

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 1782-CV-01309

ANNA RUBENACKER, on behalf of
herself and all others similarly situated,
Plaintiff,

v.

NORTH CANTON DONUTS, INC.,
Defendant.

CONSOLIDATED WITH:

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 1782-CV-01308

ANNA RUBENACKER, on behalf of
herself and all others similarly situated,
Plaintiff,

v.

WASHINGTON STREET DONUTS, INC.,
Defendant.

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

TO: ALL CUSTOMERS WHO ORDERED A PRODUCT, SUCH AS A BAGEL, WITH BUTTER, BUT INSTEAD RECEIVED MARGARINE OR BUTTER SUBSTITUTE AT ONE OF THE DUNKIN' DONUTS STORES OWNED OR OPERATED BY DEFENDANTS OR OWNED OR OPERATED BY CERTAIN AFFILIATES OF DEFENDANTS.

PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF THIS CLASS ACTION AND, IF YOU ARE A CLASS MEMBER, CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHTS CONCERNING THE SETTLEMENT DESCRIBED BELOW.

CLAIMS DEADLINE: TO POTENTIALLY SHARE IN THE SETTLEMENT PROCEEDS, CLASS MEMBERS MUST IDENTIFY THEMSELVES TO ONE OF THE DUNKIN' DONUTS STORES (LISTED BELOW) AND OBTAIN A VOUCHER AS DESCRIBED BELOW, ON OR BEFORE NOVEMBER 21, 2018.

OBJECTION AND OPPOSITION DEADLINE: OBJECTIONS TO THE PROPOSED SETTLEMENT AND OPPOSITION TO THE FEE AND EXPENSE APPLICATION MUST BE MADE AS PROVIDED BELOW ON OR BEFORE NOVEMBER 2, 2018.

INTRODUCTION

PLEASE TAKE NOTICE that the Court has entered an Order giving preliminary approval of a settlement and provisional class certification in the above-titled class action lawsuit brought against the Defendants named above (“Defendants”).

A hearing to consider final approval of the settlement has been scheduled for NOVEMBER 28, 2018.

This notice summarizes the substance of the lawsuit and your rights and obligations as a member of the settlement class. This notice is not to be construed as an expression of any opinion by the Court with respects to the merits of the claims asserted in the complaint in the case. Please read the notice carefully.

DESCRIPTION OF THE LITIGATION

On October 16, 2017, plaintiff Rubenacker (“Plaintiff”) sent Defendants a demand pursuant to the Massachusetts Consumer Protection Act on behalf of the Class, alleging that Defendants’ Dunkin’ Donuts stores provided a butter substitute to customers who ordered a baked good with butter.

Plaintiff filed Complaints (now known as the “Consolidated Actions”) against Defendants on October 20, 2017. Thereafter, on February 8, 2018, Plaintiff filed an amended class action complaint.

The amended complaint alleges that Defendants’ Dunkin’ Donuts stores, without notice to Class Members, provided margarine or a butter substitute (hereafter “butter substitute”) instead of butter when Class Members ordered a baked good (*e.g.*, a bagel or muffin) with butter.

The Dunkin’ Donuts stores where vouchers are available are located at the following locations only:

- (1) 330 Boston Post Road, Marlboro, MA 01752
- (2) 684 Centre Street, Jamaica Plain, MA 02130
- (3) 242 Bussey Street, East Dedham, MA 02026
- (4) 155 Spring Street West Roxbury, MA 02132
- (5) 1316 Beacon Street, Brookline, MA 02446
- (6) 8 Harvard Street, Brookline, MA 02446
- (7) 265 Boylston Street, Brookline, MA 02445
- (8) 1008 Beacon Street, Brookline, MA 02446

