

(English and Spanish language versions available)

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

IF YOU LIVE IN THE UNITED STATES AND PURCHASED ANY A&W ROOT BEER OR CREAM SODA BEVERAGES THAT CONTAINED THE “Made with Aged Vanilla” STATEMENT ON THEIR LABELS BETWEEN FEBRUARY 7, 2016, AND JUNE 2, 2023, A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

A federal court authorized this notice.

You are not being sued. This is not a solicitation from a lawyer.

- A proposed Settlement has been reached in the class action lawsuit (the “lawsuit”) called *LaShawn Sharpe v. A&W Concentrate Co. and Keurig Dr Pepper Inc.*, pending in the Eastern District of New York. The lawsuit alleges (1) violations of the Texas Deceptive Trade Practices Act (“TDTPA”), Tex. Bus. & Com. Code §§ 17.46(5), (7), and (9) and (2) unjust enrichment based on the allegation that the “Made With Aged Vanilla” claim on the label of A&W root beer and A&W cream soda beverages (“Products”) was misleading to a reasonable consumer because the Products contained ethyl vanillin, which is an artificial vanilla flavoring.
- The Plaintiffs have yet to prove any of their allegations in court. A&W Concentrate Co. and Keurig Dr Pepper Inc. (“Defendants”) deny these allegations and assert that their Labeling and marketing is truthful, accurate, and FDA compliant. However, Defendants have settled this case to avoid the expense and disruption associated with further litigation. This Settlement will resolve all claims of all Settlement Class Members against Defendants involving the Products.
- You are included in the Settlement if you live in the United States and, between February 7, 2016, and June 2, 2023, you purchased in the United States for personal use (*i.e.*, not for resale) at least one or more specific A&W Root Beer or Cream Soda Beverages manufactured by Defendants that contained the statement, “Made with Aged Vanilla” on its label.
- The list attached as Exhibit A contains the complete list of the Products that are included in the Settlement.
 - To settle the lawsuit, A&W Concentrate, Co. has agreed to provide a Maximum Settlement Amount of \$15,000,000 to pay the following: Valid Claims to individuals who live in the United States and purchased in the United States a A&W Root Beer or A&W Cream Soda Product for personal use (*i.e.*, not for resale) during the Class Period that contained the statement, “Made with Aged Vanilla” on its label, Attorneys’ Fees and Costs, Administration Expenses and Class Representatives Service Awards. If the Valid Claims made, the Attorneys’ Fees and Costs, and Class Representatives Service Awards in the aggregate exceed the Maximum Settlement Amount, then the Benefits paid for Valid Claims will be reduced, pro rata.

This Notice summarizes the Settlement. For the precise terms and conditions of the Settlement, please: (i) see the Settlement Agreement, which is available at www.rootbeerandcreamsodasettlement.com; or (ii) contact the Claim Administrator by calling (833) 747-6032 or writing to:

Sharpe v. A&W Concentrate Co.
c/o Kroll Settlement Administration LLC
P.O. Box 225391
New York, NY 10150-5391

Your legal rights will be affected regardless of whether you do or do not act.

Read this Notice carefully.

This Notice explains the following rights and options—**and the deadlines to exercise them.**

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
|---|---|
| SUBMIT CLAIM FORM | <p>You must submit a Claim to get money from this Settlement. Claim Forms must be submitted online or postmarked by October 18, 2023.</p> <p>By submitting a Claim, you agree to be bound by the Settlement, and you give up your right to sue or continue to sue Defendants for the claims released by the Settlement.</p> |
| DO NOTHING | <p>If you do nothing, you agree to be bound by the Settlement, you give up your rights to sue Defendants for the claims released by the Settlement, and you will not get money from the Settlement.</p> |
| EXCLUDE YOURSELF (OR “OPT OUT”) | <p>Get out of the Settlement. Get no money from the Settlement. Keep your rights.</p> <p>This is the only option that allows you to keep your right to sue A&W Concentrate Co. and Keurig Dr Pepper Inc. about the claims in this lawsuit. You will not get any money from the Settlement. Your request to exclude yourself (Opt-Out) must be RECEIVED or POSTMARKED by August 28, 2023.</p> <p>You cannot both exclude yourself and also object.</p> |
| OBJECT | <p>Stay in the Settlement, but tell the Court why you think the Settlement, the amount of attorneys’ fees and expenses, or the awards to the Class Representatives should not be approved. Objections must be RECEIVED or POSTMARKED by August 28, 2023.</p> <p>You may still submit a Claim Form even if you object.</p> <p>You cannot both exclude yourself and also object.</p> |
| GO TO THE FINAL APPROVAL HEARING | <p>You can ask to speak in Court about the fairness of the Settlement, the amount of attorneys’ fees, or awards to the Class Representatives, at your own expense. See Questions 17-19 below, for more details. The Final Approval Hearing is scheduled for October 19, 2023.</p> |

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 at www.rootbeerandcreamsodasettlement.com regularly for updates and further details.

