

## **NOTICE OF SETTLEMENT APPROVAL HEARING IN THE CANADIAN LITHIUM BATTERY CLASS ACTION**



**TO: Persons in Canada who purchased a Lithium Battery  
or products containing a Lithium Battery  
between January 1, 2000 and January 1, 2012.**

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

### **I. WHAT IS A CLASS ACTION?**

A class action is a lawsuit filed by one person on behalf of a large group of people.

### **II. WHAT ARE THESE CLASS ACTIONS ABOUT?**

Class action lawsuits have been commenced in Ontario, British Columbia, and Quebec alleging that the defendants conspired to fix prices in the market for lithium-ion batteries ("LIB") in Canada (collectively the "LIB Proceedings"). The LIB Proceedings ask that the Courts require these companies to return any extra money that they may have received due to this alleged conspiracy.

### **III. WHAT SETTLEMENTS HAVE BEEN REACHED IN THE CLASS ACTIONS?**

A settlement is when a defendant agrees to pay money to the members of the class action in exchange for being released from the case.

The following defendants agreed to settle the LIB Proceedings in exchange for a full release of the claims against them relating to the alleged price-fixing of LIB:

- NEC Corporation and NEC Tokin Corporation ("NEC") for CDN\$50,000;
- Samsung SDI Co., Ltd. and Samsung SDI America, Inc. ("Samsung") for USD\$2,200,000; and
- Sony Corporation, Sony Energy Devices Corporation, Sony Electronics, Inc. and Sony of Canada Ltd. ("Sony") for CDN\$4,500,000.

NEC, Samsung and Sony also agreed to provide cooperation to the plaintiffs in pursuing the LIB Proceedings against the remaining defendants. NEC, Samsung and Sony do not admit any liability, wrongdoing or fault.

The NEC settlement is subject to Court approval in Ontario. The Samsung and Sony settlements must receive approval in both the Ontario and Quebec Courts to be effective. The approval hearings will take place in the Ontario Court in the City of Toronto on October 15, 2018 at 2:15 p.m. and in the Quebec

Court in the City of Montreal on September 26, 2018 at 9:30 a.m. The Courts will decide whether the settlements are fair, reasonable, and in the best interests of settlement class members.

#### **IV. WHO IS AFFECTED BY THE SETTLEMENTS?**

The LIB Proceedings were certified or authorized as class proceedings as against NEC, Samsung and Sony for the purposes of implementing the settlement agreements.

The NEC settlement class is defined as persons in Canada who purchased LIB and/or products containing LIB between January 1, 2000 and December 31, 2011, except the defendants and certain entities related to the defendants.

The Samsung and Sony settlement classes are defined as persons in Canada who purchased LIB (excluding LIB designed to be installed in vehicles) and/or the following products containing LIB: notebook or laptop computers, cellular phones including smartphones (excluding cellular phones acquired as part of a cellular phone service contract), tablet computers, e-book readers, MP3 players, personal digital assistants, handheld GPS, handheld video players and/or lithium ion battery packs, between January 1, 2000 and January 1, 2012, except the defendants and certain entities related to the defendants.

#### **V. WHAT STEPS SHOULD I TAKE NOW?**

If you want to be a member of the LIB Proceedings, you do not need to do anything. However, there are two steps that you should take to protect your legal rights:

1. You should keep records of any purchases of LIB and/or products containing LIB from January 1, 2000 and January 1, 2012. Records include invoices, receipts and bank statements.
2. You should register online at [www.siskinds.com/batteries/](http://www.siskinds.com/batteries/) to receive updates about the LIB Proceedings.

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

If you want to tell the Court what you think about the proposed settlements or speak to the Court at the hearings listed above, you must send your written submissions to the appropriate Class Counsel at the addresses listed below, postmarked no later than September 17, 2018. Class Counsel will forward all such submissions to the appropriate Court. All filed written submissions will be considered by the appropriate Court. If you do not file a written submission by September 17, 2018, you may not be entitled to participate in the settlement approval hearings.

If you want to attend the hearings, please contact Class Counsel for additional details.

#### **VI. WHAT HAPPENS TO THE MONEY PAID UNDER THE SETTLEMENTS?**

At this stage, the NEC, Samsung and Sony settlement funds (minus approved fees and expenses) will be held in an interest-bearing trust account. At a later date, the Court will decide how the settlement funds will be distributed and how you can apply to receive money from these settlements. Watch for another

notice explaining how to claim money from the settlements. Register online at [www.siskinds.com/batteries/](http://www.siskinds.com/batteries/) to ensure that you are sent this notice by email or direct mail.

## **VII. WHAT IS THE STATUS OF THE CONTESTED LITIGATION?**

The contested litigation is continuing against: LG Chem, Ltd., LG Chem America, Inc., Panasonic Corporation, Panasonic Corporation of North America, Panasonic Canada Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sanyo Energy (U.S.A.) Corporation, Hitachi, Ltd., Hitachi Maxell, Ltd., Maxell Corporation of America, Maxell Canada, GS Yuasa Corporation, Toshiba Corporation, Toshiba America Electronic Components, Inc., and Toshiba of Canada Limited.

