

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA**

BRIAN FARNETH, on behalf of himself and  
all others similarly situated,

Plaintiffs,

v.

WALMART STORES, INC., t/d/b/a Walmart,

Defendant.

CIVIL ACTION – CLASS ACTION

No. G.D. 13-11472

**NOTICE OF CLASS ACTION SETTLEMENT**

**TO:** All individuals who (a) on or after June 8, 2007, purchased any item(s) from a Walmart store in Pennsylvania that was subject to payment of sales tax, (b) received any discount on that item or those items by virtue of a “buy one, get one free” discount or coupon, a store coupon, or a manufacturer’s coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without deducting the amount of the discount before calculating the sales tax due.

***A COURT AUTHORIZED SENDING THIS NOTICE.***

***This is not a solicitation from a lawyer. YOU ARE NOT BEING SUED.***

On June 8, 2013, Brian Farneth (“Class Representative”) sued Walmart Stores, Inc. (“Walmart”), on behalf of himself and all persons who used a coupon when they purchased a taxable item at a Pennsylvania Walmart store on or after June 8, 2007. Mr. Farneth alleges that Walmart engaged in a pattern and practice of deceptively overcharging state sales tax on the value of coupons tendered for the purchase of taxable goods. He contends that the value of those coupons should have been deducted before the sales tax was calculated. Walmart denies that it did anything wrong, and claims that it properly collected the tax as required by the Pennsylvania Department of Revenue.

On March 21, 2017, the Court allowed this lawsuit to proceed as a class action on behalf of all persons who: (a) on or after June 8, 2007, purchased any item(s) from a Walmart store in Pennsylvania that was subject to payment of sales tax, (b) received any discount on that item or those items by virtue of a “buy one, get one free” discount or coupon, a store coupon, or a manufacturer’s coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without deducting the amount of the discount before calculating the sales tax due.

This case involves several unique and complex claims and defenses relating to Pennsylvania sales tax and the way that sales tax is collected. Some of these claims and defenses have not

been ruled upon previously in Pennsylvania. Recognizing the risk, complexity, expense and probable duration of further litigation, the risk and delay inherent in possible appeals, the uncertainty of whether or when a judgment might even be entered, and the cost of administering any judgment that might be obtained after a trial and appeals, both the Class Representative and Walmart have agreed that it is in the best interest of all parties to settle this litigation.

The Honorable Robert J. Colville of the Court of Common Pleas of Allegheny County, Pennsylvania, has preliminarily approved the terms of the Settlement (described below), subject to this Notice and a Final Fairness Hearing. **This Notice contains important information and deadlines for Class Members. You should read it very carefully.**

### **1. Does this Notice apply to me?**

If you shopped at a Pennsylvania Walmart store on or after June 8, 2007, and used a coupon in purchasing a taxable item (whether a manufacturer's coupon, store coupon, or "buy one get one free" discount or coupon), you are considered a member of the class of persons whose rights may have been affected by Walmart's actions. If you are a Class Member, you will be covered by the terms of the Settlement, if the Court gives final approval, unless you choose to exclude yourself as described below. In order to obtain the benefits of this Settlement, or you will need to submit a claim form as described in this Notice.

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

This lawsuit was commenced on June 8, 2013. In general terms, the Complaint alleges that Pennsylvania law and regulations require retailers like Walmart to deduct the value of coupons tendered before calculating the amount of sales tax owed on the purchase. The Complaint also contends that Walmart's receipts were structured in such a way that the receipts caused confusion and misunderstanding as to the basis for the sales tax. Mr. Farneth also contends that Walmart had the capability to allow its cash register system to deduct the value of the coupon before charging sales tax, but elected not to do so and did not advise the Pennsylvania Department of Revenue of the capability. Walmart denies that it did anything wrong, and contends that, among other things, based on the information it provided to the Department of Revenue, it received an opinion from the Department allowing Walmart to collect the tax. This is only a summary. You can obtain more detailed information as set forth later in this Notice.

### **3. What is a Class Action and why am I involved?**

In a Class Action lawsuit, one or more people, called "Class Representatives" (in this case Brian Farneth), sue on behalf of themselves and others who have similar claims. All of these people together are called a "Class" or "Class Members." Walmart is called the Defendant. In a Class Action, one lawsuit resolves the issues for everyone in the Class, except for those who choose to exclude themselves from the Class.

