

Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v.
DUDE Products Inc.
Case No. 2:24-cv-02935-RMG

United States District Court for the District of South Carolina, Charleston Division

IF YOU ARE A SEWAGE TREATMENT SYSTEM OPERATOR IN THE UNITED STATES WHOSE SYSTEM WAS IN OPERATION BETWEEN MAY 9, 2021 AND MAY 31 2024, A CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

A federal court authorized this Notice. You are not being sued. This is not a solicitation from a lawyer.

- A proposed settlement (“Settlement”) has been reached in the above class action against DUDE Products Inc. (“Defendant”). The action challenges the manufacturing, design, marketing and/or sale of Defendant’s flushable wipes.¹ Defendant denies the allegations about its flushable wipes and maintains that its products perform as advertised. There has been no finding of liability against DUDE Products Inc. Defendant has agreed to the Settlement to avoid the uncertainties and expenses associated with continuing the case.
- You are a Settlement Class Member if you own[ed] and/or operate[d] sewage or wastewater conveyance and treatment systems.
- If you are a Settlement Class Member, your legal rights are affected whether you act or don’t act. Read this Notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
Do Nothing	If you do nothing, then you will automatically receive benefits under the Settlement in the form of Defendant’s business modifications that are further described in this Notice.
Object	Write to the Court about why you do not like something about the Settlement or Class Counsel’s requested attorneys’ fees and expenses such that it is received no later than September 6, 2024.
Attend a hearing on September 27, 2024	Ask to speak in Court about your opinion of the Settlement and/or the requests for attorneys’ fees and expenses. Requests to speak

¹ The terms of the Settlement are in the Stipulation of Settlement, dated May 10, 2024 (the “Stipulation”), which can be viewed at www.charlestonwipessettlement.com. All capitalized terms not defined in this Notice have the same meanings as in the Stipulation.

	must be received by the Court and counsel for the Parties no later than September 6, 2024.
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- **There is no need to submit a claim form.** The Settlement provides benefits in the form of business practice modifications that are further detailed on pages 4-6 of this Notice. If you do nothing, then you will automatically receive the benefits of the Settlement.
- These rights and options – **and the Court-ordered deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this litigation still has to decide whether to approve the Settlement with DUDE Products Inc.

BASIC INFORMATION

1. Why should I read this Notice?

The Court authorized this Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your rights and options, before the Court decides whether to approve the Settlement.

If you operate a sewage or wastewater conveyance and treatment plant, such as a municipality, authority or wastewater district in the United States whose system was in operation between May 9, 2021 and May 31, 2024, you are part of the Settlement Class.

This Notice explains the lawsuit, the Settlement with Defendant, and your rights.

The Honorable Judge Richard M. Gergel of the United States District Court for the District of South Carolina is overseeing this class action. The lawsuit is known as *Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. DUDE Products Inc.*, Case No. 2:24-cv-02935-RMG (D.S.C.).

2. What is this lawsuit about?

This lawsuit challenges the manufacturing, design, marketing and/or sale of flushable wipes by Defendant DUDE Products Inc.

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, Commissioners of Public Works of the City of Charleston) sue on behalf of other people who have similar claims. The people together are a “Settlement Class” or “Settlement Class Members.” The people who sue – and all the Settlement Class Members like them – are called the “Plaintiffs.” The company or companies the Plaintiffs sue (in this case, DUDE Products Inc.) is or are called the “Defendant” or “Defendants.” If the court certifies (or approves) the Settlement Class, then one court can resolve the issues for everyone in the Settlement Class.

4. Why is there a Settlement?

The Court has not decided whether Plaintiff Charleston Water System or Defendant DUDE Products Inc. should win this case. Instead, the respective parties agreed to settle. That way, the respective parties avoid the cost and risks of trial, and DUDE Products Inc. will agree to make changes to its policies and practices to benefit Settlement Class Members now rather than years from now, if at all.

More information about the Settlement and the lawsuit is available in the “Court Documents” section of the Settlement Website: www.charlestonwipessettlement.com.

WHO IS IN THE SETTLEMENT CLASS?

You need to decide whether you are affected by this lawsuit.

5. Am I part of the Settlement Class?

If you own[ed] or operate[d] a sewage or wastewater conveyance and treatment system, such as a municipality, authority or wastewater district in the United States whose system was in operation between May 9, 2021 and May 31, 2024, you are part of the Settlement Class.

THE SETTLEMENT’S BENEFITS

6. What are the benefits of the Settlement with Defendant?

Defendant has agreed to implement certain modifications to its business practices with respect to the flushable wipes Products, including DUDE Wipes flushable wipes.

a. Product and Testing Criteria

(i) Defendant commits to meeting the current International Water Services Flushability Group (“IWSFG”) Publicly Available Specification (“PAS”) 3 (Disintegration Test) (hereinafter referred to as “IWSFG 2020: PAS 3”) flushability specifications for the Product manufactured on or after 18 months of the date of the Settlement Agreement (“Compliance Date”), whereby the average percentage of the total initial dry mass of the sample (as described in IWSFG 2020: PAS 3) passing through a 25 mm sieve for the five test pieces drawn from each of the four (or, at Defendant’s election, more) packages of the Product (as further detailed below) after 30 minutes of testing shall be equal to or greater than 80% (at the temperature (20 degrees Celsius +/-2 degrees), volume (4 liters) and RPM (18) specified in IWSFG 2020: PAS 3). If Defendant is able to attain IWSFG compliance prior to 18 months of the date of the Settlement Agreement, it can provide written notice to Plaintiff, which will initiate the two-year performance monitoring verification period set forth in Paragraph 2.1(b)(ii).

(ii) Defendant commits that it will not sell flushable wipes containing plastics, as defined in Section 5.3.5 of IWSFG 2020: PAS 2, in the United States.

(iii) Once the Product meets the IWSFG 2020: PAS 3 specification and all other IWSFG 2020 specifications, Defendant may represent that Product is IWSFG 2020 compliant for a period of at least five years, subject to the on-going testing requirements set forth herein, irrespective of whether IWSFG adopts heightened testing specifications.

(iv) In the event that exigent circumstances (such as supply chain disruptions) render the Compliance Date unworkable, Defendant commits to promptly notify

Plaintiff within 14 days of becoming aware that compliance may be delayed and keep Plaintiff apprised of the expected date upon which compliant Products will be manufactured. Likewise, Plaintiff agrees that if such exigent circumstances make future compliance with IWSFG 2020: PAS 3 temporarily unworkable, no breach of this Stipulation or violation of the resulting Final Judgment will have been deemed to occur should Defendant cure the compliance defect expeditiously.

(v) For the avoidance of any doubt, Defendant will not recall the Product and is permitted to sell through any product manufactured prior to the Compliance Date.

b. Testing Implementation/Monitoring

(i) If Plaintiff elects, Defendant and/or other flushable wipes manufacturers that supply flushable wipes to Defendant, as applicable, will meet with Plaintiff (virtually if requested by Defendant) after the final Stipulation of Settlement is signed to discuss the Product's performance and Defendant's plan to achieve the performance criteria for wipes manufactured on or after 18 months of the date of the Settlement Agreement.

(ii) Defendant and/or other flushable wipes manufacturers that supply flushable wipes to Defendant, as applicable, at their election, will submit to and either (1) host periodic independent testing of the Product, including funding of Reasonable Costs for a Plaintiff-selected representative to participate in the same, or (2) submit the Product at their cost to a mutually acceptable lab for independent testing (Parties agree in advance that the Integrated Paper Services ("IPS") lab and SGS are acceptable independent labs), beginning on the Compliance date in accordance with agreed-to IWSFG 2020: PAS 3 testing protocols. The IWSFG 2020: PAS 3 testing will be conducted approximately every four months for a period of 24 months with five test pieces drawn from each of at least four (or more at Defendant's election) packages of each formula of the Product manufactured on or after the Compliance Date (or such earlier manufacture date that Defendant indicates to Plaintiff that the Product is IWSFG 2020: PAS 3 compliant) to be selected by Plaintiff. Plaintiff will provide Defendant with the lot number for the test pieces to confirm the manufacturer, formula, and the manufacturing date. The monitoring period will end after 24 months of successful Product performance.

(iii) If any performance verification tests find that the Product is not compliant with IWSFG 2020: PAS 3, Defendant has the right to object to the results of that testing and submit its own results or data. If the results or data submitted with Defendant's objection finds that the Product is compliant with IWSFG 2020: PAS 3 and the Parties cannot resolve inconsistent results, Defendant shall submit the Product to IPS for independent testing, in accordance with IWSFG 2020: PAS 3 testing protocols, within 60 days of receiving the conflicting results. If the Product is thereafter found non-compliant, Defendant shall have 120 days to regain compliance in its wipes manufacturing operations.

(iv) Reasonable Costs, as noted in Paragraph 2.1(b)(ii), consist of reimbursement of Plaintiff's selected representative for up to 12 hours of testing per testing cycle (*i.e.*, three times per year) at a flat rate of \$2,800 dollars per testing cycle for Plaintiff's selected representative.

c. Label Changes

(i) Defendant will add or cause to be added certain labeling changes, as described below, for its non-flushable wipes products nationwide by the Compliance Date.

(ii) Defendant will add or cause to be added prominent language or illustration on their DUDE brand non-flushable wipes products identifying the non-flushable wipes products as “non-flushable” or instructing users not to flush the non-flushable wipes products (*e.g.*, “Do Not Flush”), consistent with the provisions in Paragraph 2.1(c)(iii).

(iii) Defendant will ensure that its DUDE brand non-flushable wipes products labeling will meet the current “do not flush” labeling standards set forth in Chapter 590 of Assembly Bill No. 818 of California State, which took effect on July 1, 2022 (“AB818”), Section 3 of House Bill 2565 of Washington State, which took effect on March 26, 2020 (“HB2565”), and Section 1 of House Bill 2344 of Oregon State, which took effect on September 25, 2021 (“HB2344”), to the extent such products are “Covered Products” as defined in AB818, HB2565, and HB2344. Defendant agrees to exceed the standards herein insofar as it will include “do not flush” symbols or warnings (or cause such warnings to be included), or disposal instructions, on not only the principal display panel, but also at least two additional panels of packaging for non-flushable wipes products, except for packages that only have two panels.

(iv) Upon request, Defendant will provide one representative labeling for each of their DUDE brand non-flushable wipes products to Plaintiff to confirm that it complies with the required labeling changes.

(v) For the avoidance of any doubt, Defendant will not recall the Product and is permitted to sell through any product manufactured prior to the Compliance Date.

d. Acknowledgement and Endorsement

(i) After Defendant implements the injunctive relief described herein, the Product shall be deemed “flushable,” biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised, subject to compliance with the testing provisions in Paragraphs 2.1(a)(ii) above.

(ii) After Defendant implements the injunctive relief described herein, Plaintiff will take the following steps to endorse the Product: (1) provide its endorsement of compliance with IWSFG 2020 as representative of the Settlement Class; (2) solicit commitment of U.S. municipal wastewater treatment industry (including members of IWSFG, such as NACWA) to provide acknowledgment that the Product is, in fact, flushable, biodegradable, safe for sewer systems, and capable of breaking down after flushing, as advertised; and (3) provide a sample press release for Defendant’s review acknowledging the Product’s performance and compliance with IWSFG 2020.

7. What am I giving up by not objecting to the Settlement Class?

As a Settlement Class Member, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant or the Released Parties or Released Persons about the Plaintiff's Released Claims (as defined below) in this case. It also means that all of the Court's orders will apply to you and legally bind you. If the Settlement is approved, you will give up all claims (as defined below), including "Unknown Claims" (as defined below), against the "Released Parties" (as defined below):

- "Plaintiff's Released Claims" means any and all claims of Plaintiff and the Settlement Class Members for injunctive relief that arise from or relate to the claims and allegations in the Complaint, including Unknown Claims, and the acts, facts, omissions, or circumstances that were or could have been alleged by Plaintiff in the Action, including but not limited to all claims for injunctive relief related to any wipe products (flushable and non-flushable) currently or formerly manufactured, marketed, or sold by Defendant or any of its affiliates or licensees. For the avoidance of doubt, "Plaintiff's Released Claims" do not include claims for damages or other monetary relief, including, but not limited to, claims for monetary relief under the law of nuisance.
- "Released Parties" means the parties receiving a release, including Plaintiff, Class Counsel, Defendant, and their present, former, and future, direct and indirect, parents, subsidiaries, affiliates, assigns, divisions, predecessors, licensees, insurers, and successors, and all of their respective officers, agents, administrators, and employees, Defense Counsel, and all Settlement Class Members.
- "Unknown Claims" means Plaintiff's Released Claims that arise from or relate to the Action and all of Defendant's Released Claims that any of the Settling Parties or Settlement Class Members do not know or suspect to exist in his, her, or its favor at the time of the release, which if known by him, her, or it, might have affected his, her, or its decision not to object to this Settlement or release of the Released Parties, Plaintiff, Class Counsel, or Settlement Class Members. With respect to any and all of Plaintiff's Released Claims and Defendant's Released Claims, the Settling Parties stipulate and agree that upon the Effective Date, the Settling Parties shall, to the fullest extent permitted by law, fully, finally, and forever expressly waive and relinquish with respect to such claims, any and all provisions, rights, and benefits of Section 1542 of the California Civil Code and any and all similar provisions, rights, and benefits conferred by any law of any state or territory of the United States or principle of common law that is similar, comparable, or equivalent to Section 1542 of the California Civil Code, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

YOUR RIGHTS AND OPTIONS

8. How do I object to the Settlement or to the request for attorneys' fees and expenses?

You can object to the Settlement and/or Class Counsel's request for attorneys' fees and expenses.

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval of the Settlement, no benefits in the form of modifications of Defendant's business practices will be made, and the litigation will continue. If that is what you want to happen, you must object.

Any objection to the proposed Settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney.

All written objections must contain the following:

- the name and case number of this lawsuit (*Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. DUDE Products Inc.*, Case No. 2:24-cv-02935-RMG (D.S.C.));
- your full name, mailing address, email address, and telephone number;
- an explanation of why you believe you are a Settlement Class Member, including documents sufficient to establish the basis for your standing as a Settlement Class Member;
- all reasons for your objection or comment, including all citations to legal authority and evidence supporting the objection;
- whether you intend to personally appear and/or testify at the Final Approval Hearing (either personally or through counsel), and what witnesses you will ask to speak;
- the name and contact information of any and all attorneys representing, advising, and/or assisting you, including any counsel who may be entitled to compensation for any reason related to your objection or comment, who must enter an appearance with the Court in accordance with the Local Rules;
- the name and case number of all class action settlements to which you or your counsel have objected; and
- your handwritten or electronically imaged signature (an attorney's signature or typed signature is not sufficient).

To be considered by the Court, your objection must be received by the Court either by mailing it to the Class Action Clerk, United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401, or by filing it in person at any location of the United States District Court for the District of South Carolina.

To be considered, your objection must be received on or before September 6, 2024.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court decided that the law firms of Robbins Geller Rudman & Dowd LLP (“Robbins Geller”) and AquaLaw PLC are qualified to represent you and all Settlement Class Members. These firms are called “Class Counsel” and are experienced in handling similar class action cases. More information about Robbins Geller and AquaLaw are available at www.rgrdlaw.com and www.aqualaw.com, respectively.

Class Counsel believe, after investigating this case and litigating similar cases for several years, that the Stipulation is fair, reasonable, and in the best interests of the Settlement Class. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer in this case, you may hire one at your expense.

10. Should I get my own lawyer?

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 will have to pay for that lawyer. For example, you can ask him or her to appear in court for you if you want someone other than Class Counsel to speak for you.

11. How will the lawyers be paid?

Class Counsel’s attorneys’ fees and expenses will be paid in an amount to be determined and awarded by the Court. Defendant has also agreed to pay reasonable attorneys’ fees and expenses.

Class Counsel will ask the Court to approve attorneys’ fees and expenses from Defendant of no more than \$275,000.

The final amount of attorneys’ fees and expenses will be determined by the Court.

Class Counsel’s application for an award of attorneys’ fees and expenses will be made available on the “Court Documents” page of the Settlement Website at www.charlestonwipessettlement.com on the date it is filed or as quickly thereafter as possible.

THE COURT'S FINAL APPROVAL HEARING

12. When and where will the Court decide whether to approve the Settlement with Defendant?

The Court is scheduled to hold the Final Approval Hearing on September 27, 2024 at 10:00 a.m., at the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401. The hearing may be rescheduled to a different date, time, or location without another notice to Settlement Class Members. Especially given the national health emergency, the date, time, or location of the hearing may be subject to change, as will the manner in which Settlement Class Members might appear at the hearing. Please review the Settlement Website for any updated information regarding the hearing.

At the Final Approval Hearing, the Court will consider whether the Settlement with Defendant is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court may listen to people who appear at the hearing and who have provided notice of their intent to appear at the hearing. The Court may also consider Class Counsel's application for attorneys' fees and expenses.

13. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the Court may have. You may attend at your own expense if you wish. If you submit a written objection, you do not have to come to the Court to talk about it. As long as you submit your written objection on time, and follow the requirements above, the Court will consider it. You may also pay your own attorney to attend, but it is not required.

14. May I speak at the Final Approval Hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing. At the hearing, the Court, in its discretion, will hear any objections and arguments concerning the fairness of the Settlement and/or Class Counsel's request for attorneys' fees and expenses.

To do so, you must include in your objection or comment a statement saying that it is your Notice of Intent to Appear in *Commissioners of Public Works of the City of Charleston (d.b.a. Charleston Water System) v. DUDE Products Inc.*, Case No. 2:24-cv-02935-RMG (D.S.C.). It must include your name, address, email, telephone number, and signature as well as the name and address of your lawyer, if one is appearing for you. Your submission and Notice of Intent to Appear must be filed with the Court and be received **no later than September 6, 2024**.

GETTING MORE INFORMATION

15. How do I get more information?

This Notice summarizes the proposed Settlement. For precise terms and conditions of the Settlement, please see the Stipulation available at www.charlestonwipessettlement.com, by contacting Class Counsel at (804) 938-4211, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.scd.uscourts.gov/cgi-bin/login.pl>, or by visiting the office of the Clerk of Court for the United States District Court for the District of South Carolina, Charleston Division, J. Waties Waring Judicial Center, 83 Meeting Street, Charleston, South Carolina 29401, between 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

PLEASE DO NOT TELEPHONE OR WRITE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THE SETTLEMENT.

All questions regarding the Class Settlement should be directed to Class Counsel.

DATED: May 31, 2024

BY ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT OF
SOUTH CAROLINA

THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE