

In re: Lithium Ion Batteries Antitrust Litigation  
Settlement Administrator  
PO Box 4098  
Portland, OR 97208-4098

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

**If You Bought a Lithium Ion Cell, Lithium Ion Battery or Lithium Ion Battery Product, Class Action Settlements May Affect You.**

A “Lithium Ion Battery” is a cylindrical, prismatic or polymer battery that is rechargeable and uses lithium ion technology. A “Lithium Ion Battery Product” is a product manufactured, marketed and/or sold by Defendants, their divisions, subsidiaries or Affiliates, or their alleged co-conspirators that contains one or more Lithium Ion Battery Cells manufactured by Defendants or their alleged co-conspirators. Lithium Ion Battery Products include, but are not limited to, notebook computers, cellular (mobile) phones, digital cameras, camcorders and power tools.

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

- A class action lawsuit brought on behalf of direct purchasers of Lithium Ion Battery Cells (“Li-Ion Cells”), Lithium Ion Batteries (“Li-Ion Batteries”) and Lithium Ion Battery Products (“Li-Ion Products”) is currently pending.
- Plaintiffs claim that Defendants (listed below) and co-conspirators engaged in an unlawful conspiracy to fix, raise, maintain or stabilize the prices of Li-Ion Cells. Plaintiffs further claim that direct purchasers from the Defendants of Li-Ion Cells, Li-Ion Batteries and Li-Ion Products may recover for the effect that the conspiracy had on the prices of these devices. Plaintiffs allege that, as a result of the unlawful conspiracy involving Li-Ion Cells, they and other direct purchasers paid more for Li-Ion Cells, Li-Ion Batteries and Li-Ion Products than they would have paid absent the conspiracy. Defendants deny Plaintiffs’ claims.
- Settlements have been reached with Defendants Hitachi Maxell, Ltd. and Maxell Corporation of America (collectively, “Maxell”); Defendant NEC Corporation (“NEC”); Defendant Panasonic Corporation (“Panasonic”); and Defendant Toshiba Corporation (“Toshiba”) (collectively, “Settling Defendants”). The Panasonic Settlement also resolves claims against Defendants SANYO Electric. Co., Ltd. and SANYO North America Corporation (collectively, “SANYO”) and Panasonic Corporation of North America.
- Your legal rights will be affected whether you act or don’t act. This Notice includes information on the Settlements and the lawsuit. Please read the entire Notice carefully.

**These rights and options—and deadlines to exercise them—are explained in this Notice.**

You can object to or comment on the Settlements..... see Question 10

You may exclude yourself from the Settlements ..... see Question 10

You may go to a hearing and comment on the Settlements..... see Question 12

- The Court in charge of this case still has to decide whether to approve the Settlements.

**For More Information: Call 1-844-778-5952  
or Visit [www.BatteriesDirectPurchaserAntitrustSettlement.com](http://www.BatteriesDirectPurchaserAntitrustSettlement.com)**

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## BASIC INFORMATION

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

You or your company may have directly purchased Li-Ion Cells, Li-Ion Batteries and/or Li-Ion Products from January 1, 2000 through May 31, 2011. For purposes of the Settlements, a direct purchaser is a person or business who bought a Li-Ion Cell, Li-Ion Battery and/or Li-Ion Product directly from one or more of the Defendants, or any division, subsidiary or Affiliate thereof, or any alleged co-conspirator (as opposed to an intermediary, such as a retail store) in the United States.

You have the right to know about the litigation and about your legal rights and options before the Court decides whether to approve the Settlements.

The Notice explains the litigation, the Settlements and your legal rights.

The Court in charge of the case is the United States District Court for the Northern District of California, and the case is called *In re Lithium Ion Batteries Antitrust Litigation*, Case No. 13-MD-02420-YGR. The people who sued are called "Plaintiffs," and the companies they sued are called "Defendants."

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## 2. Who are the Defendant companies?

The Defendant companies include the following: LG Chem, Ltd.; LG Chem America, Inc.; Samsung SDI Co. Ltd.; Samsung SDI America, Inc.; Panasonic Corporation; Panasonic Corporation of North America; SANYO Electric Co., Ltd.; SANYO North America Corporation; Sony Corporation; Sony Energy Devices Corporation; Sony Electronics Inc.; Hitachi Maxell, Ltd.; Maxell Corporation of America; NEC Corporation; NEC Tokin Corporation; and Toshiba Corporation.

## 3. What is this lawsuit about?

The lawsuit alleges that Defendants and co-conspirators conspired to raise and fix the prices of Li-Ion Cells for over ten years, resulting in overcharges to direct purchasers of Li-Ion Cells, Li-Ion Batteries and Li-Ion Products. The Complaint describes how the Defendants and co-conspirators allegedly violated the U.S. antitrust laws by agreeing to fix prices and restrict output of Li-Ion Cells by, among other things, face-to-face meetings and other communications, customer allocation and the use of trade associations. Defendants deny Plaintiffs' allegations. The Court has not decided who is right.

## 4. Why are there Settlements, although the litigation is continuing?

Plaintiffs have reached Settlements with Defendants Maxell, NEC, Toshiba and Panasonic. The Panasonic Settlement also resolves claims against SANYO. The Court has already approved a settlement with another group of Defendants—Sony Corporation, Sony Energy Devices Corporation and Sony Electronics Inc. (collectively, “Sony”). The case is continuing against the remaining non-released Defendants. Additional money may become available in the future as a result of a trial or future settlements, but there is no guarantee that this will happen.

## 5. What are Li-Ion Cells, Li-Ion Batteries and Li-Ion Products?

For the purposes of the settlements:

- “Lithium Ion Battery Cell(s)” or “Li-Ion Cells” means the main components of Lithium Ion Batteries. A cell includes the cathode, anode and electrolyte.
- “Lithium Ion Battery” or “Li-Ion Battery” means a cylindrical, prismatic or polymer battery that is rechargeable and uses lithium ion technology.
- “Lithium Ion Battery Products” or “Li-Ion Products” means products manufactured, marketed and/or sold by Defendants, their divisions, subsidiaries or Affiliates, or their alleged co-conspirators that contain one or more Lithium Ion Battery Cells manufactured by Defendants or their alleged co-conspirators. Lithium Ion Battery Products include, but are not limited to, notebook computers, cellular (mobile) phones, digital cameras, camcorders and power tools.

## 6. 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. All these people are members of the class, except for those who exclude themselves from the class.

Important information about the case will be posted on the website **[www.BatteriesDirectPurchaserAntitrustSettlement.com](http://www.BatteriesDirectPurchaserAntitrustSettlement.com)** as it becomes available. Please check the website to be kept informed about any future developments.

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## THE SETTLEMENT CLASSES

### 7. How do I know if I'm part of the Settlement Classes?

The Maxell, NEC and Toshiba Settlement Classes include persons and entities who, from January 1, 2000 through May 31, 2011, bought a Li-Ion Cell, Li-Ion Battery and/or Li-Ion Product directly from one or more of the Defendants, or any division, subsidiary or Affiliate thereof, or any alleged co-conspirator (as opposed to an intermediary, such as a retail store) in the United States. The Panasonic Settlement Class includes persons and entities who made such purchases from May 1, 2002 through May 31, 2011.

### 8. What do the Settlements provide?

The Settlements provide for payments totaling \$49,850,000.00 in cash, plus interest, as follows: Maxell—\$3.45 million; NEC—\$1 million; Panasonic—\$42.5 million; Toshiba—\$2.9 million. The Settlements also provide for continuing cooperation, including the production of witnesses. In addition, Settling Defendants' sales remain in the case for the purpose of computing damages against the remaining Defendants.

More details are in the Settlement Agreements, available at [www.BatteriesDirectPurchaserAntitrustSettlement.com](http://www.BatteriesDirectPurchaserAntitrustSettlement.com).

### 9. When can I get a payment?

No money will be distributed to any members of the Settlement Classes yet. The lawyers will pursue the lawsuit against the remaining Defendants to see if any future settlements or judgments can be obtained in the case and then be distributed together, to reduce expenses.

You will be notified in the future when and where to send a claim form. **DO NOT SEND ANY CLAIMS NOW.**

In the future, the Settlement Funds will be allocated on a *pro rata* basis based on the dollar value of each Class Member's purchase(s) of Li-Ion Cells, Li-Ion Batteries and/or Li-Ion Products in proportion to the total claims filed. For purposes of determining the *pro rata* allocation of the Settlement Funds, purchases of Li-Ion Batteries and/or Li-Ion Products will be valued according to the proportionate value of the Li-Ion Cells contained in the product. The resulting amounts will be multiplied by the Net Settlement Funds (total settlements minus all costs, attorneys' fees and expenses) to determine each claimant's *pro rata* share of the Settlement Fund.

### 10. What are my rights in the Settlement Classes?

**Remain in the Settlement Classes:** If you wish to remain a member of the Settlement Classes, you do not need to take any action at this time.

**Get out of the Settlement Classes:** If you wish to keep any of your rights to sue Maxell, NEC, Panasonic, SANYO and/or Toshiba about claims concerning the manufacture, supply, distribution, sale or pricing of Li-Ion Cells, other than indirect purchaser claims, or claims for product liability, personal injury or breach of contract claims not related to the allegations in this case, you must exclude yourself from the Settlement Classes relating to the Defendant(s) you wish to retain your rights to sue. You will not get any money from the Settlements from which you exclude yourself.

To exclude yourself from one or more of the Settlement Classes, you must send a letter that includes the following:

- Your name, address and telephone number (include trade or business names, and address, and telephone numbers);
- A statement saying that you want to be excluded from *In re Lithium Ion Batteries Antitrust Litigation*, Case No. 13-MD-02420-YGR, Direct Purchaser Plaintiff Settlements with Maxell, NEC, Panasonic and/or Toshiba; and
- Your signature.

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You must mail your exclusion request, postmarked no later than **June 26, 2017**, to:

In re Lithium Ion Batteries Antitrust Litigation  
Settlement Administrator  
P.O. Box 4098  
Portland, OR 97208-4098

**Remain in the Settlement Classes and Object:** You can ask the Court to deny approval of one or more of the Settlements by filing an objection. You can't ask the Court to order larger settlements; the Court can only approve or deny the Settlements. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If that is what you want to happen, you must object.

You may object to the proposed Settlements in writing. You may also appear at the Fairness Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number (*In re Lithium Ion Batteries Antitrust Litigation*, Case No. 13-MD-02420-YGR); (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, or by filing them in person at any location of the United States District Court for the Northern District of California; and (c) be filed or postmarked on or before **June 26, 2017**.

### **11. What am I giving up to stay in the Settlement Classes?**

Unless you exclude yourself from the relevant Settlement Class(es), you can't sue Maxell, NEC, Panasonic, SANYO or Toshiba, or be part of any other lawsuit against Maxell, NEC, Panasonic, SANYO or Toshiba, about the legal issues in this case. It also means that all of the decisions by the Court will bind you. The "Release of Claims" includes any causes of actions asserted or that could have been asserted in the lawsuit, as described more fully in the Settlement Agreements. The Settlement Agreements are available at [www.BatteriesDirectPurchaserAntitrustSettlement.com](http://www.BatteriesDirectPurchaserAntitrustSettlement.com).

## **THE SETTLEMENT FAIRNESS HEARING**

### **12. When and where will the Court decide whether to approve the Settlements?**

The Court will hold a Fairness Hearing at **2:00 p.m.** on **August 29, 2017**, at United States District Courthouse, 1301 Clay Street, Courtroom 1, 4th Floor, Oakland, CA 94612. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement Class website for information. At this hearing, the Court will consider whether the Settlements are fair, reasonable and adequate. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlements. We do not know how long these decisions will take.

### **13. Do I have to attend the hearing?**

No. Class Counsel will answer any questions the Court may have. But, you are welcome to come at your own expense. If you file or mail an objection, you don't have to come to Court to talk about it. As long as you filed or mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend, but it's not required.

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## THE LAWYERS REPRESENTING YOU

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

Yes. The Court has appointed the law firms of Saveri & Saveri, Inc.; Pearson, Simon & Warshaw, LLP; and Berman DeValerio to represent you as “Class Counsel.” You do not have to pay Class Counsel. If you want to be represented by your own lawyer, and have that lawyer appear in court for you in this case, you may hire one at your own expense. The contact information for Class Counsel is as follows:

CLASS COUNSEL		
R. Alexander Saveri Geoffrey C. Rushing SAVERI & SAVERI, INC. 706 Sansome Street San Francisco, CA 94111	Bruce L. Simon PEARSON, SIMON & WARSHAW, LLP 44 Montgomery Street, Suite 2450 San Francisco, CA 94104	Joseph J. Tabacco, Jr. BERMAN DEVALERIO 44 Montgomery Street, Suite 650 San Francisco, CA 94104

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

Class Counsel are not asking for attorneys’ fees at this time. At a future time, Class Counsel will ask the Court for attorneys’ fees not to exceed one-third (33.3%) of this or any future settlement fund plus reimbursement of their costs and expenses, in accordance with the provisions of the Settlement Agreements. Class Counsel may also request that an amount be paid to each of the class representatives who helped the lawyers on behalf of the whole Class (known as an “incentive award”).

## GETTING MORE INFORMATION

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

This Notice summarizes the proposed Settlements. For the precise terms and conditions of the Settlements, please see the Settlement Agreements available at [www.BatteriesDirectPurchaserAntitrustSettlement.com](http://www.BatteriesDirectPurchaserAntitrustSettlement.com), by contacting Class Counsel at the addresses listed above under Question 14, by accessing the Court docket in this case through the Court’s Public Access to Court Electronic Records (PACER) system at [www.cand.uscourts.gov/cm-ecf](http://www.cand.uscourts.gov/cm-ecf) (using the instructions provided at [www.cand.uscourts.gov/existcasefaq](http://www.cand.uscourts.gov/existcasefaq) and [www.pacer.gov/psc/faq.html](http://www.pacer.gov/psc/faq.html)), or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Courtroom 1, 4th Floor, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK’S OFFICE TO INQUIRE ABOUT THESE SETTLEMENTS OR THE CLAIM PROCESS.

Dated: May 10, 2017

BY ORDER OF THE COURT

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