

TO: All those persons who purchased Onn brand power banks during the Settlement Class Period.

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

Hester v. Walmart

Case Name: *Michael Hester v. Walmart, Inc.* (Case No. 5:18-cv-05225-TLB)

Settlement Class Period: January 1, 2013 to July 9, 2020

More Information:

Toll Free Telephone Number: **1-855-232-5353**

Settlement Website: **www.onnpowerbanksettlement.com**

Email: **info@onnpowerbanksettlement.com**

Your Legal Rights and Options in this Settlement:

Submit an online Claim Form	In order to receive a monetary benefit from the Settlement, you must complete and submit an online Claim Form at <u>www.onnpowerbanksettlement.com</u> or mail a Claim Form postmarked within the time specified.	Deadline: November 19, 2020
Exclude Yourself	You have the right to exclude yourself from this Settlement. If you exclude yourself you will receive no benefits, but you will not be giving up your legal claims against the defendant.	Deadline: November 4, 2020
Object to the Settlement	Write to the Court about why you don't like the settlement. You may also appear at the fairness hearing. The Court will consider your objections whether or not you appear at the fairness hearing.	Deadline: November 4, 2020
Go to the Fairness Hearing	Ask to speak in Court about the fairness of the settlement.	Hearing: November 30, 2020, 1:30 p.m. CDT
Do Nothing	Get no payment. Give up rights.	

These rights and options and the deadlines to exercise them are explained below.

Basic Information

1. What is the purpose of this Notice?

The Court has granted preliminary approval of a class action settlement.

To be a part of this settlement, you must meet the following definition of the Settlement Class:

All those persons who purchased any Onn brand power bank(s) from Walmart during the Settlement Class Period.

This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. The Court in charge of the case is the United States District Court for the Western District of Arkansas, and the case is known as *Hester v. Walmart, Inc.*, Case No. 5:18-cv-05225-TLB. The person who sued is called the Settlement Class Representative, and the company he sued, Walmart Inc., is called the Defendant.

The Court authorized this notice because Settlement Class Members have a right to know about a proposed settlement of this class action lawsuit, and about their options, before the Court decides whether to approve the settlement. If the Court approves it and after objections and appeals are resolved, an administrator appointed by the Court will disburse settlement benefits allowed under the settlement agreement between the parties.

2. What is this lawsuit about?

The lawsuit claims that the capacities of Onn brand power banks sold at Walmart were misrepresented.

Walmart denies any and all liability or wrongdoing with respect to the claims alleged in the lawsuit, but desires to settle the case because a settlement will avoid the risk, expense and distraction of continued litigation.

3. Why is this a class action?

In a class action, one or more people, called Settlement Class Representative (in this case Michael Hester), sue on behalf of people who have similar claims. All of these people are members of the Settlement Class or Settlement Class Members. One court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Class.

4. Why is there a settlement?

The Court did not decide in favor of the Settlement Class Representatives or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial and the risk, expense and distraction of continued litigation. The Settlement Class Representative and the attorneys think the settlement is best for everyone involved.

Who Is In The Settlement

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

The Court has decided that for settlement purposes, any individual person or entity who, during the time period set forth above, purchased any Onn brand power bank from Walmart is considered a Settlement Class Member.

6. I'm still not sure if I am included.

If you are still not sure if you are included in the Settlement Class, you may email a claims specialist at info@onnpowerbanksettlement.com or write to the Claims Administrator at

Onn Power Bank Settlement
1650 Arch Street, Suite 2210
Philadelphia PA 19103

The Settlement Benefits

7. What does the settlement provide?

The settlement provides for the following relief:

A. Walmart will fund a Class Settlement Amount of \$1,100,000. The Class Settlement Amount will be used to provide Settlement Class Members with the opportunity to apply for and receive a payment pursuant to the Settlement, to pay for administration of the settlement proceeds, to pay attorney fees and expenses, and to pay for an incentive award to the Settlement Class Representative.

B. In exchange for these settlement benefits, Plaintiff and each Settlement Class Member who has not validly and timely requested exclusion from the settlement shall be deemed to have fully, finally, and forever released any and all claims against the Defendant relating to the nature of the lawsuit.

8. How much will my payment be?

Each Settlement Class Member submitting a claim that is approved is entitled to a payment determined by deducting from the Class Settlement Amount the sum of the Reasonable Attorneys' Fees and Litigation Expenses and Reasonable Class Representative Service Payment, and then dividing that difference on a *pro rata* basis, based on the total number and model of Products submitted by Approved Claimants.

Please note that if you claim to have purchased more than 5 of the Products, you must submit a proof of payment, such as a receipt or other proof that you purchased more than 5 of the Products you claim to have purchased.

How You Get A Payment

9. How can I get a payment?

To qualify for a payment from the settlement, you must submit a Claim Form. To file a Claim Form, visit the settlement website, www.onnpowerbanksettlement.com. You must complete the Claim Form in full and submit to the Claims Administrator on or before **11:59 p.m. [EST] on November 19, 2020**. You may also download a paper copy of the Claim Form at www.onnpowerbanksettlement.com and submit by mail to the Claims Administrator at the address below, **postmarked no later than November 19, 2020**:

Onn Power Bank Settlement Administrator
1650 Arch Street, Suite 2210
Philadelphia, Pennsylvania 19103

Failure to provide complete and accurate information could result in a denial of your claim.

10. When would I get my payment?

The Court will hold a hearing on **November 30, 2020**, at **1:30 p.m.**, in the Courtroom of the Honorable Judge Timothy L. Brooks, United States District Court for the Western District of Arkansas, John Paul Hammerschmidt Federal Building, 35 East Mountain, Room 559, Fayetteville, Arkansas 72701 to decide whether to approve the settlement. If the settlement receives final approval, payment will be mailed to the address provided on your Claim Form, in a timely manner, provided there are no appeals to the Court's decision. Please be patient.

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

Unless you exclude yourself, you are staying in the Settlement Class, regardless of whether or not you submit a Claim Form. This means that you will be bound by the release of claims set forth in the Settlement Agreement and can't sue, continue to sue, or be part of any other lawsuit against Walmart that pertains to the same legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you.

Excluding Yourself From The Settlement

12. How do I exclude myself from the settlement?

If you do not want a payment as part of the settlement and do not want to be legally bound by the terms of the settlement, you must exclude yourself by sending a letter saying that you want to be excluded from *Hester v. Walmart*. The letter must contain your name, address, telephone number and your signature. Your request for exclusion must be mailed to the address below, **postmarked no later than November 4, 2020**:

Onn Power Bank Claims Administrator
Attn: Exclusions
P.O. Box 58220
Philadelphia, PA 19102

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you are not eligible to receive any settlement payment, and you cannot object to the settlement; however you will not be legally bound by anything that happens in this lawsuit.

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

No. Unless you exclude yourself, you give up the right to sue Walmart for the same 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.

14. If I exclude myself, can I receive payment from this settlement?

No. If you exclude yourself from the settlement, you will no longer be entitled to payment. Do not send in a Claim Form if you exclude yourself.

The Lawyers Representing You

15. Do I have a lawyer in this case?

The Court has appointed the law firms of Finkelstein, Blankinship, Frei-Pearson & Garber, LLP and Carney Bates & Pulliam, PLLC and their associated counsel to represent you and other members of the Settlement Class. Together, the lawyers are called Class Counsel. 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.

16. How will the lawyers be paid?

Class Counsel will ask the Court to award them attorneys' fees up to \$366,666.00 in addition to case costs and expenses of approximately \$69,000.00, and an incentive payment for the Plaintiff of \$5,000.00, from the Class Settlement Amount. If approved by the Court, the Defendant will pay the attorneys' fees and expenses as part of the Class Settlement Amount.

The attorneys' fees and expenses requested will be the only payment to Class Counsel for their efforts in achieving this settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Class Counsel have not been paid for their services in conducting this litigation on behalf of the Settlement Class Representative and the Class, nor for their substantial expenses.

Objecting To The Settlement

17. How do I tell the Court that I don't like the settlement?

If you're a Settlement Class Member, and have not excluded yourself from the settlement, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it, and the Court will consider your views. To object, you must send a letter to the Court and the Parties saying that you object to the settlement in *Michael Hester v. Walmart, Inc.* (Case No. 5:18-cv-05225-TLB). Your written objection must be personally signed and you must provide the following information in connection with and as part of any objection: (i) full name, current address, and current telephone number; (ii) documentation sufficient to establish membership in the Settlement Class; (iii) a statement of the position the objector wishes to assert, including the factual and legal grounds for the position and objection; and (iv) copies of any other documents that the objector wishes to submit in support of his/her/its position. In addition, the objecting Settlement Class Member must identify any previously filed objections filed by the Settlement Class Member and his/her/its counsel in any state or federal court. This listing must contain (i) the name of the case; (ii) the case number; (iii) the court in which the objection was filed; and (iv) the outcome of the objection. This objection **must be received** at these three different places and must be **post-marked no later than November 4, 2020**:

Clerk of the Court	Class Counsel	Defense Counsel
ATTN: Case No. 5:18-cv-05225 United States District Court Western District of Arkansas Fayetteville Division John Paul Hammerschmidt Federal Building 35 East Mountain Street Rm 510 Fayetteville, AR 72701-5354	Finkelstein, Blankinship, Frei-Pearson & Garber, LLP 445 Hamilton Avenue, Suite 605 White Plains, New York 10601	Quattlebaum, Grooms & Tull PLLC 4100 Corporate Center Drive, Suite 310 Springdale, Arkansas 72762

18. What's the difference between objecting and excluding myself?

Objecting is simply telling the Court that you do not like something about the settlement. You can object only if you do not exclude yourself from the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Class or the lawsuit. If you exclude yourself, you have no basis to object because the case no longer affects you.

The Court's Fairness Hearing

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

The Court will hold a Fairness Hearing on **November 30, 2020**, at **1:30 p.m. (CDT)**, in the Courtroom of the Honorable Judge Timothy L. Brooks, United States District Court for the Western District of Arkansas, John Paul Hammerschmidt Federal Building, 35 East Mountain, Room 559, Fayetteville, Arkansas 72701. At this hearing, which may be held telephonically, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Judge will listen to people who filed with the Court a notice of intention to appear no later than **November 10, 2020** and followed the instructions in Section 21 to ask for permission to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

20. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. But, you are welcome to come at your own expense. If you submit an objection, you do not have to come to the Court to talk about it. As long as 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.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the fairness hearing. To do so, you must send a letter to the Court saying that it is your intention to appear, either in person or through counsel hired at your own expense, and that you object to an aspect of the fairness, reasonableness, or adequacy of the settlement in *Michael Hester v. Walmart, Inc.*, Case No. 5:18-cv-05225-TLB. If you intend to appear at the Final Hearing, by yourself or with an attorney, you must file a notice of intention to appear with this with the Court no later than **November 10, 2020**, at the address listed above. The notice of intention to appear must include copies of any papers, exhibits, or other evidence that you, the objecting Settlement Class Member, or your counsel will present to the Court in connection with the Fairness Hearing, and include your name, address, telephone number and your signature. Any such persons with good cause to appear at the Fairness Hearing via telephone or videoconference should timely request such permission from the Court via email (tlbinfo@arwd.uscourts.gov). If permission is granted, the Court will provide appropriate instructions. You cannot speak at the hearing if you exclude yourself from the Class.

22. What happens if the Court does not approve the Settlement?

If the Court does not enter an Order approving the Settlement, or if the Court enters an Order approving the Settlement but appellate review is sought and the Order is reversed and no final Order approving the settlement is entered, the Settlement shall become null and void and the case will proceed as if the settlement was never entered into.

Getting More Information

23. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in the full version of the Settlement Agreement. You can obtain a copy of the Settlement Agreement from the settlement website at www.onnpowerbanksettlement.com, or from the Clerk's office at the United States District Court, Western District of Arkansas, Fayetteville Division, John Paul Hammerschmidt Federal Building, 35 East Mountain Street, Room 510, Fayetteville, Arkansas 72701, during regular business hours.

24. How do I get more information?

If you would like more information about the settlement, you can visit the settlement website, www.onnpowerbanksettlement.com, email the Claims Administrator at info@onnpowerbanksettlement.com or call toll free at **1-855-232-5353** for answers to frequently asked questions.

It is your responsibility to inform the Claims Administrator of address changes until your benefit is received.

DO NOT CONTACT THE COURT WITH QUESTIONS ABOUT THIS NOTICE.