

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO – EASTERN DIVISION

**If you purchased a Nautilus, Bowflex or Schwinn Treadmill,
you may be entitled to benefits from a
class action Settlement.**

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

Please be advised that the Plaintiff, Robert Walker (“Plaintiff”) has reached a proposed Settlement in *Walker v. Nautilus, Inc.*, Case No. 2:20-cv-3414, a class action lawsuit (the “Lawsuit”) with Defendant Nautilus, Inc. (“Defendant” or “Nautilus”) concerning certain Bowflex, Schwinn, and Nautilus treadmills (“Treadmills”).¹

PLEASE READ THIS NOTICE CAREFULLY. If you live within the United States and its territories and purchased a Bowflex, Schwinn, or Nautilus treadmill between July 7, 2016 and November 16, 2021, your rights may be affected whether or not you act.

YOUR LEGAL RIGHTS ARE AFFECTED BY THIS SETTLEMENT WHETHER YOU ACT OR DON'T ACT:

SUBMIT A CLAIM FORM Deadline: May 2, 2022	Submitting a Claim Form is the only way to be eligible to receive any benefit under this Settlement.
EXCLUDE YOURSELF Deadline: April 1, 2022	Excluding yourself, or “opting-out,” is the only option that allows you ever to be part of another lawsuit against Nautilus about the claims resolved by this Settlement. If you exclude yourself from or opt out of this Settlement, you will not be able to get any benefits from it.
OBJECT Deadline: April 1, 2022	Mailing an objection is the only way to notify the Court that you are unhappy with any aspect of the Settlement. You cannot object to the proposed Settlement unless you are a Class Member.
APPEAR AND BE HEARD AT THE FAIRNESS HEARING Deadline: April 1, 2022	You must file a Notice of Intention to Appear with the Court if you wish to speak at the Fairness Hearing.
GO TO THE HEARING Deadline: June 21, 2022	You may attend the hearing, but you do not have to do so. The Court will hold the Fairness hearing at 10 a.m. on June 21, 2022 , at the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215, in Courtroom 301.
DO NOTHING	If you are a Class Member and do not submit a Claim Form by May 2, 2022 , you will not receive any benefit from the Settlement and you will give up your right to ever be part of another lawsuit against Nautilus regarding the legal claims resolved by this Settlement.

If you have any questions about this Notice, the proposed Settlement, or your eligibility to participate in the Settlement, please DO NOT contact Nautilus or its legal counsel. All questions should be directed to the Settlement Administrator (see paragraph 25 below). You may also contact Class Counsel.

¹ All capitalized terms used in this Notice that are not otherwise defined herein shall have the meaning provided in the Class Action Settlement Agreement and Release dated November 5, 2021 (“Settlement Agreement”), which is available online on the website for this Lawsuit at www.NautilusTreadmillSettlement.com.

1. **Description of the Lawsuit and Class:** This Notice relates to a proposed class action Settlement of a case alleging that Nautilus made misrepresentations regarding the horsepower of its Treadmills. Plaintiff alleges that, as a result, he and other Class Members paid more for the Treadmills than they would have absent the alleged misrepresentations. Nautilus denies the allegations in the Lawsuit and has asserted numerous defenses. The Court has not ruled on the merits of Plaintiff's claims or on Nautilus' denial of the claims or on Nautilus' defenses, with the exception of denying Nautilus' motion to compel arbitration. The proposed Settlement, if approved by the United States District Court for the Southern District of Ohio (the "Court") will settle claims of the following class of persons and entities (the "Class"):

All Persons within the United States and its territories who: (a) purchased a Bowflex, Nautilus, or Schwinn treadmill from July 7, 2016 through November 16, 2021, primarily for personal, family, or non-commercial purposes, and not for resale. Excluded from the Class are: Defendant and its officers and directors; Class Counsel and their partners, associates, lawyers, and employees; and the judicial officers and their immediate family members and associated Court staff assigned to this case.

2. **Benefits Available to Class Members:** Class Members who timely submit a valid claim are eligible for the following benefits:

- a. a *pro rata* share of a Common Fund of \$4,250,000, after Attorneys' Fees and Expenses, Administration and Notice Expenses, and a Service Award, if any; and
- b. a one-year subscription to Nautilus' JRNY app or, for those Class Members already subscribed, a one-year extension.
- c. **Injunctive relief in that Defendant has agreed to stop making the CHP representations at issue in this case and to affix a disclaimer to any future horsepower representations made in connection with the sale and/or marketing of Defendant's treadmills.**

If there is a 20% claims rate, the payment per Claimant is estimated to be in excess of \$50. The one-year subscription is valued at approximately \$150.00.

