

What is a Class Action?

A class action is a lawsuit that is brought by one or more persons on behalf of a group of persons, identified as the "Class". For example, a person who claims her mortgage payment was miscalculated may want to bring a class action on behalf of all other persons who had the same mortgage.

Can Anyone Start a Class Action?

Yes, but a case must be "certified" as a class action by the Courts before it actually becomes a class action. The Court will consider whether the issues are sufficiently similar to be a class action, amongst other factors. Only after the case is "certified" does it become a class action.

Certification is typically the first major step in a class action, but may not take place for months after the commencement of the claim. The second step is to prove that the defendant did something wrong. The third step will be to determine who should receive any money, and what they need to prove to obtain their money. The entire process can take years. Litigation happens much more quickly on television! Fortunately, in many cases the parties are able to settle the case before it has to go through all three steps.

How Do I Participate in a Class Action if one has already been started?

In British Columbia, once a class action is certified, all residents of British Columbia who fit the Class definition are automatically included in the class action, unless they choose to "opt out" (exclude themselves).

You should look for the definition of the Class or the proposed Class, which you will typically find on the websites of the lawyers acting for the Plaintiff, and in the Notice of Civil Claim filed by the Courts. If you fit the Class definition, you do not need to do anything to participate if you are resident in B.C. You will be automatically included, and bound by the result of the action – whether good or bad. However, it may be a good idea to contact the lawyer in charge of the case and identify yourself. Most lawyers keep a running list of potential class members, and this allows them to provide more direct notification of important developments.

In some cases, people outside B.C. will be given the option of joining the class action. You can contact the lawyers to see if that option is available in any case you learn about.

I Heard There Was a Settlement of a Class Action. Can I Participate?

If you fit the Class definition, you may be eligible to participate in the settlement of a class action.

Typically, when a class action is settled, there is another round of notices advising potential class members of the settlement, and what they need to do, if anything, to benefit from the settlement. Often the settlement provides for a claims process, where class members have to make a claim and provide certain information or documents before being able to receive any benefits. There is also usually a timeline for doing so.

I Did Not Make a Claim Within the Settlement Deadlines. Can I Start My Own Claim?

Probably not. Settlements usually give the defendant a release from all claims. The rationale for that is that, in exchange for the compromise of the claims, the defendant wants to know that no further claims of the same kind will be brought against it.

Who Represents Me?

Once a class action is certified, the Court will also appoint a class lawyer who will be acting on behalf of the Class. This lawyer will represent you with respect to the issues that are being litigated on a common basis in the class action.

Sometimes, there may be additional individual issues left to be determined after the conclusion of a class action. For example, the Court may determine on a common basis that the defendant was negligent, but you may need to establish your individual losses. The Class lawyer may or may not be able to act for you with respect to the individual losses. If he/she does, he/she may require a separate agreement with you. You may also retain other lawyers of your choosing.

Do I Have To Pay Anything to Participate in a Class Action?

Not out of your own pocket in most cases. The class action lawyers usually work on "contingency", meaning that they get paid a percentage of the amount paid to each person in the Class. These agreements must be approved by the Courts as fair and reasonable before any deduction is made.