

CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAII

If you were exposed to the hepatitis A virus (“HAV”) as a result of the 2016 Hepatitis A Outbreak linked to consuming food at thirteen Genki Sushi restaurants located on the islands of Oahu, Kauai, and Maui, and as a result you obtained preventative medical treatment, a Class Action Settlement may affect your rights.

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

- You can make a claim for payment of \$150, \$250, or \$350 if you submit a claim by **NOVEMBER 29, 2018**, and qualify as a Class Member.
- Please read this notice carefully. Your legal rights may be affected whether or not you act.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM BY NOVEMBER 29, 2018	You must submit a claim to receive a payment from the Settlement. See Questions 4, 5 and 9 below.
EXCLUDE YOURSELF BY NOVEMBER 29, 2018	Excluding yourself from the Settlement Class is the only option that allows you individually to sue the Defendants about the claims in this case. See Questions 11 and 16 for specifics. If you do not exclude yourself from the Class, you cannot individually sue the Defendants.
OBJECT BY NOVEMBER 29, 2018	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 12 and 16 for specifics.
GO TO THE HEARING ON DECEMBER 11, 2018	You can ask to speak to the Court about the Settlement. See Questions 12 and 16.
DO NOTHING	If you do nothing, then you will not receive any payment from the Settlement and you will give up any rights you currently may have separately to sue the Defendants 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 lawsuits entitled *Cuehlo, et al., v. HNK, Inc., et al., Sato v. Genki Sushi USA, Inc. et al., and Ramos v. Genki Sushi USA, Inc.* (consolidated as CIVIL NO. 17-1-HEP (JHA) (Product Liability)), pending in the Circuit Court of the First Circuit, State of Hawaii’i (the “Settlement”). To submit a claim you must follow the steps described in this Notice by no later than NOVEMBER 29, 2018. To ask to

be excluded (opt out) or to object to the Settlement, you must follow the steps described in this Notice by no later than NOVEMBER 29, 2018.

2. What is the lawsuit about?

Starting on June 12, 2016, Hawai'i residents began testing positive for hepatitis A virus (HAV). The number of cases increased over the next couple of months, and on August 15, 2016, the Hawai'i Department of Health identified raw scallops served at Genki Sushi restaurants as the source of the outbreak. As a result of the outbreak and investigation, the Department advised "Anyone who consumed products, specifically scallops, prepared or served at Genki Sushi on Oahu or Kauai should consider contacting their healthcare provider about the possibility of receiving a vaccine or immune globulin (IG)." On Monday, August 15, 2016, Dr. Sarah Park, state epidemiologist, was quoted in news reports as advising "anyone who ate at Genki Sushi on Oahu and Kauai in the last two weeks should consult a healthcare provider and seek a vaccine." As a result of these announcements, people who had eaten at Genki Sushi restaurants followed the Department's recommendation and received HAV vaccinations or IG shots.

Over the next three months, the Department made announcements regarding varying risks of exposure for at least sixteen other restaurants or food vendors. As a result of these announcements, people who were potentially secondarily-exposed to HAV followed the Department's recommendation and received post-exposure preventative treatment.

The Plaintiffs, Bryan Cuelho, D'Ann Ramos, and Stanley Sato, acting on behalf of themselves and all those similarly situated, have asserted in this litigation class claims for strict liability and negligence per se to recover damages for physical injury and economic loss arising from obtaining IG immunization shots and HAV vaccinations, in response to an alert by the Hawai'i Department of Health that the Plaintiffs were allegedly exposed to the HAV virus by consuming food or drink, specifically scallops, from Genki Sushi restaurants, from contact with HAV-infected persons, or from one or more of the Secondary Establishments identified below.

The Defendants expressly deny any wrongdoing and do 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 are the Defendants?

The Defendants are Genki Sushi USA, Inc., HNK, Inc. dba Koha Foods, and Sea Port Products Corporation.

4. Who is covered by the Class?

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

All persons who: (1) as a result of the 2016 Hepatitis A Outbreak infections linked to consuming food at thirteen Genki Sushi restaurants located on the islands of Oahu, Kauai, and Maui, were

exposed to the hepatitis A virus (“HAV”) through one of three exposure-mechanisms (defined in the Exposure Subclasses), but did not become infected, and (2) as a result of such exposure, after learning of the requirement of treatment from an announcement of public health officials or a medical professional, obtained preventative medical treatment, such as receiving immune globulin (“IG”), HAV vaccine, or blood test within fourteen days of exposure.

The thirteen Genki Sushi restaurants implicated in the HAV outbreak are located at the following addresses:

- (1) 3-2600 Kaunaulii Hwy, Kauai, HI 96766
- (2) 820 West Hind Drive, # 102, Honolulu, HI 96821
- (3) 1450 Ala Moana Blvd #2096, Honolulu, HI 96814
- (4) 91-1401 Fort Weaver Rd. D-102, Ewa Beach, HI 96706
- (5) 45-480 Kaneohe Bay Drive, Kaneohe, HI 96744
- (6) 888 Kapahulu Ave, Honolulu, HI 96816
- (7) 4450 Kapolei Parkway, Kapolei, HI 96707;
- (8) 98-1005 Moanalua Road, Ste.801, Aiea, HI 96701
- (9) 94-799 Lumiaina St., Waipahu, HI 96797
- (10) 98-430 Kamehameha Hwy, Pearl City, HI 96782
- (11) 1200 Ala Moana Blvd, Honolulu, HI 96814
- (12) 70 E. Kaahumanu Ave, Kahului, HI 96732
- (13) 435 Keawe St., Lahaina, HI 96761

Persons who qualify as members of the Class will consist of three subclasses based on the manner in which the Class Members were exposed to HAV.

5. What are the Subclasses?

Your membership in a Subclass will determine the amount of money you will be paid. There are three subclasses, which are defined as followed:

Exposure Subclass 1: All Class Members who were in contact with one of the 292 persons who the Hawai’i Department of Health identified as infected with HAV as part of the 2016 Hepatitis A Outbreak. A contact is defined as:

- All household members of one of the 292 persons
- All sexual contacts with one of the 292 persons
- Anyone sharing illicit drugs with one of the 292 persons
- Anyone sharing food or eating or drinking utensils with one of the 292 persons
- Anyone consuming ready-to-eat foods prepared by one of the 292 persons

Exposure Subclass 2: All Class Members who as a result of consuming food on or between August 1 to August 16, 2016, were exposed to HAV at one of the thirteen Genki

Sushi restaurants located on the islands of Oahu, Kauai, and Maui, implicated in the summer 2016 outbreak of HAV.

Exposure Subclass 3: All Class Members who as a result of consumption of food or drink from one or more of the Secondary Establishments identified below, where an employee infected as part of the 2016 Hepatitis A Outbreak (one of the 292 persons) was found to have worked on the Identified Dates, were exposed as a result of consuming food or drink at the Secondary Establishment during one or more of the Identified Dates. The Secondary Establishments and Identified Dates are as follows:

- Baskin Robbins located at Waikele Center, HI 96797: June 30 and July 1, 2, 2016;
- Taco Bell located at 94-790 Uke'e St., Waipahu, HI 96797: July 1, 3, 4, 6, 7, 11, 2016;
- Sushi Shiono located at 69-201 Waikoloa Beach Drive, Waikoloa, HI 96738: July 12, 13, 14, 15, 18, 19, 20, 21, 2016;
- Chili's Grill & Bar located at 590 Farrington Hwy, Kapolei, HI 96707: July 20, 21, 22, 23, 25, 26, 27, 2016;
- Twelve Hawaiian Airlines flights: flight 118 on July 24; flight 117 on July 24; flight 382 on July 24; flight 383 on July 24; flight 396 on July 24; flight 365 on July 24; flight 273 on July 25; flight 68 on July 25; flight 65 on July 25; flight 147 on July 26; flight 18 on August 10; and flight 17 on August 12, 2016;
- Tamashiro Market located at 802 N. King St., Honolulu, HI 96817: July 23, 2016;
- Papa John's located at 94-1012 Waipahu St., Waipahu, HI 96797: August 2, 2016;
- New Lin Fong Bakery located at 1132 Maunakea St., Honolulu, HI 96817: July 27, 29, 30, and August 1, 3, 5, 6, 2016;
- Hokkaido Ramen Santouka, located at 801 Kaheka St., Honolulu, HI 96814: and August 3, 4, 5, 6, 9, 10, 11, 2016;
- Kipapa Elementary School located at 95-76 Kipapa Dr., Mililani, HI 96789: August 10, 11, 12, 13, 14, 15, 16, 2016;
- Zippy's Restaurant located at 950 Kamokila Blvd., Kapolei, HI 96707: August 14, 18, 19, 21, 23, 25, 26, 2016;
- Harbor Restaurant at Pier 38 located at 1133 North Nimitz Hwy, Honolulu, HI 96817: August 30-31 and September 1- 12, 2016;
- Ohana Seafood at Sam's Club located at 1000 Kamehameha Hwy., Pearl City, HI 96782: September 1- 11, 2016;
- Chart House Restaurant located at 1765 Ala Moana Boulevard, Honolulu, HI 96815: September 4, 8, 9, 10, 11, 2016; and
- McDonald's Restaurant located at 4618 Kilauea Avenue, Honolulu, HI 96816: October 5, 7, 11, 2016.

6. How Much Money Will I Receive?

The General Damages Settlement provides for an award of General Damages to be paid to each member of one of the subclasses, but only to Qualified Claimants, as follows:

- \$350.00 for each member of Subclass 1.
- \$250.00 for each member of Subclass 2.
- \$150.00 for each member of Subclass 3.
- No Qualified Claimant may be paid an award in more than one Subclass.
- A Qualified Claimant who belongs to more than one Subclass shall be paid only for that Subclass with the largest award.

The Aggregate Limit for all claims and payments may not exceed \$4,500,000.00 for the entire Class. The Aggregate Limit includes (i) payments to each member of the Subclasses, (ii) compensation to each of the Class Representatives, (iii) payments to identified insurers in settlement of subrogation liens as described below (Question 7) and (iv) Class Counsel's fees and costs (see Question 14).

To be a Qualified Claimant, you must (a) submit a complete claim form and sign it as a declaration under penalty of perjury attesting to facts showing your membership in the exposure subclasses listed above; (b) show receipt of IG, HAV vaccine, or blood tests by providing date of treatment and documentation from a medical provider if the treatment was not covered by insurance or if the claimant does not identify an insurer who covered the treatment; and (c) attest that you had not previously had HAV or previously received a HAV vaccination. You must also follow the instructions listed below in Question 9.

If payment of the total number of timely claims submitted by Qualified Claimants, combined with payment of the other components of the Aggregate Limit would require exceeding the Aggregate Limit, then the per claim amounts identified for each of the three subclasses will be reduced proportionately to the extent needed to avoid exceeding the Aggregate Limit and each Qualified Claimant will be paid only the applicable proportionately reduced per claim amount. Such reduced amounts would preserve the proportionate relationships between the individual subclass awards. Thus, the amount paid to each member of Subclass 1 will continue to be 40% greater than the amount awarded to each member of Subclass 2; the amount paid to each member of Subclass 2 will continue to be two thirds (2/3) greater than the amount awarded to each member of Subclass 3.

If the total number of timely claims submitted by Qualified Claimants is such that the payment of such claims, combined with payment of the other components of the Aggregate Limit will not exhaust the Aggregate Limit, then any difference between the total amount paid out in claims and other components of the Aggregate Limit and the Aggregate Limit of \$4,500,000.00 will not be paid by the Defendants. These remaining funds, if any, after expiration of the Payment Period will revert to the funding sources consistent with the percentage of their respective contribution.

7. Are Insurance Claims Affected by the Settlement?

Although the Settlement of class claims is for general damages only, compensating Class Members for personal injury, pain, emotional distress, and inconvenience caused by need for, and obtaining of, preventive medical treatment, a portion of the compensation to each claimant will be allocated to settle and release the claims of insurers asserting any right of subrogation. The compensation provides for identified insurers to be paid 5% of each Qualified Claim for the full and final release of all subrogation claims arising from or related to preventative medical treatment. Such payments to identified insurers will not be deducted from the amounts identified for the three subclasses, but will count towards the aggregate limit. Identified insurers will be required to verify whether Qualified Claimants received immune globulin, HAV virus vaccine, or blood tests.

8. Will there be Compensation Paid to the Named Representatives?

In addition to the payments described above, each named representative will each receive \$5,000.00 in compensation paid out of the Settlement Fund. Stanley Sato is the named representative for Subclass 1; Bryan Cuelho is the named representative for Subclass 2; and D'ann Ramos is the named representative for Subclass 3.

9. How do I make a claim?

To make a Qualified Claim, you must submit a completed and signed claim form along with supporting documentation that shows receipt of IG, HAV vaccine, or blood tests. Your claim must be received by the Class Administrator on or before **NOVEMBER 29, 2018**. A claim form can be obtained by downloading the form at **www.HawaiiHepA.com** or by calling **1-800-532-9250**.

When submitting your claim, you must provide the information requested on the claim form to support and verify your claim. Acceptable proof of receiving IG, HAV vaccine, or HAV blood tests are: (a) signed statement, (b) documentation from a medical provider, and/or (c) verification by your health insurer. Return your completed claim by mail, fax or email to the Class Administrator so that it is received no later than **November 29, 2018**. The mailing address of the Class Administrator is:

Hawai'i Hep-A Claims
c/o The Notice Company
P.O. Box 455
Hingham, MA 02043

Claims may also be submitted by email sent to claims@HawaiiHepA.com or by fax to (808) 748-0584.

