

## UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

### **If you purchased certain baby products from Babies “R” Us, a class action settlement may affect you.**

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

- A settlement will provide up to \$35.24 million to consumers who purchased the following baby products from Babies “R” Us or Toys “R” Us in the U.S.:

	Purchased between:
BabyBjörn baby carrier	2/2/00 - 4/30/05
Britax car seat	1/1/99 - 1/31/11
any Kids Line product	1/1/99 - 12/31/06
Maclaren stroller	10/1/99 - 1/31/11
Medela Pump In Style breast pump	7/1/99 - 1/31/11
Peg Perego car seat	7/1/99 - 1/31/11
Peg Perego high chair	7/1/99 - 1/31/11
Peg Perego stroller	7/1/99 - 1/31/11

- Your legal rights are affected whether you act or don’t act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against Babies “R” Us and the baby product manufacturers above about the legal claims in this case.
<b>OBJECT</b>	Write to the Court about the fairness of the Settlement.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement.
<b>DO NOTHING</b>	Get no payment. Give up rights.

- Your 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. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

Questions? Visit [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com) or call 1-888-292-8492.

***Para ver un aviso en español, llame el 1-888-292-8492***

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## **I. BASIC INFORMATION**

### **1. Why have I received this notice?**

You may have purchased an eligible baby product from Babies “R” Us. The Court sent you this notice because if you have purchased certain baby products, you have a right to know about a proposed settlement of a lawsuit before the Court decides whether to approve the settlement.

This package explains the lawsuit, the settlement, your legal rights, how to opt out of the settlement, what benefits are available, who is eligible for them, and how to get them. Receipt of this notice does not necessarily mean that you are entitled to receive money from the settlement.

The Court in charge of the case is the United States District Court for the Eastern District of Pennsylvania, and the cases are known as *McDonough v. Toys ‘R’ Us, et al.*, No. 2:06-cv-0242-AB and *Elliott v. Toys ‘R’ Us, et al.*, No. 2:09-cv-06151-AB. The people who brought these cases are called Plaintiffs, and the companies that they sued are called the Defendants.

### **2. What are these lawsuits about?**

Two groups of consumers sued Toys “R” Us, Inc. doing business as Babies “R” Us; Babies “R” Us, Inc.; Toys “R” Us-Delaware, Inc. (collectively referred to as “Babies “R” Us”); BabyBjörn AB; Britax Child Safety, Inc.; Kids Line, LLC; Maclaren USA, Inc.; Medela, Inc.; Peg Perego U.S.A., Inc.; and Regal Lager, Inc., who was Baby Björn’s distributor. The consumers claimed that Babies “R” Us conspired with each of these manufacturers to implement and enforce policies that would prevent competitors of Babies “R” Us from discounting certain baby products.

The consumers argued that the alleged conduct suppressed or eliminated competition that Babies “R” Us faced from Internet retailers in violation of federal antitrust laws. As a result, the consumers claim that Babies “R” Us overcharged consumers for these products.

The companies being sued in these lawsuits dispute these claims. They deny engaging in any conspiracies or any other unlawful conduct. No court or other authority has found that the Defendants participated in any wrongdoing.

### **3. What is a class action?**

In a class action lawsuit, one or more people called “Class Representatives” sue on behalf of people who have similar claims. All of these people are called a “Class,” and they are individually called a “Class Member.” In these lawsuits, there are “Subclasses” based on the kind of baby product a Class Member purchased. People who purchased more than one relevant baby product will be a member of more than one Subclass. One court resolves the issues for all of the Class Members—except for those people who choose to exclude themselves. U.S. District Court Senior Judge Anita B. Brody is overseeing these class action lawsuits.

### **4. What is the current status of the lawsuits?**

Several lawsuits were originally filed in early 2006, and the cases were combined with the *McDonough* class action lawsuit. On December 28, 2009, the *Elliott* class action lawsuit was also filed before Judge Brody. On January 21, 2011, the Plaintiffs and Defendants in both lawsuits agreed to combine and settle both cases together. On January 31, 2011, the Court gave preliminary approval to the settlement.

