

PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS.

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400-856 Homer Street
Vancouver, BC
V6B 2W5

Arvay Finlay
360 – 1070 Douglas Street
Victoria, BC
V8W 2C4

VIA MAIL/EMAIL

[CLASS MEMBER NAME/ADDRESS]

Dear [CLASS MEMBER],

Re: Notice of Certification and Settlement in *Grant Denluck v. The Board of Trustees for the Boilermakers' Lodge 359 Pension Plan, Vancouver Registry S167212.*

Camp Fiorante Matthews Mogerma, Arvay Finlay and Nathanson Schachter & Thompson LLP (“Class Counsel”) represent the class members in a certified class proceeding brought against The Board of Trustees for the Boilermakers’ Lodge 359 Pension Plan (the “Defendant”).

You are receiving this notice because, according to records kept by the Defendant, you are a class member. This action has been certified as a class action, and the representative plaintiff has entered into a settlement agreement with the Defendant on behalf of the Class. This notice contains important information about your rights, including your right to opt-out of the class proceeding, or, if you do not opt-out, your right to make a claim for a portion of the settlement funds.

I. Background

The class action was brought by the representative plaintiff, Grant Denluck, on behalf of himself and the 71 other persons who elected to leave the Boilermakers’ Lodge 359 Pension Plan (the “Pension Plan”) between November 2004 and September 2013.

This class action alleges that each of the class members accepted an offer from the Defendant to transfer the full commuted value of their pensions out of the Pension Plan by receipt of two payments five years apart. As part of this agreement, the former members gave up their membership in the Pension Plan, expecting to receive the deferred payment of the second portion of the commuted value of their pensions (the “Deferred Payments”).

In March 2013, the Defendant advised that all Deferred Payments would be suspended. In April 2014, the Defendants cancelled all Deferred Payments.

On June 18, 2015, the Plaintiff commenced an action against the Defendant alleging breach of contract and breach of trust for their failure to pay his Deferred Payments. On June 17, 2016, the claim was amended to be brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50 (“CPA”). On August 9, 2016, the action was transferred to the Vancouver Registry.

II. Certification as a Class Action

On July 4, 2018, this action was certified as a class proceeding in respect of the Plaintiff's breach of trust claim against the Defendant.

The certified class defines "Class Members" as follows:

the plaintiff and all persons, wherever they reside, who are no longer members of the Boilermakers Lodge 359 Pension Plan (the "Plan"), and who were advised by the Trustees of the Plan that they would not receive a deferred payment of the balance of the commuted value of their pensions formerly promised them, and who did not exercise the option to reinstate their pension

If you are a "Class Member" you are included in this proceeding unless you exercise your right to opt-out.

If you do not opt-out, you will become a settlement class member, and you will be entitled to receive a portion of the settlement funds. The settlement funds, as shared among settlement class members according to the terms of the distribution plan, will not provide full recovery of the amount of Deferred Payments that each settlement class member would have been entitled to receive had the Deferred Payments not been cancelled.

Further details of the distribution plan are set out below, and the full text of the distribution plan is available at <https://www.cfmlawyers.ca/active-litigation/boilermakers-pension-plan/> and www.arvayfinlay.ca/boilermakers.

III. Opt Out Procedure

If you do not want to participate in this class proceeding and share in the settlement funds, you must opt-out in accordance with the instructions below.

If you do nothing, you will become a Settlement Class member.

What happens if I do NOT opt out / do nothing?

If you DO NOT opt-out, and the settlement agreement is approved by the court, you will become a Settlement Class member and will be entitled to receive a distribution from the settlement fund. You will give up your right to sue the Defendant in relation to any loss suffered as a result of the cancellation of your Deferred Payments.

In addition, if you have filed your own lawsuit against the Defendant in relation to the Deferred Payments, that lawsuit will be dismissed.

What happens if I DO opt out?

If you DO opt-out, you will no longer be a class member and you will not be entitled to receive a share of the settlement funds. You will not give up your right to file an individual lawsuit against

the Defendant in relation to any loss suffered as a result of the cancellation of your Deferred Payments. If you think you want to opt-out and file an individual lawsuit against the Defendant, Class Counsel recommends that you seek independent legal advice before you opt-out. Class Counsel is not able to give you legal advice about filing an individual lawsuit against the Defendant.

How do I opt out?

