

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA  
*Prescott v. Bayer HealthCare LLC*, Case No. 5:20-cv-00102

**If You Are a United States Resident Who Purchased,  
on or Before September 17, 2021,  
Coppertone Mineral-Based Sunscreen Products,  
specifically  
Coppertone Water Babies Pure & Simple,  
Coppertone Kids Tear Free, or  
Coppertone Sport Face,**

**You May be Eligible for a CASH REFUND from a Class Action  
Settlement**

**THIS NOTICE AFFECTS YOUR RIGHTS**

**Please read it carefully**

*The United States District Court for the Northern District of California authorized this notice.  
This is not a solicitation from a lawyer.*

- A nationwide class action settlement has been reached in a case called *Prescott v. Bayer HealthCare LLC*, Case No. 5:20-cv-00102, that was filed against Bayer HealthCare LLC and Beiersdorf, Inc. (“**Defendants**”). The settlement resolves allegations that Defendants falsely advertised, marketed, and labeled Coppertone sunscreen products as “Mineral-Based,” despite the products containing chemical active ingredients. Defendants deny any wrongdoing and contend that the products have always been truthfully marketed and labeled. The parties have agreed to a settlement to avoid the expense and risks of continuing the lawsuit.
- You are a class member whose rights are affected by this proposed settlement if you are a retail consumer who purchased in the United States one or more Coppertone sunscreen products, for use and not for resale, prior to September 17, 2021 that included “mineral-based” on the label in various sizes and forms: Coppertone Water Babies Pure & Simple, Coppertone Kids Tear Free, and Coppertone Sport Face (collectively, “**Products**” or “**Qualifying Products**”). The Settlement Class does not include wholesale, resale, and distribution buyers, and the other Excluded Persons. “**Excluded Persons**” are (i) Defendants, their assigns, successors, and legal representatives; (ii) any entities in which Defendants have controlling interests; (iii) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (iv) any judicial officer presiding over this matter and person within the third degree of consanguinity to such judicial officer; and (v) any persons who timely exclude themselves from the Settlement Class.
- The settlement provides cash payments based on the number of Qualifying Products purchased. Settlement Class Members with proof of purchase may submit a claim for \$2.50 for each Qualifying Product purchased. There is no limit to the number of claims with proof of purchase. Settlement Class

Members who do not have proof of purchase may submit a claim for \$2.50 for each Qualifying Product purchased, for up to four (4) products (for up to \$10.00). These amounts will be increased proportionally (pro rata increase) if the total number of claims does not exhaust the available settlement funds, with a maximum multiplier of nine (9) per Qualifying Product. These amounts will be reduced proportionally (pro rata reduction) if the total number of claims exceeds the available settlement funds.

Please read this Notice carefully and in its entirety. Your rights may be affected by the settlement of this lawsuit. **You have a choice to make now about how to act:**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A VALID CLAIM BY November 17, 2021</b>	The only way to get a cash payment, if you qualify.
<b>EXCLUDE YOURSELF FROM THE CLASS BY November 17, 2021</b>	This is the only option that allows you to be a part of any other lawsuit against Defendants about the legal claims in this case. You will receive no payment from the settlement.
<b>OBJECT TO THE SETTLEMENT BY November 17, 2021</b>	Tell the Court about why you don't like the settlement.
<b>GO TO A HEARING ON December 15, 2021</b>	Ask to speak in Court about the settlement.
<b>DO NOTHING</b>	Get no benefits. Give up your rights to be a part of any other lawsuit against Defendants about the legal claims in this case.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Cash payments for valid claims will be made only if the Court approves the settlement. Approved cash payments will only be made after the time for appeals has ended and any appeals are resolved. Please be patient.

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## BASIC INFORMATION

### 1. Why was this notice issued?

A Court authorized this notice because you have a right to know about the proposed settlement in this class action lawsuit, and about all of your options, before the Court decides whether to give “final approval” to the settlement. This notice explains the lawsuit, the settlement, and your legal rights.

The case is known as *Prescott v. Bayer HealthCare, LLC*, United States District Court for the Northern District of California, Case No. Case No. 5:20-cv-00102 (the “**Lawsuit**”). The people who sued, Steven Prescott and Mike Xavier, are called the “**Plaintiffs**.” The companies they are suing, Bayer HealthCare LLC and Beiersdorf, Inc., are called the “**Defendants**.”