### **5. Why did the Plaintiffs and Defendants agree to settle?**

Although the Court has not ruled on the merits of the Plaintiffs’ claims, the Plaintiffs agreed to settle the lawsuits with Babies “R” Us, BabyBjörn, Britax, Kids Line, Maclaren, Medela, Peg Perego, and Regal Lager. Based on Plaintiffs’ lawyers’ thorough investigation of the facts and the laws relevant to the lawsuit, the Plaintiffs and their lawyers have concluded that the settlement with the Defendants is in the best interests of the Class Members. However, Regal Lager did not make its agreed-upon contribution to the Settlement Fund, and as a result, Plaintiffs and Class Members have not given up any claims against Regal Lager. The Claim against Regal Lager continues with no promises that it will be successful, will settle, or will be prosecuted. The outcome will depend on factors that develop as the case continues.

Despite Regal Lager’s failure to make its payment, the Plaintiffs have not ended the agreement in its entirety. Therefore, claims against Babies “R” Us, BabyBjörn, Britax, Kids Line, Maclaren, Medela, and Peg Perego, (the “Released Defendants”) will be released upon Court approval of the Settlement.

The Defendants still deny that they acted unlawfully in any way and they have vigorously defended against all of the Plaintiffs' claims. The proposed settlement does not mean in any way that the Defendants admit that any of Plaintiffs' claims are true, and it does not mean that the Court has decided in favor of Plaintiffs or Defendants. The settlement allows everyone to avoid the substantial costs of a trial and gives the people affected compensation.

**II. WHO IS IN THE SETTLEMENT**

**1. What kinds of purchases qualify me to receive money from the settlement?**

Whether you are a Class Member – and thus eligible to receive money from the settlement – depends on where it was purchased, the type of baby product you purchased, and when it was purchased. If you purchased one or more of the specific baby products from Babies “R” Us or Toys “R” Us during specific time periods, then you are eligible to participate in one or more of the Settlement Subclasses.

**2. How do I know if I am a member of a Settlement Subclass?**

The Court has preliminarily decided that persons and entities that purchased certain baby products in the United States directly from Babies “R” Us or Toys “R” Us during specific time periods are Class Members. The Class has been separated into subclasses based on the type and manufacturer of the baby product. You can determine if you are part of one or more of the Settlement Subclasses by using the following chart:

<b>Subclass</b>	<b>Date of Purchase from Babies “R” Us or Toys “R” Us</b>	<b>Product Purchased</b>	<b>Percentage of the Settlement Amount that the Entire Subclass May Receive</b>
<b>BABYBJÖRN SUBCLASS</b>	February 2, 2000 through April 30, 2005	Any BabyBjörn baby carrier	6%
<b>BRITAX SUBCLASS</b>	January 1, 1999 through January 31, 2011	Any Britax car seat	28%
<b>KIDS LINE SUBCLASS</b>	January 1, 1999 through December 31, 2006	Any Kids Line Product	21%
<b>MACLAREN SUBCLASS</b>	October 1, 1999 through January 31, 2011	Any Maclaren stroller	7%
<b>MEDELA SUBCLASS</b>	July 1, 1999 through January 31, 2011	Any Medela Pump in Style breast pump	22%
<b>PEG PEREGO CAR SEAT SUBCLASS</b>	July 1, 1999 through January 31, 2011	Any Peg Perego car seat	3%
<b>PEG PEREGO HIGH CHAIR SUBCLASS</b>	July 1, 1999 through January 31, 2011	Any Peg Perego high chair	4%
<b>PEG PEREGO STROLLER SUBCLASS</b>	July 1, 1999 through January 31, 2011	Any Peg Perego stroller	9%

**3. Can I be in more than one Settlement Subclass?**

Yes. If you fit into the definition of more than one of the Settlement Subclasses, then you are a member of more than one Settlement Subclass, unless you exclude yourself from one or more of them.

**4. What if I still do not know whether I am a member of one or more of the Settlement Subclasses?**

If you still do not know whether you are included in one or more of the Settlement Subclasses, you can ask for free help. You can visit [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com), call 1-888-292-8492, or write to:

Baby Products Antitrust Litigation  
 c/o The Garden City Group, Inc.  
 P.O. Box 9679  
 Dublin, Ohio 43017-4979

### **III. THE SETTLEMENT BENEFITS**

#### **1. How will the funds from the settlement be distributed?**

Settlement funds will be distributed only after the Court approves the settlement and the proposed distribution of the money amongst the subclasses.

