

**IF YOU BOUGHT SMASHBURGER’S “TRIPLE DOUBLE” HAMBURGERS BETWEEN JULY 1, 2017 AND MAY 31, 2019, YOU COULD RECEIVE A CASH PAYMENT OR PRODUCT VOUCHER FROM A CLASS ACTION SETTLEMENT.**

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

- This notice informs you of a proposed settlement in a class action lawsuit alleging that Defendants Smashburger IP Holder LLC and Smashburger Franchising LLC (“Defendants”) misrepresented the amount of meat in their “Triple Double” hamburgers.
- The settlement will provide \$2,500,000 in cash to pay claims for those who purchased one or more Triple Double hamburgers from Smashburger and to pay litigation fees and expenses. Class members can receive up to \$20 in cash without proof of purchase.
- Alternatively, Class Members can choose to receive a voucher that will entitle the bearer of the voucher, upon the purchase of a regularly-priced entrée, to either a) an upgrade of a single beef Smashburger hamburger to a double beef hamburger for no additional cost; or b) a small Smashburger fountain drink for no additional cost. Class Members can claim up to 10 vouchers without proof of purchase.

To qualify, you must have purchased and/or consumed a hamburger sold under the Smashburger brand with any name that included the phrase “Triple Double,” including but not limited to, one or more of the following hamburgers listed below between July 1, 2017 and May 31, 2019.

- **Triple Double hamburger;**
  - **Bacon Triple Double hamburger;**
  - **French Onion Triple Double hamburger;**
  - **Pub Triple Double hamburger.**
- Defendants deny that they did anything wrong or unlawful and assert that the representations at issue were truthful, not misleading, and consistent with the law. The Court has not decided who is right. Both sides have agreed to settle the dispute and give benefits to Class Members.

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM FORM BY JANUARY 17, 2023</b>	This is the only way to receive a cash award or product voucher.
<b>EXCLUDE YOURSELF BY DECEMBER 19, 2022</b>	Exclude yourself by <b>December 19, 2022</b> and get no award from the proposed settlement. This is the only choice that allows you to participate in another lawsuit against Defendants about the claims at issue in this case for the products and claims covered by the Class Period.
<b>OBJECT BY DECEMBER 19, 2022</b>	You can write to the Court by <b>December 19, 2022</b> about why you don’t like the settlement.
<b>GO TO A HEARING</b>	You can ask by <b>December 19, 2022</b> to speak in Court about the fairness of the proposed settlement.
<b>DO NOTHING</b>	Get no payment. Give up your rights to sue Defendants regarding any of the claims at issue in this case.

- The Court in charge of this case still has to decide whether to approve the proposed settlement. Payments will be made if the Court approves the settlement and after appeals are resolved.

**QUESTIONS? VISIT [WWW.BURGERSETTLEMENT.COM](http://WWW.BURGERSETTLEMENT.COM) OR CALL 833-644-1593 TOLL FREE**

*Para una notificación en español, por favor llame o visite nuestro sitio web.*

- Please be patient. Your legal rights are affected whether you act or not. **Read this notice carefully because it explains decisions you must make and actions you must take now.**

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## **BASIC INFORMATION**

### **1. Why was this notice issued?**

This notice, given pursuant to an Order of the Court dated **September 19, 2022**, describes a proposed settlement of a class action against Defendants Smashburger IP Holder LLC and Smashburger Franchising LLC (“Defendants”), *In Re: Smashburger IP Holder, LLC, et al*, Lead Case No. 2:19-CV-00993-JAK-(JEMx). The Court in charge of this lawsuit is the United States District Court for the Central District of California. The people who sued are called the “Plaintiffs,” and Smashburger IP Holder LLC and Smashburger Franchising LLC are the “Defendants.”

This notice is provided because you have the right to know about a proposed settlement of a class action lawsuit, and about your rights and options, before the Court decides whether to approve the proposed settlement.

