

## **NOTICE UPDATE**

# **If you bought Canned or Pouched Tuna between June 1, 2011 and July 1, 2015, your rights may be affected by an ongoing class action litigation**

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

*Para una notificación en español, visite [www.TunaEndPurchaserSettlement.com](http://www.TunaEndPurchaserSettlement.com) o llame 1-866-615-0977.*

A lawsuit is pending in the United States District Court for the Southern District of California. The lawsuit is known as *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MDD).

- The lawsuit claims that from June 1, 2011 to July 1, 2015, Defendants Tri-Union Seafoods LLC d/b/a Chicken of the Sea International and Thai Union Group PCL (collectively “COSI”), StarKist Co. (“StarKist”) and its parent company, Dongwon Industries Co. Ltd (collectively “StarKist”), and Bumble Bee Foods, LLC (“Bumble Bee”), Lion Capital LLP (“Lion Capital”), Lion Capital (Americas), Inc. (“Lion America”), and Big Catch Cayman LP (“Big Catch”) participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Packaged Tuna products at an artificially high level in violation of antitrust and unfair competition laws.
- On July 30, 2019, the District Court certified a class of all persons and entities who reside in the states of Arizona, Arkansas, California, the District of Columbia, Florida, Guam, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, and Wisconsin (referred to as the “End Payer Plaintiffs” or “EPPs”) who *indirectly* purchased Chicken of the Sea, StarKist, or Bumble Bee tuna in cans or pouches smaller than 40 ounces (“Packaged Tuna”) from June 1, 2011 through July 1, 2015 for their own consumption (the “Class”). On April 8, 2022, the Ninth Circuit Court of Appeals affirmed the District Court’s order certifying the Class. On November 14, 2022, the United States Supreme Court denied StarKist’s petition to appeal the Ninth Circuit’s Order. The certified Class may now proceed to trial.
- The Court has not decided whether Defendants’ alleged wrongdoing had any impact on the EPPs. Defendants deny the EPPs’ allegations and have asserted defenses to the EPPs’ claims. COSI settled with the EPPs to avoid litigation risks, costs, and inconvenience. Notice about the COSI Settlement was already issued, and the claims deadline for the COSI Settlement has passed. Bumble Bee filed for bankruptcy protection. The litigation is continuing with StarKist, Lion Capital, Lion America, and Big Catch (the “Non-Settling Defendants”). The Court has indicated that it intends to set dates for the trial in the near future. Payments for the COSI Settlement will be distributed *after* the trial with Non-Settling Defendants.
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS IN THE PENDING CLASS ACTION LITIGATION**

<p align="center"><b>DO NOTHING</b></p>	<ul style="list-style-type: none"> <li>• Stay in the Class and await the outcome.</li> <li>• Give up your right to sue or continue to sue the Defendants for the claims in this case.</li> <li>• <b>If you filed a valid and timely claim in the COSI Settlement, your payment will be distributed AFTER the litigation with the Non-Settling Defendants is resolved. Please be patient.</b></li> </ul>	
<p align="center"><b>ASK TO BE EXCLUDED (“OPT OUT”)</b></p>	<ul style="list-style-type: none"> <li>• Remove yourself from the Class.</li> <li>• Keep your right to sue or continue to sue the Defendants for the claims in this case.</li> <li>• Receive no payment.</li> <li>• <b>Please contact the Claims Administrator if you would like to withdraw your COSI Settlement claim so that you may opt out of the Class.</b></li> <li>• <b>If you already opted out of the COSI Settlement, you do not need to file another opt-out.</b></li> </ul>	<p align="center">Postmarked by <b>July 17, 2023</b></p>

- If you have already opted out of the COSI Settlement Class or submitted a claim with respect to the COSI Settlement, you do not need to do anything else at this time to make a claim or exclusion with respect to the COSI Settlement Class. You do, however, now have an opportunity to change your mind regarding your participation in the COSI Settlement Class.
- Your 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 Case Website, [www.TunaEndPurchaserSettlement.com](http://www.TunaEndPurchaserSettlement.com), regularly for updates and further details.

