

*Authorized by the Ontario Superior Court of Justice*

**NOTICE OF CERTIFICATION OF THE AVIVA COVID-19  
BUSINESS INTERRUPTION CLASS ACTION**

**If you held business interruption insurance with Aviva in Canada at any time between March 1, 2020 through August 31, 2021, your legal rights might be affected. You should read this notice carefully.**

**WHAT IS THIS NOTICE ABOUT?**

This Notice sets out a summary of a class action against Aviva Insurance Company of Canada (“Aviva Canada”). If you or your business had business interruption insurance coverage from Aviva Canada at the relevant time, described below, your business may be entitled to participate in this class action.

**WHAT IS THIS CLASS ACTION ABOUT?**

This class action is about whether business interruption insurance offered by Aviva Canada under a variety of different policies provides coverage for losses related to COVID-19. The core of the Class’ claim is that Aviva Canada improperly denied payment for losses suffered by policy holders during COVID-19. The allegations made by the Class have not yet been proven in court.

More information about the class action can be found at the following website:

[www.AvivaClassAction.ca](http://www.AvivaClassAction.ca)

**WHO IS A MEMBER OF THE CLASS?**

The Class includes any person, corporation, or other entity carrying on business anywhere in Canada that had business interruption coverage from Aviva Canada and suffered business interruption losses related to COVID-19, regardless of whether they have already submitted notice of a claim to Aviva Canada or not. The formal class definition is set out below.

**CLASS MEMBERS BOUND BY RESULT**

Each member of the Class who does not opt out of the class action will be bound by the decisions made in the action, and the terms of any judgment or settlement – whether favourable or not – and will not be allowed to start their own action against Aviva Canada for the same claims. If you wish to opt out of this class action, please follow the procedure set out on the following page.

**SUBMITTING NOTICE OF YOUR CLAIM**

Each Class Member is encouraged to submit a claim for coverage under their policy. This is important because the timeline for submitting a claim is in dispute and it will also help the parties evaluate the number of potential claims. The Plaintiffs therefore strongly encourage all Class Members to submit claims as soon as possible. This is a quick and easy process that will take no more than five minutes to complete. Simply go to the following website and fill out the information requested in the form to submit notice of your claim:

[www.AvivaClassAction.ca](http://www.AvivaClassAction.ca)

## CERTIFICATION

Certification is a preliminary step in a class action, where the court assesses various criteria before determining whether the proposed representative plaintiffs can advance the claims of all class members through a class action. On March 22, 2023, the Ontario Superior Court of Justice certified the action *Nordik Windows Inc. v Aviva Insurance Company of Canada* as a class proceeding and appointed Nordik Windows Inc., Cash and Carry Inc., Hangar9 Studios Inc., and Real Food for Real Kids Inc. as the representative Plaintiffs of the Class (the “*Nordik class action*”).

The *Nordik* class action alleges that Aviva Canada breached its insurance contracts with Class Members by adopting the institutional position that its business interruption policies do not provide coverage for losses caused by COVID-19 and by directly denying claims made by Class Members or discouraging claims to be made. The *Nordik* class action seeks over \$500 million in damages on behalf of the Class (defined below).

## OPTING OUT

Members of the Class who do not want to participate in the class action must formally “opt out”. To opt out you must complete and submit the opt-out form found at [www.AvivaClassAction.ca](http://www.AvivaClassAction.ca) or send by mail to Epiq Class Action Services Canada Inc. a written, signed opt-out election indicating:

- the Class Member’s name and policy number;
- your name and contact information, including phone and email address;
- your authority to act on behalf of the Class Member; and
- a statement that the Class Member wishes to opt out.

If sending a written opt-out by mail, you must address it to:

Aviva Canada Class Action  
c/o Epiq Class Action Services Canada Inc.  
P.O. Box 507 Stn B  
Ottawa, ON K1P 5P6

No Class Member will be permitted to opt out of the class action unless the election to opt out is received by Epiq on or before **May 19, 2024 at 5:00 p.m. E.S.T.**

A member of the Class who opts out will not be entitled to participate in the class action, will not be bound by any judgment in the class action, and will not be eligible for any recovery in the class action. A Class Member who opts out may be eligible to pursue a claim in a separate proceeding. If you wish to pursue your own claim in a separate proceeding, you should consult with a lawyer immediately.

## CLASS COUNSEL FEES AND DISBURSEMENTS

The representative Plaintiffs and Class Counsel entered into a retainer agreement providing for the payment of legal fees, disbursements and applicable taxes. As a member of the Class, you will not be required to pay any costs in the event that the class action is unsuccessful. The agreement provides that Class Counsel will not receive payment for their work unless and until the class action is successful, by way of judgment or settlement. In that case, Class Counsel will be paid out of any recovery in the class action. The Class Counsel fees, disbursements and applicable taxes must be approved by the Court.

If the class action is successful, it may be necessary for Class Members to have their claims individually determined. Class Counsel will assist Class Members with respect to determination of their individual claim amounts if requested by the Class Member. Class Members will have the opportunity to decide if you wish to proceed with their individual loss claim before it begins.

## FORMAL CLASS DEFINITION

The formal Class Definition approved by the Court is:

All persons, corporations, or other entities carrying on business in Canada who purchased any of the following business interruption insurance policies from the Defendant that was in force for some or all of the period from March 1, 2020 through August 31, 2021, whether Aviva Enterprise, Aviva Commercial, or any other policy: (collectively, the "Policies")

- (i) Business Income Actual Loss Insurance Form 912000-01, Form 912000-01, Form 921005-01, Form 402014-02, Form H001803, Form H2; and/or
- (ii) Such other policies as may contain 'Negative Publicity' or 'Restricted Access' coverage; and/or
- (iii) Such other policies issued by the Defendant as may contain coverage for suspension of the insured's business caused by damage to the insured's or contributing/neighbouring premises; and/or
- (iv) Such other policies as may provide substantially similar coverage.

## DO NOT CALL THE COURT WITH ANY QUESTIONS ABOUT THIS NOTICE

Any questions regarding the class action should be directed to [info@AvivaClassAction.ca](mailto:info@AvivaClassAction.ca) or to Class Counsel at [sbirman@trlaw.com](mailto:sbirman@trlaw.com).

This Notice is a summary of some of the terms of the certification order. If there is a conflict between the provisions of this Notice and the terms of the certification order, the certification order prevails.

Additional information, including the certification order, may be found at:

[www.AvivaClassAction.ca](http://www.AvivaClassAction.ca)