

## CLASS ACTIONS SETTLEMENT NOTICE

**Your legal rights are affected whether you act, or do not act. Read this notice carefully.**

**Attention Purchasers of Cottonelle, Scott, Huggies Pull-Ups, Poise, and Kotex-branded Flushable Wipes Between February 21, 2008 and May 19, 2022: You may be entitled to payment from a proposed class action settlement.**

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

- A settlement (the “Settlement”) has been reached in the class action cases of *Kurtz v. Kimberly-Clark Corp., et al.*, No. 1:14-cv-1142-PKC-RML (“*Kurtz Action*”), and *Honigman v. Kimberly-Clark Corp.*, No. 2:15-cv-2910-PKC-RML, both pending in federal court in the Eastern District of New York (the “Court”).
- You may be included in a class certified by the Court for purposes of settlement (the “Settlement Class”) if you are an individual over the age of 18 who purchased in the United States any Kimberly-Clark flushable wipes product sold under the Cottonelle, Scott, Huggies Pull-Ups, Poise, or Kotex brands (the “Products”), not for the purpose of resale, between February 21, 2008 and May 19, 2022.
- This Settlement will resolve claims of all Settlement Class members against Kimberly-Clark Corporation (“Kimberly-Clark” or “Defendant”) involving the Products. The lawsuits contend that the Products were inappropriately labeled and marketed as “flushable” and safe for sewer and septic systems. Kimberly-Clark denies these allegations and maintains that the wipes performed as advertised.
- In connection with this Settlement, you may be entitled to: (i) seventy cents (\$0.70) per package of Product purchased, up to \$7.00 per Household (“Household” means, without limitation, all persons who share a single physical address), without proof of purchase; or (ii) one dollar and ten cents (\$1.10) per package of Product purchased, up to \$50.60 per Household, with proof of purchase. Recovery is limited to one claim per Household, regardless of how many persons reside at an address, and each claimant may file only a single claim electing benefits with or without proof of purchase, but not both.
- Plaintiffs’ counsel (“Class Counsel”) who brought the lawsuit will ask the Court for up to \$4,100,000 to be paid to them by Kimberly-Clark as attorneys’ fees and expenses for investigating the facts, litigating the lawsuits, and negotiating the Settlement. They will additionally ask for \$10,000 and \$5,000 for the two named plaintiffs, Dr. D. Joseph Kurtz and Gladys Honigman (“Plaintiffs”), respectively, who initially brought these lawsuits, to compensate them for taking on this litigation on behalf of the Settlement Class.
- The Settlement has been preliminarily approved by the Court. 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.flushablewipessettlement.com](http://www.flushablewipessettlement.com); (ii) contact the Claims Administrator by calling 1 (833) 620-3583 or writing to Kurtz/Honigman v. Kimberly-Clark, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324; or (iii) contact Class Counsel Vincent M. Serra at Robbins Geller Rudman & Dowd LLP, 58 South Service Road, Suite 200, Melville, New York 11747.
- **PLEASE DO NOT CALL THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**

<b>YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>		<b>DEADLINE</b>
<b>SUBMIT A CLAIM FORM</b>	<p>Submit a claim for payment online or by mail.</p> <p>Be bound by the Settlement and give up your right to sue or continue to sue Kimberly-Clark for the claims released by the Settlement.</p> <p>This is the only way to receive a payment from the Settlement.</p>	Must be received or submitted online by August 16, 2022
<b>EXCLUDE YOURSELF (or “OPT OUT”)</b>	<p>Remove yourself from the Settlement Class and receive no payment by submitting a request for exclusion (or “opt out”).</p> <p>This is the only option that allows you to bring or join another lawsuit against Kimberly-Clark related to the Products.</p> <p>You may not submit a claim or object to the Settlement if you exclude yourself, and will receive no payment from this Settlement if you exclude yourself.</p>	Must be received by August 17, 2022
<b>OBJECT OR COMMENT</b>	<p>Write to the Court about what you do or do not like about the Settlement, the amount of attorneys’ fees and expenses, or the awards to Plaintiffs.</p> <p>You may still submit a claim even if you object or comment.</p> <p>If you submit a claim, you will still be bound by the Settlement even if you object or comment.</p> <p>You cannot both request exclusion and also object.</p>	Must be received by August 17, 2022
<b>GO TO THE FINAL APPROVAL HEARING</b>	<p>Ask to speak in Court about the fairness of the Settlement, the amount of attorneys’ fees, or the awards to the Plaintiffs.</p> <p>You may still submit a claim even if you go to the hearing.</p> <p>If you want your own attorney to represent you, you must pay for that attorney.</p>	<p>Hearing is September 7, 2022</p> <p>If you want to speak, you must submit a request to speak by August 17, 2022</p>
<b>DO NOTHING</b>	<p>You will receive no payment.</p> <p>You will release your claims, and have no right to sue later for the claims released by the Settlement.</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.flushablewipessettlement.com](http://www.flushablewipessettlement.com) regularly for updates and further details.
- The Court in charge of these lawsuits still has to decide whether to finally approve the Settlement. Settlement payments will be made only if the Court approves the Settlement and after any appeals are resolved in favor of upholding the Settlement. This can take time. Please be patient.