### 2. What is the lawsuit about?

On January 3, 2020, the Plaintiffs filed the Lawsuit on behalf of themselves and all others similarly situated. They alleged that they bought Coppertone sunscreen products labeled as “Mineral-Based” because they believed that the products only contained mineral active ingredients. They further alleged that, because the products contained chemical active ingredients in addition to mineral active ingredients, the product labels were false, misleading, and deceptive, in violation of California consumer protections laws (including California’s False Advertising Law, Cal. Bus. & Prof. Code § 17500, *et seq.*, California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.*, and California’s Consumers Legal Remedies Act, Civil Code § 1750, *et seq.*), and in breach of warranties, and to the unjust enrichment of Defendants. They alleged that they suffered economic injuries as a result—specifically, a portion of the purchase price attributable to the alleged false mineral-based attribute of the sunscreen products.

Defendants deny that the “Mineral-Based” labels, advertising, and marketing of Coppertone sunscreen products are false, misleading, or deceptive, and further deny any wrongdoing or liability arising out of any of the facts or conduct alleged in the Lawsuit. Defendants believe that they have valid defenses to the allegations. The Court has not decided that Defendants did anything wrong, and the settlement does not mean Defendants broke the law.

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

In a class action, one or more people called “**Class Representatives**” (in this case, the Plaintiffs) sue on behalf of people who have similar claims. All of these people or entities are known as a “class” or “class members.” One court resolves the issues for all class members, except for those who exclude themselves from the class, rather than requiring each person or entity to file their own lawsuit. This is done for efficiency purposes and so

long as it is fair to the class and parties.

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

The settlement does *not* mean that any law was broken. Defendants deny all legal claims in this Lawsuit and no Court has determined that Defendants are at fault or liable for any of the claims in this Lawsuit. Rather, the Plaintiffs and Defendants have taken into consideration the merits, risks, and costs of the Lawsuit and believe that the settlement is fair, adequate, reasonable, and avoids the risks, costs, and uncertainties inherent in lawsuits and trial. The Class Representatives and the lawyers representing them further believe that the proposed settlement is in the best interests of all Settlement Class Members.

### WHO IS IN THE SETTLEMENT?

To see if you are affected or if you can receive the benefits, you first have to determine whether you are a “**Settlement Class Member**.”

#### 5. How do I know if I am part of the settlement?

You are a **Settlement Class Member** whose rights are affected by this proposed settlement if you are a retail consumer who purchased in the United States one or more Coppertone sunscreen products, for use and not for resale, prior to September 17, 2021 that included “mineral-based” on the label in various sizes and forms: Coppertone Water Babies Pure & Simple, Coppertone Kids Tear Free, and Coppertone Sport Face (collectively, “**Products**” or “**Qualifying Products**”). The Settlement Class does not include wholesale, resale, and distribution buyers, and the other Excluded Persons. “**Excluded Persons**” are (i) Defendants, their assigns, successors, and legal representatives; (ii) any entities in which Defendants have controlling interests; (iii) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (iv) any judicial officer presiding over this matter and person within the third degree of consanguinity to such judicial officer; and (v) any persons who timely exclude themselves from the Settlement Class.

#### 6. I am still not sure if I’m included in the settlement.

If you are not sure whether you are part of the Settlement Class, please call or go to the website:

**Tel:** 1-877-452-8477      **Website:** [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com)

## THE SETTLEMENT BENEFITS—WHAT YOU GET

### 7. What does the settlement provide?

As part of the proposed settlement, Defendants have agreed to a monetary component and change in business practices. As part of the monetary component, Defendants have agreed to pay a total amount of two million, two hundred and fifty thousand dollars (\$2,250,000.00) into a **“Settlement Fund.”**

The Settlement Fund will be used to pay all valid claims submitted by Settlement Class Members. As a member of the Settlement Class, you may submit a claim to receive a cash payment. Settlement Class Members who have proof of purchase may receive \$2.50 for each Qualified Product purchased, without limitation on the number of purchased products. Settlement Class Members who do not have proof of purchase may receive \$2.50 for each Qualified Product purchased, for up to four (4) products, for up to a total amount of \$10.00, per household. These amounts will be increased proportionally (pro rata increase) if the total number of claims does not exhaust the available money in the Settlement Fund, for a maximum multiplier of nine (9) times per Qualifying Product purchased. These amounts will be reduced proportionally (pro rata reduction) if the total number of claims exceeds the available money in the Settlement Fund. To learn more about how to submit a claim, please keep reading this notice.

