

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

NOTICE OF CLASS ACTION

If You Paid Supervalu ABS Fees on Wholesale Grocery Products in All Four Supervalu ABS Product Categories (grocery, dairy, frozen, and general merchandise/health and beauty care) Purchased from Supervalu’s Champaign, Green Bay, Hopkins, or Pleasant Prairie Distribution Centers between December 31, 2004 and September 13, 2008, You May Be Affected by a Class Action.

PARA UNA NOTIFICACION EN ESPAÑOL, LLAMAR 1-844-702-7322 O VISITAR NUESTRO SITIO WEB.

A federal court authorized this Notice. This is not a solicitation from a lawyer or a claims agent. Please read the Notice carefully. If you are a member of at least one of the Classes, your rights may be affected by litigation pending in this Court. This is not a settlement Notice.

- You are receiving this notice because there is a class action lawsuit in the United States District Court for the District of Minnesota which may affect you.
- The Plaintiffs in this lawsuit allege that the Defendants—two competing grocery wholesalers, Supervalu Inc. (“Supervalu”) and C&S Wholesale Grocers, Inc. (“C&S”) (collectively “Defendants”)—conspired with each other in violation of the antitrust laws in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and that customers incurred damages as a result.
- The Court has ordered that the lawsuit may proceed as a class action on behalf of five Classes of Supervalu customers located in the above referenced states. The five Classes are described in full in the answer to Question No. 8 below.
- The Defendants deny these allegations and this notice is not an admission or determination of any wrongdoing by Defendants or the likely outcome of this case. Neither the Court nor a jury has decided whether Defendants did anything wrong. Defendants have not settled and they are defending against this lawsuit. So there is no money available now, and there is no guarantee there will be money available in the future. However, your legal rights are affected, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this lawsuit. Await the outcome. Give up certain rights. See Question No. 12 for more information.
EXCLUDE YOURSELF OR “OPT OUT”	Get out of this lawsuit. Get no benefits from it, if any are recovered in the future. Keep certain rights. If you wish to be excluded, you must act before <u>July 1, 2017</u>. See Question No. 13 for more information.

Your options are explained in this notice.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	PAGE 3
1. Why did I get this notice?	
2. What is this lawsuit about?	
3. What makes this lawsuit a class action?	
4. Who are the parties involved in the lawsuit?	
THE CLAIMS IN THE LAWSUIT	PAGE 4
5. What is this lawsuit about? What do Plaintiffs allege? What are the Defendants' positions?	
6. What are the Plaintiffs asking for?	
7. Is there any money available now?	
WHO IS IN THE CLASSES?	PAGE 4
8. How do I know if I am part of one or more of the Classes?	
9. Is anybody excluded from the Classes?	
10. I'm not sure if I'm a Class Member.	
YOUR RIGHTS AND OPTIONS	PAGE 6
11. Do I need to submit a claim or pay someone else to file a claim for me?	
12. What happens if I do nothing?	
13. How do I exclude myself from the Class?	
14. If I do not exclude myself, can I sue the Defendants for the same thing later?	
THE LAWYERS REPRESENTING YOU	PAGE 7
15. Do I have a lawyer in this case?	
16. Should I hire my own lawyer?	
17. How will Class Counsel be paid?	
TRIAL	PAGE 8
18. How and when will the Court decide who is right?	
19. Do I have to come to the trial?	
ADDITIONAL INFORMATION	PAGE 8
20. Will I receive money in the case? If so, when and how much?	
21. How do I get more information and stay up to date on developments in the case?	

BASIC INFORMATION

1. WHY DID I GET THIS NOTICE?

Supervalu's records show that you may have been a customer between December 31, 2004 through September 13, 2008 (the "Class Period"). If you paid fees under Supervalu's Activity Based Sell ("ABS") pricing system, and if you paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu during the Class Period, and purchased from the distribution centers ("DC"s) outlined in this Notice, you may be a Class Member. If you are a Class Member, you have legal rights and options that you may exercise before the Court holds a trial or the case is otherwise resolved.

