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CERTIFICATION FAQs – THE ROYAL CANADIAN LEGION CLASS ACTION

As a Class Member you are not responsible for any cost awards that might be made by the Court during the common issues phase of these actions. Similarly, as a Class Member, you are not exposed to any liability.

If this class action is successful the Court will approve and provide a process to inform Class Members on the steps to be taken to file a claim. ***You will have the opportunity to decide whether you wish to make a claim at that point in time.***

What is this case all about?

Lerners LLP has filed a class action against Aviva Insurance Company of Canada on behalf of Branches of The Royal Canadian Legion across Canada and other veterans, service, and legacy organizations operating in a similar manner to Legion Branches (except in the province of British Columbia) whose insurance coverage for loss of business income relating to COVID-19 has been denied by Aviva.

This action applies to all Legions, and other veterans, service, and legacy organizations operating in a similar manner to Legion Branches, who were insured under the commercial insurance policy issued by Aviva on behalf of The Royal Canadian Legions, pursuant to the PIB Provincial Command Insurance Program which included “Restricted Access” coverage and/or “Negative Publicity” coverage under Business Income Actual Loss Sustained Form (912000-01), and which claimed loss of business income:

- a) caused by the interruption of its business when ingress to or egress from its premises was restricted in whole or in part (“Restricted Access”) by an order of civil authority, including the mandatory closure order made by the Province of Ontario on March 23, 2020, and similar closure orders made in all Provinces and Territories in Canada in March or April 2020 (the “Closure Orders”), and/or
- b) caused by the interruption of its business when ingress to or egress from its premises was restricted in whole or in part by any subsequent order of civil authority, and/or
- c) as a direct result of an outbreak of COVID-19 within 25 kilometres of its premises.

The action alleges that Aviva is in breach of contract when it denied the Legions’ loss of business income coverage. The action claims for payment of loss of business income damages to those Legions and other veterans, service, and legacy organizations operating in a similar manner to Legion Branches, as covered in the Aviva policy.

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What is a class action?

A class action is a type of legal proceeding. It is designed to let groups of people, each of whom might only have modest claims, to collectively pursue compensation. Litigation today is very expensive. Without the ability to pursue small claims collectively individuals may not have access to justice. Class actions are also designed to discourage harmful practices and behaviours including the wrongful denial of insurance coverage, where the costs of litigation may otherwise make pursuit of remedies for these wrongful acts “cost” prohibitive.

How do I get involved in this Class Action?

In Ontario, the law permits one or more individuals to start a class action and to act as a representative Plaintiff on behalf of the class. The action has to be certified by a court to ensure that it meets certain criteria. In this instance, the class action was certified by Justice Belobaba by Order dated July 15, 2021. Leners LLP has been appointed Class Counsel, and Victory Branch #317, in London, Ontario, has been appointed as the representative Plaintiff.

Following Certification, the Court has ordered that all members of the class receive notice of the class proceeding (“Notice of Certification”). Notice of Certification will be provided to you, Class Members, to provide you with the opportunity to decide if you want to have your rights determined in the class action. If you do, then you do not need to do anything to formally “join” the class action. So long as you fall within the class, you are automatically included in the class action as a Class Member, unless you opt out. It is for this reason that this stage of a class action is generally known as the opt-out phase. This is the stage that we are in right now. In this action, the Court gave Class Members 60 days to decide.

If you are uncertain as to whether you are a part of the class action feel free to contact us as the contact information provided below.

Am I a Class Member?

The Court has determined the definition of a Class Member. In this class action, the class definition is:

All persons, natural or corporate, carrying on operations as branches of The Royal Canadian Legion and other veterans, service, and legacy organizations operating in a similar manner to Legion Branches across Canada (except British Columbia) which were insured by and have submitted a claim to Aviva Insurance Company of Canada (“Aviva”) under a Commercial Insurance Policy issued by Aviva on behalf of The Royal Canadian Legion, pursuant to the PIB Provincial Command Insurance Program (“Legion Program”), which included “Restricted Access” coverage and/or “Negative Publicity” coverage under Business Income Actual Loss Sustained Form (912000-01), and which claimed loss of business income:

a) *caused by the interruption of its business when ingress to or egress from its premises was restricted in whole or in part (“Restricted Access”) by an order of civil authority, including*

the mandatory closure order made by the Province of Ontario on March 23, 2020, and similar closure orders made in all Provinces and Territories in Canada in March or April 2020 (the "Closure Orders"), and/or

b) caused by the interruption of its business when ingress to or egress from its premises was restricted in whole or in part by any subsequent order of civil authority, and/or

c) as a direct result of an outbreak of COVID-19 within 25 kilometres of its premises.