The Court in charge of this lawsuit has preliminarily approved the Settlement and will hold a hearing to make a final decision whether to approve it. The proposed relief offered to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement.

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BASIC INFORMATION

1. Why did I get this Notice?

You are receiving this Court-authorized Notice because you may be a Class Member in a proposed Settlement regarding allegedly inaccurate Labeling found on certain A&W® brand Root Beer and Cream Soda Products that contained the statement “Made with Aged Vanilla” on their label.

For purposes of Settlement only, the Court has certified a settlement class (the “Settlement Class”). You are a member of the Settlement Class (“Settlement Class Member”) if you live in the United States and, between February 7, 2016, and June 2, 2023, you (a person, not a commercial entity) purchased for personal use (not for purposes of resale) an A&W® brand Root Beer or Cream Soda Product that contained the statement “Made with Aged Vanilla” on its label.

This Notice explains the nature of the lawsuit and the Claims being settled, your legal rights, and the proposed benefits to the Class.

2. What is this case about?

Judge Brian M. Cogan, of the Eastern District of New York is overseeing the *Sharpe* class action lawsuit. The case is known as *Sharpe et al. v. A&W Concentrate Co. et al.*, Case No. 19-cv-00768-BMC (E.D.N.Y.). The person who brought the lawsuit is called the “Plaintiff,” and the companies sued are called the “Defendants.” For purposes of Settlement, this Settlement includes Steve Dailey, the Class Representative and named plaintiff who brought the putative class-action lawsuit known as *Dailey v. A&W Concentrate Co. et al.*, Case No. 4:20-cv-02732-JST (N.D. Cal.).

Plaintiffs LaShawn Sharpe, Jim Castoro, and Steve Dailey filed the lawsuits against A&W Concentrate Co. and Keurig Dr Pepper Inc., individually and on behalf of certain others who purchased units of Defendants’ manufactured Root Beer and Cream Soda Products that contained the statement “Made with Aged Vanilla” on their label within the United States for personal use between February 7, 2016, and June 2, 2023.

The Plaintiffs allege in the lawsuits that the Label on certain Root Beer and Cream Soda Products manufactured by Defendants stating that the Products were “Made With Aged Vanilla” was misleading to a reasonable consumer because the Products contained ethyl vanillin, which is an artificial vanilla flavoring.

Defendants deny the Plaintiffs’ allegations and deny that they violated any law or caused any harm as alleged in the lawsuits. Defendants assert that their Labeling and marketing is truthful and entirely accurate, but Defendants have settled this case to avoid further litigation and distraction of resources from their business.

The Court has not decided who is right.

To obtain more information about this case and Settlement, please see Section 21 below.

3. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendants. Instead, both sides agreed to settle this case to avoid the costs, disruption, and risk of further litigation.

The Plaintiffs, Class Representatives, Defendants, and their attorneys believe the proposed Settlement is fair, reasonable, and adequate, and is therefore in the best interest of the Class Members. This Settlement provides immediate monetary relief to the Settlement Class without the cost, time, and expense of litigating, which can take years.

Full details about the proposed Settlement can be found in the Settlement Agreement available at www.rootbeerandcreamsodasettlement.com.

4. Why is this a class action?

In a class action, one or more people called “Class Representatives” (in this case, LaShawn Sharpe, Jim Castoro, and Steve Dailey) sue on behalf of people who have similar claims. All of these people who may have similar claims form a “Class” and are called “Class Members.” The Settlement resolves the issues for all Class Members, except those who exclude themselves from the Class (Opt-Out), as explained in Section 10.

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

You are included in the Settlement as a Class Member if you live in the United States and, between February 7, 2016, and June 2, 2023, you purchased in the United States for personal use (i.e., not for resale) one or more A&W Root Beer or Cream Soda Products (for personal use only) from February 7, 2016, through June 2, 2023 that contained the statement, “Made with Aged Vanilla” on its label.

The Settlement Class excludes: (1) the Released Parties; (2) any government entities; (3) persons who purchased the Products for the purposes of resale; (4) persons who made a valid, timely request for exclusion; (5) the Hon. Brian M. Cogan, the Hon. Jon S. Tigar, the Hon. John Mott (Ret.), the Hon. Wayne Andersen (Ret.), and any members of their immediate families; and (5) all distributors, wholesalers, retailers, or other persons who purchased the product for the purpose of selling it to someone else.

If you are not sure whether you are in the Class, or have any other questions about the Settlement, visit www.rootbeerandcreamsodasettlement.com or write with questions to Sharpe v. A&W Concentrate Co., c/o Kroll Settlement Administration LLC, P.O. Box 225391, New York, NY 10150-5391 or call (833) 747-6032.

THE SETTLEMENT BENEFITS

6. What does the Settlement provide?

If the proposed Settlement is finally approved by the Court, and after any appeals are resolved (if any appeals are filed), in favor of the Settlement, Defendants have agreed to refund you as follows based upon whether or not you have proof of purchase:

Tier 1 – Claims without Proof of Purchase: You will get \$5.50 per Household;

or

Tier 2 – Claims with and without Proof of Purchase: You will get a guaranteed minimum of \$5.50, and on top of that you will get an additional \$0.50 per Unit purchased for which a valid Proof of Purchase has been provided, up to a maximum of thirty-nine units supported by Proof of Purchase, for a combined total of \$25.00 per Household.

or

Tier 3 – All Claims with Proof of Purchase: You will get a guaranteed minimum of \$5.50 and 50 cents per units for which a proof of purchase is provided for every unit over eleven units you purchase, up to fifty units for \$25.00

A Settlement Class Member may only make a single Claim under either Tier 1, Tier 2, or Tier 3 per Household. Recovery is limited to one Claim per Household, regardless of how many persons reside at an address.

There is a \$15 million cap for the total Settlement Amount—including Attorneys’ Fees and expenses and Awards for Class Representatives—and thus individual cash payment amounts may be reduced *pro rata* (proportionately) so that the total amount of all payments to Settlement Class Members does not exceed the cap.

The deadline to make a valid claim is 11:59 p.m. Eastern Time on October 18, 2023. To make a claim, please visit www.rootbeerandcreamsodasettlement.com.

7. How to make a Claim?

You must submit a Claim Form, with or without Proof of Purchase, to be eligible to receive any money from the Settlement, if it is approved by the Court. Proof of Purchase is a record of purchase or other documentation of a transaction that reflects the purchase in the United States of one or more Products between February 7, 2016, and June 2, 2023. You may complete the Claim Form online or download a Claim Form at www.rootbeerandcreamsodasettlement.com. You may also email or call the Claim Administrator at www.rootbeerandcreamsodasettlement.com or (833) 747-6032 to request a Claim Form. Your Claim Form must be signed under penalty of perjury and postmarked or submitted online no later than 11:59 p.m. Eastern Time on October 18, 2023.

8. What am I giving up as part of the Settlement?

Unless you exclude yourself (Opt-Out), you will be included in the Settlement if it is approved by the Court. By staying in the Class, you will be eligible to receive monetary benefits provided by the Settlement, to which you may be entitled, and you will release the Defendants from all of the Released Claims in this lawsuit, whether or not you file a valid Claim Form.

This means that you will no longer be able to sue A&W Concentrate Co. or Keurig Dr Pepper Inc. regarding any of the Released Claims if you are a Class Member and do not timely and properly Exclude yourself (Opt-Out) from the Class. “Released Claims” are defined in section 2.42 of the Settlement Agreement.

Upon the Effective Date and by operation of the judgment, the Releasing Parties shall have fully, finally, and forever released, relinquished, and discharged against the Released Parties all Released Claims (including, without limitation, any unknown claims), as well as any claims arising out of, relating to, or in connection with, the defense, settlement, or resolution of this Action or the Released Claims.

Plaintiffs expressly acknowledge that they are familiar with principles of law such as Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

With respect to the Settlement Class Members’ Released Claims, each Settlement Class Member shall be deemed to have expressly, knowingly, and voluntarily waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he or she may otherwise have had under Section 1542 of the California Civil Code and all similar federal or state laws, rights, rules, or legal principles of any other jurisdiction that may be applicable herein. In connection with the release, the Settlement Class Members acknowledge that they are aware that they may hereafter discover claims presently unknown and unsuspected or facts in addition to or different from those which they now know or believe to be true with respect to matters released herein. Nevertheless, the Settlement Class Members acknowledge that a portion of the consideration received herein is for a release with respect to unknown damages and complaints, whether resulting from known injuries and consequences or from unknown injuries or unknown consequences of known or unknown injuries, and state that it is the intention of the Settlement Class Members in agreeing to this release to fully, finally, and forever settle and release all matters and all claims that exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action), constituting Settlement Class Members’ Released Claims.