2. WHAT IS THIS LAWSUIT ABOUT?

The Plaintiffs claim that the Classes were harmed by an alleged conspiracy between competitor grocery wholesalers Supervalu and C&S, in which C&S allegedly agreed not to compete with Supervalu for wholesale grocery customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin. The Defendants deny they have done anything wrong. Neither the Court nor a jury has yet determined the merits of Plaintiffs' claims or Defendants' defenses.

3. WHAT MAKES THIS LAWSUIT A CLASS ACTION?

In a class action, one or more people or businesses, called Class Representatives, sue on behalf of themselves and all others who have similar claims. Everyone who has claims similar to the Class Representatives are Class Members, except for those who are excluded or who exclude themselves from the class (see Question No. 13).

The Court has allowed, or certified, five Classes in this class action lawsuit. Judge Ann D. Montgomery of the United States District Court for the District of Minnesota is overseeing this class action. The lawsuit is known as *In re Wholesale Grocery Products Antitrust Litigation*, Civil No. 09-md-02090-ADM-TNL.

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

- There are many customers whose interests will be affected by this lawsuit;
- There are legal questions and facts that are common to them all;
- The Class Representatives' claims are typical of the claims of the rest of the Class;
- The Class Representatives 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 individual Class Members; and
- Proceeding as a class action is more efficient than several individual lawsuits.

More information can be found in the Court's Memorandum Opinion and Order, dated September 7, 2016, available at www.WholesaleGroceryProductsClassAction.com or on the Court's website at <http://www.mnd.uscourts.gov/MDL-Wholesale/>.

4. WHO ARE THE PARTIES INVOLVED IN THE LAWSUIT?

In this case, D&G, Inc. d/b/a Gary's Foods is the Class Representative of the Champaign DC Non-Arbitration Class; Blue Goose Super Market, Inc. is the Class Representative of the Champaign DC Arbitration Class; Nemecek Markets, Inc. is the Class Representative of the Green Bay DC Class; Millennium Operations, Inc. d/b/a R.C. Dick's

Market is the Class Representative of the Hopkins DC Class; and Elkhorn-Lueptows, Inc., Jefferson Lueptows, Inc., and East Troy Lueptows, Inc. are the Class Representatives of the Pleasant Prairie Class. The Court has certified these Classes (see Question No. 8) and appointed Co-Lead Class Counsel and Liaison Counsel for the Classes.

THE CLAIMS IN THE LAWSUIT

5. WHAT IS THIS LAWSUIT ABOUT? WHAT DO PLAINTIFFS ALLEGE? WHAT ARE THE DEFENDANTS' POSITIONS?

Plaintiffs claim the Classes were harmed by an alleged conspiracy between competitor grocery wholesalers Supervalu and C&S, in which C&S allegedly agreed not to compete with Supervalu for wholesale grocery customers in the Midwest. Plaintiffs claim that by doing so, Defendants violated Section 1 of the Sherman Antitrust Act, and that as a result Plaintiffs and Class Members paid more than they should have in ABS fees.

Defendants have consistently denied the allegations that they engaged in any unlawful agreement with each other. Defendants admit that they entered into an Asset Exchange Agreement (“AEA”) in 2003, in which Supervalu sold its New England wholesale grocery business to C&S in exchange for the former business of the Fleming Companies in Wisconsin and Ohio. Defendants maintain further that the AEA and related agreements helped improve the efficiency of their respective distribution networks and, therefore, their ability to continue to provide wholesale goods and services at competitive prices. There has been no determination by the Court or a jury of the merit of the Plaintiffs’ allegations.

6. WHAT ARE THE PLAINTIFFS ASKING FOR?

The Plaintiffs are asking for damages to recover the alleged overcharges in ABS fees that were paid to Supervalu as a result of Defendants’ alleged conspiracy. There has been no determination by the Court that there were, in fact, any overcharges by Supervalu. The Plaintiffs’ claimed overcharge is measured by the percentage difference in allegedly inflated profit margins earned at a given DC as a result of the Defendants’ alleged collusion, multiplied by the quantity of ABS fees paid by an individual class member on purchases from that DC.

Plaintiffs also seek treble damages, pre- and post-judgment interest, and costs and reasonable attorneys’ fees as allowed by law.

7. IS THERE ANY MONEY AVAILABLE NOW?

No. There is no guarantee that money will be obtained. If Plaintiffs win this case, or there is a settlement, you will be notified about how this impacts your rights.

WHO IS IN THE CLASSES?

8. HOW DO I KNOW IF I AM PART OF ONE OR MORE OF THE CLASSES?

The Court has certified five Classes. You are included in one or more of them as a Class Member if you meet the descriptions below.

- **The Champaign DC Non-Arbitration Class:** All customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and are located in the relevant geographic market, that paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu’s Champaign, Illinois DC from December 31, 2004 through September 13, 2008, and that did not have an arbitration agreement with Supervalu during that time. This class brings claims against Supervalu and C&S.

- **The Champaign DC Arbitration Class:** All customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and are located in the relevant geographic market, that paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu's Champaign, Illinois DC from December 31, 2004 through September 13, 2008, and that had an arbitration agreement with Supervalu during that time. This class brings claims against C&S only.
- **The Green Bay DC Class:** All customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and are located in the relevant geographic market, that paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu's Green Bay, Wisconsin DC from December 31, 2004 through September 13, 2008. This class brings claims against C&S only.
- **The Hopkins DC Class:** All customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and are located in the relevant geographic market, that paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu's Hopkins, Minnesota DC from December 31, 2004 through September 13, 2008. This class brings claims against C&S only.
- **The Pleasant Prairie DC Class:** All customers in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, or Wisconsin, and are located in the relevant geographic market, that paid ABS fees on wholesale grocery products in all four Supervalu ABS product categories (grocery, dairy, frozen, and general merchandise/health and beauty care) purchased directly from Supervalu's Pleasant Prairie, Wisconsin DC from December 31, 2004 through September 13, 2008. This class brings claims against C&S only.

The definition of the Classes will be finalized after the Court determines what locations are in the relevant geographic market.

9. IS ANYBODY EXCLUDED FROM THE CLASSES?

Yes, the following persons and entities are excluded from all of the five Classes:

- The Court and its officers, employees, and relatives;
- Defendants and their parents, subsidiaries, affiliates, shareholders, employees, and co-conspirators;
- Government entities;
- Any customer of either Defendant who, prior to C&S and Supervalu's September 6, 2003 AEA, entered into a contract with either Defendant that established the prices (including upcharges) the customer would pay for wholesale grocery products and related services throughout the entire Class Period of December 31, 2004 through September 13, 2008, and who did not amend or renegotiate the prices set in such contract during the Class Period;
- Tops Friendly Markets, LLC and The Great Atlantic & Pacific Tea Company, Inc. (also known as A&P); or
- Coborn's, Inc. and Minter Weisman Co.

10. I'M NOT SURE IF I'M A CLASS MEMBER.

If you are not sure whether you are a member of any of the five Classes, contact the Notice Administrator toll-free at 1-844-702-7322 or visit www.WholesaleGroceryProductsClassAction.com.

YOUR RIGHTS AND OPTIONS

11. DO I NEED TO SUBMIT A CLAIM OR PAY SOMEONE ELSE TO FILE A CLAIM FOR ME?

No. There has not been a settlement in this case. The Court has permitted the case to move forward on behalf of the Classes. Plaintiffs must prove the claims against Supervalu and C&S. When and if there is a recovery for the Classes, all Class Members will be notified how this affects their rights and given instructions on how and when to file a claim.

In the meantime, you will likely receive offers from companies, not affiliated with the Court or Class Counsel, that specialize in aggregating claims of Class Members who will offer to complete and file your claim in return for a percentage of the value of your claim. When and if there is a recovery in this case, **YOU DO NOT NEED TO PAY ANYONE TO FILE YOUR CLAIM.** Before you sign a contract with one of these companies, you should wait until there is a recovery in the case. At that time you can examine the official claim-filing process, and then you can decide whether it is worth the cost to pay someone to file your claim.

