

## **NOTICE OF SETTLEMENT OF PROPOSED CLASS ACTION**

TO: ALL PERSONS WHO:

- (1) CONSUMED FOOD OR DRINK BETWEEN SEPTEMBER 4 AND SEPTEMBER 13, 2015, AT THE HARDEE'S RESTAURANT LOCATED IN DUNCAN, SOUTH CAROLINA, OR BETWEEN SEPTEMBER 4 AND SEPTEMBER 15, 2015, AT THE HARDEE'S RESTAURANT LOCATED IN LYMAN, SOUTH CAROLINA, AND
- (2) SUBSEQUENTLY OBTAINED IMMUNE GLOBULIN ("IG") SHOTS, HEPATITIS-A VIRUS ("HAV") VACCINATIONS OR HAV BLOOD TESTS AT ANY PUBLIC HEALTH DEPARTMENT CLINIC, OR PRIVATE HEALTH CARE PROVIDERS, ON OR BEFORE OCTOBER 15, 2015.

**THIS NOTICE MAY AFFECT YOUR RIGHTS  
PLEASE READ IT CAREFULLY**

**1. Why should I read this Notice?**

The purpose of this Notice is to inform you that your rights may be affected by the proposed settlement of the lawsuit entitled *Werkmeister, et al., v. Hardee's Restaurants, LLC*, CIVIL ACTION No. 2015-CP-42-3982, pending in the Court of Common Pleas, Seventh Judicial Circuit, County of Spartanburg, South Carolina.

**2. What is the lawsuit about?**

The plaintiffs, Cody Werkmeister and Sherri Young, acting on behalf of themselves and all those similarly situated, have asserted claims against the defendant Hardee's Restaurants, LLC. The South Carolina Department of Health and Environmental Control (SCDHEC) was notified on September 17, 2015, of individuals employed by and working at the defendant's restaurants, who had tested positive for hepatitis A, and who had worked at the defendant's restaurants during their hepatitis A infection. SCDHEC alerted the public about the health risks posed by potential exposure to hepatitis A, and recommended that customers and staff who ate food at the defendant's restaurants between September 4 and September 15 at the Lyman-area restaurant and between September 4 and September 13 and the Duncan-area restaurant—should receive vaccine due to potential exposure to hepatitis A. SCDHEC held clinics to provide vaccines from September 19 to September 29, 2015. As a result of these clinics, over 4,800 individuals received vaccines for potential exposure to hepatitis A.

The plaintiff, on behalf of himself and all those similarly situated, seek to recover compensation from Hardee's Restaurants, LLC, for All persons (1) who consumed food or drink between September 4 and September 13, 2015, at the Hardee's Restaurant located in Duncan, South Carolina, or between September 4 and September 15, 2015, at the Hardee's Restaurant located in Lyman, South Carolina, and (2) subsequently obtained an HAV vaccination, an IG shot, or HAV blood test within thirty days after eating at these Hardee's Restaurant locations, but in no event later than October 15, 2015.

The compensation sought includes the cost of obtaining the shots, and the value of lost time required to obtain the shots.

3. **What are the terms of the settlement?**

Under the proposed settlement, the proposed General Damages Settlement provides for payment of general damages to each Class member who submits a timely, qualified claim for general damages (“Claimant”). Each Claimant will receive as general damages a pro-rata share of the aggregate class amount of \$500,000.00.

4. **Who is covered by the class?**

On January 11, 2017, the Court of Common Pleas, Seventh Judicial Circuit, County of Spartanburg, South Carolina, provisionally certified the following Class for settlement purposes.

All persons (1) who consumed food or drink between September 4 and September 13, 2015, at the Hardee’s Restaurant located in Duncan, South Carolina, or between September 4 and September 15, 2015, at the Hardee’s Restaurant located in Lyman, South Carolina, and (2) subsequently obtained a Hepatitis-A Virus (“HAV”) vaccination, an immune globulin (“IG”) shot, or HAV blood test within thirty days after eating at these Hardee’s Restaurant locations, but in no event later than October 15, 2015. The South Carolina Department of Health and Environmental Control has not provided notice that any persons developed HAV infections after consuming food or drink at these Hardee’s Restaurant locations during these time periods; such persons, if any, are excluded from the class. Employees of Hardee’s Restaurants are also excluded from the class.

