

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA
NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

If You Bought MuscleTech, Six Star, EPIQ, or fuel:one Protein Products Between March 10, 2011, and Tuesday, November 10, 2015 You Could Get a Cash Payment Up to \$300 From a Class Action Settlement

The District Court has authorized this Notice. The Court expresses no views as to the merits of Plaintiffs' claims. This is *not* a solicitation from a lawyer. You are not being sued.

This Notice is to inform you that a class action lawsuit brought on behalf of Consumers that purchased certain Iovate Health Sciences, U.S.A., Inc. ("Iovate" or "Defendant") protein products is currently pending. A proposed Settlement of the lawsuit has been reached with Iovate.

If you bought MuscleTech, Six Star, EPIQ, or fuel:one Protein Products Between March 10, 2011, and Tuesday, November 10, 2015 your legal rights are affected whether or not you act. Please read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT		DUE DATE
SUBMIT A CLAIM FORM	If you would like to receive a payment from this Settlement, you must submit a paper or online Claim Form by the due date listed.	POSTMARKED BY MONDAY, FEBRUARY 8, 2016
EXCLUDE YOURSELF FROM THE CLASS	You may choose to exclude yourself from the Settlement by submitting a written request by the due date listed. This option will allow you to pursue claims against Iovate by filing your own lawsuit at your own expense. However, you will not be able to participate, or receive money from the Settlement.	POSTMARKED BY MONDAY, FEBRUARY 8, 2016
OBJECT TO THE SETTLEMENT	You may write to the Court if you do not like the proposed Settlement by the due date listed. You must be a member of and remain in the Class to submit an objection.	POSTMARKED BY MONDAY, FEBRUARY 8, 2016
DO NOTHING	If you are a member of the Settlement Class and you do nothing, you will not receive any money from the Settlement and will be bound by the terms and conditions of the proposed Settlement, if approved. You will not be able to sue Iovate for the claims in this lawsuit.	

- These rights and options, and the deadlines to exercise them, are further explained in this Notice.
- The Court in charge of this case still has to approve the proposed Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved.
- Unless otherwise stated, the capitalized terms in this Notice are defined in the Settlement Agreement that is available at www.ProteinSettlement.com.

BASIC INFORMATION

1. What is the class action about?

This class action lawsuit was filed by Plaintiff James Eashoo, on behalf of himself and all others similarly situated, against Defendant Iovate. The lawsuit alleges that between March 10, 2011 and Tuesday, November 10, 2015, Defendant engaged in a practice known as "protein spiking," whereby its protein products were "spiked" with amino acids, creatine, and other non-protein ingredients, which Plaintiff claims falsely registered as proteins. Plaintiff alleges that as a result of this practice, Defendant's protein products contained less protein than what Defendant represented. The protein products at issue in this case are sold under the brand names MuscleTech, Six Star, EPIQ, and fuel:one. See Question 4 for further discussion of the protein products involved in this class action.

2. Why is there a Settlement?

Defendant has agreed to settle to avoid the expense, inconvenience, and inherent risk of litigation. Plaintiff and his attorneys agree that the proposed Settlement is in the best interests of the Class because it substantially benefits the Class while avoiding the risk, expense, and delay of pursuing the case through trial and any appeals. The Court has not decided in favor of either side in the case. Defendant denies all material factual allegations and legal claims asserted in the class action, including any and all charges of wrongdoing or liability arising out of any conduct, statements, acts or omissions alleged.

3. Who is included in the Settlement?

The Class is defined as all persons in the United States of America who purchased one or more of Defendant's protein products at any time from March 10, 2011 to Tuesday, November 10, 2015. The protein products at issue in this case are sold under the brand names MuscleTech, Six Star, EPIQ, and fuel:one. See Question 4 for further discussion of the protein products involved in this class action.

4. What Iovate protein products are part of the Settlement?

This class action involves protein supplements manufactured by Iovate, including protein shakes and beverages, both in liquid (ready to drink) and powdered form, as well as, bars and gels sold under the brand names MuscleTech, Six Star, Fuel One, and EPIQ (collectively referred to as the "Protein Products"). A complete list of applicable Protein Products included in the Settlement is as follows:

PROTEIN PRODUCT LIST	
BRAND	PRODUCT
Six Star	Whey Protein Plus Elite Series
Six Star	Whey Protein Plus Professional Strength Elite Series
Six Star	Whey Protein Isolate Elite Series
Six Star	Whey Protein Isolate Professional Strength Elite Series
Six Star	Casein Elite Series
Six Star	Casein Professional Strength Elite Series
Six Star	Muscle Building Milkshake Elite Series
Six Star	Muscle Building Milkshake Professional Strength Elite Series
Six Star	Mass Gainer Professional Strength Elite Series
Six Star	Recovery Protein Elite Series
Six Star	100% Whey Isolate Protein Gel
Six Star	Protein Bars
MuscleTech	MassTech Performance Series
MuscleTech	MassTech
MuscleTech	Nitro-Tech Performance Series
MuscleTech	Nitro-Tech Hardcore Pro Series
MuscleTech	Phase8 Performance Series
MuscleTech	Anabolic Halo Performance Series
MuscleTech	Nitro Isolate 65 Pro Series
EPIQ	Isolate
EPIQ	Gainer
fuel:one	Complex-1

5. What if I am not sure whether I am included in the Settlement?

If you are not sure whether you are included in the Class, you may call 1-866-759-6512 with questions or visit www.ProteinSettlement.com. You may also write with questions to the Claims Administrator at the address listed in Question 16.

