

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DARA FRESCO

Plaintiff

and

CANADIAN IMPERIAL BANK OF COMMERCE

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**MOTION RECORD OF THE PLAINTIFF
(Distribution Protocol Approval)
(returnable March 3, 2023)**

February 22, 2023

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Court File No. 07-CV-334113-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DARA FRESCO

Plaintiff

and

CANADIAN IMPERIAL BANK OF COMMERCE

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**NOTICE OF MOTION
Distribution Protocol Approval
(Motion Returnable March 3, 2023)**

The Plaintiffs will make a motion to the Honourable Justice Belobaba on March 3, 2023, at 11:00 a.m. or as soon after that time as the motion can be heard at Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5.

PROPOSED METHOD OF HEARING: The motion is to be heard orally, via videoconference.

THE MOTION IS FOR

Distribution Protocol

- (a) an Order that the Distribution Protocol, attached as **Schedule “A”** hereto, be approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms (“Distribution Protocol”);
- (b) an Order that the Distribution Protocol is fair, reasonable and in the best interests of the Class;
- (c) an Order that, in addition to the definitions used elsewhere in the Order, the definitions set out in the Distribution Protocol and Settlement Agreement between the Plaintiff and the Defendant, apply to and are incorporated into the Order;
- (d) an Order that the Order, including the Distribution Protocol is binding upon each member of the Class;

Administrator

- (e) an Order that RicePoint Administration Inc. and its affiliates (the “Administrator”) be appointed to administer the distribution of the Approved Settlement Notice as defined below and to implement the terms of the Distribution Protocol and Settlement;
- (f) an Order that the Administrator may apply the Distribution Protocol in assessing the individual entitlements of the Class Members to the Net Settlement Amount without further order of the Court;

- (g) an Order that the Administrator's Determinations and calculations of individual entitlements made pursuant to the Distribution Protocol are final and binding on the Class Members; and
- (h) an Order that the Administrator will be remunerated its reasonable fees and disbursements from the Settlement Fund without further approval of the Court.

Notice

- (i) an order that the Approved Settlement Notices be approved, attached hereto as
 - (i) Approved Settlement Notice (Fresco –Direct Notice) attached hereto as **Schedule “B”**;
 - (ii) Approved Settlement Notice (Fresco –Publication) attached hereto as **Schedule “C”**; and
 - (iii) Approved Settlement Notice (Fresco – Digital Banner) attached hereto as **Schedule “D”**.
- (j) an order that the Approved Settlement Notices shall be translated to French without further order of the court.
- (k) an Order that the Class shall be notified of the Settlement Approval by:
 - (i) a postage mailing of the Direct Notice attached at Schedule “B” to addresses provided by CIBC, updated against the National Change of Address Database and any updated addresses received by Class Counsel;

- (ii) a direct email notice to Class Members with valid email addresses based on the Publication notice attached as Schedule “C”;
- (iii) publication of the Digital Banner notice attached at Schedule “D” on the Google Display Network and Facebook;
- (iv) publication of the Publication Notice attached as Schedule “C” in print media consisting of advertisements in the paper editions of the Globe and Mail (National Edition), Toronto Star, Calgary Herald, The Province (Vancouver) and La Presse; and
- (v) publication of the Publication Notice attached as Schedule “C” in online versions of the Globe and Mail (National Edition), Toronto Star, Calgary Herald, The Province (Vancouver) and La Presse.

Supervision and Interpretation

- (l) an Order that, for the purposes of administration and enforcement of the Distribution Protocol and the Order, this Court will retain an ongoing supervisory role;
- (m) an Order that, in the event that the Settlement Agreement is terminated in accordance with its terms, the Order shall be declared null and void on subsequent motion made on notice; and
- (n) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE

- (a) the Plaintiff entered into the Settlement Agreement, which requires the Defendant to pay \$153,000,000 (inclusive of legal fees and disbursements, and taxes thereon, Remittances, administration costs and the statutory levy owing to the Class Proceedings Fund) for the benefit of the Class (the “Settlement Fund”);
- (b) after the payment of legal fees, disbursements, taxes, administration expenses and the Class Proceedings Fund Levy from the Settlement Fund, the balance of the Settlement Fund must be distributed to Class Members (the “Net Settlement Amount”);
- (c) the Distribution Protocol uses the Class Members’ employment Tenure, Employment Position and average wage to calculate individual entitlements;
- (d) the compensation for each class member is tailored to their individual employment history for the most equitable level of settlement compensation;
- (e) the Distribution Protocol ensures that those who worked longer for CIBC or in higher paid Employment Positions will be compensated more than those who worked for relatively shorter periods of time or in lower paid Employment Positions;
- (f) the Distribution Protocol is non-adversarial and does not require individual hearings or proof of overtime worked;
- (g) the Distribution Protocol will be an efficient and accessible method to distribute the Net Settlement Amount to the Class Members;

- (h) the Distribution Protocol is an equitable and reasonable plan for the distribution of the Net Settlement Amount to the Class Members;
- (i) the Distribution Protocol is supported by the representative Plaintiff and recommended by experienced Class Counsel;
- (j) the Administrator is an experienced class actions administrator and was only selected after a competitive tendering process;
- (k) the Administrator has the necessary skills and infrastructure to implement the Settlement and Distribution Protocol;
- (l) the proposed notice is an enhanced notice program which will drive a high take-up rate;
- (m) it is believed that the distribution of the Approved Settlement Notices will reach the vast majority of Class Members;
- (n) as a result of the dissemination of notice, Class Members will be made aware of the ability to seek compensation from the settlement;
- (o) the *Class Proceedings Act, 1992*, SO 1992, c 6; and
- (p) such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) the Affidavit of Jody Brown, affirmed February 22, 2023;
- (b) such further and other evidence as counsel may advise and this Honourable Court may permit.

February 22, 2023

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DISTRIBUTION PROTOCOL

DARA FRESCO AND SARAH GAUDET

(the “**Plaintiffs**”)

and

CANADIAN IMPERIAL BANK OF COMMERCE (the “Defendant**”)**

**CIBC OVERTIME CLASS ACTION NATIONAL DISTRIBUTION PROTOCOL
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SECTION 1- DEFINITIONS

For the purposes of this Distribution Protocol all defined terms have the same meaning as in the Settlement Agreement, unless specified otherwise.

(1) ***Employment Position*** means:

- (a) Customer Service Representatives (also formerly known as Tellers) (CSR);
- (b) Assistant Branch Managers (Level 4) (ABM);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors) (FSR);
- (d) Financial Service Associates (FSA);
- (e) Branch Ambassadors (BA); and
- (f) Other employees who performed the same or similar job functions as the above under a different or previous CIBC job title,

(2) ***Relative Share*** means the proportion of the Net Settlement Amount that individual Class Members will be entitled to.

(3) ***Tenure*** means the total calendar days between a Class Member's start date with CIBC and the Class Member's termination date with CIBC, according to the records of CIBC or as otherwise determined by the Administrator in accordance with section 6 of this Protocol, inclusive of the start and termination dates but excluding any time before or after the Class Period and excluding anytime that a Class Member did not occupy an Employment Position. For greater clarity, Tenure shall not include anytime for which a Class Member was not employed in an Employment Position within CIBC or any employment outside of CIBC.

SECTION 2– GENERAL PRINCIPLES OF THE DISTRIBUTION AND ADMINISTRATION

- (1) This Distribution Protocol is intended to govern the administration process to distribute the Net Settlement Amount recovered in the Actions.
- (2) This protocol is intended to ensure the claims procedure is user friendly, expedient, efficient and accessible to Class Members.
- (3) To ensure Relative Shares in the Net Settlement Amount are tailored to each individual Class Member, as much as reasonably possible, the Relative Share shall be a product of the yearly average wage applicable to Employment Positions held by a Class Member and the Tenure worked in each Employment Position. Class Members who worked longer in higher paying Employment Positions will receive relatively more than those who worked shorter periods of time in lower paid Employment Positions.
- (4) Class Members will not be required to establish hours worked or overtime hours worked under any circumstances. Class Members for whom Tenure and Employment Position information is available will only need to verify their identity, Social Insurance Number, contact information, and submit a Claim Form to be entitled to payment. For Class Members whose Tenure and Employment Position information is not available or disputed, the Class Member will be required to provide that information with supporting documentation, where reasonably available, and make a solemn declaration when submitting a Claim Form.

SECTION 3– DUTIES AND RESPONSIBILITIES OF THE CLAIMS ADMINISTRATOR

- (1) The Administrator shall administer this Distribution Protocol in accordance with the provisions of the Orders of the Courts, the Settlement Agreement and the ongoing authority and supervision of the Courts.
- (2) In addition to all duties imposed on the Administrator pursuant to the Settlement Agreement and otherwise as are reasonably required, requested or directed, the Administrator's duties and responsibilities shall include the following:

- (a) providing notice(s) to the Class Members as may be required;
- (b) receiving information from the Defendant, including Class Members' identifying information, start and termination dates, Employment Position(s), Tenure and average wage if available;
- (c) developing a database for calculating Class Members' Relative Share of the Net Settlement Amount pursuant to this protocol and for pre-populating the Claim Form with available Employment Position and Tenure data organized by calendar year;
- (d) making timely determinations of Class Members' Employment Positions and Tenure as required by Claim Forms and in the absence of available records from CIBC;
- (e) developing, implementing and operating the administration process including a bilingual administration website;
- (f) making timely calculations of Class Members' Relative Share of the Net Settlement Amount and notifying Class Members of their Relative Share and the inputs for the calculation;
- (g) arranging payment to Class Members in a timely fashion;
- (h) reporting the results of the administration process and the intended distributions to Class Counsel in a timely fashion, including confirming the Remittances and the dates relating thereto, but such disclosure to the Defendant will not include the disclosure of the Remittances at an individual Class Member level, including with respect to the identities of any particular Class Member to whom a payment is made under the Settlement;
- (i) performing such recalculation of the distributions as may be required by Class Counsel or if ordered by the Courts;
- (j) maintaining the administration information so as to permit Class Counsel to review the administration at the discretion of Class Counsel or if ordered by the Courts;
- (k) dedicating sufficient personnel to respond to Class Members inquiries in English or French, as the Class Member elects;

- (l) providing Class Counsel and the Defendant with the proposed process for addressing the Remittances prior to doing so in accordance with section 10.1(3) of the Settlement Agreement;
- (m) calculating the amounts of the Remittances and withholding and remitting same within the time limits required by law;
- (n) preparing and distributing T4A forms to Class Members;
- (o) remitting amounts payable to the Class Proceedings Fund;
- (p) arranging payments of Class Counsel fees and disbursements and administration expenses, as ordered or approved by the Courts;
- (q) reporting to Class Counsel respecting Claims received, determination made and administration expenses;
- (r) holding the Net Settlement Amount in the Escrow Account and making all payments from the Net Settlement Amount from the Escrow Account as authorized;
- (s) cash management and audit control; and
- (t) preparing and submitting reports and records, and responding to reasonable inquiries, as directed or requested by Class Counsel or the Courts.

SECTION 4— RELATIVE SHARE CALCULATION

- (1) For each Class Member (including, as applicable, their heirs, executors, estates, successors, and assigns who wish to make claims) who submits a valid Claim Form, the Administrator shall use the records of CIBC, or make a determination as described in Section 6 below, to assign the Class Member to an Employment Position(s) by year of the Class Period. Where a Class Member became employed, or left employment or changed their Employment Position during a calendar year, such assignment will be on a pro-rated basis.
- (2) The Administrator shall then allocate the Class Member's Tenure to specific Employment Positions by year, or portion thereof, based upon the records of CIBC or the Administrator shall make a determination as described in Section 6 below.

(3) At the end of steps (1) and (2) above, the Administrator shall have for each Class Member their Employment Position(s) by year, or portion thereof, of the Class Period and the total Tenure applicable to each of the Class Member's Employment Positions by year.

(4) The Administrator shall have or obtain information relating to the average hourly wage applicable to each Employment Position by year of the Class Period. A single estimated average hourly wage shall be used for all Employment Positions for all Tenure prior to January 1, 2003, depending on the available records of CIBC.

(5) The Administrator shall then calculate points applicable to the Class Member's Claim Form. The total points applicable to a Claim Form shall be calculated by multiplying a Class Member's Tenure by the average wage applicable to the Employment Position in a given year, represented by the following formula:

$$\text{Tenure in Employment Position} \times \text{Average wage for Employment Position} = \text{points}$$

(6) The monetary value of one (1) point shall be calculated by dividing the Net Settlement Amount by the total numbers of points calculated from all valid Claim Forms, represented by the following formula:

$$\text{Net Settlement Amount} / \text{total points for all valid claims} = \text{monetary value of one (1) point}$$

(7) The Class Member shall then be awarded the monetary value of their points by multiplying their total points for all Employment Positions in the Class Period by the monetary value of a point.

(8) For any points calculated for Tenure outside the applicable provincial limitation periods listed below, the monetary value of each point shall be reduced by 50%.

Province	Applicable Legislation	Provincial Limitation Periods
Ontario	<i>Limitations Act</i> , R.S.O. 1990, c. L. 15, s. 45	June 4, 2001 – Dec. 31, 2003
	<i>Limitations Act</i> , 2002, S.O. 2002, c. 24, Sch. B, s. 4	June 4, 2005 – June 18, 2009
Quebec	<i>Civil Code of Quebec</i> , C.Q.L.R., c. CCQ- 1991,	June 4, 2004 – June 18, 2009
British Columbia	<i>Limitation Act</i> , R.S.B.C. 1996, c. 266, s. 3	June 4, 2001 – June 18, 2009
Alberta	<i>Limitations Act</i> , R.S.A. 2000, c. L-12, s. 3	June 4, 2005 – June 18, 2009
Saskatchewan	<i>The Limitation of Actions Act</i> , R.S.S. 1978, c. L-	June 4, 2001 – May 1, 2005

	<i>The Limitations Act</i> , S.S. 2004, c L-16.1, ss. 5 and 6	June 4, 2005 – June 18, 2009
Manitoba	<i>The Limitation of Actions Act</i> , R.S.M. 1987, c.	June 4, 2001 – June 18, 2009
Nova Scotia	<i>Limitation of Actions</i> , R.S., c. 168, s. 2	June 4, 2001 – June 18, 2009
New Brunswick	<i>Limitations of Actions Act</i> , R.S.N.B. 1973, c. L-8,	June 4, 2001 – June 18, 2009
Newfoundland	<i>An Act Respecting the Limitation of Personal Actions and Guarantees and Sureties</i> , S.N.L. 1990, c. L-15, s. 2 <i>Limitations Act</i> , S.N.L. 1995, c. L-16.1, s. 9	June 4, 2001 – June 18, 2009
PEI	<i>Statute of Limitations</i> , R.S.P.E.I. 1988, c. S-7, s. 2	June 4, 2001 – June 18, 2009
NWT and Nunavut	<i>Limitation of Actions Act</i> , R.S.N.W.T. 1988, c. L-	June 4, 2001 – June 18, 2009
Yukon	<i>Limitation of Actions Act</i> , R.S.Y. 2002, c. 139, s. 2	June 4, 2001 – June 18, 2009

- (9) Some consideration may be given to whether every Class Member who submits a valid claim shall be entitled to a minimum payment, to be determined subsequently.

SECTION 5 - THE ADMINISTRATION PROCESS

- (1) Generally, the claims administration will be as follows:

(a) **Step 1: Submission of Online Claim Forms and Confirmation of Records**

The Claim Form shall be made available on a secure website that will require Class Members to enter their first and last names, date of birth, Social Insurance Number, Address, email and phone number.

When a Class Member enters their first and last name on the online Claim Form it shall display the Class Member's Employment Position(s) and Tenure in the respective Employment Position(s) by year, or portion thereof. The Class Member will be asked to agree or disagree with the records presented at the time of submitting the Claim Form.

If a Class Member disagrees with the available records, or no records are responsive to the Class Member's name, the Class Member will be required to submit a Claim Form with what they claim are the correct Employment Position(s) and Tenure by year, or portion thereof, along with any available supporting records, and make a solemn declaration upon submission. The Administrator shall then determine the

applicable Employment Position(s) and Tenure by year and notify the Class Member of their determination. The determination process shall be governed by the procedure described in Section 6.

(b) **Step 2: Correction of Deficiencies**

If the Administrator finds that deficiencies exist in a completed Claim Form, the Administrator shall forthwith notify the Class Member of the deficiencies. In order to remedy any deficiency in the completion of a Claim Form, the Administrator may require and request that additional information be submitted by a Class Member who submits a Claim Form. Such Class Members shall have until the later of the Claims Bar Deadline or sixty (60) days from the date of the request from the Administrator to rectify the deficiency, although the Administrator may consider late corrections of deficiencies in their discretion.

(c) **Step 3: Identification and Prevention of Potentially Fraudulent Claims**

The administrator shall flag potentially fraudulent claims, including those with a P.O. box address, an address outside of Canada, claims using the same mailing address, phone number or email and duplicate claims by name. Such claims will be set aside for review and follow-up by the Administrator and provided to Class Counsel.

(d) **Step 4: Calculation of Relative Share**

After all Claims Forms are received with Class Members agreeing to the available records and all final determinations of Employment Position(s) and Tenure made in accordance with Section 6, the Administrator shall calculate the Relative Share of each Class Member.

(e) **Step 5: First Distribution**

Class Members shall be sent a cheque consisting of 70% of their Relative Share, less employee and employer portions of CPP, EI and income tax withholding, and Class Proceedings Fund (“CPF”) Levy (“First Distribution”).

(f) **Step 6: Second Distribution**

Within a set time after the First Distribution, the Administrator will process the Second Distribution and distribute cheques to Class Members consisting of the remaining 30% of their Relative Share, less employee and employer portions of CPP, EI and income tax withholding, CPF Levy, and amount owing to the Fonds d'aide aux actions collectives. The Relative Shares of the Second Distribution may be adjusted and may not account for the remaining 30% of the First Distribution to account for, among other things, any errors identified following the First Distribution and potential acceptance of late claims ("Second Distribution").

(g) **Step 7: Remittance**

The Administrator will make the Remittances to the Canada Revenue Agency and any other applicable government entities, including Revenu Québec and provide T4A and related forms to Class Members, including RL-1 forms to Quebec Class Members. The Administrator will remit the CPF Levy to the CPF and, if required, any amounts owing to the Fonds d'aide aux actions collectives in Quebec.

(h) **Step 8: Report**

The Administrator will report to the Plaintiffs and Defendant upon the payment of Relative Shares to Class Members at the completion of the First and Second Distributions, or any other payment tranches, including confirming the Remittances and the dates relating thereto, but such disclosure to the Defendant will not include the disclosure of the Remittances at an individual Class Member level, including with respect to the identities of any particular Class Member to whom a payment is made under the Settlement.

SECTION 6- DETERMINATIONS OF EMPLOYMENT POSITION(S), TENURE AND EMPLOYMENT YEARS

- (1) An absence of CIBC records showing Employment Position(s) or Tenure for a Class Member shall not prohibit entitlement to a Relative Share of the Net Settlement Amount.

(2) In the event a Class Member disputes the records of CIBC regarding Tenure, Employment Position(s) or years of employment, or no such records exist, the Class Member shall complete a Claim Form and shall advise the Administrator of the claimed Employment Position(s), Tenure and years of employment and provide documentation and/or written reasons in support of their claim, all to be solemnly affirmed.

(3) The Claims Administrator may ask the Class Member further questions in their discretion, but the Class Member shall not be subject to cross-examination or inquires from the Defendant under any circumstances.

(4) The Administrator shall review the information provided in paras (2) to (3) above and make a determination as to the applicable Employment Position(s), Tenure and employment years. The principles of access to justice, expediency and accessibility shall guide all determinations. The Administrator shall, within a reasonable time frame, advise the Class Member of its determination, by email or letter mail. The determination of the Administrator is final and not subject to appeal in any court or review in any manner by any court, tribunal, board or authority.

(5) Class Counsel shall review the first thirty (30) determinations prior to the determination being communicated to the Class Member. Class Counsel may review further determinations as reasonably requested or required, and may ask for reports regarding the total determinations made and statistics regarding the outcomes of the determinations, plus further information in their discretion.

(6) No appeals shall lie by any Class Member based on distributions made substantially in accordance with this Protocol, or with any other order or judgment of the Courts. No claims shall lie against Class Counsel or the Defendant based on this Protocol, or based on any distributions made substantially in accordance with this Protocol, or the reporting or withholding of Remittances, or with any other order or judgment of the Court on any terms of this Protocol.

SECTION 7- CLASS COUNSEL

(1) Class Counsel shall oversee the claims process and provide assistance and directions to the Administrator regarding this Distribution Protocol and the claims process.

- (2) Class Counsel shall have no role in the calculation of individual entitlements or the calculation and remittance of income taxes, CPP or EI.

SECTION 8- RESIDUAL DISCRETION

- (1) Notwithstanding the foregoing, if, during the administration, Class Counsel have reasonable and material concerns that the Administration and Distribution Protocol is producing an unjust result on the whole or to any material segment of the Class Members or that a modification is required or recommended, they shall move to the Courts for approval of a reasonable modification to this Administration and Distribution Protocol or for further directions with respect to the distribution of the Net Settlement Amount.
- (2) In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, and in considering what modification may be required, Class Counsel shall seek comments or input from the Defendant and the Administrator.

SECTION 9- RESIDUAL DISTRIBUTION

- (1) If there remains any amount of the Net Settlement Amount after the distribution has been made to all valid claims in accordance with the provisions of this Distribution Protocol (as modified, if applicable), Class Counsel will make an application to the Courts to determine how such funds shall be distributed. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy-près* or article 596, paragraph 3 CCP distribution, if appropriate.
- (2) Under no circumstances will any residual amounts from the Net Settlement Amount revert to CIBC.

SECTION 10– CONFIDENTIALITY

- (1) All information received from the Defendant or the Class Members is collected, used, and retained by the Administrator pursuant to, inter alia, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, and any analogous provincial legislation as may be applicable, for the purposes of administering their Claims.
- (2) All reasonable steps shall be taken to ensure the identity of Class Members submitting Claims Forms is kept confidential from the Defendant. The Defendant shall be entitled to see aggregate statistics

on the number of claims made, average value of claims and total payment made. The Defendant will not be entitled to know the identity of Class Members who submit a Claim Form or how much individual Class Members are awarded, except as required by regulatory or tax reporting requirements.

SCHEDULE "B"

SCHEDULE "A"

APPROVED SETTLEMENT NOTICE (FRESCO – DIRECT NOTICE)

CIBC UNPAID OVERTIME CLASS ACTION – NOTICE OF SETTLEMENT APPROVAL IN *FRESCO V. CANADIAN IMPERIAL BANK OF COMMERCE*

TO: Current and former non-management, non-unionized employees of CIBC in Canada who worked at CIBC's retail branches, High Value Cluster offices or Imperial Service offices at any time from February 1, 1993 to June 18, 2009, as tellers or other front-line customer service employees, including the following:

- (a) Customer Service Representatives (also formerly known as Tellers);
- (b) Assistant Branch Managers (Level 4);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors);
- (d) Financial Service Associates;
- (e) Branch Ambassadors; and

And other employees who performed the same or similar job functions as the above under a different or previous CIBC job title.

This Notice is directed to all individuals who fall within the definition noted above, except those who previously took steps in 2013 to opt-out of (i.e. ask to be removed from and not bound by any outcome in) the case.

You are receiving this notice because a review of the records of the Defendant indicates that you are a Class Member (as described and defined above) in this unpaid overtime class action lawsuit. You were previously notified of the certification of this action by the Court-approved Notice of Certification dated ● and Notice of Settlement Approval Hearing dated ●.

A SETTLEMENT HAS BEEN APPROVED IN THE CLASS ACTION AGAINST CIBC FOR UNPAID OVERTIME

**PLEASE READ THIS NOTICE CAREFULLY. IT DESCRIBES WHAT YOU NEED TO
DO IN ORDER TO BE COMPENSATED**

For more information about this class action and the settlement, please visit the following website cibcunpaidovertime.ca. If you have further questions, you can also contact the Settlement Administrator by email at info@cibcunpaidovertime.ca, or by phone at [1-877-313-3133](tel:1-877-313-3133).

What was the case, and what is the settlement?

The common issues to be decided by the Court were:

1. Did the Defendant have a duty (in contract or otherwise) to prevent Class Members from working, or a duty not to permit or not to encourage Class Members to work, overtime hours for which they were not properly compensated or for which the Defendant would not pay? If "yes", did the Defendant breach that duty?
2. Did the Defendant have a duty (in contract or otherwise) to accurately record and maintain a record of all hours worked by Class Members to ensure that Class Members were appropriately compensated for same? If "yes", did the Defendant breach that duty?
3. If the answer to common issues 1(a) or 2(a) is "yes", and to the extent found necessary by the common issues trial judge, did the Defendant thereby require or permit all uncompensated hours of the class members?
4. What are the relevant terms (express or implied or otherwise) of the Class Members' contracts of employment with the Defendant respecting:
 - a. Regular and overtime hours of work?
 - b. Recording of the hours worked by Class Members?
 - c. Paid breaks?
 - d. Payment of hours worked by Class Members?
5. Did the Defendant breach any of the foregoing contractual terms?
6. Was the Defendant enriched by failing to pay Class Members appropriately for all their hours worked? If "yes",
 - a. Did the class suffer a corresponding deprivation?
 - b. Was there no juristic reason for the enrichment?
7. If the answer to any of common issues 1, 2, 3, 5 or 6 is "yes", what remedies are Class Members entitled to?
8. If the answer to any of common issues 1, 2, 3, 5 or 6 is "yes", is the Class entitled to an award of aggravated, exemplary or punitive damages based upon the Defendant's conduct? If "yes" (i) Can these damages be determined on an aggregate basis? and (ii) What is the appropriate method or procedure for distributing any aggregate aggravated, exemplary or punitive damages to Class Members?

9. Can the defendant's monetary liability be determined on an aggregate basis? If so, in what amount?

The plaintiff Dara Fresco sought compensatory and punitive damages pursuant to each of these questions.

Under the Court-approved settlement, CIBC will pay a total \$153 million to settle the case. The \$153 million covers all compensation to the Class Members for all unpaid potential overtime or hours of work for the period between February 1, 1993 and June 18, 2009 as well as withholding taxes, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, and a statutory levy (as discussed further below). The Superior Courts of Ontario and Quebec approved the settlement as being fair, reasonable and in the best interests of the Class in reasons for decision released on ● and ●.

The settlement will result in payment of compensation to every eligible class member. Class members will not have to prove their claims and the claims will be administered by an independent claims administrator. **CIBC will have no role in the consideration or payment of claims and will not know the identities of which class members make claims.¹**

What should I do?

If you are an eligible Class member and want money from the Settlement, complete the enclosed Settlement Payment Form and mail it to ● or complete the form online at ●. You must send the completed form by no later than ● (the "Filing Deadline"). After you complete the form and after the Filing Deadline has passed, you will get a cheque and letter explaining how the cheque was calculated.

Class members' share of the settlement fund will be based on a Distribution Protocol that will take into account the length of time, during the class period, that class members worked in one of the affected positions, as well as the specific position or positions worked. The amount that each Class member receives will also depend on how many Class Members make claims.

The compensation paid to Class members will be paid from the amount of money remaining after deducting the Court-approved legal fees and disbursements (including taxes) as well as the costs of administering and distributing the money to Class Members, from the \$153 million.

All amounts paid to Class Members will be subject to any relevant deductions (including deduction and remittance to the Canada Revenue Agency), and a statutory levy to be paid to the Class Proceedings Fund.² Class members will need to complete a claim form in order to receive compensation.

¹ In the event the independent claims administrator requires additional information from CIBC requiring specific claims, the identity of any individual claimant will not be disclosed to CIBC without the express consent of the claimant and Class Counsel.

² The Class Proceedings Fund, a body established by statute to provide support for class actions brought in Ontario. Further information about the Class Proceedings Fund can be found at <https://lawfoundation.on.ca/for-lawyers-and-paralegals/class-proceedings-fund/>. In exchange for

You can read the full Distribution Protocol at www.cibcunpaidovertime.ca.

Where can I ask more questions?

For more information, please visit cibcunpaidovertime.ca. If you have questions that are not answered online or by email, **please contact the Court-appointed administrator** ● by email at ●, or by phone at ●.

The law firms of Sotos LLP, Roy O'Connor LLP, and Goldblatt Partners LLP are Class Counsel and represent members of this class action in Canada.

Goldblatt Partners LLP can be reached at:

Telephone: 416-979-4233
Email: tatherfold@goldblattpartners.com
Mail: 20 Dundas Street West, Suite 1039, Toronto ON M5G 2C2

Roy O'Connor can be reached at:

Telephone: 416-362-1989
Email: info@royoconnor.ca
Mail: 1920 Yonge Street, Suite 300, Toronto ON M4S 3E6

Sotos LLP can be reached at:

Telephone (toll free): 1-888-977-9806
Email: info@sotosclassactions.com
Mail: 180 Dundas Street West, Suite 1200, Toronto ON M5G 1Z8

Counsel for CIBC can be reached at: 79 Wellington St. W., 30th Floor (deliveries) / 33rd Floor (reception) Box 270, TD South Tower Toronto, ON M5K 1N2 Canada, (416) 865-0040.

Interpretation

This notice contains a summary of some of the terms of the Settlement Agreement and the Distribution Protocol. If there is a conflict between the provisions of this notice and the Settlement Agreement or Distribution Protocol, the terms of the Settlement Agreement or Distribution Protocol, as applicable, shall prevail.

PLEASE DO NOT CALL CIBC, THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION.

This notice was approved by the Ontario Superior Court of Justice.

its support, the Class Proceedings Fund is entitled to repayment of monies advanced plus 10% of net settlement funds payable to Class members (i.e. after legal fees, taxes, disbursements and administration expenses). In this case, the Class Proceedings Fund's levy will amount to approximately ● of the total settlement.

SCHEDULE "C"

SCHEDULE "B"

APPROVED SETTLEMENT NOTICE (FRESCO – PUBLICATION)

CIBC UNPAID OVERTIME CLASS ACTION - SETTLEMENT APPROVED IN *FRESCO V. CANADIAN IMPERIAL BANK OF COMMERCE*

If you were a CIBC front-line retail branch employee in Canada between February 1, 1993 and June 18, 2009 you could receive compensation in this class action settlement.

A class action was brought against CIBC on behalf of CIBC retail branch employees in Canada who were employed between February 1, 1993 and June 18, 2009. The class action lawsuit alleges that CIBC's overtime policies and record-keeping systems contravened the Canada Labour Code, resulting in front-line bank employees not being compensated for overtime. The representative plaintiff, Dara Fresco, sought compensatory and punitive damages for herself and on behalf of the class.

A settlement for \$153 million has been reached with CIBC.

The settlement applies to the following group of people (except those who previously took steps in 2013 to opt-out of (i.e. ask to be removed from and not bound by the outcome in) the case:

(1) Current and former non-management, non-unionized employees of CIBC in Canada who worked at CIBC's retail branches, High Value Cluster offices or Imperial Service offices at any time from February 1, 1993 to June 18, 2009, as tellers or other front-line customer service employees, including the following:

- (a) Customer Service Representatives (also formerly known as Tellers);
- (b) Assistant Branch Managers (Level 4);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors);
- (d) Financial Service Associates;
- (e) Branch Ambassadors; and

And other employees who performed the same or similar job functions as the above under a different or previous CIBC job title.

Under the Court-approved settlement, CIBC will pay a total \$153 million to settle the case. The \$153 million covers all compensation to the Class Members for all unpaid potential overtime or hours of work for the period between February 1, 1993 and June 18, 2009 as well as withholding taxes, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, and a statutory levy.

The settlement will result in payment of compensation to every eligible class member. Class members will not have to prove their claims and the claims will be administered by an independent claims administrator. **CIBC will have no role in the consideration or payment of claims and will not know the identities of which class members make claims.**³

What should I do?

If you are an eligible Class member and would like to make a claim, or obtain more information about the settlement, obtain the contact information of the claims administrator and legal counsel in the file, or obtain the method for distributing funds please visit: <https://cibcunpaidovertime.ca/>.

This notice was approved by the Ontario Superior Court of Justice.

³ In the event the independent claims administrator requires additional information from CIBC requiring specific claims, the identity of any individual claimant will not be disclosed to CIBC without the express consent of the claimant and Class Counsel.

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SCHEDULE "D"

SCHEDULE "C"

APPROVED SETTLEMENT NOTICE (FRESCO – DIGITAL BANNER)

Were you a CIBC front-line retail branch employee in Canada between February 1, 1993 and June 18, 2009? You may be entitled to a share of a \$153 million settlement of an overtime class action. Click [here](#) for more information.

DARA FRESCO
Plaintiff

-and-

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant

Court File No. 07-CV-334113PD2

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

NOTICE OF MOTION
(DISTRIBUTION PROTOCOL APPROVAL)

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Lawyers for the Plaintiff

Court File No. 07-CV-334113CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DARA FRESCO

Plaintiff

and

CANADIAN IMPERIAL BANK OF COMMERCE

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF JODY BROWN
Distribution Protocol Approval
(Affirmed February 22, 2023)**

I, Jody Brown, of the City of Toronto, in the Province of Ontario, SOLEMNLY AFFIRM
AS FOLLOWS:

1. I am a partner with the law firm of Goldblatt Partners LLP, which together with Sotos LLP and Roy O'Connor LLP, are Class Counsel herein. I have worked at Goldblatt Partners LLP since January 2019 and have first-hand knowledge of this file since that time, including as part of the Class Counsel team during the course of the settlement negotiations described below. In respect of the facts deposed to that are outside my first-hand experience, I have informed myself by reviewing file correspondence and by speaking with other members of the Class Counsel team who have been involved since the commencement of this case in 2007, including Steven Barrett of Goldblatt Partners LLP, Louis Sokolov of Sotos LLP and Adam Dewar of Roy O'Connor LLP. All of the information I have deposed to, I verily believe to be true.

2. When I use capitalized terms in this affidavit, the terms are intended to have the same meaning as in my affidavit affirmed February , 2023 in support of Settlement Approval (the “**Settlement Approval Affidavit**”), the Settlement Agreement itself, and the Distribution Protocol, unless defined otherwise. This affidavit should be read in conjunction with the Settlement Approval Affidavit, the contents of which I adopt herein.

NATURE OF THE MOTION

3. This motion is for an order approving the Distribution Protocol pursuant to the Settlement Agreement dated December 28, 2022 (the “**Settlement Agreement**”). The Distribution Protocol dictates the method by which each Class Member’s Relative Share of the Net Settlement Amount will be allocated.

4. My affidavit in support of this motion addresses the following topics, in the following order:

- a) Objectives of the Distribution Protocol
- b) Time-Stamped Records Supporting the Protocol
- c) Description of the Proposed Distribution Protocol
- d) Settlement Administrator
- e) Notice

5. A copy of the proposed Distribution Protocol is marked as **Exhibit “A”** to my affidavit.

A) OBJECTIVES OF THE DISTRIBUTION PROTOCOL

6. The proposed Distribution Protocol is designed to meet two principal objectives:

- a) to facilitate an expeditious, non-adversarial and practical distribution of the entire Net Settlement Amount to the Class Members and encourage the highest take-up rate possible; and
- b) to provide compensation which is easily understood by Class Members and is individualized based on a Class Member's work history with CIBC.

7. As set out further below, Class Counsel believe that the proposed Distribution Protocol achieves the above objectives. This is the largest employment settlement Class Counsel is aware of, covering more than 31,000 Class Members. To ensure that the distribution will not become bogged down in multiple determinations, the protocol prioritizes a straight forward distribution approach. Each Class Member's Relative Share of the Net Settlement Amount will be a function of their employment Tenure and the average wage applicable to the Employment Position(s) they held during the Class Period.

8. The distribution process is intended to be an administrative procedure in which no Class Member will have to prove their claim.

9. The Settlement Fund is non-reversionary and the entire Net Settlement Amount will be distributed to Class Members pursuant to the proposed protocol, subject to any *cy-pres* resulting from uncashed cheques. The distribution will utilize the available employment records of CIBC that specify Class Member Tenure and Employment Position(s). When records do not exist, the Claims Administrator will determine a Class Member's Tenure and Employment Position(s) based

on information that the Class Member will be asked to provide (as discussed below). The Defendant will be entitled to overall claims statistics but will have no role in determining any Class Member's Relative Share of the Net Settlement Amount and will not be advised of which Class Members make claims.

B) TIME-STAMPED DATA AND WORKING HOUR RECORDS

10. A central allegation in the class action, and a finding by the Court, was that the Defendant failed to accurately record and monitor all hours of work. As a result, there are no standardized records showing which work hours were not compensated.

11. The distribution protocol is therefore influenced by the time-stamped data that formed the basis for the Plaintiff's evidence in support of aggregate damages. The time-stamped records, produced by the Defendant in respect of Common Issue 9, generally consisted of records of computer activity for all class positions, as well as "blotter" sheets used by Customer Service Representatives "CSRs" to balance at the end of a day . The Plaintiff's proposed methodology for the calculation of aggregate damage used these records, to estimate time that was not compensated.

12. The extensive analysis of the available time-stamped records, blotters and payroll data, that formed the basis for the Plaintiff's claim for aggregate damages, has influenced the design of the Distribution Protocol. In particular:

- (a) The time-stamped data showed a correlation between increased Tenure and greater uncompensated work time;
- (b) The payroll data confirmed that the average yearly wage for the different Employment Positions varied by position. As well, for each Employment Position,

the average wage increased each year. The average wage for each Employment Position from 2003-2009 is set out below:¹

Year	Position				
	ABM	BA	CSR	FSA	FSR
2003	\$ 17.18	\$ 13.59	\$ 12.16	\$ 17.99	\$ 14.64
2004	\$ 17.98	\$ 14.13	\$ 12.51	\$ 18.22	\$ 15.00
2005	\$ 18.55	\$ 14.93	\$ 12.74	\$ 18.86	\$ 15.13
2006	\$ 18.83	\$ 15.07	\$ 12.97	\$ 19.03	\$ 15.05
2007	\$ 19.29	\$ 15.43	\$ 13.37	\$ 19.62	\$ 15.54
2008	\$ 19.69	\$ 15.94	\$ 13.67	\$ 20.14	\$ 16.15
2009	\$ 19.96	\$ 16.38	\$ 14.01	\$ 20.51	\$ 16.57

- (c) The payroll data contains records of the tenure of Class Members.
- (d) The payroll data contains records showing which position(s) were held by individual Class Members during the Class Period.

C) DISTRIBUTION PROTOCOL

(a) Summary of Protocol

13. The proposed Distribution Protocol is marked as **Exhibit “A”** to this affidavit. A copy of the Distribution Protocol was delivered with the direct notice mailing that was distributed for notice of the settlement approval hearing. The Protocol has also been published on the websites of Class Counsel and www.CIBCunpaidovertime.ca since January 19th. As of the date of this affidavit, no objections to the Protocol have been received.

¹ As described below, wage information for 1993-2003 is not available. Wages for this period will be calculated based on extrapolating backwards from 2003-2009 rates, as adjusted by CPI.

14. The Distribution Protocol contains the following elements, each detailed further below:

- (a) Compensation will be calculated based on a Class Member's Tenure, Employment Position(s) and average wage with CIBC;
- (b) To the extent available, the Claims Administrator will be provided the Tenure, Employment Position(s) and average wage for each Class Member;
- (c) When a Class Member makes a claim through an online claims portal, the claims portal will pre-populate information about the Class Member's Tenure, Employment Position(s) and average wage. Class Members will not be required to provide any further evidence or historical work records;
- (d) In the event that records do not exist for a Class Member, or they disagree with the available records, they will be entitled to submit records or reasons to demonstrate their Tenure and Employment Position(s), all to be solemnly affirmed. The Claims Administrator will then determine their Relative Share. The Defendant has no role in this determination;
- (e) Presumptively statute-barred time will be discounted by 50%;
- (f) There will be a two-stage distribution, ensuring any discrepancies or errors in the distribution can be remedied, as described fully at paragraph X; and
- (g) The Administrator will be responsible for making all Remittances (as that term is defined in the Settlement Agreement) from the compensation payments, such as

income tax deductions, CPP and EI employee and employer side contributions and remittances as necessary.

(b) Individualized Compensation Calculations

15. The Distribution Protocol accounts for the differing work of Class Members over the Class Period. The individual factors considered are:

- a) Employment tenure;
- b) Employment position(s);
- c) The Average Wage used for Employment Positions will be by year of the class period for 2003-2009, tailoring compensation to the particular year a Class Member worked. For the years 1993-2002, records are not available for yearly average wages and a single average wage will be used, based on extrapolating backwards from 2003-2009 rates, as adjusted by CPI; and
- d) A limitation period discount of 50% (as noted above) will be applied based on when a Class Member worked and specific to the limitation statute of the Class Member's province or territory of residence.

16. Once a Class Member submits a claim, the Claims Administrator will calculate points applicable to the Class Member's Claim for each employment position on the basis of the Class Member's Tenure, Employment Position(s) and applicable average wage. The total points applicable to a Claim shall be calculated by multiplying a Class Member's Tenure by the average

wage applicable to the Employment Position(s) in a given year, represented by the following formula:

Tenure in Employment Position X Average wage for Employment Position = points

17. The monetary value of one (1) point shall be calculated by dividing the Net Settlement Amount by the total numbers of points calculated from all valid Claim Forms, represented by the following formula:

Net Settlement Amount / total points for all valid claims = monetary value of one (1) point

18. The Class Member shall then be awarded the monetary value of their points by multiplying their total points for all Employment Positions in the Class Period by the monetary value of a point. For any points calculated for Tenure outside the applicable provincial limitation period for the Class Member, the monetary value of each point shall be reduced by 50%.

19. Using the above method, the Claims Administrator will be able to calculate what each Class Member's Relative Share of the Net Settlement Amount will be using individualized information in an expeditious and cost-effective manner. The protocol ensures that each Class Member's compensation will be tailored to their specific work history and provincial/territorial limitation period.

20. The Plaintiff's expert concluded that the total work months for the Class consisted of 1,744,960 months. By way of illustration, below is a chart summarizing the gross settlement value before deductions for legal fees, disbursements, taxes and the CPF levy for various hypothetical Tenures and take-up rates. Class Counsel has used hypothetical take-up rates of 40% and 65%, based on total months in the Class. In Class Counsels' experience, the take-up rates in employment

class action settlements range from a low of approximately 20% in an individual claims process² to a high of 65% in a claims process, like this one, with a simple, one-page, form.³ Class Counsel has also assumed, for illustration only, that at each Take-up rate, 30% of the total claimed months are subject to a limitations discount.