If you received this Notice in the mail, you may have been identified as a potential class member pursuant to the Court’s Order, which required the mailing of this notice to persons who received shots from local Health Departments.

5. **How do I make a claim?**

To make a claim, you must submit a valid claim form so that it is received by the Claims Administrator on or before March 30, 2017. You can obtain a claim form by calling **1-800-352-1270** or by downloading the form at **www.SpartanburgHepa.com**. You must provide the information requested on the claim form to support and verify your claim, and mail it to the Claims Administrator so that it is received no later than March 30, 2017. The address of the Claims Administrator is:

The Notice Company  
Spartanburg Hep-A Class Action  
P.O. Box 455  
Hingham, MA 02043

You must complete and submit a separate claim form for each person who obtained an IG shot or Hepatitis-A vaccination or HAV blood test. **FAILURE TO SUBMIT A VALID AND**

TIMELY CLAIM FORM SO THAT IT IS RECEIVED BY MARCH 30, 2017 WILL BAR YOU FROM RECEIVING A PORTION OF THE SETTLEMENT AND BAR YOU FROM PROCEEDING ON ANY CLAIM ARISING OUT OF THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH 2.

6. **What do I need to do to join the class?**

If you wish to receive a portion of the settlement, you must make a claim as described in the previous section. Your claim will then be paid, following the Court's approval of the settlement. You will not be charged anything individually to remain in the Class. You will not be charged attorney fees.

Any potential class member who wishes to do so may enter an appearance in this litigation through his or her own attorney, but must pay separately for the fees and expenses incurred by that attorney.

In order to receive a portion of the settlement, you must submit a valid claim form so that it is received by March 30, 2017. Should you decide to enter an appearance, in this litigation, however, you must still submit a claim form so that it is received by March 30, 2017. Failure to do so will preclude you from receiving a portion of the settlement. Any claim received after March 30, 2017, will not be accepted or paid.

7. **Can I exclude myself from the class? Yes**

Any person who would otherwise be a member of the Class may be excluded from the Class and from the settlement by mailing a written request for exclusion to the Claims Administrator at the address given in paragraph 5 above, so that it is received no later than March 30, 2017. Your request for exclusion must (a) specify your name and mailing address, (b) be signed and dated, and (c) state that you request to be "Excluded from the Hardee's Hepatitis A Class Action in Spartanburg County, South Carolina". A member of the Class filing such a request shall be deemed excluded from the settlement Class and from this settlement.

Any potential member of the Class who does not file a timely written request for exclusion as provided in the preceding section will be bound by the settlement and all subsequent proceedings, orders and judgments in the lawsuit, even if that member of the Class subsequently initiates litigation against Hardee's Restaurants, LLC, relating to any policy and/or the matters released.

8. **Can I object to the settlement? Yes**

Any member of the Class who has not filed a written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of the settlement must serve a notice of intent to appear and/or object, together with copies of any papers the member of the Class intends to present to the Court in connection with such objection, on the Class Counsel and counsel for Hardee's Restaurants, LLC, no later than March 30, 2017. A copy of the notice of intent and any accompanying papers must also be filed with the Court no later than March 30, 2017.

