

**IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK
TRIAL DIVISION
JUDICIAL DISTRICT OF SAINT JOHN**

COURT OF QUEEN'S BENCH
CLERK / GREFFIER

REC'D
MAY 28 2019
FILED

COUR DU BANC DE LA REINE
GREFFIERE / SAINT-JEAN

BETWEEN:

FRANCES BROWNELL AND CHERYL STEADMAN

Plaintiffs

- and -

CITY OF SAINT JOHN

Defendant

**ORDER
(NOTICE OF CERTIFICATION)**

THIS MOTION, made by the Plaintiffs for an order approving the notice of certification of this action, was heard on May 28, 2019 at 10 Peel Plaza, Saint John, New Brunswick.

ON HEARING the submissions of the lawyers for the parties,

AND ON BEING ADVISED that the parties consent to this Order,

1. **THIS COURT ORDERS** that Crawford Class Action Services shall be appointed as notice and opt out/opt in administrator (the "**Administrator**").

2. **THIS COURT ORDERS** that class members shall be notified that this proceeding has been certified as a class proceeding and the manner in which class members may opt in or out as follows:

- (a) within thirty (30) days of this Order, the Defendant shall send the short form notice attached hereto as **Schedule "A"** (the "**Short Form Notice**") in English and French to the last known address of each of the class members as identified in the Defendant's records;

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- (b) within thirty (30) days of this Order, Koskie Minsky LLP and Gilbert McGloan Gillis ("**Class Counsel**") shall post the long form notice attached hereto as **Schedule "B"** (the "**Long Form Notice**") on their websites and send a copy by email (or by direct mail if no email address has been provided) to each class member who has contacted Class Counsel about this action;
- (c) within thirty (30) days of this Order, the Administrator shall cause the Short Form Notice to be published in English and French in the Saint John Telegraph-Journal; and
- (d) by Class Counsel establishing a toll-free support line to provide assistance to class members or other persons who make inquiries on their own behalf or on behalf of class members.

3. **THIS COURT ORDERS** that any class member residing in New Brunswick may opt out of the class proceeding on or before 120 days of this order (the "**Opt Out Deadline**") by delivering a signed opt out form attached hereto as **Schedule "C"**, or some other legible written request to opt out to the Administrator by e-mail, mail or facsimile.

4. **THIS COURT ORDERS** that any class member residing outside of New Brunswick may opt in to the class proceeding on or before 120 days of this order (the "**Opt In Deadline**") by delivering a signed opt in form attached hereto as **Schedule "D"**, or some other legible written request to opt in to the Administrator by e-mail, mail or facsimile.

5. **THIS COURT ORDERS** that no New Brunswick resident class member may opt out of the class proceeding after the Opt Out Deadline and no class member residing outside by New Brunswick may opt in to this class proceeding after the Opt In Deadline, except with leave of the court.

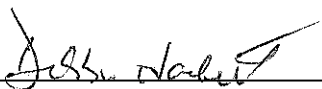
6. **THIS COURT ORDERS** that by sixty (60) days after the Opt Out Deadline, the Administrator shall serve on the parties and file with the court an affidavit listing all persons who have opted out of the class proceeding, if any.

7. **THIS COURT ORDERS** that the costs of this notice in accordance with paragraphs 1 and 2(c) shall be borne equally by the Defendant and the Plaintiffs, costs of

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this notice in accordance with paragraph 2(a) shall be borne by the Defendant, and costs of this notice in accordance with paragraph 2(b) and 2(d) shall be borne by the Plaintiffs.

Dated at Saint John, New Brunswick, the 28th day, of May, 2019.



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**SCHEDULE "A"
SHORT FORM NOTICE**

**WEST SAINT JOHN SAFE CLEAN DRINKING
WATER PROJECT CLASS ACTION**

Do you reside or own property in West Saint John?

