

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK
Catalano v. Lyons Magnus, LLC, Case No. 7:22-cv-06867

If you purchased a Covered Product produced and/or distributed by Lyons Magnus LLC or TRU Aseptics LLC between APRIL 1, 2021 and OCTOBER 27, 2022, that was subjected to an FDA recall, you could receive a payment from a Class Action Settlement.

A federal court authorized this Notice. You are not being sued.

This is not a solicitation from a lawyer.

- A Settlement has been reached with Lyons Magnus, LLC and TRU Aseptics, LLC, (“Defendants”) in a class action lawsuit about the Covered Products produced and/or distributed by the Defendants that were subjected to an FDA recall. Please visit www.specialtydrinksettlement.com for the full list of Covered Products included in this Settlement.
- You are included in this Settlement as a Settlement Class Member if you are a natural person who, between April 1, 2021 and October 27, 2022, purchased in the United States any Covered Product for personal, family or household use, and not resale.
- The lawsuit is captioned *Catalano v. Lyons Magnus, LLC*, Case No. 7:22-cv-06867, pending in the United States District Court for the Southern District of New York. The Defendants deny that they violated any laws but have agreed to the Settlement to avoid the costs and risks associated with continuing this case.
- Your rights are affected whether you act or do not act. Please read this Notice carefully.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DEADLINE
SUBMIT A CLAIM	<p>The only way to receive a cash payment from this Settlement is by submitting a valid and timely Claim Form.</p> <p>You can submit your Claim Form online at www.specialtydrinksettlement.com or download the Claim Form from the Settlement Website and mail it to the Claims Administrator. You may also call or email the Claims Administrator to receive a paper copy of the Claim Form.</p>	February 9, 2024
OPT OUT OF THE SETTLEMENT	You can choose to opt out of the Settlement and receive no payment. This option allows you to sue, continue to sue, or be part of another lawsuit against the Defendants related to the legal claims resolved by this Settlement. You can elect your own legal counsel at your own expense.	February 9, 2024
OBJECT TO THE SETTLEMENT AND/OR ATTEND A HEARING	If you do not opt out of the Settlement, you may object to it by writing to the Court about why you do not like the Settlement. You may also ask the Court for permission to speak about your objection at the Final Approval Hearing. If you object, you may also submit a claim form.	February 9, 2024
DO NOTHING	Unless you opt out of the Settlement, 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 the Defendants related to 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.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	3
WHO IS IN THE SETTLEMENT	4
THE SETTLEMENT BENEFITS	4
HOW TO GET A PAYMENT—MAKING A CLAIM.....	5
THE LAWYERS REPRESENTING YOU	6
OPTING OUT OF THE SETTLEMENT	7
COMMENTING ON OR OBJECTING TO THE SETTLEMENT.....	7
THE COURT’S FINAL APPROVAL HEARING	9
IF I DO NOTHING	9

BASIC INFORMATION

1. Why was this Notice issued?

A federal 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 of the Settlement. This Notice explains the lawsuit, your legal rights, what benefits are available, and who can receive them.

The Honorable Kenneth M. Karas of the United States District Court for the Southern District of New York is overseeing this class action. The lawsuit is called *Catalano v. Lyons Magnus, LLC*, Case No. 7:22-cv-06867. The people that filed this lawsuit are called the “Plaintiffs” and the companies they sued, Lyons Magnus, LLC and TRU Aseptics, LLC are called the “Defendants.”

2. What is this lawsuit about?

This lawsuit alleges that the Defendants have improperly, deceptively, and misleadingly labeled and marketed its Products to reasonable consumers, like Plaintiffs, by omitting and not disclosing to consumers on its packaging that the Products may contain or are at the risk of containing *Cronobacter sakazakii* and/or *Clostridium botulinum*, which could as result of ingesting the Products could lead to serious and life-threatening adverse health consequences including contracting invasive infections. The Defendants deny all of Plaintiffs’ allegations and all charges of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged against it in the litigation.