The funds from the settlement have been deposited into an interest-bearing escrow account. Such settlement funds, less any amounts approved by the Court for payment of attorneys' fees, reimbursement of litigation expenses, and incentive awards to Settlement Subclass Representatives, will be apportioned among the Settlement Subclasses in accordance with an Allocation Order to be entered by the Court. Each Settlement Subclass Member will be eligible to receive proceeds from the Individual Settlement Fund(s) for the Settlement Subclass(es) in which he or she is a member.

For each Settlement Subclass, the Individual Settlement Fund will be distributed to members of that Settlement Subclass who do not request exclusion from that subclass and who file a proper, validly sworn and timely Claim Form ("Authorized Claimant"). Authorized Claimants who submit documents that the Claims Administrator determines are valid proof of purchase and purchase price shall be entitled to a payment from each Settlement Subclass Fund for which they are eligible in the amount of 20 percent of their actual purchase price of each Settlement Product, or \$5.00, whichever is greater, subject to certain enhancements or reductions. Authorized Claimants who submit documents that the Claims Administrator determines are valid proof of purchase but do not submit proof of an actual purchase price shall be entitled to a payment from each Settlement Subclass Fund for which they are eligible in the amount of 20 percent of the estimated retail price (as calculated by Class Counsel) of each Settlement Product, or \$5.00, whichever is greater, subject to certain enhancements or reductions. Authorized Claimants who do not submit documents that the Claims Administrator determines are valid proof of purchase shall be entitled to a payment from each Settlement Subclass Fund for which they are eligible in the maximum amount of \$5.00, subject to certain reductions.

In any case, the amount of an Authorized Claimant's distribution may not exceed three times the approved claims for each Authorized Claimant. If you are a member of more than one Settlement Subclass, you are eligible to receive settlement proceeds based on your membership in each Settlement Subclass.

Once the Court grants final approval to the settlement, the distribution will take place as soon as practicable after review, determination, and audit of the Claim Forms by the Claims Administrator and approval by the Court of the Claims Administrator's recommendations as to the specific amounts to be paid to the Claimants.

Once the deadlines for Settlement Class Members to submit verified Claim Forms has passed, the Claims Administrator will determine if the claims of Authorized Claimants would exhaust any of the Individual Settlement Funds. As further described in the proposed Allocation Order, in the event that there are excess funds allocated to one or more of the Settlement Subclasses after the claims are satisfied, any such excess funds will be reallocated to exhausted Individual Settlement Funds and, subsequently, to provide up to three times each claimant's approved claim.

#### **2. From which Individual Settlement Funds am I eligible to receive money?**

If you are a member of one or more of the Settlement Subclasses, you are eligible to receive a distribution from the Individual Settlement Fund for each Settlement Subclass of which you are a member.

#### **3. How will the proceeds from the Individual Settlement Funds be distributed?**

Each Individual Settlement Fund will be distributed among the members of the respective Settlement Subclasses that do not request exclusion and who file timely and valid Proofs of Claim. The distribution will be made pursuant to an allocation order to be entered by the Court, the proposed form of which is available at [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com).

#### **4. What does the proposed settlement and proposed allocation provide to the Settlement Subclasses?**

As part of the proposed settlement, the Released Defendants have agreed to make payments totaling \$35,240,000 to the Settlement Fund. Class Counsel and Plaintiffs propose to allocate the Net Settlement Fund—after payments of attorneys' fees, reimbursement of litigation expenses, and incentive awards to Settlement Class Representatives—among each Settlement Subclass based upon the percentage of the overall estimated alleged damages each Settlement Subclass represents. The proposed allocations are described in the chart in Part II and may be adjusted by the Court.

In exchange, Settlement Class Members give up all legal rights to sue Babies "R" Us, BabyBjörn, Britax, Kids Line, Maclaren, Medela, and Peg Perego for the claims in the *McDonough* and *Elliott* cases. These Defendants have made

their agreed upon contributions to the Settlement Fund and will be released from all claims of Class Members for all purchases of relevant baby products during the respective Settlement Subclass periods as more fully described in the Release and Discharge provisions contained in the Settlement Agreement. Even if you choose to object, attend the Fairness Hearing, hire your own lawyer or do nothing at all, if you are a Class Member you will be bound by the Settlement Agreement unless you properly request exclusion.

