

NOTICE OF INTENTION TO SEEK COURT APPROVAL ON SETTLEMENT

Regarding: Ontario Northland Transportation Commission (“ONTC”)
Proceedings Under the *Class Proceedings Act*, 1992
Claim File No. CV-19-0090-00CP (Thunder Bay)
Passenger Train (Polar Bear Express) Derailment- May 30, 2018

This Notice is directed to the **Class Members** who were passengers on the Polar Bear Express on May 30, 2018 when it derailed approximately 37 kilometers south of Moosonee, Ontario, excluding ONTC employees and anyone who opted-out of the class action.

This notice is further to the notice sent to Class Members on November 30, 2020 and the publicly posted notices as follows:

- in the Timmins Daily Press on December 5, 2020;
- in the Cochrane Times Post on December 10, 2020;
- on Class Counsel’s website: www.petronelaw.ca as of December 2, 2020;
- on Class Counsel’s website: www.cambridgellp.ca as of December 7, 2020;
- on the Moose Cree First nation website and Facebook Page as of December 4, 2020;
- at the Moosonee Train Station as of December 1, 2020;
- at the Cochrane Train Station as of December 1, 2020;
- at the Moosonee Hospital as of December 1, 2020;
- at the Quickstop Gas & Convenience Store (in Moosonee) as of December 1, 2020;
- at GG’s Local Store (in Moosonee) as of December 1, 2020; and
- at the Complex (in Moosonee) as of December 1, 2020.

The Class Action has been settled and the Court’s approval of the settlement along with the proposed plan for distributing the settlement funds to the Class Members is being sought on November 10, 2021 before the Honourable Mr. Justice D.W. Newton.

The purpose of this notice is to explain how we will distribute the settlement funds and how you can make a claim for your share of the settlement funds. **Questions or concerns should be directed to Class Counsel on or before November 10, 2021.**

Petrone & Partners- attention Lori Kruse
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The Following is the Proposed Distribution Plan

Distribution of the Settlement Funds:

The settlement fund, after deduction of certain amounts, will be distributed to eligible Class Members in accordance with this Distribution Plan that has been approved by the Court.

Under this Distribution Plan, each eligible Class Member will be entitled to receive a **baseline compensation share** of the settlement fund to be distributed as follows:

- (a) Every adult passenger will receive \$10,000;
- (b) Every minor child (between ages 4 – 15) will receive \$2,500; and
- (c) Toddlers and Infants (ages 3 and under) will receive \$1,000.

The baseline compensation value is intended to compensate **all passengers** for having experienced this extremely traumatic event and to compensate for the commonly reported injuries suffered by all passengers on board. Those include:

- physical injuries (lasting several weeks post-accident): soreness, stiffness, bruising, cuts, torn clothing from being thrown inside the train or from being struck by objects/ other passengers inside the train.
- psychological/ emotional injuries: severe terror, fear of dying (self and for others), shock, intense panic, extreme anxiety and adrenaline.
- anger, disappointment, tearfulness, sadness, anxiety, shock and frustration in the aftermath compounded by disorganization, lack of communication, lack of care for immediate needs and insufficient debriefing following the incident.
- difficulty talking about the experience, difficulty coping with the upsetting memories/ flashbacks (giving rise to anger, sadness, tearfulness, anxiety), reliance on distraction and other forms of coping to manage mental health symptoms following the event.
- difficulty with travelling, particularly on trains, experiences of anxiety and hypervigilance in these situations as a result (some avoiding travel completely).
- difficulty with lack of closure regarding this situation which has affected the ability to heal and move forward.

When submitting the claim, Class Members must elect to either:

1. accept the baseline compensation value as set out above; OR
2. elect to be assessed by a medical caregiver to determine if their injuries fall outside of the common injuries experienced by most passengers.

Those passengers who were more severely injured may be eligible for compensation above the baseline amounts set out above.

How to Submit a Claim for Payment

In order to submit a claim for payment, you must contact Class Counsel in writing to elect whether you want to:

1. receive the baseline compensation share as outlined above; OR
2. undergo an assessment with a medical caregiver.

If you have not yet completed the intake questionnaire, you will be required to do so in order to be eligible for any payment.

Deadline for Submitting Claim- December 10, 2021

You must contact Class Counsel, in writing, with your election no later than December 10, 2021.

If you fail to elect by the deadline, you will be deemed to have elected the baseline compensation share.

Other Matters

Those who elect to undergo medical assessments will be scheduled accordingly through Class Counsel. The outcome of the medical assessments will be received by Class Counsel and any additional compensation, based on those outcomes, will be determined at that time.

All medical assessments must be completed no later than February 28, 2022. If you elect to undergo a medical assessment but do not participate in the scheduled assessment prior to this deadline, **you will be deemed to have elected the baseline compensation share.**

The additional compensation values for those medically assessed should be determined by **March 15, 2022. Payments to class members eligible for additional compensation will be issued thereafter.**

To avoid delays with your payment, please ensure that Class Counsel has your up to date contact information.

Upon request, an HST certificate indicating your pro rata share of the legal fees and HST paid to Class Counsel for your share of the legal fees is available so that you may claim the HST credit, if eligible.

If there remains any amount of the settlement funds after the distribution has been made in accordance with this Distribution Plan, those monies will be donated to the **Weeneebayko Area Health Authority's Community Mental Health Program**, as agreed upon by the parties and approved by the Court.

For Further Information or To Make Your Election, Please Contact:

Petrone & Partners- attention Lori Kruse

76 North Algoma Street

Thunder Bay, ON P7A 4Z4

Tel: (807) 344-9191

Fax: (807) 345-8391

Email: lori@petronelaw.ca

PLEASE DO NOT CALL the Ontario Superior Court of Justice or the Registrar of the Court. They will not be able to answer your questions about the lawsuit.

Date: November 1, 2021