The full text of the Settlement Agreement, which includes all the provisions about settled Claims and Releases, is available at www.rootbeerandcreamsodasettlement.com.

9. Will the Class Representatives receive any compensation for their efforts in bringing this lawsuit?

Possibly. The Class Representatives (LaShawn Sharpe, Jim Castoro, and Steve Dailey) will request a Service Award of up to a maximum total amount of \$15,000 in the aggregate, which shall be apportioned equally among the Class Representatives (up to an amount of \$5,000 per Class Representative), to compensate them for their services as Class Representatives, including, but not limited to, sitting for their depositions, and their efforts in bringing the lawsuit. The Court will make the final decision as to the amount, if any, to be paid to each of the Class Representatives.

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I exclude myself (Opt-Out) from the Settlement?

If you do not want to be part of the Settlement, you must send a written request for exclusion (to Opt-Out). If you exclude yourself, you cannot file a claim or object to the Settlement, and you will not be entitled to any monetary payments from the Settlement. The request to exclude yourself from the Settlement must be made on an individual basis, and postmarked (in the case of a paper mail submission) or **received** (in the case of personal delivery) by the Claim Administrator at the below address on or before 11:59 p.m. Eastern Time on August 28, 2023:

Sharpe v. A&W Concentrate Co.
c/o Kroll Settlement Administration LLC
PO Box 225391
New York, NY 10150-5391

The Opt-Out request must contain the requestor's name, address, the words "I wish to be excluded from the *Sharpe v. A&W Concentrate Co.* Class Action," and signature.

Instructions on how to submit an exclusion request are available at www.rootbeerandcreamsodasettlement.com, or by emailing or calling the Claim Administrator.

11. If I do not exclude myself, can I sue later?

No, not if you are a Class Member. If you do not exclude yourself (Opt-Out) from the Settlement and the Settlement is finally approved by the Court, you forever give up the right to sue A&W Concentrate Co., Keurig Dr Pepper Inc., and the Released Parties for all the Released Claims, which this Settlement fully and finally resolves.

If you submit a valid and timely request to be excluded (Opt-Out), you cannot Object to the proposed Settlement. However, if you ask to be excluded, you may sue or continue to sue A&W Concentrate Co., Keurig Dr Pepper Inc., or the Released Parties about the same claims resolved by this Settlement in the future. You will not be bound by anything that happens in this lawsuit.

12. What happens if I do nothing at all?

If you are a Class Member, do nothing and the Settlement is finally approved by the Court, you forever give up the right to sue A&W Concentrate Co., Keurig Dr Pepper Inc., and the Released Parties for the Released Claims, which this Settlement fully and finally resolves.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in the case?

Yes. The Court has ordered that Michael R. Reese and Sue J. Nam of Reese LLP and Spencer Sheehan of Sheehan & Associates, P.C. (together, “Class Counsel”) will represent the interests of all Class Members. Class Members will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

On August 18, 2023, Class Counsel filed a motion with the Court requesting payment of \$2,918,233.50 for their fees and \$306,766.50 for reimbursement of their costs (for a total of \$3,225,000). Pursuant to agreement between the Parties, Defendants have agreed not to oppose payment of fees and expenses to Class Counsel of a total amount of \$3,225,000. The Court will make the final decision as to the amounts to be paid to Class Counsel and may award less than the amounts requested in the Application.

OBJECTING TO THE SETTLEMENT

15. How do I tell the Court that I do not like the Settlement?

If you want to tell the Court that you do not agree with the proposed Settlement, or the requested payments to the Class Representatives or the Class Counsel, you may submit an Objection explaining why you do not think the Settlement or requested payments should be approved. If the Court denies approval to the entire Settlement, no Settlement payments will be made, and the lawsuit will continue. Even if the Court disapproves the requested payments to Class Representatives or Class Counsel, the maximum payment amount available to Class Settlement Members will still remain the same.

You must deliver your Objection to the Claim Administrator, Class Counsel, and Defendants’ counsel, and file with the Court, a written statement of your Objection(s). Your Objection must include all of the following information:

- a) The case name and number, *Sharpe et al. v. A&W Concentrate Co. et al.*, Case No. 19-cv-00768-BMC;
- b) The name, address, telephone number, and, if available, the email address of the Person objecting;
- c) The name and address of the lawyer(s), if any, who is representing the Person making the Objection or who may be entitled to compensation in connection with the Objection;
- d) A detailed statement of Objection(s), including the grounds for those Objection(s);
- e) Copies of any papers, briefs, or other documents upon which the Objection is based;
- f) A statement of whether the Person objecting intends to appear at the Final Approval Hearing, either with or without counsel;
- g) The identity of all counsel (if any) who will appear on behalf of the Person objecting at the Final Approval Hearing and all Persons (if any) who will be called to testify in support of the Objection;
- h) A statement of his/her membership in the Settlement Class, including all information required by the Claim Form;

- i) The signature of the Person objecting, in addition to the signature of any attorney representing the Person objecting in connection with the Objection; and
- j) A detailed list of any other objection by the Settlement Class Member, or his/her counsel, to any class actions submitted in any court, whether state or otherwise, in the United States in the previous five (5) years. If the Settlement Class Member or their counsel has not objected to any other class action settlement in any court in the United States in the previous five (5) years, they shall affirmatively state so in the written materials provided in connection with the Objection to this Settlement.