You must complete and submit a separate claim form for each person who received IG, HAV vaccine or HAV blood test. **FAILURE TO SUBMIT A VALID AND TIMELY CLAIM FORM SO THAT IT IS RECEIVED BY NOVEMBER 29, 2018 WILL BAR YOU FROM RECEIVING A PORTION OF THE SETTLEMENT AND BAR YOU FROM PROCEEDING**

ON ANY CLAIM ARISING OUT OF THE CIRCUMSTANCES DESCRIBED IN PARAGRAPH 2.

10. Will I receive payment if I do not file a claim?

You will not be entitled to receive a payment from this Settlement if you do not file a timely claim. If you wish to receive a portion of the Settlement, you must make a claim as described in the previous section. If your timely submitted claim form shows that you qualify as a Class Member, your claim will then be paid, following the Court's approval of the Settlement. You will not be charged anything individually to remain in the Class. You will not be charged individually for attorney fees. See Question 14 below.

Any potential class member who wishes to do so may 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.

In order to receive a portion of the Settlement, you must submit a valid claim form so that it is received by **NOVEMBER 29, 2018**. Should you decide to enter an appearance, in this litigation, however, you must still submit a claim form so that it is received by **November 29, 2018**. Failure to do so will preclude you from receiving a portion of the Settlement. Any claim received after **November 29, 2018**, will not be accepted or paid.

11. Can I exclude myself from the Class?

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

Hawai'i Hep-A Exclusions
c/o The Notice Company
P.O. Box 455
Hingham, MA 02043

To be valid, your exclusion request must be received no later than **November 29, 2018**. Your request for exclusion must (a) specify your full name and mailing address, (b) be signed and dated, and (c) state that you request to be "Excluded from the Hawai'i Hepatitis-A Class Action (Civil No. 17-1-HEP (JHA)) in the State of Hawai'i". A member of the Class submitting such a request shall be deemed excluded from the Settlement Class and from this 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 or subsequently initiates litigation against the Defendants relating to the HAV outbreak and/or the matters released.

12. 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 member of the Class intends to present to the Court in connection with such objection, on the Class Counsel and Defendants' Counsel, no later than **November 29, 2018**.

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 **November 29, 2018**.

COURT ADDRESS:

Honorable Judge James H. Ashford
Circuit Court of the First Circuit, State of Hawai'i
Ka'ahumanu Hale
777 Punchbowl Street
Honolulu, HI 96813-5093

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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 **November 29, 2018**, and (ii) serve on the Class Counsel and on Defendants' Counsel a copy of the same. Any such Class Member or their counsel may obtain access at the offices of STARN O'TOOLE MARCUS & FISHER, at the address listed above, to the original filed complaint, answer, any orders entered by the Court in the lawsuit, and to such additional pleadings as may be agreed upon by the Defendants' Counsel and the 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.

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 shall waive and forfeit any and all rights that he or she may have to appear separately and/or object.

13. Who represents the class?

The Court has designated Stanley Sato as the named representative for Subclass 1; Bryan Cuelho as the named representative for Subclass 2; and D'ann Ramos as the named representative for Subclass 3. The Court has appointed Perkin & Faria, LLC, Starn O'Toole Marcus & Fisher, 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.

14. How much will be paid to Class Counsel for fees and costs?

Class Counsel's fees and costs will be capped at 25% of the amount paid to the entire class for general damages. The amount awarded to Class Counsel will count toward the Aggregate Limit of \$4,500,000.00 for all claims and payments (see Question 6).

15. What are the reasons for the Settlement?

The Class Representatives 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 this Settlement, the Class Counsel considered the relative risks, costs, and benefits to the Class of settlement or continuing litigation. The Class members incur no risk or cost in obtaining the proposed relief.

16. What is the Settlement approval procedure?

The Court will hold a Final Approval Hearing on **December 11, 2018, at 9:00 a.m.** with the Honorable Judge James H. Ashford at the Circuit Court of the First Circuit, State of Hawai'i, Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, HI 96813. At the hearing, the Court will consider whether the proposed Settlement should be granted final approval as fair, adequate, and reasonable, and in the best interests of the Class as a whole. The Parties will request that the Court enter a Final Approval 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.

Class Members will have the right to be excluded or to object to the proposed Settlement in the manner described above. No objection to the proposed Settlement will be valid unless it is in writing, signed personally by the Class Member under penalty of perjury, and submitted to the Court and served on Class Counsel and Defendants' Counsel, no later than **November 29, 2018**. If you do not file an objection by **November 29, 2018**, 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.

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 Defendants, 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) settlement of any subrogation liens for the benefit of qualifying Class Members; and (3) compensation for class representatives. 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.

17. 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.HawaiiHepA.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 the Class Counsel identified above or wish to obtain relevant Court documents, you may do so by writing to the Class Counsel at the address listed above.

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