- (9) 800 Washington Street, Norwood, MA 02062
- (10) 400 Washington Street, Westwood, MA 02090
- (11) 141 Nahatan Street, Norwood, MA 02062
- (12) 395 Providence Highway, Dedham, MA 02026
- (13) 3 Roche Bros Way, Unit F, North Easton, MA 02356
- (14) 285 Washington Street, North Easton, MA 02356
- (15) 269 East Main Street, Marlboro, MA 01752
- (16) 54 Main Street, Marlboro, MA 01752
- (17) 681 Boston Post Road, Marlboro, MA 01752
- (18) 915 High Street, Westwood, MA 02090
- (19) 5 Stockwell Drive, Avon, MA 02322
- (20) 28 Dykeman Way, Stoughton, MA 02072
- (21) 98 Central Street, Wellesley, MA 02482
- (22) 1955 Beacon Street, Brighton, MA 02135
- (23) 15 Commonwealth Avenue, Chestnut Hill, MA 02467
- (24) 1659 Beacon Street, Brookline, MA 02445
- (25) 199 Lakeside Avenue, Marlboro, MA 01752
- (26) 806 Providence Highway, Dedham, MA 02026
- (27) 688 Providence Highway, Dedham, MA 02026
- (28) 270 Main Street, Medfield, MA 02052
- (29) 563 Main Street, Medfield, MA 02052
- (30) 115 Providence Highway, Westwood, MA 02090
- (31) 871 Main Street, Millis, MA 02054
- (32) 138 Needham Street, Newton, MA 02464
- (33) 940 Boylston Street, Newton, MA 02461
- (34) 1148 Beacon Street, Newton, MA 02461
- (35) 145 Sharon Street, Stoughton, MA 02072
- (36) 22 Washington Street, Canton, MA 02021
- (37) 725 Washington Street, Canton, MA 02021
- (38) 960 Providence Highway, Norwood, MA 02062
- (39) 5305 Washington Street, West Roxbury, MA 02132
- (40) 1202 Providence Highway, Norwood, MA 02062
- (41) 757 Centre Street, Jamaica Plain, MA 02130
- (42) 36 Sawmill Lane, Dedham, MA 02026
- (43) 776 South Main Street, Sharon, MA 02067
- (44) 1516 Turnpike Road, Stoughton, MA 02072
- (45) 360 Turnpike Street, Canton, MA 02021
- (46) 1435 VFW Parkway, West Roxbury, MA 02132
- (47) 491 Walpole Street, Norwood, MA 02062
- (48) 518 Salem Street, Wakefield, MA 01880
- (49) 2790 Washington Street, Canton, MA 02021
- (50) 208 Providence Highway, Westwood, MA 02090

SETTLEMENT BENEFITS FOR CLASS MEMBERS

The settlement agreement, subject to final Court approval, provides that the above-listed stores will provide a voucher for one free bagel or muffin to each customer who ever ordered a baked good with butter but alleges to have instead received margarine or a butter substitute from any of the above-listed stores at any time prior to SEPTEMBER 4, 2018 (the “Class Period”), subject to conditions discussed herein.

Notices are posted in each of the above-listed stores notifying customers of this proposed settlement. Each customer who identifies himself as a Class Member is to be given a voucher entitling the customer to one free bagel or muffin, up to a maximum of three vouchers per customer, provided that the above stores are only obligated to provide no more than one-thousand seven hundred (1,700) vouchers in total. To be clear, each voucher entitles the Class Member to one free baked product, and there is a three-voucher limit per customer. The vouchers may be presented for either one free muffin or one free bagel *only after final approval of the settlement*. If the proposed settlement receives final approval from the Court, a notice will be posted in each of the above-listed stores informing Class Members of the approval and informing class members that vouchers may be presented for either one free muffin or one free bagel during the period of sixty-five (65) days following the date upon which the Final Approval of the Court becomes effective (“Redemption Period”).

Defendants have also agreed to either not (i) offer a butter substitute in their stores, or if Defendants sell a butter substitute in their stores, the Defendant that does so will provide notice to the customer of the use of a butter substitute by posting a placard at the front counter and, as applicable, the drive-thru window, provided, however that Defendants and the reserve the right to make changes to such business practices if a change in law allows such change and/or if there is a change in Dunkin’ Donuts brand standards that requires such change.

Unclaimed Vouchers/Funds. The Parties agree that for any remaining Vouchers which were not distributed and for any Vouchers which are not redeemed during the Redemption Period, the cash equivalent of said Vouchers shall be paid to a local food pantry. For purposes of this Agreement, the cash equivalent of one Voucher shall be equal to \$1.50.

THE COURT'S PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION ORDER

On, OCTOBER 3, 2018, the Norfolk County Superior Court entered an order granting preliminary approval of the class settlement and provisional class certification under Massachusetts Rule of Civil Procedure 23 and M.G.L. c. 93A.

The Court appointed Plaintiff as class representative for settlement purposes only.

The Court also scheduled a Final Approval Hearing to be held on, NOVEMBER 28, 2018, or such further date to which the hearing may be continued.

A Final Approval Hearing shall be held on the date above, or such further date to which the hearing may be continued, in order to: (i) determine whether to grant final approval to the Settlement Agreement; (ii) consider any timely objections and oppositions to the Settlement and all responses

to objections by the Parties; and (iii) rule on the Fee and Expense Application. At the Final Approval Hearing, the Parties shall ask the Court to give final approval to the Settlement Agreement.

RIGHTS AND OPTIONS OF CLASS MEMBERS

If you are a member of the Class described above, you should understand and carefully consider the following:

The final judgment entered in this case will be binding upon all Class Members, including you. All members of the Class, including you, will be represented by the attorneys for the Class identified in this notice as Class Counsel.

The Final Approval Hearing will be held at 2:00 p.m. on NOVEMBER 28, 2018, in Courtroom No. 10, of the Norfolk Superior Court, 650 High Street, Dedham, Massachusetts.

You may object to the proposed settlement or oppose the Fee and Expense Application, provided that you file a written statement of objection with the Court at the following address and serve copies on Class Counsel and Defendants' Counsel (listed below) **NO LATER THAN: NOVEMBER 2, 2018**.

To the Court:

Norfolk Superior Court
Civil Clerk's Office

Re: Case No.: CA No. 1782-CV-01308 & CA No. 1782-CV-01309
650 High Street
Dedham, MA 02026

And to Class Counsel:

David J. Relethford, Esq.
Michael C. Forrest, Esq.

**Re: Rubenacker v. North Canton Donuts, Inc. &
Rubenacker v. Washington Street Donuts, Inc.**

Forrest, LaMothe, Mazow,
McCullough, Yasi & Yasi, P.C.
2 Salem Green, Suite 2
Salem, MA 01970

And to Defendants' Counsel:

Christopher J. Menihan, Esq.
Lisa & Sousa, LTD

**Re: Rubenacker v. North Canton Donuts, Inc. &
Rubenacker v. Washington Street Donuts, Inc.**

5 Benefit Street
Providence, RI 02904

To be effective, any objection must contain:

- (i) a heading which properly refers to the Action;
- (ii) the name, address, telephone number and signature of the Class Member filing the objection;
- (iii) a statement whether the objector intends to appear at the Final Approval Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, BBO #, address and phone number;
- (iv) a statement of the legal and factual bases for each and every objection, and if through counsel, a legal memorandum in support of the objection;
- (v) a description of any and all evidence the objector may offer at the Final Approval Hearing, if the objector intends to speak or otherwise offer evidence at the hearing; and
- (vi) documentary proof of membership in the Settlement Class.

If the Class Member is represented by an attorney, he/she or it must comply with all applicable Massachusetts laws and rules for filing pleadings and documents in Massachusetts courts. The objection or opposition, to be effective, also must be sent by the objector or opposer or a legally authorized representative on an individual basis and not as part of a group, class or subclass. Any Settlement Class Member who fails to timely file such a written statement of his/her or its intention to object or oppose shall be foreclosed from making any objection to this Settlement Agreement and from filing any opposition to the Fee and Expense Application, except as permitted by the Court.

ATTORNEYS' FEES AND EXPENSES

The expenses that are incurred in the prosecution of the action on behalf of the class representative and Class are being advanced by their attorneys, identified above. If you remain a member of the Class, you will have no personal responsibility of liability for any attorneys' fees or expenses of Class counsel. If the settlement is approved, the fees and expense reimbursement for Class counsel will be set by the Court. Class Counsel shall seek from the Court approval of the reimbursement of fees and expenses as well as a representative Stipend for Plaintiff in an amount that shall not exceed \$65,000.00. These payments of a representative stipend and an award of the reimbursement of attorneys' fees and expenses shall be paid separate and apart from the Class relief set forth herein.

EXAMINATION OF PAPERS OR QUESTIONS

The above description of allegations, responses and other matters in this action constitute a summary, they do not fully describe the aspects of the case. The pleadings in this action are public records and are available for inspection during the regular business hours at the Norfolk Superior Court Civil Clerk's Office, 650 High Street, Dedham, MA 02026

If you have any questions with respect to this action, about this notice, or to receive notice as to when a voucher may be used, you may contact: Attorney David J. Relethford or Attorney Michael C. Forrest at Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi, P.C., 2 Salem Green, Salem MA 01970, telephone (877)-599-8890.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE REGARDING ANY QUESTIONS.