Plaintiffs’ Second Amended Consolidated Class Action Complaint and the settlement agreement, called the “Stipulation of Class Action Settlement” or “Agreement,” are available at [www.burgersettlement.com](http://www.burgersettlement.com) and provide greater detail concerning this lawsuit and the rights and duties of the parties and Class Members.

**If you are a Class Member, your legal rights are affected whether you act or do not act, so please read this notice carefully.**

### **2. What is this lawsuit about?**

The lawsuit claims that Defendants misrepresented the amount of beef in the hamburgers sold under the Smashburger brand with any name that included the phrase “Triple Double,” including but not limited to hamburgers sold as the Triple Double, Bacon Triple Double, French Onion Triple Double, and Pub Triple Double (collectively the “Subject Products”).

Defendants deny that they did anything wrong or unlawful and assert that the representations at issue were truthful, not misleading, and consistent with the law. The Court did not rule in favor of either party. Plaintiffs entered into the settlement to avoid the delay, risks, and increased costs associated with continued litigation and believe the settlement is in the best interests of the Class. Defendants entered into a settlement solely to avoid the further expense, inconvenience, and distraction of burdensome and protracted litigation and to eliminate future controversy with respect to this lawsuit. Accordingly, the parties have agreed to a proposed settlement, and Defendants agreed, under the terms of the settlement, to provide you with an opportunity to submit a valid and timely Claim Form through which you may be eligible to receive monetary compensation or product vouchers.

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

In a class action, one or more people called “Class Representatives” (in this case Andre Galvan, Lucinda Lopez, Thu Thuy Nguyen, Robert Meyer, and Jamelia Harris) sue on behalf of themselves and other people who have similar claims. Together, all of these people are “Class Members.” One Court resolves the issues for all Class Members in a class action, except for those who exclude themselves from the Class. United States District Court Judge John A. Kronstadt presides over this action.

### **4. Why is there a settlement?**

The Court has not decided in favor of the Plaintiffs or the Defendants. Instead, both sides have agreed to the proposed settlement. By agreeing to the proposed settlement, they avoid the costs and uncertainty of a trial, and Class Members receive the benefits described in this notice. The proposed settlement does not mean that any law was broken or that Defendants did anything wrong, or that the Plaintiffs and the Class would or would not win their case if it were to go to trial. The parties believe that the proposed settlement is fair, reasonable, and adequate, and will provide substantial benefits to the Class.

## WHO IS PART OF THE SETTLEMENT?

### 5. Who is included in the proposed settlement?

The Class includes all persons in the United States and United States Territories who purchased and/or consumed one or more of the Subject Products (defined further under Question 7) during the period July 1, 2017 through May 31, 2019 (the “Class Period”).

### 6. Are there exceptions to being included?

Specifically excluded from the Class are:

- (a) Defendants and their employees, principals, officers, directors, agents, affiliated entities, legal representatives, successors, and assigns;
- (b) The judges to whom the Action has been or is assigned and any members of their immediate families;
- (c) Those who purchased the Subject Products for the purpose of resale; and
- (d) All persons who have filed a timely Request for Exclusion from the Class.  
(Explained further under Questions 17-19 below.)

The proposed settlement does not include a release of any claims for personal injury relating to the use of the Subject Products.

### 7. Which products are included?

The Subject Products in this settlement are the following products sold at any Smashburger-branded restaurant (regardless of whether the restaurant was owned by Defendants, by Defendants’ affiliates, or by any franchisee) during the Class Period under any name that included the phrase “Triple Double,” including but not limited to the following hamburgers:

- **Triple Double hamburger;**
- **Bacon Triple Double hamburger;**
- **French Onion Triple Double hamburger;**
- **Pub Triple Double hamburger.**

### 8. What if I’m still not sure if I’m included?

If you are not sure whether you are a Class Member, or have any other questions about the settlement, visit the website, [www.burgersettlement.com](http://www.burgersettlement.com), or call the toll-free number, **833-644-1593**. You may also send questions to the Settlement Administrator at Smashburger Settlement, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324.

