

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BEFORE THE HONOURABLE

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Mon DAY, THIS *31st* ~~TH~~ DAY OF

MR. JUSTICE CHARBONNEAU

AUGUST, 2020.

BETWEEN:

KRISTY LYNNE ARMOUR

Plaintiff

- and -

INDUSTRIAL ALLIANCE INSURANCE AND FINANCIAL SERVICES INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

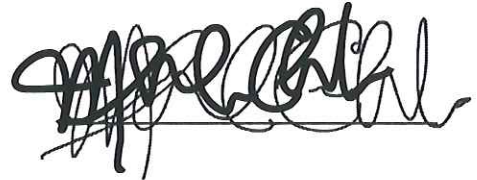
ORDER

THIS MOTION BY THE PLAINTIFF, for an Order amending her Litigation Plan in accordance with this Court's Order of November 1, 2019, as it relates to the procedure for giving notice to the class members, was heard this day at 161 Elgin Street, Ottawa, Ontario.

ON CONSENT of the Parties, filed,

1. **THIS COURT ORDERS THAT** the Plaintiff's Litigation Plan, as it relates to the procedure for giving notice to the class members, is hereby amended in accordance with the Litigation Plan appended hereto as Schedule "A".

ENTERED AT OTTAWA
INSCRIT A OTTAWA
ON/LE SEP 08 2020
DOCUMENT # 0411
IN BOOK NO. 73-13
AU REGISTRE NO. 73-13

A handwritten signature in black ink, appearing to be 'M. R. B.', written over a horizontal line.

SCHEDULE "A"

Court File No.: CV-18-00078412-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding under the *Class Proceedings Act, 1992***

BETWEEN:

KRISTY LYNNE ARMOUR

Plaintiff

- and -

INDUSTRIAL ALLIANCE INSURANCE AND FINANCIAL SERVICES INC.

Defendant

**LITIGATION PLAN OF THE REPRESENTATIVE PLAINTIFF,
KRISTY LYNNE ARMOUR**

RE: NOTICE TO CLASS MEMBERS

The representative Plaintiff, Kristy Armour, proposes the following amendment to her Litigation Plan on behalf of the class members with respect to the notification to class members regarding the certification of the within proceeding.

Notification of the Class

The Defendant has informed the Court that there were 2640 members of the Class as of August, 2019. The Defendant is the insurer of these individuals and has provided the last known address for each individual. Each of these individuals shall receive a notification by regular mail to their last known address with Class Counsel's return address stipulated thereon.

Content of the Notice to Class Members

The Notice to Class Members shall be in the form appended hereto as Schedule "A", which notice shall include the opt-out provisions contained therein.

SCHEDULE "A"

Court File No. CV-18-00078412-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KRISTY LYNNE ARMOUR

Plaintiff

- and -

INDUSTRIAL ALLIANCE INSURANCE AND FINANCIAL SERVICES INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

NOTICE OF CERTIFICATION OF A CLASS PROCEEDING

This Notice is published by Order of the Ontario Superior Court of Justice

You are receiving this notice because a review of the records of the Defendant, Industrial Alliance Insurance and Financial Services Inc. ("Industrial Alliance"), indicates that you are a Class Member (as described below) in this breach of contract class action lawsuit. You do not have to do anything to participate in this class action.

For more information about this class action, please contact Class Counsel as set out below.

Summary

The lawsuit of *Armour v Industrial Alliance* alleges that Industrial Alliance failed to properly pay Class Members for a cost of living increase in accordance with the terms of its group insurance policy, bearing policy number G-2400 (the "Policy"), and is in breach of its legal obligations to do so. Industrial Alliance denies the allegations made in the action.

As a result of this alleged failure, Class Members are alleged to have suffered financial damages in the form of lost disability benefit payments. If the Plaintiff is successful in her lawsuit, Class Members may be eligible to receive compensation from Industrial Alliance for any cost of living increase to which they are entitled to, and have not received, under the terms of the Policy.

On November 1, 2019, with the consent of Industrial Alliance, the Ontario Superior Court of Justice ordered that the lawsuit be certified as a class action and appointed Kristy Armour as the representative Plaintiff for the class. The Court has not yet considered the merits of the claims which must be proven in order to obtain the relief that is sought for the Class Members. A trial or hearing on the merits of the claim has yet to be set by the Court.

The law firm **Connolly Obagi LLP** has been appointed by the Court to represent the Class Members.

For more information about how this class action may affect your legal rights, please visit www.connollyobagi.com or please contact:

CONNOLLY OBAGI LLP

Attention: Sue Whittall

Suite 1100-200 Elgin Street

Ottawa, Ontario K2P 1L5

Tel: 613.567.4412 | Fax: 613.567.9751

Email: IndustrialAlliance.classaction@connollyobagi.com

This Notice is published by order of the Ontario Superior Court of Justice and explains:

1. What the lawsuit is about
2. How to be part of the Class Action
3. How to be excluded from the Class Action
4. Possible financial consequences for you
5. Additional Information

1. What the Lawsuit is About

On November 13, 2018, Kristy Armour commenced this lawsuit against Industrial Alliance on behalf of a class of insureds. The lawsuit alleges that the defendant breached the terms of its group insurance policy by incorrectly calculating a cost of living increase, and therefore knowingly and wilfully breaching its obligations of good faith towards its insureds. The allegations have not been proven but will be determined at a later date. The defendant denies these allegations.

