

**NOTICE OF APPROVAL OF THE SETTLEMENT OF CLASS PROCEEDING  
ROBERTSON V. THOMSON AND OTHERS**

**If you are a writer, artist or photographer, wherever you live, please read this notice  
carefully as it may affect your rights.**

This is a court-approved notice to people who may be members of the Class in the above class proceeding. It describes the class proceeding, the class of people affected, and the court-approved settlement of this class proceeding.

In 1996, Heather Robertson (the "Plaintiff"), a freelance writer, commenced an action against The Thomson Corporation (now, Thomson Reuters Corporation), Thomson Canada Limited (now, Thomson Reuters Canada Limited), Thomson Affiliates and Information Access Company (now, The Gale Group, Inc.). In 2001, the action was amended to include Bell Globemedia Publishing Inc. (now CTVglobemedia Publishing, Inc.) as a defendant (collectively, the "Defendants"). In the action, the Plaintiff alleges that the Defendants infringed the rights of creators or assignees of original literary or artistic works published in print media in Canada ("Works") by disseminating or authorizing the dissemination of copies of the Works through electronic databases, contrary to the Canadian *Copyright Act*. The Plaintiff sought compensatory, punitive and exemplary damages, as well as injunctive relief, on behalf of writers, artists and photographers who created the Works ("Creators"), their estates and assigns. The Defendants denied the Plaintiff's claims.

In 1999, the Superior Court of Justice certified this action as a class proceeding, on behalf of the creators of original literary and artistic Works, their estates or assigns, where they live. The Class includes the following people:

A. All persons who were the authors or creators of original literary works or original artistic works (collectively "Works") which were published in Canada in any newspaper, magazine, periodical, book, newsletter, journal or other paper-based form whatsoever (collectively "Print Media") which Print Media have been reproduced, distributed and/or communicated to the public by telecommunication by the Defendants through any computer database, CD-ROM, diskette, on-line service, or other electronic system or device (collectively "Electronic Media"), on or after 24 April 1979 except:

- (a) persons who by written document assigned all of the copyright in their Works to the Defendants or their predecessors in interest in the subject Print Media; or
- (b) persons who by written document granted to the Defendants or their predecessors in interest in the subject Print Media a license to publish or use their Works in Electronic Media; or
- (c) persons who were unionized employees of the Defendants or their predecessors in interest in the subject Print Media are excluded regarding any Works created for the subject Print Media at times when their unions' collective agreements governed the use

of their Works in Electronic Media.

Where the Print Media publication was a Canadian edition of a foreign publication, only Works comprising the content exclusive to the Canadian edition shall qualify for inclusion under this definition. (Persons included in Clause A shall hereinafter be referred to as "Creators").

B. All persons (except the Defendants or their predecessors in interest in the subject Print Media) to whom a Creator, or an Assignee, assigned, granted or transmitted a right to publish or use their Works in Electronic Media. (Persons included in clause B shall hereinafter be referred to as "Assignees").

C. Where a Creator or Assignee is deceased, the personal representative of the estate of such person unless the date of death of the Creator was on or before December 31, 1943 (the "Class").

By further Order of the Court dated August 12, 2009, the action was limited to Works published in print prior to May 1, 2009.

#### **SETTLEMENT APPROVAL**

A court approved Notice of the Settlement Approval Hearing was published in The Globe and Mail, the National Post, Le Journal de Québec and La Presse on May 9, May 16 and May 23, 2009, as well as on certain websites. The parties attended before the Ontario Superior Court of Justice on June 16, 2009, and obtained court approval of the settlement agreement reached between the parties, as well as Class Counsel fees in the amount of \$4,000,000.

The Court determined that the Settlement is fair and reasonable, and in the best interests of Class Members.

#### ***Settlement Benefits***

Under the terms of the approved Settlement, the Defendants will pay C\$11,000,000, inclusive of legal and settlement administration fees, to provide benefits to Class Members. The Settlement includes a compensation plan for freelance Works, an alternative take-down benefit for freelance Works that appeared in The Globe and Mail, as well as a donation to the Professional Writers Association of Canada, The Writers' Union of Canada and the Canadian Association of Photographers and Illustrators in Communications, to the general benefit of all Creators of written and artistic Works. The settlement includes a release of all claims, as well as a license in respect of Works that are not taken down.

The case has been financially supported by the Class Proceedings Fund operated by the Law Foundation of Ontario, and as required by law 10% of the net proceeds of the case will be paid to the Class Proceedings Fund.

