

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

Lindhout et al. v. Hill's Pet Nutrition Inc. et al.
(Court File No. CV-19-00629786-00CP)

**Did you buy Hill's Prescription Diet or Hill's Science Diet canned dog foods
between September 1, 2018 to May 31, 2019?**

If so, this lawsuit may affect you. Please read this notice carefully.

**The Court authorized this notice to all Class Members.
This is not a solicitation from a lawyer. You are not being sued.**

This proposed class action concerns a list of recalled Hill's products that allegedly contained excessively high levels of vitamin D. The Defendants, Hill's Pet Nutrition, Inc. and Hill's Pet Nutrition Canada Inc. (together "**Hill's**"), have agreed to a settlement of this class action and deny the Plaintiffs' allegations.

A hearing to determine whether to certify this class action for settlement purposes, approve the proposed settlement, and approve proposed legal fees, is scheduled to take place in Toronto on **September 21, 2023**.

If approved by the Court, the proposed settlement will provide a fund of **\$575,000 USD** for:

1. financial compensation for claims relating to the injury of a dog;
2. financial compensation for claims relating to the death of a dog; and
3. financial compensation for the purchase price of the products specified below.

If the Court approves the proposed settlement, and you are included in the Settlement Class defined below, you will be able to make a claim for financial compensation as described below. To do so, you will have to complete a **Claim Form** and send it to the claims Administrator during the claims period. More information on how to make a claim will be available at a later date, if the proposed settlement is approved.

For more information, email: dogfoodclassaction@kmlaw.ca; or call toll-free: **1 855 595 2628**.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

If the proposed settlement is approved by the Court, Class Members can also “**Opt Out**” if they do not want to be legally bound by the terms of the settlement. More information about opting out is set out below, and further information about opting out will be provided if the proposed settlement is approved.

You may object to or support the proposed settlement and may do so by setting out your objections or support in writing in a Participation Form and emailing the Participation Form to dogfoodclassaction@kmlaw.ca, or mailing it to Koskie Minsky LLP, 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3 by **August 18, 2023**.

Your options are explained in this notice.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

YOUR LEGAL RIGHTS & OPTIONS

<p>1. Do nothing</p>	<p>If you do not object to the proposed settlement, you do not have to do anything right now. There will be another notice explaining how to make a claim in the settlement.</p>
<p>2. Object to the proposed settlement</p>	<p>If you would like to explain why you object to the settlement, you must submit a Participation Form by August 18, 2023. This form will include your name, address, and the reasons why you do not support the settlement. The Participation Form can be found at https://kmlaw.ca/cases/hills-toxic-dog-food/. You must email this Form to dogfoodclassaction@kmlaw.ca, or mail it to Koskie Minsky LLP 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3. All Participation Forms must be received or postmarked no later than August 18, 2023.</p> <p>If you also wish to voice your objection at the Settlement Approval hearing, you must indicate your intention to appear on your Participation Form.</p>
<p>3. Submit a statement of support</p>	<p>If you do not wish to attend the hearing, but you would like to explain why you support the settlement, you may complete a Participation Form. This form will include your name, address, and the reasons why you support the settlement. The Participation Form can be found at https://kmlaw.ca/cases/hills-toxic-dog-food/. You must email this Form to dogfoodclassaction@kmlaw.ca, or mail it to Koskie Minsky LLP 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3. All Participation Forms must be received or postmarked no later than August 18, 2023.</p>
<p>4. Opt Out</p>	<p>If the settlement is approved, there will be a period immediately after the court's approval, when you can "Opt Out". If you do not want to be bound by the settlement if it is approved by the Court, you can Opt Out of the class action, at that time. More information about how and when to Opt Out will be provided when and if the settlement is approved. You will have 60 days from the date the Court approves the settlement to make your decision. If you Opt Out, you will not be entitled to any financial compensation from the settlement, but you will keep your right to sue Hill's in relation to the dog food Products described here, subject to any time or other legal limitations applying to your claim.</p>

