

NOTICE OF SETTLEMENT APPROVAL

- COOK OPTIONALLY RETRIEVABLE IVC FILTERS CLASS ACTION -

The Ontario Superior Court of Justice authorized this notice.

- This notice is directed to residents of Canada: (a) who were implanted with a Cook IVC Filter Product, at any time on or before January 8, 2020, which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants (“**Primary Class**”); and (b) who, by virtue of a personal relationship to one or more of such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c F 3 or analogous provincial legislation (“**Family Class**”).
 - For greater certainty, the residency requirement for class membership relates to the time of the placement of the Cook IVC Filter Product. Primary Class Members must have had a Cook IVC Filter Product placed in Canada but are not required to reside in Canada at present.
 - “**Cook IVC Filter Product**” means the Celect Vena Cava Filter, Celect Platinum Vena Cava Filter, Gunther Tulip Vena Cava Filter, accompanying instrument, materials, filter retrievers or retrieval sets, or accessory designed, manufactured, marketed, distributed or sold by the Defendants.
- This notice is to inform you that the Ontario Superior Court of Justice has approved the Settlement reached in a certified class action lawsuit against Cook (Canada) Inc., Cook Incorporated, and William Cook Europe APS (collectively the “**Defendants**” or “**Cook**”) related to the alleged failure to properly warn of alleged increased risks of complications and injuries of Cook IVC Filter Products. Cook denies that it is liable for these claims, and the Courts did not come to a decision as to who was right. The Parties have instead decided to settle the lawsuit.
- Cook has agreed to provide a claims-made settlement of up to \$54,000 CAD for each Qualifying Fracture Claimant, \$81,000 CAD for each Qualifying Death Claimant, and \$169,500 CAD for each Qualifying Open Surgery Claimant, with a pro rata reduction of in the amount of each payment to the extent that the total amount of the claims in categories (a), (b) and (c) above exceed \$4,062,720 CAD. Also, a payment in the amount of \$2,708,480 CAD will be made for Class Counsel to pay costs, including Administration Costs, Notice Plan Costs, Class Counsel Fees, interest, applicable taxes, and certain Other Qualified Claims as provided in the Settlement Agreement. The final value of the compensation will not be determined until the end of the claim period.
- **Your options at this stage are:**
 - **Do nothing:** You do not have to do anything to stay in the class action. The deadline to exclude yourself, sometimes referred to as “opting out”, has expired.
 - **File a Claim:** The period for submitting a Claim runs until **November 11, 2024**. During that period, you may make a Claim by filling out and submitting the Claim Form (including the necessary supporting Injury Evidence and Implant Evidence detailed in the Compensation Protocol) to the Claims Administrator. **If you do NOT submit your Claim on time, you will not be eligible for any benefits under the Settlement Agreement. Sending in a Claim Form late will be the same as doing nothing.**

The claim form requires that you provide medical records which can be time consuming to retrieve. **It is very important that you start this process as soon as possible, if you or your lawyer have not already done so.** You may wish to retain a lawyer to assist you in this process. You can retain Class Counsel or a lawyer of your choice.

- If you have questions about the Settlement or would like to obtain more information, please visit the settlement website at www.ivcsettlement.ca or contact the Claims Administrator or Class Counsel.

Read this notice carefully. It provides important information about the class action, the Settlement, and Settlement Class Members’ rights in respect of the settlement.

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

This is a notice for Class Members in the following proceeding: *Kuiper et al. v Cook (Canada) Inc. et al.*, Ontario Superior Court of Justice Court File No. CV-17-578210-00CP (the “**Action**”). This Notice contains a summary of some of the terms of the Settlement Agreement. All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

(1) Why did I receive this Notice?

You are receiving this Notice because you are or were a resident of Canada and were implanted with a Cook Gunther Tulip Vena Cava Filter Set, Cook Celect Vena Cava Filter Set, or Cook Celect Platinum Vena Cava Filter Set (“**Cook IVC Filter Product**”) during the class period (on or before January 8, 2020), which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants. You may be entitled to claim certain compensation offered by the Settlement if you submit a valid and timely Claim.

Now that the Court has approved the Settlement, Cook will provide the payments agreed to in the Settlement Agreement to Class Members who submit valid and timely Claims. This Notice explains the Action, the Settlement, your legal rights, what compensation is available, who is eligible for that compensation, and how to make a Claim for that compensation. Please read this entire Notice carefully.

(2) What is the class action about?

Kuiper et al. v Cook (Canada) Inc. et al., Ontario Superior Court of Justice Court File No. CV-17-578210-00CP is a certified class action against Cook. The Action alleges that Cook marketed and sold IVC Filter Products without properly warning of the alleged increased risks of complications and injuries. Cook denies the allegations and any liability.

A parallel Saskatchewan Proceeding was discontinued against Cook on June 1, 2023. A parallel British Columbia Proceeding was discontinued against Cook on March 19, 2021. The Québec Superior Court has recognized and enforced the Ontario order and discontinued the parallel Québec Proceeding.