## Final Approval Hearing

On **September 7, 2022**, at **10:00 a.m.**, the Court will hold a hearing (the “Final Approval Hearing”) to determine: (1) whether the Settlement is fair, reasonable, and adequate and should receive final approval; (2) whether the application for an award of attorneys’ fees and expenses brought by Class Counsel should be granted; and (3) whether the application for awards to Plaintiffs who brought the lawsuit should be granted. The hearing will be held in a Courtroom to be determined at the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, before the Honorable Pamela K. Chen. This hearing date may change without further notice to you. Consult the Settlement website at [www.flushablewipessettlement.com](http://www.flushablewipessettlement.com), or the Court dockets in these lawsuits at [ecf.nyed.uscourts.gov](http://ecf.nyed.uscourts.gov) (perform a case number query using 1:14-cv-1142 or 2:15-cv-2910), for updated information on the hearing date and time.

## Important Dates

August 16, 2022: Claim Form DeadlineAugust 17, 2022: Objection Deadline

August 17, 2022: Exclusion DeadlineSeptember 7, 2022: Final Approval Hearing

## Table of Contents?

How Do I Know If I Am Affected By The Litigation And The Settlement? .....	4
What Is The Lawsuit About? .....	4
What Do Plaintiffs Seek To Recover In The Lawsuit?.....	4
Why Are These Lawsuits Being Settled? .....	5
What Is The Settlement? .....	5
What Can I Get In The Settlement? .....	5
How Do I Make A Claim? .....	6
What Do Plaintiffs And Their Counsel Get? .....	6
What Claims Are Released By The Settlement? .....	6
Can I Exclude Myself From The Settlement?.....	7
Can I Object To or Comment on The Settlement? .....	7
When Will The Court Decide If The Settlement Is Approved?.....	8
Special Notice For Members Of The Class .....	8
How Do I Get More Information? .....	8

## **How Do I Know If I Am Affected By The Litigation And The Settlement?**

These lawsuits involve wipes labeled as “flushable” and sold under the brand names Cottonelle, Scott, Huggies Pull-ups, Poise, and Kotex. For purposes of Settlement only, the Court has certified the Settlement Class. You are a member of the Settlement Class (“Settlement Class Member”) if, between February 21, 2008 and May 19, 2022, you (a person, not a commercial entity) purchased one or more of the Products in the United States, not for purpose of resale.

The Settlement Class excludes: (1) the Honorable Pamela K. Chen, the Honorable Robert M. Levy, the Honorable Wayne R. Andersen (Ret.), and any member of their immediate families; (2) any of Kimberly-Clark’s officers, directors, employees, or legal representatives, and (3) any individuals who timely opt-out of, or exclude themselves from, the Settlement Class.

If you are a Settlement Class Member, you will be bound by the Settlement and judgment in these lawsuits, unless you request to be excluded, regardless of whether you submit a claim for monetary payment.

If the Settlement does not become effective (for example, because it is not finally approved, or the approval is reversed on appeal), then this litigation will continue on behalf of purchasers in New York. Specifically, a class of people who purchased the Products in New York between February 21, 2008 and March 1, 2017 (the “Certified Class”) has already been certified by the Court in the *Kurtz* Action. To be clear, the Certified Class is somewhat different than the Settlement Class. The New York Class is defined as “All persons and entities who purchased Kimberly-Clark Flushable Products [*i.e.*, flushable wipes sold under the Cottonelle, Scott, Huggies Pull-ups, U by Kotex, and Poise brands] in the State of New York between February 21, 2008 and March 1, 2017.” Members of the Certified Class have the same rights as all Settlement Class Members, as explained in this notice, except that they will remain part of the *Kurtz* Action even if this Settlement is not approved, as specified in the section “Special Notice for Members of the Certified Class.”

