as a “Settlement Class Member” if you are a California retailer of alcoholic beverages who either (1) paid a Carrying Charge to Markstein at any time during the period beginning October 9, 2016 through the Execution Date (“Class Period”), or (2) were assessed a Carrying Charge that was not paid, or (3) are parties to a contract with Markstein that provides for a Carrying Charge.

6. Are there exceptions to being included?

No.

7. What if I am still not sure whether I am part of the settlement?

If you are not sure whether you are included, go to www.MarksteinClassAction.com or write to one of the lawyers listed in Question 14 below.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the settlement provide?

Markstein has agreed to issue checks in the full amount of the late fees paid by Class Members in excess of 1% per month during the Class Period. Payments will not be reduced by any attorneys' fees or service awards ordered by the court. Markstein has also agreed to write-off any assessed, but unpaid, late fees in excess of 1% per month and to revise its contracts to eliminate any provisions for late fees in excess of 1% per month.

9. How much will my payment be?

Payment amounts will depend on the amount of late fees in excess of 1% that you paid to Markstein.

HOW TO GET A SETTLEMENT PAYMENT—SUBMITTING A CLAIM FORM

10. How do I get a payment from the settlement?

You do not need to do anything to receive a payment. If the settlement is approved, Markstein will cause a check to be sent to each retailer that Markstein's records show as having paid a late charge in excess of 1% per month.

11. When would I get my settlement payment?

The Court will hold a hearing on **March 4, 2022 at 2:30 p.m.** to decide whether to grant final approval to 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.

12. What rights am I giving up to get a payment and stay in the Settlement Class?

Unless you exclude yourself, you are staying in the Class. If the settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You won't be able to sue, continue to sue, or be part of any other lawsuit against Markstein about the legal issues resolved and released by this settlement.

13. What claims are being released?

If and when the settlement becomes final, the Representative Plaintiff and Settlement Class Members, and each of their respective successors, assigns, legatees, heirs, and personal representatives, shall release and forever discharge Markstein and each of Markstein's predecessors, successors and assigns, affiliated entities, parents, subsidiaries, divisions, affiliates, from any and all claims asserted or that could have been asserted in the Action related to Carrying Charges up to and including the Final Effective Date, including any claims arising from or relating to any of the acts, omissions or other conduct alleged in the Action and/or any and all claims for unfair competition (Cal. Bus. & Prof. Code § 17200 *et seq.*), breach of contract, money had and received, account stated, unjust enrichment, fraud, negligent misrepresentation, restitution, trespass, conversion, declaratory or injunctive relief, and for violations of any federal or state statute that is similar, comparable or equivalent to the foregoing (collectively "Class Claims"). The Representative Plaintiff and Class Members acknowledge and agree that they and their counsel may discover new or different facts or law after the Execution Date which could permit them to assert new or different claims and legal theories related to the claims asserted in the Action, but they intend by this Agreement to fully, finally, and forever, from now until the end of time, release all such claims that they brought or could have brought in the Action. The release provided by Representative Plaintiff and Class Members under this Section is intended by the Parties to be a full and complete global release.

More detail about the claims you will be releasing, including the provisions of California Civil Code § 1542 is described in Section 5 of the Settlement Agreement available at www.MarksteinClassAction.com.

THE LAWYERS REPRESENTING YOU

14. Do I have a lawyer in this case?

Yes. The court appointed the law firms of Green & Noblin, P.C., and Matthew E. Hess, Attorney at Law to represent you and other Settlement Class Members as “Class Counsel.” These law firms and their lawyers are experienced in handling similar cases. 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.

15. How will the lawyers be paid?

Class Counsel will ask the Court for an award of attorneys’ fees and costs of up to \$75,000 from the Markstein. They will also ask the Court to approve up to \$1,000 as a service award to the Class Representative. The Court may award less than these amounts. If approved, these fees, costs and awards will be paid directly by Markstein.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to keep the right to sue or continue to sue Markstein about the legal claims in this case, and you do not want to receive a payment from this settlement, you must take steps to get out of the settlement. This is called excluding yourself from or opting out of the settlement.

16. How do I get out of the settlement?

To exclude yourself from the settlement, you must submit a written request for exclusion by mail or email. Your request for exclusion must contain: (a) the name of this Action (*Antigua Cantina and Grill, Inc. v. Markstein Beverage Company, Inc.*); (b) the full name, email address, postal address and telephone number of the person or entity requesting to be excluded; (c) the words “Request for Exclusion” at the top of the document; and (d) a statement with the following language: “I request that I be excluded from the Settlement in *Antigua Cantina and Grill, Inc. v. Markstein Beverage Company, Inc.*, Sacramento County Superior Court Case No. 1-4-2020-00286915-CU-BC-GDS. I understand that by requesting to be excluded from the Class, I am not entitled to receive any benefits under the Settlement.”

The Request for Exclusion must be personally signed by the Class Member who seeks to opt out, even if the document is prepared by an actual or purported agent or attorney acting on behalf of the Class Member. Opt out requests can only be presented for an individual Class Member. No one may opt out on behalf of a group of Class Members.

