

LONG FORM NOTICE OF SETTLEMENT APPROVAL

FLEET PHOSPHO-SODA CLASS ACTION NOTICE OF SETTLEMENT APPROVAL

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

TO ALL CLASS MEMBERS:

To all residents in Canada who ingested **FLEET PHOSPHO-SODA** ("Primary Claimant") or their personal representatives, heirs, assigns and trustees ("Representative Claimant"), and any other residents of Canada asserting the right to sue the Defendants by reason of their familial relationship with a Primary Claimant or Representative Claimant, including spouses, common law spouses, same-sex partners, as well as parents and children by birth, marriage or adoption ("Derivative Claimant")

FLEET PHOSPHO-SODA is an over-the-counter pharmaceutical product which was often directed to be used as part of a bowel cleansing regimen, especially prior to undergoing a surgical procedure such as a colonoscopy.

Please be advised that the Ontario Superior Court of Justice has approved the **FLEET PHOSPHO-SODA** Settlement Agreement reached in class actions brought in Ontario, Québec and Saskatchewan which alleged that C.B. Fleet Holding Company Inc., C.B. Fleet Company, Inc., and Johnson & Johnson – Merck Consumer Pharmaceuticals of Canada (the "Defendants") negligently manufactured, marketed and sold **FLEET PHOSPHO-SODA** in Canada without properly warning of alleged risks of kidney damage. The claims period has now started to run.

The Defendants deny the plaintiffs' allegations and deny any wrongdoing or liability. The court has not taken any position as to the truth or merits of the claims or defences asserted by either side. The allegations made by the plaintiffs have not been proven in court.

If you would like a copy of the Settlement Agreement, it is available on Class Counsel's website at www.classaction.ca (English and French) or a copy can be obtained by contacting Class Counsel or the Claims Administrator at the numbers listed below.

To be entitled to compensation, Class Members, including Primary Claimants, Representative Claimants and Derivative Claimants, must file a claim with the Claims Administrator by September 22, 2011.

Summary of Settlement Agreement

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- The Defendants, while not admitting liability, will pay a sum of approximately \$11,995,000.00 to settle the claims of all Class Members.
 - Claimants may be eligible to receive settlement payments if they ingested **FLEET PHOSPHO SODA** and subsequently developed certain types of kidney damage. For detailed information on qualification, please see Schedules "B" and "E" of the Settlement Agreement.
 - The size of compensation payable to Eligible Claimants will be based on the total number of approved claims and the severity of injuries.
 - Class Members have until September 22, 2011 to file a Claim.
 - Derivative Claimants may also be eligible to receive settlement payments.
 - Provincial Health Insurers will share a fund of \$1,800,000.00 which shall be in full satisfaction of medical services provided or to be provided to Eligible Primary Claimants.

Opting Out

All persons who come within the class definition are automatically included in the Class unless they exclude themselves from the Class ("Opt-Out"). To Opt-Out, a Class Member has to complete, sign and return an "Opt-Out Form" postmarked or deposited by courier by July 25, 2011. If a Class Member does not timely and properly Opt-Out, he or she will be forever barred from instituting any action against the Defendants and/or Released Parties related to the use of

FLEET PHOSPHO-SODA. If a Class Member does Opt-Out or does not timely and properly make a claim under the Settlement Agreement, he or she will be forever barred from receiving any compensation under the Settlement Agreement.

Legal Fees

Once the Claims Deadline has passed, Class Counsel will seek court approval of legal fees not to exceed 25% of the total settlement benefits plus disbursements and applicable taxes. Class Counsel were retained on a contingent basis. Class Counsel were responsible for funding all disbursements incurred in pursuing this litigation.

Claimants are not responsible for any legal fees incurred to date. Claimants may, but are not obliged to retain their own lawyers to assist them in making individual claims under the Settlement Agreement but they may not find it necessary to do so. Submitting a claim under the Settlement Agreement is considerably less complex and less expensive than pursuing an individual lawsuit. In the event that Claimants feel they require the assistance of a lawyer in making their claim, they will be responsible to pay the legal fees of any lawyer they retain to prepare their claim.

Important Deadlines

July 25, 2011 – Deadline to Opt-Out of the Settlement Agreement

September 22, 2011 – Deadline to File a claim

Because of the deadlines, you must act without delay.

Further Information

A complete copy of the Settlement Agreement and the Claim Form are available at www.classaction.ca (English and French). To have a hard copy of the claim form or opt-out form mailed directly to you, please contact the **Claims Administrator at 1-866-432-5534 or fleet@npricepoint.com**.