## **What Is The Lawsuit About?**

Plaintiffs assert that labeling on the Products that stated that the Products were “flushable,” “break up after flushing,” and were safe for sewer and septic systems, is false or misleading, and that the Products damaged or clogged plumbing pipes, septic systems, and sewage lines and pumps. Plaintiffs allege that Kimberly-Clark is liable for violation of New York General Business Law §349. Plaintiffs seek to pursue their claims on behalf of themselves and others who purchased the Products in New York.

Kimberly-Clark denies that there is any factual or legal basis for Plaintiffs’ allegations. Kimberly-Clark contends that the labeling of the Products was truthful and not misleading, and that the Products did not cause property damage in well-maintained plumbing systems. Kimberly-Clark therefore denies any liability. Kimberly-Clark also denies that Plaintiffs or any other members of the Settlement Class have suffered injury or are entitled to monetary or other relief.

The Court has not determined the merits of these arguments, or whether Plaintiffs or Kimberly-Clark are correct.

## **What Do Plaintiffs Seek To Recover In The Lawsuit?**

The lawsuits contend that, if Kimberly-Clark had not engaged in the labeling, marketing, and advertising that Plaintiffs challenge, the price of the Products would have been lower. Plaintiffs seek to recover, on behalf of a class of individuals who purchased the Products in New York (except for purchases made for resale), the dollar amount of the price “premium” that is attributable to the alleged

misrepresentations, or statutory damages under New York General Business Law §349, and Plaintiffs originally sought to pursue claims for property damage that they allegedly incurred as a result of using Kimberly-Clark’s flushable wipes.

Kimberly-Clark denies that there is any legal entitlement to a refund, damages, or any other monetary relief.

**Why Are These Lawsuits Being Settled?**

Class Counsel has investigated the manufacturing, marketing, labeling, and performance of the Products. Kimberly-Clark has produced thousands of pages of documents for review by Plaintiffs’ counsel. Plaintiffs’ counsel have taken depositions of two of Kimberly-Clark’s employees. The parties also have exchanged written responses to questions posed by the other party. Plaintiffs’ counsel have also obtained documents from third-parties, including wastewater treatment professionals and INDA (the trade association for manufacturers of flushable wipes). Plaintiffs’ counsel also retained two experts to evaluate the Products and the Class’s damages, and have had extensive consultations with wastewater professionals. Plaintiff Kurtz and his expert witnesses have been deposed. One of Plaintiffs’ expert witnesses submitted six separate expert declarations in the *Kurtz* Action alone, and both expert witnesses and a wastewater professional provided testimony before the Court at evidentiary hearings.

Since the initiation of this litigation, Plaintiffs and Kimberly-Clark, through their counsel, have participated in substantial settlement discussions, both formal and informal, including before a third-party mediator. This Settlement was reached following those efforts.

After taking into account the risks and costs of further litigation, Plaintiffs and their counsel believe that the terms and conditions of this Settlement are fair, reasonable, adequate, and equitable, and that this Settlement is in the best interest of the Settlement Class Members. This Settlement provides immediate monetary relief to the Settlement Class without the cost, time, and expense of litigating, which can take years.

**What Is The Settlement?**

Kimberly-Clark will provide monetary payments to Settlement Class Members and to Class Counsel and Plaintiffs, as described in the next sections.

**What Can I Get In The Settlement?**

If you are a Settlement Class Member and you file a valid claim without proof of purchase, you will receive up to seventy cents (\$0.70) for each package of the Products that you purchased between February 21, 2008 and May 19, 2022, up to \$7.00 per Household. If you file a valid claim with proof of purchase, you will receive up to one dollar and ten cents (\$1.10) for each package of the Products that you purchased between February 21, 2008 and May 19, 2022, up to \$50.60 per Household. Recovery is limited to one claim per Household, regardless of how many persons reside at an address, and each claimant may file only a single claim electing benefits with or without proof of purchase, but not both. “Proof of purchase” means the actual label or bar code portion of the package of the Products (not a photocopy or digital image), or the original or photocopy or digital image of an itemized sales receipt generated by a retail seller showing the date and place of purchase, name of the Product purchased, and the amount paid.

There is a \$20 million cap on cash payments to Settlement Class Members, 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.

## **How Do I Make A Claim?**

To make a claim, you must fill out the claim form available at [www.flushablewipessettlement.com](http://www.flushablewipessettlement.com). You can print the claim form and mail it to the Claims Administrator at Kurtz/Honigman v. Kimberly-Clark, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324, or you can submit the claim form online, unless you are providing proof of purchase by the actual label or bar code portion of the package, in which case you must mail it to the Claims Administrator. Claim forms must be submitted online or received, not just postmarked, by August 16, 2022.

