

**If you received a Hepatitis A vaccination, a blood test, or immune globulin (“IG”) shot within 14 days of consuming food or drink products prepared at the bartaco restaurant located 1 Willett Avenue, Port Chester, New York, you could be eligible to share in a Class Action Settlement valued at \$125,000.**

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

- You can make a claim for your share of \$125,000 if you submit a claim by **APRIL 3, 2020** and qualify as a Class Member.
- Please read this Notice carefully. Your legal rights may be affected whether or not you act.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>SUBMIT A CLAIM BY APRIL 3, 2020</b>	You must submit a claim to receive a payment from the Settlement. See Question 5, 7 and 8 below.
<b>EXCLUDE YOURSELF BY APRIL 3, 2020</b>	Excluding yourself from the Settlement Class is the only option that allows you individually to sue the Defendant about the claims in this case. See Questions 8, 9, and 14 for specifics.
<b>OBJECT BY APRIL 3, 2020</b>	You can file an objection with the Court explaining why you disagree with the Settlement, the requested attorneys’ fees and litigation expenses, and/or the Class Representative awards. See Questions 8, 10, and 14 for specifics.
<b>GO TO THE HEARING ON APRIL 30, 2020</b>	Ask to speak to the Court about the Settlement. See Questions 8, 10, and 14 below.
<b>DO NOTHING</b>	If you do nothing, then you will not receive payment from the Settlement and you will give up any rights you currently may have to separately sue the Defendant for the conduct that is the subject of this litigation.

**1. Why should I read this Notice?**

This Notice explains your rights and options in the proposed settlement of the lawsuit entitled *Lajqi, et al., v. Bar Taco Port Chester, LLC d/b/a “bartaco”*, INDEX NO. 68455/2017, pending in the Supreme Court of Westchester County (the “Settlement”). To be eligible to receive a share of the Class Fund, you must follow the steps described in this Notice and submit a valid and timely claim no later than **APRIL 3, 2020**. If you want to be excluded (opt-out) or to object to the Settlement, you must follow the steps described in this Notice no later than **APRIL 3, 2020**.

**2. What is the lawsuit about?**

The Defendant in this litigation is Bar Taco Port Chester, LLC doing business as “bartaco” (the “Defendant”), which owns the restaurant located at 1 Willett Avenue, Port Chester, NY 13165 (the “Port Chester bartaco”).

Plaintiffs' named representative, Kushtrim Lajqi ("Class Plaintiff"), acting on behalf of himself and others similarly situated, has asserted claims against the Defendant concerning a potential exposure that occurred at the Port Chester bartaco where an employee was confirmed to have been infected with the Hepatitis A virus ("HAV").

On October 25, 2017, the Westchester County Health Department and the New York State Department of Health (jointly referred to as "DOH") announced that they had confirmed a case of Hepatitis A in a food service worker employed at the Port Chester bartaco. The announcement stated that public health officials were stressing that there was a low risk of contracting illness; however, individuals who had not been previously vaccinated for Hepatitis A and who consumed food or drink from the Port Chester bartaco between October 12, 2017, and October 23, 2017 should consider treatment and attend a free clinic.

The Plaintiffs are seeking reimbursement of the cost of receiving a blood test, IG shot, and/or HAV vaccinations (collectively referred to as "Treatment") and compensation for the inconvenience and discomfort for the same, in response to the DOH alert described above.

The Defendant expressly denies any wrongdoing and does not admit or concede any actual or potential fault, wrongdoing or liability in connection with any facts or claims that have been or could have been alleged against them in the litigation but consider it desirable for this litigation to be settled and dismissed.

### **3. Who is covered by the Settlement?**

For the purposes of the Settlement, the "Class" is defined as follows:

All persons (a) who were potentially exposed to Hepatitis A virus ("HAV") as a result of the consumption of food or drink prepared at a restaurant owned by the Defendant Bar Taco Port Chester, LLC, known as "bartaco" restaurant, located at 1 Willett Avenue, Port Chester, New York 13165 (the "Restaurant"), between October 12, 2017, and October 23, 2017 (the "Class Period"), and (b) who obtained a blood test, HAV vaccine, or immune globulin (IG) shot within 14 days after such potential exposure.

Persons employed at the Restaurant during the Class Period are excluded from the Class.

### **4. How Much Money Will I Receive?**

This Settlement provides two types of relief to members of the Class ("Class Members"):

- **General Damages:** The proposed General Damages Settlement provides for payment of general damages to each Class Member who submits a timely, qualified claim ("Claimant"). Each Claimant will receive as general damages a pro-rata share of the aggregate class amount of \$100,000.00. Per person compensation will not exceed \$100.00, although it may be less than \$100.00 based on the number of claims received.
- **Special Damages:** The proposed Special Damages Settlement provides for special damages to be paid up to a limit of \$25,000.00 in total compensation to the Class for reimbursement of documented, out-of-pocket expenses to Class Member who did not obtain free Treatment from a DOH facility. For example, if you have documentation showing the amount you paid for Treatment (whether the full amount or a partial payment), such documented amounts qualify for compensation as special damages. **The amount paid by your insurer or by**

**others is not recoverable as special damages.** Each Claimant will receive 100% of their special damages, unless the total amount of special damages claims submitted by all Class Members exceeds \$25,000.00; then each Class Member who submits a claim for special damages would receive a pro-rata share of the aggregate Special Damages Settlement of \$25,000.00.