For Further Information Please Contact Class Counsel as follows:

English enquiries:

Siskinds^{LLP}
680 Waterloo Street
London ON N6A 3V8

Matthew D. Baer
Tel: (800) 461-6166 x7782
Email: matt.baer@siskinds.com

French enquiries:

Siskinds, Desmeules
43 Rue Buade, Bur 320
Québec City, Québec G1R 4A2

Nathalie Boulay
Tel.: (418) 694-2009
Email: nathalie.boulay@siskindsdesmeules.com

This Notice has been authorized by the Ontario Superior Court of Justice

FLEET PHOSPHO-SODA SETTLEMENT

CLAIM PACKAGE

Package Contents:

1. **Privacy Statement**
2. **Fleet Settlement Agreement Summary**
3. **Fleet Settlement Claim Form Instructions**
4. **Medical Direction/Consent Form**

1. Privacy Statement

Personal Claimant Information is collected, used, and retained by the Claims Administrator pursuant to the *Personal Information Protection and Electronic Documents Act* (PIPEDA):

- For the purpose of operating and administering the Fleet Litigation Settlement Agreement;
- To evaluate and consider the claimant's eligibility status under the Fleet Litigation Settlement Agreement;
- Is strictly private and confidential and will not be disclosed without the express written consent of the claimant, except as provided in the Fleet Litigation Settlement.
- The Administrator shall preserve the information until the last claim has been paid and at such time shall dispose of the information by shredding or such other means as will render the materials permanently illegible.

2. Fleet Settlement Agreement Summary

A. Overview

Claimants will be eligible to receive settlement payments if they ingested Fleet Phospho-Soda and suffered an injury, which is compensated under the Settlement Agreement, such as: Chronic Kidney Disease with a GFR 59 or below, Renal Transplant, Long Term / Permanent Dialysis, or Wrongful Death.

The size of the payments will be based on the total number of approved Claims and the severity of injuries. Points are awarded based on medical condition and other relevant factors. For a detailed breakdown of point eligibility, please see Schedule B in the Settlement Agreement, available at: www.fleetphosphosodaclaimaction.com. You may also contact the Claims Administrator for more details: 1-866-432-5534.

Class Members will have until **September 22, 2011** to file a Claim.

Derivative Claimants (spouses, children, and parents) may be eligible to receive settlement payments based upon various factors, including the size of the payment made in respect of the relevant Primary Claimant and the total number of approved Claims.

B. Opting Out

Members of the Class may exclude themselves from the Proceeding by exercising their right to opt out pursuant to section 9 of the CPA by submitting an Opt Out Form to the Claims Administrator by regular first class mail or courier, post-marked or submitted to the courier, as the case may be, before the Opt Out Deadline of July 25, 2011.

Class Members who commence or have commenced individual proceedings and fail to discontinue such individual proceedings by the Opt Out Deadline shall be deemed to have Opted Out.

Class Members who do not Opt Out shall be bound by this Settlement Agreement and, in the absence of a timely Claim, shall not be entitled to any payment under this Settlement Agreement.

**Opt Out Forms can be obtained by calling the Claims Administrator at 1-866-432-5534 or online at www.fleetphosphosodaclaimaction.com

C. Required Documentation

To become an Eligible Primary Claimant, the following information shall be submitted:

1. All available lab results and medical records demonstrating:
 - (a) Current renal function;
 - (b) Renal function prior and subsequent to FPS ingestion; and
 - (c) The Primary Claimant's medical history prior and subsequent to FPS ingestion.
 - (d) In the event that a Primary Claimant is unable to obtain medical records or lab results demonstrating Primary Claimant's renal function in the two years prior to ingestion, the Primary Claimant shall submit an affidavit as to the efforts undertaken to obtain such information and the reasons it could not be obtained.
2. In all non-permanent dialysis, non-transplant or non-death cases, lab results supporting the compensable injury category assignment shall be dated within 6 months of the date the claim is filed. Determination of a Primary Claimant's compensable injury category and current medical status shall be based upon the information provided on the date the claim is submitted, unless the claim is determined to be deficient. Neither the Claimant nor Fleet shall be permitted to supplement the initial claim submission with a lab report or medical status or other data obtained after the claim is submitted, except in the limited circumstances where: (1) there is proof that the most current lab report and/or medical status had been requested prior to filing the claim, and (2) the requested lab report and/or medical status were not timely supplied by the healthcare provider.

The Claimant shall bear the cost of obtaining the necessary documentation and submitting copies to the Claims Administrator. It is the Claimant's responsibility to notify the Claims Administrator of an address change.

D. Derivative Claimant Settlements

Children of Eligible Primary Claimants who are under the age of 18 on the date the Eligible Primary Claimant ingested more than 45 mL of Fleet Phospho-Soda in a 24 hour period, and spouses of Eligible Primary Claimants (including common-law and same-sex), shall receive 8% of the amount awarded to the related Eligible Primary Claimant. All other Eligible Derivative Claimants (parents and children 18 or over) shall receive 2% of the amount awarded to the related Eligible Primary Claimant.

Supporting Documentation for Derivative Claimants

In order to be eligible for compensation, Derivative Claimants must complete the Derivative Claimant section of the Claim Form (Section III) and proof of one's relationship to the Eligible Primary Claimant is required. For example:

1. Spouses must provide a copy of their marriage certificate or other document evidencing the relationship to the Eligible Primary Claimant;
2. Children of Eligible Primary Claimants must provide a birth certificate or other relevant documentation which establishes the date of birth of the Derivative Claimant, and, if the last name of the child is different from that of the Eligible Primary Claimant, documentation which establishes that the Derivative Claimant is the child of the Eligible Primary Claimant.