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## **Basic Information**

### **1. Why is there a notice?**

This notice is to inform you that the District Court has allowed (or “certified”) a class action lawsuit that may affect you. You may be part of a class action lawsuit if you purchased Canned or Pouched Packaged Tuna between June 1, 2011 and July 1, 2015. If you are a Class Member, you have legal rights and options you may exercise before the Court holds a trial that will be set in the near future. At the trial, the Court will decide whether the allegations against Defendants on your behalf (as a member of a certified class) are proven to be true. The trial will be held in the United States District Court for the Southern District of California. The lawsuit is known as *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MDD).

Those who sued are called the End Payer Plaintiffs or EPPs. The companies they sued are called the Defendants. The Defendants include COSI, StarKist, and Bumble Bee and its parent companies Lion Capital, Lion America, and Big Catch.

The EPPs have already reached a settlement (the “COSI Settlement”) with COSI (the “Settling Defendants”). The COSI Settlement notice has already been issued, and the claims deadline for the COSI Settlement has passed. Bumble Bee is in bankruptcy. The litigation is continuing with StarKist, Lion Capital, Lion America, and Big Catch (the “Non-Settling Defendants”).

This notice explains the lawsuit, certification of the Class by the Court, and your legal rights and options.

### **2. What is a class action and who is involved?**

In a class action lawsuit, one or more people or businesses called class representatives sue on behalf of others who have similar claims, all of whom together are a “class.” Individual class members do not have to file a lawsuit to participate in the class action, or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class (“opt out”).

### **3. Why is this lawsuit a class action?**

The District Court decided that this lawsuit can be a class action and move towards a trial because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the District Court found that:

- There are factual and legal questions that are common to each of the members of the Class;
- The EPPs’ claims are typical of the claims of the rest of the Class;
- The EPPs and the lawyers representing the Class will fairly and adequately represent the Class interests;
- The common legal questions and facts predominate over questions that affect only individuals; and
- This class action will be more efficient than having many individual lawsuits.

## **Who Is Affected?**

### **4. Am I part of the Class?**

The Class includes all persons and entities who *resided* in Arizona, Arkansas, California, the District of Columbia, Florida, Guam, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, West Virginia, and Wisconsin, who *indirectly* purchased Packaged Tuna in cans or pouches smaller than forty ounces for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator during the period from June 1, 2011 to July 1, 2015 (the “Class Period”).

The Class excludes purchases of meal kits. Also excluded from the Class is the Court and anyone who opted out of the COSI Settlement.

### **5. What if I am still not sure if I am included?**

If you are still not sure whether you are included, you can get help at [www.TunaEndPurchaserSettlement.com](http://www.TunaEndPurchaserSettlement.com), or by calling toll-free at 1-866-615-0977.

## **The Claims in the Lawsuit**

### **6. What is the lawsuit about?**

End Payer Plaintiffs allege that from June 2011 to July 2015, Defendants participated in an unlawful conspiracy to raise, fix, maintain, or stabilize the price of Packaged Tuna products at an artificially high level in violation of antitrust and unfair competition laws.

On July 30, 2019, the District Court certified the Class and selected Wolf Haldenstein Adler Freeman & Herz LLP to act as Class Counsel; however, on April 6, 2021, a three-judge panel of the Ninth Circuit Court of Appeals vacated the District Court’s order and remanded the case to the District Court for further consideration. On August 3, 2021, following a vote of non-recused active judges, the Court of Appeals vacated the April 6, 2021 decision, ordering that an eleven-judge panel rehear the case. On April 8, 2022, the Ninth Circuit Court of Appeals upheld the District Court’s decision to certify the Class. On August 8, 2022, StarKist filed a petition with the United States Supreme Court to appeal the Ninth Circuit’s decision upholding the District Court’s decision to certify the Class. On November 14, 2022, the United States Supreme Court denied StarKist’s petition, allowing the case to proceed to trial. The Court has indicated that it intends to set dates for the trial in the near future. Payments for the COSI Settlement will be distributed after the trial with Non-Settling Defendants. On November 10, 2021, the Court issued an order granting in part and denying in part EPPs’ motion for summary judgment. The EPPs agreed to settle with COSI. On January 26, 2022, the Court preliminarily approved the COSI Settlement, and notice was disseminated. On July 15, 2022, the Court granted final approval of the COSI Settlement and certified the Settlement Class.

### **7. How do Defendants respond?**

Defendants deny the EPPs’ allegations and have asserted defenses to the EPPs’ claims. As noted above, StarKist filed a petition in the United States Supreme Court to appeal the Class Order on August 8, 2022; however, that

petition was denied. The Court has indicated that it intends to set dates for the trial in the near future.