A national class was certified in Ontario on behalf of all persons in Canada. This means that the action can proceed as a class action and the common issues (as defined in the certification order) will be determined in a single proceeding on behalf of members of the Class. The Class is defined as:

All persons in Canada who, between January 1, 2000 and December 31, 2011 (the "Class Period"), purchased a Lithium Battery\* manufactured by the Defendants and/or any of the following products containing a Lithium Battery manufactured by the Defendants: (1) notebook computer\*\*; (2) cell phones, including smartphones\*\*\*; (3) tablet computers; (4) e-book readers; (5) MP3 players; (6) personal digital assistants; (7) handheld GPS; (8) handheld video players; and/or (9) lithium ion battery packs (collectively "LIB Products"). Excluded from the class are the Defendants and the Defendants' present and former parents, predecessors, subsidiaries and affiliates, and any person who timely and validly opts out of the proceeding.

\*a Lithium Battery is a rechargeable battery cell which uses lithium-ion technology.

\*\*for greater certainty, a notebook computer includes a laptop computer

\*\*\*excluding cell phones acquired as part of a cellular phone service contract.

Whether purchasers of LIBs manufactured by non-defendants have a cause of action and are properly included as part of the class is the subject of an appeal.

In a separate motion in Quebec, the Quebec proceeding was authorized (certified) on behalf of persons resident in Quebec.

Following the resolution of the certification appeal in the Ontario action, the Ontario class will be amended to exclude Quebec residents and any other amendments necessary as a result of the certification appeal in the Ontario action. Any such amendments will not affect the scope of the NEC, Samsung or Sony settlement classes.

## **VIII. WHAT IF I DON'T WANT TO BE IN THE CLASS ACTIONS?**

If you do not want to be a member of the LIB Proceedings, you can exclude yourself from the LIB Proceedings ("**opt-out**") by sending a signed letter to Class Counsel, with the following information:

- your full name, current address and telephone number;

- if you are writing on behalf of a company, the name of the company and your position at the company;
- a statement saying that you (or the company) want to opt-out of the LIB Proceedings; and
- your reason for opting out.

Requests to opt-out of the proceedings must be post-marked by October 29, 2018.

If you exclude yourself or opt-out:

- you will not be eligible to participate in the ongoing LIB Proceedings, and
- you will not receive any money from the LIB Proceedings, but
- you may be able to start or continue your own case against the defendants regarding the claims at issue in the LIB Proceedings.

If you do nothing, and so do not exclude yourself or opt-out:

- you will be eligible to participate in the ongoing LIB Proceedings, and
- you may receive money from the LIB Proceedings, but
- you will not be able to start or continue your own case against the defendants regarding the claims at issue in the LIB Proceedings.

This is your only chance to exclude yourself from (opt out of) the LIB Proceedings.

#### **IX. WHO ARE THE LAWYERS WORKING ON THESE CLASS ACTIONS AND HOW ARE THEY PAID?**

The law firms of Siskinds LLP and Sotos LLP represent settlement class members in Ontario, and in provinces other than British Columbia or Quebec. Siskinds LLP can be reached at:

Telephone: 1-800-461-6166 x 2286  
Email: lithiumionbatteries@siskinds.com  
Mail: 680 Waterloo St., London, ON N6A 3V8 Attention: Charles Wright

Sotos LLP can be reached at:

Telephone: 416-977-0007  
Email: lithiumclassaction@sotosllp.com  
Mail: 180 Dundas St W #1200, Toronto, ON M5G 1Z8 Attention: Jean-Marc Leclerc

The law firm of Camp Fiorante Matthews Mogeran LLP represents settlement class members in British Columbia. British Columbia Class Counsel can be reached at:

Telephone: 604-689-7555  
Email: LIB@cfmlawyers.ca  
Mail: #400 - 856 Homer Street, Vancouver, BC V6B 2W5 Attention: David Jones

The law firm of Belleau Lapointe s.e.n.c.r.l. represents Settlement Class Members in Quebec. Belleau Lapointe s.e.n.c.r.l. can be reached at:

Telephone: 514-987-6700

Email: [info@belleaulapointe.com](mailto:info@belleaulapointe.com)

Mail: 306, Place d'Youville, Office B-10, Montréal, QC H2Y 2B6 À l'attention de : Keven Lapierre

**As an individual, you do not have to pay the lawyers working on the LIB Proceedings any money.** The lawyers will be paid from the money collected in the LIB Proceedings. The Courts will be asked to decide how much the lawyers will be paid. The lawyers will collectively be asking that the Courts approve legal fees of up to 25% of the NEC, Samsung and Sony settlement funds, plus disbursements and applicable taxes. Any approved legal fees will be paid out of the settlement funds. Class Counsel reserve the right to ask the Courts to allow Class Counsel to use the settlement funds to pay for any future adverse costs award or future disbursements. At a later date, Class Counsel will ask the Courts to approve the distribution of the remaining settlement funds to settlement class members.

#### **X. WHERE CAN I ASK MORE QUESTIONS?**

For more information, please visit [www.siskinds.com/batteries/](http://www.siskinds.com/batteries/). If you have questions that are not answered online, please contact Class Counsel at the numbers listed above.

To receive future notices and updates regarding the class actions and any future settlements, register online at [www.siskinds.com/batteries/](http://www.siskinds.com/batteries/).

#### **XI. INTERPRETATION**

This notice contains a summary of some of the terms of the NEC, Samsung and Sony settlement agreements. If there is a conflict between the provisions of this notice and the settlement agreements, the terms of the settlement agreements shall prevail.