3. **Reasons for the Settlement:** Both sides agreed to a Settlement to avoid the costs and risks of further litigation and to provide benefits to Class Members. The Class Representative and the lawyers representing him (called "Class Counsel") believe that the Settlement is in the best interests of all Class Members.

4. **Attorneys' Fees, Expenses, and Service Awards Sought:** This Lawsuit has been prosecuted on behalf of Plaintiff on a wholly contingent basis by the firms of Markovits, Stock & DeMarco, LLC, Hellmuth & Johnson, PLLC, and Chestnut Cambronne, PA. These firms have received no payment of attorneys' fees for their representation of the Class and have advanced expenses necessarily incurred to prosecute this Lawsuit. Class Counsel have reviewed the factual and legal bases for the claims asserted in the Lawsuit and conducted appropriate investigation regarding those claims, have litigated the lawsuit prior to the proposed Settlement, and have examined and considered the benefits to be provided to the Class Members under the Settlement.

The Parties have not reached any agreement on the amount of Attorneys' Fees and Expenses that Class Counsel will be paid, except that the Parties agree Class Counsel is entitled to an award of Attorneys' Fees and Expenses. Defendants have no liability or obligation with respect to any Attorneys' Fees and Expenses, Settlement Administration and Notice Expenses, or Service Award to the Plaintiff—these amounts will be awarded by the Court and paid out of the \$4.25 million Common Fund. Class Counsel has agreed its Attorneys' Fees request will not exceed one-third of the Common Fund. Class Counsel intends to seek reimbursement for reasonable expenses incurred in pursuit of the litigation, not to exceed \$75,000. Class Counsel also intends to request Court approval of a Service Award to Plaintiff and Class Representative Robert Walker in the amount of \$5,000 to compensate Plaintiff for his efforts in pursuing this Lawsuit. Nautilus has no objection to the proposed Attorneys' Fees and Service Award requests.

5. **Identification of Class Counsel:** Named Plaintiffs and the Class are being represented by W.B. Markovits, Terence Coates and Justin Walker of Markovits, Stock & DeMarco, LLC, 3825 Edwards Road, Suite 650, Cincinnati, OH 45209; Nathan Prosser of Hellmuth & Johnson, PLLC, 8050 West 78th Street, Edina, MN 55439; and Bryan Bleichner and Jeffrey Bores of Chestnut Cambronne, PA, 100 Washington Avenue South, Suite 1700, Minneapolis, MC 55401.

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WHY DID I GET A NOTICE AND DOES IT APPLY TO ME?

6. The Notice is provided pursuant to an Order of the Court to potential Class Members who might have purchased a Treadmill between July 7, 2016 and November 16, 2021. The Court has directed that a Short Form Notice be sent to potential Class Members because, as a potential Class Member, they have a right to know about the options before the Court rules on the proposed Settlement. Additionally, they have the right to understand how a class action lawsuit may generally affect their legal rights. If the Court approves the Settlement, the Settlement Administrator approved by the Court, will distribute the benefits of this Settlement (detailed below) after any objections and appeals are resolved.

7. In a class action lawsuit, under state and federal law governing lawsuits such as this one, the Court approves one or more plaintiffs (known as Class Representatives) to represent the class and to oversee the litigation brought on behalf of all persons or entities with the same or similar claims, commonly known as the class or the Class Members. In this Lawsuit, Plaintiff Robert Walker is the Class Representative, and Class Counsel (identified in paragraph 5 above) represent the Plaintiff and the Class Members. A class action is a type of lawsuit in which the claims of a number of individuals are resolved together, thus providing the Class Members with consistent and efficient adjudication of their claims. As part of the Settlement in this case, the Class as described in paragraph 1 above will be certified. Accordingly, the Settlement, if approved by the Court, will resolve all issues on behalf of the Class Members, except for anyone who requests to be excluded from the Settlement.

8. The Court in charge of this case is the United States District Court for the Southern District of Ohio, and the case is known as *Robert Walker v. Nautilus, Inc.* Case No. 2:20-cv-3414. The judge presiding over this Lawsuit is the Honorable Edmund A. Sargus, Jr., United States District Judge. The person suing is called the "Plaintiff" and the company being sued is called the "Defendant."

9. This Notice explains the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to receive the benefits. The purpose of this Notice is to inform you that a Settlement has been reached in this Lawsuit and how you might be affected. It is also to inform you of the terms of the proposed Settlement, and of a Hearing on the Final Approval of the Settlement to be held by the Court to consider the fairness, reasonableness, and adequacy of the proposed Settlement, and the motion of Class Counsel for an award of attorneys' fees and reimbursement of litigation expenses (the "Fairness Hearing").

10. The Fairness Hearing will be held on **June 21, 2022 at 10:00 a.m.** at the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 4321 in Courtroom 301 to determine,

- a) whether the proposed Settlement is fair, reasonable, and adequate and should be approved by the Court;
- b) whether the Lawsuit should be dismissed with prejudice against the Defendant as set forth in the Settlement Agreement;
- c) whether Class Counsel's request for an award of attorneys' fees and reimbursement of litigation expenses should be approved by the Court;
- d) whether the Service Award to the Plaintiff should be approved by the Court; and,
- e) any other relief the Court deems necessary to effectuate the terms of the Settlement.

11. This Notice does not express an opinion by the Court concerning the merits of any claim in this Lawsuit, and the Court still has to decide whether to approve the Settlement. If the Court approves the Settlement, benefits of the Settlement will be given to Class Members who submit valid claims after any appeals are resolved, and after the completion of all claims processing. The claims process could take substantial time to complete fully and fairly as there are over a hundred thousand Class Members. Please be patient. The Settlement website, www.NautilusTreadmillSettlement.com, will be updated on a regular basis to provide Class Members with the most recent information.

12. If you are a member of the Class, you are subject to the Settlement unless you take the steps set forth below to exclude yourself. The Class consists of:

All Persons within the United States and its territories who: (a) purchased a Bowflex, Nautilus, or Schwinn treadmill from July 7, 2016 through November 16, 2021, primarily for personal, family, or non-commercial purposes, and not for resale. Excluded from the Class are: Defendant and its officers and directors; Class Counsel and their partners, associates, lawyers, and employees; and the judicial officers and their immediate family members and associated Court staff assigned to this case.

PLEASE NOTE: RECEIPT OF THE SHORT FORM NOTICE DOES NOT MEAN THAT YOU ARE A CLASS MEMBER OR THAT YOU WILL BE ENTITLED TO RECEIVE BENEFITS FROM THE SETTLEMENT. IF YOU ARE A CLASS MEMBER AND YOU WISH TO BE ELIGIBLE TO PARTICIPATE IN THE SETTLEMENT BENEFITS, YOU ARE REQUIRED TO SUBMIT THE CLAIM FORM ONLINE OR SO THAT IT IS RECEIVED NO LATER THAN MAY 2, 2022.

WHAT IS THIS CASE ABOUT?

Summary of Procedural History and Arms' Length Settlement Negotiations

13. On July 7, 2020, Named Plaintiff and proposed Class Representative Robert Walker filed a complaint against Defendant Nautilus, Inc. alleging that Nautilus made misrepresentations regarding horsepower attributes in the advertising, marketing and sale of its treadmills sold under the brand names Nautilus, Schwinn and Bowflex. (Doc. 1, Complaint). Plaintiff asserted claims for: 1) breach of express warranty (nationwide class); 2) breach of express warranty under the Magnuson-Moss Warranty Act (nationwide class); 3) breach of express warranty (Ohio class); 4) breach of implied warranty (nationwide class); 5) breach of implied warranty under the Magnuson-Moss Warranty Act (nationwide class); 6) violation of the Ohio Consumer Sales Practices Act (Ohio class); and 7) negligent misrepresentation (Ohio class). *Id.* Plaintiff sought certification of a nationwide class of purchasers, as well as an Ohio class. *Id.*

Defendant Nautilus has at all times disputed, and continues to dispute, Plaintiff's allegations in the Lawsuit and denies any liability for any of the claims that have or could have been raised in the Lawsuit by Plaintiff or the Class Members.

WHY IS THERE A SETTLEMENT?

14. Plaintiff's principal reason for consent to the Settlement is that it provides immediate and substantial benefits to the Class in the form of both monetary compensation and a valuable fitness app subscription. The benefits provided by the proposed Settlement must be compared to the risk that no recovery might be achieved after further contested litigation, including appeals, which likely would last several years into the future.

15. Nautilus' principal reason for consent to the Settlement is to avoid the uncertainty, burden, and expense of further protracted litigation. Nautilus has expressly denied and continues to deny all assertions of wrongdoing or liability arising out of any of the conduct, statements, or acts, alleged against them, or that could have been alleged, in this Lawsuit. Nautilus continues to believe that the claims in this Lawsuit are meritless.

WHAT MIGHT HAPPEN IF THERE WERE NO SETTLEMENT?

16. If there were no Settlement and Plaintiff failed to establish any essential legal or factual element of his claims, neither Plaintiff nor the other members of the Class would recover anything from Nautilus. Also, if Nautilus were successful in proving any of their defenses, either at summary judgment, at trial, or on appeal, the Class likely would recover substantially less than the amount provided in the Settlement, or nothing at all.

WHAT BENEFITS MIGHT I RECEIVE FROM THE SETTLEMENT?

17. The Settlement provides two primary benefits that Class Members submitting a valid claim can receive. Class Members who timely submit a valid claim are eligible for the following benefits: (1) a pro rata share of a Common Fund of \$4,250,000, after Attorneys' Fees and Expenses, Administration and Notice Expenses, and a Service Award, if any; and (2) a one-year subscription to Nautilus' JRNY app or, for those Class Members already subscribed, a one-year extension. If there is a 20% claims rate, the payment per Claimant is estimated to be in excess of \$50. The one-year subscription is valued at approximately \$150.00.

WHAT RIGHTS AM I GIVING UP BY RECEIVING BENEFITS AND STAYING IN THE SETTLEMENT CLASS?

18. Unless you exclude yourself, you are staying in the Settlement Class. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. Generally, that means you will not be able to sue, continue to sue, or be part of any other lawsuit against Nautilus for the legal issues and claims resolved by this Settlement. The specific rights you are giving up are called Released Claims.

WHAT PAYMENT ARE THE ATTORNEYS FOR THE CLASS SEEKING? HOW WILL THE LAWYERS BE PAID?

19. Class Counsel identified in paragraph 5 above have not received any payment for their services in pursuing claims against Nautilus on behalf of the Class, nor have they been reimbursed for their out-of-pocket expenses. Before final approval of the Settlement, Class Counsel intends to ask the Court to award them up to one-third of the Common Fund for attorneys' fees, plus reimbursement of the litigation expenses and costs they incurred. Class Counsel will also ask for a service award of \$5,000 to be paid to the Class Representative. All of these amounts will be paid from the Common Fund prior to the pro rata distribution to Class Members. Nautilus does not oppose these requests. Class Members are not personally liable for any such attorneys' fees or expenses.

HOW DO I PARTICIPATE IN THE SETTLEMENT? WHAT DO I NEED TO DO?

20. To be eligible for benefits from the Settlement, you must be a member of the Class and you must submit a timely and valid Claim Form through the Class Website (www.NautilusTreadmillSettlement.com) **no later than May 2, 2022**, or execute and return by U.S. mail a completed Claim Form **so that it is received no later than May 2, 2022**. A Claim Form may be obtained from www.NautilusTreadmillSettlement.com, or you may request that a Claim Form be mailed to you by emailing the Settlement Administrator, at info@NautilusTreadmillSettlement.com. If you are excluded from the Class by definition or file a request to opt out of the Class or if you do not submit a timely and valid Claim Form, you will not be eligible to share in the benefits of the Settlement.

HOW DO I EXCLUDE MYSELF FROM THE SETTLEMENT CLASS?

21. If you want to keep the right to sue or continue to sue Nautilus about the legal claims in this lawsuit, and you do not want to receive any benefits from this Settlement, you must take steps to exclude yourself from the Settlement. This is sometimes called "opting out" of the Settlement Class.

22. To exclude yourself from the Settlement, you must complete and send to the Settlement Administrator a letter stating: "I want to be excluded from the Settlement Class in *Robert Walker v. Nautilus, Inc.*, Case No. 2:20-cv-3414." Your Opt-Out Form or request for exclusion must be sent to the Settlement Administrator at the address below so that it is **received no later than April 1, 2022**.

Class Action Opt Out
Nautilus Settlement
PO Box 58220
Philadelphia, PA 19102

23. If you choose to exclude yourself from the Settlement, you are telling the Court that you do not want to be part of the Settlement Class in this Settlement. You can only get Settlement benefits if you stay in the Settlement Class and submit a valid Claim Form for the benefits as described above.

24. If you choose to exclude yourself from the Settlement, you are not giving up the right to sue Nautilus for the claims that this Settlement resolves and releases. You must exclude yourself from this Settlement Class to start or continue with your own lawsuit or be part of any other lawsuit against Nautilus.

HOW DO I OBJECT TO THE SETTLEMENT?