**NOTICE OF PROPOSED SETTLEMENT IN
HILL'S DOG FOOD CLASS ACTION**

WHAT THIS NOTICE CONTAINS

YOUR LEGAL RIGHTS & OPTIONS 3

WHAT THIS NOTICE CONTAINS 4

Basic information 5

1. Why did I get this notice? 5

2. What is a class action?..... 5

3. What is this class action about? 5

4. Why is there a settlement? 6

5. Who are the proposed Representative Plaintiffs in this class action? 6

6. Who is included in the proposed settlement? 6

7. What if I do not want to be included in the lawsuit or settlement? 9

Proposed settlement benefits..... 10

8. What does the proposed settlement provide?..... 10

9. What kind of compensation am I eligible for? 12

10. Who are the lawyers for the Plaintiffs?..... 13

11. How will the lawyers be paid? 13

Your Legal Options Now 14

12. What if I do nothing? 14

13. How do I tell the Court if I support the proposed settlement? 14

14. How do I tell the Court if I object to the proposed settlement? 14

15. What are the details of the Court hearing? 15

16. Do I have to attend the Court hearing? 15

Getting More Information..... 16

17. How do I get more information or ask questions?..... 16

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

Basic information

1. Why did I get this notice?

The Defendants, Hill's Pet Nutrition, Inc. and Hill's Pet Nutrition Canada Inc. (together "**Hill's**"), and the proposed Representative Plaintiffs, have agreed to settle this class action. The Ontario Superior Court of Justice authorized this notice to let you know that there is a Court hearing scheduled to approve this settlement. If you have received this notice, you may have legal rights and interests that are affected by the proposed settlement. This notice explains what is happening, and what actions you can take.

2. What is a class action?

In a class action, one or more people called "Representative Plaintiffs" sue on behalf of people who have similar claims. All of the people who have similar claims are called a "Class" or "Class Members." The court resolves the issues for everyone affected, except for those who exclude themselves from the lawsuits by "Opting Out".

3. What is this class action about?

The proposed class action concerns a list of 33 Hill's Prescription Diet or Hill's Science Diet canned dog food products that allegedly contained excessively high levels of vitamin D, which may be dangerous for dogs to consume. Vitamin D toxicity can result in dog illness, hospitalization, and death. Hill's recalled products which may have contained excessive vitamin D from January to May 2019.

Hill's denies the Plaintiffs' allegations.

The proposed class includes all persons who purchased certain Hill's products in Canada. **The specific products are listed under question #6 below.**

For more information, email: dogfoodclassaction@kmlaw.ca; or call toll-free: **1 855 595 2628**.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

4. Why is there a settlement?

The Representative Plaintiffs and Hill's have agreed to a proposed settlement. By agreeing to the proposed settlement, the parties avoid the costs and uncertainty of a trial and delays in obtaining a judgment, and Settlement Class Members receive financial compensation, which is described in this notice and the settlement agreement. It also means that the Class Members will not need to testify in court. The Representative Plaintiffs and their lawyers believe that the proposed settlement is in the best interests of all Class Members. The settlement is not an agreement that the theories alleged in the lawsuit are correct.

5. Who are the proposed Representative Plaintiffs in this class action?

The two dog owners who commenced this lawsuit are the Plaintiffs Betty Ann Martin and Claire Lindhout. If this lawsuit is certified to proceed as a class action, they may be appointed Representative Plaintiffs by the Court.

6. Who is included in the proposed settlement?

The proposed settlement includes everyone who meets the following Settlement Class definition:

All persons and entities that purchased "Products" in Canada from September 1, 2018 to May 31, 2019.

Excluded from this Settlement Class are those who have been provided other compensation by a Defendant and have executed a release, have purchased Products for resale or resold the Products, are an entity in which the Defendants have a controlling interest, or Opt-Out before the Opt-Out deadline.

The "Products" are all Hill's Prescription Diet and Science Diet canned dog foods listed below and sold to consumers in Canada from September 1, 2018 to May 31, 2019, and any other pet food product sold in Canada by Hill's, regardless of brand name, to which the allegations in this action could pertain.

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NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

The specific "Products" are:

- i. Hill's Prescription Diet k/d with Lamb Canine 13oz (SKU number 2697, Date/Lot Code 102020T25);
- ii. Hill's Prescription Diet c/d Multicare Canine Chicken & Vegetable Stew 12.5oz (SKU number 3384, Date/Lot Codes 092020T29, 102020T10, 102020T25);
- iii. Hill's Prescription Diet c/d Multicare Canine Chicken & Vegetable Stew 5.5oz (SKU number 3388, Date/Lot Code 102020T18);
- iv. Hill's Prescription Diet i/d Canine Chicken & Vegetable Stew 12.5oz (SKU number 3389, Date/Lot Codes 092020T28, 102020T24, 102020T25, 102020T04, 102020T10, 102020T19, 102020T20, 102020T21);
- v. Hill's Prescription Diet i/d Low Fat Canine Rice, Vegetable & Chicken Stew 5.5oz (SKU number 3391, Date/Lot Code 092020T27);
- vi. Hill's Prescription Diet r/d Canine 12.3oz (SKU number 7014, Date/Lot Codes 092020T28, 102020T27, 102020T28);
- vii. Hill's Science Diet Adult Perfect Weight Chicken & Vegetable Entrée Dog Food 13oz (SKU number 2975, Date/Lot Code 092020T28);
- viii. Hill's Science Diet Adult Beef & Barley Entrée Dog Food 13oz (SKU number 7039, Date/Lot Codes 092020T31, 102020T21);
- ix. Hill's Science Diet Mature Adult Healthy Cuisine Chicken & Carrots Stew Dog Food 12.5oz (SKU number 10449, Date/Lot Codes 092020T28);
- x. Hill's Science Diet Adult Healthy Cuisine Braised Beef, Carrots & Peas Stew Dog Food 12.5oz (SKU number 10451, Date/Lot Codes 102020T28);
- xi. Hill's Prescription Diet i/d Canine Chicken & Vegetable Stew 5.5oz (SKU number 3390, Date/Lot Codes 102020T11, 112020T23, 122020T07);
- xii. Hill's Prescription Diet g/d Canine 13oz (SKU number 7006, Date/Lot Codes 112020T19, 092020T22, 112020T20);
- xiii. Hill's Prescription Diet i/d Canine 13oz (SKU number 7008, Date/Lot Codes 092020T21, 092020T30, 102020T07, 102020T11, 112020T22, 112020T23);
- xiv. Hill's Prescription Diet j/d Canine 13oz (SKU number 7009, Date/Lot Codes 112020T20);
- xv. Hill's Prescription Diet k/d Canine 13oz (SKU number 7010, Date/Lot Codes 102020T10, 102020T11);
- xvi. Hill's Prescription Diet w/d Canine 13oz (SKU number 7017, Date/Lot Codes 102020T24, 102020T25, 112020T09, 112020T10, 092020T30, 102020T11, 102020T12);
- xvii. Hill's Prescription Diet z/d Canine 13oz (SKU number 7018, Date/Lot Codes 102020T04, 112020T22);

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NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

- xviii. Hill's Prescription Diet Metabolic + Mobility Canine Vegetable & Tuna Stew 12.5oz (SKU number 10086, Date/Lot Codes 102020T05, 102020T26);
- xix. Hill's Prescription Diet w/d Canine Vegetable & Chicken Stew 12.5oz (SKU number 10129, Date/Lot Codes 112020T05, 112020T11, 102020T04, 102020T21);
- xx. Hill's Prescription Diet i/d Low Fat Canine Rice, Vegetable & Chicken Stew 12.5oz (SKU number 10423, Date/Lot Codes 092020T27, 092020T28, 102020T17, 102020T19, 112020T04);
- xxi. Hill's Prescription Diet Derm Defense Canine Chicken & Vegetable Stew 12.5oz (SKU number 10509, Date/Lot Codes 102020T05);
- xxii. Hill's Science Diet Puppy Chicken & Barley Entrée 13oz (SKU number 7036, Date/Lot Codes 102020T12);
- xxiii. Hill's Science Diet Adult Chicken & Barley Entrée Dog Food 13oz (SKU number 7037, Date/Lot Codes 092020T22, 102020T13, 102020T14, 112020T23, 112020T24);
- xxiv. Hill's Science Diet Adult Turkey & Barley Dog Food 13oz (SKU number 7038, Date/Lot Codes 102020T06);
- xxv. Hill's Science Diet Adult Chicken & Beef Entrée Dog Food 13oz (SKU number 7040, Date/Lot Codes 112020T10, 112020T11, 102020T13);
- xxvi. Hill's Science Diet Adult Light with Liver Dog Food 13oz (SKU number 7048, Date/Lot Codes 112020T19);
- xxvii. Hill's Science Diet Adult 7+ Chicken & Barley Entrée Dog Food 13oz (SKU number 7055, Date/Lot Codes 092020T31, 102020T13);
- xxviii. Hill's Science Diet Adult 7+ Beef & Barley Entrée Dog Food 13oz (SKU number 7056, Date/Lot Codes 102020T28, 092020T31, 112020T20, 112020T24);
- xxix. Hill's Science Diet Adult 7+ Healthy Cuisine Braised Beef, Carrots & Peas Stew dog food 12.5oz (SKU number 10452, Date/Lot Codes 102020T28, 102020T14, 102020T21);
- xxx. Hill's Science Diet Adult 7+ Youthful Vitality Chicken & Vegetable Stew dog food 12.5oz (SKU number 10763, Date/Lot Codes 102020T04, 102020T05, 112020T11);
- xxxi. Hill's Prescription Diet z/d Canine 5.5oz (SKU 5403, Date/Lot Code 102020T17, 112020T22);
- xxxii. Hill's Science Diet Adult 7+ Small & Toy Breed Chicken & Barley Entrée Dog Food 5.8oz (SKU 4969, Date/Lot Code 102020T18); and
- xxxiii. Hill's Science Diet Adult 7+ Turkey & Barley Entrée 13oz (SKU 7057, Date/Lot Code 112020T19).