## THE SETTLEMENT BENEFITS – WHAT YOU CAN GET

### 9. What does the Settlement provide?

If the settlement is approved and becomes final, the settlement provides \$2,500,000 in cash and 1.5 million product vouchers to resolve the lawsuit. This represents Defendants’ total financial commitment under the settlement, and will be used to make payments to Class Members who file valid and timely claims by submitting a Claim Form (*see* Question 14), as well as to pay for costs associated with the notice and administration of the Settlement, Attorneys’ Fees and Expenses (*see* Question 21), and a special service payment (or “Incentive Award”) to the Class Representatives (*see* Question 21).

The settlement agreement, called the “Stipulation of Settlement” or “Agreement,” available at [www.burgersettlement.com](http://www.burgersettlement.com), has more information regarding the settlement.

## 10. What can I get from the Settlement?

You may be entitled to a \$4.00 cash payment for each Subject Product you purchased during the Class Period, up to a maximum of \$20.00 in cash per household without proof of purchase.

In the alternative, you may be entitled to receive a product voucher redeemable, upon the purchase of a regularly-priced entrée at a company owned Smashburger-branded restaurant, for either a) an upgrade of a single beef hamburger to a double beef hamburger for no additional cost; or b) a small fountain drink for no additional cost, up to 10 vouchers. For claims administration purposes, each voucher will be assigned a cash value of \$2.00, although the actual value of the voucher will depend on the price of Defendants' products at your preferred retailer. Currently, an upgrade from a single beef hamburger to a double beef hamburger generally costs approximately \$2.50, and a small fountain drink generally costs approximately \$3.09.

You may only elect to receive a cash award or a product voucher award. **You cannot receive both.**

If the total value of all approved cash claims is less than or greater than the amount of money available to pay claims (after costs and fees have been deducted), eligible Class Members' payments will be increased or reduced proportionally. Thus, the amount of your payment will depend on the number of Subject Products you purchased during the Class Period and on the number of Class Members who choose to make a cash claim.

If more than 1.5 million vouchers are requested, then the number of vouchers per person will be reduced on a pro rata basis. If fewer than 1.5 million vouchers are requested, the remaining vouchers will be donated to first responders, or some other charitable organization, subject to the Court's approval.

The actual cash amounts and product vouchers available for each eligible Class Member who submits a valid and timely Claim Form (or "Authorized Claimant") will not be determined until after all Claims Forms have been received, and may not be determined until after the proposed settlement is final.

## 11. What am I giving up if I stay in the Class?

**If you meet the definition of a Class Member, you are part of the Class, unless you exclude yourself.**

This means that you can't sue, continue to sue, or be part of any other lawsuit, arbitration, or other proceeding against Defendants or any other "Released Party" about the legal issues in this case. It also means that all of the Court's orders will apply to you and legally bind you. **You are a Class Member and bound by the settlement whether or not you file a Claim Form or receive a payment or a voucher.**

When and if the settlement is approved, Plaintiffs and Class Members who do not validly exclude themselves from the Class pursuant to the settlement will be deemed to have released Defendants and other "Released Parties" (as defined in the Agreement) from any all any Released Claims (as defined in the Agreement).

**A word-for-word copy of the Release sections from the Agreement is copied below. Please carefully read** the following excerpts from the Agreement regarding "Released Claims":

"Released Claims" means and includes any and all claims, demands, rights, damages, obligations, suits, debts, liens, and causes of action under common law or statutory law (federal, state, or local) of every nature and description whatsoever, monetary, injunctive, or equitable, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including Unknown Claims as of the Notice Date by Plaintiffs and all Class Members (and Plaintiffs' and Class Members' respective heirs, guardians, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors-in-interest, and assigns)

that:

(i) were asserted or that could have been reasonably asserted in the Action against the Released Parties (as hereinafter defined), or any of them, and that arise out of or are related in any way to any or all of the acts, omissions, facts, matters, transactions, or occurrences that were or could have been directly or indirectly alleged or referred to in the Action (including, but not limited to, alleged violations of the CLRA, UCL, FAL, NYGBL, or similar laws of any state or United States territory, and alleged claims for injunctive relief, breach of warranty, breach of the implied warranty of merchantability, negligent misrepresentation, fraud, and unjust enrichment); or

