

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI**

**If you purchased Mariani’s Seven-Ounce Packages of Vanilla Yogurt Raisins anywhere in Missouri State between November 14, 2017, and April 18, 2024, a class-action lawsuit may affect your legal rights.**

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

- A purchaser of Mariani’s seven-ounce packages of Vanilla Yogurt Raisins in Missouri has sued Mariani Packing Company, Inc. (the “Defendant”). The Plaintiff alleges that the Defendant misleadingly under-filled their seven-ounce package of Mariani Premium Vanilla Yogurt Raisins (the “Product”) such that the package is only filled to 42% capacity with Vanilla Yogurt Raisins and contains 58% empty space. This practice of under-filling, known as slack filling, is alleged to be misleading because the value of the Product is materially less than its value represented by Defendant.
- Defendant denies these allegations.
- The Court has allowed the lawsuit to proceed as a class action, which means that the named plaintiff will be representing the “Class,” or group of people, that could include you. This class is defined as “All persons who purchased the Vanilla Yogurt Raisins in seven-ounce packages sold by Mariani Packing Company, Inc. (“Defendant”) in Missouri between November 14, 2017, and April 18, 2024, excluding the judge or magistrate assigned to this case; Defendant; any entity in which Defendant has a controlling interest; Defendant’s officers, directors, legal representatives, successors, and assigns; and person who purchased the Product for the purpose of resale.”
- The Court has not decided whether the Defendant did anything wrong. There are no benefits or money available now, and no guarantee that there will be. However, your legal rights are affected if you are a member of the Class, and you have a choice to make now.
- Your options—and the deadlines to exercise them—are explained in this notice. If you believe that you are a member of the Class and wish to be excluded, you must act by August 10, 2024.
- Lawyers must prove the claims against the Defendant at trial. If money or benefits are obtained on behalf of the Class, either through a settlement or after a trial, you will be notified about how to request a share.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING</b>	<p><b>Stay in this lawsuit. Await the outcome. Give up certain rights.</b></p> <p>By doing nothing, you keep the possibility of getting money or benefits that may come from a trial or a settlement in this case. But you give up any right to sue Defendant separately on any claim that is or could have been included in this lawsuit.</p>
<b>EXCLUDE YOURSELF</b>	<p><b>Get out of this lawsuit. Get no benefits from it. Keep your rights.</b></p> <p>If you ask to be excluded from the lawsuit and money or benefits are later awarded, you won’t share in those, but you keep any right to sue Defendant separately on the claims in this lawsuit.</p>

**These rights and options—and the deadlines to exercise them—are explained in this Notice. Please  
Read this Notice carefully and completely.**

## BASIC INFORMATION

### 1. Why did I get this Notice?

You received this notice because you may have purchased Mariani's seven-ounce packages of Vanilla Yogurt Raisins anywhere in Missouri State between November 14, 2017, and April 18, 2024. This notice explains that the Court has allowed, or "certified," a class-action lawsuit that may affect you. If you are a member of the Class, you have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the lawyers for the Class have proven the Plaintiff's claims against Defendant.

The Court in charge of the class action is the United States District Court for the Eastern District of Missouri. The case is called *Diesel v. Mariani Packing Company, Inc. Case No. 4:22-cv-01368-AGF*. United States District Court Judge Audrey G. Fleissig is overseeing the class action. The person who filed this lawsuit is called the "Plaintiff," and the company she sued, Mariani Packing Company, Inc., is called the "Defendant."

### 2. What is a class action and who is involved?

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Kimberly Diesel) sue on behalf of other people who have similar claims. Together, those other people are a "Class" or "Class Members." The Class Representative(s) who sued—and all the Class Members like them—are called the Plaintiff. The company they sued (in this case Mariani Packing Company, Inc.) is called the Defendant. One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves from the Class.