#### IV. SUBMITTING A CLAIM FORM

##### 1. How do I receive money from the settlement?

To obtain money from the settlement, you must complete and submit the Claim Form included at the back of this notice. This notice is also available at [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com). If you belong to more than one Settlement Subclass, you only need to submit one Claim Form.

The Claim Form must be postmarked, faxed, or submitted online by **August 1, 2011**. Any member of any Settlement Subclass that does not complete and timely return the Claim Form will not be entitled to share in any settlement proceeds unless the Court permits otherwise.

**WARNING: There are companies that may contact Class Members upon learning of a pending class action distribution and offer to help Class Members file claim forms in exchange for a share of the money that the Class Members may ultimately recover. Please be advised that you do not need to use one of these companies. Assistance is available from the Claims Administrator at no cost to you.**

#### V. THE LAWYERS AND CONSUMERS REPRESENTING YOU

##### 1. Do I have a lawyer in this case?

Yes. The Court has appointed the following law firms to represent the Settlement Subclasses:

<b>SPECTOR, ROSEMAN, KODROFF &amp; WILLIS, P.C.</b> 1818 Market Street, Suite 2500 Philadelphia, PA 19103 (215) 496-0300 <a href="http://www.srkw-law.com">www.srkw-law.com</a>	<b>HAGENS BERMAN SOBOL SHAPIRO LLP</b> 1144 West Lake Street, Suite 400 Oak Park, IL 60301-1043 (708) 628-4949 <a href="http://www.hbsslw.com">www.hbsslw.com</a>	<b>WOLF HALDENSTEIN ADLER FREEMAN &amp; HERZ LLC</b> 55 West Monroe Street, Suite 1111 Chicago, IL 60603 (312) 984-0000 <a href="http://www.whafh.com">www.whafh.com</a>
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These three firms are referred to as "Class Counsel." They are experienced in handling antitrust class actions. More information about these law firms, their practices, and their lawyers' experience is available at their websites.

You will not be personally charged for the services of Class Counsel in litigating these cases. You do not need to hire your own lawyer because Class Counsel is working on your behalf. But, if you want your own lawyer, you may hire one at your own expense.

##### 2. How will the lawyers be paid?

Since they filed this case, Class Counsel has not received any payment for their services in prosecuting the lawsuit, nor have they been reimbursed for any out-of-pocket expenses. If the Court approves the proposed settlement, Class Counsel will ask the Court to award them fees of up to 33 1/3 % of the settlement, plus reimbursement of expenses that they incurred in litigation and administering the settlement fund. After this motion is filed with the Court, a copy of this motion will be available at [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com). Defendants have agreed not to oppose such an award of fees and expenses.

Any attorneys' fees and reimbursement of litigation expenses will be awarded only as approved by the Court in amounts determined to be fair and reasonable. If you wish to object to the petition for attorneys' fees and reimbursement of litigation expenses, you may do so, but only by following the instructions in Part VI.

### 3. Will the Plaintiffs receive anything for the time and effort they contributed to the lawsuit?

Yes. The *McDonough* lawsuit was filed by Plaintiffs Carol McDonough, Sara Shuck, Lawrence McNally, Melissa Nuttall, Julie Lindemann, Stephanie Bozzo, Darcy Trzupsek and Yossi Zarfati. The *Elliott* lawsuit was filed by Plaintiffs Ariel Elliott, Beth Hellman, Christine Brooke Logan, Kristi Monville, Sarah Otazo, Kelly Pollock, and Elizabeth Starkman.

As part of the settlement, Class Counsel will ask the Court to award the Plaintiffs \$2,500.00 each for the time and effort they contributed to the prosecution of this litigation. These awards would be paid from the settlement.

## VI. OBJECTING TO THE SETTLEMENT

### 1. How do I object to part of the settlement?

Only members of one or more of the eight Settlement Subclasses who do not request exclusion from the settlement may object. Members can object to (1) the proposed Settlement Subclass allocations or distributions; (2) Class Counsel's request for an award of attorney's fees and reimbursement of litigation expenses; (3) Class Counsel's request for incentive awards for the Plaintiffs; or (4) anything else about the proposed settlement.