(ii) were asserted or that could have been reasonably asserted by any Class Member against the Released Parties (as hereinafter defined), or any of them, and that arise out of or are related in any way to any or all of the acts, omissions, facts, matters, transactions, or occurrences that were or could have been directly or indirectly alleged or referred to, including all claims for monetary, injunctive, or equitable relief that relate in any way to communications, disclosures, representations, statements, claims, nondisclosures and/or omissions, packaging, advertising, labeling, and/or marketing of or concerning the Subject Products, in the Related Actions; or

(iii) relate in any way to communications, disclosures, representations, statements, claims, nondisclosures and/or omissions, packaging, advertising, labeling, and/or marketing of or concerning the Subject Products related to the nutritional value and/or content, including but not limited to the quantity of meat, made through any medium.

“**Released Parties**” shall be defined and construed broadly to effectuate a complete and comprehensive release, and means Defendants and any entity that made, manufactured, tested, inspected, audited, certified, purchased, distributed, supplied, licensed, transported, donated, marketed, advertised, promoted, sold or offered for sale any Subject Product, or any entity that contributed to any labeling, sale, distribution, supply, advertising, marketing, or packaging of any Product, including all of their respective franchisees, predecessors, successors, assigns, parents, subsidiaries, divisions, departments, and affiliates, and any and all of their past, present and future officers, directors, employees, shareholders, partners, principals, agents, servants, successors, attorneys, insurers, representatives, licensees, licensors, customers, subrogees, and assigns. It is expressly understood that, to the extent a Released Party is not a Party to this Agreement, all such Released Parties are intended third-party beneficiaries of this Agreement.

“**Releasing Parties**” means Plaintiffs, and all Class Members, and any person claiming by or through each Class Member, including but not limited to spouses, children, wards, heirs, devisees, legatees, invitees, employees, associates, co-owners, attorneys, agents, administrators, predecessors, successors, assignees, representatives of any kind, shareholders, partners, directors, or affiliates.

Upon the Effective Date, the Releasing Parties shall be deemed to have, and by operation of the Final Order and Final Judgment shall have, fully, finally and forever released, relinquished, and discharged all Released Claims against the Released Parties. In connection with the Released Claims, each Releasing Party shall be deemed as of the Effective Date to have expressly, knowingly, and voluntarily waived any and all provisions, rights, benefits conferred by Section 1542 of the California Civil Code, and any statute, rule, and legal doctrine similar, comparable, or equivalent to Section 1542, which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

In connection with such waiver and relinquishment, the Releasing Parties hereby acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims, whether known or unknown, suspected or unsuspected, that they have against the Released Parties. In furtherance of such intention, the release herein given by the Releasing Parties shall be and remain in effect as a full and complete general release notwithstanding the discovery or existence of any such additional different claims or facts. Each of the Releasing Parties expressly acknowledges that he/she/it has been advised by his/her/its attorney of the contents and effect of Section 1542, and with knowledge, each of the Parties hereby expressly waives whatever benefits he/she/it may have had pursuant to such section. Releasing Parties are not releasing any claims for personal injuries. Plaintiffs acknowledge, and the Class Members shall be deemed by operation of the Final Judgment to have acknowledged, that the foregoing waiver was separately bargained for and a material element of the Settlement of which this release is a part.

The Agreement is available at [www.burgersettlement.com](http://www.burgersettlement.com) and describes the claims that you give up if you remain in the settlement in further detail.

## **12. When will I get my payment, if any?**

The Court will hold a Fairness Hearing on **January 30, 2023** during which it will decide whether it will finally approve all terms of the settlement. If the Court approves the settlement, there may be appeals or other challenges. Payment is contingent upon the Court's final approval of the proposed settlement. After the Court enters an order and judgment finally approving the settlement and all objections and appeals (if any) are resolved, the checks and product vouchers will be mailed within forty-five (45) calendar days.