21. Two hypothetical claimants are illustrated below, one claimant has a 5 year career with no limitations discount, another claimant has an 8 year career wherein half their career is subject to a limitations discount. The gross amounts below, like regular employment income, would be subject to withholding taxes and any deductions for CPP and EI.

	5 year Tenure (all timely)	8 year Tenure (half subject to limitations discount)
100% Take-up (\$103.15 per timely month) (\$51.58 per limitations discounted month)	\$6,189	\$7,427.04
65% Take-up (\$158.70 per timely month) (\$79.35 per per limitations discounted month)	\$9,522	\$11,426.40
40% Take-up (\$257.89 per timely month) (\$128.94 per limitations discounted month)	\$15,473	\$18,567.84

² *Fulawkwa v. BNS*

³ *Rosen v. BMO*

(c) No Need for Individual Proof and User-Friendly Claims Procedure

22. The Distribution Protocol was designed to eliminate the need for any form of individual proof of working hours and ensure a user-friendly, non-adversarial procedure. By contrast, requiring individual proof of unpaid working time through a contested claims-made settlement would likely deter a high take-up rate and would be challenging for claims that go back 30 years in time. Moreover, in the absence of records of actual hours worked, most Class Members would have difficulty establishing their claims.

23. As discussed above, the Claims Administrator in this case will be provided with the available employment records for Class Members to identify their Tenure and Employment Position(s). The Claims Administrator will further establish an online portal that will advise Class Members of the available Tenure and Employment Position(s) records when a claim is submitted.

24. To submit a Claim through the online portal, a Class Member will only be required to provide:

- (a) First name, middle name and last name;
- (b) Date of birth;
- (c) SIN number; and
- (d) Contact information.

25. The claims portal will then pre-populate the Class Member's Claim Form with the available employment information regarding Tenure and Employment Position(s). Class Members can then agree or disagree with the available information.

26. The estates of deceased Class Members are also entitled to make claims and will be able to take advantage of any available employment records.

27. The online portal is intended to be a ‘one-stop shop’ wherein the Class Member can make a claim and simultaneously be advised of the available records that will be used to calculate their individual compensation.

28. For what we anticipate to be a relatively small number of Class Members for whom records of Tenure and Employment Position(s) are not available, or for those Class Members who disagree with the available records, Class Members can submit their own records or statements. This process is subject to a Class Member solemnly affirming that their submission is true. Under no circumstances will a Class Member be cross-examined or will the Defendant be permitted to make inquiries. The Claims Administrator solely determines the resulting Tenure and Employment Position(s) from a Class Member’s submission and is directed to do so considering the principles of access to justice, accessibility and expediency (a “Determination”).

29. Class Counsel is entitled to review the first thirty (30) Determinations made by the Claims Administrator and may subsequently request statistics on Determinations or additional reviews going forward.

(d) Limitation Period Discount

30. The Distribution Protocol also recognizes that part of the Class Period covers periods which are presumptively statute-barred. The particular limitation periods will vary depending on the province or territory where the Class Member worked. The practical implication of the limitation periods is that, even if the Plaintiff had obtained an award of aggregate damages at a contested

hearing that covered the presumptively statute-barred period (a best case scenario), it was likely that damages for individual Class Members during these periods could still be subject to individual rebuttals. This individual rebuttal of limitation periods was a significant risk, as noted by the Court of Appeal and discussed in my Settlement Approval affidavit. Class Members with time that was presumptively statute-barred could have been required to engage in an individualized claims-based process. That process would be time consuming, open the Class Member to potential adverse costs and would still carry the risk of loss. Class Counsel estimate that the odds of Class members individually overcoming the presumptive limitation periods (based on an alleged reliance on a misrepresentation by CIBC about the legality of its policy) at no better than 50/50, and arguably less.

31. Accordingly, Class Members' employment Tenure that is outside their applicable presumptive provincial/territorial limitation period, relative to the issuance of the Statement of Claim, will have a discount applied. Under the Distribution Protocol, all Tenure prior to the presumptive limitation bar will be discounted by 50%. Class Counsel also believes this discount is fair for the Class as a whole and ensures that those with stronger claims are not subsidizing Class Members with weaker claims.

32. We also noted that reductions of 40% to 50% have been used in other class action settlements approved by our courts, including:

- (a) *Bozsik v Livingston International Inc.*;
- (b) *Baroch v. Canada Cartage*; and
- (c) *Aps v. Flight Centre Travel Group (Canada) Inc.*

(e) Two Stage Distribution

33. The distribution will be done in two stages to permit the remediation of any errors. Thirty percent (30%) of the Relative Shares will be held back from the first distribution to be available, if necessary, to compensate for any errors in individual entitlements as calculated under the first phase/distribution, as well as entitlements of any Class Members mistakenly left off the class list or for whom notice was not received prior to the first distribution. Pending distribution, this money, like the rest of the Net Settlement Fund, will be held in interest-bearing instruments. The 30% will then subsequently be distributed pro-rata amongst the Class Members, net of any funds distributed to correct potential administration errors.

E) SETTLEMENT ADMINISTRATOR

34. Class Counsel is proposing RicePoint Administration Inc. (“RicePoint”) as Claims Administrator.

35. RicePoint is an experienced Canadian claims administrator affiliated with KCC, a leading class action settlement administration company in the United States. RicePoint and KCC are both owned by Computershare. Computershare is a large multinational company that provides payroll services, pension services, accounting and a range of other administration services for public and private companies. An outline of the relevant experience and infrastructure of RicePoint, KCC and Computershare is collectively marked as **Exhibit “B”** to this affidavit.

36. RicePoint has significant experience in settlement administration of employment class actions and most recently successfully administered a settlement in the *Livingston* employment class action referenced in my Settlement Approval affidavit. RicePoint’s experience includes multi

province employment cases in Canada that involved the distribution of T4 slips and remittances.

Those cases include:

- (a) *Bozsik v. Livingston International Inc.*;
- (b) *Horner v. Primary Response Inc.*;
- (c) *Grigoryev v. Russell Security Services Inc.*; and
- (d) *Baroch v. Canada Cartage*;

37. KCC has experience administering employment settlements in the United States and will be able to utilize this experience to administer the within Settlement. There have been fewer employment class action settlements in the Canada relative to the United States. RicePoint, and RicePoint's project managers, have also worked on several Canadian employment class actions that have been administered by third parties.⁴

38. RicePoint was selected after a tendering process between RicePoint and Epiq Class Action Services Canada Inc. (Epiq), the two principal settlement administration companies operating in Canada with experience administering employment class action settlements. Both administrators were asked to submit detailed cost estimates, and Class Counsel conducted conference calls with each administrator. The respective cost of each estimate was a consideration, although not, in and of itself, determinative. Class Counsel were of the opinion that RicePoint, in conjunction with KCC, had greater experience and infrastructure to administer an employment settlement of this

⁴ RicePoint project managers worked on both *Rosen v. BMO* and *Corless v. KPMG*.

scope and would administer the settlement more cost-effectively. The Defendant has agreed to RicePoint acting as administrator.

39. RicePoint estimates that the administration expense for this case will be between \$513,083 and \$657,701, depending on the take-up rate.⁵ A copy of RicePoint's estimate for administration is marked as **Exhibit "C"** to this affidavit. In order to carry out the administration, the available employment information regarding Tenure, Employment Position(s) and average wages will have to be collected and programmed into a distribution tool that can be used by the Claims Administrator to easily calculate each Class Member's Relative Share. Class Counsel presently has not confirmed whether its expert on aggregate damages, the Berkeley Research Group, or a different expert will perform this work. We have been advised by BRG that it will cost approximately \$65,000 to create a distribution tool using Class Member employment records.

F) NOTICE

40. The most up to date class list contains 31,785 class members (excluding opt-outs), of which 3,368 are current employees. Within the most recent class list, CIBC has been able to provide last known or current addresses for each Class Member and, when available, personal email addresses and telephone numbers, except for 13 Class Members. The source for the class list was CIBC's benefits application (TBA), which is the record for terminated employees' address information and contains a daily update for active employees, ensuring the information is current. The source for the data also includes available information from CIBC's database for retired Class Members with a pension.

⁵ For a 40% take-up rate RicePoint estimates that administration will cost \$513,083, for a 65% take-up rate, RicePoint estimates that administration will cost \$657,701.

41. Class Members who reside in Quebec will receive French and English notices and Class Members who reside outside Quebec will receive English notices.

42. In order to notify the Class Members, Class Counsel has proposed an enhanced notice program created in conjunction with RicePoint and KCC. The notice program consists of:

- (a) a direct postage mailing to addresses provided by CIBC, updated against the National Change of Address Database and any updated addresses received by Class Counsel;

A copy of the proposed Direct Notice is attached as **Exhibit “D”**

- (b) An email notice to Class Members with valid email addresses based on the Publication Notice;

A copy of the proposed Publication Notice is attached as **Exhibit “E”**

- (c) A digital media campaign consisting of a digital media banner displayed on Google Display Network and Facebook that will likely generate over 1 million impressions;

A copy of the digital media banner is attached as **Exhibit “F”**

- (d) Publication of the Publication Notice in print media consisting of advertisements in the paper editions of the Globe and Mail (National Edition), Toronto Star, Calgary Herald, The Province (Vancouver) and La Presse; and

- (e) Publication of the Publication Notice in online versions of the Globe and Mail (National Edition), Toronto Star, Calgary Herald, The Province (Vancouver) and La Presse.

43. By the time that the claims procedure is commenced Class Members will have already been provided with notice of certification, notice of the settlement approval hearing, press releases regarding the settlement and general media coverage. Direct notice spillover will also have raised awareness, which occurs when former employees receive direct notice and pass it on to other colleagues or acquaintances they previously worked with.

(a) Take-up Rate and Compensation

44. The take-up rate will impact the quantum received by any individual Class Member under the Distribution Protocol. There is no reversion in respect of the Net Settlement Amount and the distribution is not a claims-made procedure subject to caps. The fewer the number of claimants, the greater each individual's Relative Share of the Net Settlement Amount will be.

45. While the distribution protocol has been designed to be as user friendly as possible with the goal of achieving a high take-up rate, inevitably some Class Members will not seek their share of the Net Settlement Amount. In such case, their share will be redistributed (*pro rata*) among the rest of the Class. Class Counsel has created a protocol to makes the claims procedure as user friendly as possible and no part of the Net Settlement Amount will revert to the Defendant.

G) CONCLUSION

46. The proposed Distribution Protocol seeks to strike a balance between individualized compensation and an efficient and expeditious distribution, given the size of the Class. The protocol uses available employment records to avoid the need for any individual proof. The claim process is also non-adversarial and confidential for the Class Members. Class Counsel is of the belief that the method for distributing the Net Settlement Amount is a fair and reasonable manner to distribute compensation to the Class.

AFFIRMED by Jody Brown of the City of Toronto before me at the City of Toronto, in the Province of Ontario on February 22, 2023 in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely.



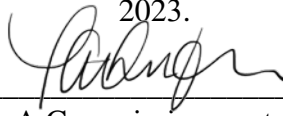
Commissioner for Taking Affidavits
(or as may be)



JODY BROWN

Tanya Atherfold-Desilva, a
Commissioner, etc. Province of Ontario
for Goldblatt Partners LLP, Barristers and
Solicitors. Expires September 8, 2024.

This is Exhibit “A” to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to read "J. Brown", is written over a horizontal line.

A Commissioner, etc.

DISTRIBUTION PROTOCOL

DARA FRESCO AND SARAH GAUDET

(the “**Plaintiffs**”)

and

CANADIAN IMPERIAL BANK OF COMMERCE (the “**Defendant**”)

**CIBC OVERTIME CLASS ACTION NATIONAL DISTRIBUTION PROTOCOL
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SECTION 1- DEFINITIONS

For the purposes of this Distribution Protocol all defined terms have the same meaning as in the Settlement Agreement, unless specified otherwise.

(1) ***Employment Position*** means:

- (a) Customer Service Representatives (also formerly known as Tellers) (CSR);
- (b) Assistant Branch Managers (Level 4) (ABM);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors) (FSR);
- (d) Financial Service Associates (FSA);
- (e) Branch Ambassadors (BA); and
- (f) Other employees who performed the same or similar job functions as the above under a different or previous CIBC job title,

(2) ***Relative Share*** means the proportion of the Net Settlement Amount that individual Class Members will be entitled to.

(3) ***Tenure*** means the total calendar days between a Class Member's start date with CIBC and the Class Member's termination date with CIBC, according to the records of CIBC or as otherwise determined by the Administrator in accordance with section 6 of this Protocol, inclusive of the start and termination dates but excluding any time before or after the Class Period and excluding anytime that a Class Member did not occupy an Employment Position. For greater clarity, Tenure shall not include anytime for which a Class Member was not employed in an Employment Position within CIBC or any employment outside of CIBC.

SECTION 2– GENERAL PRINCIPLES OF THE DISTRIBUTION AND ADMINISTRATION

- (1) This Distribution Protocol is intended to govern the administration process to distribute the Net Settlement Amount recovered in the Actions.
- (2) This protocol is intended to ensure the claims procedure is user friendly, expedient, efficient and accessible to Class Members.
- (3) To ensure Relative Shares in the Net Settlement Amount are tailored to each individual Class Member, as much as reasonably possible, the Relative Share shall be a product of the yearly average wage applicable to Employment Positions held by a Class Member and the Tenure worked in each Employment Position. Class Members who worked longer in higher paying Employment Positions will receive relatively more than those who worked shorter periods of time in lower paid Employment Positions.
- (4) Class Members will not be required to establish hours worked or overtime hours worked under any circumstances. Class Members for whom Tenure and Employment Position information is available will only need to verify their identity, Social Insurance Number, contact information, and submit a Claim Form to be entitled to payment. For Class Members whose Tenure and Employment Position information is not available or disputed, the Class Member will be required to provide that information with supporting documentation, where reasonably available, and make a solemn declaration when submitting a Claim Form.

