

Cannon v. Ashburn Corporation d/b/a Wines 'Til Sold Out (“WTSO”)
Class Action Settlement
Frequently Asked Questions
Civil Action No. 16-1452 (RMB)(AMD)
United States District Court for the District of New Jersey

A class action lawsuit is pending in the U.S. District Court for the District of New Jersey before the Honorable Renee M. Bumb, entitled *Cannon, et al. v. Ashburn Corporation, et al.*, Civil Action No. 16-1452 (RMB)(AMD). The Parties have proposed to settle the Litigation. You may be a Settlement Class Member. The Proposed Settlement may affect your legal rights. You have a number of options, which are explained in greater detail below.

1. What is this Lawsuit about?

Kyle Cannon, Lewis Lyons, and Dianne Lyons (collectively the “Plaintiffs”) in this case allege that because certain wines were not sold anywhere at the purported “Original Price,” the discount advertised by WTSO was not real, and consumers were not buying wines at a discount. The Plaintiffs further allege that WTSO offered wines that were available elsewhere but that the stated “Original Price” of some of these wines was higher than the price set by the winery itself, resulting in a greater advertised discount than would have existed had Defendant used the winery’s price for such wines.

WTSO maintains that the “Original Price” it advertised was the suggested retail price provided to it when it purchased the wine and was an accurate reflection of the value of the wine it sold. WTSO denies all liability of any kind associated with the claims alleged. WTSO further denies that class certification is appropriate for any purpose other than settlement.

The Court has not decided who is right in this case.

2. What is a class action?

In a class action, one or more people called “Class Representatives” or “Plaintiffs” sue on behalf of other people who have similar claims. The people together are “Class Members” or “Settlement Class Members”. The individual, and/or company they sued (in this case WTSO.com) is called the Defendant. One Court resolves the issues for everyone in the Settlement Class—except for those people who choose to exclude themselves from the Settlement Class. Judge Renee M. Bumb of the United States District Court for the District of New Jersey is in charge of this case and certified the lawsuit as a class action for settlement purposes only.

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

The Settlement Class means all residents of the United States who were the original purchasers of one or more wines from WTSO from March 15, 2010 to November 1, 2016 (referred to as the “Class Period”). Excluded from the Class are: (1) directors, officers and employees of Defendant; (2) the United States government and any agency or instrumentality thereof; (3) the judge to whom this case is assigned and any member of the judges’ immediate family; and (4) Settlement Class Members who timely and validly opt to exclude themselves from the Settlement Class.

4. What does the Settlement provide?

Class Members who timely complete the [Verification Form](#) will receive Credits to purchase wine on WTSO.com, as follows:

- For every bottle of Wine listed on [Exhibit “A”](#) purchased during the Class Period for \$12.99 or less for which no prior refund was given, you will receive a Credit of \$1.75.
- For every bottle of Wine listed on Exhibit “A” purchased during the Class Period for \$13.00 to \$18.99 for which no prior refund was given, you will receive a Credit of \$2.00.
- For every bottle of Wine listed on Exhibit “A” purchased during the Class Period for \$19.00 or greater for which no prior refund was given, you will receive a Credit of \$2.25.
- For every bottle of Wine listed on [Exhibit “B”](#) purchased as an individual offering (not as part of a combination package of different wines) during the Class Period for \$19.99 or less for which no prior refund was given, you will receive a Credit of \$ 0.50.
- For every bottle of Wine listed on Exhibit “B” purchased as an individual offering (not as part of a combination package of different wines) during the Class Period for \$20.00 or greater for which no prior refund was given, you will receive a Credit of \$ 0.75.
- For every other bottle of Wine purchased during the Class Period for which no prior refund was given, you will receive a Credit of \$ 0.20.

Defendant is required to maintain your order history on WTSO.com so that you will be able to view and verify the amount of Credits you receive.

You will not receive a Credit for any bottle of wine for which you received a refund. Credits will be good for one year from the date you receive an email with a code for your Credits. Credits will be applied against purchases of any wine the first time it is offered on WTSO.com (with limited exceptions), and on certain other wines offered on WTSO.com, at the rate of \$2.00 off per bottle, or for the full or remaining Credit amount if less than \$2.00. WTSO will identify on its website which wines are eligible for Credit use.

Unless you opt out as described below, you release and give up your right to file a lawsuit against WTSO and its related agents and entities relating to WTSO’s selling, marketing and advertising of wine during the Class Period. The precise terms of the release are set forth in the Settlement Agreement. Unless you exclude yourself from this Settlement, as described below, you will release your claims whether or not you submit a Verification Form and receive a Credit.

5. How do I receive a settlement benefit?

In order to receive Credit(s), you must submit a completed Verification Form. You can find the form here: <https://kccsecure.com/winesettlement/Claimant>. You may submit the Verification Form online or by mail no later than **April 19, 2018**.

6. What information do I need to provide in the Claim Verification Form?

The Verification Form will require you to verify your current mailing address and any refunds you received on wines purchased within the Class Period. If the Settlement Administrator finds that your Claim Verification Form is incomplete, you will have one more opportunity to submit a corrected completed Claim Verification Form.