Defendants have the right to challenge the requested amounts of attorneys' fees and expenses.

The progress of the approval process and expected dates of payment will be updated periodically on [www.burgersettlement.com](http://www.burgersettlement.com) and can also be obtained by calling **833-644-1593** toll free.

If there are appeals, resolving them can take time (potentially more than a year). Please be patient.

## **HOW TO RECEIVE A PAYMENT**

### **13. How can I get a payment?**

To get a payment under the settlement, you must mail in a Claim Form or submit a Claim Form electronically at [www.burgersettlement.com](http://www.burgersettlement.com). You may submit a claim by visiting [www.burgersettlement.com](http://www.burgersettlement.com). You can also request a claim form by calling **833-644-1593** toll free.

Please read the instructions carefully, and fill out the form completely and accurately.

Claim Forms can be submitted two ways: electronically or by mail. Your Claim Form must be submitted electronically at [www.burgersettlement.com](http://www.burgersettlement.com) no later than **January 17, 2023**, or by mail postmarked no later than **January 17, 2023**, and mailed to:

Smashburger Settlement  
c/o Kroll Settlement Administration  
PO Box 5324  
New York, NY 10150-5324

#### 14. What is the claim process?

The Settlement Administrator will review each Claim Form.

Claim Forms that do not meet the terms and conditions of the Agreement shall be rejected by the Settlement Administrator. The Settlement Administrator shall have forty-five (45) days from the date the settlement is final (if there have been no appeals, or if any appeals have been withdrawn or rejected) to exercise the right of rejection. The Settlement Administrator shall notify the Class Member using the contact information provided in the Claim Form of the rejection, including via electronic mail.

Lead Plaintiffs' Counsel and Defense Counsel shall be provided with copies of all such notifications to Class Members. If any claimant whose Claim Form has been rejected, in whole or in part, desires to contest such rejection, the claimant must, **within fifteen (15) business days from receipt of the rejection**, transmit to the Settlement Administrator by e-mail or U.S. mail a notice and statement of reasons indicating the claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting further review by the Settlement Administrator, in consultation with Lead Plaintiffs' Counsel and Defense Counsel, of the denial of the claim. If Lead Plaintiffs' Counsel and Defense Counsel cannot agree on a resolution of claimant's notice contesting the rejection, the disputed claim shall be presented to the Court or a referee appointed by the Court for summary and non-appealable resolution. No person shall have any claim against Defendants, Defense Counsel, Plaintiffs, Lead Plaintiffs' Counsel, Class Counsel, the Class, and/or the Settlement Administrator based on any eligibility determinations, distributions, or awards made in accordance with this Agreement.

If a Claim is not contested, you will receive payment for that Claim in accordance with the terms of the Agreement. All usual and customary steps to prevent fraud and abuse in the Claim Process will be taken. This includes denying claims in whole or in part to prevent fraud or abuse. Lead Plaintiffs' Counsel and Defense Counsel will be provided a report on the denial of any claim due to insufficient documentation and may recommend additional action, including payment.

The Court will hold a Fairness Hearing on **January 30, 2023 at 8:30 a.m. PT** to decide whether or not to approve the proposed settlement. The Court must finally approve the proposed settlement before any payments can be made. The Court will grant its approval only if it finds that the proposed settlement is fair, reasonable, and adequate. In addition, the Court's order may be subject to appeals. It is always uncertain whether these appeals can be resolved, and resolving them takes time, sometimes more than a year.

#### 15. What if I do nothing?

If you are a Class Member and you do nothing, you will not get any awards from the settlement and you will be bound by the Court's decisions and the settlement's release. (See Question 11.)

To receive an award, you must submit a Claim Form on or before **January 17, 2023**. (See Question 13.)

Unless you exclude yourself from the Class, if the settlement is approved, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants or the "Released Parties" about the claims in this lawsuit, **ever again**, regardless of whether you submit a Claim Form.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a payment from this settlement, but you want to keep the right to sue or continue to sue Defendants on your own about the legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself—or it is sometimes referred to as "opting out" of the Class.



