

NOTICE OF PROPOSED SETTLEMENT IN MANITOBA DEVELOPMENT CENTRE (“MDC”) CLASS ACTION

To all persons who resided at MDC during the period between July 1, 1951 and May 29, 2020, and who were alive as of October 31, 2016:

Please read this notice carefully.

The Manitoba Court of King's Bench authorized this notice.

In 2021, a class action lawsuit regarding the Manitoba Development Centre (“**MDC**”) in Portage la Prairie, Manitoba was certified in the Court of King’s Bench. The class action alleges that the Government of Manitoba (“**Manitoba**”) was negligent in its operation of MDC. The lawsuit alleges that some MDC residents were physically, sexually and psychologically harmed by staff and other residents.

No admission of liability has been made and none of the allegations in the lawsuit have been proven in Court.

The plaintiff and Manitoba have agreed to a settlement to resolve the class action. Manitoba has agreed to a settlement of \$17 million for compensation to class members who allege they suffered certain harms and to provide for other agreed upon reconciliation initiatives. No admission of liability has been made. This settlement must be approved by the Court in order to be enforceable. The proposed settlement and claims process are detailed in this notice.

A Court hearing to determine if the proposed settlement should be approved is scheduled to take place on May 5, 2023

What does the proposed settlement provide?

If approved by the Court, the settlement will provide financial compensation to eligible Class Members who satisfy the requirements of the claims process, and Manitoba will engage in certain reconciliation initiatives, as outlined below.

If the Court approves the proposed settlement, and you are a Class Member, you may make a claim for financial compensation. To do so, you will have to complete a **Claim Form** and send it to the claims administrator during the claims period. More information on how to make a claim will be available after the proposed settlement is approved.

What are your legal rights and options?

<p>1. Do nothing</p>	<p>If you support the settlement, you do not have to do anything right now.</p> <p>(Please note that by doing nothing you will give up any right to object to the settlement.)</p>
<p>2. Object to the proposed settlement</p>	<p>If you disagree with the settlement and would like to explain why, you can complete an Objection Form. This form will include your name, address, and the reasons why you do not support the settlement. The Objection Form can be found at MDCclassactionsettlement.ca. To object to the settlement you must mail or email the completed Form to the Administrator and it must be received or postmarked no later than April 21, 2023. The Administrator's address is:</p> <p style="text-align: center;">Claims Administrator P.O. Box 3355 London, ON N6A 4K3</p> <p>The Administrator's email address is: info@MDCclassactionsettlement.ca</p> <p>If you have submitted an Objection Form, you can also attend the approval hearing on May 5, 2023 at the Court House located at 408 York Avenue in Winnipeg to voice your objection to the proposed settlement. The Court will decide if you will be permitted to make oral submissions at the time. However, in order to be eligible to voice your objection, you must have completed and submitted an Objection Form setting out your reasons for objecting to the proposed settlement.</p>

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BASIC INFORMATION

What is a class action?

In a class action, one or more people called “**Representative Plaintiffs**” sue on behalf of people who have similar claims. All of the people who have similar claims are called a “**Class**” or “**Class Members**.” The court resolves the issues for everyone affected, except for those who excluded themselves from the lawsuit by opting out.

What is this class action about?

This lawsuit alleges that Manitoba was negligent in the operation of MDC. The lawsuit alleges that some MDC residents were physically, sexually and psychologically harmed by staff and other residents.

Manitoba denies these claims. The Court has not decided which side is right.

Why is there a proposed settlement?

By agreeing to the proposed settlement, the Representative Plaintiff, Class Members, and Manitoba avoid the costs and risks of a trial and delays in obtaining a judgment. In particular, if approved by the Court, the proposed settlement agreement will guarantee financial compensation for eligible Class Members who make a claim for compensation. Proceeding to trial without the settlement agreement leaves open the risk that the lawsuit will be unsuccessful and no compensation will be available to any Class Member.

In this case, the settlement also means that Class Members will **NOT** be required to testify in court.

The Representative Plaintiff and the lawyers representing the Representative Plaintiff believe that the proposed settlement provides substantial benefits to the Class Members, is fair and reasonable, and is in the best interests of all Class Members.

Who is included in the lawsuit and proposed settlement?

Who is included in the proposed settlement?

The proposed settlement includes all persons, who lived at MDC between July 1, 1951 and May 29, 2020, and were alive as of October 31, 2016.

If you opted out of this lawsuit, you are not included in the proposed settlement. The time to opt out of the class action ended on January 12, 2022. It is no longer possible to opt out of this lawsuit.

What if I’m not sure whether I’m included in the lawsuit or proposed settlement?

If you are not sure whether you are included in the proposed settlement, you may contact Koskie Minsky LLP toll-free at **1-800-286-2266**, or by email at: mdcclassaction@kmlaw.ca.