You must send a copy of your Objection by personal delivery or First-Class mail, and it must be received by (in the case of personal delivery) or postmarked by (in the case of paper mail) no later than 11:59 p.m. Eastern Time August 28, 2023, to the Claim Administrator, Class Counsel and Defense Counsel:

Claim Administrator:

Sharpe v. A&W Concentrate Co.
c/o Kroll Settlement Administration LLC
PO Box 225391
New York, NY 10150-5391

Class Counsel:

Michael R. Reese
REESE LLP
100 West 93rd Street, 16th Floor
New York, New York 10025
mreese@reesellp.com

Defendant's Counsel:

Russ Falconer
Gibson, Dunn & Crutcher LLP
2001 Ross Ave. Suite 2100
Dallas, TX 75201
RFalconer@gibsondunn.com

If you or your attorney intends to make an appearance at the Final Approval Hearing and you have not so indicated in your Objection, you must also deliver, according to the above procedures, no later than September 3, 2023, a Notice of Intention to Appear, and must also file a notice of appearance with the Court no later than September 3, 2023.

If you fail to comply with these requirements, or fail to submit your Objection before the deadline, you will be deemed to have waived all Objections and will not be entitled to speak at the Final Approval Hearing.

16. What is the difference between objecting and asking to be excluded?

Objecting is simply telling the Court that you don't like something about the Settlement. You can Object only if you stay in the Class.

Excluding yourself (Opting Out) is telling the Court that you don't want to be part of the Class. If you exclude yourself, you have no basis to Object because the Settlement no longer affects you.

THE FINAL APPROVAL HEARING

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

A Court has preliminarily approved the Settlement and will hold a Final Approval Hearing to determine whether to give final approval to the Settlement. The purpose of the Final Approval Hearing is for the Court to determine whether the Settlement should be approved as fair, reasonable, adequate, and in the best interests of the Class, and to consider the award of Attorneys' Fees and Costs to Class Counsel and to consider the request for Service Awards to the Class Representatives. If there are any valid, timely Objections, the Court will consider them and listen to the people who have asked to speak at the hearing, if a request to do so was properly made,

The Court will hold the Final Approval Hearing on October 19, 2023, at 11:00 a.m. in the United States District Court for the Eastern District of New York in Courtroom 8D South. The hearing may be postponed to a different time, date, or location without additional notice, so it is recommended that you periodically check www.rootbeerandcreamsodasettlement.com for updated information.

18. Do I have to come to the hearing?

No, you are not required to come to the Final Approval Hearing. However, you are welcome to attend the hearing at your own expense.

If you submit an Objection, you do not have to come to the hearing to talk about it. As long as you submitted the written Objection according to the instructions in Question 15 (including all of the information required), and it was received on time, the Court will consider it. You also may pay your own lawyer to attend the Final Approval Hearing, but that is not necessary.

19. May I speak at the hearing?

Yes, you may speak at the Final Approval Hearing, but you must ask the Court for permission. To request permission to speak, you must have filed an Objection according to the instructions in Question 15, including all of the information required.

You cannot speak at the hearing if you exclude yourself (Opt-Out) from the Settlement.

DO NOTHING

20. What happens if I do nothing?

If you do nothing and the Settlement is finally approved by the Court, you will not get any money from the Settlement, you will not be able to sue for the Claims in this lawsuit, and you release Claims against Defendants and the Released Parties.

GETTING MORE INFORMATION

21. How do I get more information about the Settlement?

This is only a summary of the proposed Settlement. If you want additional information about this lawsuit, including a copy of the actual Settlement Agreement, the complaint filed in this lawsuit, the Court's Preliminary Approval Order, Class Counsel's Application for Attorneys' Fees and Costs, other pertinent information, **and to check the status of the Settlement or if the Settlement has been approved by the Court**, please visit www.rootbeerandcreamsodasettlement.com.

You may also contact the Claim Administrator at (833) 747-6032.

PLEASE DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE.