

**NOTICE OF SETTLEMENT APPROVAL HEARING IN THE MATTER OF  
LEE VALLEY TOOLS LTD. v. CANADA POST CORPORATION CLASS ACTION**

**PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS.**

*TO ALL customers of Canada Post who entered into an agreement with Canada Post covering a period of one or more years that set out the terms of parcel shipping services provided by Canada Post (which agreements are referred to by Canada Post as any of a "Canada Post Account", "Commercial Account" or "Small Business Account" or similar term), and who were charged shipping charges between January 1, 2000 and December 31, 2007, for parcels shipped within Canada on the basis other than actual weight, and have not opted out of this lawsuit.*

<b>SUMMARY OF CLASS MEMBERS' RIGHTS AND OPTIONS UNDER THE PROPOSED SETTLEMENT</b>	
<b>SUPPORT THE PROPOSED SETTLEMENT AGREEMENT</b>	If the Ontario Superior Court of Justice (the "Court") approves the proposed settlement agreement (the "Proposed Settlement Agreement") at the settlement approval hearing described below (the "Settlement Approval Hearing"), full details about steps that you must take to make a claim will appear on dedicated websites provided below.
<b>DO NOTHING</b>	If the Proposed Settlement Agreement is approved at the Settlement Approval Hearing, and you fail to take the necessary steps to apply (to be approved by the Court), you will receive no payment and you will not be allowed to bring or be part of any other lawsuit against Canada Post concerning the issues being settled.
<b>OBJECT TO THE SETTLEMENT</b>	Write to Class Counsel by no later than Monday, September 23, 2013, about why you oppose the Proposed Settlement Agreement.
<b>OPT-OUT (EXCLUDE YOURSELF)</b>	<p>The deadline for opting out of or excluding oneself from this lawsuit has already passed.</p> <p>All Class Members (defined below) will be bound by the Proposed Settlement Agreement if it is approved by the Court at the Settlement Approval Hearing.</p>

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### **BASIC INFORMATION**

#### **1. What is this lawsuit about?**

This lawsuit was brought on behalf of the Class Members, all of whom are substantial commercial customers of Canada Post who shipped parcels within Canada pursuant to periodic agreements which set out terms. Specifically, this lawsuit commenced by Lee Valley Tools Ltd. (hereinafter “Lee Valley”) on behalf of the Class, is seeking:

- a) changes in certain of Canada Post's practices used to establish shipping charges to the Class with respect to the retention of overpayments made by the Class and the use by Canada Post of "Volumetric Weight", which were alleged to violate the *Weights and Measures Act*;
- b) repayment of certain shipping charges paid by the Class to Canada Post for parcels shipped by Class Members within Canada, for which Class Members were charged on a basis other than actual weight after January 1, 2000.

## 2. Why is this lawsuit a "class action"?

In a class action, one or more people, called "representative plaintiffs" (in this case Lee Valley), sue on behalf of themselves and other people who have similar claims, known as "Class Members". Before any decisions will bind Class Members, the court must determine that the lawsuit should become a class action. This process is called "certification". If certification occurs, then any decisions or settlement will bind all Class Members, unless they opted-out.

On December 18, 2007, this lawsuit was certified as a class proceeding or action by the Court, with Lee Valley being appointed as the representative plaintiff for the Class (the "Certification Order"). The Certification Order provided that any Class Member wishing to exclude themselves from this lawsuit (or opt-out), had to do so by no later than August 29, 2008.

If you are a Class Member and you did not opt-out of this lawsuit, the Proposed Settlement Agreement affects you.

On October 28, 2008, the Certification Order was revised by Order of the Honourable Justice Lax, to among other things, allow for the notice of opting out for this lawsuit to be amended.

Please be advised that the Certification Order, and the October 28, 2008 Order revising the Certification Order, are procedural in nature. In certifying this lawsuit as a class action, the Court made no findings or final decisions regarding the merits of the Class' claims against Canada Post.

## 3. How do I know if I am included in the Proposed Settlement Agreement?

For the purposes of this lawsuit and this notice, Class Member is defined as follows:

*Customers of Canada Post who entered into agreements with Canada Post covering periods of one or more years and that set out the terms of parcel shipping services provided by Canada Post for such customers (which agreements are referred to by Canada Post as any of a "Canada Post Account", "Commercial Account" or "Small Business Account" or similar term), and who were charged shipping charges between January 1, 2000 and December 31, 2007, for parcels shipped within Canada on the basis other than actual weight, and who have not opted out of the lawsuit.*

## **THE SETTLEMENT BENEFITS**

### **4. What does the Proposed Settlement Agreement provide?**

The terms of the Proposed Settlement Agreement are summarized as follows:

- a) Canada Post has already ceased the practice of retaining overpayments resulting from customers' mistakes and will, as soon as possible, but no later than two years from the date of the Proposed Settlement Agreement being approved by the Court, end its practice of charging on the basis of Volumetric Weight expressed in units of weight;
- b) In addition, Canada Post will pay the sum of \$5,050,000.00 for claims. Canada Post will also contribute the sum of \$1,300,000.00 (the "Defendant's Contribution to Costs") to partially offset the legal costs incurred to prosecute this claim for the benefit of the Class. (Together the amounts being paid for claims and the Defendant's Contribution to Costs are referred to as the Settlement Funds.) The legal expenses not paid by the Defendant's Contribution to Costs, and the administration costs, will be paid out of the above amount of \$5,050,000.00 subject to the approval of the Court. (See Section 7 below for further details.)
- c) Canada Post and all of its subsidiaries and affiliates, will be released from all claims that were or could have been raised by the Class in this lawsuit;
- d) The settlement is conditional on such settlement being approved by the Court (as is required by law).

Please note that Canada Post expressly denies that its participation in the Proposed Settlement Agreement is an admission of liability on its part.

The Settlement Funds, after payment of legal fees, taxes and disbursements, will be held by Class Counsel in an interest bearing trust account for the benefit of the Class.

The costs of notice(s) to Class Members, administration of the settlement and Class Counsel Fees and disbursements, and taxes on such expenses will be paid from the Settlement Funds being paid by Canada Post.

It is proposed by the Class Representative that the balance of the Settlement Funds is to be distributed to Class Members who apply for payment, in accord with terms to be determined subject to approval by the Court. The Plaintiff is proposing that such funds be distributed on the following basis:

1. Payments will only be made to Class Members who properly apply;
2. Applicants will provide the requested information and a sworn declaration;

3. Those applicants who, based on data from Canada Post, incurred shipping charges in excess of \$330,000.00 for the period of 2003 to 2007, will share 80% of the Net Settlement Fund, in proportion to the shipping charges paid by each applicant.
4. Those applicants, who based on data from Canada Post, incurred shipping charges of no more than \$330,000.00 in the period of 2003 to 2007, will share 20% of the Net Settlement Fund which is to be divided equally between such applicants.
5. The Administrator will receive such applications and in its discretion determine the entitlement of each applicant.

While the payments to be made to each applicant cannot be determined until applications have been reviewed, based on assumptions made with respect to the number of class members who will apply and the shipping charges paid by applicants in the reference period, it is estimated that:

- those applicants sharing 80% of the Net Settlement Fund may be entitled to receive approximately \$100.00 for every \$100,000.00 paid by them for shipping charges in the period of 2003 to 2007.

- those applicants sharing 20% of the Net Settlement Fund may be entitled to receive a payment in the range of approximately \$10.00 to \$100.00.

Any further notices regarding this settlement will be provided in a manner the Court approves and may be posted online at:

[www.parcelshippingcharges.ca](http://www.parcelshippingcharges.ca)  
[www.blaney.com](http://www.blaney.com)

## **COMMENTING ON THE PROPOSED SETTLEMENT AGREEMENT**

### **5. Can I comment on or object to the Proposed Settlement Agreement?**

If you have comments about, or object to, any aspect of the Proposed Settlement Agreement, you may express your views to the Court in writing. Your written response should include your name, mailing and email addresses, telephone number, a statement that you are member of the Class as well as brief explanation of your comment or reason for objection. All comments and objections should be forwarded in writing to the Class Counsel, the law firm Blaney McMurtry LLP in Toronto, at the address listed below, postmarked no later than Monday, September 23, 2013.

At the Settlement Approval Hearing, Class Counsel will advise the Court of all written objections properly filed. If you fail to file a written comment or objection by September 23, 2013, then the Court may permit you to object to the settlement or appear at the Settlement Approval Hearing but is not required to do so.

## 6. Do I have a lawyer representing my interests in this case?

Yes. The Toronto law firm named below is referred to as “Class Counsel” and they will answer your questions regarding the Settlement:

Blaney McMurtry LLP  
Roderick Winsor or Julia Anagnostakis  
Tel: 416-593-2996  
Fax: 416-593-5437  
Email: [parcels@blaney.com](mailto:parcels@blaney.com)

Class Members who consider it desirable or necessary to seek the advice or representation of their own lawyers may do so at their own expense.

## 7. How will the lawyers and administrators be paid?

You will not be charged personally for Class Counsel’s fees but at the Settlement Approval Hearing, Class Counsel will be seeking approval of the retainer agreement entered into with the Representative Plaintiff, with respect to Class Counsel Fees, including legal fees, disbursements and applicable taxes.

The Representative Plaintiff and Class Counsel will be proposing that Class Counsel be paid the total of the Defendant’s Contribution to Costs of \$1,300,000.00 and \$1,416,206.90 for legal fees, in addition to approximately \$40,000.00 for disbursements and in addition to all applicable taxes on the fees and disbursements. Regardless of the retainer agreement, the Court will decide whether or not to approve such proposal.

The Representative Plaintiff is proposing that the application and distribution procedures be administered by the Bruneau Group which will determine, in its discretion, the amount to be paid to each applicant based on the amount of their shipping charges and that the administration costs, including the costs of notice, application, assessment, distribution and reporting, be paid out of the Settlement Funds. It is currently estimated that, depending on the number of the applications, such costs are likely to be between \$240,000.00 and \$470,000.00, in addition to any applicable taxes.

## 8. What if I do not want to be part of this lawsuit?

If the Proposed Settlement Agreement is approved by the Court at the Settlement Approval Hearing, Class Members will be bound by all of the terms of the applicable Court order and other provisions of the settlement, unless you previously excluded yourself from this lawsuit by sending the appropriate notice to Class Counsel by August 29, 2008 (in accordance with the Certification Order). To be clear: the deadline for opting out or excluding oneself from the Class Action has passed.

## **THE SETTLEMENT APPROVAL HEARING**

### **9. When and where will the Court decide on whether to grant approval of the Proposed Settlement Agreement?**

All aspects of this Proposed Settlement Agreement are subject to Court approval. At the Settlement Approval Hearing, the Ontario Superior Court will consider the Proposed Settlement Agreement and determine if it is fair and reasonable, and in the best interests of the Class. The Settlement Approval Hearing will be held on October 30, 2013 at the Court House at 361 University Avenue in Toronto at 10:00 a.m.

Following the Hearing, the Court will render its decision. If the settlement is approved, procedures for the provision of notice of the approval, application for payments by eligible class members and the determination and distribution of funds will be established.

Notice of the results of the Settlement Approval Hearing will be provided in the manner approved by the Court and may be posted on the websites listed below:

**Class Counsel for the Class Members:**

Go to: [www.blaney.com](http://www.blaney.com)

**Settlement Administrator:**

Go to: [www.parcelshippingcharges.ca](http://www.parcelshippingcharges.ca)

### **10. Must I attend the Settlement Approval Hearing?**

Attendance at the Settlement Approval Hearing is not required, even if you properly mailed a written comment of objection. If you or your personal lawyer wish to attend, you are welcome to do so at your expense. However, it is not necessary that either of you attend. As long as your comment or objection was received by Class Counsel prior to the objection deadline, the Court will consider it.

Class members who do not intend to oppose the Settlement Agreement are not required to take any further action at this time or appear at the Settlement Approval Hearing.

### **11. May I speak at the Settlement Approval Hearing?**

If you want to speak at the Settlement Approval Hearing, or have your own lawyer speak at the Settlement Approval Hearing, you should provide notice in writing on or before Monday, September 23, 2013, to Class Counsel of an intention to appear in person (*Notice of Appearance*). You should include your name, address, telephone number, fax number and email address. If you intend to have your own lawyer speak at the Settlement Approval Hearing, the Notice of Appearance should indicate the name, address, telephone number, fax number and email address of your lawyer.

## 12. What if the Proposed Settlement Agreement is not approved?

The Proposed Settlement Agreement will only become effective if it is approved by the Court at the Settlement Approval Hearing. If the Proposed Settlement Agreement is not approved, the lawsuit may continue.

### **GETTING MORE INFORMATION**

## 13. Where do I obtain more information?

If you have any questions about this lawsuit or this Notice, you may:

### **Contact Class Counsel**

Blaney McMurtry LLP  
Roderick Winsor or Julia Anagnostakis  
Tel: 416-593-2996  
Fax: 416-593-5437  
Email: [parcels@blaney.com](mailto:parcels@blaney.com)

### **Contact the Settlement Administrator**

Bruneau Group Inc.  
Lee Valley Parcel Shipping Charges Class Action  
P.O. Box 20187 – 390 Rideau Street  
Ottawa ON K1N 9P4

Go to: [www.parcelshippingcharges.ca](http://www.parcelshippingcharges.ca)  
Email: [info@parcelshippingcharges.ca](mailto:info@parcelshippingcharges.ca)  
Call: 1-800-801-2521

You may monitor the websites below for updated information on the Settlement Approval Hearing.

The Court papers relating to the Class Action and Settlement Approval Hearing are available for your review at [www.blaney.com](http://www.blaney.com), [www.parcelshippingcharges.ca](http://www.parcelshippingcharges.ca), or at the Courthouse located at 393 University Avenue, 10<sup>th</sup> Floor, Toronto, Ontario, Court File No. 06-CV-320840 CP.

DO NOT CALL the Registrar, any Judge or the Court in connection with this matter. They will not be able to answer your questions about the class action.