

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) WEDNESDAY THE 25TH
JUSTICE BELOBABA) DAY OF AUGUST, 2021

B E T W E E N:

THE ROYAL CANADIAN LEGION, VICTORY BRANCH # 317

Plaintiff

- and -

AVIVA INSURANCE COMPANY OF CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff, on consent, for an Order for providing Notice of Certification to the Class, was read on August , 2021.

ON READING the material filed,

1. **THIS COURT ORDERS** that the Notice of Certification (the “Notice”), a copy of which is attached to this Order as **Schedule “A”** is hereby approved.
2. **THIS COURT ORDERS** that the Defendant provide Class Counsel with the names, addresses, emails and phone numbers for all Class Members by August 27, 2021.
3. **THIS COURT ORDERS** that by September 15, 2021, the Notice will be distributed and published in the following manner (the “Notice Program”):
 - (a) Class counsel shall:
 - (i) deliver by direct mailing via physical mail and/or email by Leners LLP to all Class Members at the email address and

physical address provided by The Royal Canadian Legion Provincial Commands and Dominion Command and the Defendant, where applicable, or known by Class Counsel;

- (ii) posting on Lerner's Website for this class proceeding;
 - (iii) Updating Lerner's toll-free telephone recording to advise that Notice has been sent out and advising to check the Website or contact Lerner's LLP if it is a Class Member and has not received a copy of the Notice;
- (b) Dominion Command of the Royal Canadian Legion shall post the Notice on its website and encouraging provincial, district, and zone commands to do the same for the duration of the opt-out period.
4. **THIS COURT ORDERS** that Notice is deemed given on September 15, 2021, and that the opt-out period expires at 5:00pm on November 14, 2021.
5. **THIS COURT ORDERS** that the Notice Program satisfies the requirements of section 17 of the *Class Proceedings Act, 1992* and is the best notice practicable under the circumstances.
6. **THIS COURT ORDERS** that the Defendant will pay the reasonable costs of the Notice Program.

Signed: *Justice Edward Belobaba*

Notwithstanding Rule 59.05, this Judgment [Order] is effective and binding from the date it is made and is enforceable without any need for entry and filing. Any party to this Judgment [Order] may submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

Authorized by the Ontario Superior Court of Justice
—NOTICE OF CERTIFICATION OF THE ROYAL CANADIAN LEGIONS CLASS ACTION—
Read this notice carefully as it may affect your legal rights.

TO ALL CLASS MEMBERS, WHO ARE

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 (the "Class").

CERTIFICATION

On July 15, 2021, the Ontario Superior Court of Justice certified the action *The Royal Canadian Legion, Victory Branch #317 v. Aviva Insurance Company of Canada* as a class proceeding and appointed The Royal Canadian Legion, Victory Branch #317 as the representative plaintiff of the Class. The class action seeks damages on behalf of the Class in the form of coverage for loss of business income pursuant to the policies of insurance issued by Aviva held by the Class. The class action alleges that Aviva breached its contracts with the Class by denying coverage of loss of business income.

COST TO THE CLASS OF THE ACTION

The Court will determine whether Class Members' claims for business income losses trigger insurance coverage. As a member of the Class you will not be required to pay any costs in the event that the class action is unsuccessful. If the class action is successful in establishing coverage, it may be necessary for Class Members to submit business income loss claims for individual determination. Class Counsel will assist Class Members with respect to determination of your individual claim amount if requested by the Class Member. You will have the opportunity to decide if you wish to proceed with your individual loss claim and determination before it begins.

DO NOTHING IF YOU WANT TO PARTICIPATE IN THE CLASS ACTION

Members of the Class who want to participate in the class action are automatically included and do not need to do anything at this time. Each member of the Class who does not opt out of the class action will be bound by the decisions made in the action, and the terms of any judgment or settlement - whether favourable or not - and will not be allowed to start their own action against Aviva for the same claims.

OPTING OUT

Members of the Class who do not want to participate in the class action must opt out.

To opt out you must complete and send the opt-out form below or a written, signed opt-out election indicating:

- that the Class member wishes to opt-out;
- the name of the Class member;
- your name, and contact information; and
- your authority to act on behalf of the Class member

Send the completed opt-out form or signed written election to:

Lerners LLP
 85 Dufferin Avenue
 P.O. Box 2335
 London, Ontario N6A 4G4
 Attention: Royal Canadian Legion Class Action
 Email: royalcanadianlegionsclassaction@lerners.ca
 Fax: 519.932.3315

No Class Member will be permitted to opt out of the class action unless the election to opt out is **received by Lerners LLP on or before November 14, 2021 at 5:00 p.m. EST.**

A member of the Class who opts out will not be entitled to participate in the class action, will not be bound by any judgment in the class action, and will not be eligible for any recovery in the class action. A Class Member who opts out may be eligible to pursue a claim in a separate proceeding. If you wish to pursue your own claim in a separate proceeding, you should consult with a lawyer immediately. This is because there are time limitations and other considerations for starting a law suit and the decision to opt-out may not be reversible.

CLASS COUNSEL FEES AND DISBURSEMENTS

The representative Plaintiff and Class Counsel entered into a retainer agreement providing for the payment of legal fees, disbursements and applicable taxes. The agreement provides that Class Counsel will not receive payment for their work unless and until the class action is successful. In that case, Class counsel will be paid out of any recovery in the class action. The Class Counsel fees, disbursements and applicable taxes must be approved by the Court. Class Counsel will assist Class Members with respect to determination of your individual amount if requested to by the Class Member.

DO NOT CALL THE COURT WITH ANY QUESTIONS ABOUT THIS NOTICE

Any questions regarding the class action should be directed to:
 Kevin L. Ross. Tel: 1.844.847.1262 (toll free)
 Lerners LLP Fax: 519.932.3315
 85 Dufferin Avenue
 P.O. Box 2335
 London, Ontario N6A 4G4
 email: royalcanadianlegionsclassaction@lerners.ca

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.

Additional information, including the certification order, may be found on the website: <https://www.lerners.ca/cases/canadian-legion-class-action/>

OPT-OUT FORM

I do **not** want to be included in the class action relating to *The Royal Canadian Legion and loss of business income insurance coverage against Aviva*. I want to **opt out (be excluded from)** this class action. My information is as follows:

Name of Class Member _____
 Address: _____
 City and Province _____
 Postal Code: _____
 Date: _____

Name of authorized representative _____
 Relationship/Title: _____
 Telephone: _____
 Email address: _____
 Signature: _____

THE ROYAL CANADIAN LEGION,
VICTORY BRANCH # 317
Plaintiff

and

AVIVA INSURANCE COMPANY OF
CANADA
Defendant

Court File No.: CV-20-00001041-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

ORDER

LERNERS LLP
85 Dufferin Ave.
P.O Box 2335
London, Ontario N6A 4G4

Kevin L. Ross LS#: 24549R
Peter W. Kryworuk LS#: 24513N
Anthony J. Bedard LS #: 28920A
Alfonso Campos Reales LS#: 59143T
Jacob R.W. Damstra LS#: 69805S
Jacqueline M. Palef LS#: 75194B

Tel: 519.640.6315
Fax: 519.932.3315

Lawyers for the Plaintiff