In order to opt-out of the class proceeding, you need to send an email to Aisling Slevin at aslevin@cfmlawyers.ca, stating that you are a class member in *Grant Denluck v. The Board of Trustees for the Boilermakers' Lodge 359 Pension Plan*, Vancouver Registry S167212, and you want to opt-out of the class proceeding. Class Counsel will reply to your email and confirm that you have opted-out of the class proceeding. If you do not receive a confirmation email from Class Counsel, please call us at 604-689-7555 and ask to speak to Aisling Slevin.

The deadline to opt out is **January 8, 2021**.

IV. Settlement Agreement

If you do not opt-out of the class proceeding, and the settlement agreement is approved by the court, you will be entitled to receive a distribution from the settlement fund.

What are the Terms of the Settlement Agreement?

Under the terms of the settlement agreement, the Defendant has agreed to pay \$1.2 million to the class members in exchange for a full release of claims against it. The settlement agreement is not an admission of any wrongdoing on the part of the Defendant.

The settlement amount reflects the risks that the class faced if the case had gone to trial. Those risks include the risk that the case would have been de-certified at the pending appeal of the certification decision, or that the plaintiff would not have been able to prove its claims at trial.

To become effective, the BC Supreme Court must approve the settlement. The date of the court hearing is **February 4, 2021**. More information about the Court hearing is set out below, along with information about how you can ask questions or express concerns.

V. Distribution Plan

How will the Settlement Funds be Distributed?

Settlement class members will be compensated in accordance with the terms of the distribution plan to be approved by the Court.

The distribution plan provides for a single lump sum payment to each settlement class member, to be allocated and distributed according to a formula to be determined by Class Counsel in

consultation with the Defendant and with reference to the recommendation of the independent mediator who assisted the parties to reach a settlement agreement.

The distribution plan provides settlement class members with the option to elect to receive payment from the Administrator in the following forms:

- (a) Cash minus such withholdings and deductions as may be required by the Administrator or the CRA; or
- (b) A transfer of all or part of their payment into the Class Members' RRSP, provided all documentation required by the Administrator to administer that option is provided by the Settlement Class Member.

Both the Defendant and Class Counsel recommend that any settlement class member that intends to elect the option set out in paragraph (b) obtain independent professional advice. The Administrator is not responsible and has no liability with respect to the tax consequences of such an election.

The distribution plan provides that:

- (a) if a settlement class member is deceased, their payment from the Administrator will be paid to that settlement class member's spouse, beneficiary or estate; and
- (b) if a settlement class member does not submit a claim to the Administrator as required by the Distribution Plan, any payment nominally allocated to that settlement class member will be used to supplement payments to other settlement class members, in a manner to be agreed on by the Parties, and will not revert to the Defendant.

The full text of the distribution plan is available at <https://www.cfmlawyers.ca/active-litigation/boilermakers-pension-plan/> and www.arvayfinlay.ca/boilermakers. As set out in more detail in the distribution plan, the basis for the allocation of settlement funds to each group of settlement class members (as described below) will be the Deferred Payment amount plus contractual interest to the date of settlement. Each settlement class member will then receive a pro rata distribution from the funds allocated to the group, based on the settlement class member's Deferred Payment amount. Although the same formula for recovery will apply to each Class Member, given the different dates on which interest began to accrue and the varying rates of interest applicable to each Class Member, there will be different rates of recovery among members.

- Group 1 - members whose deferred payments were due prior to the suspension of these payments in March 2013, will have the highest rate of recovery.
- Group 2 - members whose deferred payments were due after the March 2013 suspension but before payments were cancelled in April 2014, will have the second highest rate of recovery.

- Group 3 - members whose deferred payments were due after the cancellation in April 2014, will have the lowest rate of recovery.

The settlement funds, as shared among settlement class members according to the terms of the distribution plan, will not provide full recovery of the amount of Deferred Payments that each settlement class member would have been entitled to receive had the Deferred Payments not been cancelled. The final amount of each settlement class member's distribution from the settlement funds will depend on a number of factors, including whether or not any class members opt-out, and the amount of Class Counsels' fees and disbursements approved by the court.

Class Counsel, with the assistance of the independent mediator, have done a rough calculation of approximate percentages of the Deferred Payments amount that settlement class members can expect to receive from this Class Action. We estimate that class members would each become entitled to approximately 45-55% of the amount they would have expected to receive as a Deferred Payment (not including interest) had it not been cancelled. From this amount, legal fees and other expenses will be deducted as set out below. The actual number may be higher or lower, and we will not be able to provide a better estimate until, at a minimum, we know how many class members opt out of the class proceeding.

