

Vicki Linneman, et al. v. Vita-Mix Corporation, et al.
Case No. 1:15-cv-748
United States District Court
Southern District of Ohio, Western Division

FREQUENTLY ASKED QUESTIONS

BASIC INFORMATION

1. What is this lawsuit about?

The Plaintiffs in this case filed a proposed class action lawsuit against the Defendants alleging that the top seal of the blade assembly in containers of certain Vitamix blenders were defective because they deposit tiny black polytetrafluoroethylene (“PTFE”) flecks into blended food and drink.

In the Lawsuit, the Plaintiffs claimed, among other things, breach of express and implied warranties of merchantability, breach of contract, negligent design, engineering, and manufacture, fraud and fraudulent concealment, unjust enrichment, and violation of the Ohio Consumer Sales Practices Act.

In agreeing to settle this Lawsuit, Defendants maintain that they complied with the law and do not admit any wrongdoing. Vita-Mix denies that any of its products were defective in design, manufacture, or engineering and claims that Plaintiffs did not suffer any losses or actual injury. The settlement is not an admission of wrongdoing.

2. What is a class action?

In a class action, one or more people, called class representatives, sue on behalf of people who have similar claims. In this case, the class representatives are Vicki Linneman and Obadiah Ritchey. One court resolves the issues for all class members, except those who exclude themselves from the Class. The Honorable Susan Dlott, United States District Judge for the Southern District of Ohio—Western Division, has jurisdiction over the case in which the parties have submitted this settlement for approval.

3. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendants. Instead, both sides agreed to a settlement. Through the settlement, Plaintiffs and Defendants each avoid the substantial cost of protracted litigation and possibly even trial and appeals, and the settlement benefits go to the class members. The class representatives and their attorneys believe the Settlement is in the Class’s best interest given the cost and uncertainty of further litigation compared against the substantial benefits Class Members will receive.

4. I received an email and/or a postcard in the mail. Why did I receive this?

If you received a postcard notice by direct mail or an email containing a notice about this Lawsuit, you were identified as a potential Class Member who may be eligible to receive benefits under this Settlement.

The Court directed that a notice be sent to you because, as a potential Class Member, you have a right to know about your options before the Court rules on the proposed Settlement.

The postcard notice and the email notice (as well as the longer Settlement Notice available at www.BlenderSettlement.com) explain the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them. Please read the Notices carefully.

5. If I did not receive a postcard in the mail or an email notice, but heard about this Settlement from another source, can I participate?

Yes, if you are a Class Member. Please review these FAQs for more information about who may be eligible to participate in this class action settlement. If you believe that you are a potential Class Member, please follow the instructions for submitting a Claim Form, which you may do electronically at <https://secure.jndla.com/online-forms/VIT>.

If you are unsure whether you are a Class Member, you can contact the Settlement Administrator toll-free at 1-855-233-4747.

WHO IS IN THE SETTLEMENT?

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

You may be a Class Member if (1) you own a Vitamix household blender with a blade assembly dated on or after January 1, 2007 until October 1, 2016; or (2) if you own a Vitamix commercial blender that was purchased through a third party such as a dealer, distributor, or restaurant supply store and not directly from Vita-Mix on or after September 15, 2015 but before August 9, 2016 (or before April 7, 2017 in the case of a commercial blender from the XL product line). The blade assembly date can be found on the top side of one of the blades in the blade assembly. The blade assembly is located in the bottom of the blender container. Below is a picture of a blade assembly containing the blade assembly date. The "06-17" date stamp means the blade assembly was manufactured during June of 2017.



7. Who is not included in the class?

The Class does not include Defendants and their officers, and directors; Class Counsel and their partners, associates, lawyers, and employees; and the judicial officers and their immediate family members and associated Court staff assigned to this case. The Class also does not include persons who own one or more otherwise eligible blenders received as a benefit, gift, award, or compensation directly from Vita-Mix in connection with such person's work for Vita-Mix unless such person separately purchased any blender(s) described in this Section, in which case their eligibility for class membership and benefits is limited to any such purchased blender(s).

8. What if I'm still not sure if I am included?

If you are still not sure whether you are included, you can review the relevant court pleadings available on the Settlement Website at www.BlenderSettlement.com/documents for more information, or you can call the Settlement Administrator toll-free at 1-855-233-4747.

THE SETTLEMENT BENEFITS – WHAT YOU GET

9. What does the Settlement provide?

Settlement Class Members who submit a valid Claim Form as described in Question 5 will be eligible to receive benefits depending on their circumstances. Owners of Vitamix household blenders may choose between a transferable gift card in the amount of \$70 (for use on the Vita-Mix website or in any Vita-Mix owned store), or a free new replacement blade assembly that does not fleck.

Class Members who own multiple household blenders may choose between a transferable gift card in the amount of \$140 (for use on the Vita-Mix website or in any Vita-Mix owned store), or installation of a free new replacement blade assembly that does not fleck in their existing container.

Owners of one or more Vitamix commercial blenders submitting Valid Claims can receive a new replacement blade assembly from Vita-Mix, up to a maximum of two replacement blade assemblies.

10. How can I get a gift card or replacement blade assembly?

Eligible Class Members must submit a Claim Form to qualify for a gift card or replacement blade assembly. Claim Forms must be submitted through the Settlement Website (<https://secure.jndla.com/online-forms/vit>) no later than 11:59 PM MST on September 28, 2018. You may also complete and return the Claim Form attached to your postcard notice (or print out a hard copy of the Claim Form from the Settlement Website at www.BlenderSettlement.com/documents, and mail it to the Settlement Administrator at the below address with a postmark no later than September 28, 2018:

Vitamix Settlement Administrator
c/o JND Legal Administration
P.O. Box 7028
Broomfield, CO 80021

The entire Claim Form must be filled out completely and meet the requirements of a valid Claim Form set forth in the Settlement Agreement in order for you to receive a benefit.

Class Members who choose to receive a replacement blade assembly, and who certify that they experienced or are concerned about black flecks and that they have not received a replacement container or blade assembly, will receive a standard ground shipping box and pre-paid packing slip from the Settlement Administrator to return their Vitamix container. Vita-Mix will then replace the blade assembly with a newly designed blade that does not fleck and return the original Vitamix container to the Class Member.

Class Members should receive their Vitamix container with the new blade assembly installed in 10 days or less from the date that Vita-Mix receives container in the mail.

11. When would I get my benefit?

The Court will hold a hearing on March 27, 2018 to decide whether to approve the Settlement. If Judge Dlott approves the settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. It also takes time for the Claim Forms to be processed. The Settlement Administrator will update the website to keep Class Members informed about relevant timing issues.

12. What am I giving up if I remain in the Class?

Unless you exclude yourself, you stay in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuits against Defendants about the legal issues in this case.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you don't want a gift card or replacement blade assembly from this Settlement, and you want to keep any right you may have to sue or continue to sue Defendants about the legal issues in this case, then you must take steps to remove yourself from the Class. This is called excluding yourself and sometimes is referred to as "opting out" of the Class.

13. How do I get out of the Settlement?

To exclude yourself from the settlement, you must download an Opt Out Form available at www.BlenderSettlement.com/documents and mail it to the Settlement Administrator. You may also send a letter stating "I want to be excluded from the Settlement Class in *Linneman, et al. v. Vita-Mix Corporation, et al.*, Case No. 1:15-cv-748." Your Opt Out Form or letter request for exclusion must be mailed to the Settlement Administrator at the below address and postmarked no later than March 7, 2018.

Vitamix Settlement Administrator
c/o JND Legal Administration
P.O. Box 7028
Broomfield, CO 80021

14. What is the effect if I exclude myself from this Settlement?

If you request to be excluded, you will not get a gift card or replacement blade assembly. Also, you cannot object to the settlement. You will not be legally bound by anything that happens in the Action. You may be able to sue (or continue to sue) Defendants in the future about the legal issues in the case.

15. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up your right to sue Defendants and other released parties for the claims that this Settlement resolves. You must exclude yourself from this Class to pursue your own lawsuit. Remember, your exclusion request must be postmarked on or before March 7, 2018.

16. If I exclude myself, can I get a gift card or replacement blade assembly from this Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask for a gift card or a replacement blade assembly from this Settlement. You may exercise any right you may have to sue, continue to sue, or be part of a different lawsuit against Defendants and other released parties.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

Yes. The Court appointed Bill Markovits and Paul De Marco of Markovits, Stock & DeMarco, LLC, Jeffrey Goldenberg of Goldenberg Schneider, LPA, and Justin Walker of Finney Law Firm LLC to represent the Class as Class Counsel. You will not be charged for Class Counsel. The Court will determine the amount of Class Counsel's fees and costs, which Defendants will pay as part of the Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

18. How will the lawyers be paid?

Class Counsel will request the Court to award attorneys' fees up to \$9,000,000, plus reimbursement for litigation expenses and costs incurred to be paid by the Defendants. Class Counsel will also ask for a \$3,000 Service Award to be paid to each of the Plaintiffs serving as the class representatives. Defendants will pay Class Counsel's fees and costs, and the Service Awards as awarded by the Court. You have the right to object to the requested fees and costs, and Service Award. Defendants will also pay the costs to administer the Settlement. Vita-Mix objects to the size of the fee award Class Counsel seeks and reserves its rights with respect to Class Counsel's fee request.

Class Counsel will file a Fee Application for an award of Attorneys' Fees and Expenses and Service Awards, no later than January 31, 2018. Once filed, a copy of this Fee Application will be available for download at www.BlenderSettlement.com/documents.

Class Members are not personally liable for any attorneys' fees or expenses or Service Awards, and the payment of attorneys' fees and expenses and Service Awards by Vita-Mix will not reduce the benefits available to Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don't agree with the Settlement or some part of it.

19. How do I tell the Court if I don't like the Settlement?

Any Class Member who does not submit a request for exclusion from the Class may object to the proposed Settlement, or Class Counsel's motion for an award of attorneys' fees and reimbursement of litigation expenses. Objections must be in writing. To object to the Settlement, you must give reasons why you think the Court should not approve it. The Court will consider your views before making a decision. In order to have your objection considered, you or your attorney must mail the written objection to Class Counsel, Vita-Mix's Counsel, the Settlement Administrator, and the Court. Your objection must contain: (a) the full name, address, telephone number, and email address of the objector; (b) the serial number(s) for the objector's blender(s); (c) a written statement of all grounds for the objection accompanied by any legal support for such objection; (d) copies of any papers, briefs, or other documents on which the objection is based; (e) a list of all civil actions in which the objector and/or objector's counsel had filed or in any way participated in—financially or otherwise—objecting to a class action settlement in the preceding five years; (f) the name, address, email address, and telephone number of all attorneys representing the objector; (g) a statement indicating whether the objector and/or the objector's counsel intends to appear at the Fairness Hearing, and, if so, a list of all persons, if any, who will be called to testify in support of the objection; and (h) the objector's signature. Class Members who fail to make objections in the manner specified in this Section will be deemed to have waived any objections and will be foreclosed from making any objection to the Settlement or this Agreement (whether by appeal, collateral proceeding, or otherwise). You must mail your written objection, postmarked no later than March 7, 2018, to the following addresses:

<p><u>Objections – Vita-Mix Settlement Administrator</u></p> <p>Vitamix Settlement Administrator c/o JND Legal Administration P.O. Box 7028 Broomfield, CO 80021</p>	<p><u>Court</u></p> <p>Office of the Clerk Potter Stewart U.S. Courthouse Room 103 100 East Fifth Street Cincinnati, OH 45202</p>
<p><u>Class Counsel</u></p> <p>Bill Markovits Markovits, Stock & DeMarco, LLC 3825 Edwards Road, Suite 650 Cincinnati, OH 45209</p>	<p><u>Vita-Mix’s Counsel</u></p> <p>Tracey L. Turnbull Porter Wright Morris & Arthur LLP 950 Main Avenue, Suite 500 Cleveland, OH 44113</p>

20. What’s the difference between objecting and opting out?

Objecting is simply telling the Court that you don’t like something about the Settlement. You can object only if you stay in the Class. Excluding yourself or opting out is telling the Court that you don’t want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT’S SETTLEMENT HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don’t have to.

21. When and where will the Court decide to approve the Settlement?

The Court will hold a Settlement Fairness Hearing at 10 a.m. on March 27, 2018 at the Potter Stewart U.S. Courthouse, 100 East Fifth Street, Cincinnati, OH 45202 in Courtroom 7. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections that were received by the deadline, the Court will then consider them. Judge Dlott will listen to people who have asked to speak at the hearing (see Q&A No. 23 below). After the Fairness Hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Dlott may have. You are welcome to come at your own expense. If you send an objection, you don’t have to come to Court and talk about it. As long as your written objection is postmarked by March 7, 2018, the Court will consider it. You may also pay your own lawyer to attend, but it’s not necessary.

23. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter to the Court stating that it is your “Notice of Intent to Appear at the Fairness Hearing in Vicki Linneman, et al. v. Vita-Mix Corporation, et al., Case No. 1:15-cv-748.” Please also include the name, address, and telephone number of your attorney, if applicable. Your request must be mailed to the addresses listed in Question 19 and postmarked no later than March 7, 2018.

You cannot speak at the hearing if you exclude yourself.

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing, you will not receive any benefits from this Settlement. Unless you exclude yourself from the Class, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuits against the Defendants or released parties about the legal issues resolved by this Settlement, ever again.

GETTING MORE INFORMATION

25. Are there more details about the Settlement?

Yes. The Settlement Agreement contains more details and governs this Settlement. Copies of the Settlement Agreement and pleadings and other documents relating to the case are on file at the United States District Court for the Southern District of Ohio – Western Division and may be examined and copied at any time during regular office hours. You can also get more information by visiting the Settlement Website at www.BlenderSettlement.com.

The Settlement Agreement and other relevant pleadings (including the postcard notice and the longer Settlement Notice) are also available for review and download at www.BlenderSettlement.com/documents.

26. How do I get more information?

For more information, please visit the Settlement Website at www.BlenderSettlement.com/documents, where you can download and review relevant court pleadings and file a claim. You may also call the Settlement Administrator toll-free at 1-855-233-4747.

You should not direct questions to the Court.