The lawsuit asks the Court to award monetary compensation to Class Members and to make orders requiring Industrial Alliance to change its practices relating to the calculation and payment of the cost of living increase.

2. How to be Part of the Class Action

PLEASE NOTE: DO NOTHING IF YOU WISH TO BE A CLASS MEMBER IN THIS ACTION

Under Ontario law, if you are a person falling within the Class definition, you will automatically be included in the Class unless you choose to “opt out” from this proceeding. This includes Class Members who reside anywhere in Canada, not just in Ontario.

By order of the Ontario Superior Court of Justice dated November 1, 2019, the following persons are automatically included in this class action lawsuit:

Any and all persons who are currently, or were at any time on or subsequent to November 13, 2003, in receipt of long-term disability benefits, payable by Industrial Alliance Insurance and Financial Services Inc. (“Industrial Alliance”) and/or its predecessor National Life Assurance Company of Canada (for whom Industrial Alliance is responsible at law) under the terms of the Public Service Management Insurance Plan bearing Group Policy No. G68-1400 (the “Policy”), and whose disability benefits were (1) reduced by reason of a specified deduction(s) under the Policy and (2) adjusted by a cost of living increase.

3. How to be Excluded from the Class Action

If you fall within the class definition described above, you do not need to do anything. You are automatically included in the class unless you opt out of this proceeding.

If you want to be excluded from the class, you must complete the attached opt-out form, which may also be found on www.connollyobagi.com, and **mail, email or fax** it to the law firm **Connolly Obagi LLP**, at the address specified above. Your request to be excluded from the class action lawsuit will only take effect once you have received written confirmation from Class Counsel.

THE DEADLINE FOR OPTING OUT IS OCTOBER 30, 2020. IF YOUR OPT-OUT FORM IS NOT RECEIVED AND CONFIRMED BY THAT DATE, YOU WILL REMAIN A MEMBER OF THE CLASS.

Class Members who do not opt out will be bound by any determination made in this case, whether favourable or not, and whether or not they make a claim.

4. Possible Financial Consequences for You

There is no cost to you to participate in the class action lawsuit.

If the lawsuit is successful at the common issues trial, or any subsequent appeal, the Court may award compensation to the Class as a whole or some portion of the Class. In the alternative, the Court may establish a process, including individual hearings, to review the amount of damages each individual Class Member may claim and to assess the amount of damages each individual Class Member may be entitled to receive.

If the class action is successful, legal fees and disbursements incurred by the lawyers for the Class will be deducted from the total amounts recovered on behalf of the Class. The amount of such legal fees and disbursements must be approved by the Court.

If the class action lawsuit is unsuccessful, the Class will not be awarded damages and you will not receive any money. If the class action is unsuccessful, you and other Class Members will not have any financial obligations in respect of the lawsuit.

5. Additional Information

A complete copy of the statement of claim, statement of defence, certification order, and opt-out form is available online at www.connollyyobagi.com.

The Court filings in this lawsuit are also available for inspection at the office of the Superior Court of Justice, at the Ottawa Court House located at 161 Elgin Street in Ottawa, Ontario, Court File No. CV-18-00078412-00CP

If you wish to participate personally in the lawsuit, please contact Class Counsel or you may apply to the Court for permission to do so.

Please do not call Industrial Alliance or the Court about this action. Class Member inquiries should be directed to Class Counsel.

6. Interpretation

This notice is a summary of the terms of the certification order. If there is a conflict between the provisions of this notice and the terms of the certification order, the certification order prevails. The certification order can be viewed at the web address referenced above.

This notice is published pursuant to section 17 of the Class Proceedings Act, 1992 and was approved by the Ontario Superior Court of Justice.

This notice is published pursuant to section 17 of the Class Proceedings Act, 1992 and was approved by the court.

Kristy Lynne Armour

Plaintiff
and

Industrial Alliance Insurance and Financial Services Inc.
Defendants

Court File No. CV-18-00078412-00CP

SUPERIOR COURT OF JUSTICE
Proceeding commenced at Ottawa

**ORDER RE NOTICE TO CLASS
MEMBERS**

CONNOLLY OBAGI LLP
Personal Injury Lawyers
200 Elgin Street; Suite 1100
Ottawa, Ontario K2P 1L5

Joseph Y. Obagi
Law Society No: 36443L

Tel: 613.567.4412 | 613.683.2246
Fax: 613.567.9751

Lawyers for the Plaintiff
(Box 89)