

FARMED ATLANTIC SALMON CLASS ACTIONS
NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING

Read this Notice carefully, as it may affect your legal rights.

THIS NOTICE IS DIRECTED TO:

All persons in Canada who purchased farmed Atlantic salmon and products containing or derived from farmed Atlantic salmon purchased or sold in Canada from April 10, 2013 to October 6, 2023 (“Settlement Class”).

A. Nature of the Class Action

The plaintiffs commenced a proposed class proceeding in the Federal Court alleging that the Cermaq, Grieg, Lerøy, Mowi, Nova Sea, SalMar and Sjør defendants and unnamed co-conspirators participated in an unlawful conspiracy to fix, maintain, increase or control the price of farmed Atlantic salmon and products containing or derived from farmed Atlantic salmon from April 10, 2013 onwards contrary to the *Competition Act*. The defendants have denied all liability for this conduct and asserted that their conduct was lawful. The Federal Court has not decided who is right. The plaintiffs and defendants have reached a proposed settlement to avoid the uncertainties, risks, and costs of further litigation. The representative plaintiffs and Class Counsel believe this settlement is in the best interests of the Settlement Class.

The class action was certified on behalf of the Settlement Class by the Federal Court by consent order of the Honourable Justice Gascon on October 6, 2023. The certification is conditional on the settlement approval being granted by the Federal Court. Irene Breckon and Gregory Sills have been appointed as representative plaintiffs for the Settlement Class.

The Federal Court still has to decide whether to finally approve the settlement. Payments to eligible Settlement Class members will be made only after the Federal Court approves the Settlement and after any appeals are resolved, and after the Federal Court approves a distribution plan to distribute the settlement funds.

B. Proposed Settlement

A proposed settlement has been reached with all defendants in this action. If the proposed settlement is approved, the defendants will pay a total settlement amount of CAD \$5,250,000 into a settlement fund. After deductions for Class Counsel fees of 25% of the settlement totalling CAD \$1,483,125 (inclusive of taxes), unfunded disbursements (which are nominal), and the amount owing to the Funder (CAD \$1,312,500 - see Section F below), the balance consisting of approximately CAD \$2.45 million will be distributed to eligible Settlement Class members either directly, or indirectly, through a *cy pres* distribution to Food Banks Canada. There will be no fees associated with the distribution because class counsel proposes to self-administer the distribution to save costs.

If the proposed settlement is approved, the settlement will resolve the class action for all Settlement Class members as against the defendants and a full release of all claims in the class action will be granted to

the defendants. The settlement represents a resolution of disputed claims and the defendants do not admit any wrongdoing or liability.

C. Proposed Distribution of Settlement Funds

As part of the settlement approval hearing, the Federal Court will be asked to approve a protocol for the distribution of the settlement funds, plus interest and less the deductions set out above.

In addition, recognizing that not all Settlement Class members are eligible to submit a claim, the proposed distribution protocol provides that a *cy pres* distribution in the amount of CAD \$250,000 will be made to Food Banks Canada.

The remaining net settlement funds of approximately CAD \$2.2 million will be distributed to eligible claimants *pro rata* (proportionally), based on the value of their eligible purchases.

Only Settlement Class members who purchased more than CAD \$1 million of Salmon in Canada between April 10, 2013 and February 20, 2019 will be eligible to submit a claim. The value of a Settlement Class member's eligible purchases will be determined based on sales information provided by the defendants pursuant to the terms of the Settlement Agreement and/or information provided by the Settlement Class member as part of the claims process.

The compensation amount payable to individual Settlement Class members cannot be reliably estimated at this time because this will depend on the number and value of claims filed. Notices will be sent directly to over 1,000 companies that may qualify for settlement funds.

See the proposed distribution protocol online at www.siskinds.com/salmon for more information.

After the settlement and distribution protocol are approved, a further notice will be issued that will describe the process and deadline for applying to receive a payment.

D. Settlement Approval Hearing and Objecting to the Settlement

The settlement remains subject to approval by the Federal Court. The application for approval of the settlement will be heard by the Federal Court on Thursday, November 30, 2023 at 9:30 a.m., by videoconference. At this hearing, the Federal Court will determine whether the settlement is fair, reasonable and in the best interests of the Settlement Class. The Federal Court will also be asked to determine whether the proposed distribution protocol is fair, reasonable and in the best interests of the Settlement Class.

Settlement Class members who do not oppose the settlement, the proposed distribution protocol and/or Class Counsel fees are not required to appear at the settlement approval hearing or take any other action at this time. Settlement Class members who consider it desirable or necessary to seek the advice and guidance of their own lawyers may do so at their own expense.

At the settlement approval hearing, the Federal Court will consider objections to the Settlement, the proposed distribution protocol and/or Class Counsel fees by individual Settlement Class members if the objections are submitted in writing, by prepaid mail to Siskinds LLP, Attn: Linda Visser 275 Dundas Street, Unit 1, P.O. Box 2520, London ON N6B 3L1 or email to salmon@siskinds.com postmarked **no later than Monday, November 20, 2023**.

