

## If you bought Prevacen Products, this class action notice may affect your rights.

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

- A California consumer has sued Quincy Bioscience, LLC about whether it falsely labels and/or represents its Prevacen Product, as providing, among other things, brain health and memory benefits.
- Prevacen Products purchased between January 21, 2011 and May 7, 2019 are included in the lawsuit.
- A Court has allowed the lawsuit to be a class action of California consumers. As part of the class action, the Court will consider whether Quincy Bioscience violated California law and whether California consumers will be eligible to receive payments as a result, as well as whether Quincy Bioscience should be required to make changes to its labeling, marketing and advertising.
- Quincy Bioscience denies the allegations in this case and the Court has not decided whether any law was broken. There is no money available now and no guarantee there will be. However, if you are a member of either of the Classes described in this Notice, your rights are affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:	
<b>DO NOTHING</b>	<b>Stay in this lawsuit. Await the outcome. Share in possible benefits. Give up certain rights.</b> By doing nothing, you keep the possibility of getting money that may come from a trial or a settlement. But, you give up any rights to sue Quincy Bioscience on your own about the same legal claims in this lawsuit.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this lawsuit. Get no benefits from it. Keep rights.</b> If you ask to be excluded and money is later awarded, you will not be allowed to ask for a payment. But, you would keep any rights to sue Quincy Bioscience on your own about the same legal claims in this lawsuit.

- The consumer's lawyers must prove their claims at a trial. The trial is currently set to begin January 6, 2020. If money is obtained, you will be notified about how to ask for a share.
- Your options are explained in this notice. To ask to be excluded, you must act by **September 2, 2019**.

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## **BASIC INFORMATION**

### **1. Why was this notice issued?**

This notice explains that a Court has allowed, or “certified,” this case as a class action lawsuit that may affect you if you bought certain Prevacen Products anytime from January 21, 2011 through May 7, 2019. If this describes you, you may have legal rights and options before the Court decides whether the claims being made against Quincy Bioscience on your behalf are correct.

Judge Haywood S. Gilliam, Jr. of the United States District Court for the Northern District of California is overseeing this Lawsuit, known as *Racies v. Quincy Bioscience, LLC*, Case No. 4:15-cv-00292-HSG (N.D. Cal.), and has determined that it can proceed as a class action.

### **2. What is this lawsuit about?**

This is a class action lawsuit about the labeling and advertising of Quincy Bioscience’s Prevacen Products. The plaintiff in the lawsuit asserts that the packaging and advertising for these products mislead consumers to believe that the products provide, among other things, brain health and memory benefits when, as Plaintiff alleges, the Prevacen Products do not provide those benefits. The defendant in the lawsuit, Quincy Bioscience, which owns the Prevacen brand, denies all the plaintiff’s allegations.

On December 15, 2017, the United States District Court for the Northern District of California ruled that the case may proceed as a class action, and certified two similar and overlapping classes – one under California’s Unfair Competition Law (“UCL”) and the other under California’s Consumers Legal Remedies Act (“CLRA”), both of which are consumer fraud statutes. The Court also ordered that the plaintiff may serve as a representative of the two classes described in Question 11.

The Court’s order certifying the Class does not predict or guarantee that Class Members will receive any money or benefits; that will be decided later in the Lawsuit. In certifying this case as a class action, the Court made no decision as to the merits of the Plaintiff’s legal claims or Quincy Bioscience’s defenses to those claims.

Please note that the Court’s order certifying the Class is conditional and may later be changed after the parties exchange evidence and the Court rules on various legal matters. In fact, the Court may even decertify the Class at any time before the Lawsuit is over. If the Court’s order certifying the Class is not later revoked or decertified by the Court, all orders of this Court, whether good or bad for Plaintiff, will be binding on any Class Member who does not opt out or exclude themselves. (See Questions 15 and 16 for further discussion.) This means that any judgments entered by the Court, whether or not favorable to the Class, will be binding on all Class Members who do not exclude themselves.

### **3. What Prevacen products are involved in the litigation?**

Prevagen Products involved in this lawsuit include: Prevacen Regular Strength, Prevacen Extra Strength, or Prevacen Mixed Berry Chewable (referred to as “Prevagen Products”).

### **4. What is a class action and who is involved?**

In a class action, one person called a “Class Representative” (in this case, Phillip Racies) sues on behalf of all people who have similar claims. Together, these people are called a “Class” or “Class Members.” The person who sued—and all Class Members like him—is called the “Plaintiff” and Quincy Bioscience is called the “Defendant.”

The Court will resolve the issues for all Class Members, except for those who exclude themselves from the Class. Members of the Class might receive money and other benefits if they stay in the Class.

## **5. Why is this lawsuit a class action?**

The Court decided that this lawsuit could move towards a trial as a class action because it meets the requirements of Rule 23 of the Federal Rules of Civil Procedure, which governs class actions in federal court. For instance, the Court found that:

- There are numerous Class Members whose interests will be affected by this lawsuit;
- There are legal questions and facts that are common to each of them;
- The Class Representative's claims are typical of the claims of the rest of the Class;
- The Class Representative and the lawyers representing the Class will fairly and adequately represent the interests of the Class; and
- A class action would be a fair, efficient and superior way to resolve this lawsuit.
- The common legal questions and facts predominate over questions that affect only individual Class Members;
- The Class can be objectively defined in an administratively feasible manner.

More information about why the Court is allowing this lawsuit to be a class action is in the Court's Order Granting Motion for Class Certification, which you may view at [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com).

## **THE CLAIMS IN THE LAWSUIT**

### **6. What does the lawsuit complain about?**

Plaintiff alleges that he and all Class Members were, in violation of applicable California consumer protection statutes, induced to purchase one or more of the Prevagen Products. The complaint alleges that the Defendant, Quincy Bioscience, falsely and misleadingly markets the Prevagen Products as providing, among other things, brain health and memory benefits when, as Plaintiff alleges, the Prevagen Products do not provide such benefits. You can read Plaintiff's First Amended Class Action Complaint at [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com).

### **7. How does Quincy Bioscience answer?**

Quincy Bioscience denies the claims and allegations in the lawsuit. Quincy Bioscience's Answer to the First Amended Complaint can be viewed at [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com).

### **8. Has the Court decided who is right?**

The Court has not decided which side is right. By establishing the Class and ordering that this Notice be provided, the Court is not suggesting that Plaintiff will win or lose this case. Lawyers for Plaintiff must prove their case at a trial. The trial is currently set to begin January 6, 2020.

### **9. What is Plaintiff asking for?**

Plaintiff seeks to recover money from Quincy Bioscience and has asked the Court to order Quincy Bioscience to change its product labeling and related practices.

### **10. Is there any money available now?**

No money is available now because the Court has not yet decided whether Quincy Bioscience did anything wrong and the two sides have not settled the case. There is no guarantee that money will ever be obtained. If it is, Class Members will be notified about how to ask for a share.

QUESTIONS? CALL 1-844-546-3044 OR VISIT [WWW.PREVAGENPRODUCTSCCLASSACTION.COM](http://WWW.PREVAGENPRODUCTSCCLASSACTION.COM).  
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## **WHO IS IN THE CLASS**

You need to decide whether you are affected by this lawsuit.

### **11. Am I part of this class action?**

The Court has allowed the following classes to proceed to trial:

The UCL class consists of: All California consumers who, within the time period of January 21, 2012 to May 7, 2019, purchased Prevagen Regular Strength, Prevagen Extra Strength, or Prevagen Mixed Berry Chewable.

The CLRA class consists of: All California consumers who, within the time period of January 21, 2011 to May 7, 2019, purchased Prevagen Regular Strength, Prevagen Extra Strength, or Prevagen Mixed Berry Chewable.

The UCL class and CLRA class are similar in most material respects for purposes of this notice, other than that the CLRA includes one more year of purchases, from January 21, 2011 to January 20, 2012, whereas the UCL class starts on January 21, 2012.

### **12. Are there exceptions to being included?**

Excluded from the classes are: (a) Quincy Bioscience and its parents, subsidiaries, affiliates, officers and directors; (b) those who purchased Prevagen Products for the purpose of resale; (c) employees of the Court, including, but not limited to, judges, magistrate judges, clerks, and court staff and personnel of the United States District Courts of the Northern District of California, the United States Court of Appeals for the Ninth Circuit, and the United States Supreme Court; (d) any attorneys or other or other employees of any law firms hired, retained, and/or appointed by or on behalf of the named plaintiffs to represent the named plaintiff and any/or proposed cCass Members or proposed class in this lawsuit; (e) all persons who submit a valid request for exclusion from either of the classes.

### **13. I am still not sure if I am included.**

If you are still not sure whether you are included, you can visit the website, [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com), call 1-844-546-3044, send an email to [info@prevagenproductsclassaction.com](mailto:info@prevagenproductsclassaction.com), or write to *Racies v. Quincy Bioscience* Notice Administrator, c/o JND Legal Administration, PO Box 91096, Seattle, WA 98111-9848 for more information.

## **YOUR RIGHTS AND OPTIONS**

### **14. What happens if I do nothing at all?**

By doing nothing, you are staying in the Class. You do not have to do anything now if you want to keep the possibility of getting money from this lawsuit. If you stay in and Plaintiff obtains money either as a result of the trial or a settlement, you will be notified about how to ask for a share. Keep in mind that if you do nothing now, regardless of whether Plaintiff wins or loses the trial, you will not be able to sue, or continue to sue, Quincy Bioscience—as part of any other lawsuit—about the same legal claims that are the subject of this lawsuit. You will also be legally bound by all orders the Court issues and judgments the Court makes in this class action.

