

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAELINE RITO, individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

CASTELLA IMPORTS, Inc., et ano.

Case No.: 15 Civ. 8395 – GBD

Defendants.

TO: ALL PERSONS WHO PURCHASED AT RETAIL, FOR PERSONAL OR HOUSEHOLD USE, EXTRA VIRGIN OLIVE OIL SOLD UNDER THE BRAND NAMES "AEGEAN," "PEGASUS" OR "LIRA" ON OR AFTER OCTOBER 24, 2009.

This Notice advises you of a proposed class action Settlement. This Settlement resolves a lawsuit and requires the Defendants to substantially modify their handling and storage recommendations for extra virgin olive oil and to pay certain claims to individual retail purchasers of its Extra Virgin Olive Oil for personal or household use.

YOU SHOULD READ THE ENTIRE NOTICE CAREFULLY BECAUSE YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR NOT. YOUR RIGHTS AND OPTIONS ARE EXPLAINED IN THIS NOTICE.

If you are within the class definition spearing above in bold type, you are tentatively included in the proposed Settlement of a class action lawsuit in the United States District Court for the Southern District of New York, before the Hon. George B. Daniels.

This Notice explains the lawsuit, the proposed Settlement, and your legal rights. The Court has ordered that this Notice be made available to you because you have a right to know about the proposed Settlement of a class action lawsuit, and about all of your options before the Court decides whether to approve the Settlement. Under the terms of the Settlement, if approved, Defendants will be required to include additional information and advice as to the best practices for handling and storage of extra virgin olive oil after purchase on package labels and on a designated website for a five year period. See Section 7 below.

1. How do I get more information?

You can visit www.evoosettlement.info or contact Class Counsel below for answers to common questions about the Settlement, plus copies of court papers and other information to help you decide whether to be bound by the terms of Settlement.

. Please do not contact the Court. Personnel there will not be able to answer your questions.

2. What is the lawsuit about?

In the Class Action Complaint filed in 2015, Plaintiff alleges that Defendant Castella Imports, Inc. marketed substandard or adulterated extra virgin olive oil under various brand names and/or provided insufficient or misleading storage instructions and information. Defendants have denied any defect, wrongdoing or liability whatsoever and deny that this lawsuit could properly be certified as a class action for trial.

3. Why is this a class action?

In a class action, one or more persons called Class Representatives seek to sue on behalf of people who have similar claims. If the class is “certified” by the Court, all of these people who have similar claims make up the Class and are Class Members. One Court resolves the issues for all Class Members.

4. Why is there a Settlement?

The Court has not decided in favor of either side and has not decided whether this lawsuit could qualify as a class action. Instead, both sides agreed to a Settlement, which, subject to Court approval, provides for certification of a class for settlement purposes only and agreed disclosures by Defendants in exchange for a dismissal of the lawsuit without any finding of liability. By agreeing to a Settlement, parties avoid the costs and risks of a trial, and the Class will receive benefits of such disclosures. The Class Representative and her attorneys believe that the Settlement is fair and adequate for all Class members.

5. How do I know if I am part of the Settlement?

If you purchased for personal or household use, Extra Virgin Olive Oil sold under the brand names “Aegean,” “Pegasus” or “Lira” on or after October 24, 2009, you are a member of the Settlement Class, unless you exclude yourself as provided in Section 11.

6. What does the Settlement require?

INFORMATION

For five years, beginning 60 days after Court approval of the settlement becomes final and not subject to challenge on appeal or otherwise,

1) each container of EVOO imported or distributed by Defendants under their brand names Aegean, Lira, Pegasus, and any other brand designation trademarked by Defendants shall include the following language and “QR” code,



STORAGE: Olive oil should be stored tightly capped in a cool, dry place away from heat and sunlight. Use soon after opening and before the “best by” date, as oxygen can degrade oil quality over time. For further information on storing and preserving olive oil, visit our website at www.castella.com/products/oliveoil101 or scan the QR Code on the left.

2) <http://www.castella.com/products/oliveoil101> shall contain, in addition to information concerning the origins and grades of olive oil, a separate page designated "STORAGE," which shall include the following text:

Olive oil is susceptible to oxygen, light, and heat. Olive oil should be stored in a cool, dry, dark place, away from the heat and light. A dark cupboard away from the oven is best. Avoid storing oil in direct sunlight.

It's also important to limit the oil's exposure to open air. Over time, oxygen can degrade the quality of the oil. Use oil soon after opening, before the "best by" date, and always keep it stored with a cap or lid.

REIMBURSEMENT CLAIMS

If, at any time from October 24, 2009 to January 10, 2018, you purchased EVOO distributed under the brand names "Aegean," "Lira" or "Pegasus" – and experienced excessive product degradation or other quality problems, you may claim reimbursement. If the amount of all valid claims exceeds \$25,000, payments will be reduced pro rata so that the reimbursement paid by defendants shall in no event be greater than \$25,000.

<u>Qualifying Product</u>	<u>Reimbursement</u>
Aegean® EVOO – 750ml bottle	\$3
Aegean® EVOO – 3 liter can	\$10
Lira® EVOO – 3 liter can	\$4
Pegasus® EVOO – 3 liter can	\$4

To claim a reimbursement payment, you must truthfully complete the claim form, a copy of which is attached, sign it under penalty of perjury, and mail it to EVOO Settlement, P.O. Box 148 , New York, NY 11272, postmarked on or before July 30, 2018.

To validly complete the form, you must correctly identify the retail outlet and city where you made your purchase and the brand and size of the product purchased and the approximate date of purchase. If you cannot provide further proof of purchase, you are entitled to one payment only per household.

If you also submit receipts or other contemporaneous written documentation issued by the retail seller which shows one or more qualifying purchases, you will receive a payment for each qualifying purchase shown on the receipt(s) or other proof(s) of purchase.

When a claim is denied in whole or in part, Defendant will inform the claimant and Class Counsel of the reasons for such denial. A claim will be denied if it does not correctly identify a retailer which, according to Defendants' records, did not purchase the claimed Qualifying Product for retail resale. Defendant reserves all rights with respect to false or fraudulent claims. Any claims which remain in dispute after counsel have discussed the matter in good faith will be submitted to and resolved by the Court.

THE LAWYERS REPRESENTING YOU

7. Do I have a lawyer in this case?

The law firms of Nagel Rice, LLP, 103 Eisenhower Parkway, Roseland, New Jersey 07068, and Poulos LoPiccolo PC, 311 W. 43rd Street, 11th Floor, Ste. 124 New York, New York 10036, represent you and other Class Members. These lawyers are called Class Counsel. You will not be charged for these lawyers. These lawyers will be paid by Defendants in an amount to be approved by the Court. If you want to be represented by your own lawyer, you may hire one at your own expense.

8. How will the lawyers be paid?

Defendants will pay Plaintiff's Counsel's reasonable attorney fees and expenses in an amount which the Court will determine. Plaintiffs will not seek, and Defendant will not pay, more than \$300,000 in fees and expenses.

In addition, subject to court approval, Defendants have agreed to pay Plaintiff Michaeline Rito \$1,000 for her service to the Class.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it. This includes Class Counsel's request for payment of attorney's fees and costs.

9. What does it mean to object?

Objecting is simply telling the Court that you do not like something about the Settlement. It will not have any bearing on your right to Settlement proceeds. You can object to the Settlement, including Class Counsel's request for attorney's fees and costs, if you dislike any part of it.

10. How do I tell the Court that I don't like the Settlement (that I object)?

To object, you (or your attorney) must serve such objection upon all counsel of record and file your objection with the Court on or before March 9, 2018. Objectors must state in writing all objections and the reasons therefore, and include any and all supporting papers, including proof of membership in the Class and, if applicable, the objector's statement of intent to appear at the Fairness Hearing. If you do not timely file a written objection and notice of your intent to appear at the Fairness Hearing, you shall not be permitted at the Fairness Hearing to object to the Settlement or to any matters related to the Settlement or the provisions of the Settlement Agreement, and shall be foreclosed from seeking review by appeal or otherwise. **You must file your objection with the United States District Court, 500 Pearl Street, New York, New York. Mail your objection to the three different places below, postmarked no later than March 9, 2018. You**

must mail your objection by this date. If you fail to do so, the Court will not consider your objection.

Court

Clerk
U.S. District Court
500 Pearl Street
New York, NY 10007

Class Counsel:

Randee Matloff Esq.
Nagel Rice LLP
103 Eisenhower Parkway
Roseland, New Jersey 07068

Defense Counsel:

Daniel V. Gsovski, Esq.
Herzfeld & Rubin, P.C.
125 Broad Street
New York, New York 10004

**ALL PAPERS SUBMITTED MUST INCLUDE THE CASE NUMBER
15 Civ. 8395 – GBD.**

EXCLUDING YOURSELF (“OPTING OUT”) OF THE SETTLEMENT

11. Can I exclude myself (“opt-out”) from the Settlement?

You have the right to exclude yourself from the Settlement in this case. Any Class Member who intends to request exclusion from the Settlement Class must mail a request for exclusion to the following:

Class Counsel:

Randee Matloff Esq.
Nagel Rice LLP
103 Eisenhower Parkway
Roseland, New Jersey 07068

Defense Counsel:

Daniel V. Gsovski, Esq.
Herzfeld & Rubin, P.C.
125 Broad Street
New York, New York 10004

Your request for exclusion must be postmarked no later than March 9, 2018. Persons requesting exclusion must set forth their full name and current address, a receipt or a sworn statement giving the date and place of purchase on or after October 24, 2009 of Extra Virgin Olive Oil sold under the brand names “Aegean,” “Pegasus” or “Lira” and clearly stating that the

sender requests exclusion, “opts out” or does not wish to be a member of the Settlement Class. No specific form of words is required, so long as the sender’s intent to request exclusion is clear. **If you do not validly exclude yourself from this Settlement, you will be bound by any judgments or orders that are entered in this Action, and all claims that were or could have been asserted based upon the facts alleged in the complaint in this case on your behalf will be released.**

THE FAIRNESS HEARING

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

The Court will hold a hearing to decide whether to approve the Settlement and other matters, including Class Counsel’s request for attorney’s fees and costs. You may attend and, if you timely file notice of your intent to appear, you may participate if permitted by the Court, but you are not required to do so.

The Court will hold a Fairness Hearing on April 25, 2018, at 10:00 a.m., at the United States District Court for the Southern District of New York, 500 Pearl Street, New York, New York 10007, in Courtroom 11A. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and the Court will decide whether to approve the Settlement at or after the hearing. If there are objections, the Court will consider them. The Court will also decide what amount of Class Counsel’s fees and expenses will be paid.

13. Do I have to go to the Fairness Hearing?

No, Counsel will answer questions the Court may have. You (or your attorney) are, however, welcome to go at your own expense. If you send an objection, you do not have to go to Court to discuss it. As long as your objection is postmarked by March 9, 2018,, the Court will consider it. You also may pay your own lawyer to attend, but it is not necessary.

14. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you (or your attorney) must send a letter saying that it is your “Notice of Intention to Appear.” Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than March 9, 2018, and sent to the Clerk of the Court, Class Counsel and Defense Counsel at the four addresses indicated above in Item 11

GETTING MORE INFORMATION

15. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. More details are in the parties' Settlement Agreement. You can get a copy of the Settlement Agreement by visiting www.evoosettlement.info, or by writing Class Counsel at the address provided herein. **Remember, please do not contact the Court.** Personnel there cannot give you additional information.

OLIVE OIL SETTLEMENT CLAIM FORM:

(must be postmarked on or before July 30, 2018)

I, _____ [name of claimant] _____, state, under penalty of perjury, as follows:

1. I purchased one or more “Qualifying Products” at retail, personal or household use, after October 24, 2009 and before January 25, 2018.
2. I claim reimbursement, according to the schedule set forth below.

Aegean [®] Extra Virgin Olive Oil – 750ml glass bottle	\$3
Aegean [®] Extra Virgin Olive Oil – 3 liter can	\$10
Lira [®] Extra Virgin Olive Oil – 3 liter/1gallon can	\$4
Pegasus [®] Extra Virgin Olive Oil – 3 liter can	\$4

DOCUMENTED CLAIMS;

I enclose true copies of cash register receipts or other contemporaneous proofs of purchase issued by the retail seller which show purchases since October 24, 2009, of Qualifying Products for which I am claiming payments and the name and address of the retailer where I bought such product(s).

UNDOCUMENTED CLAIMS

I declare, under penalty of perjury, that in or about [Month] _____, 20____, I purchased at retail, _____ [identify Qualifying Product] _____, from [name of retail store] _____, in [city, state] _____.

CLAIMANT MAILING ADDRESS:
