

**VACATION & HOLIDAY PAY CLASS ACTION – CUNNINGHAM v RBC DS**

**NOTICE OF CERTIFICATION**

**THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS – PLEASE READ IT  
CAREFULLY**

You are receiving this notice because the records of the Defendants, RBC Dominion Securities Limited and RBC Dominion Securities Inc. (“RBC DS”), indicate that you are a current or former employee of RBC DS and a Class Member (as described below) in this vacation and holiday pay Class Action lawsuit, unless you choose to exclude yourself from (or opt out of) this Class Action.

For more information about this Class Action please see: [www.vacationpayclassaction.ca](http://www.vacationpayclassaction.ca) or contact Class Counsel as set out below.

**Summary**

The lawsuit of *Cunningham v RBC DS* alleges that over a number of years RBC DS failed to properly pay vacation and public holiday pay to current or former employees who are or were compensated either fully or partially based on commissions<sup>1</sup>, including investment advisors, wealth advisors and portfolio managers (or similar or predecessor positions, and other positions where the employee provides investment advice to clients) as well as their associates and assistants. RBC DS is defending the Class Action and denies the Plaintiff’s allegation that vacation and holiday pay were not included in commissions received by employees.

If the Plaintiff is successful in her lawsuit, Class Members may be eligible to receive compensation from RBC DS for vacation and/or holiday pay, if any, for which they have not been compensated already.

The Plaintiff commenced the lawsuit on July 9, 2020. In 2022, the Plaintiff moved for the certification of this action as a class proceeding. In Reasons for Decision released on December 29, 2022, the Honourable Justice Belobaba certified this action as a class proceeding. RBC DS moved for leave (permission) to appeal the certification decision to the Divisional Court and, in Reasons for Decision released on October 5, 2023, that motion was dismissed confirming that this action shall proceed as a class action.

The Court has not yet determined whether this lawsuit will be successful and it will now proceed to a common issues trial. A trial date has not yet been set by the Court.

<sup>1</sup> “Commissions” is used a short form reference to various percentage or variable compensation including commissions on trades, account fees and trailer fees.

The law firms Roy O'Connor LLP, Cavalluzzo LLP and Whitten & Lublin PC have been appointed as Class Counsel by the Court to represent the Class Members.

## **1. What The Lawsuit is About**

The Representative Plaintiff, Ms. Leigh Cunningham (a former Investment Advisor at RBC DS in Winnipeg) has sued RBC DS alleging, among other things, that it failed to pay Class Members vacation and holiday pay on commissions as required by statutory employment law. The lawsuit asks the Court to award monetary compensation to Class Members and other related relief including requiring RBC DS to calculate, record and pay to vacation and holiday pay on commissions in accordance with the statutory employment law.

RBC DS denies the Plaintiff's allegations and asserts that it meets or exceeds the statutory vacation and holiday pay requirements, and denies that any amounts are owing to the Class Members.

A copy of the Certification Order, the Reasons of the Court relating to Certification, the Reasons of the Court settling the Certification Order, the Order regarding notice to the Class Members, the Statement of Claim, the Statement of Defence, the Reply (if any) and other legal documents associated with this case can be viewed at [www.vacationpayclassaction.ca](http://www.vacationpayclassaction.ca). These and other Court filings in this lawsuit are available for inspection at the office of the Superior Court of Justice, at the Courthouse located at 393 University Ave., Toronto, Ontario, Court File No.: CV-20-00643720-00CP.

## **2. How to be part of the Class Action**

**PLEASE NOTE: DO NOTHING IF YOU WISH TO BE A CLASS MEMBER IN THIS ACTION**

Under Ontario law, if you are a person falling within the Class definition (set out below), you will automatically be included in the Class unless you choose to be excluded from (or, what is also known as "opting out" of) this Class Action. This includes Class Members who reside anywhere in Canada, not just in Ontario (except for individuals who were or are employed by RBC DS in BC and Alberta because those employees are excluded from this proceeding, as noted in the class definition quoted immediately below).

