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**ATTENTION ALL PERSON IN THE UNITED STATES WHO  
PURCHASED, RECEIVED, OR CONSUMED DAILY HARVEST FRENCH  
LENTIL + LEEK CRUMBLES IN 2022**

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**This notice may affect your rights. Please read it carefully.**

*A court has authorized this notice. This is not a solicitation from a lawyer.*

- This notice concerns a class action lawsuit titled *Breeanne Buckley Peni, individually and on behalf of all others similarly situated, v. Daily Harvest, Inc., et al.*, Case No. 1:22-cv-05443, pending in the United States District Court for the Southern District of New York. You previously received a notice about this case when two of the defendants—Daily Harvest, Inc., and Stone Gate Foods, Inc.—agreed to a settlement (the “DH/SGF Settlement”). You are now receiving a second notice because the remaining defendants, Smirk’s Ltd. and Molinos Asociados SAC (the “Settling Defendants”), now also have agreed to a settlement that will increase the amount of money available to pay eligible claims.
- **IF YOU HAVE ALREADY FILED A CLAIM TO RECEIVE BENEFITS FROM THE DH/SGF SETTLEMENT, AND WISH TO PARTICIPATE IN THIS SETTLEMENT TOO, YOU DO NOT NEED TO TAKE ANY FURTHER ACTION. THE CLAIM FORM YOU HAVE ALREADY FILED WILL APPLY TO BOTH SETTLEMENTS AND, AS EXPLAINED BELOW, YOU WILL NOW RECEIVE A LARGER MONETARY AWARD. HOWEVER, PLEASE NOTE THAT THE PAYMENTS FROM EACH SETTLEMENT MAY NOT BE MADE AT THE SAME TIME, AS THEY ARE COMING FROM TWO SEPARATE QUALIFIED SETTLEMENT FUNDS (QSFs) AND ARE SUBJECT TO DIFFERENT TIMELINES.**
- This class action Settlement (“the Settlement”) by the Settling Defendants, just like the prior DH/SGF Settlement, pertains to personal injuries experienced by people who consumed Daily Harvest French Lentil + Leek Crumbles (“Crumbles”), which contained the ingredient tara flour, at any time in the year 2022. The lawsuit settlement affects all

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persons in the United States (including its territories) who purchased, received, or consumed Crumbles and directly suffered personal injuries caused by consumption of the Crumbles, and all persons in the United States (including its territories) who suffered consequential monetary damages arising from or related to another person's personal injuries arising from consumption of Crumbles (the "Class").

- The Settling Defendants deny any wrongdoing. They contend that they complied with the law in all respects and at all times.
- To settle the case, Settling Defendants have agreed to pay \$7,671,000 to settle claims submitted by members of the Class, as well as for expenses necessary to administer the settlement. This amount may be reduced depending upon the number of people who opt out of the settlement, as explained further below. The Settlement Administrator's total costs for class notice and class administration and any expenses incurred therefrom shall not exceed \$1,000,000 for both this Settlement and the DH/SGF Settlement unless the Court orders otherwise.
- The lawyers who brought this lawsuit ("Class Counsel") will not ask the Court to award them attorneys' fees from this settlement amount. If Class Members who file claims for relief in the settlement are represented by counsel, any payment of fees will be paid to that counsel by the Class Member pursuant to that Class Member's agreement with his or her counsel. However, if a Class Member is not represented by counsel and does not have an attorney lien resulting from previous representation relating to the Crumbles, then any Monetary Benefit awarded to said Unrepresented Claimant shall be reduced by one-third (1/3) under the terms of the Settlement Agreement, so that unrepresented people do not receive more than those who have been represented.
- Your legal rights are affected whether or not you act. Read this notice carefully.

This Notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement, available at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com) (the "Settlement Website"), or contact the Settlement Administrator at P.O. Box 361930, Hoover, AL 35236 or by telephone at (877) 229-1937.

