

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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September 12, 2017,

JUSTICE PIERCE

B E T W E E N :

TONI GRANN, ROBERT MITCHELL, DALE GYSELINCK and LORRAINE EVANS
Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO
Defendant

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(NOTICE OF CERTIFICATION)**

THIS MOTION, made by the Plaintiffs for an order approving the form and content of the notice of certification was heard on September 12, 2017, at 125 Brodie Street North, Thunder Bay, Ontario.

WHEREAS this action was certified as a class proceeding by way of Order dated March 30, 2017 which stated that the form and manner of notice, and the manner in which class members may opt out, will be dealt with by separate order.

1. **THIS COURT ORDERS** that class counsel shall retain Maple Leaf Strategies (the "**Notice Administrator**") to assist in the dissemination of the notice described herein.

2. **THIS COURT ORDERS** that class members shall receive notice that this proceeding has been certified as a class proceeding as follows:

- (a) within sixty (60) days of this order, class counsel shall cause the long-form notice attached hereto as Schedule "A" (the "**Long Form Notice**") to be sent to class members who have contacted class counsel by email, or by regular mail if class counsel does not have class members' email addresses;
- (b) within sixty (60) days of this order, class counsel shall cause the short form notice attached hereto as Schedule "B" (the "**Short Form Notice**"), or a link to the Short Form Notice, to be posted to the Crown Ward Class Action Facebook group administered by class counsel;
- (c) within sixty (60) days of this order, the Notice Administrator shall cause a targeted Facebook ad to be posted containing the electronic notice attached hereto as Schedule "C" (the "**Electronic Notice**") linking to the Short Form Notice and directing traffic to the link on the Koskie Minsky LLP website which is dedicated to this action;
- (d) within sixty (60) days of this order, the Notice Administrator shall cause a targeted Google ad to be posted containing the Electronic Notice linking to the Short Form Notice and directing traffic to the link on the Koskie Minsky LLP website which is dedicated to this action

- (e) within sixty (60) days of this order, class counsel shall cause the Long Form Notice and the opt out form attached hereto as Schedule "D" (**the "Opt Out Form"**) to be posted to class counsel's website;
- (f) within sixty (60) days of this order, the defendant shall request that:
 - (i) all Children's Aid and Child Wellbeing Societies in Ontario post the Short Form in a prominent public area in their offices;
 - (ii) the Short Form Notice be posted in a prominent public area at the YouthCan Annual Conference on August 14 – 16, 2017;
 - (iii) the Short Form Notice be posted in a prominent place on the YouthCAN website;
 - (iv) the Short Form Notice be posted in a prominent place on the Ontario Association of Children's Aid Societies website; and
 - (v) the Short Form Notice be posted in a prominent place on the First Nations Child & Family Caring Society of Canada website.
- (g) within (90) days of this order, the defendant shall advise the parties and the court regarding whether the Short Form Notice was posted as specified in paragraphs (f)(i) to f(v);
- (h) within sixty (60) days of this order, the defendant shall post the Short Form Notice in a prominent place on the Ontario Ministry of Children and Youth Services website;

(i) within sixty (60) days of this order, the Notice Administrator shall cause the Short Form Notice to be published in the following newspapers:

- (i) Toronto Star Saturday;
- (ii) Metro News/24hrs
- (iii) Ottawa Citizen;
- (iv) Sudbury Star
- (v) Hamilton Spectator;
- (vi) London Free Press;
- (vii) Windsor Star; and
- (viii) Thunder Bay Chronicle Journal.

3. **THIS COURT ORDERS** that class counsel ^{shall amend the notices to reflect the end date of the class period on March 30, 2017 and} may make non-material changes to the Long Form Notice, the Short Form Notice and the Opt Out Form and any changes to the Electronic Notice as are necessary and desirable upon receipt of the defendant's consent. *h.p.*

4. **THIS COURT ORDERS** that GCG be and hereby is appointed the administrator for receiving opt out requests (the "**Opt Out Administrator**").