(3) Why is there a Settlement?

The Parties have agreed to the Settlement to avoid the cost and risk of further litigation, including potential trials, and to provide Class Members with reasonable compensation in exchange for releasing the Defendants from liability. The Settlement does not mean that Cook did anything wrong, and the Court did not decide which Party was right. The Courts have not taken any position on the merits of the arguments of either the plaintiffs or the defendants, but the Ontario Superior Court of Justice has determined that the Settlement Agreement is fair, reasonable, and in the best interests of the Class Members. A term of the settlement is that the Proceedings will be dismissed or discontinued, which means that the Action has come to an end, and there will be no trial.

The Parties entered into the Settlement Agreement and the Court has approved the Settlement Agreement.

(4) How do I know if I am part of the Settlement?

For the purposes of the Settlement, (i) all persons resident in Canada who were implanted with a Cook IVC Filter Product, at any time on or before January 8, 2020, which was manufactured, marketed, and/or sold or otherwise placed into the stream of commerce in Canada by the Defendants (“**Primary Class**”); and (ii) all persons resident in Canada who, by virtue of a personal relationship to one or more of such persons described in (i) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c F 3 or analogous provincial legislation (“**Family Class**”) are Class Members. Where such person is deceased, the personal representative of the estate of the deceased person is a Class Member. For greater certainty, the residency requirement for class membership relates to the time of the placement of the Cook IVC Filter Product. Primary Class Members must have had a Cook IVC Filter Product placed in Canada but are not required to reside in Canada at present.

Class Members who satisfy the eligibility criteria set out in the Compensation Protocol may be entitled to benefits that will be calculated in accordance with the Compensation Protocol. To view a full copy of the Compensation Protocol, visit www.ivcsettlement.ca. Not all Class Members are eligible to receive compensation. Some exceptions apply (see below).

(5) Can I exclude myself from the Settlement?

No, as indicated in prior notices, the deadline to exclude yourself—sometimes referred to as “opting out”—ended on **March 16, 2021**.

(6) Who is excluded from the Settlement?

Only Class Members who meet certain criteria are eligible to submit Claims in the Settlement. You are excluded from making a Claim in the Settlement if:

- (a) you are not a Class Member under the terms of the Settlement Agreement;
- (b) you previously and validly opted out of this class action; and/or
- (c) you previously settled claims against Cook and executed a release in favour of Cook in relation to matters that are the subject of this class action.

(7) What is available under the Settlement?

Under the Settlement, Class Members file claims pursuant to the Compensation Protocol and *may* be eligible for compensation, **provided that they submit a valid and timely claim**.

Class Members who are finally approved pursuant to the Compensation Protocol as Less Severe Injury Claimants may be eligible to receive funds from the Preliminary Settlement Amount.

Class Members who are finally approved as Qualifying Claimants may be eligible to compensation as set out below:

- (a) up to \$54,000 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Fracture Claimant;
- (b) up to \$81,000 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Death Claimant; and
- (c) up to \$169,500 CAD for each Qualifying Claimant assessed by the Claims Administrator as a Qualifying Open Surgery Claimant.

The quantum of the payments to Class Members with Qualifying Claims will be reduced *pro rata* if the total amount of the claims in categories (a), (b) and (c) above exceed \$4,062,720 CAD.

Until all claims have been adjudicated it will not be possible to determine the exact value of the compensation that may be paid to eligible claimants.

Also, a Preliminary Payment in the amount of \$2,708,480 CAD will be made available for Class Counsel to pay costs, including Administration Costs, Notice Plan Costs, Class Counsel Fees not associated with Qualified Claimants, Provincial Health Insurer claims, certain Other Qualifying Claims and applicable taxes, as provided in the Settlement Agreement. The amounts paid to Other Qualifying Claimants will be based on the Compensation Protocol and the number of approved Other Qualifying Claimants

Please refer to the Compensation Protocol for more information.

(9) How do I make a Claim?

The claims process runs from July 4, 2024 to November 11, 2024. You must make a claim by filing a claim pursuant to the Compensation Protocol on or before November 11, 2024.

Please keep a copy of your filed claim and all of the supporting evidence and documentation you submit for your own records.

If you fail to submit a claim and supporting evidence and documentation on or before the deadline to submit a claim, you will not be eligible for any benefits under the Settlement Agreement. Sending in a claim late will be the same as doing nothing.

The claim form requires that you provide medical records which can be time consuming to retrieve. It is very important that you start this process as soon as possible, **if you or your lawyer have not already done so. You may wish to retain a lawyer to assist you in this process.** You can retain Class Counsel or a lawyer of your choice.

Please refer to the Compensation Protocol for more information.

(10) What evidence do I need to prove my Claim?

