

CITATION:

ONTARIO SUPERIOR COURT OF JUSTICE (TORONTO REGION)
CIVIL ENDORSEMENT FORM
(Rule 59.02(2)(c)(i))

| | | |
|---------------|---|---|
| BEFORE | Judge/Associate Judge Madam Justice J. Akbarali | Court File Number: CV-18-0595380-00CP |
|---------------|---|---|

Title of Proceeding:

..... **Westwood, Peter** Plaintiff(s)

-v-

..... **TD Asset Management Inc.** Defendants(s)

Case Management: **Yes** If so, by whom: _____ **No**

Participants and Non-Participants: (Rule 59.02(2)(vii))

| Party | Counsel | E-mail Address | Phone # | Participant (Y/N) |
|---|---------------|----------------------------|--------------|-------------------|
| 1) Plaintiff – Peter Westwood | Garett Hunter | garett.hunter@siskinds.com | 519-660-7802 | Y |
| | Michael Robb | michael.robb@siskinds.com | 519-660-7872 | Y |
| | Gigi Pao | gigi.pao@siskinds.com | 226-636-1616 | Y |
| 2) Defendant – TD Asset Management Inc. | Shane D’Souza | sdsouza@mccarthy.ca | 416-786-4417 | Y |
| | Agatha Wong | agathawong@mccarthy.ca | 416-601-8338 | Y |
| 3) | | | | |

Date Heard: (Rule 59.02(2)(c)(iii)) **Sept. 27, 2024**

Nature of Hearing (mark with an “X”): (Rule 59.02(2)(c)(iv))

Motion Appeal Case Conference Pre-Trial Conference Application

Format of Hearing (mark with an “X”): (Rule 59.02(2)(c)(iv))

In Writing Telephone Videoconference In Person

If in person, indicate courthouse address:

Relief Requested: (Rule 59.02(2)(c)(v))

Approval of notice order, amendment to the definition of the class in the certification order.

Disposition made at hearing or conference (operative terms ordered): (Rule 59.02(2)(c)(vi))

Motion granted

Costs: On a _____ indemnity basis, fixed at \$ _____ are payable
by _____ to _____ [when]

Brief Reasons, if any: (Rule 59.02(2)(b))

1. The parties to this certified class action have reached a settlement.
2. They move for an order amending the class definition in the action, approving the notices of settlement approval hearing and the method of dissemination and setting a supplemental opt-out process and deadline.
3. The amendment to the class definition is designed to replace the original end date of the class (prior to the conclusion of the trial of the common issues in the action) with an end date that reflects the date of execution of the settlement agreement.
4. I have jurisdiction to amend the class definition under s. 8(3) of the *Class Proceedings Act*, which allows me to make amendments to the certification order.
5. It is appropriate to make the amendment sought. Assuming the settlement is approved, the class must have an end date. Since there will be no common issues trial in that circumstance, the original contemplated end date is no longer appropriate. Selecting the date of the execution of the settlement agreement closes the class on the day the merits of the litigation are determined by way of resolution(subject to court approval and settlement implementation).
6. I also approve the notice plan, the notices, and the supplemental opt-out process, which the parties have amended in accordance with my comments.
7. Order to go in the form I have signed.

Additional pages attached: Yes No

September 27, 20 **24**
Date of Endorsement (Rule 59.02(2)(c)(ii))

Signature of Judge/Associate Judge (Rule 59.02(2)(c)(i))