5. **THIS COURT ORDERS** that class members may opt out of the class proceeding by delivering a signed opt out form, substantially in the form attached as **Schedule "D"**, or some other legible written request to opt out (the "**Opt Out Request**"). The Opt Out Request must be delivered to the Opt Out Administrator by email, mail or facsimile and must be received or post marked, if delivered by mail, within one hundred and eighty (180) days of this order (the "**Opt Out Deadline**"). **THIS COURT ORDERS** that no class member may opt out of the class proceeding after the Opt Out Deadline, except with leave of the Court.

THIS COURT ORDERS that the Opt Out Administrator shall serve on the parties and file with the court, within sixty (60) days of the expiry of the Opt Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any, along with copies of all Opt Out Requests received by the Notice Administrator.

6. **THIS COURT ORDERS** that all costs of the Notice Administrator and the Opt Out Administrator and notice in paragraphs 1 and 2 shall be paid by the ~~defendant~~ ^{plaintiffs, without} ~~within thirty (30)~~ ^{prejudice to their right to seek reimbursement in the case.} days of the delivery of an account by counsel to the plaintiffs. W.

Pierce J.

Schedule "A" - Long Form Notice

**DID YOU BECOME A CROWN WARD
ON OR AFTER JANUARY 1, 1966?**

If YES, A Class Action May Affect Your Rights.

A court authorized this notice. You are not being sued.

- You could be affected by a class action against the Province of Ontario.
- The Court has not decided whether the Province of Ontario did anything wrong, and there still has to be a court case about whether the Province of Ontario did anything wrong. There is no money available now in respect of this action and no guarantee there will ever be any money. However, your rights are affected, and you have a choice to make now. This notice is to help you make that choice.

YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE

DO NOTHING	<p>Stay in this lawsuit and wait for the outcome. Share in possible benefits from the outcome but give up certain individual rights.</p> <p>By doing nothing, you keep the possibility of getting money or other benefits that may come from a trial or settlement. But, you give up any rights to sue the Province of Ontario on your own about the same legal claims in this lawsuit.</p>
REMOVE YOURSELF (OPT OUT)	<p>Get out of this lawsuit and get no benefits from it. Keep rights.</p> <p>If you ask to be removed (opt out) and money or benefits are later awarded, you won't share in those. But, you keep any rights to sue the Province of Ontario on your own about the same legal claims in this lawsuit.</p>

- Lawyers must prove the claims against the Province of Ontario at a trial or a settlement must be agreed. If money or benefits are obtained you will be notified about how to ask for your share.
- Your options are explained in this notice. To be removed from the lawsuit, you must ask to be removed by ●.
- This lawsuit does not impact your ability to seek compensation now from the Criminal Injuries Compensation Board or from any other person other than the Province of Ontario.

WHAT THIS NOTICE CONTAINS

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2. What is this lawsuit about?
3. Why is this a class action?
4. Who is a member of the Class?
5. What is the Plaintiff asking for?
6. Is there any money available now?

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7. What happens if I do nothing?
8. What if I don't want to be in the Class?
9. If a former resident remains in the Class will that impact their current placement?

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13. Will I get money after the trial?

GETTING MORE INFORMATIONPage ●

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BASIC INFORMATION

1. Why is there a notice?

This lawsuit has been “certified” as a class action. This means that the lawsuit meets the requirements for a class action and may proceed to trial. If you are included, you may have legal rights and options before the Court decides whether the claims being made against the Province of Ontario on your behalf are correct. This notice explains all of these things.

A judge of the Ontario Superior Court of Justice is currently overseeing this case. The case is known as *Papassay v. The Queen (Ontario)* (Court File No. CV-14-0018). The people who sued are called the Plaintiffs. The Province of Ontario is the Defendant.

2. What is this lawsuit about?

The lawsuit says that the Province of Ontario failed to protect the legal rights of persons who were alive as of January 22, 2012, who were Crown wards on or after January 1, 1966 and caused other harm. The Court has not decided whether the Plaintiffs or the Province of Ontario is right. The lawyers for the Plaintiffs will have to prove their claims in Court.

If you are having a difficult time dealing with these issues you can call [number] (TTY: [number]) for assistance.

3. Why is this a class action?

In a class action people called the “representative plaintiffs” (in this case, Toni Grann, Robert Mitchell, Loraine Evans and Dale Gyselinck) sued on behalf of people who have similar claims. All of these people are a “class” or “class members.” The court resolves the issues for all class members in one case, except for those who remove themselves from the class.