### ***The Compensation Plan***

Eligible Class Members may complete and submit a claim form to the Claims Administrator, listing freelance Works created before May 1, 2009 for which compensation is sought. The Claims Administrator processes the claims and establishes entitlements of individual Class Members, according to the distribution scheme outlined below. For Works that appeared in The Globe and Mail, Eligible Class Members may choose to forego compensation, and instead request that those Works be removed from the commercial databases maintained by the Defendants.

The compensation owing to individual Class Members will be determined by the Claims Administrator, on the basis of a points system. Briefly, a member's entitlement to compensation will be calculated on the basis of a points system which takes into account various factors, particularly the following:

1. Whether the individual was paid or not paid for the initial publication of any freelance Work;
2. The length of the Work;
3. The publication in which the Work initially appeared.

Under the terms of the Settlement, no individual Class Member will be entitled to compensation in excess of 1% of the total Compensation Fund.

### ***Administrator's Fees***

The fees of the Claims Administrator will be deducted from the Settlement Funds.

### **TO MAKE A CLAIM FOR COMPENSATION**

The Court appointed William Dovey of Cole & Partners as Claims Administrator. The Claims Administrator's contact information is as follows:

80 Richmond Street West, Suite 2000, Toronto, Ontario, M5H 2A4  
Tel: (416) 361-2590 Fax: 416-364-2904

To receive compensation, each Class Member must submit a completed Claim Form and supporting documents, on or before 5:00 p.m. Toronto time on January 18, 2010. The

Claim Form is available at Class Counsel's website, [www.kmlaw.ca/robertsonvthomson](http://www.kmlaw.ca/robertsonvthomson), or by calling Cole and Partners, at (416) 361-2590, or by visiting their website at [www.coleandpartners.com](http://www.coleandpartners.com), or by email to [claimsadministrator@coleandpartners.com](mailto:claimsadministrator@coleandpartners.com).

The Claim Form should be submitted by mailing, emailing or faxing the Claim Form and supporting documents to the Claims Administrator at the above-noted address. If you fail to submit a Claim Form and the supporting documents, on or before 5:00 p.m. Toronto time on January 18, 2010, you will not receive any part of the net settlement monies unless the Court extends the deadline.

### **OPTING OUT**

If you are a person falling within the Class described above and you did not opt out when the action was certified in 1999, you will automatically be included in the Class unless you opt out now. Class Members who do not opt out may seek the settlement benefits described above.

Class Members may choose to opt-out now. If you opt-out, you will not be entitled to any of the benefits of the settlement.

To opt out of the Class you must fill out the Form below and send it to Koskie Minsky LLP (at the address listed below), the lawyers for the Class. The deadline for opting out is November 2, 2009. If your written request to opt out is not received by that date you will remain a member of the Class.

### **FURTHER INFORMATION**

If you are a Class Member and wish to obtain additional information about the Settlement, please contact Koskie Minsky LLP at the address below:

Koskie Minsky LLP  
Barristers & Solicitors  
20 Queen St. West, Suite 900, Box 52  
Toronto, ON, M5H 3R3  
Re: Robertson v. Thomson et al.

In addition, information is available on Class Counsel's website at [www.kmlaw.ca/robertsonvthomson](http://www.kmlaw.ca/robertsonvthomson).

**PLEASE DO NOT CONTACT THE COURT OR THE REGISTRAR OF THE COURT ABOUT THIS CLASS PROCEEDING. THEY ARE NOT ABLE TO ANSWER YOUR QUESTIONS.**

Dated: September 19, 2009

**OPT OUT FORM**

**THIS IS NOT A REGISTRATION FORM OR CLAIM FORM. IT  
EXCLUDES YOU FROM THE SETTLEMENT CLASS.**

To: **Koskie, Minsky**  
900 - 20 Queen St. West, Box 52  
Toronto, ON M5H 3R3  
**Attn. Robertson v. Thomson, et al.**

I \_\_\_\_\_ (please print full name) am a/the:  
(please check the applicable boxes)

- writer;
- artist;
- photographer (or author as per the *Canadian Copyright Act*);
- estate or assignee of any of the above;

of Works as defined in the Notice.

I confirm that:

- my Works were not created under a collective agreement that governed the use of the Works in electronic media;
- I have not given written permission to make my Works available in commercial online databases operated by or authorized by the defendants

I wish to opt out of the *Robertson v. Thomson* class action. I understand that by opting out, I will not be entitled to any of the benefits of the settlement.

\_\_\_\_\_  
Signature

Address:

Postal code:

Telephone:

*Note: To opt out, this form must be completed and received at the above address before November 2, 2009*