

Akävar Class Action  
Notice Administrator  
P.O. Box 2995  
Portland, OR 97208-2995

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

# If you bought the weight-loss supplement Akävar 20/50, a class action lawsuit may affect your rights.

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

- Consumers have sued in federal court raising claims about the dietary weight-loss supplement Akävar 20/50 (“Akävar”). The consumers allege that Akävar is sold as a proven weight loss product even though there is no clinical or scientific support for the claim that users of Akävar can “Eat all you want and still lose weight.”
- A Court has approved the lawsuit as a class action on behalf of everyone who purchased Akävar after seeing or hearing the marketing slogan “Eat all you want and still lose weight.”
- The Court has not decided whether any law was broken. There is no money available now, and no guarantee there will be. However, your rights are affected, and you have a choice to make now.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT:</b>	
<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 or other benefits that may come from a trial or a settlement. But, you give up any rights to sue 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 the right to file your own lawsuit.</b> If you ask to be excluded and money or benefits are later awarded, you won't share in those. But, you keep any rights to sue on your own about the same legal claims in this lawsuit.

- Your options are explained in this notice. To ask to be excluded, you must act by **August 15, 2011**.
- Lawyers must prove the claims at a trial set to start on **September 10, 2012**. If money or benefits are obtained, you will be notified about how to ask for a share.

**QUESTIONS? CALL 1-877-835-0768 TOLL FREE, OR VISIT [WWW.AKAVARCLASS.COM](http://WWW.AKAVARCLASS.COM)**

**SI DESEA RECIBIR ESTA NOTIFICACIÓN EN ESPAÑOL, LLÁMENOS O VISITE NUESTRA PÁGINA WEB.**

## WHAT THIS NOTICE CONTAINS

<b>BASIC INFORMATION .....</b>	<b>PAGE 3</b>
1. Why was this notice issued?	
2. What is a class action?	
3. Why is this lawsuit a class action?	
<b>THE CLAIMS IN THE LAWSUIT .....</b>	<b>PAGE 3</b>
4. What does the lawsuit complain about?	
5. How do Defendants answer?	
6. Has the Court decided who is right?	
7. What are the Plaintiffs asking for?	
8. Is there any money available now?	
<b>WHO IS IN THE CLASS .....</b>	<b>PAGE 4</b>
9. How do I know if I am part of this?	
10. Help me understand whether I am included.	
11. I'm still not sure if I am included.	
<b>YOUR RIGHTS AND OPTIONS .....</b>	<b>PAGE 5</b>
12. What happens if I do nothing at all?	
13. What happens if I exclude myself?	
14. How do I ask to be excluded?	
<b>THE LAWYERS REPRESENTING YOU .....</b>	<b>PAGE 5</b>
15. Do I have a lawyer in this case?	
16. Should I get my own lawyer?	
17. How will the lawyers be paid?	
<b>TRIAL .....</b>	<b>PAGE 6</b>
18. How and when will the Court decide who is right?	
19. Do I have to come to the trial?	
20. Will I get money after the trial?	
<b>GETTING MORE INFORMATION .....</b>	<b>PAGE 6</b>
21. Are more details available?	

# BASIC INFORMATION

## 1. Why was this notice issued?

A Court has approved, or “certified,” this case as a class action lawsuit that may affect you if you purchased Akävar. If this describes you, you have legal rights and options before the Court decides whether the claims being made on your behalf are correct. This notice explains all of these things.

Judge Ted Stewart of the United States District Court for the District of Utah is currently overseeing this case. The case is known as *Miller v. Basic Research, LLC, et al.*, Case No. 2:07-CV-871. The people who sued are called “Plaintiffs”. The companies and people they are suing (Basic Research, LLC; Dynakor Pharmacal, LLC; Dennis Gay; Daniel B. Mowrey, Ph.D and Mitchell K. Friedlander) are called “Defendants”.

## 2. What is a class action?

In a class action, one or more people called Class Representatives (in this case Pamela Miller, Randy Howard and Donna Patterson) sue on behalf of people who have similar claims. Together, these people are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

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

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

- The people affected share common characteristics, so they will be able to identify themselves as Class Members;
- It would not be practical to bring each individual member of the Class before the Court (because Akävar was purchased by at least tens of thousands of people throughout the United States);
- There is at least one question of law or fact common to all Class Members;
- The legal claims of the Class Representatives are typical of the claims of the Class Members because they all bought Akävar after seeing or hearing the slogan “Eat all you want and still lose weight”;
- The Class Representatives and their lawyers will fairly and adequately represent all of the Class Members; and
- A class action would be a fair, efficient and superior way to resolve this lawsuit.

More information about why the Court is allowing this lawsuit to be a class action is in the **(1)** Memorandum Decision and Order Granting Plaintiffs’ Motion to Certify the Class and Denying Defendants’ Motion to Strike; and **(2)** Memorandum Decision and Order Granting Plaintiffs’ Motion for Approval of Nationwide Class Program and Denying Defendants’ Motion for Stay, which you may view at [www.AkavarClass.com](http://www.AkavarClass.com).

# THE CLAIMS IN THE LAWSUIT

## 4. What does the lawsuit complain about?

In this lawsuit, the Plaintiffs are seeking redress for allegedly fraudulent and deceptive advertising and marketing of the weight-loss supplement Akävar. Plaintiffs allege that Defendants have systematically and continuously disseminated, throughout the United States, false and misleading information via television commercials, Internet websites and postings, point-of-purchase advertisements, national magazine advertisements and product packaging.

These advertisements claim that Akävar is a “New! European Weight-loss Breakthrough” product that is scientifically proven to allow users to “Eat all you want and still lose weight.”

**QUESTIONS? CALL 1-877-835-0768 TOLL FREE, OR VISIT [WWW.AKAVARCLASS.COM](http://WWW.AKAVARCLASS.COM)**

Plaintiffs allege that Akävar has not undergone “scientific evaluation” by a “team of doctors;” nor has Akävar been tested in controlled random clinical trials. Plaintiffs further allege that no scientific evidence supports Defendants’ claims about the weight-loss effects of Akävar.

You can read the Plaintiffs’ First Amended Class Action Complaint, at [www.AkavarClass.com](http://www.AkavarClass.com).

#### 5. How do Defendants answer?

Defendants deny the claims and allegations in the lawsuit. Defendants’ Answer to First Amended Complaint can be viewed at [www.AkavarClass.com](http://www.AkavarClass.com).

#### 6. Has the Court decided who is right?

No. The Court has not decided whether Plaintiffs or Defendants are right. By establishing the Class and ordering that this Notice be provided, the Court is not suggesting Plaintiffs will win or lose this case. The lawyers for Plaintiffs must prove their case at a trial set to begin on **September 10, 2012**.

#### 7. What are the Plaintiffs asking for?

Plaintiffs want **(1)** Class Members to receive a refund of all funds they paid to Defendants for Akävar; **(2)** Class Members to get additional monetary compensation from Defendants; **(3)** A court order requiring Defendants to immediately cease their allegedly wrongful conduct; **(4)** A court order prohibiting Defendants from falsely marketing and advertising their products; **(5)** A court order requiring Defendants to engage in a corrective advertising campaign; and **(6)** Reasonable attorneys’ fees, costs and expenses.

#### 8. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Defendants 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 they are, you will be notified about how to ask for a share.

## WHO IS IN THE CLASS

#### 9. How do I know if I am part of this?

The Court decided that the Class includes any person who purchased Akävar after seeing or hearing the marketing slogan “Eat all you want and still lose weight.”

#### 10. Help me understand whether I am included.

Class membership is not complicated. If you saw or heard the “Eat all you want and still lose weight” slogan either before or during your purchase of Akävar, you are a member of the Class.

## 11. I'm still not sure if I am included.

If you are still not sure whether you are included, you can visit [www.AkavarClass.com](http://www.AkavarClass.com), call toll free 1-877-835-0768 or write to **Akavar Class Action, P.O. Box 2995, Portland, OR 97208-2995**, for more information.

## YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or whether to exclude yourself before a possible trial, and you have to decide this no later than **August 15, 2011**.

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

By doing nothing, you are staying in the Class. If the Plaintiffs obtain money or benefits from Defendants—either as a result of a trial or a settlement—you may be eligible to receive a share. However, if you stay in, you will be legally bound by all of the decisions that the Court makes. No matter whether the Plaintiffs win or lose the case, you will not be able to sue, or continue to sue, Defendants about the legal claims in this case, ever again.

## 13. What happens if I exclude myself?

If you exclude yourself from the Class and the Class gets money or benefits (as a result of the trial or any settlement that may or may not be reached between Defendants and Plaintiffs), you will not be able to get any of that money or those benefits. However, if you exclude yourself, you will not be legally bound by the Court's judgments. You will be able to sue, or continue to sue Defendants on your own about the same legal claims that are involved in this case, now or in the future.

If you do pursue your own lawsuit after you exclude yourself, you'll have to hire and pay your own lawyer for that case, and you'll have to prove your claims, without the benefit of the work performed by the lawyers in this class action.

## 14. How do I ask to be excluded?

To exclude yourself, you must send a letter that says you want to be excluded from *Miller v. Basic Research, LLC, et al.* Include your name, address, telephone number, email address and signature. You must mail your letter requesting to be excluded from the Class postmarked by **August 15, 2011**, to: **Akavar Exclusions, P.O. Box 2995, Portland, OR 97208-2995**.

## THE LAWYERS REPRESENTING YOU

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

Yes. The Court appointed the law firms of Anderson & Karrenberg; Wilentz, Goldman & Spitzer, P.A.; and Shepherd, Finkelman, Miller & Shah, LLP, to represent you as "Class Counsel." More information about these law firms, their practices, and their lawyers' experience is available at [www.aklawfirm.com](http://www.aklawfirm.com), [www.wilentz.com](http://www.wilentz.com) and [www.sfmsslaw.com](http://www.sfmsslaw.com). These law firms are experienced in handling similar cases. Complete contact information for these law firms can be found at [www.AkavarClass.com](http://www.AkavarClass.com).

## 16. Should I get my own lawyer?

You do not need to hire your own lawyer because Class Counsel is 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 if you want someone other than Class Counsel to speak for you.

## 17. How will the lawyers be paid?

If Class Counsel obtains money or benefits for the Class, they may ask the Court for attorneys' fees, costs and expenses. You don't have to pay any of these fees and expenses. If the Court grants their request, the fees and expenses would be deducted from any money obtained for the Class, or paid separately by Defendants.

# TRIAL

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

If the case is not dismissed or settled, the Plaintiffs will have to prove their claims at a trial set to begin on **September 10, 2012** at the Frank E. Moss U.S. Courthouse, 350 South Main Street, Salt Lake City, Utah 84101. The trial may be moved to a different date or time without additional notice, so it is a good idea to check [www.AkavarClass.com](http://www.AkavarClass.com). During the trial, the Judge, and/or a Jury, will hear all of the evidence, so that a decision can be reached about whether Plaintiffs or Defendants are right about the claims in the lawsuit. The Plaintiffs will have to prove their claims. There is no guarantee that Plaintiffs will win any money or benefits for the Class.

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

You will not need to attend the trial unless you choose to do so, or you are asked to attend by the Court. Class Counsel will present the case for Plaintiffs, and the lawyers for Defendants will present their defenses. You and/or your own lawyer are welcome to come, at your own expense. Check the website, [www.AkavarClass.com](http://www.AkavarClass.com), to be kept informed of the trial schedule.

## 20. Will I get money after the trial?

If the Plaintiffs obtain money or benefits 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. Important information about the case may be posted on the website, [www.AkavarClass.com](http://www.AkavarClass.com), as it becomes available. You can access the website, whether you stay in the lawsuit or exclude yourself, to obtain current information about this case.

# GETTING MORE INFORMATION

## 21. Are more details available?

Visit the website at [www.AkavarClass.com](http://www.AkavarClass.com), where you will find the Memorandum Decision and Order Granting Plaintiffs' Motion to Certify the Class and Denying Defendants' Motion to Strike, the Memorandum Decision and Order Granting Plaintiffs' Motion for Approval of Nationwide Class Program and Denying Defendants' Motion for Stay, the First Amended Class Action Complaint and Defendants' Answer to First Amended Complaint. You may also call **1-877-835-0768** for more information, or write to: **Akavar Class Action, P.O. Box 2995, Portland, OR 97208-2995**.