## 16. How can I get out of the settlement?

To exclude yourself from the Class (or “opt out”), you must send by U.S. mail a letter or written request to the Settlement Administrator. Your request must include all of the following:

1. Your full name and current address;
2. A clear statement that you wish to be excluded from the Class;
3. The case name and case number: *In Re: Smashburger IP Holder, LLC, et al*, Lead Case No. 2:19-CV-00993-JAK-(JEMx); and
4. Your signature (you must personally sign the letter).

Please write “**REQUEST FOR EXCLUSION**” on the lower left-hand corner of the front of the envelope.

Your exclusion request must be postmarked no later than **December 19, 2022**. Send your request to:

Smashburger Settlement  
c/o Kroll Settlement Administration  
PO Box 5324  
New York, NY 10150-5324

## 17. If I exclude myself, can I still get a payment?

No. You will not get a payment or product voucher if you exclude yourself from the settlement.

If you request exclusion from the Class, then:

- You will not be eligible to receive a payment or product voucher under the proposed settlement;
- You will not be allowed to object to the terms of the proposed settlement, and
- You will not be bound by any subsequent rulings entered in this case if the proposed settlement is finally approved.

However, if your request for exclusion is late or not complete, you will still be a part of the Class, you will be bound by the settlement and by all other orders and judgments in this lawsuit, and you will not be able to participate in any other lawsuits based on the claims in this case.

## 18. If I don't exclude myself, can I sue DEFENDANTS for the same thing later?

No. If the Court approves the proposed settlement and you do not exclude yourself from the Class, you give up (or “fully, finally and forever release, relinquish, and discharge”) all Released Claims against the Released Parties, as set forth above in response to Question 11.

As part of this settlement, the Court has preliminarily stopped all Class Members and/or their representatives (who do not timely exclude themselves from the Class) from filing, participating in, or continuing litigation against Defendants (or against any of their related parties or affiliates), and/or from receiving any benefits from any other lawsuit relating to the claims being resolved in this case.

If you have a pending lawsuit, arbitration, or other proceeding against Defendants, speak to your lawyer in that lawsuit or proceeding. You must exclude yourself from the Class to continue litigating the claims this settlement resolves. Remember, the exclusion deadline (or “Opt-Out Date”) is **December 19, 2022**.

Upon final approval of the settlement, Plaintiffs and Defendants will ask the Court to enter a permanent ruling forbidding all Class Members and/or their representatives and/or personnel from suing, or continuing to sue, Defendants regarding any of the Released Claims. All Class Members will be bound by this order.

The representative Plaintiffs and their lawyers will not represent you as to any claims you choose to pursue against Defendants.

## **THE LAWYERS REPRESENTING THE CLASS**

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

The Court has appointed attorneys at the law firm of Bursor & Fisher, P.A. to represent you and the other Class Members in this lawsuit. The lawyers representing you and the Class Members are called “Lead Plaintiffs’ Counsel.” You will not be charged for the services of these lawyers.

You may contact Lead Plaintiffs’ Counsel as follows:

L. Timothy Fisher  
BURSOR & FISHER P.A.  
1990 North California Blvd., Suite 940  
Walnut Creek, California 94596  
info@bursor.com  
Tel: 925-300-4455

The Class Members are represented by Bursor & Fisher, P.A., Reich Radcliffe & Hoover, LLP and Ahdoot & Wolfson, P.C. Together, these firms are called Class Counsel.

You have the right to retain your own lawyer to represent you in this case, but you are not obligated to do so. If you do hire your own lawyer, you will have to pay his or her fees and expenses. You also have the right to represent yourself before the Court without a lawyer.

Lead Plaintiffs’ Counsel, Class Counsel Defense Counsel, or the Settlement Administrator may **not** advise you on the tax consequences of participating or not participating in the settlement.

