

**NOTICE OF CERTIFICATION OF THE ONTARIO NORTHLAND
TRANSPORTATION COMMISSION (POLAR BEAR EXPRESS) DERAILMENT
CLASS ACTION**

This Notice may affect your rights. Please read carefully

THE CLASS ACTION

This action in the Ontario Superior Court of Justice arises out a train derailment which occurred approximately 37 kilometres south of Moosonee on May 30, 2018 at approximately 5:45 p.m. The defendant is Ontario Northland Transportation Commission.

This notice is directed to the **CLASS MEMBERS**, who are all persons who were passengers on the Polar Bear Express on May 30, 2018, when it was derailed approximately 37 kilometers south of Moosonee, Ontario, excluding Ontario Northland Transportation Commission's employees.

CERTIFICATION

On November 20, 2020, Justice Newton certified this action as a class proceeding. The Court has not determined the merits of the action. The certification order is posted at, www.petronelaw.ca and www.cambridgellp.ca.

DO NOTHING IF YOU WISH TO PARTICIPATE

Class Members are automatically included in the class action and need not do anything at this time if they wish to participate. They will be bound by the judgment in the action whether favourable or not.

OPT OUT ONLY IF YOU WISH TO BE EXCLUDED

If you are a **Class Member**, as described above, but wish to be excluded and not bound by any future Order made in this class action, you must send a signed statement indicating that you wish to be excluded from this class action, containing your name, email address, address, and telephone number, by prepaid mail, fax or email to

PETRONE & PARTNERS

Barristers & Solicitors
76 Algoma Street North
Thunder Bay ON P7A 4Z4

Lori Kruse (50691J)

Gavin W. Freitag (34277V)

Tel: (807) 344-9191

Fax: (807) 345-8391

Email: lori@petronelaw.ca

If your election to opt out is not received or post marked by 5:00 p.m. eastern time on **January 19, 2021** you will be bound by all Orders made in this action.

If a **Class Member** cannot personally make an election to opt out, the person making the election for the **Class Member** must provide their personal information, together with a copy of the document that permits the person to act on the **Class Member's** behalf, such as a will, Certificate of Appointment (death) or Power of Attorney (incapacity).

No person may opt out a minor or mentally incapable person without permission of the court after notice to The Children's Lawyer and/or the Public Guardian and Trustee, as appropriate.

A person who opts out cannot participate in the class action, will not be bound by any future order made in the class action, and will not be eligible for any recovery in the class action but may be eligible to pursue an individual claim.

DO NOT OPT OUT IF YOU WISH TO PARTICIPATE IN THE CLASS ACTION.

If you do not opt out of the class action on or before 5:00 p.m. eastern time on **January 19, 2021** you will be a **Class Member**.

CLASS COUNSEL FEES AND DISBURSEMENTS

The Plaintiffs and Class Counsel signed a retainer agreement providing for the payment to Class Counsel of fees, disbursements and applicable taxes, to be paid out of the recovery in the class action (the "Retainer Agreement").

The **Retainer Agreement**, which must be approved by the Court to be effective, provides for a contingency fee of 15% if the class action is settled without a contested certification, and 35% in all other circumstances other than a non-contested certification and settlement. If the class action is successful, legal fees will be deducted from your recovery.

After the class action is resolved, there may be individual issues that remain outstanding. If a **Class Member** wishes to retain a lawyer to assist with these issues, the **Class Member** may be required to pay additional fees, in addition to the amounts set out above.

NO COST TO CLASS MEMBERS

No member of the Class will be responsible for paying the legal costs of the Defendant if the action were unsuccessful.

If the action is not successful, the members of the Plaintiff Class will not be responsible for any legal costs nor will they have any other financial obligations. Class Counsel is solely responsible for incurring those costs and risks.

INFORMATION

This Notice was approved by the Ontario Superior Court of Justice. The court offices will be unable to answer any questions about the matters in this notice. Please direct questions for Class Counsel to:

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INTERPRETATION

This Notice is a summary of some of the terms of the Certification Order. If there is a conflict between the provisions of this Notice and the terms of the Certification Order, the Certification Order prevails.