**NOTICE OF COURT ORDER**

 **Order 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.**

# Who this Notice is For

This Notice is for all persons who: (1) were insured by The Personal Insurance Company (“The Personal”) under a valid automobile insurance policy between January 2012 and May 2019; (2) made an automobile insurance claim under that policy with The Personal during that time; and (3) 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”).

You have received this notice because The Personal has ascertained from its records that you are among those persons who fall within the Class definition. You do not need to take any further action to establish that you are a member of the Class.

# What the Action is About

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 the *Personal Information Protection and Electronic Documents Act* (“PIPEDA”). The OPC made recommendations. 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 a class action (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 Privacy Commissioner’s decision to release documents to the Plaintiff (the “Related Proceedings”).

Please note that this Class Action is not related 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.

# Certification

The Court has certified the Class Action on consent as a class action, for the purposes of facilitating a negotiated settlement of the Class Action. Mr. Haikola was appointed as the representative plaintiff for the Class.

# Settlement Approved

The parties have negotiated a settlement of the Class Action and the Related Proceedings (the “Settlement”), which has been approved by the Court as fair, reasonable and in the best interests of the Class.

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 The Personal or Desjardins. The defendants deny any liability and deny the truth of the allegations made against them. If the Settlement had not been approved, they would have defended the Class Action and oppose certification of the action as a class proceeding.

# The Settlement Terms

This Notice provides a summary of the Settlement terms. Further details of the Settlement including a copy of the Settlement Agreement, the Claim Form, and the Court’s certification and settlement approval order may be accessed at the claims administrator’s website: <https://www.classaction2.com/personalprivacy.html>

or at Class Counsel’s website: <http://personalprivacyclassaction.ca>.

Under the Settlement, the defendants have paid $2,250,000 (the “Settlement Amount”) in full and final settlement of all claims against them and will receive a release and a dismissal of the Class Action and the Related Proceedings. The Settlement Amount includes all legal fees, interest, and the costs of administrating the settlement of the Action.

$50,000 of the Settlement Amount will be paid to the lawyers for Mr. Haikola, for the costs of the Related Proceedings. The balance of $2,200,000 is the “Settlement Fund”.

$500,000 plus HST and disbursements in the amount of $20,000 will be paid from the Settlement Fund to Class Counsel for their legal fees in respect of the Class Action. The fees are approximately 22.7% of the Settlement Fund. Class Counsel have not been paid since this action was commenced, and have been working on a contingency fee arrangement that called for them to be paid 25% of the proceeds of any settlement or judgment. The Court has found that fees, taxes and disbursements in the total amount of $585,000 are fair and reasonable.

The Court has also approved an honorarium of $15,000 to be paid from the Settlement Fund to Mr. Haikola for his efforts in bringing the Class Action for the benefit of the class, acting as the representative plaintiff.

The balance of the Settlement Fund, less the costs of administering the Settlement, will be distributed to all Class Members who deliver a valid claim form before the Claim Deadline on a *pro rata* basis. **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, unless they choose to opt out of the Class Action**.

**The Claim Deadline is: February 7, 2020,** after which time no further claim forms will be accepted or valid.

If you are not a current insured of The Personal, or if you do not deliver a claim form by the Claim Deadline to the Claims Administrator, then you will not be able to receive a portion of the Settlement Fund.

Claim forms are available for download at:

* <https://www.classaction2.com/personalprivacy.html> or <http://personalprivacyclassaction.ca> , or
* a hard copy of the claim form may be requested by contacting the Claims Administrator at: CA2 Inc., 9 Prince Arthur Avenue, Toronto, ON M5R 1B2,

email: personalprivacy@classaction2.com

The amount that each Class Member will receive will depend upon the total number of valid claims received by the Claims Administrator, and the total costs of the claims administration process. It is estimated that if all Class Members submit valid claims, they will receive approximately $150 each. Any amount remaining in the Settlement Fund after the claims administration process is complete will be paid to the Public Interest Advocacy Center, a non-profit and charity that provides legal and research services on behalf of consumer interests.

# Your Options

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| 1. **STAY IN THIS LAWSUIT**
 | **Share in the Settlement Fund. Give up certain rights.**You do not have to do anything to become a Class Member.If you wish to receive a portion of the Settlement Fund, you must complete a claim form and deliver it to the Claims Administrator by the Claim Deadline.Class Members who are still insured by The Personal do not need to complete a claim form. They will automatically be included in the distribution of the Settlement Fund and the Claims Administrator will directly mail settlement cheques to their last known address on record with The Personal. If you are uncertain if The Personal has your correct mailing address, or if you will be changing addresses in the near future, please contact the Claims Administrator.You will be legally bound by the Court order approving the settlement and dismissing the Action, including the release granted to the defendants. You may not pursue any claim, complaint, demand, action or suit against the defendants or related entities for the same claims that were raised or could have been raised in the Action. |
| 1. **REMOVE YOURSELF FROM THIS LAWSUIT**

**(OPT-OUT)** | **Get out of this lawsuit. Get no money or other benefits from it. Keep rights.**If you do not want to be involved in this Action, you must opt-out. You will then no longer be part of the Class. You will not be entitled to share in the Settlement Fund, and you will not be bound by the Court’s order approving the Settlement and granting the release to the defendants. You will keep any existing right to bring claims against the defendants on your own about the same legal claims. If you want to exclude yourself from this Action, you must send a written notice to the Claims Administrator by no later than December 6, 2019An opt out notice must be signed by you, and include your full name, address and, if known, the policy number for your motor vehicle insurance policy issued by The Personal. The opt out notice must be sent by no later than December 6, 2019 to:The Personal Privacy Class Actionc/o CA2 Inc.9 Prince Arthur AvenueToronto, Ontario M5R 1B2personalprivacy@classaction2.com |

Further information about this Notice, or the Class Action may be obtained from Class Counsel’s website at <http://personalprivacyclassaction.ca>.

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

If you have questions about this action or “opting out” please contact Class Counsel.

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| **CLAIMS ADMINISTRATOR****CA2 Inc.**9 Prince Arthur AvenueToronto, ON M5R 1B2personalprivacy@classaction2.com Tel: 1-800-538-0009**Attn: The Personal Privacy Class Action** | **CLASS COUNSEL****WADDELL PHILLIPS PC**36 Toronto Street, Suite 1120Toronto, ON M5C 2C5reception@waddellphillips.ca Tel: 1-888-684-5545Fax: 416-477-1657**Attn: The Personal Privacy Class Action** |

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