THE SETTLEMENT BENEFITS

6. What does the proposed Settlement provide?

Iovate has agreed to pay \$2.5 million for the benefit of the Class into a common fund. This fund will be used to pay all members of the Class that submit timely and valid Claim Forms for purchases of Protein Products ("Participating Claimants"), claims

administration expenses, notice expenses, any attorneys' fee and expense reimbursement award, any incentive award, and tax expenses.

Participating Claimants can recover up to \$300 per household for claims with valid Receipts or Proof of Purchase, or \$50 without Receipts or proof of purchase. Class members can file claims under the following options:

Option 1: Participating Claimants who provide valid Receipts, will receive a refund of the amount(s) shown on the receipt(s), subject to a cap of \$300.00 per household.

Option 2: Participating Claimants who provide valid Proof of Purchase, such as an image of packaging, label, SKU or other evidence deemed sufficient by the Claims Administrator, will receive a refund of the suggested retail price of the Protein Products shown in the Proof of Purchase, subject to a cap of \$300.00 per household.

Option 3: Participating Claimants who do not provide Receipts or Proof of Purchase, but swears or affirms under penalty of perjury that they purchased Protein Products between March 10, 2011 and Monday, November 9, 2015, will receive \$10.00 per Protein Product, subject to a cap of \$50.00 per household.

Participating Claimants can submit a Claim Form which contains a combination of Receipts and Proof of Purchase (Options 1 and 2 above) to substantiate a Claim.

Participating Claimants cannot combine a Claim without a Receipt or Proof of Purchase (Option 3 above) with a Claim that contains Receipts or Proof of Purchase (Options 1 or 2 above).

Multiple Participating Claimants from the same household can submit more than one Claim Form, subject to the cap of \$300.00 per household. If multiple claims are filed from the same household exceeding \$300 will be subject to a pro rata reduction.

The Settlement also requires Defendant to modify the testing, labeling, packaging, and advertising for applicable Protein Products to ensure that amino acids, creatine and other members of the Class that submit timely and valid Claim Forms for purchases of Protein Products ("Participating Claimants") non-protein substances are not included in the protein calculation.

7. How can I get a payment from the Settlement?

In order to receive a payment in the Settlement, you must file a Claim. You can access the Claim Form online at www.ProteinSettlement.com or by calling 1-866-759-6512. You can submit the Claim Form online, or via mail to the address provided on the Claim Form.

8. How much will my payment be?

Payments to individual Class Members will depend on the type and amount of claims as described in Question 7 above. Claims are subject to the household caps of \$300 per household for claims with Receipts or Proof of Purchase, and \$50 per household for claims without Receipts or Proof of Purchase. Payments may be subject to *pro rata* reduction if the total purchases represented in all valid Claims exceeds the available settlement funds. This means each Participating Claimant's recovery would be reduced based on the same percentage as all other class members.

9. What am I giving up by Remaining in the Class?

By submitting a Claim Form or not taking any action, you remain in the Settlement Class give up your right to sue Iovate for the claims being resolved by this Settlement, if the Court approves the proposed Settlement as final. The specific claims you are giving up are described in the First Amended Complaint filed on April 10, 2015 and the Settlement Agreement. Copies of the First Amended Complaint and Settlement Agreement can be obtained at www.ProteinSettlement.com, by calling 1-866-759-6512, or by written request to the Claims Administrator at the address listed in Question 16. If you do not want to be part of the Settlement Class and give up your rights, you must exclude yourself by following the instructions set forth in Question 10 below.

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How can I exclude myself from the Settlement Class?

To exclude yourself from the proposed Settlement, you must send a letter stating that you want to be excluded from the Class in *Eashoo v. Iovate Health Sciences U.S.A., Inc.* A request for exclusion must (a) be submitted by a member of the Class; (b) contain the Class Member's name, address, and telephone number; and (c) be submitted to the Claims Administrator at the address listed in Question 16, postmarked by Monday, February 8, 2016.

OBJECTING TO THE SETTLEMENT

11. How can I tell the Court that I object to the proposed Settlement terms?

Class Members who do not exclude themselves from the Settlement have a right to object to the proposed Settlement. Objections must be filed with the Court, with a copy served on Class Counsel, Counsel for Defendant, and the Claims Administrator at the addresses below, postmarked no later than Monday, February 8, 2016.