<b>YOUR RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>		<b>DEADLINE</b>
<b>Submit Claim Form</b>	The only way to get a cash payment, is if you qualify. If you already have submitted a Claim Form in the DH/SGF Settlement, you do not need to submit another Claim Form to receive benefits from this settlement.	<b>*[75 days after this Notice]</b>
<b>Exclude Yourself From the Class</b>	You will not get any benefits under this Settlement. This is the only option that allows you to be part of any other lawsuit or proceeding in arbitration against the Settling Defendants about the legal claims in this case. If you previously excluded yourself from the DH/SGF Settlement Class, you must submit a separate request to exclude yourself from this Settlement.	<b>*[35 days after this Notice]</b>
<b>Object to the Settlement</b>	Tell the Court about why you don't like the Settlement. (If you exclude yourself from the Settlement, you cannot also object to it.)	<b>[75 days after this Notice]</b>
<b>Go to a Hearing On</b> [_____]	If you timely submitted a written objection, you may ask to speak in Court about the Settlement.	<b>[143 days after preliminary approval of class action settlement]</b>
<b>Do Nothing</b>	Get no benefits (unless you have already submitted a claim form in the DH/SGF Settlement). Give up rights to be part of any other lawsuit against the Settling Defendants about the legal claims in this case.	
* The Deadline to Submit a Claim Form and the Objection Deadline may be extended without further direct notice to you. All such changes will to the deadlines will be posted to the Settlement Website at <a href="http://www.SMcrumblesettlement.com">www.SMcrumblesettlement.com</a> . Please continue to check the Settlement Website for updates.		

- These rights and options—**and deadlines to exercise them**—are explained in this notice.
- **Final Approval Hearing:** On [\_\_\_\_\_], the Court will hold a hearing to determine: (1) whether the Settlement should be approved as fair, reasonable, and adequate, and should receive final approval; and (2) whether Class Counsel's application for expenses incurred by Class Counsel should be granted. The hearing will be held in the

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United States District Court for the Southern District of New York, before the Honorable Denise Cote, [\_\_\_\_\_], in Courtroom 18B, 500 Pearl Street, New York, New York, 10007, or such other judge assigned by the Court. This hearing date may change without further direct notice to you. Consult the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com), or the Court docket in this case available through Public Access to Court Electronic Records (“PACER”) (<http://www.pacer.gov>), for updated information on the hearing date and time.

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### 1. Why Did I Get This Settlement Notice?

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If you received this Settlement Notice, records show that in 2022, you may have purchased, received, or consumed French Lentil + Leek Crumbles (“Crumbles”), a product manufactured by Second Bite Foods, Inc. d/b/a “Stone Gate Foods” and distributed and sold by Daily Harvest, Inc. This product contained the food ingredient tara flour, which was imported by Smirk’s, who sourced it from Molinos Asociados. It has been alleged in court that if consumption of the Crumbles caused personal injuries, the tara flour ingredient was the cause. Smirk’s and Molinos Asociados are the “Settling Defendants.” A court authorized this Notice because you have the right to know about the proposed Settlement and your options before the Court decides whether to approve the Settlement. If the Court approves the Settlement after any objections, and if that approval is upheld on appeal (if any), a Settlement Administrator appointed by the Court will make payments that the Settlement allows.

The Honorable Denise Cote, District Judge of the Southern District of New York, is in charge of this case, which is called *Breeanne Buckley Peni, individually and on behalf of all others similarly situated, v. Daily Harvest, Inc., et al.* The case number is 1:22-cv-05443. The person who filed this Lawsuit is called the Plaintiff. This Notice explains the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get these benefits.

## **2. How Do I Know If I Am Affected By The Settlement?**

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If you are an individual in the United States who purchased, received, or consumed Crumbles and directly suffered personal injuries caused by consumption of Crumbles, and/or an individual in the United States who suffered monetary damages arising from or related to another person's personal injuries arising from consumption of the Crumbles, you are a member of the Class. Specifically excluded from the Class are (i) any Governmental Entity; (ii) subsidiaries, divisions, corporate affiliates, owners, officers, current employees, and directors of the Settling Defendants; (iii) any assigned judges and members of their staffs and immediate families; and (iv) Class Counsel.

If the Settlement does not become effective (for example, because it is not finally approved, or the approval is reversed on appeal), then this litigation will continue.

## **3. What Is The Lawsuit About?**

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Numerous lawsuits against the Settling Defendants were brought pertaining to Crumbles, beginning in or about June 2022. One such lawsuit was brought by Plaintiff, who alleged that her consumption of Crumbles caused personal injuries and related monetary damages. Settling Defendants deny any wrongdoing. They contend that they complied with the law in all respects and at all times. The Court has not decided that the Settling Defendants did anything wrong and the settlement does not mean that the Settling Defendants violated the law.

