

**NOTICE OF PROPOSED CLASS LITIGATION SETTLEMENT**

*In re Cobra Sexual Energy Sales Practices Litig.*, Case No. 2:13-cv-05942-AB-Ex

United States District Court for the Central District of California

**THIS NOTICE CONCERNS YOUR LEGAL RIGHTS.  
PLEASE READ IT CAREFULLY.**

*A federal court authorized this Notice. It is not a solicitation from a lawyer.*

**YOU ARE NOT BEING SUED.**

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**IF YOU ARE A CALIFORNIA RESIDENT WHO** purchased, in California, Cobra Sexual Energy, between August 14, 2009 and before December 31, 2020 (the “Class Period”), for personal or household use and not for resale or distribution, **YOU MAY BE ENTITLED TO A CASH PAYMENT.**

This settlement resolves a lawsuit against Nutraceutical Corporation (“Nutraceutical” or “Defendant”) alleging that Cobra Sexual Energy was falsely advertised.

Nutraceutical denies the allegations and any wrongdoing. Nonetheless, it has agreed to settle to avoid the cost and uncertainty of litigation. The parties have reached a settlement that provides a payment in exchange for a waiver and release of your claims. By participating in the settlement, you waive and release any claims against Nutraceutical concerning the marketing and labeling of Cobra Sexual Energy.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<p><b>SUBMIT A CLAIM FORM BY March 6, 2021</b></p>	<p>The only way to get a monetary payment. Postmark or submit your claim form online.</p>
<p><b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS BY March 6, 2021</b></p>	<p>If you ask to be excluded, you will not get a settlement payment.  You also will not be bound by this case and keep any right you might have to sue related to the claims in this lawsuit.</p>
<p><b>OBJECT OR COMMENT BY March 6, 2021</b></p>	<p>You may file a written objection no later than <b>March 6, 2021</b> and/or appear at the final approval hearing to tell the Court why you believe the proposed settlement is unfair, unreasonable, or inadequate. If you ask to be excluded, you cannot also file an objection.</p>
<p><b>DO NOTHING</b></p>	<p>If you do nothing, you will receive no portion of the settlement fund and, if the settlement is approved, you will also give up any right you may have to sue regarding any claims that are part of the settlement.</p>

- These rights and options, and the deadlines to exercise them, are further explained in this notice.
- The Court is in charge of this litigation and still has to decide whether to approve the settlement. The settlement benefits will be paid as soon as possible after the Court approves the settlement and after any appeals are resolved.
- If you have any questions, then please read on and visit [www.CobraLawsuit.com](http://www.CobraLawsuit.com).

### **1. Why did I receive this notice?**

If you are a California resident who purchased Cobra Sexual Energy in any packaging size or iteration (“Cobra”) during the Class Period, for personal or household use and not for resale or distribution, then you should know about a settlement in this class action and your options.

You also may have received this notice because you requested more information after reading the summary notice about the settlement.

If the Court approves the settlement, and any objections and appeals are resolved, an administrator approved by the Court will distribute settlement payments.

This notice explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

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

The lawsuit alleges that Cobra was falsely advertised as an aphrodisiac drug because of certain statements made on the label. It also alleges Cobra was an “unapproved new drug” (a legal term for a drug the FDA has not approved for sale).

**Nutraceutical denies these allegations, and the Court has made no decision on their merit.**

### **3. What is a class action and who is involved?**

In a class action lawsuit, one or more people, called class representatives (in this case Troy Lambert) represent the interests of similarly situated people who have the same claims, but have not filed a lawsuit. Together these people are a class. The person who filed the lawsuit is called the plaintiff and class representative. The company they sue is called the defendant. One court resolves the issues for everyone in the class – except for those people who choose to exclude themselves from the class.

### **4. Why is there a proposed settlement?**

The Court has not decided in favor of either side. Nutraceutical denies all allegations in the lawsuit. Nutraceutical is settling simply to avoid the expense, inconvenience, and inherent risk of litigation, as well as the related disruption to its business. The plaintiff and his attorneys assert that the proposed settlement is in the best interests of the class because it provides an appropriate recovery now while avoiding the risk, expense, and delay of pursuing a lawsuit through trial and any appeals. There would be no guarantee of success for either side if the lawsuit were pursued through trial and any appeals, but both would have to deal with expenses and delays.

## WHO IS COVERED BY THE PROPOSED SETTLEMENT

To see if you are entitled to file a claim for part of the settlement fund, you first have to determine if you are a member of the settlement class.

### **5. How Do I Know If I Am Part of the Proposed Settlement?**

You are a part of the settlement class if you are a California resident who purchased Cobra, in any packaging size or iteration, during the Class Period of August 14, 2009 to December 31, 2020. The product must have been purchased for personal or household use and not for resale or distribution.

You are not a part of the settlement class if you are (1) any judicial officer presiding over the lawsuit, (2) officers and directors of Nutraceutical, or (3) any person who properly executes and files a timely request for exclusion.

If you are unsure whether you are included in the settlement class, you can go to [www.CobraLawsuit.com](http://www.CobraLawsuit.com), or you can call 1-888-977-3554, and ask for free help.

## THE PROPOSED SETTLEMENT BENEFITS

### **6. What does the proposed settlement provide?**

#### **Settlement Fund**

The proposed settlement will provide for \$100,000.00 to be paid into a settlement fund. Notice and administrative expenses of \$19,250 are to be paid out of this \$100,000 settlement fund.

#### **Payments to settlement class members who submit a valid claim form**

Settlement class members who submit a timely and valid claim will receive a projected \$10 for claims which are not documented by receipts, and up to \$100 if documented by receipts.

The amount will be adjusted upward or downward so the whole amount is paid out to class members who submit valid claims.

Class members who submit valid claims, but who do not cash the settlement check within 90 days, will have the funds donated to a legal charity providing free legal representation to low income individuals. Specifically, the Legal Aid Foundation of Los Angeles.

#### **Non-Monetary Relief**

Nutraceutical has agreed to remove certain words from the Cobra label that Plaintiff challenged in his lawsuit, specifically “potency wood” and “virility.”

### **Incentive Award to the Plaintiff**

Subject to Court approval, class counsel is seeking a \$10,000 incentive award for the class representative, Troy Lambert.

#### **HOW TO GET A PAYMENT- SUBMITTING A CLAIM FORM**

##### **7. How can I obtain a portion of the settlement?**

Settlement class members who wish to receive a portion of the settlement fund must fully complete and submit a claim form, along with any supporting documentation, by March 6, 2021.

You can obtain a claim form on the internet at [www.CobraLawsuit.com](http://www.CobraLawsuit.com)

Read the instructions carefully, fully complete the form, and submit it online at [www.CobraLawsuit.com](http://www.CobraLawsuit.com) on or before March 6, 2021.

Alternatively, you may submit your claim form by mailing it to the following address:

Cobra Sexual Energy Litigation  
c/o Classaura Class Action Administration  
1718 Peachtree St NW #1080,  
Atlanta, GA 30309

Claim forms must be postmarked no later than March 6, 2021.

Settlement class members who have complied with the instructions, requirements, and deadline for submitting a claim, and whose claims have been reviewed and validated by the settlement administrator, will be paid from the settlement fund within forty five (45) days of the effective date of the settlement.

**TO BE VALID, ALL CLAIM FORMS MUST BE POSTMARKED OR SUBMITTED  
ONLINE BY NO LATER THAN MARCH 6, 2021**

##### **8. How Can I Obtain a Claim Form?**

You can obtain a claim form in one of three ways:

- i. Online: You can download the claim form at [www.CobraLawsuit.com](http://www.CobraLawsuit.com). You can also submit a claim form online through the same website.
- ii. By phone: call toll-free, 1-888-977-3554 to arrange for a claim form to be sent to you by either U.S. mail or e-mail.

- iii. By U.S. Mail: you may write to Cobra Sexual Energy Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309. Be sure to include your name and mailing address.

**YOUR RIGHTS AND CHOICES - EXCLUDING YOURSELF FROM THE PROPOSED SETTLEMENT**

If you do not want to receive the settlement payment and wish to preserve the right you may have to sue about Cobra’s labeling on your own, then you must take affirmative steps to opt out of the settlement.

**9. How do I exclude myself from the settlement?**

To exclude yourself from the settlement class, you must either: (1) send a written request for exclusion that must be received no later than March 6, 2021, to: Cobra Sexual Energy Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309, or (2) submit a request for exclusion online through the settlement website no later than March 6, 2021.

Your Request for Exclusion must contain: (1) the name of the lawsuit, “*In re Cobra Sexual Energy Sales Practices Litig.*, Case Number: 2:13-cv-13-05942-AB-Ex”; (2) your full name, current address, and telephone number; (3) a clear statement of intention to exclude yourself such as “I wish to be excluded from the Settlement Class”; and (4) your signature. You may also get an exclusion request form at [www.CobraLawsuit.com](http://www.CobraLawsuit.com). You cannot exclude yourself by telephone or by e-mail.

Your request for exclusion must be on behalf of yourself. You may not include multiple persons on a single request for exclusion.

If you ask to be excluded, you will not get a settlement payment and cannot object to the settlement. You may be able to sue (or continue to sue) Nutraceutical in the future.

**10. If I don’t exclude myself, can I sue Nutraceutical later?**

If you do not properly and timely submit a Request for Exclusion, you waive your right to opt out, you will be deemed to be a member of the settlement class, you give up any right you may have to sue for the claims the settlement resolves, and you will be bound by the terms of the settlement agreement. If you have a pending lawsuit against Nutraceutical, other than this lawsuit, speak to your lawyer in that lawsuit immediately. You must exclude yourself from this settlement class to continue your own lawsuit. Remember, any request for exclusion must be signed, mailed, and postmarked or submitted online by no later than March 6, 2021. Excluded from the settlement and release is anything to do with a personal injury claim.

**11. If I exclude myself, can I get a payment from the settlement fund?**

No. If you exclude yourself, you are not eligible for any payment from the settlement fund.

## YOUR RIGHTS AND CHOICES - OBJECTING TO THE PROPOSED SETTLEMENT

### 12. How do I tell the court that I object to the settlement?

If you are a member of the Settlement Class, you may object to the settlement. In doing so, you must give reasons why you think the Court should not approve it, and the Court will consider your views.

The objection must contain the following:

- (i) a reference, to the name of number of the lawsuit, which is *In re Cobra Sexual Energy Sales Practices Litig.*, No. 2:13-cv-13-05942-AB-Ex;
- (ii) your full, legal name, residential address, telephone number, and email address (and your lawyer's name, business address, telephone number and email address if you are objecting through counsel);
- (iii) a statement describing your membership in the settlement class, including a verification under oath as to the time and place of your purchase, and name of the retailer from whom you purchased Cobra;
- (iv) a written statement of all grounds for the objection, accompanied by any legal support for such objection;
- (v) copies of any documents upon which the objection is based and exhibits you will offer at the final approval hearing;
- (vi) a statement of whether you intend to appear at the final approval hearing, and if you are objecting through counsel, you must also state the identity of all attorneys who will appear at the final approval hearing on your behalf;
- (vii) a list of any other objections you or your counsel have submitted to class actions, whether in state or federal court, in the previous two years; and
- (viii) your signature.

If you do not have access to Electronic Case Filing ("ECF"), your objection must be signed and submitted to the Court, along with any supporting documents, so that it is received no later than March 6, 2021 by the Court. Information on how to file case documents is at the Court website at [www.cacd.uscourts.gov](http://www.cacd.uscourts.gov).

A copy of your objection **must** also be signed and mailed, along with any supporting documents to the settlement administrator and each of the following two addresses, so that it is **received by**

March 6, 2021:

Counsel for Plaintiff and the Settlement Class

Gregory S. Weston  
**THE WESTON FIRM**  
1405 Morena Blvd., Suite 201  
San Diego, CA 92110  
Email: *greg@westonfirm.com*

Ronald A. Marron  
**LAW OFFICES OF RONALD A. MARRON**  
651 Arroyo Drive  
San Diego, CA 92103  
Email: *ron@consumersadvocates.com*

Counsel for Nutraceutical Corp.

John C. Hueston  
Steven Feldman  
**HUESTON HENNIGAN LLP**  
523 West 6th Street, Suite 400  
Los Angeles, CA 90014  
Email: *jhueston@hueston.com*,  
*sfeldman@hueston.com*

**13. What's the difference between objecting and excluding?**

Objecting is explaining to the Court why it should deny approval to the settlement, while keeping you a part of the Class.

Excluding yourself simply removes you from the Class. If you exclude yourself, you will not be eligible to file an objection or to appear at the final approval hearing.

**14. What happens if I do nothing at all?**

If you do nothing, you will get no payment from the settlement fund. But unless you timely excluded yourself, you also will not be able to start a new lawsuit, continue with a lawsuit, or be part of any other lawsuit against Nutraceutical about the subject matter of this lawsuit ever again.

**THE LAWYERS REPRESENTING YOU**

**15. Do I have a lawyer in this case?**

The Court has appointed The Weston Firm and Law Offices of Ronald A. Marron as legal counsel for the settlement class. The law firms are called Class Counsel.

**16. How will the lawyers be paid?**

Class Counsel has not yet received any payment for prosecuting this lawsuit, nor have they been reimbursed for any out-of-pocket expenses they have incurred. When they ask the Court to approve the settlement, class counsel will also make a motion to the Court to approve and award fees and



expenses of up to \$490,000. This amount, if the Court approves it, will be paid by the Defendant. No matter what the Court decides, the attorneys will not be asking you to pay them money. Class counsel will seek final approval of the settlement on behalf of all members of the settlement class. You may hire your own lawyer to represent you in this lawsuit if you wish, but it will be at your own expense.

### THE COURT'S FINAL APPROVAL HEARING

#### **17. When and where will the court decide whether to approve the settlement?**

The Court overseeing this case will hold a final approval hearing at the federal courthouse located at the U.S. District Court for the Central District of California, 350 West First St., Los Angeles, CA 90012 in Courtroom 7B on April 2, 2021 to decide whether the settlement is fair, reasonable, and adequate, as well as to determine the amount of attorney fees and costs and incentive award. If there are objections, the Court will consider them at the final approval hearing. After the final approval hearing, the Court will decide whether to approve the settlement and whether to grant class counsel's request for attorneys' fees and expenses. We do not know how long it will take the Court to make these decisions.

#### **18. Do I Have to Come to the Hearing?**

You are not required to attend the hearing, but you are welcome to attend at your own expense. If you support the settlement, the best way to show this is by submitting a valid claim for a settlement payment on the settlement website.

If you send an objection, you do not have to appear in Court to present it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend.

### FINAL SETTLEMENT APPROVAL

#### **19. What is the effect of final settlement approval?**

If the Court grants final approval of the settlement and all appeals have been exhausted, the Released Parties (as defined in the Settlement Agreement) will be released of and from any and all claims asserted or which could have been asserted in the litigation, including all claims relating to the manufacturing, preparation, handling, distribution, advertising, marketing, packaging, sale, labeling, promotion, and ingredients of Cobra. Class Members' claims of a *personal injury* resulting from a defect in Cobra or packaging are specifically not included in the Released Claims.

If the Court does not approve the settlement, this lawsuit will proceed as if no settlement had been attempted.

If the settlement is not approved and litigation resumes, there is no guarantee of payment to the settlement class.

**GETTING MORE INFORMATION**

**20. Are there more details about the settlement?**

This Notice is only intended to provide a summary of the proposed Settlement. You may obtain the complete text of the settlement agreement at [www.CobraLawsuit.com](http://www.CobraLawsuit.com).

The settlement website located at [www.CobraLawsuit.com](http://www.CobraLawsuit.com) also has the settlement payment claim form, the request for exclusion form, and several of the key documents from the case such as the Class Action Complaint.

You may also contact the Settlement Administrator by email at: [Contact@CobraLawsuit.com](mailto:Contact@CobraLawsuit.com), or by writing to Cobra Sexual Energy Litigation, c/o Classaura Class Action Administration, 1718 Peachtree St NW #1080, Atlanta, GA 30309.

**PLEASE DO NOT CALL OR DIRECT ANY INQUIRIES TO THE COURT.**

**This notice is given with the approval and at the direction of the Court.**