

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

- 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:

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