

NISSAN CANADA DATA SECURITY INCIDENT CLASS ACTION: NOTICE OF SETTLEMENT APPROVAL

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

Who is this Notice for?

This Notice is for all persons residing in Canada, including their estates, executors or personal representatives but excluding persons resident in Québec, who had active leases or loans with Nissan Canada Inc. or Nissan Canada Financial Services Inc./Services Financiers Nissan Canada Inc. in the period from December 22, 2016 to January 12, 2017 ("Ontario Class" or "Ontario Class Members").

What is the purpose of this Notice?

This Notice is to inform you that the Ontario Superior Court of Justice and the Superior Court of Québec have approved the Settlement reached in two certified class action lawsuits against Nissan Canada Inc., Nissan Canada Financial Services Inc./ Services Financiers Nissan Canada Inc., and Nissan North America, Inc. (together, "Nissan"): *Grossman, et al. v. Nissan Canada Inc., et al.*, Ontario Superior Court of Justice Court File No.: CV-18-00590402-00CP (the "Ontario Action"); and *Levy v. Nissan Canada Inc.*, Superior Court of Québec Court File No.: 500-06-000907-184 (the "Québec Action"). The lawsuits allege that Nissan is liable for damages resulting from an incident in which it received an anonymous email from an unknown attacker claiming to have information about Nissan customers, and demanding a ransom be paid to return the data (the "Data Security Incident"). Nissan does not admit to any of the allegations in either of the lawsuits, and none of the allegations has been proven. The Parties have instead reached a voluntary Settlement.

The Settlement applies to Class Members in the Ontario Action and Class Members in the Québec Action (together, the "Settlement Class" or "Settlement Class Members"). **The Settlement was approved on April 24, 2024.**

What is available under the Settlement?

Under the Settlement, Nissan has agreed to provide a settlement fund of CAD \$1,820,000 to pay the successful Claims of Settlement Class Members.

Settlement Class Members may submit either a Documented Claim or an Undocumented Claim. Settlement Class Members who have suffered damages, losses, costs and/or unreimbursed expenses caused by the Data Security Incident and who submit a Claim Form and supporting documents evidencing (i) their membership in the Settlement Class; and (ii) documented damages incurred as a result of the Data Security Incident will be eligible for the reimbursement of such damages up to **CAD \$2,500** ("Documented Claim"), provided that they submit a valid and timely Claim.

Settlement Class Members who do not have documentation or proof of damages and who submit a Claim Form establishing their membership in the Settlement Class will be entitled to **CAD \$35** for reimbursement of lost time ("Undocumented Claim"), provided that they submit a valid and timely Claim.

The deadline to make a Claim in the Settlement is: October 21, 2024.

How do I make a Claim?

The period for submitting a Claim begins on July 11, 2024 and runs until October 21, 2024. During that period, you may make a Claim by doing the following:

- (1) fill out the Claim Form;
 - (2) include the required supporting documents/evidence, if you are making a Documented Claim;
- and

- (3) submit the Claim Form and supporting documents/evidence to the Claims Administrator by mail (at the address listed on the Claim Form) or online (by completing the form available at www.nissandatasettlement.com) **on or before the deadline to make a Claim: October 21, 2024.**

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

If you fail to submit a Claim Form and the required supporting documents/evidence on or before October 21, 2024, you will not be eligible for any indemnification whatsoever (i.e., you will not get paid). Sending in a Claim Form late will be the same as doing nothing.

Where can I get additional information?

To obtain more information, including important dates and how to submit a Claim, please visit www.nissandatasettlement.com or call the Claims Administrator at 1-877-206-7028 (toll-free).

You can also contact Class Counsel directly:

McKenzie Lake Lawyers LLP

Toll-Free Telephone: 1-844-672-5666

nissandatabreachclassaction@mckenzielake.com

Landy Marr Kats LLP

Telephone: 416-221-9343

nissandatabreachclassaction@lmklawyers.com

Du Vernet, Stewart

Telephone: 416-231-1668

nissandatabreachclassaction@duvernet.ca

FREQUENTLY ASKED QUESTIONS

(1) Why did I receive this Notice?

You are receiving this Notice because Nissan's records indicate that you may be entitled to claim certain indemnification offered by the Settlement if you submit a valid and timely Claim.

Settlement Class Members who did not opt out must now make a Claim if they want to be considered for indemnification under the Settlement. This Notice explains the class action lawsuits, the Settlement, your legal rights, what indemnification is available, who is eligible for that indemnification, and how to make a Claim for that indemnification. Please read this entire Notice carefully.

(2) What are these class actions about?

The class actions consist of a national class action (*Grossman, et al. v. Nissan Canada Inc., et al.*, Ontario Superior Court of Justice Court File No.: CV-18-00590402-00CP) and a class action on behalf of residents of Québec (*Levy v. Nissan Canada Inc.*, Superior Court of Québec Court File No.: 500-06-000907-184).

The individuals who filed these lawsuits are referred to as the "Representative Plaintiffs," and Nissan Canada Inc., Nissan Canada Financial Services Inc./Services Financiers Nissan Canada Inc., and Nissan North America, Inc. (collectively, "Nissan") are called the "Defendants" (the Representative Plaintiffs and the Defendants are, together, the "Parties"). The Representative Plaintiffs allege that Nissan is liable for damages resulting from a breach of its information technology systems by an unknown individual (the "Data Security Incident"). Nissan denies the Representative Plaintiffs' allegations.

The Settlement Class is composed of Class Members in the Ontario Action and Class Members in the Québec Action. Approval of the Settlement is being sought in both the Ontario Superior Court of Justice and the Superior Court of Québec (each a “Court” and together, the “Courts”).

(3) Why is there a Settlement and has it been approved?

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

The Parties entered into a Settlement Agreement. The individuals who filed the Ontario Action and Québec Action (called the “Representative Plaintiffs”) and Class Counsel believe that the Settlement is fair, reasonable, and in the best interests of the Settlement Class, and the Courts have agreed.

The Settlement Agreement was approved by the Superior Court of Justice on April 24, 2024. The Settlement Agreement becomes final on June 17, 2024.

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

For the purposes of the Settlement, all persons residing in Canada, including their estates, executors or personal representatives, but excluding persons resident in Québec, who had active leases or loans with Nissan Canada Inc. or Nissan Canada Financial Services Inc./Services Financiers Nissan Canada Inc. in the period from December 22, 2016 to January 12, 2017 are Class Members in the Ontario Action and Settlement Class Members. Not all Settlement Class Members are eligible to receive indemnification. Some exceptions apply (see below).

(5) Who is excluded from the Settlement?

Only Settlement Class Members who meet certain criteria are eligible to submit a Claim under the Settlement. You are **NOT** able to make a Claim under the Settlement if:

- (a) you validly opted out of the Ontario Action or the Québec Action in writing; and/or
- (b) you previously settled claims against Nissan and executed a release in favour of Nissan in relation to matters that are the subject of these class actions.

(6) What is available under the Settlement?

Under the Settlement, Nissan has agreed to provide a settlement fund of CAD \$1,820,000 to pay the successful Claims of Settlement Class Members. The Documented Claims Fund is capped at a maximum of CAD \$410,000 and the Undocumented Claims Fund is capped at a maximum of CAD \$1,410,000.

Under the Settlement, Settlement Class Members may be eligible for indemnification under one of the following Claim Funds, provided that they submit a valid and timely Claim:

Documented Claims

Settlement Class Members who have suffered damages, losses, costs and/or unreimbursed expenses caused by the Data Security Incident (including as a result of being informed of the Data Security Incident in the Québec Action), including damages, losses, costs and/or unreimbursed expenses related to fraud or identity theft, may be eligible to claim reimbursement of such damages. To be eligible for a Documented Claim, the Settlement Class Member must submit a Claim Form and include supporting documents/evidence of the following: (i) that he/she/they is/are a member of the Settlement Class; and (ii) documented damages, losses, costs and/or unreimbursed expenses incurred as a result of the Data Security Incident.

The evidence for a Documented Claim must be objective, reliable and credible, such as credit card statements, invoices, and receipts of out-of-pocket expenses incurred. Only expenses actually incurred by the Settlement Class Member and directly caused by the Data Security Incident will be approved.

Settlement Class Members who submit a valid and timely Claim that is approved as a Documented Claim will be eligible for the reimbursement of their damages up to a maximum of **CAD \$2,500**.

Undocumented Claims

Settlement Class Members who do not have a Documented Claim may be eligible for an Undocumented Claim. To be eligible for an Undocumented Claim, the Settlement Class Member must submit a Claim Form establishing that he/she/they is/are a member of the Settlement Class.

Settlement Class Members who submit a valid and timely Claim that is approved as an Undocumented Claim will be entitled to **CAD \$35** for reimbursement of lost time.

Settlement Class Members are not eligible to receive payment for both a Documented Claim and an Undocumented Claim (i.e., Settlement Class Members will be entitled only to submit either a Documented Claim or an Undocumented Claim).

If either the Capped Documented Claims Fund or the Capped Undocumented Claims Fund is insufficient to pay all approved Documented Claims or Undocumented Claims, respectively, each approved Claim will be proportionally reduced.

(7) How do I make a Claim under the Settlement?

You may make a Claim by doing the following:

- (1) fill out the Claim Form;
- (2) include the required supporting documents/evidence, if you are making a Documented Claim; and
- (3) submit the Claim Form and supporting documents/evidence to the Claims Administrator by mail (at the address listed on the Claim Form) or online (by completing the form available at www.nissandatasettlement.com) **on or before the deadline to make a Claim: October 21, 2024**.

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

If you fail to submit a Claim Form and the required supporting documents/evidence on or before the deadline to make a Claim (October 21, 2024), you will not be eligible for any indemnification whatsoever (i.e., you will not get paid). Sending in a Claim Form late will be the same as doing nothing.

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

Supporting documents must be submitted with the Claim Form to be eligible for a Documented Claim. The supporting documents required for a Documented Claim are evidence of: (i) membership in the Settlement Class; and (ii) documented damages incurred as a result of the Data Security Incident.

Settlement Class Members who submit an Undocumented Claim must establish their membership in the Settlement Class but do not need to provide any documentation or proof of damages.

(9) 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 Form must explain on the Claim Form why he/she/they has/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.

(10) If my Claim is successful, when will I receive my payment?

Payments will be distributed following the end of the Claims Period (October 21, 2024).

(11) Who will review my Claim?

A third-party Claims Administrator (RicePoint Administration Inc.) was appointed by the Courts to administer the Settlement and the claims process. Once you submit a Claim, it will be reviewed by the Claims Administrator and if the Claim is successful, the Claims Administrator will send you the payment directly.

The Claims Administrator has the sole and exclusive responsibility for the verification of Claims. The Claims Administrator will ensure that each Claim Form contains the required evidence of either a Documented Claim or an Undocumented Claim before approving the Claim.

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

Settlement Class Members that submit incomplete Claims will be notified by the Claims Administrator by email. The Settlement Class Member will then have thirty (30) days to submit materials to cure any deficiencies. The Claims Administrator will then make a final decision regarding the admissibility of the Claim and advise the Settlement Class Member accordingly.

(13) Do I have a lawyer in this case?

Yes. The law firms representing the Settlement 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.

McKenzie Lake Lawyers LLP

140 Fullarton St., Suite 1800

London, ON N6A 5P2

Toll-Free Telephone: 1-844-672-5666

Email:

nissandatabreachclassaction@mckenzielake.com

Landy Marr Kats LLP

2 Sheppard Ave. E., Suite 900

Toronto, ON M2N 5Y7

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Du Vernet, Stewart

1392 Hurontario St.

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

Class Counsel worked on a contingency-fee basis, meaning that no fees were charged at any stage of the lawsuits until after the Settlement Agreement was approved. At the same time that the Courts approved the Settlement, the Court approved Class Counsel's fees in the amount of CAD \$816,522.79, plus applicable taxes of CAD \$106,147.96, plus disbursements (out-of-pocket expenses) of CAD \$95,993.35, for a total of CAD \$1,018,664.10. The Courts determined that this amount is fair and reasonable. This amount includes the CAD \$490,000 Contribution to Class Counsel Fees that Nissan agreed to pay as part of the Settlement in addition to the Capped Settlement Fund.

(15) What happens if I do nothing at all?

If you do nothing at all, you will not receive any indemnification from the Settlement. In order to receive indemnification from the Settlement, you must submit a Claim Form with the supporting documents/evidence specified on the Claim Form on or before the deadline to make a Claim: October 21, 2024. 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 Nissan about the legal issues in these class actions.

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

(16) How can I get more information?

This Notice summarizes the essential terms of the Settlement. The Settlement Agreement and its schedules, which you can view at www.nissandatasettlement.com, 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 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 Settlement or about the class action lawsuits in general, information is available by contacting Class Counsel directly:

McKenzie Lake Lawyers LLP

140 Fullarton St., Suite 1800
London, ON N6A 5P2

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Email: nissandatabreachclassaction@mckenzielake.com

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1392 Hurontario St.
Mississauga, ON L5G 3H4

Telephone: 416-231-1668

Email: nissandatabreachclassaction@duvernet.ca

You can also call the Claims Administrator at **1-877-206-7028 (toll-free)** or visit the Settlement Website (www.nissandatasettlement.com), where you will find information about the Settlement, documents related to these class actions, and a copy of the Claim Form.

This Notice was approved by order of the Ontario Superior Court of Justice. This is not a solicitation from a lawyer. The court offices will be unable to answer any questions about the matters in this Notice. Please do not contact them.