SECTION 3– DUTIES AND RESPONSIBILITIES OF THE CLAIMS ADMINISTRATOR

- (1) The Administrator shall administer this Distribution Protocol in accordance with the provisions of the Orders of the Courts, the Settlement Agreement and the ongoing authority and supervision of the Courts.
- (2) In addition to all duties imposed on the Administrator pursuant to the Settlement Agreement and otherwise as are reasonably required, requested or directed, the Administrator's duties and responsibilities shall include the following:

- (a) providing notice(s) to the Class Members as may be required;
- (b) receiving information from the Defendant, including Class Members' identifying information, start and termination dates, Employment Position(s), Tenure and average wage if available;
- (c) developing a database for calculating Class Members' Relative Share of the Net Settlement Amount pursuant to this protocol and for pre-populating the Claim Form with available Employment Position and Tenure data organized by calendar year;
- (d) making timely determinations of Class Members' Employment Positions and Tenure as required by Claim Forms and in the absence of available records from CIBC;
- (e) developing, implementing and operating the administration process including a bilingual administration website;
- (f) making timely calculations of Class Members' Relative Share of the Net Settlement Amount and notifying Class Members of their Relative Share and the inputs for the calculation;
- (g) arranging payment to Class Members in a timely fashion;
- (h) reporting the results of the administration process and the intended distributions to Class Counsel in a timely fashion, including confirming the Remittances and the dates relating thereto, but such disclosure to the Defendant will not include the disclosure of the Remittances at an individual Class Member level, including with respect to the identities of any particular Class Member to whom a payment is made under the Settlement;
- (i) performing such recalculation of the distributions as may be required by Class Counsel or if ordered by the Courts;
- (j) maintaining the administration information so as to permit Class Counsel to review the administration at the discretion of Class Counsel or if ordered by the Courts;
- (k) dedicating sufficient personnel to respond to Class Members inquiries in English or French, as the Class Member elects;

- (l) providing Class Counsel and the Defendant with the proposed process for addressing the Remittances prior to doing so in accordance with section 10.1(3) of the Settlement Agreement;
- (m) calculating the amounts of the Remittances and withholding and remitting same within the time limits required by law;
- (n) preparing and distributing T4A forms to Class Members;
- (o) remitting amounts payable to the Class Proceedings Fund;
- (p) arranging payments of Class Counsel fees and disbursements and administration expenses, as ordered or approved by the Courts;
- (q) reporting to Class Counsel respecting Claims received, determination made and administration expenses;
- (r) holding the Net Settlement Amount in the Escrow Account and making all payments from the Net Settlement Amount from the Escrow Account as authorized;
- (s) cash management and audit control; and
- (t) preparing and submitting reports and records, and responding to reasonable inquiries, as directed or requested by Class Counsel or the Courts.

SECTION 4— RELATIVE SHARE CALCULATION

- (1) For each Class Member (including, as applicable, their heirs, executors, estates, successors, and assigns who wish to make claims) who submits a valid Claim Form, the Administrator shall use the records of CIBC, or make a determination as described in Section 6 below, to assign the Class Member to an Employment Position(s) by year of the Class Period. Where a Class Member became employed, or left employment or changed their Employment Position during a calendar year, such assignment will be on a pro-rated basis.
- (2) The Administrator shall then allocate the Class Member's Tenure to specific Employment Positions by year, or portion thereof, based upon the records of CIBC or the Administrator shall make a determination as described in Section 6 below.

(3) At the end of steps (1) and (2) above, the Administrator shall have for each Class Member their Employment Position(s) by year, or portion thereof, of the Class Period and the total Tenure applicable to each of the Class Member's Employment Positions by year.

(4) The Administrator shall have or obtain information relating to the average hourly wage applicable to each Employment Position by year of the Class Period. A single estimated average hourly wage shall be used for all Employment Positions for all Tenure prior to January 1, 2003, depending on the available records of CIBC.

(5) The Administrator shall then calculate points applicable to the Class Member's Claim Form. The total points applicable to a Claim Form shall be calculated by multiplying a Class Member's Tenure by the average wage applicable to the Employment Position in a given year, represented by the following formula:

$$\text{Tenure in Employment Position} \times \text{Average wage for Employment Position} = \text{points}$$

(6) The monetary value of one (1) point shall be calculated by dividing the Net Settlement Amount by the total numbers of points calculated from all valid Claim Forms, represented by the following formula:

$$\text{Net Settlement Amount} / \text{total points for all valid claims} = \text{monetary value of one (1) point}$$

(7) The Class Member shall then be awarded the monetary value of their points by multiplying their total points for all Employment Positions in the Class Period by the monetary value of a point.

(8) For any points calculated for Tenure outside the applicable provincial limitation periods listed below, the monetary value of each point shall be reduced by 50%.

Province	Applicable Legislation	Provincial Limitation Periods
Ontario	<i>Limitations Act</i> , R.S.O. 1990, c. L. 15, s. 45	June 4, 2001 – Dec. 31, 2003
	<i>Limitations Act</i> , 2002, S.O. 2002, c. 24, Sch. B, s. 4	June 4, 2005 – June 18, 2009
Quebec	<i>Civil Code of Quebec</i> , C.Q.L.R., c. CCQ- 1991,	June 4, 2004 – June 18, 2009
British Columbia	<i>Limitation Act</i> , R.S.B.C. 1996, c. 266, s. 3	June 4, 2001 – June 18, 2009
Alberta	<i>Limitations Act</i> , R.S.A. 2000, c. L-12, s. 3	June 4, 2005 – June 18, 2009
Saskatchewan	<i>The Limitation of Actions Act</i> , R.S.S. 1978, c. L-	June 4, 2001 – May 1, 2005

	<i>The Limitations Act</i> , S.S. 2004, c L-16.1, ss. 5 and 6	June 4, 2005 – June 18, 2009
Manitoba	<i>The Limitation of Actions Act</i> , R.S.M. 1987, c.	June 4, 2001 – June 18, 2009
Nova Scotia	<i>Limitation of Actions</i> , R.S., c. 168, s. 2	June 4, 2001 – June 18, 2009
New Brunswick	<i>Limitations of Actions Act</i> , R.S.N.B. 1973, c. L-8,	June 4, 2001 – June 18, 2009
Newfoundland	<i>An Act Respecting the Limitation of Personal Actions and Guarantees and Sureties</i> , S.N.L. 1990, c. L-15, s. 2 <i>Limitations Act</i> , S.N.L. 1995, c. L-16.1, s. 9	June 4, 2001 – June 18, 2009
PEI	<i>Statute of Limitations</i> , R.S.P.E.I. 1988, c. S-7, s. 2	June 4, 2001 – June 18, 2009
NWT and Nunavut	<i>Limitation of Actions Act</i> , R.S.N.W.T. 1988, c. L-	June 4, 2001 – June 18, 2009
Yukon	<i>Limitation of Actions Act</i> , R.S.Y. 2002, c. 139, s. 2	June 4, 2001 – June 18, 2009

- (9) Some consideration may be given to whether every Class Member who submits a valid claim shall be entitled to a minimum payment, to be determined subsequently.

SECTION 5 - THE ADMINISTRATION PROCESS

- (1) Generally, the claims administration will be as follows:

(a) **Step 1: Submission of Online Claim Forms and Confirmation of Records**

The Claim Form shall be made available on a secure website that will require Class Members to enter their first and last names, date of birth, Social Insurance Number, Address, email and phone number.

When a Class Member enters their first and last name on the online Claim Form it shall display the Class Member's Employment Position(s) and Tenure in the respective Employment Position(s) by year, or portion thereof. The Class Member will be asked to agree or disagree with the records presented at the time of submitting the Claim Form.

If a Class Member disagrees with the available records, or no records are responsive to the Class Member's name, the Class Member will be required to submit a Claim Form with what they claim are the correct Employment Position(s) and Tenure by year, or portion thereof, along with any available supporting records, and make a solemn declaration upon submission. The Administrator shall then determine the

applicable Employment Position(s) and Tenure by year and notify the Class Member of their determination. The determination process shall be governed by the procedure described in Section 6.

(b) **Step 2: Correction of Deficiencies**

If the Administrator finds that deficiencies exist in a completed Claim Form, the Administrator shall forthwith notify the Class Member of the deficiencies. In order to remedy any deficiency in the completion of a Claim Form, the Administrator may require and request that additional information be submitted by a Class Member who submits a Claim Form. Such Class Members shall have until the later of the Claims Bar Deadline or sixty (60) days from the date of the request from the Administrator to rectify the deficiency, although the Administrator may consider late corrections of deficiencies in their discretion.

(c) **Step 3: Identification and Prevention of Potentially Fraudulent Claims**

The administrator shall flag potentially fraudulent claims, including those with a P.O. box address, an address outside of Canada, claims using the same mailing address, phone number or email and duplicate claims by name. Such claims will be set aside for review and follow-up by the Administrator and provided to Class Counsel.

(d) **Step 4: Calculation of Relative Share**

After all Claims Forms are received with Class Members agreeing to the available records and all final determinations of Employment Position(s) and Tenure made in accordance with Section 6, the Administrator shall calculate the Relative Share of each Class Member.

(e) **Step 5: First Distribution**

Class Members shall be sent a cheque consisting of 70% of their Relative Share, less employee and employer portions of CPP, EI and income tax withholding, and Class Proceedings Fund (“CPF”) Levy (“First Distribution”).

(f) **Step 6: Second Distribution**

Within a set time after the First Distribution, the Administrator will process the Second Distribution and distribute cheques to Class Members consisting of the remaining 30% of their Relative Share, less employee and employer portions of CPP, EI and income tax withholding, CPF Levy, and amount owing to the Fonds d'aide aux actions collectives. The Relative Shares of the Second Distribution may be adjusted and may not account for the remaining 30% of the First Distribution to account for, among other things, any errors identified following the First Distribution and potential acceptance of late claims ("Second Distribution").

(g) **Step 7: Remittance**

The Administrator will make the Remittances to the Canada Revenue Agency and any other applicable government entities, including Revenu Québec and provide T4A and related forms to Class Members, including RL-1 forms to Quebec Class Members. The Administrator will remit the CPF Levy to the CPF and, if required, any amounts owing to the Fonds d'aide aux actions collectives in Quebec.

(h) **Step 8: Report**

The Administrator will report to the Plaintiffs and Defendant upon the payment of Relative Shares to Class Members at the completion of the First and Second Distributions, or any other payment tranches, including confirming the Remittances and the dates relating thereto, but such disclosure to the Defendant will not include the disclosure of the Remittances at an individual Class Member level, including with respect to the identities of any particular Class Member to whom a payment is made under the Settlement.

SECTION 6- DETERMINATIONS OF EMPLOYMENT POSITION(S), TENURE AND EMPLOYMENT YEARS

- (1) An absence of CIBC records showing Employment Position(s) or Tenure for a Class Member shall not prohibit entitlement to a Relative Share of the Net Settlement Amount.

(2) In the event a Class Member disputes the records of CIBC regarding Tenure, Employment Position(s) or years of employment, or no such records exist, the Class Member shall complete a Claim Form and shall advise the Administrator of the claimed Employment Position(s), Tenure and years of employment and provide documentation and/or written reasons in support of their claim, all to be solemnly affirmed.

(3) The Claims Administrator may ask the Class Member further questions in their discretion, but the Class Member shall not be subject to cross-examination or inquires from the Defendant under any circumstances.

(4) The Administrator shall review the information provided in paras (2) to (3) above and make a determination as to the applicable Employment Position(s), Tenure and employment years. The principles of access to justice, expediency and accessibility shall guide all determinations. The Administrator shall, within a reasonable time frame, advise the Class Member of its determination, by email or letter mail. The determination of the Administrator is final and not subject to appeal in any court or review in any manner by any court, tribunal, board or authority.

(5) Class Counsel shall review the first thirty (30) determinations prior to the determination being communicated to the Class Member. Class Counsel may review further determinations as reasonably requested or required, and may ask for reports regarding the total determinations made and statistics regarding the outcomes of the determinations, plus further information in their discretion.

(6) No appeals shall lie by any Class Member based on distributions made substantially in accordance with this Protocol, or with any other order or judgment of the Courts. No claims shall lie against Class Counsel or the Defendant based on this Protocol, or based on any distributions made substantially in accordance with this Protocol, or the reporting or withholding of Remittances, or with any other order or judgment of the Court on any terms of this Protocol.

SECTION 7- CLASS COUNSEL

(1) Class Counsel shall oversee the claims process and provide assistance and directions to the Administrator regarding this Distribution Protocol and the claims process.

- (2) Class Counsel shall have no role in the calculation of individual entitlements or the calculation and remittance of income taxes, CPP or EI.

SECTION 8- RESIDUAL DISCRETION

- (1) Notwithstanding the foregoing, if, during the administration, Class Counsel have reasonable and material concerns that the Administration and Distribution Protocol is producing an unjust result on the whole or to any material segment of the Class Members or that a modification is required or recommended, they shall move to the Courts for approval of a reasonable modification to this Administration and Distribution Protocol or for further directions with respect to the distribution of the Net Settlement Amount.
- (2) In arriving at a determination that an unjust result is occurring or that a modification is required or recommended, and in considering what modification may be required, Class Counsel shall seek comments or input from the Defendant and the Administrator.

SECTION 9- RESIDUAL DISTRIBUTION

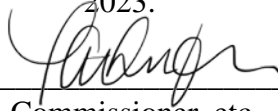
- (1) If there remains any amount of the Net Settlement Amount after the distribution has been made to all valid claims in accordance with the provisions of this Distribution Protocol (as modified, if applicable), Class Counsel will make an application to the Courts to determine how such funds shall be distributed. In preparing a proposal in respect of how to distribute any excess monies, Class Counsel will consider all relevant factors, including the utility and efficacy of a *cy-près* or article 596, paragraph 3 CCP distribution, if appropriate.
- (2) Under no circumstances will any residual amounts from the Net Settlement Amount revert to CIBC.

SECTION 10- CONFIDENTIALITY

- (1) All information received from the Defendant or the Class Members is collected, used, and retained by the Administrator pursuant to, inter alia, the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, and any analogous provincial legislation as may be applicable, for the purposes of administering their Claims.
- (2) All reasonable steps shall be taken to ensure the identity of Class Members submitting Claims Forms is kept confidential from the Defendant. The Defendant shall be entitled to see aggregate statistics

on the number of claims made, average value of claims and total payment made. The Defendant will not be entitled to know the identity of Class Members who submit a Claim Form or how much individual Class Members are awarded, except as required by regulatory or tax reporting requirements.