On March 21, 2017, the Court decided this case should proceed as a Class Action because the Court found that the lawsuit meets the requirements of the Pennsylvania Rules of Civil Procedure that govern Class Actions. In general, the Court found that there are legal questions and facts common to all Class Members, that the claims of Brian Farneth are typical of the claims of the rest of the Class, that these common questions are more important than questions affecting only individuals, and that the Class Action will be more efficient than thousands of individual lawsuits. The Court also found that Mr. Farneth, and the attorneys representing the Class, will fairly and adequately represent the interests of the Class. Once the case proceeds as a Class Action, all Class Members are bound by any court decision or settlement unless those Class Members take steps to exclude themselves from the case.

#### **4. Has the Court decided who is right?**

The Court of Common Pleas has not decided whether the Class or Walmart is correct. By authorizing this Notice, the Court is not suggesting which party will win or lose this case if there is a trial. However, if the Class Action Settlement is approved, there will not be any trial.

#### **5. What did the Class Representative ask for in the lawsuit?**

The Class Action Complaint asks the Court and/or a jury to find that Walmart engaged in a pattern of unfair trade practices which resulted in overcharging sales tax. The Complaint also asks the Court and/or a jury to require Walmart to reimburse all Class Members for any losses, and in addition, to pay all Class Members a statutory damage under the Pennsylvania Unfair Trade Practice and Consumer Protection Law. The Class Representative also seeks payment of all counsel fees and expenses from Walmart. Walmart denies that it did anything wrong, and contends that it fully complied with the law.

#### **6. Am I a member of the Class?**

Judge Colville decided that the Class consists of all individuals who (a) on or after June 8, 2007, purchased any item(s) from a Walmart store in Pennsylvania that was subject to payment of sales tax, (b) received any discount on that item or those items by virtue of a “buy one, get one free” discount or coupon, a store coupon, or a manufacturer’s coupon, and (c) was charged or paid sales tax on the original purchase price of the item(s) without deducting the amount of the discount before calculating the sales tax due.

If you meet the above criteria, you are a member of the Class. You will share in, and be bound by, a final settlement unless you choose to exclude yourself as set forth below. If for some reason you do not meet the above criteria, you are not a member of the Class, even though you received or viewed this Notice. If you are not sure whether you are a Class Member, you can get free help by emailing, calling, or writing to the Claims Administrator at the phone number or address listed below. **DO NOT CALL THE COURT, THE PARTIES, OR THEIR COUNSEL.**

## **7. What if I do nothing at all?**

If you are a Class Member, and you wish to participate in the Settlement and receive a part of the Settlement, **YOU MUST SUBMIT A CLAIM FORM AS EXPLAINED BELOW, BY THE CLAIM SUBMISSION DEADLINE.** The amount you will receive from the Settlement will depend on several factors, such as the number of timely and proper claims received, and whether the Court grants final approval. However, **at the present time the proposed distribution for each claimant is \$30, and the maximum proposed distribution is \$100.** If you disagree with the Settlement, you will have the ability to object before the Court approves any settlement, if you have not asked to be excluded, and if you strictly follow the objection procedure summarized below, or at [www.walmartcouponclassaction.com](http://www.walmartcouponclassaction.com).

## **8. Why would I ask to be excluded?**

If you already have a lawsuit against Walmart for similar claims and want to continue with it, or if you do not agree with the claims made in this lawsuit, you may ask to be excluded from the Class. If you remove yourself from the Settlement (sometimes called “opting out”) you will not get money or benefits from this Settlement. However, you may be able to sue or make a claim against Walmart on your own. If you start your own lawsuit or claim against Walmart after you exclude yourself, you will have to independently prove your claims, and you may have to hire and pay your own lawyer. If you do choose to exclude yourself, you should talk to your lawyer soon, because your claims may be subject to a statute of limitations, which means you only have a certain amount of time to file your own lawsuit. Untimely claims may be forever barred.

## **9. How do I ask the Court to exclude me from the Class?**

To be excluded, you must send an “Opt-Out Letter” by printing and submitting or mailing the Opt-Out Form, with all required information, which you can get by clicking [here](#). The letter must be signed by you, and must be filled out completely. You must submit your Opt-Out Letter by **November 14, 2018**. Once you choose to opt out, your election is irrevocable and cannot be changed.