What are the benefits of the proposed settlement?

What does the proposed settlement provide?

If approved, the settlement provides financial compensation for eligible Class Members who meet the requirements of the claims process by submitting a completed Claim Form and supporting documentation where required.

The settlement provides a fund of money that Class Members can make a claim against. The amount of compensation you may receive is dependent on the specifics of your claim.

As part of the settlement, Manitoba has also agreed to implement several reconciliation initiatives, including the following:

1. Manitoba will issue an apology in the Legislative Assembly, to the Class who suffered harm;
2. Manitoba will establish an endowment of \$1,000,000 with the Winnipeg Foundation, that may be drawn upon annually by community organizations to fund things like educational programming, inclusion initiatives, and projects that promote or support community inclusion of Manitobans with intellectual and developmental disabilities;
3. Manitoba will pay \$50,000 for the creation of audiovisual productions concerning the stories of Class Members and the history of MDC, to be developed through consultation with Class Members;
4. Manitoba will pay \$150,000 to reimburse claimants for counselling, psychological, or psychiatric care arising from any re-traumatization claimants experience as a result of making a claim;
5. Manitoba will erect a memorial on the grounds of the MDC Cemetery;
6. Manitoba will allow reasonable access to Class Members to attend the MDC grounds after the closure of MDC on two dates to be determined;
7. Manitoba will also allow access by one researcher for the purpose of selecting objects of historical significance and having those objects properly archived;
8. Manitoba will preserve the MDC cemetery, including reasonable efforts to designate the cemetery a Site of Historical Significance; and
9. Subject to applicable privacy and other legal requirements, Manitoba will provide all documents produced in this proceeding to Archives of Manitoba, so they may be properly retained and accessed in the future.

More details are in a document called the Settlement Agreement, which is available at <https://kmlaw.ca/cases/manitoba-development-centre-class-action/>

or at MDCclassactionsettlement.ca

What kind of compensation am I eligible for?

The settlement provides a fixed fund of money of \$17 million that Class Members can make a claim against (the "**Settlement Fund**"). The claims process is paper-based, requires a detailed description of assaults to the extent of a claimant's recollection and ability, and may be subject to

an audit process overseen by Irene Hamilton who the parties have agreed will act as the Claim Supervisor.

Claimants may be reimbursed from the settlement fund for counselling, psychological, or psychiatric care arising from any re-traumatization claimants experience as a result of making a claim.

The amount of money you can get depends on the type of harm you establish in your claim form.

There are two types of claims: (1) Section A Claims – which only requires an affirmation that a Class Member was harmed; and (2) Section B Claims – which requires Class Members to provide details of the harms suffered. A Class Member can only receive compensation from either a Section A Claim or a Section B claim, but not both.

Compensation for Section A and Section B Claims is as follows:

Section A Claims	\$3,000
Section B Claims	
Sexual Abuse	
Level 1 Sexual Assault <ul style="list-style-type: none"> Any non-consensual sexual touching of a Claimant by staff, or other non-consensual sexual behaviour by staff towards a Claimant that is not a Serious Sexual Assault. 	\$15,000
Level 2 Sexual Assault <ul style="list-style-type: none"> Repeated non-consensual sexual touching of a Claimant or other non-consensual sexual behaviour that is not a Serious Sexual Assault. 	\$20,000
Level 3 Sexual Assault <ul style="list-style-type: none"> One or two incidents of Serious Sexual Assault, 	\$35,000
Level 4 Sexual Assault <ul style="list-style-type: none"> (i) More than two incidents of Serious Sexual Assault; or (ii) Level 3 Sexual Assault resulting in a Major Psychological Injury. 	\$60,000
Physical Abuse	
Level 1 Physical Assault <ul style="list-style-type: none"> Multiple physical assaults not causing a Serious Physical Injury and not resulting in an observable injury. 	\$4,500
Level 2 Physical Assault <ul style="list-style-type: none"> One or more physical assaults not causing a Serious Physical Injury, but resulting in an observable injury such as a black eye, bruise or laceration. 	\$10,000

<p>Level 3 Physical Assault</p> <ul style="list-style-type: none"> One or more physical assaults causing a Serious Physical Injury. 	\$25,000
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"Serious Sexual Assault" means non-consensual oral, vaginal or anal penetration or attempted non-consensual oral, vaginal or anal penetration.

"Serious Physical Injury" means physical injury that led or should have led to hospitalization or serious medical treatment by a physician; permanent or demonstrated long-term physical injury, impairment or disfigurement; loss of consciousness; broken bones; or a serious but temporary incapacitation such that bed rest or infirmary care of several days duration was required.

