

FAQ

What is a representative action?

A representative action is a proceeding in which one or more people called “representative plaintiffs” sue on behalf of people who have similar claims. A representative action is similar to a class action under the *Class Proceedings Act* and may be brought by a trade union on behalf of its members in certain circumstances.

All of the people with similar claims are called the “class” or “class members”. The settlement of the representative action resolves the claims for all class members.

What is this representative action about?

The Representative Plaintiffs, Tom Fenske and Fabrice Colin, are commencing a representative action against certain former directors and officers of the Laurentian University of Sudbury (the “Defendants”) alleging that they committed knowing assistance of breach of trust and fraudulent and/or negligent misrepresentations in relation to the Laurentian University of Sudbury’s Retiree Health Benefits Plan (the “RHBP”). The representative action alleges that the Defendants sanctioned and/or participated in the misappropriation of RHBP funds and made misrepresentations to LUSU and LUFA members with respect to the RHBP. These allegations have not been proven in Court, and the Defendants have denied any wrongdoing or liability.

The Representative Plaintiffs are seeking money for certain LUSU and LUFA members and retirees who contributed to the RHBP. They are also asking for lawyers’ fees and costs.

What is the settlement?

The Representative Plaintiffs reached a settlement agreement with the Defendants, subject to Court approval.

The key terms of the settlement are:

- the Defendants have agreed to pay \$3,000,000 to settle the representative action (the “Settlement Funds”); and
- the Representative Plaintiffs will sign a full and final release in favour of the Defendants and their insurers.

A hearing will be held during which counsel for the Plaintiffs will seek the Court’s approval of the representative action and approval of the settlement, distribution of funds, and counsel’s fees.

Who is included in the Settlement Class?

The Settlement Class, i.e., those who will participate in the settlement, is made up of LUSU and LUFA Members (as defined immediately below).

Fabrice Colin is seeking an order appointing him as the Representative Plaintiff on behalf of the following Settlement Class Members:

- former members of LUFA who retired while members of LUFA and were receiving RHBP benefits as of February 1, 2021 (including the estates of such retirees);
- current and former LUFA members as of February 1, 2021 who were LUFA members eligible to claim RHBP benefits as of February 1, 2021 (including the estates of such members);
- current and former LUFA members who were dues-paying members of LUFA prior to February 1, 2021 but left the bargaining unit to join the senior administration and were in that position as of February 1, 2021 (including the estates of such members); or
- current and former LUFA members who were LUFA members as of February 1, 2021 and had contributed to the RHBP at any time prior to that date (including the estates of such members) (the “**LUFA Members**”).

Tom Fenske is also seeking an order appointing him as the Representative Plaintiff on behalf of the following Settlement Class Members:

- former members of LUSU who retired while members of LUSU and were receiving RHBP benefits as of February 1, 2021 (including the estates of such retirees);
- current and former LUSU members as of February 1, 2021 who were LUSU members eligible to claim RHBP benefits as of February 1, 2021 (including the estates of such members); or
- current and former LUSU members who were LUSU members as of February 1, 2021 and had contributed to the RHBP at any time prior to that date (including the estates of such members) (the “**LUSU Members**”).

How do I join the representative action?

You do not have to sign up to be part of the representative action and settlement. If you meet the definition of a LUSU or LUFA Member, then you will automatically be part of the representative action and a member of the Settlement Class.

Who can receive compensation under the settlement?

If the settlement is approved by the Court, Settlement Class Members (i.e., LUSU and LUFA Members) will receive compensation under the settlement agreement in accordance with the Court-approved plan of distribution.

How much money will I get?

If the settlement is approved by the Court, settlement funds will be distributed to Settlement Class Members on a *pro-rata* basis according to each Settlement Class Member’s respective RHBP contributions pursuant to a Court-approved plan of distribution.

Note that each Settlement Class Member's *pro-rata* share of the settlement funds is based on the Member's *contributions* to the RHBP, which is not the same as the Member's seniority or period of service with the University. For example, members who opted for family coverage would have had higher monthly contributions than members who opted for individual coverage. Since each Settlement Class Member's *pro-rata* share of the settlement funds is determined based on their contributions to the RHBP, the amount that individual Settlement Class Members receive if the settlement is approved by the Court may vary between colleagues with comparable seniority or years of service.