The definition of the Products specifically *excludes* any cat foods, dry dog food products, treats, Ideal Balance products or Healthy Advantage products, or other products produced by Hill's that are not specifically described.

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NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

7. What if I do not want to be included in the lawsuit or settlement?

If you do not want to be bound by the settlement if it is approved, you will have an opportunity to “**Opt Out**” after the Court has decided whether to approve the Settlement. The Parties have agreed that the Opt-Out Period will be **60 days from the Approval Date** (the date the court issues an order approving the settlement).

If you Opt Out, you will *not* be entitled to *any* financial compensation from the settlement, but you will keep your right to sue Hill’s in relation to the dog food Products described above, subject to any time or other legal limitations applying to your claim.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

Proposed settlement benefits

8. What does the proposed settlement provide?

The settlement provides a global Settlement Fund of \$575,000 USD. If approved, the following benefits will be available to Settlement Class Members from the Settlement Fund:

1. financial compensation for claims relating to the injury of a dog,
2. financial compensation for claims relating to the death of a dog; and
3. financial compensation for the purchase price of the recalled products.

To make a claim, the settlement requires Class Members to complete a paper Claim Form and provide relevant documentation within a 180-day claims period.

The settlement also provides a process through which all claims will be assessed, by a Court-appointed Settlement Administrator. To prove a claim under the settlement, class members will *not* need to testify in Court or be cross-examined. The Settlement Administrator may, if necessary, contact the treating veterinarian of the Class Member's dog.

All payments of settlement compensation to Settlement Class Members shall be made from the Settlement Fund after costs of Settlement administration are deducted from the Settlement Fund. If the total of the timely, valid and approved Claims is less than the available relief, minus any covered costs and expenses, each Settlement Class Member's award shall be *pro rata* increased to no more than two-times the value of the timely, valid and approved Claim absent any further written agreement by the Parties. If the total of the timely, valid and approved Claims submitted exceeds the available relief, each Settlement Class Member's award shall be reduced on a *pro rata* basis.

If any unpaid funds remain after the distribution, they will be paid to Humane Canada, or an otherwise mutually agreed upon organization, subject to Court approval.

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**NOTICE OF PROPOSED SETTLEMENT IN
HILL'S DOG FOOD CLASS ACTION**

The settlement also allows individuals to "opt-out" after the settlement is approved. If the number of Class Members who opt-out is higher than the opt-out threshold number agreed to by the parties, the settlement will be automatically terminated and ineffective.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

9. What kind of compensation am I eligible for?

If approved, Settlement Class Members can claim for the following types of compensation:

Claim	Amount	Type	Documentation Required
Dog Injury Claims	up to \$500	any amounts incurred in screening, diagnosing, and treating the dog*	documentation showing screening or treatment of the dog for symptoms consistent with consumption of excess vitamin D as a result of the use or consumption of the Products
	\$5,000	damages relating to the death of the dog	(i) documentation showing screening or treatment of the dog for symptoms consistent with consumption of excess vitamin D following the use or consumption of the Products, (ii) documentation showing that the dog died after the date of these documented symptoms, and (iii) documentation showing that the dog died or was euthanized as a result of these symptoms.
Consumer Food Purchase Claims	full purchase price	purchase of the Products	attestation with valid proof of purchase
	suggested retail purchase price up to \$20	purchase of the Products	attestation without valid proof of purchase

Acceptable forms of documentation include: veterinary notes, veterinary records, test or laboratory reports, or statements and/or letters from the veterinarian, hospital or clinic.

