

*Authorized by the Ontario Superior Court of Justice*  
**NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL HEARING**  
**—MR. SUB FRANCHISEE CLASS ACTION—**  
**Read this notice carefully as it may affect your legal rights**

**TO ALL CLASS MEMBERS, WHO ARE:**

All persons, whether natural or corporate, who, on August 17, 2008 were: franchisees of the restaurant franchise operating in Canada of which Mr. Submarine Limited ("Mr. Sub") was the franchisor, or, operators of the "Corporate" restaurants operating in Canada of which Mr. Sub was the owner (the "Class")

**CERTIFICATION**

On November 1, 2016, the Ontario Superior Court of Justice certified the action 1688782 Ontario Inc. v. Maple Leaf Food Inc. and Maple Leaf Consumer Foods Inc. (jointly "Maple Leaf") as a class proceeding and appointed 1688782 Ontario Inc. as the representative plaintiff of the Class.

The class action seeks damages on behalf of the Class who received ready-to-eat meat products ("RTE Meats") containing *Listeria monocytogenes* that was produced, processed, distributed, and/or sold by Maple Leaf. The class action alleges that the RTE Meats were dangerous and unfit for human consumption.

There has been no finding of liability and Maple Leaf denies the allegations.

**SUMMARY JUDGMENT**

On November 6, 2020, the Supreme Court of Canada decided an appeal from a summary judgment decision and held that Maple Leaf did not owe a duty of care to the Class in relation to economic losses arising as a result of the listeria outbreak. The Supreme Court of Canada concluded that Maple Leaf is not liable to compensate the Class members for their economic losses.

The Supreme Court of Canada noted that its decision did not affect Class members' claims for compensation for clear up, disposal, and replacement costs, but observed that the evidence might not support those claims which would be minimal in any event.

**PROPOSED SETTLEMENT**

As a result of the Supreme Court of Canada's decision, Class Counsel and Maple Leaf have agreed to settle this class action on the basis of a dismissal without costs (the "Proposed Settlement"). Under the Proposed Settlement, Maple Leaf will not make any payment to the Class. In order to take effect, the settlement must be approved by the Ontario Superior Court of Justice. If approved, the Proposed Settlement will resolve the class action in its entirety.

The Proposed Settlement, if approved, will affect all members of the Class, defined above. Unless a Class member, opts-out of the class action, any residual claims they might have against Maple Leaf will be dismissed.

**SETTLEMENT APPROVAL HEARING**

There will be an approval hearing on June 28, 2021 at 10 a.m. by videoconference via the Superior Court of Justice's Zoom platform. At the approval hearing, the Court will be asked to determine whether the Proposed Settlement is fair, reasonable and in the best interests of Class Members.

Join via Video – ZOOM – <https://ca01web.zoom.us/j/62100631067?pwd=c1c5OXZ2NmJraUlmM1RNdkZVNIQzdz09>

Alternate Method of Connecting: 1-855 703 8985 Canada Toll-free Meeting ID: 621 0063 1067 | Passcode: 443805

You may object to the Proposed Settlement. Class Members who wish to object must submit a written submission to Class Counsel postmarked no later than June 14, 2021. Class Counsel will forward all objections to the Court. All Class Members are entitled, but are not required, to attend the approval hearing. If you wish to attend the approval hearing or make submissions, please contact Class Counsel for additional details. Class Members who do not oppose the Proposed Settlement need not appear at the settlement approval hearing or take any other action.

**OPTING OUT OF THE CLASS**

Members of the Class who do not want to participate in the class action must opt out. To opt out you must complete and send the opt-out form below or a written, signed opt-out election indicating:

- that the Class member wishes to opt-out;
- the name of the Class member;
- your name, and contact information; and
- your authority to act on behalf of the Class member

**You may mail the completed opt-out form or signed written election to:**

ATT'N: MR. Sub Franchisee Class Action  
Nicholson, Smith & Partners LLP  
295 Central Avenue  
London, Ontario N6B 2C9

**You may also fax the completed opt-out form or signed written election to:  
(519) 679-0958**

**You may also email or MMS the completed opt-out form or signed written election to:**

[mrsfranchiseeclassaction@nicholsonsmith.com](mailto:mrsfranchiseeclassaction@nicholsonsmith.com)

No Class Member will be permitted to opt out of the class action unless the election to opt out is **received or post-marked on or before June 14, 2021 at 5:00 p.m. E.T.**

A member of the Class who opts out will not be entitled to participate in the class action and will not be bound by any judgment in the class action.

A Class member who opts out may be eligible to pursue a claim in a separate proceeding. If you wish to pursue your own claim in a separate proceeding, you should consult with a lawyer immediately. This is because there are time limitations and other considerations for starting a law suit and the decision to opt-out may not be reversible.

**NO COSTS TO THE CLASS OF THE CLASS ACTION**

As a member of the Class are not required to pay any costs in relation to any steps taken in this class action or any further steps to give effect to the Proposed Settlement.

If you choose to opt-out of the Class and pursue your own claim, you will be responsible for any costs of your individual claim. Similarly, if you choose to oppose the Proposed Settlement, you will be responsible for your costs of doing so.

**CLASS COUNSEL FEES AND DISBURSEMENTS**

The representative plaintiff and Class counsel entered into a retainer agreement providing for the payment of legal fees, disbursements and applicable taxes. The agreement provides that Class counsel will not receive payment for their work unless and until the class action is successful. Under the Proposed Settlement, Class Counsel will not receive any payment for fees and disbursements.

**DO NOT CALL THE COURT WITH ANY QUESTIONS ABOUT THIS NOTICE**

Any questions regarding the class action should be directed to:

L. Scott Smith. Tel: 1 (866) 690-3366 (toll free)  
Nicholson, Smith & Partners LLP Fax: 1 (519).679.0958  
Barristers & Solicitors [mrsfranchiseeclassaction@nicholsonsmith.com](mailto:mrsfranchiseeclassaction@nicholsonsmith.com)  
295 Central Avenue [www.mrsfranchiseeclassaction.ca](http://www.mrsfranchiseeclassaction.ca)  
London, Ontario N6B 2C9

**Additional information, including the Certification Order and Supreme Court of Canada Decision, may be found on the class action website.**

# MR. SUB FRANCHISEE CLASS ACTION OPT-OUT FORM

I do **not** want to be included in the class action relating to Mr Sub Franchisees and RTE Meats. I want to **opt out (be excluded from)** this class action. My information is as follows:

Name of Class Member	_____	Name of authorized representative	_____
Address:	_____	Relationship/Title:	_____
City and Province	_____	Telephone:	_____
Postal Code:	_____	Email address:	_____
Date:	_____	Signature:	_____