4. Who is a member of the Class?

The Class includes: All persons who were alive as of January 22, 2012 who were Crown wards on or after January 1, 1966.

5. What are the Plaintiffs asking for?

The Plaintiffs are asking for money or other benefits for the Class. They are also asking for lawyers' fees and costs.

6. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether the Province of Ontario did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for your share. This lawsuit does not impact your ability to seek compensation from the Criminal Injuries Compensation Board.

YOUR RIGHTS AND OPTIONS

You must decide whether to stay in the Class or whether to remove yourself before a possible trial, and you have to decide this by ●.

7. How do I include myself in the lawsuit?

If you do nothing, you will automatically remain in the lawsuit. You will be bound by all Court orders, good or bad. If any benefit is awarded, you may need to take action in order to receive any benefits.

8. How do I exclude myself from the lawsuit?

If you want to exclude yourself from the lawsuit, you must send a letter to the address below, postmarked no later than ●, that says you want to be excluded from the class action *Papassay v. The Queen (Ontario)*. Include your name, address, telephone number, and signature. You can also get an Opt Out Form at [website]. You must mail your exclusion request or Opt Out Form postmarked by ● to: [address], or send a written request by email or facsimile to [email and fax].

Call [number] (TTY: [number]) if you have any questions about how to get out of the Class.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

Yes. The Court has appointed Koskie Minsky LLP from Toronto and Watkins Law P.C. from Thunder Bay to represent you and other Class Members as “Class Counsel.” You will not be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

11. How will the lawyers be paid?

Class Counsel will only be paid if they win a trial or if there is a settlement. The Court has to also approve their request to be paid. The fees and expenses could be deducted from any money obtained for the Class, or paid separately by the defendant.

A TRIAL

12. How and when will the Court decide who is right?

If the lawsuit is not dismissed or settled, the Plaintiffs will have to prove their claims at a trial that will take place in the Province of Ontario. During the trial, a court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or the Province of Ontario is right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win any money or benefits for the Class.

13. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of a trial or settlement, you will be notified about how to ask for a share or what your other options are at that time. These things are not known right now. Important information about the case will be posted on the website, [website], as it becomes available.

GETTING MORE INFORMATION

14. How do I get more information?

You can get more information at [website], by calling toll free at **[number]** (TTY: **[number]**), or writing to: [address], or by email at: [email].

SCHEDULE "B" SHORT FORM NOTICE**Class Action on Behalf of Crown Wards**

- **Did you become a Crown ward after January 1, 1966?** If so, you may be a class member in the class action which has now been certified by the court. The lawsuit seeks money (damages) and other benefits for class members.
- Class Members are automatically included in the class action, unless they take steps to exclude themselves (opt out) by [opt out deadline]. If you want to stay in the class action, do nothing.
- If you opt out, you will not be part of the lawsuit and you will not be able to share in any money or any other benefit obtained for the class if the lawsuit is successful.
- This lawsuit does not impact your ability to seek compensation now from the Criminal Injuries Compensation Board or from any other person other than the Province of Ontario.
- Please visit [website] to get more information about this class action and your rights, or contact us at [email address] or [telephone number].

SCHEDULE "C"

Did you become a Crown ward after January 1, 1966?

If so, you may be a class member in the class action lawsuit which has now been certified by the court. [Click here for more information.](#)

SCHEDULE "D"

OPT OUT FORM

To: ●

This is **NOT** a claim form. Completing this OPT OUT FORM will exclude you from receiving any compensation arising out of any settlement or judgment in the class proceeding named below:

Papassay v. The Queen (Ontario)

I understand that by opting out of this class proceeding, I am confirming that I do not wish to participate in this class proceeding.

I understand that any individual claim I may have against the Province of Ontario must be commenced within a specified limitation period or it will be legally barred.

I understand that the certification of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.

I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period and for taking all necessary legal steps to protect any claim I may have.

Date

Name of Class Member:

Signature of Class Member Opting Out
or Guardian

Telephone number and email address:

Signature of Witness

Signature of Class Member Opting Out or
Guardian

Name of Witness:

Name of Guardian

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Thunder Bay.

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(NOTICE OF CERTIFICATION)

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