## **What Do Plaintiffs And Their Counsel Get?**

To date, Class Counsel have not been compensated for any of their work on these lawsuits. As part of the Settlement, Class Counsel may apply to the Court to award them up to \$4,100,000.00 from Kimberly-Clark to pay their attorneys' fees and expenses. The Court will determine how much to award Class Counsel.

In addition, Plaintiffs Dr. Kurtz and Ms. Honigman may apply to the Court for awards of \$10,000 and \$5,000, respectively. These awards are designed to compensate Plaintiffs for their time and effort in pursuing the lawsuits on behalf of the Settlement Class. The Court will determine how much to award Plaintiffs.

Neither an award of attorneys' fees and expenses to Class Counsel nor any awards to Plaintiffs will affect compensation to Settlement Class Members from the Settlement.

Plaintiffs and their counsel will file a motion with the Court on or before August 3, 2022, in support of their applications for attorneys' fees and expenses and awards to Plaintiffs. A copy of that motion will be available on the Settlement website ([www.flushablewipessettlement.com](http://www.flushablewipessettlement.com)).

The Court will determine the amount of fees and expenses awarded to the attorneys, and the amount of Plaintiffs' awards.

## **What Claims Are Released By The Settlement?**

This Settlement releases all "Plaintiffs' Released Claims" by Settlement Class Members (whether or not they file a valid claim) against Kimberly-Clark and its affiliates. "Plaintiffs' Released Claims" is defined in the Settlement Agreement as any and all claims, suits, debts, liens, demands, rights, causes of action, continuing prosecutions, obligations, controversies, damages, costs, expenses, attorneys' fees, or liabilities, of any nature, whether arising under local, state, or foreign law, whether by statute, regulation, contract, common law, or equity, that arise from or relate to the claims and allegations in the Complaints, including, but not limited to, unknown claims, and the acts, facts, omissions, or circumstances that were or could have been alleged by Plaintiffs in the lawsuits related to any wipe products (flushable and non-flushable) currently or formerly manufactured, marketed, or sold by Kimberly-Clark or any of its affiliates. Plaintiffs' Released Claims shall in all respects be construed as broadly as possible as to the claims asserted, consistent with all applicable law, to effect complete finality over the lawsuits with respect to Kimberly-Clark. Once the Settlement is approved, the Settlement Class will also be bound to the same release. Plaintiffs' Released Claims does not include the release of claims for personal injury arising out of the use of the Products. For further information regarding the releases, please see Section VII of the Settlement Agreement, available at [www.flushablewipessettlement.com](http://www.flushablewipessettlement.com).

## **Can I Exclude Myself From The Settlement?**

You can exclude (or “opt out”) yourself from the Settlement Class if you wish to retain the right to sue Kimberly-Clark separately for the claims released by the Settlement. If you exclude yourself, you cannot file a claim or object to the Settlement, and will not be entitled to any monetary payments from the Settlement. You do not need to exclude yourself if you merely want to retain a right to sue for personal injury arising out of your use of the Products.

To exclude yourself, you must complete and submit the online exclusion request form at the Settlement website ([www.flushablewipessettlement.com](http://www.flushablewipessettlement.com)), or download and submit the online exclusion request form to the Claims Administrator via first-class mail at Kurtz/Honigman v. Kimberly-Clark, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324. Exclusion requests must be made online or received (not postmarked) by mail by August 17, 2022.

So-called “mass” or “class” opt outs shall not be allowed.

## **Can I Object To or Comment on the Settlement?**

You can ask the Court to deny approval of the Settlement by submitting an objection. If the Court denies approval to the entire Settlement, no Settlement payments will be made, and the lawsuit will continue. If that is what you want to happen, you must object.

You can also ask the Court to disapprove the requested payments to Plaintiffs and to their counsel. Even if those payments are disapproved or adjusted, no additional money will be paid to Settlement Class Members.

You can also tell the Court what you like about the Settlement.

You can exercise any of the above options regardless of whether or not you file a claim, but not if you exclude yourself from the Settlement Class. If you exclude yourself from the Settlement Class by submitting an opt-out request, you cannot object or comment on the Settlement.

Any objection must include: (1) the case names and numbers, *Kurtz v. Kimberly-Clark Corp., et al.*, No. 1:14-cv-1142-PKC-RML (E.D.N.Y) and/or *Honigman v. Kimberly-Clark Corp.*, No. 2:15-cv-2910-PKC-RML (E.D.N.Y.); (2) your name, address, and telephone number and, if available, your email address, and if you are represented by counsel, the name of your counsel; (3) a statement of all grounds for the objection, accompanied by any legal support for such objection; (4) a statement as to whether you intend to appear and be heard at the Final Approval Hearing, either with or without counsel; (5) a statement of your membership in the Settlement Class, including all information required by the claim form; (6) a detailed list of any other objections submitted by you or your counsel to any class actions submitted in any court, whether state or otherwise, in the United States in the previous five (5) years. If you and/or your counsel have not objected to any other class action settlement in any court in the United States in the previous five (5) years, you shall affirmatively state so in the written materials provided in connection with the objection to this Settlement; and (7) your signature and the signature of your duly authorized counsel or other duly authorized representative (along with documentation setting forth such representation). Failure to include this information and documentation may be grounds for overruling and striking your objection.

All written objections, requests to appear, and supporting papers must be mailed to the Claims Administrator or counsel for Plaintiffs at the addresses shown on the Settlement website ([www.flushablewipessettlement.com](http://www.flushablewipessettlement.com)), who will then file all objections, requests to appear, and supporting papers with the Court. Documents must be *received*, not merely postmarked, on or before August 17, 2022.

You may also appear at the Final Approval Hearing, either in person or through your own counsel. If you appear through your own counsel, you are responsible for paying that counsel. To appear at the Final Approval Hearing, you need to file a written objection to the Settlement and a written request to the Court for permission to appear, which must be filed with or received by the Court before August 17, 2022.

### **When Will The Court Decide If The Settlement Is Approved?**

The Court will hold a Final Approval hearing on **September 7, 2022, at 10:00 a.m.** to consider whether to finally approve the Settlement. The Final Approval Hearing will be held in the United States District Court, Eastern District of New York, before the Honorable Pamela K. Chen, in a Courtroom to be determined. The hearing is open to the public. However, only persons who have filed an objection and a request to appear at the hearing—due 21 days before the Final Approval Hearing—may actually address the Court. This hearing date may change without further notice to you.

Consult [www.flushablewipessettlement.com](http://www.flushablewipessettlement.com) or the Court dockets in these lawsuits at [ecf.nyed.uscourts.gov](http://ecf.nyed.uscourts.gov) (perform a case number query using 1:14-cv-1142 or 2:15-cv-2910) for updated information on the Final Approval Hearing date and time.

### **Special Notice For Members Of The Certified Class?**

As noted above, the Certified Class is different than the Settlement Class and includes “all persons and entities who purchased Kimberly-Clark Flushable Products [*i.e.*, flushable wipes sold under the Cottonelle, Scott, Huggies Pull-ups, U by Kotex, and Poise brands] in the State of New York between February 21, 2008 and March 1, 2017.” This section provides further information about the rights specific to members of the Certified Class.

All sections of this notice apply to you. You have the right to make a claim under this Settlement, object to the Settlement, or exclude yourself, just like other members of the Settlement Class. If the Settlement is not approved, or if the Effective Date does not occur for any other reason, as further explained in the Settlement Agreement, and you have not excluded yourself from the Settlement Class, the litigation will continue on your behalf as a member of the Certified Class in the *Kurtz* Action. The Court has already appointed Plaintiff Dr. D. Joseph Kurtz and Class Counsel to represent the interests of the Certified Class.

If the litigation continues, and a judgment is obtained against the Certified Class in favor of Kimberly-Clark, that judgment will prevent you from bringing a separate lawsuit against Kimberly-Clark for the claims that were or could have been litigated in this lawsuit. If the litigation continues, and a judgment is obtained against Kimberly-Clark in favor of the Certified Class, and you are entitled to any portion of that judgment, you will receive further notification about your rights.

### **How Do I Get More Information?**

You can inspect many of the court documents connected with these lawsuits at [www.flushablewipessettlement.com](http://www.flushablewipessettlement.com). Other papers filed in this lawsuit are available by accessing the Court dockets in these lawsuits at [ecf.nyed.uscourts.gov](http://ecf.nyed.uscourts.gov) (perform a case number query using 1:14-cv-1142 or 2:15-cv-2910), or by visiting the office of the Clerk of the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201, from 8:30 a.m. to 4:45 p.m., Monday through Friday, excluding federal holidays.

You can also obtain additional information by contacting the Claims Administrator through the Settlement website ([www.flushablewipessettlement.com](http://www.flushablewipessettlement.com)) or by calling 1 (833) 620-3583 or writing to Kurtz/Honigman v. Kimberly-Clark, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324 or by emailing to [Info@flushablewipessettlement.com](mailto:Info@flushablewipessettlement.com).