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

Lead Plaintiffs’ Counsel and Class Counsel have worked on this case since 2019 and have not been paid anything to date for their work on this case. Lead Plaintiffs’ Counsel and Class Counsel will request attorneys’ fees and reimbursement of costs and expenses, which will be paid using a portion of the \$2,500,000.00 settlement fund, prior to the distribution of settlement benefits to Class Members who submit valid and timely Claim Forms. Defendants will have the right to challenge the amount of attorneys’ fees and expenses requested.

Lead Plaintiffs’ Counsel and Class Counsel will also ask the Court for a special service payment (or “Incentive Awards”) of up to \$5,000.00 for Plaintiffs Andre Galvan, Lucinda Lopez, Thu Thuy Nguyen, Robert Meyer, and Jamelia Harris, for their work on behalf of the Class. Any special service payments also must be approved by the Court, and any awarded amounts also will be paid using a portion of the \$2,500,000.00 settlement fund, prior to the distribution of settlement benefits to Class Members who submit valid and timely Claim Forms.

The Court has to approve any Attorneys’ Fees and Expenses and Incentive Award requested by Lead

Plaintiffs' Counsel and Class Counsel in this case. Lead Plaintiffs' Counsel and Class Counsel's motion for these Attorneys' Fees and Expenses or Incentive Awards will be filed on or before **December 5, 2022** and posted at [www.burgersettlement.com](http://www.burgersettlement.com).

## OBJECTING TO THE SETTLEMENT

You have the right to tell the Court that you do not agree with the Settlement or any or all of its terms.

### 21. How can I tell the Court if I do not like the Settlement?

If you are a Class Member but do not like the proposed settlement and think the Court should not approve it, you may object. Objecting is simply telling the Court that you don't like something about the settlement. The Court will consider your views.

**You can object only if you stay in the Class (i.e., if you do not "opt out" or exclude yourself).** As a Class Member, you will be bound to the Agreement and Court orders regardless of your objection and regardless of whether you believe the terms of the settlement are favorable to the Class. You will be bound even if you have another claim, lawsuit, arbitration or other proceeding pending against Defendants concerning the Subject Products.

To object, you must **file** a timely, written, compliant objection with the Court, through the Court's Case Management/Electronic Case Files ("CM/ECF") system) or through any other method in which the Court will accept filings, if any, send the written objection by fax, U.S. mail, or e-mail to the Settlement Administrator, and send by U.S. mail or e-mail a copy to Lead Plaintiffs' Counsel and Defense Counsel postmarked no later than **December 19, 2022**. Members of the Class who fail to file and serve timely and fully compliant written objections as described here and in the Agreement shall be deemed to have waived all objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the settlement.

Your written objection **must** include:

- (1) your full name;
- (2) your current address;
- (3) a written statement of your objection(s) and the reasons for each objection;
- (4) a statement of whether you intend to appear at the Fairness Hearing;
- (5) your signature;
- (6) a statement, sworn to under penalty of perjury attesting to the fact that you purchased one or more of the Subject Products during the Class Period;
- (7) details of your purchase of the Subject Products, including the Subject Products purchased, and the date and location of purchase; and
- (8) the case name and case number: *In Re: Smashburger IP Holder, LLC, et al*, Lead Case No. 2:19-CV-00993-JAK-(JEMx).

Objections that are mailed to the Court (and not filed pursuant to the Court's CM/ECF system, or any other method in which the Court will accept filings, if any), or objections that are served on the Parties but not filed with the Court, shall not be received or considered by the Court at the Fairness Hearing. Objections that do not contain all of the information itemized above shall not be considered by the Court at the Fairness Hearing.

Class Members or their attorneys who intend to make an appearance at the Fairness Hearing must deliver a Notice of Intention to Appear to Lead Plaintiffs' Counsel identified and to Defense Counsel, and file said notice with the Court, no later than **December 19, 2022**, or as the Court may otherwise direct.

