



## ONION RECALL CLASS ACTION

### NOTICE OF CERTIFICATION

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

**This notice is directed at anyone in Canada who purchased and/or consumed Recalled Onions.**

#### **IMPORTANT DEADLINE:**

**Opt-Out Deadline** – for Class Members that do not wish to be a member of the class action. (See pages 2-3 for further details).

**September 30, 2021**

“**Recalled Onions or Onion Products**” are defined as onions from Thomson International Inc. or products containing such onions, that were identified in notices issued by the Canadian Food Inspection Agency, U.S. Food and Drug Administration and/or US Centers for Disease Control and Prevention on or after May 1, 2020 regarding the *Salmonella* outbreak linked to onions imported from the United States.

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

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

#### **WHAT IS THIS CLASS ACTION ABOUT?**

A national class action has been certified in Alberta in connection with the recall of onions, being Court of Queen’s Bench of Alberta Action No. 2003 14303 (the “Class Action”).

The Class Action alleges that Thomson International Inc. did not meet industry standards with respect to the production and distribution of onions with the result that *Salmonella* contaminated onions entered the marketplace and some Canadians consumed the onions, became ill or died.

Symptoms associated with *Salmonella* may include stomach cramps, nausea, vomiting, gastroenteric issues, kidney dysfunction and other serious consequences.

As well, the Class Action seeks recovery for economic losses for persons, including corporations, who purchased recalled onions or onion products and for persons, including corporations, who disposed of onions or onion products due to the recall.

The claims have not been proven and the Defendant denies any fault or liability and will vigorously defend the action.

#### **WHO IS AFFECTED BY THE CLASS ACTION?**

The Class Action has been certified on behalf of the following “Class” or “Class Members”, as:

All persons in Canada who:

- i. consumed Recalled Onions or Onion Products and suffered a physical illness or injury or died;
- ii. purchased Recalled Onions or Onion Products and suffered an economic loss;
- iii. purchased unidentifiable onions or onion products on or after May 1, 2020 (“Unidentifiable Onions or Onion Products”) and disposed of such products, as a result of receiving notice of or communications regarding an alert issued by the Canadian Food Inspection Agency, the Public Health Agency of Canada, the U.S. Food and Drug Administration or the U.S. Centers for Disease Control and Prevention regarding the recall of onions or onion products due to possible *Salmonella* contamination and suffered an economic loss.

and

All individuals who by reason of their relationship to a member of the Class are entitled to make claims under any of the following or similar statutes in Canada or the common law as a result of the death of or other injury to such member of the Class:

- i. *Family Compensation Act*, R.S.B.C. 1996, c 126;
- ii. *Fatal Accidents Act*, R.S.A. 2000, c F-8;
- iii. *Fatal Accidents Act*, R.S.S. 1978, c F-11;
- iv. *Fatal Accidents Act*, C.C.S.M. c F50
- v. *Family Law Act*, R.S.O. 1990, c F.3;
- vi. *Civil Code of Quebec*, C.Q.L.R. c. CCQ-1991;
- vii. *Fatal Accidents Act*, R.S.N.B. 1973, c F-7;
- viii. *Fatal Injuries Act*, R.S.N.S. 1989, c 163;
- ix. *Fatal Accidents Act*, R.S.N.L. 1990, c F-6;
- x. *Fatal Accidents Act*, R.S.P.E.I. 1988, c F-5;
- xi. *Fatal Accidents Act*, R.S.Y. 2002, c 86;
- xii. *Fatal Accidents Act*, R.S.N.W.T. (Nu) 1988, c F-3.
- xiii. *Fatal Accidents Act*, R.S.N.W.T. 1988, c F-3.

## WHAT HAPPENS NEXT?

No Class Member will have to pay for any expenses or legal costs. However, if the action is successful at trial or is settled, Class Counsel will be entitled to a fee in an amount to be approved by the Court.

Class Members will receive notice of any major steps in the litigation, including settlement. If the Class Action is settled, you will have an opportunity to “object” to the settlement and the amount of Class Counsel fees if you do not think they are appropriate.

## WHAT DO I NEED TO DO?

**If you want to be a member of the Class Action, you do not need to do anything.** However, in order to protect your rights, you should:

1. Register online at [www.jameshbrown.com](http://www.jameshbrown.com) or [www.siskinds.com](http://www.siskinds.com) to receive updates;
2. Keep copies of any invoices, receipts, credit card statements or other documents that establish your purchase of Recalled Onions; and
3. If you suffered personal injury or illness after consuming Recalled Onions, contact Class Counsel. Class Counsel can assist in the process of obtaining medical records that might be necessary.

## EXCLUDING YOURSELF FROM THE CLASS ACTION

If the Class Action is not successful, that result will bind all Class Members. If the Class Action is successful, or settles before trial, Class Members may be entitled to compensation in the manner in which the Court orders and will be bound by that result. You will not be permitted to bring other legal proceedings in relation to the matters alleged in the Class Action against the Defendant. Conversely, if you are a Class Member who opts out of the Class Action (an “Opt-Out Party”), you will not be able to make a claim in the Class Action but will maintain the right to pursue your own claim against the Defendant relating to the matters alleged in the Class Action. Your right to pursue a claim in a separate proceeding will not be effected, but any limitation period (i.e. a time limit in which you must commence a claim) that was paused by the commencement of the class proceedings will resume running from the date of the opt-out.

If you are a Class Member and wish to opt out, you must submit an election to do so, together with required supporting documentation (“**Opt-Out Election**”), to Class Counsel.

The following is the opt-out procedure:

A person may only opt out of the Class Action by sending a written request to Class Counsel. The request to opt out must disclose the name, address, email address and phone number of the person seeking to opt out of the Class Action. Additionally, each request to opt out must contain the executed statement: "I hereby request that I be excluded from the Onion Recall Class Action".

A list of the information needed to submit a valid Opt-Out Election can be obtained from Class Counsel. Class Counsel must receive your Opt-Out Election no later than **5:00 pm EST on**

**September 30, 2021 (“Opt-Out Deadline”)**. Opt-Out Elections may be sent electronically or by mail or courier to one of the following Class Counsel firms:

Richard J. Mallett  
James H. Brown & Associates  
2400 Sun Life Place, 10123 99 Street, Edmonton, AB T5J 3H1  
Phone: (780) 428-0088  
Fax: (780) 428-7788  
[onionrecall@jameshbrown.com](mailto:onionrecall@jameshbrown.com)

Madeline McKinnon  
Siskinds LLP  
680 Waterloo St, PO Box 2520, London, ON N6A 3V8  
Phone: (800) 461-6166  
Fax: (519) 660-7703  
[onionrecall@siskinds.com](mailto:onionrecall@siskinds.com)

An Opt-Out Election that does not contain all of the required information will not be valid, which means that you will be part of the Class Action.

Residents of Quebec must ALSO send their Opt-Out Election to the Clerk of the Superior Court of Québec, in the district of Montreal, no later than September 30, 2021, at:

Registry of the Superior Court of Quebec  
1 Notre-Dame St. East  
Montreal, Quebec H2Y 1B6

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

For information on the Onion Recall Class Action:

- [www.jameshbrown.com](http://www.jameshbrown.com) or [www.siskinds.com](http://www.siskinds.com)
- Or by telephone: 1-800-616-0088 or 1-800-461-6166

There is **no charge** to speak with Class Counsel to discuss the Class Action, to have your questions answered, or to retrieve a copy of the Opt-Out form, or related documents.