You can always seek help from the Notice Administrator or Class Counsel at no charge.

12. WHAT HAPPENS IF I DO NOTHING?

You do not have to do anything now if you want to keep the possibility of getting money from this lawsuit. By doing nothing you are staying in one or more of the Classes. If you stay in and the Plaintiffs obtain money, either as a result of a trial or a settlement, you will be notified about how to apply for a share of the recovery (or how to ask to be excluded from any settlement). You do not need to take action to stay in the class, and class counsel already has records of your purchases from Supervalu during the Class Period. However, if you still have records of your dealings with Supervalu or C&S from December 31, 2004 through September 13, 2008, please do not discard them. If your mailing address changes, please notify the Notice Administrator or Class Counsel.

If you do nothing now and you stay in one or more of the Classes, regardless of whether the Plaintiffs win or lose the case, you will not be able to sue Supervalu or C&S, now or later, about the legal claims in this lawsuit. You will be legally bound by the Court's orders and judgments in this action.

13. HOW DO I EXCLUDE MYSELF FROM A CLASS?

To exclude yourself from this case, you must either:

- 1) complete and submit the Request for Exclusion from Class Action Form that is available at www.WholesaleGroceryProductsClassAction.com **no later than July 1, 2017**; or
- 2) complete and submit the Request for Exclusion from Class Action Form that is attached to this Notice, so that it will be **postmarked no later than July 1, 2017**. Your Request for Exclusion Form should be mailed, first-class, to:
Wholesale Grocery Products Antitrust Litigation, ATTN: EXCLUSIONS, c/o JND Legal Administration, PO Box 6878, Broomfield, CO 80021; or
- 3) send an Exclusion Request that includes the following information in the form of a letter by mail to the Notice Administrator:
 - Your name, address, telephone number and signature.
 - All trade names or business names and addresses used by you or your business.
 - Your request that you be excluded from the Classes in *In re Wholesale Grocery Products Antitrust Litigation*, Civil No. 09-md-02090-ADM-TNL.

You must mail your exclusion request, **postmarked no later than July 1, 2017** to: Wholesale Grocery Products Antitrust Litigation, ATTN: EXCLUSIONS, c/o JND Legal Administration, PO Box 6878, Broomfield, CO 80021.

Federal court rules limit the ability of Supervalu and C&S to discuss the lawsuit with you now that classes have been certified. Neither Supervalu nor C&S is permitted to seek to influence you in regard to your participation in the litigation. You will need to decide whether to remain in or exclude yourself from the litigation. Your decision will not affect Supervalu or C&S’s business relationship with you in any way.

14. IF I DO NOT EXCLUDE MYSELF, CAN I SUE THE DEFENDANTS FOR THE SAME THING LATER?

No. If you stay in this lawsuit, you give up the right to separately sue the Defendants about the issues in this lawsuit. You will be legally bound by the Court’s orders and judgments in this action. You must exclude yourself from the Class in order to sue the Defendants separately.

THE LAWYERS REPRESENTING YOU

15. DO I HAVE A LAWYER IN THIS CASE?

The Court appointed the firms and lawyers listed below as Co-Lead Class Counsel and Liaison Counsel in this case. You may contact them about the case.

Co-Lead Class Counsel and Liaison Counsel:	Co-Lead Class Counsel:
W. Joseph Bruckner Elizabeth R. Odette Kristen G. Marttila Kate M. Baxter-Kauf LOCKRIDGE GRINDAL NAUEN P.L.L.P. 100 Washington Avenue South, Suite 2200 Minneapolis, MN 55401 Tel: (612) 339-6900 Fax: (612) 339-0981 wjbruckner@locklaw.com erodette@locklaw.com kgmarttila@locklaw.com kmbaxter-kauf@locklaw.com	Richard B. Drubel Matthew J. Henken BOIES, SCHILLER & FLEXNER LLP 26 South Main Street Hanover, NH 03755 Tel: (603) 643-9090 Fax: (603) 643-9010 rdrubel@bsflp.com mhenken@bsflp.com Daniel A. Kotchen Daniel L. Low KOTCHEN & LOW LLP 1745 Kalorama Road NW, Suite 101 Washington, DC 20009 Tel: (202) 471-1995 Fax: (202) 280-1128 dkotchen@kotchen.com dlow@kotchen.com

16. SHOULD I HIRE MY OWN LAWYER?

You do not need to hire your own lawyer. Class Counsel is working on your behalf. But you may hire—and pay for—your own lawyer if you wish. For example, you can ask your own lawyer to appear in Court for you if you want someone other than Class Counsel to speak for you.

17. HOW WILL CLASS COUNSEL BE PAID?

If Class Counsel obtains money for the Classes, they will ask the Court for an award of attorneys' fees and reimbursement of case-related expenses. You will not have to pay these fees and expenses directly. If the Court grants Class Counsel's request, the fees and expenses would be paid directly by the Defendants or out of a common settlement fund obtained for the Classes.

TRIAL

18. HOW AND WHEN WILL THE COURT DECIDE WHO IS RIGHT?

If the case is not resolved by a settlement or by the Court, it will proceed to a trial in the District Court of Minnesota. No trial date has been set. The Court anticipates this case will be ready for trial on August 15, 2017. If the case goes to trial, a jury will hear evidence to determine whether the Plaintiffs or Defendants are right about the claims and defenses in the lawsuit. There is no guarantee of the outcome of the trial or that Plaintiffs will get any money for the Classes.

19. DO I HAVE TO COME TO THE TRIAL?

No. Class Counsel will present the case for the Classes, and Supervalu Counsel and C&S Counsel will present the defenses. But you and your own lawyer, if you have one, are welcome to attend the trial at your own expense.

ADDITIONAL INFORMATION

20. WILL I RECEIVE MONEY IN THIS CASE? IF SO, WHEN AND HOW MUCH?

Plaintiffs have not yet recovered money for themselves or the Classes. If Plaintiffs obtain money as a result of the trial or a settlement, you will be notified about how to file a claim. At this time we do not know how long this will take.

21. HOW DO I GET MORE INFORMATION AND STAY UP TO DATE ON DEVELOPMENTS IN THE CASE?

Please visit the website, www.WholesaleGroceryProductsClassAction.com, where you will find several informative documents, including the Court's Memorandum Opinion and Order certifying the class, Plaintiffs' Second Amended Consolidated Class Action Complaint, Defendants' Answers to Plaintiffs' Complaint, and information about how to exclude yourself from the Classes. You should check the website regularly for updates on the case. Also, copies of select judicial decisions, scheduling orders, counsel and other certain information about this case are available online at <http://www.mnd.uscourts.gov/MDL-Wholesale/>.

You may also speak to Class Counsel using the contact information in Question 15, or you may contact the Notice Administrator at 1-844-702-7322, or in writing at: Wholesale Grocery Products Antitrust Litigation, c/o JND Legal Administration, PO Box 6878, Broomfield, CO 80021.

PLEASE DO NOT CONTACT THE COURT.

Dated: March 1, 2017

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MINNESOTA**

TO: Notice Administrator
Wholesale Grocery Products Antitrust Litigation
c/o JND Legal Administration
PO Box 6878
Broomfield, CO 80021

REQUEST FOR EXCLUSION FROM CLASS ACTION FORM

Read the attached legal Notice carefully before filling out this Form.

The undersigned states that:

- (1) he/she is authorized to act on behalf of _____ (Purchaser);
- (2) the Purchaser is a member of the class described in the foregoing Notice; and
- (3) the Purchaser hereby elects to be excluded from the class, in accordance with the provisions of the attached Notice, receipt of which is hereby acknowledged.

Dated: _____

Signature

Name (Print)

Title/Company

Address

Telephone Number