

ST. JUDE DEFIBRILLATOR CLASS ACTION SETTLEMENT

READ THIS NOTICE CAREFULLY, IT MAY AFFECT YOUR LEGAL RIGHTS

www.stjudeicdclaim.ca

THIS NOTICE IS FOR all persons who were **implanted (at any time)** in Canada with an implantable cardioverter defibrillator or cardiac resynchronization therapy defibrillator (a “Defibrillator”) manufactured between January 2010 and May 23, 2015 by St. Jude Medical, Inc. (listed below) and their immediate family members (the “Class”):

Trade Name	Model	Trade Name	Model
Fortify Assura™ DR	CD2259-40Q	Quadra Assura MP™	CD3371-40C
Fortify Assura™ DR	CD2259-40	Quadra Assura MP™	CD3371-40QC
Fortify Assura™ DR	CD2359-40C	Quadra Assura™	CD3265-40Q
Fortify Assura™ DR	CD2359-40QC	Quadra Assura™	CD3367-40QC
Fortify Assura™ VR	CD1359-40QC	Quadra Assura™	CD3267-40
Fortify Assura™ VR	CD1259-40	Quadra Assura™	CD3267-40Q
Fortify Assura™ VR	CD1259-40Q	Quadra Assura™	CD3367-40C
Fortify Assura™ VR	CD1359-40C	Unify Assura™	CD3261-40Q
Fortify™ DR	CD2233-40Q	Unify Assura™	CD3361-40QC
Fortify™ DR	CD2233-40	Unify Assura™	CD3261-40
Fortify™ ST DR	CD2235-40	Unify Assura™	CD3361-40C
Fortify™ ST DR	CD2235-40Q	Unify Quadra™	CD3251-40
Fortify™ ST VR	CD1235-40	Unify Quadra™	CD3251-40Q
Fortify™ ST VR	CD1235-40Q	Unify™	CD3231-40
Fortify™ VR	CD1233-40	Unify™	CD3235-40
Fortify™ VR	CD1231-40	Unify™	CD3235-40Q
Fortify™ VR	CD1233-40Q		

The Ontario Superior Court of Justice has approved the settlement of a class action against St. Jude Medical, Inc. and St. Jude Medical Canada, Inc. (together, “St. Jude”) on behalf of the Class in the action Houle v. St. Jude, Court File No. CV-17-572508-00CP.

The Settlement Agreement is a compromise of disputed claims, without any admission or findings of liability or wrongdoing against St. Jude. The class action alleged that during the Class Period, the batteries in the Defibrillators were faulty as they were subject to forming lithium clusters that could cause the batteries to deplete prematurely, and that the Defendants allegedly failed to warn the Class about this defect in a timely manner. The Defendants dispute these allegations.

St. Jude has agreed to pay the all-inclusive amount of \$5,000,000 CAD (the “Settlement Fund”) to settle the class action, in return for releases and a dismissal of the class action. The Settlement Fund includes \$750,000 CAD for court costs, which will be allocated towards Class Counsel’s legal fees.

The Court has approved payment of Class Counsel’s legal fees and disbursements inclusive of HST in the amount of \$1,371,675.00. The fees are 27% of the Settlement Amount, exclusive of the court costs paid by St. Jude. These amounts will be deducted from the Settlement Fund.

This Notice provides a summary of the Settlement Agreement. The full Settlement Agreement may be viewed at www.stjudeicdclaim.ca.

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

- 1. Why was this Notice issued 3
- 2. What are the Settlement benefits 3
- 3. What is this class action about 4
- 4. Who is a member of the Class 4

HOW TO SUBMIT A CLAIM

- 5. How can I submit a claim..... 4

THE LAWYERS REPRESENTING YOU

- 6. How will Class Counsel be paid 5

ADDITIONAL INFORMATION

- 7. How do I obtain additional information 5

BASIC INFORMATION

1. Why was this Notice issued?

This action was previously certified for settlement purposes by Court Order dated April 23, 2019.

The Court has now determined that the Settlement Agreement is fair, reasonable, and in the best interest of the Class, and it has been approved.

Eligible Class Members may now submit a claim to receive a portion of the Settlement Fund.

2. What are the settlement benefits?

St. Jude has paid the Settlement Amount of \$5,000,000 CAD in full and final settlement of all claims against it, including Class Counsel fees and administration costs, in return for a comprehensive release from the Class and the Provincial Health Insurers, and a dismissal of the class action. The Settlement Amount, less administration costs and Class Counsel fees, will be distributed in accordance with the Court-approved and supervised Distribution Protocol, which is Schedule "G" to the Settlement Agreement, and can be viewed at www.stjudeicdclaim.ca.

In broad terms, Class Members who complete a valid claim form before the Claims Deadline of **11:59 pm EST on January 10, 2020** will be eligible to receive the following:

- a. **If you are an Eligible Explant Claimant¹**, you will be eligible to receive an amount that depends upon a number of factors, including the number of Eligible Explant Claimants and the number of claimants who have experienced complications arising from surgery to replace their Defibrillator who make valid claims. Eligible Explant Claimants means Patient Class Members who either (i) had a Defibrillator replaced due to premature battery depletion where the battery depletion occurred earlier than expected based on the Defibrillator usage and there was no indication that the depletion was related to a cause other than a short circuit that may have been due to the formation of lithium clusters, or (ii) had a Defibrillator replaced between October 10, 2016 and August 8, 2017 on an elective basis in response to the St. Jude advisory issued in Canada on October 10, 2016 provided that the electively replaced Defibrillator had been implanted for less than five years at the time of the replacement.
- b. **If you are an immediate family member of a Patient Class Member who has died** and you are able to demonstrate to the Referee on the balance of probabilities that the death was caused or contributed to by premature battery depletion where the battery depletion occurred earlier than expected based on the Defibrillator usage and there was no indication that the depletion was related to a cause other than a short circuit that may have been due to the formation of lithium clusters, you will be eligible for:
 - i) \$60,000 CAD if you are the spouse of the deceased Patient Class Member;
 - ii) \$45,000 CAD if you are the minor child of the deceased Patient Class Member; or

¹ "Eligible Explant Claimants" means Patient Class Members who either (i) had a Defibrillator replaced due to premature battery depletion where the battery depletion occurred earlier than expected based on the Defibrillator usage and there was no indication that the depletion was related to a cause other than a short circuit that may have been due to the formation of lithium clusters, or (ii) had a Defibrillator replaced **between October 10, 2016 and August 8, 2017** on an elective basis in response to the St. Jude advisory issued in Canada on October 10, 2016 provided that the electively replaced Defibrillator had been implanted for less than five years at the time of the replacement.

- iii) In the event that there is no spouse or minor children of the Patient Class Member, \$20,000 CAD if you are an adult child or parent of the deceased Patient Class Member up to \$100,000 CAD in the aggregate.
- c. If you are an Eligible Explant Claimant who has experienced complications arising from surgery to replace your Defibrillator, in addition to any amount under (a), above, you will be eligible for:**
- i) \$12,500 CAD for hospitalization exceeding 3 days;
 - ii) \$5,000 CAD for hospitalization from 1 – 3 days; or
 - iii) \$1,000 CAD for same day treatment in hospital, clinic, or doctor's office, including for prescription of medications to treat the complication.
- d. If you are a Patient Class Member or a Derivative Class Member that has incurred, and has documented proof of out of pocket expenses that exceed \$100.00 CAD in the aggregate arising from actions taken in response to the receipt of the St. Jude advisory released on October 10, 2016, including but not limited to additional clinic attendances, hospital visits or surgery, you will be eligible to claim those out of pocket expenses, up to \$500.00 CAD.**
- e. If you are a Patient Class Member whose Defibrillator was implanted on or after December 1, 2013, but you are not an Eligible Explant Claimant, you will be eligible to receive up to \$500 CAD.**
- f. If you are a Patient Class Member and you do not fall within option A or E above, you will be eligible to receive up to \$100 CAD.**

3. What is this class action about?

In 2017, a proposed class action was commenced against St. Jude. The Plaintiffs allege that during the Class Period, the batteries in the Defibrillators were subject to forming lithium clusters that could cause the batteries to prematurely deplete, and that the Defendants allegedly failed to warn the Class about this defect in a timely manner. The Defendants dispute these allegations, and have not admitted liability in entering into this settlement.

4. Who is a member of the Class?

If you meet the Class definition set out above, then you are a member of the Class.

HOW TO SUBMIT A CLAIM

5. How do I submit a claim?

To be eligible to receive part of the Settlement Fund, Class Members must submit a completed Claim Form, attached to this Notice, to the Claims Administrator **no later than 11:59 pm EST on January 20, 2020.**

Epiq Class Action Services Canada Inc.
Attention: St. Jude ICD Class Action Claims Administrator
Nelson P.O. Box 20187 – 322 Rideau Street
Ottawa ON K1N 5Y5
Email: info@stjudeicdclaim.ca
Fax: 1-866-262-0816

You can also download the Claim Form or complete the form online at www.stjudeicdclaim.ca.

THE LAWYERS REPRESENTING YOU

6. How will Class Counsel be paid?

You will not have to pay any of the fees and expenses of Class Counsel. The Court granted their fee approval request, and Class Counsel's fees and expenses have been deducted from the Settlement Amount, in the total amount of \$1,371,675.00, as approved by the Court.

ADDITIONAL INFORMATION

7. How do I obtain additional information?

You can obtain more information about this case by contacting Class Counsel or the Claims Administrator using the contact details listed below:

Claims Administrator:

Epiq Class Action Services Canada Inc.
Attention: St. Jude ICD Class Action Claims Administrator
Nelson P.O. Box 20187 – 322 Rideau Street
Ottawa ON K1N 5Y5
Email: info@stjudeicdclaim.ca
Phone: 1-833-414-8043
Fax: 1-866-262-0816
www.stjudeicdclaim.ca

Class Counsel:

Waddell Phillips Professional Corporation
Attention: St. Jude Defibrillator Class Action
36 Toronto Street, Suite 1120
Toronto ON M5C 2C5
Email: reception@waddellphillips.ca
Phone: 647-261-4486
Fax: 416-477-1657
<https://waddellphillips.ca/class-actions/st-jude-defibrillator-class-action/>

Howie Sacks & Henry LLP
Attention: St. Jude Defibrillator Class Action
20 Queen Street West, Suite 3500
Toronto ON M5H 3R3
Email: pmiller@hshlawyers.com
Phone: 416-361-5990
Fax: 416-361-0083
<https://www.hshlawyers.com/expertise/mass-tort-litigation/st-jude-defibrillator-pacemaker/>

**The Ontario Superior Court of Justice has authorized distribution of this Notice.
Questions about this Notice should NOT be directed to the Court.**