Objections and notices of intention to appear must be served:

*Upon Settlement Administrator at:*

Smashburger Settlement  
c/o Kroll Settlement Administration  
PO Box 5324  
New York, NY 10150-5324

*Upon Lead Plaintiffs' Counsel at:*

L. Timothy Fisher  
BURSOR & FISHER, P.A.  
1990 North California Blvd., Suite 940  
Walnut Creek, California 94596  
info@bursor.com

*Upon Defense Counsel at:*

Dean J. Zipser  
Mark. A. Finkelstein  
Adina W. Stowell  
UMBERG ZIPSER LLP  
1920 Main Street, Suite 750  
Irvine, California 92614  
[dzipser@umbergzipser.com](mailto:dzipser@umbergzipser.com)  
[mfinkelstein@umbergzipser.com](mailto:mfinkelstein@umbergzipser.com)  
[astowell@umbergzipser.com](mailto:astowell@umbergzipser.com)

If you file objections, but the Court approves the settlement as proposed, you can still complete a Claim Form to be eligible for payment under the settlement, subject to the terms and conditions discussed in this Notice and in the settlement agreement called the "Stipulation of Settlement."

## **22. What is the difference between objecting and asking to be excluded?**

Objecting is simply a way of telling the Court that you don't like something about the settlement. You can only object if you stay in the Class. You will also be bound by any subsequent rulings in this case, and you will not be able to file or participate in any other lawsuit based upon or relating to the claims of this lawsuit. If you object to the settlement, you still remain a Class Member and you will still be eligible to submit a Claim Form. Excluding yourself is telling the Court that you don't want to be a part of the Class. If you exclude yourself, you have no basis to object to the settlement and appear at the Fairness Hearing because it no longer affects you.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a final hearing (called a Fairness Hearing) to decide whether to finally approve the settlement. You may attend and ask to speak, but you don't have to.

## **23. When and where will the Court decide whether to approve the settlement?**

The Court will hold a hearing in this case on **January 30, 2023 at 8:30 a.m. PT** in Courtroom 10B at the First Street Courthouse, 350 W. First Street, Los Angeles, CA 90012.

The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.burgersettlement.com](http://www.burgersettlement.com) for updates. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. The Court will also decide whether to award Attorneys' Fees and Expenses and Plaintiffs' Incentive Award.

If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

#### **24. Do I have to come to the hearing?**

No. Lead Plaintiffs' Counsel and Class Counsel will answer questions the Court may have at the Fairness Hearing. But you are welcome to come at your own expense. Please note that the Court has the right to change the date and/or time of the Fairness Hearing without further notice, so it is a good idea to check the settlement website [www.burgersettlement.com](http://www.burgersettlement.com) for updates. If you are planning to attend the hearing, you should confirm the date and time on this website before going to the Court.

#### **25. May I speak at the fairness hearing?**

Yes, you may ask the Court for permission to speak at the hearing. To do so, you must **file** a document called a "Notice of Intention to Appear" through the Court's Case Management/Electronic Case Files ("CM/ECF") system) or through any other method in which the Court will accept filings, if any.

If you or your attorney wants to appear and speak at the Fairness Hearing, you (or your attorney) must also mail a Notice of Intention to Appear at the Fairness Hearing to the addresses listed above in Question 21.

Your Notice of Intention to Appear at the Fairness Hearing must be filed and received by the Court, and mailed and/or e-mailed to the Settlement Administrator, Defense Counsel, and Lead Plaintiffs' Counsel no later than **December 19, 2022**.

### **GETTING ADDITIONAL INFORMATION**

#### **26. How can I get more information?**

This notice summarizes the proposed settlement. More details are in the settlement agreement which is called the "Stipulation of Class Action Settlement" or "Agreement." For a complete, definitive statement of the settlement terms, refer to the Agreement at [www.burgersettlement.com](http://www.burgersettlement.com). You also may write with questions to the Settlement Administrator at Smashburger Settlement, c/o Kroll Settlement Administration, PO Box 5324, New York, NY 10150-5324 or call **833-644-1593** toll free.

**PLEASE DO NOT CALL THE COURT**