COSI settled with the EPPs to avoid litigation risks, costs, and inconvenience. Payments for the COSI Settlement will be distributed *after* the trial with the Non-Settling Defendants.

#### **8. Has the Court decided who is right?**

The Court has not decided whether the EPPs or Defendants are correct as to the extent of Defendants' conduct, or the impact of that conduct, if any, on the EPPs. By establishing the Class and issuing this Notice, the Court is not suggesting that the EPPs will win or lose this case. The EPPs must prove their claims at trial.

#### **9. What are the EPPs asking for?**

The EPPs are asking that the Non-Settling Defendants provide monetary damages to Class Members. Plaintiffs will also seek attorneys' fees and costs incurred in connection with the prosecution of this action.

As part of the COSI Settlement, COSI agreed to pay a maximum of \$20 million to a Settlement Fund. A portion of the Settlement Fund (up to \$5 million) was used by the Claims Administrator to administer notice and claims in the COSI Settlement ("Notice Fund"). Any monies remaining in the Notice Fund after the costs of notice and claims administration in the COSI Settlement are paid will revert to COSI. The remainder of the Settlement Fund (\$15 million) is being used for distribution to qualifying Class Members and to pay certain litigation expenses. Settlement Class Counsel requested, and the Court awarded, a distribution to cover litigation costs in the amount of \$4,155,027.67. Settlement Class Counsel did not seek reimbursement for attorneys' fees from the COSI Settlement, but Counsel reserves the right to seek an award of attorney fees and expenses from any monies recovered from the Non-Settling Defendants through settlement, trial, or judgment based in part on the benefit provided by the COSI Settlement. COSI is also supporting the EPPs with their litigation against Non-Settling Defendants.

#### **10. Is there money available now?**

No money or benefits are available from Non-Settling Defendants because the Court has not yet decided on the impact of Defendants' wrongdoing or whether Class Members are entitled to money or other benefits. There is no guarantee that additional money or benefits will be obtained. If they are, you will be notified about how to seek money or other benefits from the Non-Settling Defendants lawsuit.

Money is available to Class Members who filed a claim in the COSI Settlement. COSI Settlement Class Members who timely submitted a valid, approved claim are entitled to be treated equally and receive Settlement compensation on a *pro rata* basis such that the Settlement Fund is exhausted. The Claims Administrator will not distribute any money until all remaining claims against Non-Settling Defendants are resolved. Please be patient. If your address has changed since the time you filed your claim in the COSI Settlement, please email the Claims Administrator at [info@TunaEndPurchaserSettlement.com](mailto:info@TunaEndPurchaserSettlement.com) to ensure any communications about your claim are sent to your current address.

### **Excluding Yourself from the Class**

#### **11. What does it mean if I exclude myself from the Class?**

If you exclude yourself from the Class—which means to remove yourself from the Class, and is sometimes called "opting out" of the Class—you will not get any money or benefits from this lawsuit, even if the EPPs

obtain them as a result of the trial, or from the COSI Settlement. However, you may then be able to sue or continue to sue Defendants on your own regarding the claims in this matter. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action or the COSI Settlement.

If you start your own lawsuit against Defendants regarding the same claims in this matter after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit, and you will have to prove your claims.

If you already filed a claim in the COSI Settlement, but you would prefer to exclude yourself from the Class, please contact the Claims Administrator by mail or email to withdraw your COSI Settlement claim.

### **12. If I don't exclude myself from the Class, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself from the Class, you give up the right to sue Defendants for the legal claims in this case. All Court orders relating to legal claims against Defendants will apply to you and legally bind you. If you have your own pending lawsuit against any of the Defendants, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from the Class in order to continue your own lawsuit against Defendants.

### **13. What am I giving up by staying in the Class?**

Unless you exclude yourself from the Class, you remain a Class Member. By staying in the Class, all Court orders relating to legal claims against Defendants will apply to you and legally bind you.

### **14. How do I exclude myself from the Class?**

To exclude yourself or opt out from the Class, you must complete and mail to the Claims Administrator a written request for exclusion.

The request to opt out of the Class must include:

- Your full name, current address, and telephone number;
- A statement saying that you want to be excluded from the **EPP CLASS** in the *In Re: Packaged Seafood Products Antitrust Litigation*, No. 15-MD-2670 DMS (MDD); and
- Your signature.