Maximum Derivative Claimant Payments Per Family

In the event that an Eligible Primary Claimant has Derivative Claimants eligible for benefits the total of which benefits would exceed 20% of the amount awarded to the related Eligible Primary Claimant, the total benefits paid to Eligible Derivative Claimants shall be divided on a pro-rata basis with the total derivative payments equal to 20% of the amount awarded to the related Eligible Primary Claimant.

E. Deficiencies

There are opportunities for correcting some deficiencies. If, during Claims processing, the Claims Administrator finds that technical deficiencies exist in a Claimant's Claim Form or Supporting Documentation that the Claims Administrator determines preclude the proper processing of such Claim, the Claims Administrator shall notify the Claimant via first class regular mail of the technical deficiencies, and shall allow the Claimant forty-five (45) days from the mailing of such notice to correct the deficiencies. If the deficiencies are not corrected within the forty-five (45) day period, the Claims Administrator shall reject the Claim. The Claimant will have no further opportunity to correct the technical deficiency;

Technical deficiencies shall not include missing deadlines for submitting Claim Forms, or failing to file sufficient Supporting Documentation to support the Claim which has been made.

F. Appeal of Claims

The Claims Administrator shall notify Claimants of the disposition of their Claims by regular first class mail directed to their last mailing address provided by the Claimant to the Claims Administrator. Claimants will be granted a forty-five (45) day period from the date of mailing of such notification to appeal the classification or rejection of their Claim. All appeals will be on the basis of written submissions only, supported only by the original documentation provided to the Claims Administrator. The appeals will be determined by the Ontario Court.

The Ontario Court may appoint a referee to review and make recommendations on all appeals. If a referee is appointed, their reasonable costs shall be paid from the settlement funds.

The judgment of the Courts respecting any appeal from the Claims Administrator's decision is final and binding and shall not be the subject of any further appeal or revision.

3. Fleet Settlement Claim Form Instructions

To establish your right to compensation under the terms and conditions of the Fleet Settlement Agreement, you **must submit a completed, executed and verified Claim Form, along with any Supporting Documentation** to the Claims Administrator at the address below, postmarked no later than **September 22, 2011**.*** Failure to do so will result in the rejection of your claim.

Persons who do not submit a fully completed Claim Form shall forever forfeit their right to compensation from the Settlement Fund and will be precluded from ever bringing an action against any of the Released Parties unless they have previously Opted Out of this Settlement.

Primary Claimant Claimants

A Primary Claimant is any resident of Canada who ingested Fleet Phospho-soda during the class period. If you are a Primary Claimant and wish to make a claim under this Settlement Agreement, you must complete sections I, V-IX, and IV if applicable, of the Claim Form and provide all Supporting Documentation.

Representative Claimants

A Representative Claimant is any personal representative, heir, assign or trustee of a Primary Claimant. If you are a Representative Claimant and wish to make a claim under this Settlement Agreement, you must complete sections I, II, V-IX, and IV if applicable, of the Claim Form and provide proof of your authority to act as the representative of the Primary Claimant.

Derivative Claimants

A Derivative Claimant is any resident of Canada asserting a right in this Settlement Agreement by reason of their familial relationship with the Primary Claimant, including without limitation, spouses, common-law spouses, same-sex partners, parents, or children by birth, marriage or adoption. If you are a Derivative Claimant and wish to make a claim under this Settlement Agreement, you must complete sections I, III, IX, and IV if applicable, of the Claim Form. Be sure to identify the Primary Claimant (the source of your entitlement) along with proof of your relationship to the Primary Claimant.

If you require assistance or advice regarding completion of the Claim Form or have questions or concerns regarding your claim, you may retain legal counsel at your own expense, or contact the Claims Administrator at: 1-866-432-5534.

Please keep copies of all documentation sent to the Claims Administrator for your records. You are urged to act immediately. Do not wait until the last few weeks before the claims deadline, as completing the documentation process takes time.

4. Medical Direction/Consent Form

See Section VIII of Claims Booklet.

In some circumstances the Claims Administrator may require additional information from your Doctor or Medical Professional. The Medical Direction Form gives the Claims Administrator permission to contact and obtain the additional information required to process your Claim Form.

This must be completed and returned with the signed and completed Claim Form if making a claim as, or on behalf of a Primary Claimant.

IMPORTANT DEADLINES:

July 25, 2011 – Deadline to Opt-Out of Settlement Agreement

September 22, 2011 – End of Claim Period. Deadline to File Claim

ALL REQUIRED CLAIM FORMS AND DOCUMENTATION, OTHER THAN OPT OUT FORMS,
MUST BE SUBMITTED BY THE ABOVE LISTED DEADLINES TO:

NPT RicePoint Class Action Services

P.O. Box 3355

London, ON N6A 4K3

1-866-432-5534

If you send your claim package by courier, please use the services of Canada Post
as other courier services will not be able to deliver to a P.O. Box

***** In no event will claims postmarked after September 22, 2011 be considered *****