

SCHEDULE C

NOTICE OF HEARING (LONG FORM)

For Class Action Certification, Settlement Approval, and Counsel Fee Approval

HAIKOLA v. THE PERSONAL INSURANCE COMPANY CLASS ACTION

PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR RIGHTS.

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A. BASIC INFORMATION

I. Who is this Notice for?

This Notice is for all persons who:

- were insured by The Personal Insurance Company (“The Personal”) under a valid automobile insurance policy between January 2012 and May 2019;
- made an automobile insurance claim under that policy with The Personal between January 2012 and May 2019; and
- consented to the collection and/or use of their credit score by The Personal or its agents as part of the fraud prevention and detection needs of The Personal’s claims management process.

(The “Class”)

If you received a short form version of this notice, that is because The Personal has identified you from its records as one of its insureds who falls within the Class definition, or you have identified yourself to Class Counsel or the Claims Administrator as a potential Class member.

2. What is the Class Action about?

This action is known as *Haikola v. The Personal Insurance Company et al*, Ontario Superior Court File No. _____ (the “Class Action”). The Class Action was commenced as a Federal Court action under Federal Court file number T-382-18 and has been recommenced in the Ontario Superior Court for settlement purposes. The Federal Court action will be dismissed as part of the settlement.

Starting in January 2012, The Personal requested consent from insureds to collect and/or use their credit score in order to assist in the detection and prevention of fraud as part of its automobile insurance claims management process. If it obtained the insured’s consent to do so, The Personal collected and/or used that insured’s credit score information.

Further to a complaint brought by Kalevi Haikola, the Office of the Privacy Commissioner (the “OPC”) delivered a report in March 2017. It concluded that The Personal breached certain principles of PIPEDA. The OPC made recommendations and The Personal changed its procedures so that it no longer collects and/or uses its insureds’ credit score as part of the fraud prevention and detection needs of The Personal’s automobile insurance claims management process.

Mr. Haikola (the “Plaintiff”) commenced the Class Action against The Personal and its parent company Desjardins General Insurance Group Inc. (“Desjardins”), alleging that the defendants had breached the privacy rights of the Class, and sought damages for the Class. The defendants deny any liability and deny the truth of the allegations made against them.

The Plaintiff also brought an access to information request to the OPC. This was the subject of a separate court proceeding in which The Personal sought judicial review of the OPC’s decision to release documents to the Plaintiff (the “Related Proceedings”).

Please note that this Class Action is unrelated to the disclosure of personal information outside Desjardins without authorization that was announced on June 20, 2019. That matter impacted Desjardins caisse members only.

The Settlement is a compromise of disputed claims in order to achieve an early full and final resolution of the Class Action and without any admission or findings of liability or wrongdoing against defendants. The defendants deny any liability and deny the truth of the allegations made against them. If the Settlement is not approved, they will defend the Class Action and oppose certification of the action as a class proceeding.

3. Why is there a Notice?

The Plaintiff is bringing a motion in the Ontario Superior Court of Justice to have this lawsuit “certified” as a class action for settlement purposes and to have the Court approve the proposed Settlement. Certification means that the lawsuit meets the requirements for a class action under the Ontario *Class Proceedings Act, 1992*. When an action is certified in Ontario, certain legal rights of Class members are affected unless they opt out of the action.

If you are included in the Class, you have legal rights before the Court decides whether to certify the Class Action and to approve the settlement. This Notice explains these things.

The motion for the Court to certify the Class Action, approve the Settlement reached between the Plaintiff and defendants, and to approve Class counsel fees will be heard on _____, 2019 at the Osgoode Hall Courthouse, 130 Queen St. W., Toronto, ON, at 10:00 am EST (the Hearing).

4. What is the Settlement?

The parties have reached a proposed settlement of the Class Action (the “Settlement”).

Before the Settlement will be effective, however, it must be approved by the Court. This will require the Court both to certify this Class Action as a class action and then to approve the Settlement. If the Settlement is not approved by the Court, or if this Class Action is not certified as a class action, the parties will return to their pre-settlement positions, and the motion for certification will be argued by the parties on a contested basis at a later date.

The Settlement is a compromise of disputed claims in order to achieve an early full and final resolution of the Class Action and without any admission or findings of liability or wrongdoing against defendants. The defendants deny any liability and deny the truth of the allegations made against them. If the Settlement is not approved, they will defend the Class Action and oppose certification of the action as a class proceeding.

5. What are the Settlement benefits?

Under the proposed Settlement, the Defendants will pay \$2,250,000.00 to the Class (the “Settlement Amount”) in full and final settlement of all claims against them in return for a release and a dismissal of the Class Action. The Settlement Amount includes all legal fees, interest, and the costs of administering the settlement. If approved, the Settlement Amount, less administration costs, lawyers’ fees, and an honorarium for the Plaintiff (if allowed), will be distributed to the Class on a *pro rata* basis.

A *pro rata* distribution means that the amount payable to each Class member under the Settlement will depend on how many Class members submit valid claim forms. Any Class Member who is still an insured of The Personal does not need to complete a claim form. They will automatically be included in the distribution of the Settlement Fund.

The Settlement can be reviewed at: <http://personalprivacyclassaction.ca>.

6. What fees do Class counsel seek to have approved?

Class Counsel will request that the Court approve payment of its legal fees for the Related Proceedings out of the Settlement Amount in the amount of \$50,000 (inclusive of HST and disbursements), with the remaining \$2,200,000 comprising the "Settlement Fund".

Class Counsel will ask the Court to approve \$500,000 for payment of legal fees in the Class Action, together with their disbursements, and any applicable taxes, from the Settlement Fund. Class Counsel have been working on a contingency fee basis and have not been paid for their efforts since the Class Action was started.

In addition, the Plaintiff and Class Counsel will request that the Plaintiff receive a \$15,000 honorarium from the Settlement Fund in recognition of the significant efforts he has taken in the interests of the Class members.

7. How will the proposed Settlement Fund be distributed?

If the Court certifies this Class Action and approves the Settlement, there will be another notice explaining how to either exclude yourself from the Class Action, or how to make a claim for compensation from the Settlement Fund. Any Class Member who is still an insured of The Personal will not need to complete a claim form. They will automatically be included in the distribution of the Settlement Fund, unless they choose to opt out of the Class Action.

B. YOUR OPTIONS

At this time, you may choose to await the decision of the Court at the Hearing or you may elect to object to the certification of this Class Action, the Settlement, Class Counsel's proposed fees, or the Plaintiff's honorarium.

1. What happens if I do nothing at all?

You do not have to do anything to participate in the Class Action. If the Settlement is approved by the Court you will be notified about how to ask for a portion of the net Settlement Fund. You will be legally bound by all orders and judgments of the Court, and you will not be able separately to sue the defendants regarding the legal claims made in this case.

2. What if I don't agree with the Settlement, Class Counsel fees or disbursements, or the Plaintiff's honorarium?

If you want to remain in the Class, but object to the proposed Settlement, the payment of an honorarium to Mr. Haikola, or the amount of Class Counsel's fees and expenses, you should do so by setting out your objection in writing addressed to Class Counsel at the address below, by no later than 2 business days prior to the hearing date. If you do so, Class Counsel will bring your objections to the attention of the Court.

You may also attend at the hearing where you may raise any objection to the Court. You may bring your own lawyer, if you wish; however, legal fees you incur will not be paid by Class Counsel or from the Settlement Fund.

C. THE LAWYERS REPRESENTING YOU

1. Do I have a lawyer in the case?

Waddell Phillips Professional Corporation is the law firm for the representative plaintiff and represents the interests of the Class as a whole.

2. How will the lawyers be paid?

You will not have to pay any of the fees and expenses of Class Counsel. Class Counsel's fees and expenses will be deducted from the Settlement Fund if the Settlement is approved and in the amount decided upon by the Court.

D. GETTING MORE INFORMATION

How do I get more information?

Further information may be obtained from this action's website at <http://personalprivacypclassaction.ca>.

If you have questions about this action, please contact Class Counsel.

If you have questions about the settlement, or your potential entitlement under the settlement, please contact the Claims Administrator:

CLAIMS ADMINISTRATOR

CA2 Inc.
9 Prince Arthur Avenue
Toronto, ON M5R 1B2
info@classaction2.com
Tel: 1-800-***-****
Attn: Personal Privacy Class Action

CLASS COUNSEL

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Attn: Personal Privacy Class Action

*** Please note that the Court offices cannot answer any questions about the matters in this notice. Please do not contact the Court regarding this notice. ***