### **The Court Approved Class Definition**

By order of the Ontario Superior Court of Justice dated December 29, 2022, the following persons are automatically included in this class action lawsuit, unless they choose to be excluded from (or opt out of) the Class Action:

All former and current employees of either Defendant who are or were employed as an Investment Advisor, wealth advisor, portfolio manager, or similar or predecessor title, whose job responsibilities include (or included) providing clients with investment advice and/or growing the Defendants' client

base and include those who provide (or provided) assistance to those who provide (or provided) such advice, including Associates and Assistants, and who were employed in a Province or Territory of Canada (other than British Columbia or Alberta):

- (a) in Québec from March 15, 2017 to **December 10, 2025**;
- (b) in Nunavut, Northwest Territories, and Prince Edward Island from July 9, 2014 to **December 10, 2025**;
- (c) in Yukon from March 27, 2014 to **December 10, 2025**;
- (d) in Saskatchewan, Ontario, New Brunswick, and Nova Scotia from July 9, 2005 to **December 10, 2025**; and,
- (e) in Manitoba and Newfoundland & Labrador from July 9, 1990 to **December 10, 2025**;

and who are (or were) remunerated either fully or partially based on commissions.

### **How to be Excluded from the Class Action**

To exclude yourself from this proceeding, you must contact Class Counsel by email or regular mail at the address below and provide them with your full legal name and mailing address and state that you wish to be excluded from (opt out of) the Class Action. Class Counsel will confirm in writing your decision to exclude yourself from (opt out of) this Class Action. The deadline for excluding yourself from (or opting out of) this class action is **February 9, 2026**.

If you decide to exclude yourself from (opt out of) this Class Action, you will be excluded from any settlement that may be entered into or any award of compensation that may be made by the Court. Once you exclude yourself from (opt out of) this class action, you will receive no further communications regarding this Class Action.

All Class Members who do not exclude themselves from (who do not opt out of) the Class Action will be bound by any final judgment of the Court (whether or not the Class Action is successful) or any settlement approved by the Court.

### **3. What are the Financial Consequences of the Lawsuit?**

There is no cost to you as a Class Member in this lawsuit.

If the lawsuit is successful at the common issues trial, or any subsequent appeal, the Court may award compensation to the Class as a whole (of which you may receive a portion) or, alternatively, the Court may establish a process to determine if, and in what amount, any compensation may be payable to individual Class Members.

If the Class Action is successful, legal fees and disbursements incurred by Class Counsel will be deducted from the total amount recovered on behalf of the Class. The amount of such legal fees and disbursements must be reviewed and approved by the Court.

In this case, the Plaintiff has received financial support from the Class Proceedings Fund (the "Fund"), which is a body created by statute and designed to allow access to the courts through class actions in Ontario. The Fund has agreed to reimburse the Plaintiff for some disbursements incurred in pursuing this action. The Fund will also be responsible for costs that may be awarded against the Plaintiff in this case. In exchange, the Fund will be entitled to recover from any court award or settlement in favour of the Class the total amount of the disbursements paid by the Fund as well as 10% of any amounts that may be payable to Class Members.

If the Class Action is unsuccessful, Class Members will not be awarded compensation. If the Class Action is unsuccessful, you and other Class Members will not have any financial obligations in respect of the lawsuit.

#### **4. Class Counsel & Other Matters**

The law firms of Roy O'Connor LLP, Cavalluzzo LLP and Whitten & Lublin PC have been appointed as Class Counsel by the Court. As noted above, Class Counsel will be paid legal fees only if the lawsuit is successful and only to the extent that such legal fees are approved by the Court.

If you wish to participate personally in the lawsuit, please contact Class Counsel or you may apply directly to the Court for permission to do so.

#### **5. More Information**

For further information about the class proceeding lawsuit please see [www.vacationpayclassaction.ca](http://www.vacationpayclassaction.ca) or contact Class Counsel at:

Roy O'Connor LLP Tel: 1-800-655-0893 Email: <a href="mailto:jk@royoconnor.ca">jk@royoconnor.ca</a>	Cavalluzzo LLP Tel: 1-833-515-7734 Email: <a href="mailto:rbcdsclassaction@cavalluzzo.com">rbcdsclassaction@cavalluzzo.com</a>	Whitten & Lublin PC Tel: 1-416-640-2667 Email: <a href="mailto:office@whittenlublin.com">office@whittenlublin.com</a>
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***PLEASE DO NOT CALL THE DEFENDANTS (RBC DOMINION SECURITIES), THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION. ALL QUESTIONS ABOUT THE LAWSUIT SHOULD BE DIRECTED TO CLASS COUNSEL.***

This notice is published pursuant to the section 17 of the Ontario *Class Proceedings Act, 1992* and was approved by the Ontario Superior Court of Justice.