Supporting documentation must be submitted with the Claim Form. The supporting documentation required may be documentation from a doctor or other medical professional.

Please refer to the Compensation Protocol for more information.

(11) Can I submit a Claim on behalf of someone else?

Yes, you can submit a Claim on behalf of someone else if you have legal authority to do so. If a Claim is being submitted on behalf of someone else, the person completing the claim must explain why he/she has the authority to act and must attach a copy of any Certificate of Appointment of Estate Trustee, Power of Attorney or other document establishing that authority.

Please refer to the Compensation Protocol for more information.

(12) If my Claim is successful, when will I receive my compensation?

The Claims Administrator will distribute the compensation pursuant to the Compensation Protocol.

Please refer to the Compensation Protocol for more information.

(13) Who will review my Claim?

The Parties agree that they will seek to have [NAME] appointed by the Court as the Claims Administrator. The Claims Administrator will be tasked with processing and classifying claims and paying claims as provided in the Settlement Agreement and under the authority of the Ontario Court. The Claims Administrator will follow the Compensation Protocol.

Please refer to the Compensation Protocol for more information.

(14) What if my Claim is found to be incomplete?

Please refer to the Compensation Protocol for more information.

(15) Do I have a lawyer in this case?

Yes. The law firms representing Class Members (Class Counsel) are listed below. You will not be charged for contacting these lawyers for more information. If you want to be represented by your own lawyer, you may hire one at your own expense.

Siskinds LLP

275 Dundas St, Unit 1
London, ON N6B 3L1
Telephone: 1-800-461-6166
Email: IVCFilters@siskinds.com

McKenzie Lake Lawyers LLP

140 Fullarton Street, Suite 1800
London, ON N6A 5P2
Telephone: 1-844-672-5666
Email: christina.noble@mckenzielake.com

Merchant Law Group LLP

Suite 400, 2710 17th Avenue SE
Calgary, AB T2A 0P6
Telephone: 1-888-567-7777
Email: heidi@merchantlaw.com

Koskie Minsky LLP

20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3
Telephone: 1-800-764-7717
Email: ivcfiltersclassaction@kmlaw.ca

Siskinds Desmeules, Avocats

43 Rue De Buade, #320
Québec City, QC G1R 4A2
Telephone: 1-800-461-6166
Email: IVCFilters@siskinds.com

(16) What happens if I do nothing at all?

If you do nothing at all, you will not receive any compensation from the Settlement. In order to receive compensation in the Settlement, you must file a claim pursuant to the Compensation Protocol. Unless you previously and validly excluded yourself (opted out), you won't be able to start a lawsuit, continue a lawsuit, or be part of any other lawsuit against Cook about the legal issues in this class action.

However, even if you take no action, you will keep your right to sue Cook for any other claims not resolved by the Settlement, subject to any applicable limitation periods.

(17) How can I get more information?

This Notice summarizes the essential terms of the Settlement. The Settlement Agreement and its schedules, which you can view at www.ivcsettlement.ca, describe in greater detail the rights and obligations of all the Parties. If there is any conflict between this Notice and the Settlement Agreement, the Settlement Agreement governs.

Neither the Parties nor their counsel make any representation regarding the tax effects, if any, of receiving any benefits under this Settlement. Consult your tax adviser for any tax questions you may have.

The court offices will be unable to answer any questions about the matters in this Notice. If you have any questions regarding the Settlement or about the Action in general, information is available on the www.ivcsettlement.ca, or by contacting **Class Counsel** directly:

Siskinds LLP

275 Dundas St, Unit 1
London, ON N6B 3L1
Telephone: 1-800-461-6166
Email: IVCFilters@siskinds.com

McKenzie Lake Lawyers LLP

140 Fullarton Street, Suite 1800
London, ON N6A 5P2
Telephone: 1-844-672-5666
Email: christina.noble@mckenzielake.com

Merchant Law Group LLP

Suite 400, 2710 17th Avenue SE
Calgary, AB T2A 0P6
Telephone: 1-888-567-7777

Email: heidi@merchantlaw.com

Koskie Minsky LLP

20 Queen Street West, Suite 900, Box 52

Toronto, ON M5H 3R3

Telephone: 1-800-764-7717

Email: ivcfiltersclassaction@kmlaw.ca

Siskinds Desmeules, Avocats

43 Rue De Buade, #320

Québec City, QC G1R 4A2

Telephone: 1-800-461-6166

Email: IVCFilters@siskinds.com

You can also contact the **Claims Administrator** at:

RicePoint Administration Inc.

CO9 Settlement

P.O. Box 3355

London, Ontario N6A 4K3

Telephone (toll-free): 1-877-257-8346

This Notice of Settlement Approval will be disseminated and posted to www.ivcsettlement.ca. Check this website regularly for the most up-to-date information.

PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE PROCEEDINGS.

This Notice was approved by order of the Ontario Superior Court of Justice. This is not a solicitation from a lawyer.