The requests for exclusion must be postmarked or emailed no later than **February 5, 2022** to:

Claims Administrator
Markstein Class Action Class Opt-Out PO Box 58220 Philadelphia, PA 19102 info@marksteinclassaction.com

17. If I exclude myself, can I still get a payment from this settlement?

No. If you exclude yourself, you are telling the Court that you don’t want to be part of the settlement.

18. If I do not exclude myself, can I sue Markstein for the same legal claims later?

No. Unless you exclude yourself, you are giving up the right to sue Markstein for the claims that this settlement resolves and releases. You must exclude yourself from *this* Lawsuit to start or continue with your own lawsuit or be part of any other lawsuit against Markstein about the legal issues in this case.

OBJECTING TO THE SETTLEMENT

You can tell the Court if you don't agree with the settlement or any part of it.

19. How do I tell the Court that I do not like the settlement?

If you are a Settlement 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 be in writing and contain:

- (a) the name of the Action (*Antigua Cantina and Grill, Inc. v. Markstein Beverage Company, Inc.*);
- (b) the full name, email address, postal address, and telephone number of the person objecting;
- (c) the word "Objection" at the top of the document;
- (d) that the objector has reviewed the definition of the term "Class" set forth in the Settlement Agreement and understands that the objector is a Class Member and has not opted out of the Class;
- (e) that copies of any other documents that the objector wishes to submit in support of their position are attached to the objection;
- (f) a statement of whether the objector intends to appear at the Final Approval Hearing and whether the objector will be represented by their own counsel at that hearing;
- (g) in clear and concise terms, the legal and factual arguments supporting the objection; and
- (h) a signature from the objector.

You must mail or email your objection to all of the addresses below, so it is electronically received or postmarked on or before **February 5, 2022**.

Class Members who fail to submit a timely written objection to the Settlement in compliance with this paragraph will be deemed to have waived the right to have their objections to the Settlement considered by the Court. Class Members who exclude themselves from the Settlement shall not be entitled to object to the Settlement, and any objections submitted for and by a Class Member who has excluded himself or herself will be invalid and shall be disregarded by the Court.

Class Counsel	Defense Counsel
Robert S. Green Green & Noblin, P.C. 2200 Larkspur Landing Circle, Suite 101 Larkspur, CA 94939 Email: gn@classcounsel.com	Michael W. Scarborough Sheppard Mullin Richter & Hampton LLP Four Embarcadero Center, 17 th Floor San Francisco, CA 94111-4109 Email: mscarborough@sheppardmullin.com

Class Counsel will file any objections received with the Court.

20. May I come to Court to speak about my objection?

Yes. Any Class Member who wishes to be heard at the Fairness Hearing must mail or email a written Notice of Intention to Appear to Class Counsel and Defense Counsel, received or postmarked no later than **February 5, 2022**. The Notice of Intention to Appear must set forth the following:

- (a) the name of this Action (*Antigua Cantina and Grill, Inc. v. Markstein Beverage Company, Inc.*);
- (b) the full name, email address, postal address and telephone number of the person intending to appear at the Fairness Hearing;
- (c) the words “Notice of Intention to Appear” at the top of the document;
- (d) the points the person wishes to present at the Fairness Hearing; and
- (e) the identity (name, address, email address and telephone number) of any lawyer who represents the Class Member and who will speak on the Member’s behalf at the Fairness Hearing.

Class Members who fail to submit a timely Notice of Intention to Appear in compliance with this paragraph will be deemed to have waived their right to be heard at the Fairness Hearing. Class Members who exclude themselves from the Settlement shall not be entitled to appear at the Fairness Hearing and any Notice of Intention to Appear submitted by a Class member who has excluded himself or herself will be invalid and shall be disregarded by the Court.

21. What is the difference between objecting to the settlement and asking to be excluded from it?

Objecting is simply telling the Court that you don’t like something about the settlement. You can object only if you remain a Settlement Class Member (that is, do not exclude yourself). Excluding yourself is telling the Court that you don’t want to be part of the settlement. If you exclude yourself, you cannot object because the settlement no longer affects 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.

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

The Court will hold a Fairness Hearing at **2:30 p.m. on March 4, 2022** in Dept. 38 - at the Sacramento Superior Court, 720 9th St., 5th Floor, Sacramento, CA 95814. At this 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 Representative Plaintiff’s service award. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

23. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to come to the hearing at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

24. May I speak at the hearing?

Yes. To do so, you must appear at the time and place set by the Court for the final hearing as set forth in Question 22, above. In the event that the Court changes the time or location of the hearing, that information will be posted on the website at www.MarksteinClassAction.com.

IF YOU DO NOTHING

25. What happens if I do nothing at all?

If you are Settlement Class Member and you do nothing, you will be included in the settlement and your claims will be resolved.

GETTING MORE INFORMATION

26. How do I get more information?

The Notice summarizes the proposed settlement. Complete details are provided in the Settlement Agreement. The Settlement Agreement and other related documents are available at www.MarksteinClassAction.com. Additional information is also available by writing to *Markstein Class Action*, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. Publicly filed documents can also be obtained by visiting the Sacramento Superior Court during business hours.