**If YES, A Class Action May Affect Your Rights. Read
This Notice Carefully.**

- Did you reside or own property in West Saint John between September 2017 and August 31, 2018? If so, you may be a class member in the class action which has now been certified by the court.
- A Court has allowed a lawsuit to proceed as a class action for owners and occupants of property in West Saint John who were subject to a change in water source from the Spruce Lake Reservoir to a new well source under the Safe Clean Drinking Water Project.
- The Court has not decided whether the City of Saint John did anything wrong, and there still has to be a court case about whether the City of Saint John did anything wrong. The City denies any liability. There is no money available now 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.
- Class Members who reside in New Brunswick 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, you don't need to do anything.
- Class Members who reside outside of New Brunswick are not automatically included in the class action, unless they take steps to include themselves (opt in) by [opt out deadline]. If you reside outside of New Brunswick and want to stay in the class action, you need to file an opt in form.
- If you opt out (or you reside outside of New Brunswick and do not opt in), 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. But you will retain your right to sue the City of Saint John as an individual regarding the issues in this case.
- Please visit [website] to get more information about this class action and your rights, or contact us at [email address] or [telephone number]. If you wish to provide it, it is useful for class counsel to have further information about your experiences in advancing the class action, and to be able to provide you with further updates about the case.

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SCHEDULE "B"
LONG FORM NOTICE
WEST SAINT JOHN SAFE CLEAN DRINKING
WATER PROJECT CLASS ACTION
Do you reside or own property in West Saint John?
If YES, A Class Action May Affect Your Rights. Read
This Notice Carefully.

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

This class action covers all persons, including individuals, partnerships and corporations, who were the owner or occupant of an Affected Property from September 2017 to August 31, 2018.

"Affected Property" is defined as those commercial, residential, and other properties in West Saint John subject to a change in water source from the Spruce Lake Reservoir to a new well source under the Safe Clean Drinking Water Project.

- You could be affected by a class action lawsuit.
- A Court has allowed a lawsuit to proceed as a class action for owners and occupants of property in West Saint John who were subject to a change in water source from the Spruce Lake Reservoir to a new well source under the Safe Clean Drinking Water Project.
- The Court has not decided whether the City of Saint John did anything wrong, and there still has to be a court case about whether the City of Saint John did anything wrong. The City denies any liability. There is no money available now 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.

QUESTIONS? CALL TOLL-FREE [NUMBER] (TTY: [NUMBER]) OR VISIT [WEBSITE]

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YOUR LEGAL RIGHTS AND OPTIONS AT THIS STAGE	
IF YOU RESIDE IN NEW BRUNSWICK:	
Do Nothing	<p>Stay in this class action 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 from this class action. But, you give up any rights to sue the City of Saint John on your own about the same legal claims in this lawsuit.</p>
Remove Yourself (Opt Out)	<p>Get out of this class action 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 City of Saint John on your own about the same legal claims in this lawsuit.</p>
IF YOU RESIDE OUTSIDE OF NEW BRUNSWICK:	
Include Yourself (Opt In)	<p>Stay in this class action and wait for the outcome. Share in possible benefits from the outcome but give up certain individual right</p> <p>By filing an opt in form, you keep the possibility of getting money or other benefits that may come from a trial or settlement from this class action. But, you give up any rights to sue the City of Saint John on your own about the same legal claims in this lawsuit.</p>
Do Nothing	<p>Get out of this class action and get no benefits from it. Keep rights.</p> <p>If you want to be removed and money or benefits are later awarded, you won't share in those. But, you keep any rights to sue the City of Saint John on your own about the same legal claims in this lawsuit.</p>

- Lawyers must prove the claims against the City of Saint John at a trial or a settlement must be agreed upon. 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 [opt out deadline].

QUESTIONS? CALL TOLL-FREE [NUMBER] (TTY: [NUMBER]) OR VISIT [WEBSITE]

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WHAT THIS NOTICE CONTAINS

BASIC INFORMATION

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QUESTIONS? CALL TOLL-FREE [NUMBER] (TTY: [NUMBER]) OR VISIT [WEBSITE]

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9/20/08
Mar 28/15*

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 class actions 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 City of Saint John on your behalf are correct. This notice explains all of these things.

A judge of the Court of Queen's Bench of New Brunswick is currently overseeing this case. The case is known as *Brownell and Steadman v. City of Saint John*, Court File No. SCJ-82-2018. The persons who sued are called the Plaintiffs. The City of Saint John is the Defendant.

2. What is this lawsuit about?

The lawsuit says the City of Saint John is responsible for damages caused by the operation of the Safe Clean Drinking Project. The Plaintiffs allege that the City of Saint John's change in water supply to properties in West Saint John caused private water distribution pipes to be damaged and/or fail.