## **10. Do I have an attorney in this case, or do I need to get my own?**

The Court has certified the Pittsburgh law firm of Rothman Gordon, P.C., as Class Counsel. These are the lawyers who represent the Class Members. Unless you choose to exclude yourself from the Class or object, you do not need to hire an attorney because Class Counsel is working on your behalf if you are a Class Member. If you want to hire your own lawyer, you will have to pay that lawyer. You can ask him or her to appear in a Court for you if you want someone other than Class Counsel to speak for you regarding the Settlement.

## 11. What are the terms of the Proposed Settlement?

Walmart has agreed to pay a minimum of \$21,500,000, up to a maximum of \$45,000,000, toward settlement of the Class Action. From these amounts, up to \$300,000 would be paid to the Claims Administrator for its services in connection with the claim and payment process. Up to \$50,000 would be paid to Brian Farneth as a service fee for his services and efforts as Class Representative, and up to \$15,900,000 would be paid to Rothman Gordon, P.C., for its services and expenses as Class Counsel over the last five years of litigation and appeals. After payment of these expenses, it is expected that **Class Members will be eligible to receive a Gift Card of \$30, up to a maximum of \$100**, depending on the number of claims submitted. These Gift Cards can be used at any Walmart or Sam's Club stores, or online. No minimum purchase is required.

The total payable by Walmart to Class Members will depend on several factors, including the number of verified claims submitted, the number of Class Members, if any, who elect to "opt out" of the Settlement, the additional fees and costs incurred in addressing any objections, and the ultimate approval of the Settlement by the Court.

Class Members who submit proper, timely, and verified claim forms will receive a Gift Card that can be used at any Walmart or Sam's Club store, or online at walmart.com or samsclub.com. There will be no minimum purchase requirement.

## 12. How do I submit a Claim Form?

To submit your claim, click [here](#) or go to [www.walmartcouponclassaction.com](http://www.walmartcouponclassaction.com) and provide all of the information required. You may submit only one Claim. Once submitted, the Claims Administrator, who has been approved by the Court, will determine and confirm the validity of your Claim and information. If you are unable to submit a Claim or other required information electronically, you may contact the Claims Administrator as instructed on the above website, or by calling (855) 569-5890, toll-free.

## 13. What if I want to object to the Settlement?

If you do not elect to opt out, but wish to object, you must file a written objection with the Court, signed by you or your attorney, within the time set forth below. The objection must include evidence of your eligibility as a Class Member, as well as detailed reasons why you object to the Settlement. The Court also requires any objectors to either post a bond/security in the amount required by the Pennsylvania Rules of Civil or Appellate Procedure (or as otherwise determined by the Court), OR to provide evidence that you cannot afford to pay any bond/security. You may present your objections in person or through an attorney (hired at your expense) at the Final Fairness Hearing, at which time the Court will consider and rule on your objection, and determine what bond, if any, you will need to post. More specific information and requirements for filing objections can be found on the Settlement Website ([www.walmartcouponclassaction.com](http://www.walmartcouponclassaction.com)).

**14. What are the deadlines?**

**PLEASE UNDERSTAND THAT THESE DEADLINES ARE IMPORTANT. YOUR FAILURE TO ACT BY THE RELEVANT DEADLINE WILL RESULT IN A DENIAL OF YOUR ABILITY TO PARTICIPATE.**

The following strict deadlines and hearing date have been set by the Court:

- (a) Deadline for submitting claim forms: **November 22, 2018**
- (b) Deadline for written opt-out requests: **November 14, 2018**
- (c) Deadline for filing/service of objections: **November 14, 2018**
- (d) Deadline to notify the Court and parties that you or your attorney will appear at the Final Hearing: **November 14, 2018**
- (e) Date of Final Fairness Hearing:<sup>1</sup> **November 19, 2018 at 8:30AM**

**15. What if I still have questions?**

If you have questions that are not answered by viewing this Notice or visiting the Settlement Website ([www.walmartcouponclassaction.com](http://www.walmartcouponclassaction.com)), **DO NOT CONTACT THE COURT.** All questions should be directed to the Claims Administrator:

**Walmart Coupon Class Action Settlement  
Claims Administrator  
c/o A.B. Data, Ltd.  
P.O. Box 173053  
Milwaukee, WI 53217  
Toll-Free Settlement Help Line: (855) 569-5890**

AUTHORIZED BY THE COURT:

/s/ Robert J. Colville, J.

Court of Common Pleas of  
Allegheny County, Pennsylvania

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<sup>1</sup> The Final Hearing will take place in Courtroom 815 of the City-County Building, located at 414 Grant Street, Pittsburgh, PA 15219.