This is Exhibit **“B”** to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to be "J. Brown", written over a horizontal line.

A Commissioner, etc.

January 5, 2023



CLASS
ACTION
SERVICES

RICEPOINT
A Computershare company

Louis Sokolov
Sotos LLP

Fresco v. CIBC
Class Action Settlement Administration Services Estimate

Dear Louis,

We appreciate the opportunity to submit this proposal and cost estimate for class action administration services.

For purposes of this estimate, we have assumed the requirements included in the Request for Proposals ("RFP") you have provided us.

RicePoint has the relevant experience and proven performance that makes us an ideal fit for this work. Our domestic infrastructure includes a bilingual call center in Montreal with over 75 seats. We can also leverage the resources of our parent company, Computershare, to easily scale up for large volumes of claims or payments.

RicePoint has been appointed as the Administrator on more than 80 settlements and RicePoint staff have direct experience with more than 170 administrations, and we know first-hand the intricacies of class action settlement administration in Canada. In addition, we have a strong working relationship with Canadian tax counsel EY Law LLP regarding payroll and tax obligations for distributions and have been working with them on the below noted cases.

We hereby assert we will work in close collaboration with the Defendant and Counsel and to establish and codify a mutually agreeable and binding process for calculating the employer and employee withholdings to ensure that all parties agree, with the understanding that all parties must be in agreement, prior to the issuance of any claim payments. We also commit to demonstrate full transparency with respect to the timely filing of remittances of tax deposits and informational reporting obligations of the T4 and RL-1 slips at both the agency and claimant level to Canada Revenue Agency (CRA).

RicePoint's experience includes multi province employment cases in Canada that involved the distribution of T4 slips and remittances similar to this work. Those cases include:

- *Bozsik v. Livingston International, Inc.*
- *Horner v. Primary Response, Inc.* Settlement Fund
- *BMO Nesbitt Burns, Inc.* Settlement Fund
- *Grigoryev v. Russell Security Services, Inc.*
- *Canada Cartage Class Action Settlement*

For this settlement matter, we plan to leverage the knowledge and experience of the same team leads that successfully executed on the above administrations. The proposed leads are as follows, bios for the leads can be found in the following pages:

- Michael Mooney - Senior Vice President
- Ivan Bobanovic – Vice President
- Brett Parker – Manager, Class Actions.
- Tom Ristic – Case Specialist
- Daniel Burke – Executive Vice President
- Lara McDermott – Executive Vice President
- Jonathan Carameros – Senior Vice President
- Manel Djamaa – Settlement Director – Distributions

We believe that the subject matter expertise, and considerable experience, of these key people will allow us to achieve similar success with this administration.

RicePoint will accept full responsibility for CRA tax withholding compliance and remittances, as prescribed in the RFP.

Our data security policies specifically address the confidentiality, integrity and availability of our facilities, systems and information in our possession and control. RicePoint maintains and implements industry-standard best practices and physical controls, policies, procedures and systems necessary to protect client data, including confidential information, proprietary information, and/or personal identifying information received from the client, and keeps such data confidential and safe from loss, theft and unauthorized access, copying, modification, use and disclosure. In carrying out the data protection measures set out in the preceding sentence, and without in any way limiting RicePoint's obligations pursuant to the preceding sentence, RicePoint shall comply with all applicable laws and regulations, including but not limited to laws and regulations relating to data security and data privacy. RicePoint complies with the data security requirements listed in the RFP including the NIST Cybersecurity Framework guidelines.

In addition, our Professional Indemnity insurance covers any claim which arises out of any wrongful professional act subject to terms and conditions of the policy with a policy limit of not less than [REDACTED]. Our Comprehensive Crime / Electronic & Computer Crime Insurance covers loss sustained as a result of infidelity of employees, loss on premises, in transit, forgery or alteration and other fraudulent activities subject to terms and conditions of the policy. The policy also covers electronic and computer crimes. The policy limit is not less than [REDACTED].

Please do not hesitate to contact me with any questions. We will hold this estimate open for ninety days from the date of this letter. RicePoint appreciates the opportunity to prepare and present our proposal for services in this matter. Upon review if you find that any aspects of our proposal require further refinement or revision, we are always happy to collaborate with you in order to ensure our proposal reflects the specific needs of your project. Thank you for your time and consideration.

Sincerely,

Michael Mooney
 Senior Vice President, Class Action Services
 RicePoint Administration, Inc.
 Tel: +1-226-235-1611
 Email: mmooney@ricepoint.com
 FRESCO V. CIBC

**Ivan Bobanovic**

Vice President, Class Action Services

e: ibobanovic@ricepoint.com

As Vice President, Ivan oversees all aspects of operations, management and strategic development. Ivan is a key contributor to the ongoing growth and implementation of strategies related to notice and administration.

Ivan has a decade of experience and expertise in the class action industry. Ivan has overseen more than 80 settlements of varying size and complexity with more than \$3 billion in settlement funds distributed, while playing an integral role in some of the most notable cases in history.

Ivan holds an Honors, Bachelor of Arts from the University of Western Ontario, and the Canadian Securities Course. He is fluent in English and French, and a member of numerous non-profit organizations.

**Brett Parker**

Director of Operations, Class Action Services
e: bparker@ricepoint.com

As Director of Operations, Brett oversees all aspects of class actions claims administration, notably: data management; notice requirements; website and claims portal design; and claims adjudication from initial stages through to distribution of proceeds. Brett is involved in all key decisions made throughout a claims administration and acts as a mentor for RicePoint Case Managers.

His notable experience combined with a tireless work ethic and attention to detail make him a crucial member on the RicePoint team. Brett is seen by his team and clients as trustworthy, responsive and assertively focused on optimal outcomes for his clients.

Brett has directly overseen some of Canada's most high-profile and complex claims administrations including: Volkswagen/Audi 2.0L; Volkswagen/Audi/Porsche 3.0L TDI Emissions settlements; Canadian National DRAM price-fixing class action; and Canadian Automotive Parts price-fixing settlements.

Brett holds a Bachelor of Administrative and Commercial Studies, specializing in Finance from the University of Western Ontario, and successfully completed the Certified Management Accountant course.

**Tomislav Ristic**

Case Specialist/Project Manager, Class Action Services

e: tristic@ricepoint.com

Tom brings nearly a decade of experience to his role as Case Specialist/Project Manager at RicePoint. He is responsible for the management and coordination of internal and external stakeholders from the start of each case until its conclusion.

He develops the call and email scripting for claimant support services, works with the Web Team to develop case specific websites, adjudicates claim submissions, coordinates distribution of settlement payments, and ensures the compliance with terms of Settlement Agreements.

During his time at RicePoint, Tom has managed numerous notable cases. Some of these cases include Optical Disc Drives Class Action, Bosch Emissions Class Action, Primary Response Class Action, and Canada Cartage Class Action. Prior to his current role, Tom worked as a Claims Analyst on price fixing cases including LCD and DRAM.

Tom holds a degree in Electrical Engineering Technology from Fanshawe College.

**Daniel Burke**

Executive Vice President, Class Action Services

e: daniel.burke@kccllc.com

As Executive Vice President, Dan oversees the management of RicePoint's consumer and antitrust settlements. He has personally managed several hundred class action cases of all types and sizes.

Dan has appeared as an expert panelist, speaking on claims administration issues on numerous CLE panels, various legal and government organizations, and internationally before multinational financial entities.

Prior to RicePoint, Dan served as a Deputy District Attorney in Alameda County for 14 years. He has tried more than 100 cases to verdict, including in excess of 40 jury trials. Before working as a prosecutor, he served as an extern for California Appellate Court Justice Timothy Reardon.

Dan received his Bachelor of Science in Marketing from Santa Clara University and his Juris Doctor from Golden Gate University. He is an active member of the California State Bar. Dan has lectured on claims administration at numerous venues including California Judicial College and seminars held by the California District Attorneys' Association.

**Lara McDermott**

Executive Vice President, Class Action Services

e: lmcdermott@kccllc.com

Lara brings more than 15 years of experience to her role as Executive Vice President of Compliance and Settlement Fund Accounting. She is responsible for strategic growth and guidance in both tax compliance and settlement fund accounting.

In the last five years, Lara and her team have overseen the distribution of more than 3,000 class distributions, representing over 12.5 million payments disbursing more than \$12 Billion in assets on distributions, plus an additional \$13 Billion in assets in a European matter. The team has coordinated the issuance of payments globally in Canada, United States and Europe. As digital disbursements continue to grow, this team has helped facilitate more than 70 class distributions for more than 2 million claimants across a variety of digital distribution platforms; such as PayPal, Venmo, Zelle, Amazon and Interac.

Prior to joining RicePoint, Lara specialized in public accounting for over a decade, serving as an audit manager for PriceWaterhouseCoopers in the Financial Services sector based in San Francisco, Singapore and New York. Throughout her years of experience in settlement administration, Lara has overseen more than 2,000 settlement administrations, which have included some of the largest and most complex private settlements in history: Enron; UnitedHealth; AIG; Pfizer; and Fortis (Europe) . She has also appeared as a featured speaker before numerous federal government entities.

Lara graduated from the University of California, Santa Barbara with a Bachelor of Arts in Business Economics and Psychology, and holds a Masters of Applied Finance from Macquarie University, Australia, as well as a California C.P.A. License. In addition, Lara has a Certified Treasury Professional certification.

**Jonathan Carameros**

Senior Vice President & Head of Strategy, Class Action Services

e: jcarameros@kccllc.com

As Senior Vice President & Head of Strategy, Jonathan relies on his more than 16 years of experience to facilitate the growth of RicePoints's business through assessments focused on business process improvement, re-engineering and product design. Frequently consulting with the senior executives in operations, his focus delivers high-quality, cost-effective services and fosters deep client relationships. Jonathan's leadership style supports the short- and long-term goals of the company in a rapidly changing industry by developing comprehensive top-down planning needs and delivering agile execution on those initiatives.

Jonathan has overseen more than 1000 settlements of varying size and complexity, including the Anthem Inc. Data Breach Litigation, Midland Credit Management Inc. TCPA Litigation, Experian Data Breach Litigation, and Facebook Biometric Information Privacy Litigation.

Jonathan graduated *cum laude* from Loyola Marymount University and earned his Bachelor of Arts degree in Economics.

**Manel Djamaa**

Distribution Director and Product Owner, Class Action Services

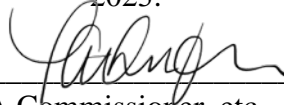
e: Manel.Djamaa@kccllc.com

As Distribution Director and Product Owner, Manel directs and implements operational strategy, processes, and systems for fund distribution operations. She works in partnership with digital payment vendors and financial institutions domestically and internationally on integration ventures. She ensures all distribution activities comply with court approved documents and internal Computershare policies and adhere to protocols and comply with other governmental regulations. Additionally, she oversees staff responsible for daily disbursement needs associated with all active Qualified Settlement Funds/Trusts in the Class Action Business across various verticals.

Manel has over a decade of experience in the settlement administration industry. Prior to her current role, Manuel held other analyst and distribution roles within RicePoint. Some notable cases Manel has overseen throughout her career include Steinhoff Securities Litigation, Bozsik v Livingston International Inc Settlement, Toyota Economic Loss Settlement, Horner v Primary Response Inc Settlement Fund, and Boeing Wichita Retirement Class Settlement Fund.

She holds a degree in Computer Science Engineer with emphasis in Finance from École Nationale Supérieure d'Informatique ESI, Oued Smar Alger . In addition, she is trilingual in Arabic, French, and English.

This is Exhibit "C" to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to read "J. Brown", is written over a horizontal line.

A Commissioner, etc.

**Administration Services Estimate
Fresco v CIBC**

January 5, 2023

Michael Mooney; mmooney@ricepoint.com; +1-226-235-1611



Key Assumptions Used in Estimate Preparation

Size of Class:	35,000 class members
Estimated # of Class Members with Email & Postal Address:	5,000 class members
Estimated # of Class Members with Postal Address Only:	30,000 class members
Case Duration:	24 months
# of Electronic, Finalized Data Files Provided (Excel, Access, etc.):	1 file(s)
# of Provinces that Employed Class Members:	10
Quebec Employment Case:	Yes
Claims Processing:	Yes
Returned Mail Handling:	No
Media Campaign Required:	Yes
English Only:	No <i>French</i>
# of Email Campaigns:	1 <i>(optional)</i>
% of emails bounced back ("Bouncebacks"):	20%
Reminder Mailing:	No
Duration of Claims Filing Period:	8 weeks
% of class members that will file a claim:	40% to 65%
% of claims filed online:	95%
% of claims filed by postal mail:	5%
% of deficient claims filed by postal mail:	0%
Type of Telephone Support:	IVR w/ Punchthrough
% of class that will call:	5%
% of callers that will punch through to a Live Operator:	50%
% of callers that will request a Notice Packet:	5%
Duration of Telephone Support:	24 months
Type of Website Support:	Dynamic
Online Claims Filing:	Yes
Duration of Website Support:	24 months

SUMMARY OF COSTS

Project Set-Up	Flat Fee	\$33,000
Project Oversight		
- Project Management		\$19,500
Noticing Efforts		
Pre-Hearing Notice		
- Print/Mail Notice Packet		\$50,350
- Media Campaign		\$44,427
Post-Hearing Notice		
- Print/Mail Notice Packet		\$58,540
- Media Campaign		\$44,427
Claimant Support		
Automated Call Support		\$22,068
Mail/Email Correspondence		\$22,500
Claims Administration		
- 40% Claims Filing Rate		\$117,880
- 55% Claims Filing Rate		\$168,177
- 65% Claims Filing Rate		\$212,207
Initial Disbursement		
- 40% Claims Filing Rate		\$72,976
- 55% Claims Filing Rate		\$88,061
- 65% Claims Filing Rate		\$98,121
Second Disbursement		
- 40% Claims Filing Rate		\$71,476
- 55% Claims Filing Rate		\$86,561
- 65% Claims Filing Rate		\$96,621

PROJECT SET-UP	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Data and Forms Set-up					
- Database/ Project Set-up					
- Data Development					
- Document Formatting					
- Document Drafting/ Development					
- Translate Documents into [Language]					
Sub-total of Data and Forms Set-up					
Website Set-up & Maintenance					
- Website Development					
- Domain Registration (5 yrs/Privacy Registration)					
- Maintenance					
- Server Space rental					
Sub-total of Website Set-up & Maintenance					
FLAT FEE FOR PROJECT SET-UP					\$33,000

PROJECT OVERSIGHT	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Project Management					
- Project Management		100 hrs	\$150.00	\$15,000	
- Project Setup		10 hrs	\$150.00	\$1,500	
- Client Communications		15 hrs	\$150.00	\$2,250	
- Reporting and Declarations		5 hrs	\$150.00	\$750	
Sub-total of Project Management					\$19,500
SUB-TOTAL OF PROJECT OVERSIGHT					\$19,500

NOTICING EFFORTS	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
PRE-HEARING NOTICE					
Print/Mail Notice Packet					
- Total Estimated # of Class Members to Receive Mailed Notice		30,000 units			
- NCOA Updates		30,000 units		\$250	
- 3-page (2-impression) Notice, outbound envelope		30,000 units	\$0.70	\$21,000	
- Estimated Postage*		30,000 units	\$0.920	(actual)	
- Print Production Management		10 hrs	\$150.00	\$1,500	
Sub-total of Print/Mail Notice Packet					\$22,750
Plus Estimated Postage*					\$27,600
Sub-total of Print/Mail Notice Packet, Plus Estimated Postage*					\$50,350

**Administration Services Estimate
Fresco v CIBC**

January 5, 2023

Michael Mooney; mmooney@ricepoint.com; +1-226-235-1611



Media Campaign

\$44,427.00

- Newspapers
 - The Globe and Mail – Eighth Page, B/W; Front/News section; valid Saturdays
 - Toronto Star – Quarter Page, B/W; Front/News section; valid Mon-Sun
 - Vancouver Province – Quarter Page (Tabloid), B/W; Front/News section; valid Mon-Sun
 - Calgary Herald – Quarter Page, B/W; Front/News section; valid Tues-Sun
 - La Presse+ (Digital) – Quarter Screen; Affaires (Business) section; valid Mon-Sun
- Digital Media

Digital Display (Banners) – Approx. 1,000,000 digital media impressions will be purchased programmatically to target Adults 33+ in Canada. The impressions will be distributed across various websites and mobile apps on the Google Display Network and via Facebook, appearing in English and French, as appropriate, on desktop and mobile devices. (30-day duration)

Sub-total of Media Campaign

\$44,427

POST-HEARING NOTICE

Print/Mail Notice Packet

- Total Estimated # of Class Members to Receive Mailed Notice
- NCOA Updates
- 5-page (2-impression) Notice, outbound envelope
- Estimated Postage*
- Print Production Management

30,000 units

30,000 units

30,000 units

30,000 units

10 hrs

\$0.97

\$0.920

\$150.00

\$250

\$29,190

(actual)

\$1,500

Sub-total of Print/Mail Notice Packet

Plus Estimated Postage*

Sub-total of Print/Mail Notice Packet, Plus Estimated Postage*

\$30,940

\$27,600

\$58,540

Media Campaign

\$44,427.00

- Newspapers
 - The Globe and Mail – Eighth Page, B/W; Front/News section; valid Saturdays
 - Toronto Star – Quarter Page, B/W; Front/News section; valid Mon-Sun
 - Vancouver Province – Quarter Page (Tabloid), B/W; Front/News section; valid Mon-Sun
 - Calgary Herald – Quarter Page, B/W; Front/News section; valid Tues-Sun
 - La Presse+ (Digital) – Quarter Screen; Affaires (Business) section; valid Mon-Sun
 - Notice Plan Research
- Digital Media

Digital Display (Banners) – Approx. 1,000,000 digital media impressions will be purchased programmatically to target Adults 33+ in Canada. The impressions will be distributed across various websites and mobile apps on the Google Display Network and via Facebook, appearing in English and French, as appropriate, on desktop and mobile devices. (30-day duration)

Sub-total of Media Campaign

\$44,427

SUB-TOTAL OF NOTICING EFFORTS

\$197,744

CLAIMANT SUPPORT	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Automated Call Support					
- Toll Free Phone Line & System Set-up Cost				\$3,750	
- Script Drafting and Management		15 hrs	\$150.00	\$2,250	
- Monthly Maintenance Fees		24 mos	\$50.00	\$1,200	
- Projected # of Calls (% of Class)	5%	1,750 calls			
- Average Call Duration (minutes)		5 mins			
- IVR Line Charges		8,750 mins	\$0.18 /min	\$1,575	
- Live Operator Line Charges		0 mins	\$2.25 /min	\$0	
- Projected # of Punchthroughs to Live Operator (% of Calls)	50%	875 calls			
- Average Call Duration (minutes)		5 mins			
- IVR Transfer Line Charges		4,375 mins	\$0.18 /min	\$788	
- Live Operator Line Charges		4,375 mins	\$2.25 /min	\$9,844	
- Long-Form Notice Packet Requests	5%	88 units			
- Fulfill Notice Packet Requests		88 units	\$1.45	\$128	
- Estimated Postage*		88 units	\$0.92	(actual)	
- Print Production Management		4 hrs	\$150.00	\$600	
- Transcriptions		88 units	\$0.60	\$53	
- Staff Time Downloading Transcribed Data (30 min/month x 24 months)		12 hrs	\$150.00	\$1,800	
Sub-total of					\$21,987
Plus Estimated Postage*					\$81
Sub-total of , Plus Estimated Postage*					\$22,068
Mail/Email Correspondence					
- Estimated # of Pieces of Correspondence	5%	1,750 units			
- Staff Time Downloading Transcribed Data (30 min/month x months)		150 hrs	\$150.00	\$22,500	
Sub-total of					\$22,500
SUB-TOTAL OF CLAIMANT SUPPORT					\$44,568

**Administration Services Estimate
Fresco v CIBC**

January 5, 2023

Michael Mooney; mmooney@ricepoint.com; +1-226-235-1611



CLAIMS ADMINISTRATION	%	40% Filing Rate Quantity Rate Total	%	55% Filing Rate Quantity Rate Total	%	65% Filing Rate Quantity Rate Total
Estimated # of Claims	40%	14,000 claims	55%	19,250 claims	65%	22,750 claims
Process Claims Filed Online	95%	13,300 claims \$1.25 \$16,625	95%	18,288 claims \$1.25 \$22,860	95%	21,613 claims \$1.25 \$27,016
Process Claims Filed by Postal Mail	5%	700 claims	5%	963 claims	5%	1,138 claims
- Processing Staff Time (mins/claim)		5 min/claim		5 min/claim		5 min/claim
- Staff Hours Processing Claims		60 hrs \$150.00 \$9,000		81 hrs \$150.00 \$12,150		95 hrs \$150.00 \$14,250
- Data Entry & Claims Scoring Set-up		\$860		\$860		\$860
- Open/Image/Data Enter Forms		700 units \$1.85 \$1,295		963 units \$1.85 \$1,782		1,138 units \$1.85 \$2,105
Documentation Review		2,500 units		3,750 units		5,000 units
- Review Documentation		10 min/response		10 min/response		10 min/response
- Staff Hours Reviewing Documentation		417 hrs \$150.00 \$62,550		625 hrs \$150.00 \$93,750		834 hrs \$150.00 \$125,100
Disputed/Deficient Claims	5%	700 units	5%	963 units	5%	1,138 units
- Process Deficiency Responses		10 min/response		10 min/response		10 min/response
- Staff Hours Processing Disputes		117 hrs \$150.00 \$17,550		161 hrs \$150.00 \$24,150		190 hrs \$150.00 \$28,500
Decision Notices	100%	14,000 units	100%	19,250 units	100%	22,750 units
- Email Decision Notice		14,000 units \$0.50 \$7,000		19,250 units \$0.50 \$9,625		22,750 units \$0.50 \$11,375
- Email Campaign Management		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500
Status Reports		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500

SUB-TOTAL OF CLAIMS ADMINISTRATION

\$117,880

\$168,177

\$212,207

INITIAL DISBURSEMENT	%	40% Filing Rate Quantity Rate Total	%	55% Filing Rate Quantity Rate Total	%	65% Filing Rate Quantity Rate Total
Total # of Payments		14,000 units		19,250 units		22,750 units
Funds Management		20 hrs \$150.00 \$3,000		20 hrs \$150.00 \$3,000		20 hrs \$150.00 \$3,000
Distribution Preparation		40 hrs \$150.00 \$6,000		40 hrs \$150.00 \$6,000		40 hrs \$150.00 \$6,000
Quality Control and Assurance		15 hrs \$150.00 \$2,250		15 hrs \$150.00 \$2,250		15 hrs \$150.00 \$2,250
Tax Compliance / withholding calcs & reporting obligations		50 hrs \$150.00 \$7,500		50 hrs \$150.00 \$7,500		50 hrs \$150.00 \$7,500
Revenue Quebec Reporting		1 units \$1,000.00 \$1,000		1 units \$1,000.00 \$1,000		1 units \$1,000.00 \$1,000
Print/Mail Cheques With T4 Slip	75%	10,500 units \$1.50 \$15,750	75%	14,438 units \$1.50 \$21,656	75%	17,063 units \$1.50 \$25,594
- Estimated Postage*		10,500 units \$0.920 (actual)		14,438 units \$0.920 (actual)		17,063 units \$0.920 (actual)
Print/Mail Cheques With T4 Slip and RL-1	25%	3,500 units \$2.50 \$8,750	25%	4,813 units \$2.50 \$12,031	25%	5,688 units \$2.50 \$14,219
- Estimated Postage*		3,500 units \$0.920 (actual)		4,813 units \$0.920 (actual)		5,688 units \$0.920 (actual)
Distribution Management		60 hrs \$150.00 \$9,000		60 hrs \$150.00 \$9,000		60 hrs \$150.00 \$9,000
T4 Remittance to CRA		14,000 units TBD - At Best Price from E&Y		19,250 units TBD - At Best Price from E&Y		22,750 units TBD - At Best Price from E&Y
RL-1 Remittance to CRA		3,500 units TBD - At Best Price from E&Y		4,813 units TBD - At Best Price from E&Y		5,688 units TBD - At Best Price from E&Y
Reissue Cheques	5%	525 units \$4.50 \$2,363	5%	722 units \$4.50 \$3,249	5%	854 units \$4.50 \$3,843
- Estimated Postage*		525 units \$0.920 (actual)		722 units \$0.920 (actual)		854 units \$0.920 (actual)
Case Closing		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500		10 hrs \$150.00 \$1,500
Annual T3 Return		1 yrs \$2,500.00 \$2,500		1 yrs \$2,500.00 \$2,500		1 yrs \$2,500.00 \$2,500

SUB-TOTAL OF INITIAL DISBURSEMENT

\$59,613

\$69,687

\$76,406

Plus Estimated Postage*

\$13,363

\$18,374

\$21,716

Sub-Total Of Initial Disbursement, Plus Estimated Postage*

\$72,976

\$88,061

\$98,121

SECOND DISBURSEMENT	%	40% Filing Rate Quantity Rate Total	%	55% Filing Rate Quantity Rate Total	%	65% Filing Rate Quantity Rate Total
Total # of Payments		14,000 units		19,250 units		22,750 units
Funds Management		20 hrs \$150.00 \$3,000		20 hrs \$150.00 \$3,000		20 hrs \$150.00 \$3,000
Distribution Preparation		40 hrs \$150.00 \$6,000		40 hrs \$150.00 \$6,000		40 hrs \$150.00 \$6,000
Quality Control and Assurance		15 hrs \$150.00 \$2,250		15 hrs \$150.00 \$2,250		15 hrs \$150.00 \$2,250
Tax Compliance / withholding calcs & reporting obligations		50 hrs \$150.00 \$7,500		50 hrs \$150.00 \$7,500		50 hrs \$150.00 \$7,500
Revenue Quebec Reporting		1 units \$1,000.00 \$1,000		1 units \$1,000.00 \$1,000		1 units \$1,000.00 \$1,000
Print/Mail Cheques With T4 Slip	75%	10,500 units \$1.50 \$15,750	75%	14,438 units \$1.50 \$21,656	75%	17,063 units \$1.50 \$25,594
- Estimated Postage*		10,500 units \$0.920 (actual)		14,438 units \$0.920 (actual)		17,063 units \$0.920 (actual)
Print/Mail Cheques with T4 Slip and RL-1 Slip	25%	3,500 units \$2.50 \$8,750	25%	4,813 units \$2.50 \$12,031	25%	5,688 units \$2.50 \$14,219
- Estimated Postage*		3,500 units \$0.920 (actual)		4,813 units \$0.920 (actual)		5,688 units \$0.920 (actual)
Distribution Management		60 hrs \$150.00 \$9,000		60 hrs \$150.00 \$9,000		60 hrs \$150.00 \$9,000
T4 Remittance to CRA		14,000 units TBD - At Best Price from E&Y		19,250 units TBD - At Best Price from E&Y		22,750 units TBD - At Best Price from E&Y
RL-1 Remittance to CRA		3,500 units TBD - At Best Price from E&Y		4,813 units TBD - At Best Price from E&Y		5,688 units TBD - At Best Price from E&Y
Reissue Cheques	5%	525 units \$4.50 \$2,363	5%	722 units \$4.50 \$3,249	5%	854 units \$4.50 \$3,843
- Estimated Postage*		525 units \$0.920 (actual)		722 units \$0.920 (actual)		854 units \$0.920 (actual)
Case Closing		N/A Estimated in Initial Disbursement		N/A Estimated in Initial Disbursement		N/A Estimated in Initial Disbursement
Annual T3 Return		1 yrs \$2,500.00 \$2,500		1 yrs \$2,500.00 \$2,500		1 yrs \$2,500.00 \$2,500

SUB-TOTAL OF SECOND DISBURSEMENT

\$58,113

\$68,187

\$74,906

Plus Estimated Postage*

\$13,363

\$18,374

\$21,716

Sub-Total Of Second Disbursement, Plus Estimated Postage*

\$71,476

\$86,561

\$96,621

TOTAL ESTIMATED COST**

\$557,143

\$637,610

\$701,761

**Administration Services Estimate
Fresco v CIBC**

January 5, 2023

Michael Mooney; mmooney@ricepoint.com; +1-226-235-1611



ADDITIONAL SERVICES	RESPONSE RATE	QUANTITY	RATE PER UNIT	ESTIMATED COST	TOTAL
Media Campaign - Optional Press Release					
- Phase 1 (based on Schedule B notice of approx. 411 wds): National Comprehensive Distribution + Business and Finance Influencer List – English (up to 800 words) and French (up to 1,000 words)				\$3,069.00	
- Phase 2 (based on Schedule G notice of approx. 302 wds): National Comprehensive Distribution + Business and Finance Influencer List – English and French (up to 400 words each)				\$2,872.00	
Sub-total of Media Campaign - Optional Press Release					TBD
Email Campaign (per send)					
- Email Service		5,000 units	\$0.500	\$2,500	
- Email Campaign Management		10 hrs	\$150.00	\$1,500	
- Estimated # of Bouncebacks	20%	1,000 units			
- Track/Manage Bouncebacks		5 hrs	\$150.00	\$750	
Sub-total of Email Campaign (per send)					\$4,750

OTHER SERVICES AND OUT-OF-POCKET EXPENSES	ESTIMATED COST
Other Services and Ad Hoc Reporting, as needed or requested	(standard hourly rates)
Other Charges and Out-of-Pocket Costs***	(actual)

* Estimated Postage and Handling.

