

# **Long Form Pre-Approval Settlement Notice**

## **PRE-APPROVAL NOTICE**

### **Canada Dry Settlement Program in Quebec**

**NOTICE OF COURT HEARING ON MARCH 16<sup>th</sup>, 2021 CONCERNING THE  
APPROVAL OF A CLASS ACTION SETTLEMENT AGREEMENT IN THE  
CASE OF *ZOUZOUT v. CANADA DRY MOTT'S INC. AND KEURIG DR PEPPER  
INC.***

**QUEBEC SUPERIOR COURT 500-06-000968-194**

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL  
RIGHTS**

#### **THE SETTLEMENT CLASS:**

A proposed settlement has been reached with respect to the class action commenced by a Quebec consumer (the “Plaintiff”) against Canada Dry Mott’s Inc. and Keurig Dr Pepper Inc. (collectively referred to as “Defendants”) before the Superior Court of Quebec for the judicial district of Montreal (the “Court”) under docket number 500-06-000968-194 (the “Action”) on behalf of the Settlement Class defined in the parties’ Settlement Agreement as:

All consumers who purchased in Quebec any Canada Dry Ginger Ale product marketed as “Made from Real Ginger” or “Fait à partir de vrai gingembre” at any time between January 14, 2016 and until November 11, 2020) (the “Class Period”).

If you would like to exclude yourself from the class action, then you must timely and validly request exclusion (i.e. “opt out”) as described in this Notice.

#### **SUMMARY:**

Plaintiff alleges that Defendants used or published certain labelling and advertising material that contained false or misleading information relating to the ingredients in Canada Dry Ginger Ale soft drinks. Defendants completely deny any and all wrongdoing or liability. Plaintiff and Defendants negotiated and ultimately agreed to the proposed settlement in order to avoid the burdens and expense of the lawsuit, and the risk and uncertainty of litigation.

Members of the Settlement Class who do not opt out may qualify for compensation under the proposed settlement.

Plaintiff and Class Counsel believe that the settlement is in the best interest of the Settlement Class.

As part of the settlement process, the Class Action will be authorized by the Court for settlement purposes only.

**The settlement is ultimately subject to the Court's approval. Compensation will only be issued if the Court grants final approval to the Settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.**

#### **WHAT THE SETTLEMENT PROVIDES:**

Defendants have agreed to make available the total amount of \$650,000 (the "Total Settlement Cap") to settle the Action. If the proposed settlement is approved, the amount of the Total Settlement Cap will be made available by Defendants to: (a) compensate Settlement Class Members who timely submit valid Claim Forms; (b) pay all costs and expenses related to the settlement including without limitation the costs of the Claims Administrator (as defined in the Settlement Agreement) and Plaintiff's Class Counsel's fees (\$195,000 plus taxes) and disbursements (\$15,000 plus taxes), subject to the Court's approval; (c) reimburse the Fonds Disbursement (\$30,830.50); and (d) pay the Plaintiff's disbursement and honorarium of up to \$5,000, subject to the Court's approval.

Only Settlement Class Members may qualify to receive compensation under the proposed settlement as described in this Notice.

#### **HOW TO QUALIFY FOR COMPENSATION:**

Settlement Class Members will be able to submit claims for compensation online for a period of thirty (30) calendar days (the "Claims Period") until the Claim Form Due Date (to be determined by the Court). **To participate, you must sign up to receive notice of the Claims Period by submitting your e-mail address on the Settlement Web Site [www.canadadrysettlement.ca](http://www.canadadrysettlement.ca) by no later than the 5:00 PM Eastern on January 15, 2021.** The Claims Administrator will send an e-mail to the e-mail address you provide alerting you that the Claims Period is open and advising you of the Claim Form Due Date.

To qualify for compensation, a Settlement Class Member will be required to: solemnly declare under penalty of perjury that he/she purchased no less than five (5) Canada Dry Ginger Ale soft drinks in Quebec between January 14, 2016 and November 11, 2020 and sign and timely submit within the Claims Period a valid and complete Claim Form, attesting under penalty of perjury where and approximately when he/she purchased no less than five (5) Canada Dry Ginger Ale soft drinks in Quebec between January 14, 2016 and November 11, 2020. Each Settlement Class Member may submit only one (1) Claim Form. Each Settlement Class Member who timely submits a valid Claim Form will receive payment from the Claims Administrator appointed by the Court of an equal amount **up to a maximum of \$7.50 per Settlement Class Member**. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available to Settlement Class Members will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Total Settlement Cap minus the costs

and expenses of the settlement described in the Settlement Agreement, and summarized in (b), (c) and (d) above.