A written objection should include the following information:

- a) the objector's name, current mailing address, telephone number, and email address;
- b) the reason why the objector believes that they are a Settlement Class member;

- c) a brief statement of the nature of and reasons for the objection; and
- d) whether the objector intends to appear at the hearing in person or by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.

E. Excluding Yourself from the Settlement

If you do not want to participate in the Class Action, you must send a written request to opt-out by **November 30, 2023** (the “**Opt-Out Deadline**”) to Siskinds LLP, Attn: Linda Visser 275 Dundas Street, Unit 1, P.O. Box 2520, London ON N6B 3L1 or email to salmon@siskinds.com. The written request to opt-out must be signed by you (or your designee) and contain the following information:

- a) your full name, current mailing and email address, and telephone number;
- b) if the opt-out is a corporation, the name of the corporation and the position of the person submitting the request to opt-out on behalf of the corporation; and
- c) a statement to the effect that you wish to be excluded from the Federal Court Action.

If you opt-out by the Opt-Out Deadline, you may be able to bring your own lawsuit against the defendants, but you will not be entitled to participate in the Settlement.

All Settlement Class members will be bound by the terms of the Settlement, unless they opt-out of this class action.

You can only object to the Settlement if you do not exclude yourself from the Settlement. If you exclude yourself from the Settlement, you have no standing to object because the Settlement no longer affects you.

F. The Lawyers Representing You

The law firms Siskinds LLP, Sotos LLP, Koskie Minsky LLP and Siskinds Desmeules represent the Settlement Class. They can be reached at:

Linda Visser and Bridget Moran

**Siskinds LLP, 275 Dundas Street, Unit 1,
P.O. Box 2520, London ON N6B 3L1**

1-800-461-6166
linda.visser@siskinds.com
bridget.moran@siskinds.com

James Sayce, Sue Tan & Judith Manger

**Koskie Minsky LLP, 20 Queen Street West,
Suite 900, Box 52, Toronto, ON M5H 3R3**

416-542-6298
416-595-2072
jsayce@kmlaw.ca
stan@kmlaw.ca
jmanger@kmlaw.ca

Jean Marc Leclerc and Mohsen Seddigh

**Sotos LLP, 180 Dundas Street West, Suite
1200, Toronto, ON M5G 1Z8**

416-977-6857
416-572-7320
jleclerc@sotosllp.com
mseddigh@sotos.ca

Caroline Perrault

**Siskinds Desmeules s.e.n.c.r.l.
43 de Buade Street, unit 320, Quebec
City, QC G1R 4A2**

418-694-2009
1-877-735-3842
recours@siskinds.com

If you wish to remain a Settlement Class member, you do not need to hire your own lawyer because Class Counsel is working on your behalf. You do not have to pay Class Counsel out-of-pocket. Class Counsel will collectively be asking that the Federal Court approve legal fees up to 25% of the settlement funds (CAD \$1,483,125 inclusive of taxes), plus unfunded disbursements which are nominal. Any approved legal fees and disbursements will be paid out of the settlement fund.

The Plaintiff and Claims Funding Australia Pty Ltd as trustee for the Claims Funding Australia Discretionary Trust (“Funder”) entered an agreement pursuant to which the Funder paid the disbursements in this action. If approved by the Court, the amount owing to the Funder (CAD \$1,312,500) will be deducted from the amounts to be distributed to Settlement Class Members.

Class Counsel will also be asking that the Federal Court approve an honorarium for the two representative plaintiffs in the amount of CAD \$500 each. Any approved honorarium will be paid out of the settlement fund.

If you wish to pursue your own case separate from this one, or if you exclude yourself from the class, these lawyers will no longer represent you. You may need to hire your own lawyer if you wish to pursue your own lawsuit against the defendants.

G. More Information

This notice is given to you on the basis that you may be a Settlement Class member whose rights could be affected by the class action. This notice should not be understood as an expression of any opinion of the Federal Court as to the merits of any claim or defences asserted in the class action. Its sole purpose is to inform you of the class action so that you may decide what steps to take in relation to it.

This notice contains a summary of the class action and the settlement. Further details regarding the class action and the settlement can be found on the following websites: <https://www.siskinds.com/class-action/salmon/>; <https://www.sotosclassactions.com/cases/farmed-atlantic-salmon/> or <https://kmlaw.ca/cases/farmed-atlantic-salmon-price-fixing-class-action/>

If you have questions that are not answered online, please contact the appropriate class counsel identified above.

This notice contains a summary of some of the terms of the settlement agreement. If there is a conflict between the provisions of this notice and the settlement agreement, including the schedules to the settlement agreement, the terms of the settlement agreement and/or the Court orders shall prevail.

DO NOT CONTACT THE COURT FOR INFORMATION.

**THIS NOTICE HAS BEEN APPROVED BY
THE FEDERAL COURT OF CANADA**