Defendants no longer use the term “mineral-based” on Coppertone Water Babies Pure & Simple, Coppertone Kids Tear Free, and Coppertone Sport Face. Additionally, Defendants have agreed to change their business practices under the terms of this proposed settlement—specifically, Defendants have agreed that, if the term “mineral-based” is used on Coppertone sunscreen labels at any point after the preliminary approval of this settlement and through December 31, 2023, and the products contain both mineral sunscreen active ingredients and other active ingredients, then Defendants will include a statement on the product packaging that states the product contains other sunscreen active ingredients.

Additionally, the parties have agreed that the costs to administer this proposed settlement will be paid from the Settlement Fund; the attorneys who represent Plaintiffs and the Settlement Class may request the Court award reasonable attorneys’ fees in an amount not to exceed thirty percent (30%) of the Settlement Fund and reimbursement of litigation expenses; and that the Plaintiffs may apply to the Court for an incentive or service award in an amount not to exceed five thousand dollars (\$5,000) for each Plaintiff.

To review the terms of the proposed settlement in greater detail, please review the Settlement Agreement at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com).

### 8. What am I giving up in exchange for the settlement benefits?

**If the settlement becomes final, Settlement Class Members will release Defendants and all related people and entities for all the claims described and identified in Sections 2.35, 2.36, and 8 of the Settlement Agreement.** Specifically, Settlement Class Members will release claims that arise out or relate to (a) the allegations, claims, or contentions that were or could have been asserted in the Litigation regarding the Products; (b) any advertising, labeling (including but not limited to packaging), marketing, claims, or representations of the sunscreen active ingredients in the Products; (c) all labels or packaging for the Coppertone sunscreen products that conform to the terms of the Settlement. The Settlement Class Members will release Bayer HealthCare LLC and Beiersdorf, Inc. and each and all of their predecessors and successors in interest to the Coppertone brand or the Products, former, present and future direct and indirect subsidiaries, parents, and affiliates involved in the development, manufacturing, distribution, marketing, advertising, labeling and/or sale of the Products, and each and all of the aforementioned entities' and individuals' former, present, and future officers, directors, shareholders, partners, employees, agents, representatives, suppliers, resellers, retailers, wholesalers, distributors, customers, insurers, assigns, servants, and attorneys. The Settlement Agreement is available at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com). The Settlement Agreement describes the Released Claims with specific descriptions, in necessarily accurate legal terminology, so read it carefully. You may speak to one of the lawyers listed below for free or you can, of course, speak to your own lawyer if you have questions about the released claims or what they mean.

## **HOW TO GET A CASH PAYMENT—SUBMITTING A VALID CLAIM FORM**

### **9. How can I get a cash payment?**

To request a cash payment you must complete and submit a valid Claim Form, along with any proof of purchase, if you have it. You may obtain a Claim Form at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com). The Claim Form describes what you must provide to prove your claim and receive a cash payment. It generally requires your name and contact information, payment information, and a statement, under penalty of perjury, regarding how many Qualified Products you purchased, and the approximate date(s). Please read the instructions carefully, fill out the Claim Form in its entirety, and either submit it online at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com), or mail it to the below address. The Claim Form and any proof of purchase you have must be submitted online or postmarked no later than **November 17, 2021**, to:

Digital Settlement Group, LLC  
P.O. Box 166  
Valparaiso, IN 46384

The Settlement Administrator may seek additional information to validate your Claim

Form and/or disqualify an invalid claim. If you provide incomplete or inaccurate information, your claim may be denied.

#### 10. When will I receive my payment?

Electronic payments will be made, and checks will be mailed, to Settlement Class Members who submit a valid Claim Form on time, only if the Court grants “**Final Approval**” of the settlement, and after the time for appeals has ended and any appeals have been resolved. If the Court approves the settlement after the Fairness Hearing on December 15, 2021 (see the section titled “The Court’s Fairness Hearing,” below), there may be appeals. Resolving these appeals can take time. Please be patient.

### EXCLUDING YOURSELF FROM THE SETTLEMENT

If you want to preserve the right to sue or continue to sue Defendants concerning the legal issues in this Lawsuit, you must take steps to get out of the settlement. This is called asking to be excluded from, or “opting out” of, the Settlement Class.

#### 11. If I exclude myself, can I get anything from the settlement?

If you ask to be excluded, you will not get a cash payment, and you cannot object to the settlement. You will not be bound by anything that happens in this Lawsuit.