**COURT ADDRESS:**

The Court of Common Pleas of Spartanburg County  
180 Magnolia Street  
Spartanburg, SC 29306

**CLASS COUNSEL ADDRESS:**

William D. Marler, Esquire  
MARLER CLARK, L.L. P., P.S.  
1012 First Avenue, Fifth Floor  
Seattle, WA 98104-1008

**DEFENDANT'S COUNSEL ADDRESS:**

Kenneth W. Ward, Esq.  
TRAMMELL, ADKINS & WARD, P.C.  
P.O. Box 51450  
Knoxville, TN 37950-1450

Class members may make such appearances or objections either on their own or through attorneys hired at their own expense. If an attorney will represent any such Class member, he or she must (i) file a notice of appearance with the Court no later than March 30, 2017, and (ii) serve on the Class Counsel and on counsel for Hardee's Restaurants, LLC, a copy of the same. Any such Class Member or their counsel may, obtain access at the offices of Marler Clark, LLP, PS of Seattle, Washington, to the original filed complaint, answer, any orders entered by the court in the lawsuit, and to such additional pleadings as may be agreed upon by Hardee's Restaurants, LLC, counsel and the Class Counsel.

Only those Class Members who follow the procedures set forth above may appear at the Final Approval Hearing and/or have their objections considered by the Court.

Any Class Member who does not appear individually or through counsel and/or who does not challenge the fairness, reasonableness or adequacy of the settlement shall waive and forfeit any and all rights that he or she may have to appear separately and/or object.

**9. Who represents the class?**

The Court has designated Cody Werkmeister as Class Representative. The Court has appointed Marler Clark, LLP, PS, as the Class Counsel. If you have any questions for the Class Counsel, you may write to them at the address listed above.

**10. Who pays the attorneys' fees and costs?**

No attorney fees or expenses will be paid by Class members. Plaintiffs' counsel fees and costs will be capped at 25% of the amount paid to the entire class for general damages, or what is awarded by the Court, whatever is less, and Defendant shall pay the determined Plaintiffs' counsel fees and costs.

**11. Reasons for the settlement.**

The Class Representative and the Class Counsel support the proposed settlement because they believe it provides for prompt, efficient, and fair relief to the Class. In ultimately deciding to recommend this settlement, the Class Counsel considered the relative risks, costs, and benefits to the Class of settlement or continuing litigation. The Class members incur no risk or cost in obtaining the proposed relief.

12. **Settlement approval procedure.**

The Court will hold a Final Approval Hearing on Monday, April 17, 2017, at 10 a.m. The address of the Court is 180 Magnolia Street, Spartanburg, South Carolina, 29306. At the hearing, the Court will consider whether the proposed settlement should be granted final approval as fair, adequate, and reasonable, and in the best interests of the Class as a whole. The Parties will request that the Court enter a Final Approval Order.

You may attend this hearing if you wish, but you are not required to do so in order to participate in the Settlement. You may also seek to intervene individually or to object to the settlement.

Class Members shall have the right to be excluded or to object to the proposed settlement in the manner described above. No such objection shall be valid unless it is in writing, signed personally by the Class Member under penalty of perjury, and submitted to the Court and served on the Class Counsel and counsel for Hardee's Restaurants, LLC, no later than March 30, 2017. If you do not file an objection by March 30, 2017, you will not be entitled to be heard at the Final Approval Hearing, or to otherwise contest the approval of the settlement, or to appeal from any orders or judgments of the Court entered thereon.

The Court's determination on the final approval of the proposed settlement will be binding on all Class members. If the Court grants final approval of the settlement, the judgment will release Hardee's Restaurants, LLC, from all claims for damages by persons who meet the class definition.

The compensation included in the settlement covers the cost of the shots, and the value of lost time required to obtain the shots. This release will bar any further suit on the settled claims by or on behalf of the Class Members, and any persons claiming by or through them, including heirs, assigns, administrators, devisees, successors, attorneys, or representatives of any kind.

If the Court does not approve the settlement, the case will proceed as active litigation.

13. **Where do I get additional information?**

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the proposed settlement, and related matters. Additional information is available at [www.SpartanburgHepa.com](http://www.SpartanburgHepa.com). You may seek the advice and guidance of your own private attorney, at your own expense, if you desire.

If you wish to communicate with the Class Counsel identified above or wish to obtain relevant Court documents, you may do so by writing to the Class Counsel at the address listed above.

**PLEASE DO NOT CONTACT THE COURT**