Dog Injury Claims may also include claims for screening and testing costs that were reasonably necessary based on concern for having a dog that consumed the Products. Such screening/testing shall have been performed by or upon the recommendation or referral of the veterinarian to screen for illness from the consumption of the Products.

Class members can make both types of Dog Injury Claims, but only one type of Consumer Food Purchase Claim.

Only one claimant per household will be eligible.

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NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

10. Who are the lawyers for the Plaintiffs?

The lawyers for the Plaintiffs are Koskie Minsky LLP of Toronto, Ontario, and McKenzie Lake LLP of London, Ontario. If the class action is certified, the Court may appoint these lawyers as “**Class Counsel**”. Class Counsel represent the Class in a class proceeding.

11. How will the lawyers be paid?

Before the commencement of this action in October 2019, the lawyers for the Plaintiffs entered into a contingency fee agreement with the Plaintiffs in this action, meaning they are not paid unless and until there is recovery in this action. The Court must determine that the proposed legal fees are fair and reasonable before they are paid.

If appointed, Class Counsel will seek Court approval of their legal fees. Under the retainer agreement, Class Counsel would be entitled to up to 30% of recovery, plus applicable taxes, (this would amount to USD\$172,500 + USD\$22,360 in HST). Under the retainer agreement, the lawyers are also entitled to recover the expenses that they have incurred, (also known as disbursements). The amount of disbursements incurred to date by Class Counsel is CAD\$31,012.67 (inclusive of HST). Class Counsel may also seek recovery of additional disbursements incurred after the date of this notice.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

Your Legal Options Now

The Court will hold a hearing to decide whether to approve the proposed settlement, and the request for Plaintiffs' counsel's legal fees, disbursements and taxes (the "**Approval Hearing**").

12. What if I do nothing?

If you do nothing, the Approval Hearing will proceed, and the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class.

If the settlement is approved, you will afterwards have an opportunity to Opt-Out, or to submit a Claim Form.

13. How do I tell the Court if I support the proposed settlement?

If you support the proposed settlement, you do not need to do anything right now. However, you may submit a Participation Form outlining why you support the settlement.

The Participation Form can be found at <https://kmlaw.ca/cases/hills-toxic-dog-food/>. You must email this Form to dogfoodclassaction@kmlaw.ca, or mail it to Koskie Minsky LLP 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3. All Participation Forms must be received or postmarked no later than August 18, 2023.

14. How do I tell the Court if I object to the proposed settlement?

If you would like to explain why you object to the settlement, you must submit a Participation Form by **August 18, 2023**. This form will include your name, address, and the reasons why you do not support the settlement.

The Participation Form can be found at <https://kmlaw.ca/cases/hills-toxic-dog-food/>. You must email this Form to dogfoodclassaction@kmlaw.ca, or mail it to Koskie Minsky LLP 20 Queen Street West, Suite 900, Box 52 Toronto, ON M5H 3R3. All Participation Forms must be received or postmarked no later than **August 18, 2023**.

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NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

15. What are the details of the Court hearing?

The Approval Hearing will take place in Toronto, Ontario on September 21, 2023 at 10:00 a.m.

At the hearing, the Ontario Superior Court of Justice will consider whether to certify this lawsuit as a class action for the purposes of settlement, appoint the representative plaintiffs, and appoint class counsel.

At the hearing, the Ontario Superior Court of Justice will also consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will consider them and will listen to people who have filed a Participation Form and asked to speak at the hearing. The Court will then decide whether to approve the proposed settlement and Class Counsel's legal fees. We do not know how long these decisions will take.

The Court will make its final decisions at some point after the hearing.

16. Do I have to attend the Court hearing?

No. Class Counsel will answer questions from the Court. If you send a participation form, you do not have to come to the Court to talk about it. If you mailed or emailed your written participation form on time, the Court will consider it. You or your own lawyer may also attend the hearing at your own expense, but it is not necessary.

NOTICE OF PROPOSED SETTLEMENT IN HILL'S DOG FOOD CLASS ACTION

Getting More Information

17. How do I get more information or ask questions?

This notice summarizes the current status of this lawsuit and the proposed settlement. Updates on this lawsuit and a full copy of the settlement agreement are available at <https://kmlaw.ca/cases/hills-toxic-dog-food/>.

You are welcome to seek legal advice about this class action and settlement from the lawyers representing the plaintiffs, at no cost to you:

Email: dogfoodclassaction@kmlaw.ca

Toll-free: **1 855 595 2628**

If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense to appear in court for you.