** Does not include applicable taxes or escheatment services.

*** Includes, but is not limited to long distance calls, overnight shipping, photocopies, storage, PO Box rentals, broker fees, etc.

This Class Action Administration Services Estimate and the attached Cost Summary & Scope of Services (together, the "Proposal") are valid for ninety days from 1/4/2023. After such period, RicePoint reserves the right to amend the Proposal (including, without limitation, by increasing fees and costs) or to withdraw the Proposal in its sole discretion.

All services to be provided to the undersigned (the "Client") and all fees and costs set forth in the Proposal are subject to the terms, specifications, assumptions and conditions set forth in the Proposal and the attached Terms and Conditions (the "Terms of Service"). The estimated fees and charges in the Proposal are based on certain information provided to RicePoint as well as significant assumptions. Accordingly, this estimate is not intended to limit RicePoint's actual fees and charges, which may be less or more than estimated due to the scope of actual services or changes to the underlying facts or assumptions.

RicePoint

BY: _____ DATE: _____

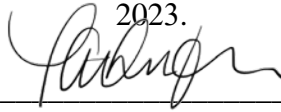
TITLE: _____

Sotos LLP

BY: _____ DATE: _____

TITLE: _____

This is Exhibit “D” to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to be 'J. Brown', is written over a horizontal line.

A Commissioner, etc.

SCHEDULE “A”***APPROVED SETTLEMENT NOTICE (FRESCO – DIRECT NOTICE)*****CIBC UNPAID OVERTIME CLASS ACTION – NOTICE OF SETTLEMENT
APPROVAL IN *FRESCO V. CANADIAN IMPERIAL BANK OF COMMERCE***

TO: Current and former non-management, non-unionized employees of CIBC in Canada who worked at CIBC's retail branches, High Value Cluster offices or Imperial Service offices at any time from February 1, 1993 to June 18, 2009, as tellers or other front-line customer service employees, including the following:

- (a) Customer Service Representatives (also formerly known as Tellers);
- (b) Assistant Branch Managers (Level 4);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors);
- (d) Financial Service Associates;
- (e) Branch Ambassadors; and

And other employees who performed the same or similar job functions as the above under a different or previous CIBC job title.

This Notice is directed to all individuals who fall within the definition noted above, except those who previously took steps in 2013 to opt-out of (i.e. ask to be removed from and not bound by any outcome in) the case.

You are receiving this notice because a review of the records of the Defendant indicates that you are a Class Member (as described and defined above) in this unpaid overtime class action lawsuit. You were previously notified of the certification of this action by the Court-approved Notice of Certification dated ● and Notice of Settlement Approval Hearing dated ●.

**A SETTLEMENT HAS BEEN APPROVED IN THE CLASS ACTION AGAINST CIBC
FOR UNPAID OVERTIME**

**PLEASE READ THIS NOTICE CAREFULLY. IT DESCRIBES WHAT YOU NEED TO
DO IN ORDER TO BE COMPENSATED**

For more information about this class action and the settlement, please visit the following website cibcunpaidovertime.ca. If you have further questions, you can also contact the Settlement Administrator by email at info@cibcunpaidovertime.ca, or by phone at [1-877-333-3333](tel:1-877-333-3333).

What was the case, and what is the settlement?

The common issues to be decided by the Court were:

1. Did the Defendant have a duty (in contract or otherwise) to prevent Class Members from working, or a duty not to permit or not to encourage Class Members to work, overtime hours for which they were not properly compensated or for which the Defendant would not pay? If "yes", did the Defendant breach that duty?
2. Did the Defendant have a duty (in contract or otherwise) to accurately record and maintain a record of all hours worked by Class Members to ensure that Class Members were appropriately compensated for same? If "yes", did the Defendant breach that duty?
3. If the answer to common issues 1(a) or 2(a) is "yes", and to the extent found necessary by the common issues trial judge, did the Defendant thereby require or permit all uncompensated hours of the class members?
4. What are the relevant terms (express or implied or otherwise) of the Class Members' contracts of employment with the Defendant respecting:
 - a. Regular and overtime hours of work?
 - b. Recording of the hours worked by Class Members?
 - c. Paid breaks?
 - d. Payment of hours worked by Class Members?
5. Did the Defendant breach any of the foregoing contractual terms?
6. Was the Defendant enriched by failing to pay Class Members appropriately for all their hours worked? If "yes",
 - a. Did the class suffer a corresponding deprivation?
 - b. Was there no juristic reason for the enrichment?
7. If the answer to any of common issues 1, 2, 3, 5 or 6 is "yes", what remedies are Class Members entitled to?
8. If the answer to any of common issues 1, 2, 3, 5 or 6 is "yes", is the Class entitled to an award of aggravated, exemplary or punitive damages based upon the Defendant's conduct? If "yes" (i) Can these damages be determined on an aggregate basis? and (ii) What is the appropriate method or procedure for distributing any aggregate aggravated, exemplary or punitive damages to Class Members?

9. Can the defendant's monetary liability be determined on an aggregate basis? If so, in what amount?

The plaintiff Dara Fresco sought compensatory and punitive damages pursuant to each of these questions.

Under the Court-approved settlement, CIBC will pay a total \$153 million to settle the case. The \$153 million covers all compensation to the Class Members for all unpaid potential overtime or hours of work for the period between February 1, 1993 and June 18, 2009 as well as withholding taxes, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, and a statutory levy (as discussed further below). The Superior Courts of Ontario and Quebec approved the settlement as being fair, reasonable and in the best interests of the Class in reasons for decision released on ● and ●.

The settlement will result in payment of compensation to every eligible class member. Class members will not have to prove their claims and the claims will be administered by an independent claims administrator. **CIBC will have no role in the consideration or payment of claims and will not know the identities of which class members make claims.¹**

What should I do?

If you are an eligible Class member and want money from the Settlement, complete the enclosed Settlement Payment Form and mail it to ● or complete the form online at ●. You must send the completed form by no later than ● (the "Filing Deadline"). After you complete the form and after the Filing Deadline has passed, you will get a cheque and letter explaining how the cheque was calculated.

Class members' share of the settlement fund will be based on a Distribution Protocol that will take into account the length of time, during the class period, that class members worked in one of the affected positions, as well as the specific position or positions worked. The amount that each Class member receives will also depend on how many Class Members make claims.

The compensation paid to Class members will be paid from the amount of money remaining after deducting the Court-approved legal fees and disbursements (including taxes) as well as the costs of administering and distributing the money to Class Members, from the \$153 million.

All amounts paid to Class Members will be subject to any relevant deductions (including deduction and remittance to the Canada Revenue Agency), and a statutory levy to be paid to the Class Proceedings Fund.² Class members will need to complete a claim form in order to receive compensation.

¹ In the event the independent claims administrator requires additional information from CIBC requiring specific claims, the identity of any individual claimant will not be disclosed to CIBC without the express consent of the claimant and Class Counsel.

² The Class Proceedings Fund, a body established by statute to provide support for class actions brought in Ontario. Further information about the Class Proceedings Fund can be found at <https://lawfoundation.on.ca/for-lawyers-and-paralegals/class-proceedings-fund/>. In exchange for

You can read the full Distribution Protocol at www.cibcunpaidovertime.ca.

Where can I ask more questions?

For more information, please visit cibcunpaidovertime.ca. If you have questions that are not answered online or by email, **please contact the Court-appointed administrator** ● by email at ●, or by phone at ●.

The law firms of Sotos LLP, Roy O'Connor LLP, and Goldblatt Partners LLP are Class Counsel and represent members of this class action in Canada.

Goldblatt Partners LLP can be reached at:

Telephone: 416-979-4233
 Email: tatherfold@goldblattpartners.com
 Mail: 20 Dundas Street West, Suite 1039, Toronto ON M5G 2C2

Roy O'Connor can be reached at:

Telephone: 416-362-1989
 Email: info@royoconnor.ca
 Mail: 1920 Yonge Street, Suite 300, Toronto ON M4S 3E6

Sotos LLP can be reached at:

Telephone (toll free): 1-888-977-9806
 Email: info@sotosclassactions.com
 Mail: 180 Dundas Street West, Suite 1200, Toronto ON M5G 1Z8

Counsel for CIBC can be reached at: 79 Wellington St. W., 30th Floor (deliveries) / 33rd Floor (reception) Box 270, TD South Tower Toronto, ON M5K 1N2 Canada, (416) 865-0040.

Interpretation

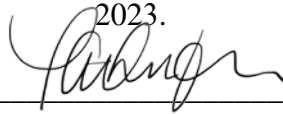
This notice contains a summary of some of the terms of the Settlement Agreement and the Distribution Protocol. If there is a conflict between the provisions of this notice and the Settlement Agreement or Distribution Protocol, the terms of the Settlement Agreement or Distribution Protocol, as applicable, shall prevail.

PLEASE DO NOT CALL CIBC, THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION.

This notice was approved by the Ontario Superior Court of Justice.

its support, the Class Proceedings Fund is entitled to repayment of monies advanced plus 10% of net settlement funds payable to Class members (i.e. after legal fees, taxes, disbursements and administration expenses). In this case, the Class Proceedings Fund's levy will amount to approximately ● of the total settlement.

This is Exhibit “E” to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to read 'J. Brown', is written over a horizontal line.

A Commissioner, etc.

SCHEDULE “B”***APPROVED SETTLEMENT NOTICE (FRESCO – PUBLICATION)*****CIBC UNPAID OVERTIME CLASS ACTION - SETTLEMENT APPROVED IN
*FRESCO V. CANADIAN IMPERIAL BANK OF COMMERCE***

If you were a CIBC front-line retail branch employee in Canada between February 1, 1993 and June 18, 2009 you could receive compensation in this class action settlement.

A class action was brought against CIBC on behalf of CIBC retail branch employees in Canada who were employed between February 1, 1993 and June 18, 2009. The class action lawsuit alleges that CIBC’s overtime policies and record-keeping systems contravened the Canada Labour Code, resulting in front-line bank employees not being compensated for overtime. The representative plaintiff, Dara Fresco, sought compensatory and punitive damages for herself and on behalf of the class.

A settlement for \$153 million has been reached with CIBC.

The settlement applies to the following group of people (except those who previously took steps in 2013 to opt-out of (i.e. ask to be removed from and not bound by the outcome in) the case:

(1) Current and former non-management, non-unionized employees of CIBC in Canada who worked at CIBC's retail branches, High Value Cluster offices or Imperial Service offices at any time from February 1, 1993 to June 18, 2009, as tellers or other front-line customer service employees, including the following:

- (a) Customer Service Representatives (also formerly known as Tellers);
- (b) Assistant Branch Managers (Level 4);
- (c) Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors);
- (d) Financial Service Associates;
- (e) Branch Ambassadors; and

And other employees who performed the same or similar job functions as the above under a different or previous CIBC job title.

Under the Court-approved settlement, CIBC will pay a total \$153 million to settle the case. The \$153 million covers all compensation to the Class Members for all unpaid potential overtime or hours of work for the period between February 1, 1993 and June 18, 2009 as well as withholding taxes, legal fees and related disbursements (including taxes), the costs of administration and distribution of money to Class Members, and a statutory levy.

The settlement will result in payment of compensation to every eligible class member. Class members will not have to prove their claims and the claims will be administered by an independent claims administrator. **CIBC will have no role in the consideration or payment of claims and will not know the identities of which class members make claims.**³

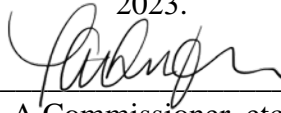
What should I do?

If you are an eligible Class member and would like to make a claim, or obtain more information about the settlement, obtain the contact information of the claims administrator and legal counsel in the file, or obtain the method for distributing funds please visit: <https://cibcunpaidovertime.ca/>.

This notice was approved by the Ontario Superior Court of Justice.

³ In the event the independent claims administrator requires additional information from CIBC requiring specific claims, the identity of any individual claimant will not be disclosed to CIBC without the express consent of the claimant and Class Counsel.

This is Exhibit “F” to the
Affidavit of Jody Brown affirmed
before me this 22nd day of February,
2023.

A handwritten signature in black ink, appearing to read 'J. Brown', is written over a horizontal line.

A Commissioner, etc.

SCHEDULE “C”***APPROVED SETTLEMENT NOTICE (FRESCO – DIGITAL BANNER)***

Were you a CIBC front-line retail branch employee in Canada between February 1, 1993 and June 18, 2009? You may be entitled to a share of a \$153 million settlement of an overtime class action. Click [here](#) for more information.

DARA FRESCO
Plaintiff

-and-

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant

Court File No. 07-CV-334113PD2

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF JODY BROWN
(DISTRIBUTION PROTOCOL APPROVAL)

SOTOS LLP

Barristers and Solicitors
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(416) 362-1989

Lawyers for the Plaintiff

DARA FRESCO
Plaintiff

-and-

CANADIAN IMPERIAL BANK OF COMMERCE
Defendant

Court File No. 07-CV-334113PD2

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SUPERIOR COURT OF JUSTICE

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Lawyers for the Plaintiff