You must mail your exclusion request, postmarked by **July 17, 2023** to:

Tuna End Purchaser Settlement – EXCLUSIONS  
c/o JND Legal Administration  
P.O. Box 91442  
Seattle, WA 98111

If you do not include the required information or timely submit your request for exclusion, you will remain a Class Member and you will be bound by the orders of the Court.

### **15. What if I already filed an opt-out or a claim in the COSI Settlement?**

If you already opted out of the COSI Settlement, you do not need to file another opt-out.

If you already filed a claim in the COSI Settlement, but you would prefer to exclude yourself from the Class,

please contact the Claims Administrator with a written request to withdraw your COSI Settlement claim. If you opt out of the Class, you will no longer receive a payment from the COSI Settlement, and you will not get any money or benefits that may result from the EPPs' trial with Non-Settling Defendants. However, you will keep your right to sue or continue to sue Defendants on your own regarding the claims in this matter. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action or the COSI Settlement.

## **The Lawyers Representing You**

### **16. Do I have a lawyer in this case?**

Yes. The Court has appointed the law firm of Wolf Haldenstein Adler Freeman & Herz LLP as Class Counsel on behalf of the End Payer Plaintiffs and Class Members. Contact information for Class Counsel is below:

Wolf Haldenstein Adler Freeman & Herz LLP  
750 B Street, Suite 1820  
San Diego, CA 92101  
619-239-4599

Attn: Betsy C. Manifold

If you wish to remain a Class Member, you do not need to hire your own lawyer because Class Counsel is working on your behalf.

If you wish to pursue your own case separate from this one, or if you exclude yourself from the Class, Class Counsel will no longer represent you. You may need to hire your own lawyer if you wish to pursue your own lawsuit against any of the Defendants.

### **17. How will the lawyers be paid?**

If you remain in the Class, you will not have to pay any fees or costs out-of-pocket. Class Counsel reserve the right to seek an award of additional litigation costs and attorney fees, subject to Court approval, from any funds recovered from the Non-Settling Defendants through settlement, trial, or judgment. Class Counsel further reserves the right to base, in part, any such request on the benefit obtained in the COSI Settlement.

## **The Trial**

### **18. How and when will the Court decide who is right?**

Class Counsel will have to prove the EPPs' allegations at a trial. No trial date has been set at this time. At the trial, a jury and the Judge will hear all of the evidence to help them reach a decision about whether the EPPs or Non-Settling Defendants are right. There is no guarantee the EPPs will win or that they will get any money for all or some members of the Class.

### **19. Do I have to come to the trial?**

No. You do not need to attend the trial. Class Counsel will present the case for the EPPs, and lawyers for the Non-Settling Defendants will present on their behalf. However, you or your own lawyer are welcome to come at your own expense.

## **20. Will I get money after the trial?**

If you did not exclude yourself from the Class and if the EPPs obtain money or benefits as a result of the lawsuit, you will be notified about how to participate. In addition, if you filed a valid and timely claim in the COSI Settlement, your payment will be distributed *after* the trial is resolved. We do not know how long this will take, so please be patient.

## **If You Do Nothing**

## **21. What happens if I do nothing at all?**

You do not have to do anything now if you want to remain in the Class and keep the possibility of getting money or benefits from the lawsuit with the Non-Settling Defendants. By doing nothing, you are staying in the Class. If you stay in the Class and the EPPs win, you will be notified about how to seek money or other benefits from the lawsuit with Non-Settling Defendants. If the EPPs lose the lawsuit, you will not receive any compensation. Keep in mind that if you do nothing now, regardless of whether the EPPs win or lose the trial, you will not be able to sue or continue to sue Defendants as part of any other lawsuit about the same legal claims that are the subject of this lawsuit. You will also be legally bound by the Orders the Court issues and judgments the Court makes in this class action.

## **Getting More Information**

## **22. How do I get more information about the case?**

This notice summarizes the case. Visit [www.TunaEndPurchaserSettlement.com](http://www.TunaEndPurchaserSettlement.com) for more detailed information. You can also contact the Claims Administrator:

Tuna End Purchaser Settlement  
c/o JND Legal Administration  
P.O. Box 91442  
Seattle, WA 98111

[info@TunaEndPurchaserSettlement.com](mailto:info@TunaEndPurchaserSettlement.com)  
1-866-615-0977

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**