3. What is a class action?

In a class action, one or more individuals sue on behalf of other people with similar claims. These individuals are known as “Class Representatives” or “Named Plaintiffs.” Together, the people included in the class action are called a “class” or “class members.” One court resolves the lawsuit for all class members, except for those who opt out from a settlement. In this Settlement, the Named Plaintiffs are Wayne Catalano, Barbara Speaks, Karen Radford, Tomoko Nakanishi, Veronica Pereyra, Christy Deringer, Roberta Sinico, and Edmond Dixon.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or the Defendants. The Defendants deny all claims and that they violated any law. Plaintiffs and Defendants agreed to a Settlement to avoid the costs and risks of a trial, and to allow the Settlement Class Members to receive payments from the Settlement. The Plaintiffs and their attorneys think the Settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT?

5. Who is in the Settlement?

The Settlement Class includes all natural persons who, between April 1, 2021 and October 27, 2022, purchased in the United States any Covered Product for personal, family or household use, and not resale.

Covered Products means any of the products produced and/or distributed by Defendants that are specified on Exhibit E to the Stipulation of Class Action Settlement Agreement (“Settlement Agreement”). To view the list of Covered Products, visit www.specialtydrinksettlement.com.

6. Are there exceptions to being included?

Yes. The Settlement Class does not include: (1) the Honorable Judge Kenneth A. Karas and members of his immediate family; (2) Defendants; (3) any entity in which a Defendant has a controlling interest; (4) any of Defendants’ subsidiaries, parents, affiliates, and officers, directors, employees, legal representatives, heirs, successors, or assigns; and (5) any persons who timely exclude themselves from the Settlement Class.

If you are not sure whether you are included in the Settlement Class, you can ask for free help by emailing or writing to Claims Administrator at:

Lyons Magnus Settlement
c/o Claims Administrator
1650 Arch St, Ste 2210
Philadelphia, PA 19103
info@specialtydrinksettlement.com

You may also view the Settlement Agreement at www.specialtydrinksettlement.com.

THE SETTLEMENT BENEFITS

7. What does the Settlement provide?

The Defendants have agreed to pay three million, five hundred thousand dollars (\$3,500,000) in cash to the Settlement Fund for payment of the following: (i) Valid Claim Forms for cash benefits submitted by Settlement Class Members; (ii) the notice and other administrative costs actually incurred by the Claims Administrator; (iii) Attorneys’ Fees and Costs, as may be ordered by the Court, and (iv) any service award to the Class Representative, not to exceed \$500.00 per Class Representative, as may be ordered by the Court. In addition, Defendants will contribute an additional \$75,000 to be used to pay the first \$75,000 of notice and other administrative costs actually incurred by the Claims Administrator.

8. How much will my payment be?

All members of the Settlement Class who submit a Valid Claim are eligible to receive monetary relief as set forth below. No payments will be made to any members of the Settlement Class who do not submit an Eligible Claim.

- Settlement Class Members who submit a Valid Claim Form with Proof of Purchase of a Covered Product shall receive the full purchase price for each unit of Covered Product listed on the Proof of Purchase, inclusive of all taxes.
- Settlement Class Members who submit a Valid Claim Form without Proof of Purchase of a Covered Product shall receive up to the average retail price for up to two (2) Covered Products claimed per household plus a 10% allowance for sales tax, as such price is determined in good faith by the Defendants and provided to the Claim Administrator.

Each Settlement Class Member's payment shall be increased or decreased on a pro rata basis such that the total amount paid to all Settlement Class Members equals the Available Settlement Funds.

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

Unless you opt out of the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about any of the legal claims this Settlement resolves. The "Releases" section in the Settlement Agreement describes the legal claims that you give up ("Released Claims") if you remain in the Settlement Class. The Class Action Settlement Agreement can be found at www.specialtydrinksettlement.com.

HOW TO GET A PAYMENT - MAKING A CLAIM

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

To qualify for a Settlement payment, you must complete and submit a Claim Form by **February 9, 2024**. You may complete and submit a Claim Form online at www.specialtydrinksettlement.com or mail a completed Claim Form to Lyons Magnus Settlement, c/o Claims Administrator, 1650 Arch St, Ste 2210, Philadelphia, PA 19103. Claim Forms are also available by calling 1-866-865-8202, or by emailing info@specialtydrinksettlement.com.

11. What is the deadline for submitting a claim?

If you submit a claim by U.S. mail, the completed and signed Claim Form must be postmarked by **February 9, 2024**. If submitting a Claim Form online, you must do so by **February 9, 2024**.

12. When will I get my payment?

The Court will hold a Dial-in Final Approval Hearing at **2:00 p.m. ET on April 9, 2024**, at The Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse, 300 Quarropas St., White Plains, NY 10601-4150. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. After the hearing, the Court will 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 the Court grants Final Approval of the Settlement and after any appeals are resolved.

The briefs and declarations in support of the Final Approval of the Settlement and the requests described above will be posted on the Settlement Website, www.specialtydrinksettlement.com, after they are filed. You may ask to dial-in to the hearing, but you do not have to dial-in to the hearing. The date and time of the Final Approval Hearing is also subject to modification by the Court. Please review the Settlement Website for any updated information regarding the final hearing.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has appointed the following law firms to represent the Settlement Class as Plaintiffs' Counsel:

- The Sultzer Law Group, P.C.
- Levin, Sedran, & Berman LLP
- Poulin Willey Anastopoulo
- Bradley/Grombacher LLP
- Aylstock Witkin Kreis and Overholtz

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 Plaintiffs' Counsel works for you. 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?

Plaintiffs' Counsel will ask the Court for an award of attorneys' fees not to exceed one-third (1/3) of the Settlement Fund, as well as reasonable expenses incurred in the litigation. They will also ask the Court to approve Service Award payments for each of the Class Representatives not to exceed \$500

each. The Court may award less than these amounts. If approved, these fees, costs and awards will be paid from the Settlement Fund.

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 separately sue the Defendants about the legal issues in this case, 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 **February 9, 2024**.

To exclude yourself from the Settlement, you must submit a completed and signed Opt-Out Form online at www.specialtydrinksettlement.com or by U.S. mail at the below address. Alternatively, you can submit a written request for exclusion that includes the following information: (i) the name of the litigation, *Catalano v. Lyons Magnus, LLC*, Case No. 7:22-cv-06867 (S.D.N.Y.); (ii) your name and current address; (iii) your personal signature; and (iv) a statement clearly indicating your intent to be excluded from the Settlement (the request can only be made for you, not on another person’s behalf);

Your request for exclusion must be submitted online at www.specialtydrinksettlement.com or via U.S. mail at the address below:

Lyons Magnus Settlement
ATTN: Exclusion Request
PO Box 58220
Philadelphia, PA 19102

If you exclude yourself, you are stating to the Court that you do not want to be part of the Settlement. You will not be eligible to receive a payment if you exclude yourself. You may only exclude yourself – not any other person.

If submitted electronically, the Opt-Out Form or any written request to opt-out must be submitted on or before **February 9, 2024**.

If submitted by U.S. mail, the Opt-Out Form, or any written request to opt-out must be postmarked no later than **February 9, 2024**.

COMMENTING ON OR OBJECTING TO THE SETTLEMENT

17. How do I tell the Court if I like or do not like the Settlement?

If you are a Settlement Class Member, you can choose (but are not required) to 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.

Each objection must include: (i) the case name: *Catalano v. Lyons Magnus, LLC*, and case number: 7:22-cv-06867; (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 all legal factual support for the right to such compensation; (iv) any and all agreements that relate to the objection or the process of objection between the objector and any other person (including its counsel); (v) documents or testimony sufficient to establish membership in the Settlement Class; (vi) a detailed statement of any objection asserted, including the grounds therefor; (vii) whether the objector is, and any reasons for, requesting the opportunity to appear and be heard at the final approval hearing; (viii) 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; (ix) copies of any papers, briefs, declarations, affidavits, or other documents upon which the objection is based; (x) a detailed list of any other objections submitted by the Settlement Class Member, or his/her counsel, to any class actions submitted in any state or federal court in the United States in the previous five years (or affirmatively stating that no such prior objection has been made); and (xi) the objector's signature, in addition to the signature of the objector's attorney (if any)—an attorney's signature alone shall not be deemed sufficient to satisfy this requirement.

Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection. Failure to include any of the information or documentation set forth in this paragraph also shall be grounds for overruling an objection. Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection grounds that the objector lacks standing to make the objection. Failure to include any of the information or documentation set forth above also shall be grounds for overruling an objection.

Settlement Class Members must electronically file via the Court's ECF system, or deliver to the Clerk of the Court, Plaintiffs' Counsel, and Defendants' counsel by mail, express mail, or personal delivery, a written notice of objection.

Plaintiffs Counsel:

THE SULTZER LAW GROUP P.C.

Jason P. Sultzer, Esq.
Joseph Lipari, Esq.
Jeremy Francis, Esq.
85 Civic Center Plaza, Suite 200
Poughkeepsie, NY 12061

LEVIN SEDRAN & BERMAN

Charles E. Schaffer, Esq. David C.
Magagna Jr., Esq.
510 Walnut Street, Suite 500
Philadelphia, PA 19106

POULIN | WILLEY | ANASTOPOULO, LLC

M. Poulin Roy T. Willey, IV Blake G. Abbott
Paul J. Doolittle
32 Ann Street Charleston, SC 29403

BRADLEY/GROMBACHER LLP

Kiley Grombacher, Esq.
31365 Oak Crest Dr., Suite 240
Westlake Village, CA 91361

**AYLSTOCK, WITKIN, KREIS &
OVERHOLTZ, PLLC**

Bryan F. Aylstock, Esq.
1700 East Main Street, Suite 200
Pensacola, FL 35502

Defense Counsel:

DINSMORE & SHOHL, LLP

Gary Becker, ESQ
222 West Adams St, Suite 3400
Chicago, IL 60606

Clerk of Court:

U.S District Court
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

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 stating to 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 the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

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

The Court will hold a 'Dial-in' Final Approval Hearing on April 9, 2024, at 2:00 p.m. ET. Participants, members of the public and the press may use the following dial-in information:

- Dial-in: 1-866-390-1828; Access Code: 1582687

Please be aware that recording or rebroadcasting of the proceeding is prohibited by law.

The Final Approval Hearing will take place at The Hon. Charles L. Brieant Jr. Federal Building and United States Courthouse, 300 Quarropas St., White Plains, NY 10601-4150. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Plaintiffs' Counsel's request for an award of Attorneys' Fees and Costs, as well as Service Payments to the Class Representatives. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing. You or your own lawyer may speak at the hearing at your own expense, but there is no requirement that you or your own lawyer do so. After the hearing, the Court will decide whether to approve the Settlement.

The date or time of the Final Approval Hearing may change. Please check the Settlement Website, www.specialtydrinksettlement.com, for any updates.

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

No. Plaintiffs' Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you file an objection, you do not have to come to the Final Approval Hearing to talk about it. If you file your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but such attendance is not necessary for the Court to consider an objection that was filed on time.

IF I DO NOTHING

21. What happens if I do nothing at all?

If you are a Settlement 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 the Defendants 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 the Settlement Website, www.specialtydrinksettlement.com.

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

Email: info@specialtydrinksettlement.com

Toll-Free: 1-866-865-8202

Mail: Lyons Magnus 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.

Please do not contact the Court, the Clerk, or the Defendants to inquire about the Settlement.