If you wish to make an objection, you must mail your written objection to, or file it with, the Clerk of the Court at: 601 Market Street, Philadelphia, Pennsylvania 19106. The written objection must be received and filed with the Court no later than **June 6, 2011**. Copies of any objections must be sent to the following lawyers:

Eugene A. Spector  
SPECTOR ROSEMAN KODROFF & WILLIS, P.C.  
1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
Tel.: (215) 496-0300  
Fax: (215) 496-6611

Mark L. Weyman  
REED SMITH LLP  
599 Lexington Avenue  
New York, NY 10022  
Tel.: (212) 521-5400  
Fax: (212) 521-5450

CO-LEAD COUNSEL FOR PLAINTIFFS AND THE  
SETTLEMENT SUBCLASSES

COUNSEL FOR DEFENDANTS TOYS "R" US, INC.,  
BABIES "R" US, INC., TOYS "R" US-DELAWARE, INC.

You must include in your objection: (i) the name, address, and telephone number of the person objecting and, if represented by a lawyer, of his or her lawyer; and (ii) a proper, validly sworn Claim Form and/or proof of purchase of an eligible baby product. You must also specify, in writing, all of your objections and the basis for those objections, and provide a statement of whether you would like the Court's permission to speak at the Fairness Hearing.

## VII. EXCLUDING YOURSELF FROM THE SETTLEMENT

### 1. How do I ask the Court to exclude me from the settlement?

You must mail a written "Exclusion Request" in a letter saying that you want to be excluded from *McDonough, et al. v. Toys "R" Us, Inc., et al.*, Case No. 06-0242 and *Elliott, et al. v. Toys "R" Us, Inc., et al.*, Case No. 09-6151. Be sure to include your name, address, the Settlement Subclasses to which you belong, and your signature. You must mail your Exclusion Request, postmarked by **June 6, 2011**, to: Baby Products Antitrust Litigation, c/o The Garden City Group, Inc., P.O. Box 9679, Dublin, Ohio 43017-4979.

You may also get an Exclusion Request form at [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com).

### 2. Why would I ask to be excluded?

You may exclude yourself from the Settlement Subclasses for any reason. If you exclude yourself, you won't get any money from this settlement and you cannot object to the settlement. However, you will also not be legally bound by anything that happens in this lawsuit, including the settlement. You may then be able to sue some or all of the Released Defendants for claims that would otherwise be released as a result of the settlement. If you start your own lawsuit against one or more of Released Defendants after you exclude yourself, you'll have to hire and pay your own lawyer for that lawsuit, and you'll have to prove your claims. If you do exclude yourself so you can start your own lawsuit against one or more of the Released Defendants, you should talk to your own lawyer soon because your claims may be subject to a statute of limitations.

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

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

The Court will hold a Fairness Hearing in Courtroom 7-B at the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia, Pennsylvania 19106, on July 6, 2011 at 10 a.m. The Court will consider whether the settlement is fair, adequate and reasonable.

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

No, you do not have to attend the hearing. Class Counsel will answer any questions Judge Brody may have. If you send a written objection, you do not have to attend the hearing to discuss it. As long as you mailed your written objection as instructed in this notice, the Court will consider it. You may also pay your own lawyer to attend.

You may attend the hearing at your own expense. You may speak at the hearing only if you have submitted your objection as instructed and have stated in your objection that you wish to be heard at the Fairness Hearing.

## **IX. IF YOU DO NOTHING**

If you do nothing, you still remain bound by the terms of the Settlement with Babies "R" Us, BabyBjörn, Britax, Kids Line, Maclaren, Medela, Peg Perego, and Regal Lager, but you will not receive any money from the Settlement. You will not be able to be a part of a lawsuit against the Released Defendants about the legal issues in this case ever again.

## **X. GETTING MORE INFORMATION**

This notice is only a summary of the proposed settlement. You may obtain a copy of the Settlement Agreement by visiting [www.babyproductsantitrustsettlement.com](http://www.babyproductsantitrustsettlement.com), calling 1-888-292-8492, or writing:

Baby Products Antitrust Litigation  
c/o The Garden City Group, Inc.  
P.O. Box 9679  
Dublin, Ohio 43017-4979

**Do not contact the Defendants, the Clerk of the Court, or the Judge regarding this notice.**