In order to receive any compensation from the settlement, a Settlement Class Member must have a valid e-mail address and a bank account capable of receiving payments via Interac e-transfer, as e-transfer is the only method through which compensation will be sent. Compensation can only be collected for a period of thirty (30) days after the e-transfer is sent.

## **SETTLEMENT APPROVAL:**

### **Approval**

An application to approve the settlement will be heard by the Court on **March 16<sup>th</sup>, 2021 at 9:15 a.m. in room 2.08**. The date and time of the settlement approval hearing may be subject to adjournment by the Court without further publication notice to the Class Members, other than such notice which will be posted on Class Counsel's website [www.lpclex.com/canadadry](http://www.lpclex.com/canadadry) and on the Settlement Website [www.canadadrysettlement.ca](http://www.canadadrysettlement.ca).

If the proposed settlement is approved, it will be binding on the Settlement Class except those who timely and properly opt out. If you opt out, you will not be eligible to receive any compensation from the settlement but you will retain the right to sue on an individual basis in relation to the Released Claims. Settlement Class Members who do not opt out will be subject to the releases in the Settlement Agreement regardless of whether or not they submit a Claim Form or ultimately receive any compensation from the settlement.

Class Members have the right to seek intervenor status in the class action, and no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.

## **OPT OUTS AND OBJECTIONS:**

### **Opt Out**

If you do not wish to be part of the Class Action and bound by the Settlement Agreement, you may opt out of the Settlement Class by **5pm Eastern on February 1, 2021** (the "Opt Out Period") by informing the clerk of the Court of your choice to opt out. Any attempt to opt out after this time will not be valid. If you opt out of the class action, you will not be eligible to receive any compensation from the settlement but you will retain the right to sue on an individual basis in relation to the Released Claims. Your signed request of exclusion must contain all of the following information:

1. The name and Court docket number of this case, which is: *Zouzout v. Canada Dry Mott's Inc. and Keurig Dr Pepper Inc.* (500-06-000968-194);
2. Your name, address, phone number(s) and email address; and
3. Specific confirmation that you wish to exclude yourself (opt out) of the *Class Action against Canada Dry* and the *Canada Dry Settlement Agreement*.

The request for exclusion (opt out) must be sent by mail to the Court at the following address:

TO: Greffe de la Cour supérieure du Québec

PALAIS DE JUSTICE DE  
MONTRÉAL  
1 Notre-Dame Street East  
Room 1.120  
Montréal (Québec) H2Y 1B5

If you do not timely and properly opt out of the class action within the Opt Out Period, you will irrevocably be bound by all the terms and conditions of the Settlement Agreement in the event it is approved by the Court.

### **Objections**

So long as you do not opt out, you may object to the settlement by explaining to the Court that you think the proposed settlement terms are unfair. Those who object to the settlement will remain part of the Settlement Class and will lose any right to sue in relation to the Released Claims.

If you wish to object to the proposed settlement, you must send a written notice of objection to class counsel by e-mail to [JZUKRAN@LPCLEX.COM](mailto:JZUKRAN@LPCLEX.COM) by no later than **5 pm Eastern on February 1, 2021**. Any attempt to object after this time will not be valid. Your written objection should include: (a) your name, address, e-mail address and telephone number; (b) a brief statement of the reasons for your objection; and (c) whether you plan to attend the hearing in person or through a lawyer, and if by lawyer, the name, address, e-mail address and telephone number of the lawyer.

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.

### **FURTHER INFORMATION:**

A complete copy of the Settlement Agreement, and detailed information on how to file a Claim Form are available on the following Settlement Web Site: [www.canadadrysettlement.ca](http://www.canadadrysettlement.ca).

The law firm representing the Plaintiff and the Settlement Class is the following:

Mtre Joey Zukran  
**LPC Avocat Inc.**  
276 Saint-Jacques Street,  
Suite 801 Montreal,  
Quebec, H2Y 1N3  
Phone: 514.379.1572  
Fax: 514.221.4441  
E-mail: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

The law firm representing Defendants is the following:

Bogdan Catanu  
**Woods LLP**  
2000 McGill College Avenue  
Montreal, Quebec, H3A 3H3  
Fax: 514.284.2046  
E-mail: bcatanu@woods.qc.ca

The Claims Administrator is:

Velvet Payments  
5900 Andover Avenue, Suite 1  
Montreal (Québec) H4T 1H5  
[info@velvetpayments.com](mailto:info@velvetpayments.com)

**DEFENDANTS ARE NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE AMOUNTS MADE AVAILABLE UNDER THE TOTAL SETTLEMENT CAP. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR DEFENDANTS’ COUNSEL – FOR FURTHER INFORMATION. YOUR NAME AND ANY INFORMATION PROVIDED TO CLASS COUNSEL WILL BE KEPT CONFIDENTIAL.**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**This notice has been approved by the Court.**