The City of Saint John denies these claims. The Court has not decided whether the Plaintiffs or the City of Saint John 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 one or more persons called the "representative plaintiffs" (in this case, Frances Brownell and Cheryl Steadman) sued on behalf of a group 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, including individuals, partnerships and corporations, who were the owner or occupant of an Affected Property from September 2017 to August 31, 2018.

"Affected Property" is defined as those commercial, residential, and other properties in West Saint John subject to a change in water source from the Spruce Lake Reservoir to a new well source under the Safe Clean Drinking Water Project.

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5. What are the Plaintiffs asking for?

The Plaintiffs are asking for money for the Class. They are also asking for lawyers' fees and expenses, plus interest.

6. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether the City of Saint John did anything wrong. There is no guarantee that money will ever be obtained. If they are, you will be notified about how to ask for your share.

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 [opt out/in deadline].

7. What happens if I do nothing at all?

If you reside in New Brunswick and 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.

If you reside outside of New Brunswick and do nothing, you will not receive any benefit that may be obtained from the lawsuit. You will not be bound by any Court orders and you keep your right to sue the City of Saint John as an individual regarding the issues in this case.

8. What if I don't want to be in the lawsuit?

If you reside in New Brunswick and do not want to be in the lawsuit, you must remove yourself. This is sometimes called "opting out." If you remove yourself, you will not receive any benefit that may be obtained from the lawsuit. You will not be bound by any Court orders and you keep your right to sue the City of Saint John as an individual regarding the issues in this case.

To remove yourself, send an Opt Out Form [available at website] or a legible written request to opt out of the class action *Brownell and Steadman v. City of Saint John* to [Administrator] via e-mail, mail or facsimile. Include your name, address, telephone number, and signature.

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

9. Will staying in the class action impact my current supports or services?

No. Staying in this class action will not impact the current supports or services received from the City of Saint John.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

Yes. The Court has appointed Koskie Minsky LLP from Toronto and Gilbert McGloan Gillis from Saint John to represent you and other Class Members as "Class Counsel." You will not be charged for these lawyers. They may only be paid if the class action is successful. 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 at 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 City of Saint John.

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 Saint John. During the trial, a court will hear all of the evidence, so that a decision can be reached about whether the Plaintiffs or the City of Saint John 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 as a result of a trial or settlement, class members 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].

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If you wish to provide it, it is useful for class counsel to have further information about your experiences in advancing the class action, and to be able to provide you with updates about the case in the future.

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SCHEDULE "C"

OPT OUT FORM

DEADLINE FOR OPTING OUT: [OPT OUT DEADLINE]

THIS FORM IS ONLY FOR RESIDENTS OF NEW BRUNSWICK

To: **City of Saint John Water Class Action**
[address]
[email]
[fax number]

This is NOT a claim form. Completing this OPT OUT FORM will mean that you will not be able to get money arising out of any settlement or judgment in the class proceeding named below:

Court File No.: SCJ-82-2018

FRANCES BROWNELL AND CHERYL STEADMAN

Plaintiffs

- and -

CITY OF SAINT JOHN

Defendant

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 by opting out, I take full responsibility for taking all necessary legal steps to protect any claim I may have, including addressing the running of any relevant limitation periods.

Name of Class
Member: _____ Date: _____

Signature of Class
Member: _____

Address: _____ Email Address: _____

Telephone Number: _____

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**SCHEDULE "D"
OPT IN FORM**

DEADLINE FOR OPTING IN: [OPT IN DEADLINE]

THIS FORM IS ONLY FOR RESIDENTS OUTSIDE OF NEW BRUNSWICK

To: **City of Saint John Water Class Action**
[address]
[email]
[fax number]

This is NOT a claim form. Completing this OPT IN FORM will mean that you reside outside of New Brunswick and wish to you keep the possibility of getting money or other benefits that may come from a trial or settlement from this class action. But, you give up any rights to sue the City of Saint John on your own about the same legal claims in this lawsuit.

Court File No.: SCJ-82-2018

FRANCES BROWNELL AND CHERYL STEADMAN

Plaintiffs

- and -

CITY OF SAINT JOHN

Defendant

I understand that by opting in of this class proceeding, I am confirming that I wish to participate in this class proceeding.

Name of Class
Member: _____ Date: _____

Signature of Class
Member: _____

Address: _____ Email Address: _____

Telephone Number: _____

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