### 3. Why is this lawsuit a class action?

The Court here decided that these lawsuits can proceed as a class action because it meets the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. More information about why the Court is allowing this lawsuit to proceed as a class action is in the Court's Memorandum and Order Granting the Motion for Class Certification, which is available at [www.slackfilllitigation.com](http://www.slackfilllitigation.com).

## THE CLAIMS IN THE LAWSUIT

### 4. What is the lawsuit about?

Plaintiff alleges that the seven-ounce packages of Vanilla Yogurt Raisins sold under the Mariani Premium brand were misleadingly under-filled as the package was only filled to 42% capacity with Vanilla Yogurt Raisins and contains 58% empty space. Plaintiff is generally asking the Court to award to Class Members the difference in value of the raisins as represented and the value of the raisins received. Defendant denies these allegations. The Court has not yet made any decisions on the merits of Plaintiff's claims against Defendant. The lawyers for the Plaintiff will have to prove the claims alleged in this case. You can read Plaintiff's Complaint at [www.slackfilllitigation.com](http://www.slackfilllitigation.com).

### 5. How Does the Defendant Answer?

Defendant denies any wrongdoing and denies Plaintiff's allegations. You can read Defendant's Answer to the Complaint at [www.slackfilllitigation.com](http://www.slackfilllitigation.com).

### 6. Has the Court decided who will win?

The Court has not decided whether either the Plaintiff or Defendant is correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiff will win or lose this case. The Plaintiff must prove her claims in this litigation, including at trial, if necessary.

### 7. What is the Plaintiff asking for?

The Plaintiff is generally asking the Court to award a partial refund of the purchase price that Class Members paid for the Product. Plaintiff is also seeking any other relief that the Class may be entitled to, including statutory damages. No money or benefits are available now because neither a Court nor a jury has decided whether Defendant did anything wrong, and the

two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If money or benefits are obtained on behalf of the Class, either through a settlement or after a trial, you will be notified about how to ask request a share if you are a Class Member.

## 8. Is there any money available now?

No money or benefits are available now because the case has not gone to trial yet, and the two sides have not settled the case. There is no guarantee that money or benefits ever will be obtained.

## WHO IS IN THE CLASS?

### 9. Am I part of this Class?

You are a member of the Class if you purchased Mariani's Premium seven-ounce packages of Vanilla Yogurt Raisins in Missouri between November 14, 2017, and April 18, 2024. Excluded from this Class are (1) the judge assigned to this case; (2) Defendant; (3) any entity in which Defendant has a controlling interest; (4) Defendant's officers, directors, legal representatives, successors, and assigns; and, (5) persons who purchased seven-ounce packages of Vanilla Yogurt Raisins for the purpose of resale.

## YOUR RIGHTS AND OPTIONS

### 11. What happens if I do nothing at all?

You do not have to do anything now if you believe that you are a Class Member and want to stay in the Class and keep the possibility open of receiving money or benefits from this lawsuit. In other words, by doing nothing, you will stay in the Class. If you stay in the Class and the Class is awarded money or benefits, either as a result of a trial or a settlement, you will be notified about how to apply for a share (or how to ask to be excluded from any settlement).

Keep in mind that if you are a Class Member and do nothing now, regardless of whether the Plaintiff wins or loses at trial, you will not be able to separately sue, or continue to sue, Defendant—as part of any other lawsuit—over the claims at issue in this lawsuit. You will also be legally bound by all of the orders and judgments that the Court issues in this class action.

### 12. Why would I ask to be excluded?

If you want to bring your own action against Defendant related to the issues presented in this case, you may exclude yourself from the Class. Unless you exclude yourself, you give up any right to sue Defendant for the claims that are or could have been asserted in this class action. If you choose to exclude yourself, you will not get any money or benefits from this lawsuit even if the Plaintiff obtains them as a result of a trial or from any settlement between Defendant and the Plaintiff. If you start your own lawsuit against Defendant after you exclude yourself, you will have to hire and pay your own lawyer for that lawsuit, and you will have to prove your claims. If you do exclude yourself so you can start your own lawsuit against Defendant, you should talk to your own lawyer soon, because your claims may be subject to a statute of limitations.

### 13. How do I ask the Court to exclude me from the Class?

To ask to be excluded, also sometimes referred to as “opting out” of the Class, you must send an “Exclusion Request” in the form of a letter sent by mail stating that you want to be excluded from *Diesel v. Mariani Packing Company, Inc.* Be sure to include (1) the name of the lawsuit, (2) your name and address, (3) a clear statement of intention to exclude yourself, and (4) your signature. You must mail your Exclusion Request **postmarked by August 10, 2024**, to:

Diesel v. Mariani Packing Company, Inc.  
c/o Analytics Consulting LLC  
P.O. Box 2003  
Chanhassen, MN 55317

You may also get an exclusion-request form at [www.slackfilllitigation.com](http://www.slackfilllitigation.com). You cannot exclude yourself by telephone or by email.

## THE LAWYERS REPRESENTING YOU

### 14. Do I have a lawyer in this case?

The Court appointed the following law firm to represent the Class: Harvath Law Group. You may hire your own lawyer to appear in Court for you if you wish; however, if you do, you will be responsible for paying that lawyer on your behalf.

If you have questions, you may contact these lawyers by emailing Class Counsel at [dharvath@harvathlawgroup.com](mailto:dharvath@harvathlawgroup.com). You will not be charged for contacting these lawyers. If you want to be represented by your own lawyer, however, you may hire one at your own expense.

### 15. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel are working on your behalf. But, if you want your own lawyer, you will have to pay that lawyer. You can ask him or her to appear in Court for you in this case if you want someone other than Class Counsel to speak for you.

### 16. How will the lawyers be paid?

Class Counsel have not been paid or reimbursed for their time and expenses incurred in pursuing this case. You will not have to pay these fees and expenses. If Class Counsel obtain money or benefits for the Class, they may ask the Court for fees and expenses. The motion seeking fees and expenses will be available at the website, [www.slackfilllitigation.com](http://www.slackfilllitigation.com). If the Court grants Class Counsel's request, the fees and expenses would be either deducted from any money obtained for the Class or paid separately by Defendant.

## WHAT HAPPENS NEXT?

### 17. How and when will the Court decide who is right?

As long as the case isn't resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiff's claims in this litigation, including at a trial, if necessary. There is no guarantee that the Plaintiff will win, or that they will secure any money for the Class. The trial date has not yet been determined, so be sure to regularly check the website [www.slackfilllitigation.com](http://www.slackfilllitigation.com) for case updates.

### 18. Do I have to come to the trial?

You do not need to attend the trial. Class Counsel will present the case for the Plaintiff, and Defendant will present the defenses. You or your own lawyer may attend the trial at your own expense.

## GETTING MORE INFORMATION

### 19. How do I get more information?

Visit the website, [www.slackfilllitigation.com](http://www.slackfilllitigation.com), where you will find the Court's Memorandum and Order Granting the Motion for Class Certification, Plaintiff's Complaint, Defendant's Answer to the Complaint, as well as an Exclusion Request form, or call 844-565-7127. As the lawsuit proceeds, be sure to check the website regularly for updates and new information.

For more information, you can also contact Class Counsel at [dharvath@harvathlawgroup.com](mailto:dharvath@harvathlawgroup.com), email [info@slackfilllitigation.com](mailto:info@slackfilllitigation.com) or write to:

Diesel v. Mariani Packing Company, Inc.  
c/o Analytics Consulting LLC  
PO Box 2003  
Chanhassen, MN 55317

Please make sure to put the name of the case: Diesel v. Mariani Packing Company, Inc., in the subject line of any email.

**PLEASE DO NOT CALL OR WRITE TO THE COURT OR THE CLERK'S OFFICE FOR INFORMATION. THE COURT CANNOT ANSWER ANY QUESTIONS.**