#### 12. If I do not exclude myself, can I sue later?

No. Unless you exclude yourself, you give up the right to sue Defendants for the Released Claims that this settlement resolves. You must exclude yourself from *this* Settlement Class to start or continue your own lawsuit.

#### 13. How do I get out of the settlement?

To “opt out” or exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from *Prescott v. Bayer HealthCare, LLC*, United States District Court for the Northern District of California, Case No. Case No. 5:20-cv-00102. Be sure to include your name, address, telephone number, email address, and the approximate date(s) you purchased the Qualified Products, and your signature. You cannot ask to be excluded at the website or on the phone. You must mail your opt out request so that it is postmarked by no later than November 17, 2021 to:

Digital Settlement Group, LLC  
P.O. Box 166  
Valparaiso, IN 46384

Requests to opt-out that do not include all required information and/or that are not submitted on a timely basis, will be deemed null, void, and ineffective. Settlement Class Members who fail to submit a valid and timely opt out request on or before the deadline above shall be bound by all terms of the settlement and any Final Approval entered in this Lawsuit if the Settlement is approved by the Court, regardless of whether they ineffectively or untimely requested exclusion from the settlement.

## OBJECTING TO THE SETTLEMENT

### 14. How do I tell the Court I do not like the proposed settlement?

To object to the settlement, you or your attorney must file a written objection with the Court in this Lawsuit describing the basis of your objections.

Each objection must include: (i) the case name *Prescott v. Bayer HealthCare, LLC*, and the case number 5:20-cv-00102-NC; (ii) the name, address and telephone number of the objector; (iii) the name, address, and telephone number of all counsel (if any) who represent the objector, including any former or current counsel who may be entitled to compensation for any reason if the objection is successful, and all legal factual support for the right to such compensation; (iv) documents or testimony sufficient to establish membership in the Settlement Class; (v) a detailed statement of any objection asserted, including the grounds for the objection stated with specificity; (vi) whether the objector is, and any reasons for, requesting the opportunity to appear and be heard at the final approval hearing; (vii) the identity of all counsel (if any) representing the objector who will appear at the final approval hearing and, if applicable, a list of all persons who will be called to testify in support of the objection; (viii) copies of any papers, briefs, or other documents upon which the objection is based; (ix) a detailed list of any other objections submitted by the Settlement Class Member, or their counsel, to any class actions submitted in any state or federal court in the United States in the previous five years (or affirmatively stating that no such prior objection has been made); (x) statement of whether the objection applies only to the objector, to a specific subset of the class, or to the entire class; and (xi) the objector's signature, in addition to the signature of the objector's attorney (if any)—an attorney's signature alone shall not be deemed sufficient to satisfy this requirement. Failure to include documents or testimony sufficient to establish membership in the Settlement Class shall be grounds for overruling and/or striking the objection on grounds that the objector lacks standing to make the objection. Failure to include any of the information or documentation set forth in this paragraph also shall be grounds for overruling an objection.

To file a written objection, you must electronically file it (see <https://www.cand.uscourts.gov/cases-e-filing/cm-ecf/>) or manually file it, along with any

supporting materials, by sending a copy of your objection to the Court at: Office of the Clerk of Court, United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113. You must mail your objection so that it is *received* (not just postmarked) on or before November 17, 2021.

You or your lawyer may, but are not required to, appear at the Fairness Hearing. If you or your lawyer wish to appear at the Fairness Hearing, you must file with the Court a Notice of Intention to Appear along your written objection.

In addition, you must also send copies of all documents you file with the Court to:

Lawyers for the Settlement Class:		Lawyers for Defendants:
Ryan J. Clarkson Katherine A. Bruce Lauren A. Anderson <b>Clarkson Law Firm, P.C.</b> 22525 Pacific Coast Highway Malibu, CA 90265 <a href="mailto:info@clarksonlawfirm.com">info@clarksonlawfirm.com</a> Tel: (213) 788-4050 Fax: (213) 788-4070	Christopher C. Moon Kevin O. Moon <b>Moon Law APC</b> 600 W. Broadway, Ste.700 San Diego, CA 92101 <a href="mailto:chris@moonlawapc.com">chris@moonlawapc.com</a> ; <a href="mailto:kevin@moonlawapc.com">kevin@moonlawapc.com</a> Tel: (619) 915-9432 Fax: (650) 618-0478	Elizabeth M. Chiarello Robert T. Scarborough Julie M. Becker <b>Sidley Austin</b> 1 South Dearborn Street Chicago, IL 60603 <a href="mailto:echiarello@sidley.com">echiarello@sidley.com</a> ; <a href="mailto:tscarborough@sidley.com">tscarborough@sidley.com</a> ; <a href="mailto:julie.becker@sidley.com">julie.becker@sidley.com</a> ; Tel: (312) 853-7000; Fax: (312) 853-7036

**The Court will only require substantial compliance with the foregoing requirements for submitting an objection. The written objection requirement may be waived upon a showing of good cause.**

## OBJECTION AND OPT-OUT DIFFERENCES

15. What is the difference between objecting and opting out?

Objecting is simply telling the Court that you do not like something about the settlement. You may object only if you stay in the Settlement Class. If you stay in the Settlement Class, you will be legally bound by all orders and judgments of the Court, and you will not be able to sue, or continue to sue, Defendants as part of any other lawsuit involving the same claims that are in this Lawsuit. Opting out is telling the Court that you do not want to be part of the Settlement Class. If you opt out, you have no basis to object because the case no longer affects you.

## THE LAWYERS REPRESENTING YOU

### 16. Do I have a lawyer in the case?

The Court has designated the lawyers at Clarkson Law Firm, P.C., 22525 Pacific Coast Highway, Malibu, CA 90265, and Moon Law APC, 600 West Broadway, Suite 700, San Diego, California 92101, to represent you as “**Class Counsel.**” You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

### 17. How will the costs of the lawsuit and settlement be paid?

The Claim Administrator’s costs and fees associated with administering this settlement, including all costs associated with the dissemination of notice of this settlement, will be paid out of the Settlement Fund and shall not exceed five hundred and thirty thousand dollars (\$530,000.00), plus postage.

Class Counsel’s reasonable attorneys’ fees up to thirty (30%) percent of the Settlement Fund, and costs related to obtaining the settlement, will also be paid out of the Settlement Fund, subject to Court approval and consistent with applicable law.

The Plaintiffs will also request that the Court approve a payment to each of them of up to five thousand dollars (\$5,000) each from the Settlement Fund, as an incentive and service award for their participation as the Class Representatives, including pre-litigation investigations, responding and gathering information and documents as part of their legal obligations in Lawsuit, and participating in the settlement negotiations, as well as taking on the risks associated with litigation (which include recoverable costs if they do not prevail), and for settlement of their individual claims as Settlement Class Member in this Action. These amounts are subject to Court approval and the Court may award less than these amounts.

## THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant Final Approval of this settlement. If you have filed an objection on time, you may attend and you may ask to speak, but you do not have to.

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

The Court will hold a Fairness Hearing at **2:00 PM** on **December 15, 2021**, at the United States District Court for the Northern District of California, San Jose Division, located at 280 South 1st Street, San Jose, CA 95113. The hearing may be moved to a different date or time without additional notice, so please check for updates at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com).

[www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com). At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The judge will only listen to people who have filed a written objection. The Court will also decide how much to pay the Class Representatives and Class Counsel for representing the Settlement Class Members. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

19. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. If you have sent an objection but do not come to the Court hearing, however, you will not have a right to appeal an approval of the settlement. You may also pay another lawyer to attend on your behalf, but it is not required.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intent to Appear" in the *Prescott v. Bayer HealthCare, LLC* litigation. Be sure to include your name, address, telephone number, and your signature as well as the name, address and telephone number of any lawyer representing you (if applicable). Your Notice of Intent to Appear must be postmarked no later than November 17, 2021, and be sent to the addresses listed in Questions 13 and 14. You cannot speak at the hearing if you excluded yourself from the Class.

## IF YOU DO NOTHING

21. What happens if I do nothing at all?

If you are a Settlement Class Member and do nothing, you will not receive a payment from this settlement. And, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the Released Claims in this case, ever again.

## GETTING MORE INFORMATION

22. How do I get more information?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement, download a Claim Form, and review additional case information at [www.MineralBasedSunscreenSettlement.com](http://www.MineralBasedSunscreenSettlement.com). You may also call toll-free 1-877-452-8477. You may also access the Court docket in this case (for a fee) through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov> or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 96113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THE SETTLEMENT OR THE CLAIM PROCESS.**

DATED: July 29, 2021

BY ORDER OF THE UNITED STATES  
COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA