

ELGIN-MIDDLESEX DETENTION CENTRE (“EMDC”) CLASS ACTIONS: NOTICE OF CERTIFICATION, PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

Johnson et al v His Majesty the King in right of Ontario, Court File No 2291/13 CP
Sabourin v His Majesty the King in right of Ontario, Court File No 1406/19 CP

Please read this Notice carefully. Your rights may be affected regardless of whether or not you act.

Who is this Notice for?

This Notice is for all persons who were incarcerated at the Elgin-Middlesex Detention Centre (“EMDC”) between January 1, 2010 and November 10, 2021, including those held pending trial or other court appearance (“Class Members”).

What is this litigation about?

Johnson et al v His Majesty the King in right of Ontario (the “Johnson/Hayne Action”) and *Sabourin v His Majesty the King in right of Ontario* (the “Sabourin Action”) are certified class action lawsuits against His Majesty the King in right of Ontario (the “Defendant”) alleging (1) that the conditions at the EMDC are overcrowded, unsanitary, dangerous, and violent; and, (2) that in its operation and management of the EMDC, the Defendant was systemically negligent and deprived Class Members of their rights guaranteed by sections 7 and 12 of the *Canadian Charter of Rights and Freedoms* (the right to life, liberty and security of the person and the right not to be subjected to any cruel and unusual treatment or punishment).

Class Action	Class Members
Johnson/Hayne Action	All persons incarcerated at the EMDC between January 1, 2010 and May 18, 2017 , including those held pending trial or other court appearance
Sabourin Action	All persons incarcerated at the EMDC between May 18, 2017 and November 10, 2021 , including those held pending trial or other court appearance

Depending on when you were incarcerated at the EMDC, you may be a Class Member in both the Johnson/Hayne Action and Sabourin Action or only one of the Actions.

What is the purpose of this Notice?

The purpose of this Notice is:

- (1) to advise Class Members in the Sabourin Action of the Sabourin Action’s certification and their entitlement to opt out of the Sabourin Action on or before **July 20, 2023**;
- (2) to inform all Class Members of a proposed Settlement in the Johnson/Hayne Action and Sabourin Action class action lawsuits against the Defendant;
- (3) to advise all Class Members of the Settlement Approval Hearing on **September 13, 2023** at 11:30am, at which the Ontario Superior Court of Justice will consider whether to approve the proposed Settlement; and,
- (4) to advise all Class Members of their entitlement to file objections to the proposed Settlement on or before **July 20, 2023**.

When were these actions certified?

On November 10, 2021, on consent of the Parties, the Sabourin Action was certified as a class action by the Honourable Justice Grace of the Ontario Superior Court of Justice on behalf of all persons who were incarcerated at the EMDC between May 18, 2017 and November 10, 2021, including those held pending trial or other court appearance.

The Johnson/Hayne Action had already been certified as a class action by the Honourable Justice Grace of the Ontario Superior Court of Justice on behalf of all persons incarcerated at the EMDC between January 1, 2010 and May 18, 2017, including those held pending trial or other court appearance. Class Members in the Johnson/Hayne Action were already provided with notice of that Action's certification, and the deadline for opting out of that action has since passed.

What is available under the Settlement?

A proposed Settlement has been reached in these actions.

Under the proposed Settlement, the Defendant will pay \$32,795,400.00 to settle the actions. This amount includes payment of Approved Claims, the Class Proceedings Fund Levy, Administration Costs and Notice Plan Costs, interest and all applicable taxes.

Under the proposed Settlement, Class Members (those who were incarcerated at the EMDC between January 1, 2010 and November 10, 2021 and who are not excluded from the Class) may be eligible for compensation under **one** of the following compensation levels if they submit a valid and timely Claim:

	Description	Claim Award
Level 1 Claim	A Level 1 Claim may be brought by Class Members who were incarcerated at the EMDC <u>for at least 24 hours</u> and can establish that they suffered some detrimental impact from their incarceration at the EMDC, as evidenced by occasional short-term episodes of anxiety, depression, loss of sleep, nightmares and/or panic states.	\$1,500
Level 2 Claim	A Level 2 Claim may be brought by Class Members who can establish that they suffered modest or continued detrimental impacts from their incarceration at the EMDC, as evidenced by several episodes of anxiety or depression; serious physical injury requiring medical attention; diagnosed Post Traumatic Stress Disorder; anxiety or depression requiring medical intervention or medication; and/or significant resulting substance abuse.	Up to \$12,500
Level 3 Claim	A Level 3 Claim may be brought by Class Members or by their estates. The Class Member or estate must establish that they suffered an ongoing or fatal impact from their incarceration at the EMDC, resulting in a serious dysfunction, impairment, or death, as evidenced by severe anxiety and/or depression requiring ongoing mental health treatment, including medication, or serious physical injury requiring admission to a hospital and ongoing physical therapy and rehabilitation.	Up to \$35,000

Class Members may only claim for one compensation level in their Claim Form, and may not stack Claims (i.e., receive compensation for both a Level 1 Claim at \$1,500 and a Level 3 Claim at \$35,000).

Class Members who were incarcerated at the EMDC for fewer than 24 hours are not eligible to make a Level 1 Claim. They may make a Level 2 Claim or a Level 3 Claim, provided that they deliver the supporting evidence required.

When is the Settlement Approval Hearing?

The proposed Settlement must be approved by the Ontario Superior Court of Justice to become effective. The Settlement Approval Hearing will take place before the Ontario Superior Court of Justice on September 13, 2023 at 11:30 am EST at the London Courthouse, 80 Dundas Street, London, ON N6A 6A3 and virtually via Zoom. If you would like to view or attend the hearing on September 13, 2023 at 11:30am, but cannot do so virtually via Zoom, you may attend at the Courthouse in person. You may request the Zoom details from the Claims Administrator (email: info@emdcclassaction.ca; toll free phone: 1-888-595-6828; or by visiting the Claims Administrator's website at www.emdcclassaction.ca).

The legal fees paid to the lawyers acting for the Class Members ("Class Counsel") may also be approved at the Settlement Approval Hearing, but that amount will be paid separately (in addition to the \$32,795,400.00) and will not reduce the amounts paid to successful Claimants.

If the Settlement is approved, an additional Notice will follow. Visit the settlement website at www.emdcclassaction.ca for the most up to date information. You can also register with Class Counsel (McKenzie Lake Lawyers LLP) or on the settlement website at www.emdcclassaction.ca to receive an email if the Settlement is approved.

What are my legal rights and options?

For all Class Members (Class Members in the Johnson/Hayne Action and/or Sabourin Action):

- You can **participate** in the Settlement, if the proposed Settlement is approved by the Court, and submit a Claim for compensation. If you wish to participate, you are not required to do anything until after the Settlement is approved.
- You can **object** to the proposed Settlement before the Court considers whether to approve it and attend the Settlement Approval Hearing to present that objection. If you wish to object to the proposed Settlement, you must submit a signed and completed Objection Form to the Claims Administrator on or before **July 20, 2023.**

If you are a Class Member who was incarcerated at the EMDC between May 18, 2017 and November 10, 2021 (a Class Member in the Sabourin Action), you have a third option:

- You can **exclude** yourself from the Sabourin Action (opt out), in which case, you will not be eligible to receive any compensation under the Settlement Agreement for harm alleged to have occurred between May 18, 2017 and November 10, 2021. If you wish to exclude yourself from the Sabourin Action (opt out) and preserve your legal rights against the Defendant, you must submit a signed and completed Opt-Out Form to the Claims Administrator on or before **July 20, 2023.**

Class Members in the Johnson/Hayne Action were already given the opportunity to exclude themselves from the Johnson/Hayne Action (opt out). The opt-out deadline for the Johnson/Hayne Action was June 20, 2018. Class Members are no longer able to opt out of the Johnson/Hayne Action.

Your legal rights and options—and the deadlines to exercise them—are explained in more detail in this Notice. Please read this entire Notice carefully.

Why did I get this Notice?

You are receiving this Notice because the Defendant's records indicate that you were incarcerated at the EMDC between January 1, 2010 and November 10, 2021. You may be entitled to claim certain benefits offered by the proposed Settlement if the proposed Settlement is approved by the Court and you submit a valid and timely Claim.

You have a right to know about the proposed Settlement and your options before the Court decides whether to approve the proposed Settlement. If the Court approves the proposed Settlement, the Defendant will provide the payments agreed to in the Settlement Agreement to Class Members who submit valid and timely Claims. This Notice explains the class action lawsuits, the proposed Settlement, your legal rights, what compensation is available, who is eligible for that compensation, and how to make a Claim for that compensation. Please read this entire Notice carefully.

Why is there a Settlement?

The Parties have agreed to the proposed Settlement to avoid the cost and risk of further litigation, including potential trials, and to provide Class Members with reasonable compensation in exchange for releasing the Defendant from liability. The proposed Settlement does not mean that the Defendant did anything wrong, and the Court did not decide which Party was right.

The Parties entered into a Settlement Agreement. The individuals who filed the Actions (called the "Representative Plaintiffs") and Class Counsel believe that the proposed Settlement is fair, reasonable and in the best interests of the Class.

How do I know if I am part of the Settlement?

For the purposes of the proposed Settlement, all persons who were incarcerated at the EMDC between January 1, 2010 and November 10, 2021, including those held pending trial or other court appearance, are Class Members. However, not all Class Members are eligible to receive compensation. Some exceptions apply (see below).

Can everyone make a Claim in the Settlement?

Only Class Members who meet certain criteria are eligible to submit Claims in the Settlement. You are excluded from making a Claim in the proposed Settlement if:

- (a) you are not a Class Member under the terms of the Settlement Agreement;
- (b) you validly opted out of the Johnson/Hayne Action and/or Sabourin Action in writing (but see * and ** below);
- (c) you are a "Time-Barred Class Member" (defined below); and/or,
- (d) you previously settled claims against the Defendant and executed a release in favour of the Defendant in relation to matters that are the subject of the Actions.

* If you were incarcerated at the EMDC both during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017) and during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021), opted out of the Johnson/Hayne Action and do not opt out of the Sabourin Action, you are only still a Class Member in the Sabourin Action. You may make a Claim for compensation under the Settlement Agreement for harm alleged to have occurred to you at the EMDC during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021).

** If you were incarcerated at the EMDC both during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017) and during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021), did not opt out of the Johnson/Hayne Action and opt out of the Sabourin Action, you are only

still a Class Member in the Johnson/Hayne Action. You may make a Claim for compensation under the Settlement Agreement for harm alleged to have occurred to you at the EMDC during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017).

You are a “Time-Barred Class Member” if (a) your claim arises from an injury, loss or damage sustained while you were incarcerated at the EMDC on or before October 9, 2011 and is statute-barred by the *Limitations Act, 2002*, SO 2002, c 24; (b) you did not, before the Johnson/Hayne Action and Sabourin Action were commenced, initiate within the applicable limitation period a proceeding against the Defendant for damages arising from your incarceration at the EMDC (i.e., issue and serve a statement of claim on the Defendant); **and** (c) you did not validly opt out.

How do I make a Claim for compensation under the Settlement?

The claims process has not yet begun. If the proposed Settlement is approved by the Court at the Settlement Approval Hearing to be held on **September 13, 2023**, you may make a Claim by doing the following:

- (1) fill out the Claim Form (on paper or online);
- (2) include the supporting evidence and documentation specified on the Claim Form; and,
- (3) submit the Claim Form and supporting evidence and documentation to the Claims Administrator online, by mail (at the address listed on the Claim Form), or by email (at the email address listed on the Claim Form) on or before the deadline to submit a Claim Form (12 months after the Court Approval Date).

Please keep a copy of your completed Claim Form and all of the supporting evidence and documentation you submit for your own records.

If you fail to submit a Claim Form and supporting evidence and documentation on or before the deadline to submit a Claim Form, you will not be eligible for any compensation whatsoever (i.e., you will not get paid). Sending in a Claim Form late will be the same as doing nothing.

What evidence do I need to prove my Claim?

The material you need to include with your Claim will depend on whether you are making a Level 1, Level 2, or Level 3 Claim.

The supporting evidence required in respect of each compensation level is:

Level 1 Claim: Sworn statement/solemn affirmation setting out, to the best of your recollection, (1) the nature of the incident(s) alleged to have been experienced by you while incarcerated at the EMDC, including details regarding the specific date of the incident(s), unit/location, individuals involved, reports made to staff, and any other pertinent information relating to the alleged incident; and, (2) the nature and extent of the harm(s) caused to you by the incident(s).

Level 2 Claim: Commissioned Affidavit setting out, to the best of your recollection, (1) the nature of the incident(s) alleged to have been experienced by you while incarcerated at the EMDC, including details regarding the specific date of the incident(s), unit/location, individuals involved, reports made to staff, and any other pertinent information relating to the alleged incident(s); and, (2) the nature and extent of the harm(s) caused to you by the incident(s).

Level 3 Claim: Commissioned Affidavit setting out, to the best of your recollection, (1) the nature of the incident(s) alleged to have been experienced by the Claimant while incarcerated at the EMDC, along with all details relating to the specific date of the incident(s), unit/location, individuals involved, reports made to staff, and any other pertinent information relating to the alleged incident(s); and, (2) the nature and extent of the harm(s) caused to you by the incident(s).

Supporting Documentation: Where possible, additional supporting documentation for Level 2 and Level 3 Claims should be provided from a doctor, psychologist, social worker, counsellor, or therapist setting out the professional's knowledge of (1) the incident(s) alleged by you; and, (2) the nature of the harm caused to you by the incident(s). If you are submitting a Level 2 Claim or a Level 3 Claim and cannot provide this supporting documentation, you will need to explain on your Claim Form why it was not possible to provide supporting documentation. A failure to provide supporting documentation for a Level 2 Claim or Level 3 Claim may impact the quantum of your award.

Can I submit a Claim on behalf of someone else?

Yes, if you have legal authority to do so. If a Claim is being submitted on behalf of someone else, the person completing the Claim must explain on the Claim Form why they have the authority to act and must attach a copy of any Certificate of Appointment of Estate Trustee, Power of Attorney or other document establishing that authority.

How do I get records from when I was incarcerated at the EMDC?

You don't necessarily need a copy of your Inmate File (containing certain records from when you were at the EMDC) to make a Claim. However, if you nevertheless want to obtain a copy of your Inmate File in order to support your Claim, there is a process for doing so under the Settlement.

You can request a copy of your Inmate File by contacting the Claims Administrator in writing. These requests must be made within three (3) months after the order approving the Settlement becomes final.

The Defendant will make best efforts to produce a copy of the Inmate File within nine (9) months after the order approving the Settlement becomes final.

If my Claim is successful, when will I receive my compensation?

The Claims Administrator will mail individual compensation cheques to successful Claimants at the postal addresses indicated in the Claim Forms or as directed by an incarcerated Claimant in the Claim Form.

The Claims Administrator cannot mail the individual compensation cheques until (i) all timely Claim Forms have been processed; (ii) the time to request a reconsideration has expired; (iii) all requests for reconsideration have concluded; (iv) the Claims Administrator has reviewed its determinations and those made by the Referee, and has allocated amounts to successful Claimants; (v) the Claims Administrator has prepared a Successful Claims Report advising the Defendant and Class Counsel of the Approved Claims and the amounts to be awarded to each successful Claimant; and, (vi) the Defendant provides the Claims Administrator with the funds to carry out the distributions to the successful Claimants identified in the Successful Claims Report (the Approved Claims payment). The Claims Administrator will mail the individual compensation cheques within sixty (60) days of (i) completion of the Successful Claims Report; and, (ii) receipt of the Approved Claims payment. This process will take some time, and your patience is appreciated. When the cheques have been mailed, an announcement will be posted on the websites of Class Counsel (www.mckenzielake.com) and the Claims Administrator (www.emdcclassaction.ca).

Who will review my Claim?

A third-party Claims Administrator agreed to by the Parties will be appointed by the Court to administer the Settlement and the claims process. The Claims Administrator will conduct an initial review of all Claims to verify that the Claimant is eligible to claim for compensation.

Once the Claims have been verified, the Claims Administrator will provide all verified Level 2 Claims and verified Level 3 Claims, together with all documentation provided, to the Referee – a retired judge or other senior legal

practitioner appointed by the Court. The Claims Administrator, for Level 1 Claims, and the Referee, for Level 2 Claims and Level 3 Claims, will review the Claim Form, any supporting documentation, and documentation submitted by the Defendant and Class Counsel, if any, to determine the compensation level, if any, for which a Claimant is eligible.

In considering Level 2 Claims and Level 3 Claims, the Referee may determine the quantum of the award in an amount not exceeding the maximum identified in the table above (under “What is available under the Settlement?”).

What if my Claim is found to be incomplete?

The Claims Administrator will review each Claim Form for completeness. If your Claim Form is incomplete, the Claims Administrator will let you know within twenty (20) business days of receiving your Claim Form. You will then have to complete the Claim Form within the later of (i) sixty (60) days from the date that the Claims Administrator advises you that your Claim Form is incomplete; or, (ii) the deadline to submit a Claim Form and supporting documentation.

What am I giving up to stay in the Sabourin Class?

Unless you exclude yourself in writing (opt out) from the Sabourin Class, you will be part of the Class bound by the proposed Settlement if the proposed Settlement is approved by the Court. That means that you can't sue, continue to sue, or be part of any other lawsuit against the Defendant about the legal issues in this case related to your incarceration at the EMDC between May 18, 2017 and November 10, 2021. It also means that all of the Court's orders will apply to you and legally bind you.

Can I exclude myself from the Settlement?

If you do not want the compensation provided in this proposed Settlement, and you want to keep the right to sue or continue to sue the Defendant on your own about the legal issues in this case, then you must take steps to get out of the Class. This is called excluding yourself or opting out of the Class.

Class Members who want to participate in the proposed Settlement are automatically included in the Class and should **not** submit the Opt-Out Form discussed below.

Only certain Class Members are eligible to opt out of the Settlement at this time.

1. If you are a Class Member who was incarcerated at the EMDC **between January 1, 2010 and May 18, 2017**, you are a Class Member in the Johnson/Hayne Action and **you can no longer opt out of the Settlement**. Class Members in the Johnson/Hayne Action were already given the opportunity to exclude themselves from the Johnson/Hayne Action (opt out). The opt-out deadline for the Johnson/Hayne Action was June 20, 2018. Class Members are no longer able to opt out of the Johnson/Hayne Action or proposed Settlement (in relation to harm alleged to have occurred between January 1, 2010 and May 18, 2017).
2. If you are a Class Member who was incarcerated at the EMDC **between May 18, 2017 and November 10, 2021**, you are a Class Member in the Sabourin Action. Class Members in the Sabourin Action can exclude themselves from the Sabourin Class and proposed Settlement in relation to harm alleged to have occurred between May 18, 2017 and November 10, 2021 (opt out).

I am a class member in the Sabourin Action. How do I opt out or exclude myself from the Settlement?

If you exclude yourself from the Sabourin Action (opt out), you will **not** be eligible to receive any compensation under the Settlement Agreement for harm alleged to have occurred between May 18, 2017 and November 10,

2021. You will also not be able to object to the proposed Settlement. You will not be bound by anything that happens in the Sabourin Action.

If you wish to exclude yourself from the Sabourin Action (opt out) and preserve your legal rights against the Defendant, you must submit a **signed and completed** Opt-Out Form to the Claims Administrator on or before **July 20, 2023**. You can obtain a copy of the Opt-Out Form by contacting Class Counsel, by contacting the Claims Administrator (email: info@emdcclassaction.ca or toll free phone: 1-888-595-6828) or by downloading a copy from www.emdcclassaction.ca.

You cannot exclude yourself from the Sabourin Action on the phone or on any website. Instead, you must submit a signed and completed Opt-Out Form to the Claims Administrator by email or regular mail. Please keep a copy of the Opt-Out Form you submit for your records.

No person may opt out a minor (a person under 18 years of age) or a mentally incapable Class Member without permission of the Court and after providing notice to the Children's Lawyer and/or the Public Guardian and Trustee, as appropriate.

If I do not exclude myself from the Sabourin Action (opt out), can I sue for the same thing later?

If you do not exclude yourself from the Sabourin Action (opt out), you will be part of the Class bound by the proposed Settlement if the proposed Settlement is approved by the Court. That means that you can't sue, continue to sue, or be part of any other lawsuit against the Defendant about the legal issues in this case related to your incarceration at the EMDC between May 18, 2017 and November 10, 2021.

If I exclude myself (opt out), can I get compensation under the Settlement Agreement?

If you exclude yourself from the Sabourin Action (opt out), you will not be eligible to receive any compensation under the Settlement Agreement for harm alleged to have occurred between May 18, 2017 and November 10, 2021.

If you excluded yourself from the Johnson/Hayne Action (opted out), you will not be eligible to receive any compensation under the Settlement Agreement for harm alleged to have occurred between January 1, 2010 and May 18, 2017.

Depending on when you were incarcerated at the EMDC, you may be a Class Member in both the Johnson/Hayne Action and Sabourin Action or only one of the Actions.

If you were incarcerated at the EMDC both during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017) and during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021), opted out of the Johnson/Hayne Action and do not opt out of the Sabourin Action, you are a Class Member in the Sabourin Action only. You may make a Claim for compensation under the Settlement Agreement for harm alleged to have occurred to you at the EMDC during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021).

If you were incarcerated at the EMDC both during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017) and during the time period covered by the Sabourin Action (May 18, 2017 to November 10, 2021), did not opt out of the Johnson/Hayne Action and opt out of the Sabourin Action, you are a Class Member in the Johnson/Hayne Action only. You may make a Claim for compensation under the Settlement Agreement for harm alleged to have occurred to you at the EMDC during the time period covered by the Johnson/Hayne Action (January 1, 2010 to May 18, 2017).

Lawyers for the Class

The law firm representing the Class Members (Class Counsel) is listed below. You will not be charged for contacting these lawyers for more information. If you want to be represented by your own lawyer, you may hire one at your own expense.

McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2
Toll-Free Telephone: 1-855-772-3556
Email: emdc@mckenzielake.com

How will the lawyers representing the Class be paid?

Class Counsel will ask the Court for approval of the payment of their fees and other expenses by the Defendant. The Defendant and Class Counsel have agreed to ask the court to approve an amount of up to \$9,388,207.92 for legal fees (\$8,198,850.00), taxes (\$1,065,850.50) and disbursements (\$123,507.42). It will be up to the Court to approve or determine the amount that the Defendant will be ordered to pay for those fees and expenses. The Court may award something less than the amount requested by Class Counsel. These amounts will not come out of the fund for payments to Class Members, or decrease their entitlements.

You may continue to check on the progress of Class Counsel's request for fees and expenses by visiting www.emdcclassaction.ca.

What if I don't agree with the Settlement?

If you are a Class Member, you can tell the Court that you don't agree with the proposed Settlement or some part of it by filing an objection. In an objection, you can give the Court reasons why you think the Court should not approve the Settlement. The Court will consider your views.

To object, you must submit a **signed and completed** Objection Form to the Claims Administrator on or **before July 20, 2023**. Be sure to include the following information:

- (i) your full name, address, email address, and telephone number;
- (ii) a statement that you meet the criteria for membership in the Class;
- (iii) to the best of your recollection, a list of your placements in the EMDC, with placement dates, release dates, and unit locations;
- (iv) a written statement of all factual and legal grounds for your objection accompanied by any legal support for your objection;
- (v) copies of any papers, briefs or other documents upon which your objection is based;
- (vi) a statement setting out whether you intend to appear at the Settlement Approval Hearing;
- (vii) a statement setting out whether you intend to appear at the Settlement Approval Hearing through counsel, and if so, identifying any counsel representing you who intends to appear at the Settlement Approval Hearing; and,
- (viii) your signature.

Objections must be sent by mail, courier, or email to the Claims Administrator on or before **July 20, 2023** using the Objection Form, which can be obtained by requesting a copy from the Claims Administrator or Class Counsel or by downloading a copy at www.emdclassaction.ca. Objections submitted after this date will not be considered.

If you want to speak at the Settlement Approval Hearing, you must indicate that you intend to do so in your Objection Form. You can hire a lawyer to appear on your behalf at your own expense or you may appear yourself. You can attend the hearing virtually via Zoom, or attend in person. If you do not state your intention to appear in your Objection Form, or you do not submit a signed and completed Objection Form before **July 20, 2023**, you will waive all objections and can be barred from speaking at the Settlement Approval Hearing.

What is the difference between objecting and excluding myself (opting out)?

Objecting is simply telling the Court that you don't like something about the proposed Settlement. You can object to the proposed Settlement only if you stay in the Class. Excluding yourself (opting out) is telling the Court that you do not want to be part of the Class and the proposed Settlement. If you exclude yourself (opt out), you have no basis to object because the proposed Settlement no longer affects you.

What is the Settlement Approval Hearing?

The Court will hold a hearing to decide whether to approve the proposed Settlement. You may attend and you may ask to speak, subject to the requirements above, but you do not have to attend.

When is the Settlement Approval Hearing?

The Settlement Approval Hearing will take place before the Ontario Superior Court of Justice on **September 13, 2023 at 11:30 am** EST at the London Courthouse, 80 Dundas Street, London, ON N6A 6A3. The hearing will take place virtually via Zoom, or you may attend in person. You may request the Zoom details from the Settlement Administrator by emailing info@emdclassaction.ca or by calling the Settlement Administrator toll free at 1-888-595-6828.

At this Settlement Approval Hearing, the Court will consider whether the proposed Settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will consider them. The Court will listen to Class Members who have asked to speak at the Settlement Approval Hearing. The Court may also decide how much to pay Class Counsel. After the Settlement Approval Hearing, the Court will decide whether to approve the proposed Settlement. We do not know how long this decision will take.

The Settlement Approval Hearing may be rescheduled without further notice to you. It is recommended that you periodically check www.emdclassaction.ca for updated information.

Do I have to attend the Settlement Approval Hearing?

No, you do not need to attend the Settlement Approval Hearing, but you are welcome to attend at your own expense.

If you submit an objection, you do not need to come to the Court to talk about it. As long as you have mailed your signed and completed Objection Form on time, the Court will consider it. You may also attend or pay your own lawyer to attend, but it is not necessary.

Class Members do not need to appear at the Settlement Approval Hearing or take any other action to indicate their approval of the proposed Settlement. Class Counsel will answer any questions that the Court may have.

What happens if I do nothing at all?

If the Court approves the proposed Settlement and you do nothing at all, you will not receive any compensation from the proposed Settlement. In order to receive compensation in the proposed Settlement, you must submit a Claim Form with the supporting evidence and documentation specified on the Claim Form. Unless you exclude yourself (opt out), you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against the Defendant about the legal issues in the Johnson/Hayne Action and/or Sabourin Action.

However, even if you take no action, you will keep your right to sue the Defendant for any other claims not resolved by the Settlement, subject to any applicable limitation periods.

How can I get more information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which you can view at www.emdcclassaction.ca

Neither the Parties nor their counsel make any representation regarding the tax effects, if any, of receiving any benefits under this proposed Settlement. Consult your tax adviser for any tax questions you may have.

The court offices will be unable to answer any questions about the matters in this Notice. If you have any questions regarding the proposed Settlement or about the class action lawsuits in general, information is available on Class Counsel's website (www.mckenzielake.com) or by contacting Class Counsel directly:

McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2
Toll-Free Telephone: 1-855-772-3556
Email: emdc@mckenzielake.com

You can also obtain more information by reaching out to the Claims Administrator:

<p>EMDC Class Actions Claims Administrator c/o Epiq Class Action Services Canada Inc P.O. Box 507 STN B Ottawa, ON K1P 5P6 Toll-Free Telephone: 1-888-595-6828 Email: info@emdcclassaction.ca</p>

If the Court approves the proposed Settlement and the Settlement Agreement is not terminated, Notice of Settlement Approval will follow.

This Notice was approved by order of the Ontario Superior Court of Justice. This is not a solicitation from a lawyer.