"Major Psychological Injury" means prolonged major psychological trauma symptoms resulting in a diagnosis by a psychiatrist or psychologist of a mental illness/disorder recognized by the Diagnostic and Statistical Manual of Mental Disorders. The diagnosis must not be pre-existing and must occur after the incident(s) in question and prior to the commencement of the Action.

Under the proposed settlement, Claimants would be eligible for compensation under one level for each of the sexual assault or physical assault categories, but can claim in both categories. For example, a claimant cannot receive compensation for level 2 and 3 sexual assault, but can receive compensation for level 2 sexual assault and level 3 physical assault. If an individual suffered more than one level of assault in either category, they are eligible for compensation for the highest level assault that they suffered.

The Settlement Agreement describes further details and requirements of the paper-based claims process. You can view those details here: MDCclassactionsettlement.ca

Who are the lawyers representing me?

Who are the lawyers for the Representative Plaintiff and Class Members?

The lawyers for the Representative Plaintiff and Class Members are Koskie Minsky LLP of Toronto, Ontario and Wolseley Law of Winnipeg, Manitoba.

You are welcome to contact these lawyers to ask questions about the settlement at no cost to you.

If you want to be represented by or receive advice or representation from another lawyer, you may hire one at your own expense.

How will the lawyers be paid?

The lawyers who are representing the Representative Plaintiff took on this lawsuit on a contingency basis, meaning that no fees have been charged at any stage of the lawsuit until success was achieved. The lawyers will not be paid until the Court declares that the proposed legal fees are fair and reasonable.

The agreement between the lawyers and the Representative Plaintiff provides that the lawyers can seek 30% of the Settlement Fund as payment for the work they performed for the class on a

contingent basis, plus repayment of reasonable disbursements and applicable taxes. Before the lawyers can be paid for their work, the Court must approve their fees. Prior to the hearing to approve the proposed settlement, lawyers will provide more detail on the fees they will seek, but the lawyers cannot ask for more than fees of more 30% of the Settlement Fund, plus repayment of reasonable disbursements and applicable taxes. Disbursements are out-of-pocket costs that the lawyers have paid to advance the lawsuit. The Court will consider whether these amounts are fair and reasonable, and will decide the value of fees and disbursements to award. Class Counsel's fees shall be deducted from the fixed Settlement Fund, upon approval by the Court.

What are my legal options?

How do I tell the court if I object to the proposed settlement?

In order to be eligible to participate, you must have completed and submitted an Objection Form on time setting out your reasons for objecting to the proposed settlement. This form must include:

- Your name, address, and telephone number;
- A statement saying that you object to the proposed settlement;
- The reasons you object to the proposed settlement, along with any supporting materials; and
- Your signature.

The Objection Form can be found at MDCclassactionsettlement.ca. You must submit this Form to the Administrator at Claims Administrator, P.O. Box 3355 London, ON N6A 4K3 and it must be received or postmarked no later than April 21, 2023. Completed Objection Forms will be provided to the Court.

You can also attend the approval hearing to participate in the proceeding and voice your objection to the proposed settlement. The Court will decide if you will be permitted to speak at the hearing. However, in order to be eligible to participate, you must have completed and submitted an Objection Form on time setting out your reasons for objecting to the proposed settlement.

What are the details of the Approval Hearing?

The Court will hold a hearing to decide whether to approve the proposed settlement and the request for Plaintiff's counsel's legal fees, disbursements and taxes (the "**Approval Hearing**").

When and where will the court decide whether to approve the proposed settlement?

The Approval Hearing will take place on May 5, 2023, and you can attend in-person.

The hearing date may be moved to different dates or times without additional notice. Please check MDCclassactionsettlement.ca or call toll free 1-844-306-0263 in advance to get details and instructions on how to attend the hearing.

At the hearing, the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class.

After the hearing, the Court will decide whether to approve the proposed settlement and the lawyers' legal fees. We do not know how long these decisions will take.

Do I have to attend the hearing?

No. The lawyers representing the Representative Plaintiff will answer questions from the Court. However, you are welcome to attend the hearing. You may also have your own lawyer attend at your own expense, but it is not necessary.

In order to voice an objection at the hearing, you must submit an Objection Form on time. If you do not wish to attend the hearing, but you did submit an Objection Form on time, the Court will consider it and you do not have to come to the Court to talk about it.

What if I do nothing?

If you do nothing, the Approval Hearing will proceed, and the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class without your views on the matter.

GETTING MORE INFORMATION

How do I get more information?

This notice summarizes the proposed settlement. More details are in the settlement agreement. You can get a copy of the agreement at MDCclassactionsettlement.ca. You can call 1-844-306-0263, or email info@MDCclassactionsettlement.ca.

You may also seek legal advice from Class Counsel concerning the proposed settlement and your claim at no cost to you. You can send your questions to Koskie Minsky by email at mdcclassaction@kmlaw.ca. You may also call the toll-free number **1-800-286-2266**.