7. How do I use my Credit(s)?

Once you have submitted a valid Verification Form, the Settlement Administrator will email you and non-transferrable individualized code (the “Code”) that may be used on WTSO.com for a period of one (1) year from the date the Code is emailed to you by the Settlement Administrator. This is referred to as the “Redemption Period.”

If you do not use all of your Credits in one transaction, they will be available to you for future transactions during the Redemption Period.

If WTSO is not able to ship to both your primary and business address during the Redemption Period, you will receive in cash 50% of the amount of Credits owed to you.

8. What if I do not want to participate in this Settlement?

All Class Members shall have the right to exclude themselves or opt out of the Settlement Class at any time during the opt-out period. The postmark deadline to opt out of the Settlement is **February 16, 2018**.

Any Class Member who wishes to opt out of the Class may do so by mailing a letter to the Settlement Administrator. The opt out request must include: (i) Your name and address; (ii) A statement clearly indicating that your intention to opt out of the *Cannon v. Ashburn Corporation d/b/a Wines 'Til Sold Out Class Action Settlement*; and (iii) Your signature.

Mail your opt out request to the Settlement Claims Administrator at the address below postmarked no later than **February 16, 2018**:

Cannon v. Ashburn Corporation d/b/a Wines
'Til Sold Out Class Action Settlement
P.O. Box 404041
Louisville, KY 40233-4041

Any Class Member who elects to opt out of the Class: (i) will not receive any Credits for the purchase of wine on WTSO.com; (ii) will not be bound by any orders or judgments entered in this Action; (iii) will not be entitled to relief under, or be affected by, this Agreement; (iv) will not gain any rights by virtue of this Agreement; and (v) will not be entitled to object to any aspect of this Agreement.

Any Class Member who has opted out and wishes to revoke his or her request for exclusion may do so by mailing a letter stating clearly the desire to revoke the previous request for exclusion to the Settlement Administrator before the **February 16, 2018** opt-out deadline.

9. How do I tell the Court if I do not like the Settlement?

Class Members may serve written objections to the Settlement, or to Class Counsel's application for Attorneys' Fees and Expenses.

The objection must include (i) the Class Member's full name and current address and telephone number; (ii) the identification of at least one Settlement Wine purchased; (iii) a description of all of the Class Member's objections, the specific reasons therefore, and any and all supporting papers, including, without limitation, all briefs, written evidence, and declarations; and (iv) the Class Member's signature.

Class Members submitting objections who wish to appear either personally or through counsel at the Fairness Hearing and present their objections to the Court orally must include a written statement of intent to appear at the Fairness Hearing in the manner prescribed by the Notice. Only Class Members who specify in their objections that they intend to appear personally or through counsel at the Fairness Hearing will have the right to present their objections orally at the Fairness Hearing. Settlement Class Members who do not submit timely written objections will not be permitted to present their objections at the Fairness Hearing.

To be considered, any such objection must be mailed to the Clerk of the Court, with copies to Class Counsel and counsel for WTSO not later than **February 16, 2018** (*i.e.*, must be either received by the Clerk or be postmarked no later than **February 16, 2018**).

Court	Class Counsel	Defense Counsel
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United States District Court for the District of New Jersey 4 th & Cooper Streets Camden, NJ 08101	Oren Giskan GISKAN SOLOTAROFF & ANDERSON LLP 217 Centre Street, 6 th Floor New York, NY 10013	Suzanne Ilene Schiller MANKO, GOLD, KATCHER & FOX, LLP 401 City Avenue, Suite 901 Bala Cynwyd, PA 19004
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10. When and where will the Court determine whether to approve the Settlement?

The Court entered an order preliminarily approving the Settlement Agreement on November 10, 2017. The Court will hold a Fairness Hearing at 10:00 a.m. on **March 19, 2018**, at the United States District Court, District of New Jersey, Courtroom 3D, 4th and Cooper Streets, Camden, NJ 08101.

11. What if the proposed Settlement is not approved?

If the proposed Settlement is not granted final approval, then the proposed Settlement will not become effective and will be voided, the lawsuit will proceed without further notice, and none of the agreements set forth in the Notice will be valid or enforceable.

12. Do I have a lawyer in the case?

Yes. The Court has appointed these lawyers and firms as “Class Counsel,” meaning that they were appointed to represent all Class Members: Oren S. Giskan of Giskan, Solotaroff & Anderson, LLP; James E. Cecchi of Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C.; Thomas Rosenthal of Law Offices – Thomas Rosenthal; and Edward Hernstadt of Hernstadt Atlas PLLC.

You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

13. Will payments be made to Class Counsel or the Class Representatives?

The determination of an attorney fee award is made by the Court, which will determine a reasonable fee for the work done and the result obtained by Class counsel. Class counsel will ask the Court to award attorneys’ fees and expenses of no more than \$1.7 million.

Class counsel will also seek \$2500 for each Class Representative in recognition of their assistance in this litigation.

14. How do I get more information about the Settlement?

The official terms of the proposed Settlement are in the settlement agreement. A copy of the settlement agreement, as well as other court documents and important deadline dates are located on the settlement website: www.winesettlement.com. If you have any questions regarding the settlement or the submission of the Claim Form, contact the Settlement Administrator at:

Email: info@winesettlement.com

Phone: 1-866-652-8231

Mail: Cannon v. Ashburn Corporation d/b/a Wines

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P.O. Box 404041

Louisville, KY 40233-4041