This lawsuit is a class action. A class action is a lawsuit in which the claims and rights of many people are decided in a single court proceeding. One or more people — sometimes called “class representatives” — sue on behalf of people who may have similar claims. All the people who may have similar claims form a “class” and are “class members.” A settlement in a class action — if approved by the Court as fair, reasonable, and adequate — resolves the claims for all class members.

This Settlement is the *second* and final settlement in the Daily Harvest Crumbles litigation. The DH/SGF Settlement, which was for \$22,999,000 and which the Court preliminarily approved on May 22, 2024, would resolve class members' claims against Daily Harvest, Inc., and Stone Gate Foods, Inc. This new Settlement resolves the claims against remaining defendants Smirk's Ltd. and Molinos Asociados SAC. If you already submitted a claim for benefits in the first settlement, this second settlement, if approved, will increase the amount of money you will receive.

#### 4. Why Is This Case Being Settled?

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Both sides agreed to the settlement to avoid the cost and risk of further litigation. The settlement does not mean that any law was broken. Settling Defendants deny all the legal claims in this case. Plaintiff and the lawyers representing her think the settlement is best for all Class Members.

#### 5. What If I'm Still Not Sure If I'm Included In the Settlement?

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If you are not sure whether you are included in the Class, call (877) 229-1937 or go to [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

#### 6. What Can I Get In The Settlement?

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Class Members will be eligible to file a claim for personal injury damages and/or monetary damages. The Settlement Administrator will evaluate each claim based on materials submitted and grade each claim according to an agreed formula called the "Allocation Matrix." That Allocation Matrix was provided to the Court as part of the Settlement Agreement and you can read it on the Settlement Website: [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

The amount of the payment will depend upon the "Category" into which a Class Member's personal injury or monetary damages fall. If you did not suffer personal injuries directly, but you suffered monetary damages arising from or related to another person's personal injuries arising from consumption of the Crumbles, you are considered a Category 1A. If you directly suffered personal injuries related to your consumption of the Crumbles, but you did not receive medical treatment for these injuries, you are considered a Category 1B. If you directly suffered personal injuries related to your consumption of the Crumbles, and you received medical treatment for these injuries, but were not hospitalized, you are considered a Category 2. If you directly suffered personal injuries related to your consumption of the Crumbles, received medical treatment for these injuries, and were hospitalized for these injuries, you are considered a Category 3. If you directly suffered personal injuries related to your consumption of the Crumbles, and you underwent a cholecystectomy (gallbladder removal surgery) related to these injuries, you are considered a Category 4.

The table below sets forth the estimated expected payments to claimants in each Category. Please note that if you already submitted a claim for benefits in the DH/SGF Settlement, the amounts below are *in addition to* those you will receive if you qualify for benefits from the DH/SGF Settlement:

Category #	Estimated Award in the DH/SGF Settlement	Estimated Award in this Settlement	Estimated Total Award
1A	\$500	\$165	\$665
1B	\$1,000	\$335	\$1,335

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2	\$15,000	\$5,000	\$20,000
3	\$30,000	\$10,000	\$40,000
4	\$130,000	\$43,330	\$173,330

**Importantly, the \$7,671,000 amount of the Settlement Fund may be reduced depending upon the number of people who opt out of the settlement and the category such people would have occupied had they not opted out.** Promptly after the deadline for class members to opt-out, which falls on [\_\_\_\_\_], the parties will negotiate the amount of what the Settlement Agreement calls the “Hold Back Amount.” This is the amount that will be removed from the \$7,671,000 settlement amount to allow the parties to continue to litigate the claims of those who have opted out. The Hold Back Amount will be posted to the Settlement Website, [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com), by [\_\_\_\_\_]. This date has been set intentionally so that class members will be aware of the actual amount of the settlement fund before they file their claims or object to the settlement.