When will I receive my share of the settlement funds?

Within 60 days of the Final Order, the Settlement Funds will be distributed to Settlement Class Members.

"Final Order" means an order approving the settlement from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal, or proposed appeal, such as the delivery of a notice of appeal or application for leave to appeal.

For example, if there is no appeal of the Court order approving the settlement, then 60 days after the deadline for filing the appeal, the funds will be distributed. In that case, the payments would be expected to occur around the first quarter of 2026. If, however, there is an appeal, the distribution of funds would be delayed while the Court hears that appeal, which could take many months.

What do I have to do to receive settlement funds?

LUSU and LUFA Members will receive a notification via email or mail (where no email is on file) that sets out the amount of compensation that they can expect to receive in the settlement. You do not need to submit a claim in order to receive your share of the settlement funds.

To ensure that the cheque is delivered to the correct address, please confirm your address via email to lusustaff@gmail.com.

Will the settlement funds I receive be taxed?

While we cannot provide financial advice or guarantee what the Canada Revenue Agency will do, the contributions that LUSU and LUFA Members made to the RHBP were made after tax deductions from their pay, and the reimbursements out of the RHBP were not taxable and were not included in the members' income. As such, we expect that the payments to the members/retirees out of the proposed settlement will similarly be non-taxable.

Do I have a lawyer in this case?

The law firm of Wright Henry LLP represents the LUSU Members. The law firm of Goldblatt Partners LLP represents the LUFA Members.

Collectively, these firms are referred to as "Class Counsel".

Do I have to pay anything to be involved in the proceeding?

No. You will not have to pay any of the fees and expenses of Class Counsel. If the Court grants their request, Class Counsel's fees and expenses will be deducted from the Settlement Funds.

Class Counsel will request fees and disbursement of CAD \$300,000 (inclusive of applicable taxes).

What if I don't want to be part of the representative action and settlement?

There is no mechanism for excluding yourself from the proceeding – sometimes referred to as “opting-out”.

For context, on February 1, 2021, the University commenced proceedings under the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the “CCAA”). The RHBP was eliminated during the CCAA proceedings. In July 2021, LUSU and LUFA each submitted Proofs of Claim on behalf of their current and former members claiming, among other things, damages against certain directors and officers of the University arising from their alleged involvement in the misuse and/or depletion of RHBP funds (the “D&O Claims”).

The Amended Plan of Arrangement dated September 9, 2022 (the “CCAA Plan”) granted LUSU and LUFA the right to assert the D&O Claims following the implementation of the Plan, including by way of a representative action. However, only persons or entities that submitted Proofs of Claim during the CCAA proceeding (within the prescribed time limit) have the right to make claims against directors and officers of Laurentian in connection with the alleged misuse and/or depletion of RHBP funds.

LUSU is the only entity that submitted a Proof of Claim on behalf of LUSU Members with respect to the RHBP. LUFA and the Federated Universities are the only entities that submitted Proofs of Claim on behalf of LUFA members with respect to the RHBP. As such, the Federated Universities, LUSU and LUFA (through their authorized representatives) are the *only* entities capable of pursuing the claims being advanced on behalf of the Settlement Class.

Accordingly, there is no mechanism for the Settlement Class Members to opt-out of this proceeding because, if any members of the Settlement Class were to opt out, they would have no legal recourse against the Defendants with respect to the D&O Claims. In other words, by virtue of the terms of the CCAA Plan, Settlement Class Members do not have the right to sue the Defendants independently with respect to the D&O Claims.

While you cannot opt out of the proceeding, you may object to the settlement, Plan of Distribution, or counsels' fees by setting out your objection in writing addressed to Class Counsel as follows:

- for LUSU Members, email info@WrightHenry.ca; and
- for LUFA Members, email laurentiansettlement@goldblattpartners.com

Objection should be submitted by no later than addressed to counsel for LUSU and LUFA by December 10, 2025.

Is this settlement being paid to me as part of the CCAA Plan?

No. The representative action is a different proceeding from the CCAA proceedings. The Settlement Funds are not part of the compensation that may be owed to you pursuant to the terms of the CCAA Plan.

Interpretation: If there is a conflict between the provisions of this FAQ and the settlement agreement, the terms of the settlement agreement will prevail