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**15. What happens if I ask to be excluded?**

If you exclude yourself from the Class—which also means to remove yourself from the Class and is sometimes called “opting-out” of the Class—you will not get money from this lawsuit, even if Plaintiff obtains money as a result of the trial or from any settlement (that may or may not be reached) between Quincy Bioscience and Plaintiff. However, you may then be able to sue or continue to sue Quincy Bioscience about the same legal claims that are involved in this case, now or in the future. If you exclude yourself, you will not be legally bound by the Court’s judgments in this class action.

If you pursue your own lawsuit after you exclude yourself, you may have to hire and pay your own lawyer to prove your claims in that suit.

**16. How do I ask to be excluded?**

To exclude yourself, you must send a letter that says you want to be excluded from *Racies v. Quincy Bioscience*. Include your name, address, telephone number, email address and signature. You must submit a request for exclusion to the *Racies v. Quincy Bioscience* Notice Administrator online at [info@prevagenproductsclassaction.com](mailto:info@prevagenproductsclassaction.com) or by mail to *Racies v. Quincy Bioscience* Notice Administrator, c/o JND Legal Administration, PO Box 91096, Seattle, WA 98111-9848. Your request for exclusion must be submitted online or postmarked no later than September 2, 2019.

**IF YOU DO NOT EXCLUDE YOURSELF BY THE DEADLINE ABOVE, YOU WILL REMAIN PART OF THE CLASS AND BE BOUND BY THE ORDERS OF THE COURT IN THIS LAWSUIT.**

**THE LAWYERS REPRESENTING YOU**

**17. Do I have a lawyer in this case?**

The Court has appointed the following lawyers to represent you as “Class Counsel.” These lawyers are experienced in handling similar cases.

Elaine A. Ryan  
BONNETT, FAIRBOURN,  
FRIEDMAN & BALINT, P.C.  
2325 East Camelback Road  
Suite 300  
Phoenix, Arizona 85016  
Telephone: (602) 274-1100

Stewart M. Weltman  
SIPRUT, PC  
17 North State Street  
Suite 1600  
Chicago, IL 60602  
[sweltman@siprut.com](mailto:sweltman@siprut.com)  
Telephone: (312) 236-0000

**18. Should I get my own lawyer?**

You do not need to hire your own lawyer because Class Counsel are working on your behalf. If you want your own lawyer to represent you in this litigation, you may 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.

**19. How will the lawyers be paid?**

If Class Counsel obtains money or other benefits for Class Members, they may ask the Court for fees, costs and expenses. You will not have to pay any of these fees, costs and expenses. If the Court grants their request, the fees, costs and expenses would be deducted from any money obtained for Class Members or paid separately by Quincy Bioscience.

**THE TRIAL**

The Court has scheduled a trial to decide who is right in this case.

**20. How and when will the Court decide who is right?**

If the case is not dismissed or settled, Class Counsel will have to prove Plaintiff's claims at a trial. The trial is currently set to begin on January 6, 2020 in the United States District Court, located at Oakland Courthouse, Courtroom 2 - 4th Floor, 1301 Clay Street, Oakland, CA 94612. The date may change so check the website to be kept informed of the trial schedule. During the trial, the Judge and/or a jury will hear all of the evidence so that a decision can be reached about whether Plaintiff is right about his claims in the lawsuit. Plaintiff will have to prove his claims. There is no guarantee that Plaintiff will win or that he will get money for the Class.

**21. Do I have to come to the trial?**

You will not need to attend the trial. Class Counsel will present the case for Plaintiff, and the lawyers for Quincy Bioscience will present their defenses. You and/or your own lawyer are welcome to come, at your own expense. Check the website to be kept informed of the trial schedule.

**22. Will I get money after the trial?**

If Plaintiff obtains money as a result of the trial or a settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Court orders and other important information about the case may be posted on the website, [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com), as it becomes available.

**GETTING MORE INFORMATION**

**23. Are more details available?**

Visit the website at [www.prevagenproductsclassaction.com](http://www.prevagenproductsclassaction.com), where you will find the Court's Order Granting Motion for Class Certification, Plaintiff's First Amended Class Action Complaint and Defendant's Answer to the First Amended Complaint. For more information, you may call 1-844-546-3044, send an email to [info@prevagenproductsclassaction.com](mailto:info@prevagenproductsclassaction.com) or write to *Racies v. Quincy Bioscience* Notice Administrator, c/o JND Legal Administration, PO Box 91096, Seattle, WA 98111-9848. You may also access Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the Office of the Clerk of the Court for the United States District Court, located at Oakland Courthouse, 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT CONTACT THE COURT.**

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