Any remainder from the Special Damages fund will be added to the General Damages fund if the per person compensation amount is less than \$100.00. Any remainder from the General Damages fund will be added to the Special Damages fund if the aggregate of Special Damages claims exceeds \$25,000.00. Any remaining funds in either the General Damages fund or the Special Damages fund that are not distributed will be returned to the Defendant.

#### **5. Am I a Qualified Claimant?**

To be a Qualified Claimant, you must (a) be a Class Member as defined above in Question 3; (b) submit a complete and signed claim form that attests under penalty of perjury to your membership in the Class, your receipt of Treatment, and that you did not previously have HAV or that you did not previously receive an HAV vaccination prior to your October 2017 exposure to HAV at the Port Chester bartaco; (c) if your Treatment was not provided by the DOH, then your claim form must be submitted with documentation from your medical provider showing your receipt of Treatment; and (d) to be a Special Damages Qualified Claimant, you must show out-of-pocket payment(s) for Treatment through the submission of receipts.

#### **6. Will there be Compensation Paid to the Named Representative?**

In addition to the above, the named Class Plaintiff, Kushtrim Lajqi, will receive \$1,000.00 in compensation paid by the Defendant. This payment will not reduce the funds available to pay claimants.

#### **7. How do I make a claim?**

To make a Qualified Claim, you must submit a completed and signed claim form. Your claim must be received by the Settlement Administrator on or before **APRIL 3, 2020**. A claim form can be obtained by downloading the form at **www.PortChesterHepA.com** or by calling **1-800-641-6530**.

Is supporting documentation required?

- If your Treatment was **not** provided by the DOH, then you will need to show receipt of a blood test, HAV vaccine, or IG shot by providing treatment documentation from a medical provider.
- If you are seeking Special Damages, then receipt(s) for out-of-pocket Treatment expenses is required.

Return your completed claim by mail or email to the Settlement Administrator so that it is received no later than **APRIL 3, 2020**. The mailing address of the Settlement Administrator is:

Bartaco Claims  
c/o The Notice Company  
P.O. Box 455  
Hingham, MA 02043

To return your claim by email, send your signed and scanned document to: **claims@PortChesterHepA.com**.

You must complete and submit a separate claim form for each person who received Treatment. **FAILURE TO SUBMIT A VALID AND TIMELY CLAIM FORM SO THAT IT IS RECEIVED BY APRIL 3, 2020 WILL BAR YOU FROM RECEIVING PAYMENT FROM THE SETTLEMENT.**

## **8. What are my options?**

In order to receive a portion of the Settlement, you must submit a valid claim form so that it is received by **APRIL 3, 2020**. You will not be charged anything individually to remain in the Class. Alternatively, you may exclude yourself from the Class as described below. **If you exclude yourself from the Class, you may not submit a claim form.**

Any potential class member who wishes to do so may object to the Settlement and/or enter an appearance in this litigation through his or her own attorney but must pay separately for the fees and expenses incurred by that attorney. Should you decide to enter an appearance in this litigation, you must still submit a qualified and timely claim form in order to receive payment.

If you choose to do nothing, then you will not receive payment from the Settlement and you will give up any rights you currently may have separately to sue the Defendant for the conduct that is the subject of this litigation.

## **9. Can I exclude myself from the Settlement?**

Yes. You can exclude yourself from the Settlement. If you exclude yourself from the Settlement, you may not submit a claim and you will not be entitled to receive payment from the Settlement. Any person who would otherwise be a member of the Class may be excluded from the Settlement by mailing a written request for exclusion to the Settlement Administrator to the following address:

Exclusions – Bartaco Settlement  
c/o The Notice Company  
P.O. Box 455  
Hingham, MA 02043

To be valid, your exclusion request must be received no later than **APRIL 3, 2020**. Your request for exclusion must (a) state your full name and mailing address, (b) be signed and dated, and (c) state that you “Request to be excluded from the Port Chester Bartaco Hepatitis-A Class Action (Index No. 68455/2017) in the State of New York”. A member of the Class submitting such a request will be deemed excluded from the Class and from the Settlement.

Any potential member of the Class who does not file a timely written request for exclusion will be bound by the Settlement and all subsequent proceedings, orders and judgments in this lawsuit, even if that member of the Class does not submit a claim.

## **10. Can I object to the Settlement?**

Any member of the Class who has not filed a written request for exclusion and who wishes to object to the fairness, reasonableness, or adequacy of the Settlement must serve a notice of intent to appear and/or object, together with copies of any papers the Class Member intends to present to the Court in connection with such objection, on the Class Counsel and Defendant’s Counsel, no later than **APRIL 3, 2020**.

A copy of the notice of intent to appear and/or object and any accompanying papers must also be filed with the Court no later than **APRIL 3, 2020**.

**COURT ADDRESS:** Westchester County Supreme Court  
111 Dr. Martin Luther King, Jr. Blvd  
White Plains, NY 10601

**CLASS COUNSEL ADDRESSES:** Paul V. Nunes, Esquire  
**Heisman Nunes & Hull LLP**  
69 Cascade Drive, Suite 102  
Rochester, NY 14614

William D. Marler, Esquire  
**Marler Clark, LLP, PS**  
1012 First Avenue, Fifth Floor  
Seattle, WA 98104

**DEFENDANT'S COUNSEL ADDRESS:** Phillip A. Oswald, Esquire  
**Rupp Baase Pfalzgraf Cunningham LLC**  
25 Walton St  
Saratoga Springs, NY 12866

Class Members may make such appearances or objections either on their own or through attorneys hired at their own expense. If an attorney will represent any such Class Member, he or she must (i) file a notice of appearance with the Court no later than **APRIL 3, 2020**, and (ii) serve a copy on the Class Counsel and on the Defendant's Counsel. Any such Class Member or their counsel may, with notice, obtain access at the offices of Heisman Nunes & Hull LLP, at the address listed above, to the complaints and answers thereto, if any, filed in this litigation and any orders entered in this litigation, and to such additional pleadings as may be agreed by the Defendant's Counsel and Class Counsel.

Only those Class Members who follow the procedures set forth above may appear at the Final Approval Hearing and/or have their objections considered by the Court. If you do not file an intent to appear and/or an objection by **APRIL 3, 2020**, you will not be entitled to be heard at the Final Approval Hearing, or to otherwise contest the approval of the Settlement, or to appeal from any orders or judgments of the Court entered thereon.

Any Class Member who does not appear individually or through counsel and/or who does not challenge the fairness, reasonableness or adequacy of the Settlement will be deemed to have waived and forfeited any and all rights that he or she may have to appear separately and/or object.

**11. Who represents the class?**

The Court has designated Kushtrim Lajqi as the named representative for the Class. The Court has appointed Heisman Nunes & Hull LLP and Marler Clark, LLP, PS, as the Class Counsel. If you have any questions for the Class Counsel, you may write to them at the addresses listed above.

**12. Who pays the attorneys' fees and costs?**

Class Counsel has waived their fees and costs.

**13. What are the reasons for the Settlement?**

The named Class Plaintiff and the Class Counsel support the proposed Settlement because they believe it provides for prompt, efficient, and fair relief to the Class. In ultimately deciding to recommend the Settlement, Class Counsel considered the relative risks, costs, and benefits to the Class of settlement or continuing litigation. Class members incur no risk or cost in obtaining the proposed relief.

#### **14. What is the Settlement approval procedure?**

The Court will hold a Final Approval Hearing on **APRIL 30, 2020** at **9:30 a.m.** The address of the Westchester County Supreme Court is 111 Dr. Martin Luther King, Jr. Blvd, White Plains, NY 10601. At the hearing, the Court will consider whether the proposed Settlement should be granted final approval as fair, reasonable and adequate. The Parties will request that the Court enter a Final Judgment Order.

You may attend this hearing if you wish, but you are **not** required to do so in order to participate in the Settlement. You may also seek to intervene individually or to object to the Settlement by following the procedures described above.

Class Members will have the right to be excluded or to object to the proposed Settlement in the manner described above.

The Court's determination on the final approval of the proposed Settlement will be binding on all Class members. If the Court grants final approval of the Settlement, the judgment will release the Defendant from all claims for damages by persons who meet the Class definition.

The compensation included in the Settlement covers three primary components: (1) an award to qualifying class members to compensate for general damages; (2) an award to qualifying class members to compensate for special damages; and (3) compensation for the named Class Plaintiff. This release will bar any further suit on the settled claims by or on behalf of the Class Members, and any persons claiming by or through them, including heirs, assigns, administrators, devisees, successors, attorneys, or representatives of any kind.

If the Court does not approve the Settlement, the case will proceed as active litigation.

#### **15. Where do I get additional information?**

The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the proposed Settlement, and related matters. Additional information is available at **www.PortChesterHepA.com**. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire.

If you wish to communicate with Class Counsel identified above or wish to obtain relevant Court documents, you may do so by writing to Class Counsel at the addresses listed above.

**PLEASE DO NOT CONTACT THE COURT  
WITH INQUIRIES ABOUT THE SETTLEMENT**