If the Hold Back Amount is no more than ten percent of the \$7,671,000 settlement fund, the Settling Defendants can set that amount without negotiations. If the Settling Defendants believe the Hold Back Amount must be more than ten percent of the fund, negotiations may be required and the parties may need the assistance of a third-party neutral with those negotiations. Delays in setting the Hold Back Amount may cause the Court to extend the deadlines for Class Members to file claim forms or to object to the settlement. Any changed deadlines will be posted to the Settlement Website, [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com). Please check the website regularly.

The above projections also assume that approximately \$2,825,000 will be set aside to pay any Category 2, 3, or 4 shortfalls, if any, at the Settlement Administrator’s discretion, including enhancing awards for claimants with verified causally related injuries that are considered grave or extraordinary (the “extraordinary damages fund”). It is projected that Category 1 Claimants (this includes Category 1A and Category 1B) will be paid a total of \$166,000 (approximately [\_\_\_\_\_] Claimants out of [\_\_\_\_\_] Class Members). It is projected that Category 2 Claimants will be paid a total of \$1,445,000 (approximately [\_\_\_\_\_] Claimants out of [\_\_\_\_\_] Class Members). It is projected that Category 3 Claimants will be paid a total of \$1,860,000 (approximately [\_\_\_\_\_] Claimants out of [\_\_\_\_\_] Class Members). It is projected that Category 4 Claimants will be paid a total of \$1,400,000 (approximately [\_\_\_\_\_] Claimants out of [\_\_\_\_\_] Class Members). The predetermined benefits – \$165 each for Category 1A Claimants, \$335 each for Category 1B Claimants, \$5,000 each for Category 2 Claimants, \$10,000 each for Category 3 Claimants, \$43,330 each for Category 4 Claimants – may proportionally increase or decrease depending upon the response from Class Members. The Settlement Administrator shall determine the Monetary Benefit awarded to each Qualified Class Member pursuant to the Settlement Program and Allocation Matrix. If you disagree with your Monetary Benefit award determination you may file an appeal with the Settlement Administrator. After receiving the Settlement Administrator’s



appeal determination, if you still disagree with your Monetary Benefit award determination, you may file an appeal with the Court. The Court's decision will be final and binding.

**If you did not file a claim in the DH/SGF Settlement by the deadline, you can still submit a claim for this Settlement.** However, you will only be eligible to receive funds from this Settlement, not from both settlements. The only exception is for claimants who were unable to file a claim in the DH/SGF Settlement due to a valid reason; their eligibility will be assessed on a case-by-case basis by the Settlement Administrator.

**If you have already filed a claim in the DH/SGF Settlement, you will not need to submit a new claim form to receive benefits from this Settlement.** The new funds will be added to your existing claim's determined benefits. Due to the separate timelines and processes for each settlement, it is not guaranteed that both payments will be made at the same time. Payments for this Settlement and the DH/SGF Settlement come from two separate Qualified Settlement Funds (QSFs). As such, it is likely that the payment from this Settlement will be made in addition to, but not at the same time as, the DH/SGF payment.

Additionally:

- Claimants in this Settlement may apply for the extraordinary damages fund, even if they did not file a claim in the DH/SGF Settlement.
- If you did not opt out of the DH/SGF Settlement, you can still choose to opt out of this Settlement if you wish.
- If you did not object to the DH/SGF Settlement, you can still choose to object to this Settlement if you wish. However, only those who do not opt out of the Settlement are eligible to submit an objection.

More information regarding how the Settlement Administrator will grade claims and your right to appeal your determination, can be found in the Allocation Matrix, Exhibit F, available on the Settlement Website at [www.SMcrumblessettlement.com](http://www.SMcrumblessettlement.com).

After the Settlement becomes "final", payments will be sent to Qualified Class Members who send in valid Claim Forms on time (*i.e.*, no later than the Claim Form Deadline) that the Settlement Administrator has determined satisfy the Eligibility Requirements of the Settlement. If the Court approves the Settlement after a hearing on [\_\_\_\_\_], there may be appeals. Resolving these appeals can take time. Please be patient.

## **7. How Do I Participate In The Settlement?**

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If you are eligible to receive monetary benefits, submit a Claim Form and related documentation to the Settlement Administrator by either (1) submitting a Claim Form at the Settlement Website, or (2) submitting a Claim Form by mail. The Claim Form can be found at [www.SMcrumblessettlement.com](http://www.SMcrumblessettlement.com). If you need a paper copy of the Claim Form to be sent to you, call (877) 229-1937. If you already have an attorney representing you in this case, please contact them before the Claim Form Deadline regarding filing your claim.

Questions? Visit [www.SMcrumblessettlement.com](http://www.SMcrumblessettlement.com) or call (877) 229-1937.



**You must complete and submit the Claim Form, including all required documentation and signatures, no later than [ ] (75 days after the date of this Notice, unless extended), to the Settlement Administrator online at the Settlement Website, or by mail (postmarked no later than [ ]) to P.O. Box 361930, Hoover, AL 35236.**

The Deadline to Submit a Claim Form may be extended without further direct notice to you. Consult the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com). Please continue to check the Settlement Website for updates.

More information regarding how to participate in the Settlement is available on the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

## **8. How Do I Opt-Out Of The Settlement?**

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If you want to keep the right to assert claims about the issues in this case against Settling Defendants Smirk's Ltd. and/or and Molinos Asociados SAC then you must take steps to get out of the Settlement. This is called excluding yourself, or Opting-Out, of the Settlement Class.

If you want to Opt-Out of the Settlement Class, you must submit your request for exclusion by either (1) submitting an exclusion form at the Settlement Website, or (2) submitting by mail a written request for exclusion. If you Opt-Out of the Settlement Class, you will not be allowed to object to this Settlement or submit a Claim Form. If you validly Opt-Out of the Settlement Class, but later decide you would like to participate in the Settlement, you may still participate in the Settlement by filing a Claim Form (see Section 7 for instructions) and withdrawing your opt-out election before [ ], the date of the Final Approval Hearing.

**You must complete and submit an exclusion form no later than [ ] (35 days after this Notice), sent by mail (postmarked no later than [ ]) to Smirk's-Molinos Settlement, P.O. Box 361930, Hoover, AL 35236.**

More information regarding how to Opt-Out of the Settlement is available on the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

## **9. Do I Have a Lawyer in the Case?**

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The Court has designated Marler Clark, Inc. PS, Dreyer Boyajian LLP, O'Connor & Partners, PLLC, Heisman Nunes & Hull LLP, and Bowersox Law Firm, P.C. to represent you as "Class Counsel." You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense. You may already have engaged counsel to represent you in connection with claims pertaining to consumption of Crumbles, in which case you should consult with that counsel. Class Counsel will not ask the Court to award them attorneys' fees to be deducted from the settlement fund; any such payments will be paid by the recipients of settlement funds to their counsel pursuant to the terms of each person's attorney retainer agreement. However, if any Class Member states in a claim form that he or she is not represented by counsel, and if that person does not have an attorney lien resulting from previous representation relating to Crumbles, then any Monetary Benefit awarded to said

Unrepresented Claimant shall be reduced by one-third (1/3) under the terms of the Settlement Agreement. This is to ensure that those who are and are not represented by counsel receive approximately the same amounts (after any attorneys' fees) for their injuries.

A copy of Class Counsel's motion for reimbursement of Attorneys' Expenses incurred by Class Counsel to provide this Settlement Notice is available on the Settlement Website: [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

## **10. What Am I Giving Up In Exchange for the Settlement?**

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If you are a Class Member and the Settlement is ultimately approved, you will be legally bound by all orders and judgments of the Court, and you will also be legally bound to the releases in the Settlement. This means that in exchange for being a Class Member and being eligible for the benefits in the Settlement, you will not be able to sue, continue to sue, or be part of any other lawsuit against Settling Defendants and/or any of the Released Parties that involves the same legal claims as those resolved through this Settlement. The definition of "Released Claims" is provided in Paragraph 1.36 of the Settlement Agreement and is further detailed in Sections 56 through 60, as copied below:

1.36 **"Released Claims,"** as set forth fully in Sections 56 through 60, means any and all suits, claims, controversies, previously assigned claims by Stone Gate and Daily Harvest, rights, agreements, promises, debts, liabilities, accounts, reckonings, demands, judgments, obligations, covenants, contracts, or causes of action of every nature, character, and description, in law or in equity, (including, but not limited to, any claims for damages, interest, attorneys' fees, expert or consulting fees, and any other costs, expenses or liability whatsoever), whether based on federal, state, local, statutory, or common law or any other law, rule or regulation, whether known or unknown, fixed or contingent, accrued or unaccrued, liquidated or unliquidated, at law or in equity, matured or unmatured, whether class or individual in nature, including both known claims and unknown claims, that (1) have been asserted in the Action by Plaintiff or in the Litigation by any Settlement Class Member against the Settling Defendants, or (2) could have been asserted in any forum by the Plaintiff or the Settlement Class Members against any of the Settling Defendants or Released Parties, which in any way arise out of, are related to, or are based upon the allegations, transactions, facts, matters or occurrences, representations or omissions involved, set forth, or referred to in the Action, including, but not limited to, claims for personal or monetary injuries (including loss of consortium) related to any person's purchase or consumption of Crumbles. Notwithstanding the foregoing, "Released Claims" does not include claims relating to the enforcement of the Settlement or its terms.

56. Upon the entry of a Final Approval Order and without any further action by the Court or by any Party to this Agreement, Class Members (including Plaintiff), and any person claiming rights derivative of any Class Member as their spouse, parent, child, heir, guardian, associate, co-owner, attorney, agent, administrator, trustee, executor, devisee, predecessor, successor, assignee, assign, beneficiary, representative of any kind, shareholder, partner, director, employee, and any other person claiming by, through or on behalf of them, shall be deemed by operation of law and the Final Judgment to have fully, finally, and forever released, relinquished,

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waived, discharged and dismissed the Settling Defendants and Released Parties from all Released Claims (including, without limitation, any unknown claims), as well as any claims arising out of, relating to, or in connection with, the prosecution, defense, mediation, arbitration, settlement, disposition, or resolution of the Action, Litigation or the Released Claims.

57. Upon the entry of a Final Approval Order, and without any further action by the Court or any Party to this Agreement, the Settling Defendants agree to release each other, as well as their officers, directors, owners, employees, shareholders, assigns, corporate affiliates, attorneys, and insurers from any and all liability, claims, damages, hold harmless agreements, indemnity obligations, contractual obligations, common law claims, settlements or judgments arising out of or relating to the Action, Litigation, and the Released Claims.

58. Without limiting the foregoing, the Releases specifically extend to any claims, that Class Members do not know or suspect to exist in their favor at the time that the Settlement, and the Releases contained herein, become effective, and Class Members waive any and all provisions, rights, and benefits conferred by any law of any state of the United States, or principle of common law or otherwise, which 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.

59. Class Members understand and acknowledge the significance of these waivers of California Civil Code section 1542 and any other applicable federal or state statute, case law, rule, or regulation relating to limitations on releases. In connection with such waivers and relinquishment, Class Members acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts that they now know or believe to be true with respect to the subject matter of the Litigation, but that it is their intention to release fully, finally, and forever all Released Claims with respect to the Settling Defendants and Released Parties, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

60. Class Members shall be deemed to have agreed that the release set forth herein will be and may be raised as a complete defense to and will preclude any action, arbitration or proceeding based on the Released Claims. The Final Approval Order shall further provide for and effect the release of all actions, causes of action, claims, administrative claims, demands, debts, damages, costs, attorneys' fees, obligations, judgments, expenses, compensation, or liabilities, at law or in equity, whether now known or unknown, suspected or unsuspected, contingent or absolute, whether existing now or arising in the future, whether asserted or that could or might have been asserted, that constitute Released Claims.

Questions? Visit [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com) or call (877) 229-1937.

The full text of the Settlement Agreement, which includes all of the provisions about settled claims and releases, is available on the website: [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

