

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT  
SUCV2017-0915-BLS1

JAN POLANIK, on behalf of himself and all  
others similarly situated,  
Plaintiff,

C.A.

v.

CM&R DONUTS, INC., B&V, INC., VBM,  
INC., 24 MERRIMACK, INC., 107 WARD  
STREET, INC., 263 GRAFTON ST. INC,  
GRAFTON DONUTS, INC., 133  
TURNPIKE RD., INC., SAINTS DD, INC.,  
185 WOBURN STREET, INC., 146 SOUTH  
DD, INC., 146 NORTH DD, INC., 290  
CENTRAL ST., INC., 177 SOUTHWEST  
CUTOFF, LLC, DUTTON STREET, LLC,  
ELM STREET MILLBURY, LLC., and  
R.S.V., INC.,  
Defendants.

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**TO: ALL PERSONS WHO ORDERED A BAKED GOOD WITH BUTTER, BUT RECEIVED MARGARINE OR BUTTER SUBSTITUTE, BETWEEN JUNE 24, 2012 AND JUNE 24, 2016, AT A DUNKIN' DONUTS STORE OWNED OR OPERATED BY DEFENDANTS IN MASSACHUSETTS ("THE CLASS").**

**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY. THIS NOTICE RELATES TO A PROPOSED SETTLEMENT OF THIS CLASS ACTION AND, IF YOU ARE A CLASS MEMBER, CONTAINS IMPORTANT INFORMATION AS TO YOUR RIGHTS CONCERNING THE SETTLEMENT DESCRIBED BELOW.**

**CLAIMS DEADLINE:** TO POTENTIALLY SHARE IN THE SETTLEMENT PROCEEDS, CLASS MEMBERS MUST IDENTIFY THEMSELVES TO ONE OF DEFENDANTS' DUNKIN' DONUTS STORES (LISTED BELOW) AND OBTAIN A VOUCHER AS DESCRIBED BELOW, ON OR BEFORE JULY 13, 2017.

**OBJECTION DEADLINE:** OBJECTIONS TO THE PROPOSED SETTLEMENT MUST BE MADE AS PROVIDED BELOW ON OR BEFORE SEPTEMBER 5, 2017.

## **INTRODUCTION**

PLEASE TAKE NOTICE that the Court has entered an Order giving preliminary approval of a settlement and provisional class certification in the above-titled class action lawsuit brought against the Defendants named above (“Defendants”). A hearing to consider final approval of the settlement has been scheduled for September 19, 2017, as described below.

This notice summarizes the substance of the lawsuit and your rights and obligations as a member of the settlement class. This notice is not to be construed as an expression of any opinion by the Court with respects to the merits of the claims asserted in the complaint in the case. Please read the notice carefully.

## **DESCRIPTION OF THE LITIGATION**

On May 12, 2016, plaintiff Jan Polanik (“Plaintiff”) sent Defendants a demand pursuant to the Massachusetts Consumer Protection Act on behalf of the Class, alleging that Defendants’ Dunkin’ Donuts stores provided a butter substitute to customers who ordered a baked good with butter. Plaintiff filed a complaint against Defendants on March 24, 2017. The complaint alleges that Defendants’ Dunkin’ Donuts stores, without notice to Class members, provided margarine or a butter substitute (hereafter “butter substitute”) instead of butter to Class members who ordered a baked good (*e.g.*, a bagel or muffin) and were charged extra for butter.

Defendants’ stores are Dunkin’ Donuts stores at the following locations only:

1. CM&R Donuts, INC.  
631 Rogers Street  
Lowell, MA 01852
2. B&V, Inc.  
990 Grafton Street  
Worcester, MA 01604
3. VBM, Inc.  
124 Turnpike Road  
Westborough, MA 01581
4. 24 Merrimack, Inc.  
24 Merrimack Street  
Lowell, MA 01852
5. 107 Ward Street, Inc.  
107 Ward Street  
Worcester, MA 01604

6. 263 Grafton St., Inc.  
265 Grafton Street  
Worcester, MA 01604
7. Grafton Donuts, Inc.  
72 Worcester Street  
Grafton, MA 01519
8. 133 Turnpike Rd., Inc.  
185 Turnpike Road  
Westborough, MA 01581
9. Saints DD, Inc.  
1 Hospital Road  
Lowell, MA 01852
10. 185 Woburn Street, Inc.  
185 Woburn Street  
Lowell, MA 01852
11. 146 South DD, Inc.  
100 Worcester/Providence Turnpike  
Millbury, MA 01527
12. 146 North DD, Inc.  
257 Providence Street  
Worcester, MA 01607
13. 290 Central St., Inc.  
290 Central Street  
Lowell, MA 01852
14. 177 Southwest Cutoff, LLC  
177 Southwest Cutoff  
Worcester, MA 10604
15. Dutton Street, LLC  
556 Dutton Street  
Lowell, MA 01854
16. Elm Street Millbury, LLC  
1 Elm Street  
Millbury, MA 01527

17. R.S.V., Inc.  
76 Main Street  
Leominster, MA 01453
18. R.S.V., Inc.  
1001 Central Street  
Leominster, MA 01453

### **SETTLEMENT BENEFITS FOR CLASS MEMBERS**

The settlement agreement, subject to final Court approval, provides that Defendants will provide a free baked good with butter to each customer who ordered a baked good with butter between June 24, 2012 and June 24, 2016 (the “Class Period”). Defendants have posted a notice in each store notifying customers of this proposed settlement. Each customer who identifies himself or herself as a Class member was to be given a voucher entitling the customer to a free baked good with butter for each baked good with butter the customer had ordered during the Class Period, up to a maximum of 3 baked goods per customer, provided that Defendants are obligated to provide vouchers for no more than 900 baked goods in total for all Defendants’ stores together. Class Members may obtain vouchers until the earlier of July 13, 2017 or the date that the maximum number of vouchers has been distributed. The vouchers may be presented for a free baked good with butter only after final approval of the settlement. If the proposed settlement receives final approval from the Court, Defendants will post a notice in each store informing Class members of the approval, and that vouchers may be presented for a free baked good with butter during the period of 90 days following the posting of such notice in the stores.

Defendants have also agreed that they will not offer a butter substitute with baked goods for at least one year, unless required to by Dunkin Donuts, the franchisor. If they do provide a butter substitute in the future, this will be clearly posted in the stores.

### **THE COURT’S PRELIMINARY APPROVAL OF CLASS SETTLEMENT AND PROVISIONAL CLASS CERTIFICATION ORDER**

On May 9, 2017, the Court entered an order granting preliminary approval of the class settlement and provisional class certification under Massachusetts Rule of Civil Procedure 23. The Court appointed Plaintiff as class representative. The Court also scheduled a final approval hearing to be held on September 19, 2017, or such further date to which the hearing may be continued.

### **RIGHTS AND OPTIONS OF CLASS MEMBERS**

If you are a member of the Class described above, you should understand and carefully consider the following:

The final judgment entered in this case will be binding upon all Class members. All members of the Class will be represented by the attorneys for the Class identified in the next paragraph.

The Final Approval Hearing, will be held at 2:00 PM on September 19, 2017, in courtroom 1309, Suffolk Superior Court, Three Pemberton Square, Boston, Massachusetts. You may object to the proposed settlement, provided that you serve a written statement of objection on Plaintiff's counsel and Defendants' counsel listed below, not later than September 5, 2017.

Thomas G. Shapiro  
Adam M. Stewart  
Shapiro Haber & Urmy LLP  
Two Seaport Lane  
Boston, MA 02210  
Telephone: (617) 439-3939 or (800) 287-8111  
[www.shulaw.com](http://www.shulaw.com)

Michael C. Forrest  
Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi, P.C.  
2 Salem Green  
Salem MA 01970  
Telephone: (877) 599-8890  
[www.forrestlamothe.com](http://www.forrestlamothe.com)

**Counsel for Plaintiff and the Class**

And to

Stephen C. Reilly  
Ryan M. Cunningham  
Fitch Law Partners LLP  
One Beacon Street  
Boston, MA 02108  
(617) 542-5542

**Counsel for Defendants**

**ATTORNEYS' FEES AND EXPENSES**

The expenses that are incurred in the prosecution of the action on behalf of the class representative and Class are being advanced by their attorneys, identified above. If you remain a member of the Class, you will have no personal responsibility of liability for any attorneys' fees or expenses of Class counsel. If the settlement is approved, the fees and expense reimbursement for Class counsel will be set by the Court in an amount that shall not exceed \$45,000. Class Counsel will also request that the Court approve a service award to Plaintiff as Class representative in the amount of \$250. Defendants have agreed to pay the fees and expenses up to a maximum of \$45,000, and the service award not exceeding \$250, separate from and in addition to the benefits to Class Members described above.

## **EXAMINATION OF PAPERS OR QUESTIONS**

All of the above description of allegations, responses and other matters in this action are only summaries; they do not fully describe the aspects of the case. The pleadings and other papers filed in this action are public records and are available for inspection during the regular business hours at the Suffolk Superior Court, 3 Pemberton Square, Boston, MA 02108.

If you have any questions with respect to this action or about this notice, or to receive notice as to when a voucher may be used, you may contact Shapiro Haber & Urmy LLP, Two Seaport Lane, Boston, MA 02210, telephone (617) 439-3939 or (800) 287-8119; or Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi, P.C., 2 Salem Green, Salem MA 01970, telephone (877) 599-8890.

**Please do not contact the Clerk of the Court, the Judge, Defendants, or Defendants' counsel regarding any questions.**