VI. Court Hearing to Seek Approval of the Settlement Agreement and Distribution Plan

On February 4, 2021, we will be asking the Court to do the following:

- (a) Approve the settlement agreement with the Defendant.
- (b) Approve Class Counsel's fees and expenses.
- (c) Approve an honorarium payment to the representative plaintiff of \$10,000.
- (d) Approve the plan to distribute settlement funds to Settlement Class Members.
- (e) Appoint the Defendant as the administrator for the plan to distribute settlement funds.

(a) Court Approval of the Settlement Agreement

Settlement class members who do not oppose the proposed settlement need not appear at the settlement approval hearing or take any other action at this time.

Settlement class members may appear and make submissions at the settlement approval hearing. If you wish to comment on or make an objection to the settlement, written submissions must be sent to Class Counsel at one of the addresses listed below, postmarked no later than January 4, 2021, or sent by email to Aisling Slevin at aslevin@cfmlaywers.ca no later than January 8, 2021. Class Counsel will forward all such submissions to the court.

Additional information on how to object to the settlement agreement is set out below.

(b) Court Approval of Class Counsel Fees and Disbursements

Class Counsel legal fees and disbursements must be approved by the court. Class Counsel will collectively be requesting that legal fees of up to 33^{1/3}% of the settlement amount, plus disbursements and applicable taxes be approved by the courts and paid out of the settlement amount.

(c) Court Approval of Payment to the Representative Plaintiff

The representative plaintiff, Grant Denluck, has worked very hard on your behalf in this lawsuit. He has put in many days organizing this lawsuit, talking with us, providing and reviewing documents, meeting with the defendant, answering your questions, and otherwise working on the litigation. As a result we plan to ask the Court to award him \$10,000 in addition to his share of the settlement funds. The Court will decide whether to give him this amount, some other amount, or nothing at all.

(d) Court Approval of the Distribution Plan

The distribution plan must be approved by the court. A summary of the key terms of the distribution plan are set out above, and the full text of the distribution plan is available at <https://www.cfmlawyers.ca/active-litigation/boilermakers-pension-plan/> and www.arvayfinlay.ca/boilermakers.

(e) Court Approval of Administrator

The parties have agreed that the Defendant will administer the settlement funds, and that the plaintiff will seek court approval of the Defendant to act as Administrator at the settlement approval hearing. This means that the Defendant will be responsible for paying each settlement class member their portion of the settlement funds. In Class Counsel's opinion, this is the most efficient and cost-effective means of distributing the settlement funds. Further details on the role of the Defendant as Administrator can be found in the distribution plan.

VII. Class Counsel Contact and Additional Information

What if I have Questions?

If you have questions about the settlement agreement or the distribution plan, you can find more information on Class Counsel's websites at <https://www.cfmlawyers.ca/active-litigation/boilermakers-pension-plan/> and www.arvayfinlay.ca/boilermakers, including the full text of the settlement agreement and distribution plan.

You can also contact Class Counsel by email or telephone. We are available to speak to you and answer any legal questions related to this Class Action.

What if I want to Object to the Settlement Agreement or Distribution Plan?

If you have concerns with the settlement agreement or the distribution plan, you have the right to object at the Court hearing. If you plan to object, please send your objection in writing to Class Counsel postmarked no later than January 4, 2021 or sent by email to Aisling Slevin at aslevin@cfmlawyers.ca no later than January 8, 2021. Class Counsel will provide any objections to the Court.

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Email: aslevin@cfmlawyers.ca
Tel: 604-689-7555
Facsimile: 604-689-7554

Arvay Finlay
360 – 1070 Douglas Street
Victoria, BC V8W 2C4
Attention: Tiffany Webb
Email: twebb@arvayfinlay.ca
Tel: 604-696-9828
Facsimile: 1-888-575-3281

You can also come to the Court hearing. The court hearing has been scheduled as a telephone hearing, starting at 9am on February 4, 2021. If you wish to attend the court hearing, please contact Class Counsel so that we can provide you with dial-in information and advise the court at the outset of the hearing that there are Settlement Class Members and/or persons who have opted-out of the case in attendance. However, you are not required to attend the hearing to object, as Class Counsel will ensure that all written objections are included in the application material provided to the Court.

You should not contact the Defendant with questions about the settlement, the distribution, or any other matter covered in this letter.