## **11. How Do I Tell the Court I Don't Like the Proposed Settlement?**

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To object to the Settlement, you or your attorney must send a written objection to the Court and to the Settlement Administrator showing the basis for your objections. To be effective, an Objection must be in writing and include: (a) a reference to this case name, number, and court, *Breeanne Buckley Peni, individually and on behalf of all others similarly situated, v. Daily Harvest, Inc. et al.*, Case No. 1:22-cv-05443-DLC (S.D.N.Y.); (b) your name, address, telephone number, and, if available, email address, and, if you are represented by counsel, your counsel's name, address, telephone number, and email; (c) a written statement of all grounds for the Objection, accompanied by any legal support for such Objection; (d) a statement of whether you intend to appear at the Final Approval Hearing, either with or without counsel; (e) a statement of facts that establish your membership in the Class, including all information required by the Claim Form; (f) a detailed list of all other objections submitted by you, or your counsel, to any class action settlement in any court in the United States in the previous five (5) years; and (g) your signature, even if the objection is submitted through counsel, and if you are represented by counsel, the signature of your attorney. If you or your counsel have not objected to any other class action settlement in any court in the United States in the previous five (5) years, you must affirmatively state that fact in the written materials provided in connection with the Objection to this Settlement. This information is material to the Court's consideration of your Objection; failure to include this information and documentation shall be grounds for striking and/or overruling the Objection, even if the Objection is otherwise timely submitted to the Settlement Administrator. You must send copies of all documents you file with the Court to the Clerk of Court, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007.

Any objection must be postmarked on or before the Objection Deadline and sent to the Settlement Administrator at P.O. Box 361930, Hoover, AL 35236. The Objection Deadline may be extended without further direct notice to you. Consult the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com). Please continue to check the Settlement Website for updates.

You can also ask the Court to disapprove the requested Attorneys' Expenses incurred by Class Counsel to provide this Settlement Notice. The granting by the Court of reimbursement of expenses incurred by Class Counsel for Class Notice is not a necessary term of the Settlement, and it is not a condition of approval of the Settlement by the Court. No Party may cancel or terminate the Settlement based on this Court's or any appellate court's ruling with respect to such expense reimbursement and no order or proceeding relating to any expense reimbursement, or any appeal from any such order, shall not operate to terminate or cancel this Settlement.

You may also 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 paying that attorney. If you want to raise an objection to the Settlement at the Final Approval Hearing, you must submit that objection in writing, by the Objection Deadline, which is [\_\_\_\_\_], unless extended, to

the Clerk of Court, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, postmarked or filed via the Court's electronic filing system (ECF).

**If you fail to comply with these requirements or fail to submit your Objection and statement of intention to appear by the deadline [\_\_\_\_\_], unless extended, you may be deemed to have waived all objections and may not be entitled to speak at the Final Approval Hearing on [\_\_\_\_\_].**

You do not need to appear at the Final Approval Hearing to have your objections considered or take any other action to indicate your approval of the Settlement Agreement.

More information regarding how to Object to the Settlement, including extensions to the Objection Deadline, are available on the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com).

## **12. What Is the Difference Between Objecting and Opting Out?**

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Objecting is telling the Court that you don't like something about the Settlement. You can object only if you stay in the Class. If you stay in the Class, you will be legally bound by all orders and judgments of the Court, and you won't be able to assert claims against the Settling Defendants in any forum that are deemed released by the Settlement. Opting out is telling the Court that you don't want to be part of the Class. If you opt out, you have no basis to object because the case no longer affects you. You cannot both opt out of and object to the Settlement. If a person attempts to do both, the Court will treat the submission as an opt-out. **Note that, in this case, the deadline to opt out falls much earlier than the deadline to object. This is because the parties must know the number of people who have opted out before setting the Hold Back Amount.**

## **13. When Will The Court Decide If The Settlement Is Approved?**

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The Court will hold a hearing on [\_\_\_\_\_] to determine whether to approve the Settlement. The hearing will be held in the United States District Court for the Southern District of New York, before the Honorable Denise Cote, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, in Courtroom 18B, or such other judge assigned by the Court.

The hearing is open to the public. This hearing date may change without further notice to you. Consult the Settlement Website at [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com) or the Court docket in this case available through the Public Access to Court Electronic Records ("PACER") (<http://pacer.gov>), for updated information on the hearing date and time.

## **14. How Do I Get More Information?**

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You can inspect many of the Court documents connected with this case on the Settlement Website: [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com). Other papers filed in this lawsuit are available by accessing the Court docket in this case available through PACER (<http://pacer.gov>).

You can contact the Settlement Administrator at P.O. Box 361930, Hoover, AL 35236 or by telephone at (877) 229-1937.

You can also obtain additional information by contacting Class Counsel:

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Please do not address any questions about the Settlement or Litigation to the Clerk of Court or the Judge.

Questions? Visit [www.SMcrumblesettlement.com](http://www.SMcrumblesettlement.com) or call (877) 229-1937.