

# NOTICE OF SETTLEMENT APPROVAL HEARING

## COOK IVC FILTER PRODUCTS

### NATIONAL SETTLEMENT AGREEMENT

---

*The Ontario Superior Court of Justice authorized this notice.*

- This notice is directed to residents of Canada: (a) who were implanted with a Cook IVC Filter Product, at any time on or before January 8, 2020, which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants (“**Primary Class**”); and (b) who, by virtue of a personal relationship to one or more of such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c F 3 or analogous provincial legislation (“**Family Class**”).
  - For greater certainty, the residency requirement for class membership relates to the time of the placement of the Cook IVC Filter Product. Primary Class Members must have had a Cook IVC Filter Product placed in Canada but are not required to reside in Canada at present.
  - “**Cook IVC Filter Product**” means the Celect Vena Cava Filter, Celect Platinum Vena Cava Filter, Gunther Tulip Vena Cava Filter, accompanying instrument, materials, filter retrievers or retrieval sets, or accessory designed, manufactured, marketed, distributed or sold by the Defendants.
- This notice is to inform you that a proposed Settlement was reached in a certified class action against Cook (Canada) Inc., Cook Incorporated, and William Cook Europe APS (collectively the “**Defendants**” or “**Cook**”) related to the alleged failure to properly warn of alleged increased risks of complications and injuries of Cook IVC Filter Products. Cook denies that it is liable for these claims, and the Courts did not come to a decision as to who was right. The Parties have instead decided to settle the lawsuit.
- Class Counsel have developed a proposed Compensation Protocol which sets out how the settlement funds plus any accrued interest, less counsel fees, disbursements, applicable taxes and administration expenses will be distributed to class members and the process for administering claims.
- There will be a hearing before the Ontario Superior Court of Justice to seek approval of the Settlement. Once the Settlement is approved by the Ontario Superior Court of Justice, the plaintiff in the Québec Proceeding will seek an order from the Québec Superior Court to recognize and enforce the Ontario order and to discontinue the Québec Proceeding.
- **Your options at this stage are:**
  - **Do nothing:** You do not have to do anything to stay in the class action. The deadline to exclude yourself, sometimes referred to as “opting out”, has expired.
  - **Object:** If you want to object to the proposed Settlement, proposed distribution or Class Counsel’s fees and expenses, you should do so by setting out your objection in writing to Class Counsel by no later than May 3, 2024.

**Read this notice carefully. It provides important information about the class action, the proposed Settlement, and Settlement Class Members’ rights in respect of the Settlement.**

This is a notice for Class Members in the following proceeding: *Kuiper et al. v Cook (Canada) Inc. et al.*, Ontario Superior Court of Justice Court File No. CV-17-578210-00CP (the “**Action**”). This Notice contains a summary of some of the terms of the Settlement Agreement. All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

**(1) Why did I receive this Notice?**

You are receiving this Notice because you are or were a resident of Canada and were implanted with a Cook Gunther Tulip Vena Cava Filter Set, Cook Celest Vena Cava Filter Set, or Cook Celest Platinum Vena Cava Filter Set (“**Cook IVC Filter Product**”) during the class period (on or before January 8, 2020), which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants. You may be entitled to claim certain compensation 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 Settlement Administrator will provide the payments agreed to in the Settlement Agreement to Class Members who submit valid and timely Claims. This Notice explains the Action, 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.

**(2) What is the class action about?**

*Kuiper et al. v Cook (Canada) Inc. et al.*, Ontario Superior Court of Justice Court File No. CV-17-578210-00CP is a certified class action against Cook. The Action alleges that Cook marketed and sold IVC Filter Products without properly warning of the alleged increased risks of complications and injuries. Cook denies the allegations and any liability.

A parallel Saskatchewan Proceeding was discontinued against Cook on June 1, 2023. A parallel British Columbia Proceeding was discontinued against Cook on March 19, 2021. Once the Settlement is approved by the Ontario Superior Court of Justice, the plaintiff in the Québec Proceeding will seek an order from the Québec Superior Court to recognize and enforce the Ontario order and to discontinue the Québec Proceeding.

**(3) 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 Defendants and any person or entity involved in the design, manufacture, or distribution of the Cook IVC Filter Product from liability. The proposed Settlement does not mean that Cook did anything wrong, and the Court did not decide which Party was right.

The Parties entered into a Settlement Agreement. The individual who filed the Action (called the “**Representative Plaintiff**”) and Class Counsel believe that the proposed Settlement is fair, reasonable, and in the best interests of the Class.

**(4) How do I know if I am part of the Settlement?**

For the purposes of the proposed Settlement, (i) all persons resident in Canada who were implanted with a Cook IVC Filter Product, at any time on or before January 8, 2020, which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants (“**Primary Class**”); and (ii) all persons resident in Canada who, by virtue of a personal relationship to one or more of such persons described in (i) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c F 3 or analogous provincial legislation (“**Family Class**”) are Class Members. Where such person is deceased, the personal representative of the estate of the deceased person is a Class Member. For greater certainty, the residency requirement for class

membership relates to the time of the placement of the Cook IVC Filter Product. Primary Class Members must have had a Cook IVC Filter Product placed in Canada but are not required to reside in Canada at present.

Not all Class Members are eligible to receive compensation. Some exceptions apply (see below).

**(5) Can I exclude myself from the Settlement?**

No, as indicated in prior notices, the deadline to exclude yourself—sometimes referred to as “opting out”—ended on **March 16, 2021**. Class Members will be bound by the Settlement Agreement if it is approved by the Court.

**(6) Who is excluded from 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 previously and validly opted out of this class action; and/or
- (c) you previously settled claims against Cook and executed a release in favour of Cook in relation to matters that are the subject of this class action.

**(7) What is available under the Settlement?**

At the settlement approval hearings, the Ontario Superior Court of Justice will be asked to approve a compensation method for the Settlement funds (“**Compensation Protocol**”). To view a full copy of the Compensation Protocol, visit [www.IVCSettlement.ca](http://www.IVCSettlement.ca).

Under the proposed Settlement, Class Members file claims pursuant to the Compensation Protocol and may be eligible for compensation, **provided that they submit a valid and timely claim**.

Class Members who are finally approved pursuant to the Compensation Protocol as Other Qualifying Claimants may be eligible to receive funds from the Preliminary Settlement Amount. The amounts paid to Other Qualifying Claimants will be based on the Compensation Protocol and the number of approved Other Qualifying Claims.

Class Members who are finally approved as Qualifying Claimants may be eligible to compensation as set out below:

- (a) up to \$54,000 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Fracture Claimant;
- (b) up to \$81,000 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Death Claimant; and
- (c) up to \$169,500 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Open Surgery Claimant.

The quantum of the payments to Class Members with Qualifying Claims will be reduced *pro rata* if the total amount of the claims in categories (a), (b) and (c) above exceed \$4,062,720 CAD.

Also, a Preliminary Payment in the amount of \$2,708,480 CAD will be made available for Class Counsel to pay costs, including Administration Costs, Notice Plan Costs, Class Counsel Fees not associated with Qualified Claimants, Provincial Health Insurer claims, certain Other Qualifying Claims and applicable taxes, as provided in the Settlement Agreement. The amounts paid to Other Qualifying Claimants will be based on the Compensation Protocol and the number of approved Other Qualifying Claimants

**(9) How do I make a Claim?**

**The claims process has not yet begun.** If the proposed Settlement is approved by the Court at the settlement approval hearing on May 17, 2024, you may make a claim by filing a claim pursuant to the Compensation Protocol.

Please keep a copy of your filed claim and all of the supporting evidence and documentation you submit for your own records.

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

Please refer to the Compensation Protocol for more information.

**(10) What evidence do I need to prove my Claim?**

Supporting documentation must be submitted with the Claim Form. The supporting documentation required may be documentation from a doctor or other medical professional. **It may take time to collect this information and you should gather documents as soon as possible.** You may wish to consult a lawyer to assist you with this process. If you have questions, contact one of the law firms listed below or another lawyer.

Please refer to the Compensation Protocol for more information.

**(11) Can I submit a Claim on behalf of someone else?**

Yes, you can submit a Claim on behalf of someone else 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 why he/she has 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.

Please refer to the Compensation Protocol for more information.

**(12) If my Claim is successful, when will I receive my compensation?**

The Claims Administrator will distribute the compensation pursuant to the Compensation Protocol.

Please refer to the Compensation Protocol for more information.

**(13) Who will review my Claim?**

The Parties agree that they will seek to have RicePoint appointed by the Court as the Claims Administrator. The Claims Administrator will be tasked with processing and classifying claims and paying claims as provided in the Settlement Agreement and under the authority of the Ontario Court. The Claims Administrator will follow the Compensation Protocol.

Please refer to the Compensation Protocol for more information.

**(14) What if my Claim is found to be incomplete?**

Please refer to the Compensation Protocol for more information.

**(15) Do I have a lawyer in this case?**

Yes. The law firms representing Class Members (“Class Counsel”) are 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.

<p><b>Siskinds LLP</b> 275 Dundas St, Unit 1 London, ON N6B 3L1 Telephone: 1-800-461-6166</p>
---

Email: [IVCFilters@siskinds.com](mailto:IVCFilters@siskinds.com)

**McKenzie Lake Lawyers LLP**

140 Fullarton Street, Suite 1800

London, ON N6A 5P2

Telephone: 1-844-672-5666

Email: [christina.noble@mckenzielake.com](mailto:christina.noble@mckenzielake.com)

**Merchant Law Group LLP**

Suite 400, 2710 17th Avenue SE

Calgary, AB T2A 0P6

Telephone: 1-888-567-7777

Email: [heidi@merchantlaw.com](mailto:heidi@merchantlaw.com)

**Koskie Minsky LLP**

20 Queen Street West, Suite 900, Box 52

Toronto, ON M5H 3R3

Telephone: 1-800-764-7717

Email: [ivcfiltersclassaction@kmlaw.ca](mailto:ivcfiltersclassaction@kmlaw.ca)

**Siskinds Desmeules, Avocats**

43 Rue De Buade, #320

Québec City, QC G1R 4A2

Telephone: 1-800-461-6166

Email: [IVCFilters@siskinds.com](mailto:IVCFilters@siskinds.com)

**(16) How will the lawyers representing the Settlement Class be paid?**

At the Settlement Approval Hearing, Class Counsel will ask the Court for approval of the payment of their fees and other expenses out of the Settlement Amount. It will be up to the Court to approve or determine the amount that Class Counsel will receive. Class Counsel is seeking up to \$1,355,740.00 in fees, plus taxes and disbursements in the amount of \$336,036.39, plus taxes.

You may continue to check on the progress of Class Counsel's request for fees and expenses by visiting [www.IVCSettlement.ca](http://www.IVCSettlement.ca).

**(17) 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, some part of it or Class Counsel's proposed fees by filing an objection explaining your opposition to the Settlement, fees, or part of them. The Court will consider your views.

If you wish to object, you must submit your objection in writing to Class Counsel on or before May 3, 2024 to the address below. Objections submitted after this date will not be considered. Class Counsel will file all timely objections with the Court.

**Siskinds LLP**

275 Dundas St, Unit 1

London, ON N6B 3L1

Telephone: 1-800-461-6166

Email: [IVCFilters@siskinds.com](mailto:IVCFilters@siskinds.com)

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. 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 May 3, 2024, you will waive all objections and can be barred from speaking at the Settlement Approval Hearing.

**(18) What is the Settlement Approval Hearing?**

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

**(19) When is the Settlement Approval Hearing?**

The Approval Hearing will take place before the Ontario Superior Court of Justice **on May 17, 2024 at 10:00 am EST virtually, a link is available from Class Counsel upon request.**

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. 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.

At the Settlement Approval Hearing, the Court will also decide how much to pay Class Counsel. That amount will be paid out of the Settlement Amount.

If the Settlement is approved, an additional Notice will be disseminated and posted to Class Counsel's [www.IVCSettlement.ca](http://www.IVCSettlement.ca). Check Class Counsel's [www.IVCSettlement.ca](http://www.IVCSettlement.ca) regularly after the Settlement Approval Hearing to see if the Settlement has been approved. You can also register with Class Counsel to receive an email if the Settlement is approved.

**(20) 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 attend in 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.

**(21) 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 file a claim pursuant to the Compensation Protocol. Unless you previously and validly excluded yourself (opted out), you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Cook about the legal issues in this class action.

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

**(22) How can I get more information?**

This Notice summarizes the essential terms of the proposed Settlement. The Settlement Agreement and its schedules, which you can view at [www.IVCSettlement.ca](http://www.IVCSettlement.ca), describe in greater detail the rights and obligations of all the Parties. If there is any conflict between this Notice and the Settlement Agreement, the Settlement Agreement governs.

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 Action in general, information is available on the [www.IVCSettlement.ca](http://www.IVCSettlement.ca) or by contacting one of **Class Counsel** directly:

**Siskinds LLP**

275 Dundas St, Unit 1  
London, ON N6B 3L1  
Telephone: 1-800-461-6166  
Email: [IVCFilters@siskinds.com](mailto:IVCFilters@siskinds.com)

**McKenzie Lake Lawyers LLP**

140 Fullarton Street, Suite 1800  
London, ON N6A 5P2  
Telephone: 1-844-672-5666  
Email: [christina.noble@mckenzielake.com](mailto:christina.noble@mckenzielake.com)

**Merchant Law Group LLP**

Suite 400, 2710 - 17th Avenue SE  
Calgary, AB T2A 0P6  
Telephone: 1-888-567-7777  
Email: [heidi@merchantlaw.com](mailto:heidi@merchantlaw.com)

**Koskie Minsky LLP**

20 Queen Street West, Suite 900, Box 52  
Toronto, ON M5H 3R3  
Telephone: 1-800-764-7717  
Email: [ivcfiltersclassaction@kmlaw.ca](mailto:ivcfiltersclassaction@kmlaw.ca)

**Siskinds Desmeules, Avocats**

43 Rue De Buade, #320  
Québec City, QC G1R 4A2  
Telephone: 1-800-461-6166  
Email: [IVCFilters@siskinds.com](mailto:IVCFilters@siskinds.com)

You can also contact the **Claims Administrator** at:

**RicePoint Administration Inc.**

CO9 Settlement  
P.O. Box 3355  
London, Ontario N6A 4K3  
Telephone: 1-877-257-8346

If the Court approves the proposed Settlement and the Settlement Agreement is not terminated, Notice of Settlement Approval will be disseminated and posted to [www.IVCSettlement.ca](http://www.IVCSettlement.ca). Check this website regularly after the Settlement Approval Hearing to see if the Settlement has been approved and for the most up-to-date information.

**PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE PROCEEDINGS.**

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