25. Any Class Member who does not submit a request for exclusion from the Class may object to the proposed Settlement, or Class Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses, or the Plaintiff's Service Award. Objections must be in writing **postmarked no later than April 1, 2022**. To object to the Settlement, you must give reasons why you think the Court should not approve it. The Court will consider your views before making a decision. In order to have your objection considered, you or your attorney must mail the written objection to Class Counsel, Nautilus' Counsel, the Settlement Administrator, and the Court. Your objection must contain: (a) the full name, address, telephone number, and email address of the objector; (b) the serial number(s) for the objector's Treadmill(s); (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) copies of any papers, briefs, or other documents on which the objection is based; (e) a list of all cases in which the objector and/or objector's counsel had filed or in any way participated in—financially or otherwise—objecting to a class action Settlement in the preceding five years; (f) the name, address, email address, and telephone number of all attorneys representing the objector; (g) a statement indicating whether the objector and/or the objector's counsel intends to appear at the Fairness Hearing, and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and (h) the objector's signature. Class Members who fail to make objections in the manner specified in this Section will be deemed to have waived any objections and will be foreclosed from making any objection to the Settlement or this Agreement (whether by appeal, collateral proceeding, or otherwise). You must mail your written objection to the following addresses:

<p><u>Objections – Nautilus Settlement Administrator</u></p> <p>Class Action Objection Nautilus Settlement PO Box 58220 Philadelphia, PA 19102</p>	<p><u>Court</u></p> <p>Office of the Clerk Potter Stewart U.S. Courthouse Room 103 100 East Fifth Street Cincinnati, OH 45202</p>
<p><u>Class Counsel</u></p> <p>Bill Markovits Markovits, Stock & DeMarco, LLC 3825 Edwards Road Suite 650 Cincinnati, OH 45209</p>	<p><u>Nautilus' Counsel</u></p> <p>D. Jeffrey Ireland Faruki PLL 110 North Main Street Suite 1600 Dayton, OH 45402</p>

26. You may file a written objection without having to appear at the Settlement Fairness Hearing. You may not, however, appear at the Fairness Hearing to present your objection unless you first filed and served a written objection in accordance with the procedures described above, unless the Court orders otherwise. The Fairness Hearing is described in more detail in paragraphs 28-30 below.

27. There is a difference between objecting to the Settlement and requesting to exclude yourself (opt-out) from the Settlement. Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class (*i.e.*, do not exclude yourself). Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you cannot object because the Settlement no longer affects you.

WHEN AND WHERE IS THE FAIRNESS HEARING? AM I REQUIRED TO ATTEND THE FAIRNESS HEARING? MAY I SPEAK AT THE FAIRNESS HEARING IF I DON'T LIKE THE SETTLEMENT?

28. The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak at the hearing, but you do not have to do so. The Court will hold the Fairness hearing at **10 a.m. on June 21, 2022**, at the Joseph P. Kinneary U.S. Courthouse, 85 Maroni Boulevard, Columbus, OH 43215, in Courtroom 301. At the hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections that were

received by the deadline, the Court will then consider them. If you submit a timely objection, the Court will also listen to you speak at the hearing, if you so request.

29. You are not required to attend the Fairness Hearing but are welcome to attend. If you send an objection, then you can, but are not obligated to, come to Court to discuss it if you filed a Notice of Appearance and the Court permits. You may also pay your own lawyer to attend or discuss your objection, but that is not necessary.

30. You may ask the Court to permit you to speak at the Fairness Hearing. To do so, you must file a written request with the Court saying that it is your “Notice of Intent to Appear at the Fairness Hearing in *Robert Walker v. Nautilus, Inc.* Case No. 2:20-cv-3414. If you plan to have your own attorney speak for you at the hearing, you must also include the name, address, and telephone number of the attorney who will appear. Your written request must be sent to the Clerk of Court, Class Counsel, the Settlement Administrator, and Nautilus’ Counsel at their addresses above. You may not be permitted to speak at the hearing if your Notice of Intent to Appear is late. Your Notice of Intention to Appear must be **postmarked by April 1, 2022.**

HOW DO I GET MORE INFORMATION ABOUT THIS CASE?

31. This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement filed with the Court. You may examine the Court’s file in the Clerk’s Office at the United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215 for more complete information about the details of the lawsuit and the proposed Settlement. You also may visit the Settlement Website at www.NautilusTreadmillSettlement.com, where the Settlement Agreement is posted. Relevant case filings will be added to the Settlement Website as Settlement proceedings continue.