**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.**

**YOU MAY NEED TO TAKE PROMPT ACTION.**

**WHAT THIS NOTICE CONTAINS**

1. **BASIC INFORMATION**
2. Who is this Notice for?
3. Why is there a Notice?
4. What is the Action about?
5. What is the Settlement?
6. What are individual Class Members entitled to from the Settlement?
7. What fees were approved for Class Counsel?
8. What is the Plaintiff’s honorarium?
9. **MAKING A CLAIM**
10. Who is entitled to make a claim for a portion of the Settlement?
11. How do I make a claim?
12. What if I opt out?
13. Who determines if I have a valid claim?
14. **OPTING OUT**
15. What if I don’t want to be in the Class?
16. What if I do nothing at all?
17. **GETTING MORE INFORMATION**
18. **CLAIM FORM**
19. **OPT-OUT FORM**
20. **BASIC INFORMATION**
21. **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, this is because The Personal has identified you from its records as one of its insureds who fall within the Class definition, or you have identified yourself to Class Counsel or the Claims Administrator as a potential Class member.

1. **Why is there a Notice?**

On Monday, October 7, 2019, this lawsuit was certified by the Ontario Superior Court as a class action (for settlement purposes). In addition, the Court approved a settlement of this Class Action (the “Settlement”), fees payable to Class Counsel, and an honorarium for the Plaintiff. The Settlement was found by the Court to be fair, reasonable, and in the best interests of the Class.

This Notice advises Class members that this Class Action was certified as a class action, that the Settlement was approved, and that Class Counsel’s fees and disbursements, together with an honorarium for the Plaintiff, were approved. It provides information about the terms of the approved Settlement and the process whereby Class members may submit a claim. It also provides information about how to opt out of this Class Action for Class members who may wish to do so.

1. **What is the Class Action 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 *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 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.

1. **What is the Settlement?**

The parties have negotiated a settlement of the Class Action, as well as 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 ofdisputed claims, without any admission or findings of liability or any wrongdoing whatsoever by the defendants. The defendants deny any liability and deny the truth of the allegations made against them, and if the Settlement had not been approved, they would be defending the Class Action and opposing certification of the Class Action.

Under the Settlement, the defendants will pay $2,250,000.00 (the “Settlement Amount”) in full and final settlement of all claims against them, including a release and a dismissal of the Class Action and the Related Proceedings. The Settlement Amount includes all legal fees, interest, and administration costs. Of the Settlement Amount, $50,000 will be paid to Class Counsel for their fees in the Related Proceedings, inclusive of tax and disbursements. The Settlement Amount less the $50,000 will be the “Settlement Fund”.

1. **What are individual Class Members entitled to from the Settlement?**

The amount that each Class member will receive from the Settlement Fund will depend upon the total number of valid claim forms received by the Claims Administrator, and the total costs of the claims administration process. On the basis of information provided by The Personal, Class Counsel estimates that if all Class members submit a valid claim form, each Class member will receive up to approximately $150. Any amount remaining in the Settlement Fund after the claims administration process is completed 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.

Further details of the Settlement including a copy of the Settlement Agreement and the Court’s certification and settlement approval order may be accessed at <http://personalprivacyclassaction.ca> .

1. **What fees were approved for Class Counsel?**

The Court has approved as fair and reasonable: (1) Class Counsel’s fees of $500,000 plus HST for its costs in the Class Action; and (2) Class Counsel’s disbursements in the amount of $20,000; and (3) an honorarium for Mr. Haikola in the amount of $15,000, to be paid out of the Settlement Fund.

Class Counsel’s legal fees of $500,000 is approximately 22.7% of the Settlement Fund. Class Counsel have not been paid since this action was commenced and have been working under a contingency fee arrangement that called for them to be paid 25% of the proceeds of any settlement or judgment. Class Counsel has borne all expenses and risks prosecuting this Class Action to date.

Class Counsel is also being paid $50,000 for costs in respect of the Related Proceedings, to be paid out of the Settlement Amount.

1. **What is the Plaintiff’s honorarium?**

Courts, in appropriate cases, may award an honorarium to a representative plaintiff who has made considerable efforts in prosecuting a class action in the benefits of a class. In this case, the Court has 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, and acting as the representative plaintiff.

1. **MAKING A CLAIM**
2. **Who is entitled to make a claim for a portion of the Settlement?**

All Class members who do not opt out of this action are entitled to share in the net Settlement Fund. Each Class member who submits a valid claim form will receive one equal share of the net Settlement Fund. **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.

For example, if 8,000 Class members submit claim forms or are automatically included in the settlement as current insureds of The Personal, each of those Class members will receive 1/8000th of the net Settlement Fund. The total amount paid out to each Class member will therefore depend on the total number of valid claims received and the total costs of the Settlement.

1. **How do I make a claim?**

Class Members who are current insureds of The Personal do not need to do anything to make a claim. They will be automatically included in the distribution of the Settlement Fund, unless they choose to opt out of the Class Action. Such Class Members should ensure that they have notified The Personal and the Claims Administrator of their current address.

Class Members who are no longer customers of The Personal and who wish to receive compensation must mail or email a completed Claim Form to the Claims Administrator or complete an online Claim Form at the Claims Administrator’s website at: <https://www.classaction2.com/personalprivacy.html> . A Claim Form is provided with this Notice. The Claim Form is also available for download at the Claims Administrator’s website, and Class Counsel’s website

**The Claim Deadline is February 7, 2020 at 11:59 pm. After this time, no further claim forms will be accepted or valid.** If you do not deliver a claim form by the Claim Deadline, then you will not be able to receive a portion of the Settlement Fund.

1. **What if I opt out?**

If you elect to exclude yourself from this Class Action (opt out), you are no longer a Class member and cannot participate in the Settlement. You will be entitled to commence your own claim, subject to the expiry of any limitations periods. You are advised to seek legal advice before opting out.

1. **Who determines if I have a valid claim?**

The Claims Administrator will have the sole discretion to determine if a submitted claim form is a valid claim relying upon records provided to it from The Personal (the “Class Member List”).

If you believe you are a Class member and the Claims Administrator advises you that you are not included in the Class Member List, you have the right to prove that you are a Class member by submitting to the Claims Administrator:

a. Proof of valid motor vehicle insurance with The Personal that was in effect during the Class Period, such as a pink slip or copy of the insurance policy;

b. Documentary evidence demonstrating that you made an automobile insurance claim to The Personal during the Claim Period; and

c. Documentary evidence from a credit reporting agency (e.g. Equifax) demonstrating that The Personal accessed your credit score during the time that your automobile insurance claim was open.

1. **OPTING OUT**

You have to decide whether to stay in the Class or whether to remove yourself, and you have to decide this by no later than **December 6, 2019** (the opt out deadline).

1. **What if I don’t want to be in the Class?**

If you decide you do not want to participate in the lawsuit, you must remove yourself - this is sometimes referred to as “opting out”. If you remove yourself, you will not receive any money or benefit that may be obtained as a result of this lawsuit or the Settlement. You will not be bound by any Court orders and you keep your right to sue the defendants regarding the issues in this case. You cannot change your mind later and opt back into the Class Action.

Please note that after December 6, 2019 the right to opt out of this action expires.

To remove yourself from this Class Action, complete the Opt Out Form included with this notice. The Opt Out Form must be sent to the Claims Administrator by email, mail, or courier at the address provided below.

You may obtain a copy of this Opt Out Form at: <http://personalprivacyclassaction.ca>.

Your Opt Out Form must be received by December 6, 2019. If your Opt Out Form is not received by this date, then you will be a Class member and bound by any decisions of the Court in the Class Action, whether or not you make a claim for a portion of the Settlement Fund.

1. **What if I do nothing at all?**

You do not have to do anything to stay in the Class Action. 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. You will be entitled to claim compensation under the Settlement, by completing a valid Claim Form (provided with this notice letter).

If you do not opt out of this Class Action, you will remain a Class member.

To receive compensation you must submit a valid Claim Form before the Claim Deadline, unless you are a current insured of The Personal. If you do not submit a valid Claim Form, you will nevertheless still be bound by the Settlement and the Court’s Orders in this Class Action, but you will not be paid any compensation.

**Class Members who are current insureds of The Personal do not need to do anything to make a claim.**  They will be automatically included in the distribution of the Settlement Fund, unless they choose to opt out of the Class Action.

1. **OBTAINING MORE INFORMATION**

Further information about this Notice or about the 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.

|  |  |
| --- | --- |
| **CLAIMS ADMINISTRATOR**  **CA2 Inc.**  9 Prince Arthur Avenue  Toronto, ON M5R 1B2  personalprivacy@classaction2.com  Tel: 1-800-538-0009  **Attn: Personal Privacy Class Action** | **CLASS COUNSEL**  **WADDELL PHILLIPS PC**  36 Toronto Street, Suite 1120  Toronto, ON M5C 2C5  [reception@waddellphillips.ca](mailto:reception@waddellphillips.ca)  Tel: 1-888-684-5545  Fax: 416-477-1657  **Attn: Personal Privacy Class Action** |

**\*\*\* Please note that Claim Forms and Opt Out Forms should be sent directly to the Claims Administrator. These forms should not be sent to Class Counsel \*\***