Clerk of the Court	Class Counsel	Defendant's Counsel	Claims Administrator
Beverly Reid O'Connell United States District Court of California 312 North Spring Street Los Angeles, CA 90012	Daniel L. Warshaw PEARSON, SIMON & WARSHAW, LLP 15165 Ventura Blvd., Suite 400 Sherman Oaks, CA 91403	Scott J. Ferrell Newport Trial Group, APC 4100 Newport Pl Dr., #800, Newport Beach, CA 92660	Iovate Settlement Claims Administrator P.O. Box 2441 Faribault, MN 55021

The written Objection must contain:

- 1) A caption or title that identifies the writing as an "Objection to Class Settlement in *Eashoo v. Iovate Health Sciences U.S.A. Inc.*, No. 2:15-cv-01726-BRO-PJW";
- 2) Your name, address, and telephone number;
- 3) The name, address, and telephone number of any attorney you've hired to represent you with respect to the objection;
- 4) The factual and legal grounds for the objection, including any documents sufficient to establish the basis for your standing as a Class Member (Example: Receipt, Proof of Purchase, or verification under oath a to the approximate date(s) and locations(s) of your purchase(s) of the Protein Products); and
- 5) Identification of the case name, case number, and court for any prior class action lawsuit in which you and your attorney (if applicable) has objected to a proposed class action settlement, the general nature of such objection(s), and the outcome of said objection(s).

Further information regarding the necessary content and form of a written objection is available in paragraph 8.2 of the Settlement Agreement. A copy of the Settlement Agreement can be found at www.ProteinSettlement.com.

The Court will consider the objections from Class Members. If you intend to appear at the Final Approval Hearing, you must also file with the Court a notice of your intention to appear, either in person or through an attorney, no later than Monday, February 8, 2016. Your notice of intention must list the name, address, telephone number, facsimile number, and email address of the attorney, if any, who will appear. **If you hire an attorney to represent you at the Final Approval Hearing, you must do so at your own expense.**

DO NOTHING AND REMAIN IN THE CLASS

12. What happens if I do nothing?

If you are member of the Settlement Class and you do nothing, you will not receive any money from the Settlement and will be bound by the terms and conditions of the proposed Settlement, if approved. You will not be able to sue Iovate or its related entities for the claims in this lawsuit.

THE PARTIES REPRESENTING YOU

13. Who represents the Settlement Class?

Class Representative. For the purposes of the Settlement, the Court has appointed Plaintiff James Eashoo to serve as the Class Representative. Plaintiff may apply to the Court for an enhancement award of \$5,000 for his service as a Class Representative.

Class Counsel. The Court has appointed Daniel L. Warshaw, Bobby Pouya, Alexander R. Safyan, and Matthew A. Pearson, of Pearson, Simon & Warshaw, LLP, as legal counsel for the Class. Their contact information is available in Question 11 above.

From the start of the lawsuit to the present, Class Counsel have not received any payment for the services they provided in prosecuting the case or obtaining the Settlement, nor have they been reimbursed for any out-of-pocket expenses. When they ask the Court to approve the Settlement, they will also make a motion to the Court for an award of attorneys' fees in an amount not to exceed \$625,000 (25% of the Non-Reversionary Common Fund) and up to \$15,000 in verified costs and

expenses. Any attorneys' fees and costs awarded by the Court will be paid from the Non-Reversionary Common Fund. The Class will not have to pay anything toward the fees or expenses of Class Counsel. Class Counsel will seek final approval of the Settlement on behalf of all Class Members.

The Motion for Attorneys' Fees, Costs, and Enhancement Awards will be filed on or before Monday, January 25, 2016, and will be made available for review online at www.ProteinSettlement.com.

THE FINAL APPROVAL HEARING

14. When and where will the Court hold a hearing on the fairness of the proposed Settlement?

A Final Approval Hearing has been scheduled for Monday, April 4, 2016, at 1:30 p.m., before United States District Judge Beverly Reid O'Connell, Courtroom 14, United States District Court for the Central District of California, 312 North Spring Street Los Angeles, CA 90012-4701. The hearing may be moved to a different date or time by the Court without additional notice. At the hearing, the Court may hear any comments, objections, and arguments concerning the fairness of the proposed Settlement, the amount requested by Class Counsel for attorneys' fees and expenses, and an incentive award for the Class Representative.

15. Do I have to attend the Final Approval Hearing? May I speak at the hearing?

You do not need to attend this hearing to receive a benefit in the Settlement, if approved. You may attend the hearing, but it is not required, to have a comment or objection considered by the Court. If you would like to attend the hearing, please see Question 11 above for additional details and requirements.

FOR MORE INFORMATION

16. Where do I get additional information?

This Notice provides only a summary of the matters relating to the proposed Settlement. For more detailed information, you may wish to review the Settlement Agreement. You can view the Settlement Agreement and get more information at www.ProteinSettlement.com. You can also get more information by calling the Claims Administrator toll-free 1-866-759-6512 or write with questions to:

Iovate Settlement Claims Administrator
P.O. Box 2441
Faribault, MN 55021

PLEASE DO NOT CONTACT THE COURT OR IOVATE HEALTH SCIENCES WITH QUESTIONS ABOUT THE SETTLEMENT.