Therefore, if you are a Legion, or other similar service organization, who were insured under the commercial insurance policy issued by Aviva pursuant to the PIB Provincial Command Insurance Program, which included "Restricted Access" coverage and/or "Negative Publicity" coverage under Business Income Actual Loss Sustained Form (912000-01), and which claimed loss of business income, you are a part of this class action.

What does it mean to be a Class Member?

As a Class Member you are not responsible for any cost awards that might be made by the Court during the common issues phase of these actions. Similarly, as a Class Member, you are not exposed to any liability.

Being a Class Member allows you to have your claims asserted in the class action as opposed to having to bring a separate legal proceeding. Those who do not wish to be part of the class action can opt out and thereafter take no part in the proceeding. However, those who choose to opt out will not benefit from any monies received in the event of a settlement or a finding of liability by the Court. Alternatively, those who do not opt out will be legally bound by the outcome of these action.

If you wish to have your claim advanced through the class proceeding you do not need to quantify the amount of your claim at this time. The value of your claim will be determined later in the class proceeding and we will be able to assist you with that process.

For the purpose of the class action, Aviva has accepted that notice of claim has been given on behalf of all Class Members. In the later phase of the litigation, it may be necessary for Class Members who have not yet completed the formal notice of claim form to do so, Lerner's is pleased to assist Class Members with completing the notice of claim form. If you have already filed a notice of claim with Aviva and subsequently received correspondence from Aviva denying your claim, and if you have not already done so, we ask that you please provide an electronic copy of the correspondence you received from Aviva denying your claim to Lerner's.

What happens if I opt out now?

If you opt out then you are no longer a Class Member and can no longer take part in the proceeding. You cannot typically opt back in after you opt out. As a result, once you opt out you will lose the benefit

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of being bound by the Court's decision. If the representative Plaintiff is successful then you will **not** be entitled to share in any recovery in the class action. Instead, if you intend to pursue recovery, you will be required to do so on your own and at your own expense.

What happens if I don't opt out?

If you do not opt out then you remain a Class Member and you will be legally bound by the outcome of this action. This means that you are essentially reserving your right to submit an individual claim if the class action is ultimately successful.

How many people are in the class?

You are not alone. There are approximately 590 Legion branches across Canada (excluding British Columbia) and 37 units, wings, clubs, or associations of other veterans, service, and legacy organizations who are Class Members. The COVID-19 outbreak has affected each Local Branch, and other veterans, service, and legacy organization differently and all Class Members will be entitled to advance their own claim for compensation.

How long will this take?

It is hard to predict with certainty as there are many factors that may shorten or lengthen the time it takes for a case to be finally determined. It is our intention to proceed with the action as expeditiously as reasonably possible. We will seek a determination of the common issues as early as possible.

How much will this cost me?

As a Class Member, it does not cost you anything to have your rights determined as part of the common issues.

Class Counsel and the representative Plaintiff have entered into a contingency fee agreement. This means that Class Counsel will only be paid for their work if the class action is successful. It is important to emphasize that any fees charged by Class Counsel must first be approved by the Court.

What about any costs to file my individual claim?

If we are successful on the common issues, the Court will be asked to determine the process to assess individual damages. Most class actions like these have a simple mechanism for individual assessments. The exact process will be determined by the Court if the class action is successful and a better understanding of the process will be made available at that time. When it is time for you to file your specific claim we will contact you to provide you with additional information and to assist you in pursuing your claim if you requested. Class Counsel's proposed fee includes legal and accounting assistance to Class Members to quantify and prove their individual claims at no additional cost to individual Class Members.

This document has been prepared by Class Counsel. This document contains legally privileged and confidential information and is intended only for Class Members. If you are not a Class Member and have received this document any review, dissemination, distribution or copying of this communication is prohibited. If you have received this communication and are not a Class Member, please notify us by e-mail and destroy this document.

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What records should we preserve?

You should keep all documents you have relating to your claim. These documents include communications with your insurance broker and Aviva. You should maintain all financial and business records related to your operations for the past calendar year, until you receive further information from Class Counsel.

When do I have to decide?

The Court has determined that all Class Members who wish to opt out must do so by advising Class Counsel before November 14, 2021 at 5:00pm EST as set out in the Notice of Certification.

Who can we contact if we have more questions?

Consider all of your options. Please do not hesitate to contact us if you have any questions or consult with your own legal counsel. We strongly recommended that you provide us with contact information, and that it is kept up to date, so that we are able to contact you when necessary.

Class Counsel can be reached at:

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Please check the website for this class action from time to time for any information updates:

<https://www.lernalers.ca/cases/canadian-legion-class-action/>