

# NOTICE OF CERTIFICATION OF CLASS ACTION

## STADNYK v THE CORPORATION OF THE CITY OF THUNDER BAY

**Please read this notice carefully as it may affect your legal rights. This notice describes your rights as a Class Member including your right to exclude yourself from (i.e. opt-out of) this class action.**

### 1. Summary

The Plaintiff, Patricia Stadnyk (“Plaintiff”), has issued a class action lawsuit against the Corporation of the City of Thunder Bay (“City”) for damage alleged to be caused to copper pipes and plumbing systems following the City’s introduction of sodium hydroxide into the municipal water supply. The Plaintiff’s statement of claim alleges that members of the class suffered pinhole damage to their pipes, as well as resulting damage arising from the leaks. The claim seeks compensation for the alleged damages. The City denies the allegations and the Court has not yet made a decision on the merits of the allegations.

On July 6, 2023, the Ontario Superior Court certified this action as a class proceeding and ordered that the plaintiff shall represent a Class consisting of the following Class Members: all persons (individuals, corporations, partnerships and other entities) who owned, leased, rented or occupied properties that were serviced by water supplied by the City which has been treated with or contained sodium hydroxide. The claim was certified for the claim in negligence only. The Plaintiff’s claim in nuisance was struck and not certified.

The Plaintiff is appealing the decision to strike the claim in nuisance. The Plaintiff is, among other things, requesting that the Court of Appeal for Ontario certify the claim for breach of contract. That appeal should be heard in early 2025. Subject to the outcome of that appeal, the certification order may be modified. The negligence claims will proceed regardless of the outcome of the appeal.

The certification order appoints the law firm of **Roy O’Connor LLP** as counsel to the class (also known as class counsel). Roy O’Connor LLP is also working with, and being assisted by, Professor Erik Knutsen. Please contact James Katsuras of Roy O’Connor LLP at the address or telephone number below with any questions about this class action.

### 2. How to be part of the Class Action?

***PLEASE NOTE: DO NOTHING IF YOU WISH TO BE A CLASS MEMBER IN THIS ACTION!***

Class Members do not have to do anything to participate in this action. Under Ontario law as this action was certified as a class proceeding, Class Members are automatically included in the class action unless they choose to exclude themselves from (i.e. opt-out of) the class action.

### **3. Excluding Yourself from this Class Action – Opting-Out**

To exclude yourself from this proceeding (what is also referred to as “opting-out” of the class action), you must contact **Roy O’Connor LLP** by fax, email or regular mail at the address below and provide them with your full legal name and mailing address. Class Counsel will confirm in writing your decision to exclude yourself from this action. The deadline for Roy O’Connor LLP to receive written notice that you wish to exclude yourself from this class action is January 15, 2025. If you do not provide written notice by that deadline that you wish to be excluded from the class action, you will remain a member of the Class. Please do note again that, if you wish to remain in this class action, you do not need to do anything.

If you decide to exclude yourself (i.e. opt-out) from this class action you will retain the right, subject to any applicable limitation periods, to sue the Defendant individually for any cause of action asserted in this proceeding. Any limitation periods suspended by section 28 of the *Class Proceedings Act* will resume when a Class Members opts-out of this proceeding.

If you decide to exclude yourself from this class action, you will be excluded from any settlement or award of damages awarded by the Court. Once you exclude yourself from this class action, you will receive no further communications regarding this action.

### **4. Possible Financial Consequences for Class Members**

There is no out-of-pocket cost to Class Members to participate in the common issues phase of this lawsuit.

If the lawsuit is successful at trial (what is known as the common issues trial), or any subsequent appeal, the Court will establish a process to determine the amount of compensation, if any, individual Class Members may be entitled to receive. The form and nature of the process to determine the amount of any such compensation will, if necessary, be determined by a future order of the Court.

The lawyers for the Class will only be paid if the class action is successful. In particular, if the class action is successful, the legal fees and disbursements incurred by the lawyers for the Class will be deducted from the total amounts recovered on behalf of the Class. The amount of such legal fees and disbursements must be approved by the Court.

In this case, the Plaintiff sought and obtained approval of this case by the Class Proceedings Fund (the "Fund"). The Fund is a body created by statute and designed to allow access to the courts through class actions in Ontario. The Fund has agreed to pay for some disbursements incurred in pursuing this action on behalf of the class. The Fund will also be responsible for paying any costs that may be awarded against the Plaintiff in this case. In exchange, the Fund is entitled to 10% of any compensation that may be ultimately be payable to class members if the case is successful and monies are recovered. The Fund will also be entitled to recover the amount of its funded disbursements from any such compensation, again if the case is successful.

If the class action does not succeed against the City, Class Members will not be awarded compensation and the case will simply end.

Whether or not the class action lawsuit is successful, all Class Members who do not exclude themselves from the class action will be bound by any final judgment of the Court.

**5. Class Counsel & Other Matters**

Roy O'Connor LLP and Professor Knutsen will be paid legal fees only if the lawsuit is successful. The amount of these legal fees will have to be approved by the Court prior to being paid.

If you wish to participate personally in the lawsuit, please contact Class Counsel or you may apply directly to the Court for permission to do so.

The Court filings in this lawsuit are available for inspection at the office of the Superior Court of Justice, at 393 University Avenue, 10<sup>th</sup> Floor, Toronto, Ontario M5G 1E6, Court File No. CV-20-00651834-00CP.

**PLEASE DO NOT CALL OR CONTACT THE COURT ABOUT THIS CLASS ACTION.**

For more information about this class action, or to review the court orders and decisions to date, please visit: [www.thunderbaypipesclassaction.ca](http://www.thunderbaypipesclassaction.ca)

You may also contact Roy O'Connor LLP at:

ROY O'CONNOR LLP  
Attention: James Katsuras  
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Toronto ON, M4S 3E2

Tel: 1-888-303-5033  
Fax: 1-416-362-6204  
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**This Notice was approved by the Ontario Superior Court of Justice**