

OVERTIME CLASS ACTION

FULAWKA v. THE BANK OF NOVA SCOTIA

NOTICE OF SETTLEMENT APPROVAL

➔ **A settlement has been reached and approved by the Ontario Superior Court of Justice which may give you the opportunity to claim for unpaid overtime.**

➔ **Please read this notice carefully – It describes who is entitled to make claims for overtime and how to make such claims.**

In December 2007, a class action lawsuit was commenced against The Bank of Nova Scotia (“BNS”) on behalf of certain full-time retail branch bank employees in Canada. The lawsuit claimed that BNS failed to pay all the overtime compensation to which these persons were entitled.

The lawsuit was “certified” as a class proceeding by the Ontario Superior Court of Justice in February 2010, meaning that it was permitted to proceed to trial. This decision was subsequently upheld by the Ontario Divisional Court and the Court of Appeal for Ontario, with leave to the Supreme Court of Canada being denied in 2013.

The parties have reached an agreement to settle the class action. The settlement was approved pursuant to the Order of Ontario Superior Court of Justice dated August 12, 2014. The law firms of Roy O’Connor LLP, Sack Goldblatt Mitchell LLP and Sotos LLP (collectively “Class Counsel”) act for the Class.

1. WHO DOES THE SETTLEMENT APPLY TO?

The settlement applies to all persons who are members of the Class (as described in the court order certifying this case as a class action) except those who “opted out” of the action (for clarity, persons who opted out means those individuals who delivered written notice by March 31, 2014 that they did not wish to participate in the lawsuit). Class Members are:

All current and former full-time personal banking and small business banking employees at BNS retail branches who held one or more of the following positions between January 1, 2000 and December 1, 2013 and worked overtime for which they were not compensated:

- a. Personal Banking Officer;
- b. Senior Personal Banking Officer;
- c. Financial Advisor; or,

d. Account Manager Small Business (including its predecessor positions of Account Managers and Account Officers).

Class Members (except, to repeat, those persons who opted out) will be entitled to make a claim under the settlement.

2. *WHAT IS THE CLASS ACTION ABOUT?*

This class action lawsuit alleges that BNS failed to properly compensate Class Members for overtime, in breach of its obligations. As a result of this alleged failure, Class Members are alleged to have suffered financial damages in the form of lost overtime wages.

3. *WHAT ARE THE TERMS OF THE SETTLEMENT?*

If you are a Class Member who has not “opted-out” of the class action, you may make a claim for any overtime that you worked which was required or permitted by the Bank (whether it was approved by a supervisor or not) provided that you were not previously compensated for the work. **BNS encourages and invites eligible Class Members to make claims for such unpaid overtime.**

BNS acknowledges that many class members will not have documentation to support their claim. **The absence of documentation does not prevent you from making a claim or from being paid for your overtime work.**

4. *HOW DO YOU MAKE A CLAIM?*

A copy of the claims form is enclosed with this notice.

If you are a Class Member and worked and previously unpaid overtime, please follow the instructions on the claims form to make a claim.

➔IMPORTANT! You must submit the attached claims form for any unpaid overtime by OCTOBER 15, 2014.

- You may claim for unpaid overtime from August 12, 2014 back as far as the applicable provincial limitation period for the province in which you performed the work. A chart showing the eligible claims period for each province and territory is attached as Appendix “A”;
- BNS will review your claim and pay for overtime that was required or permitted to be worked regardless of whether the overtime was approved by a manager or supervisor;
- No branch manager or supervisor at the branch at which the unpaid overtime work was performed will contact you;
- If BNS rejects or reduces your claim, it will disclose the evidence it relied upon to do so;
- If you are dissatisfied with BNS’s decision you may appeal to an independent Arbitrator as part of a streamlined arbitration process. DETAILS ABOUT THE ARBITRATION PROCESS WILL BE AVAILABLE FROM CLASS COUNSEL AT THE ADDRESS LISTED BELOW.
- BNS will ensure that no one who participates in this process will be subject to any reprisal.

There is no cost to you to make a claim.

5. *THE COSTS OF THE SETTLEMENT*

Class Members are not required to pay any fees to Class Counsel as those have been paid by BNS. The plaintiff has been granted funding and indemnification from an adverse costs award and funding from the Class Proceedings Fund (“CPF”). The CPF is entitled by law to receive a 10% levy on any money that Class Members are paid as part of this settlement. BNS will deduct the CPF’s levy from any compensation payable to Class Members and pay that money to the CPF.

More Information?

Please address any requests for further information about this action to:

Roy O’Connor LLP

Attention: Amanda Grainger
2300-200 Front St. W.
Toronto, ON M5V 3K2
Tel: (416) 362-1989
Fax: (416) 362-6204
Email: info@royoconnor.ca

PLEASE DO NOT CALL OR CONTACT THE COURT OR THE BANK OF NOVA SCOTIA ABOUT THIS CLASS ACTION.

THIS NOTICE WAS APPROVED BY THE ONTARIO SUPERIOR COURT OF JUSTICE

Appendix "A"

ELIGIBLE CLAIMS PERIOD

Province in Which Work Performed	Date on Which Work Performed
New Brunswick	Between December 10, 2001 and August 12, 2014
Newfoundland & Labrador	
Nova Scotia	
Prince Edward Island	
Manitoba	
Northwest Territories	
Nunavut	
Yukon Territory	
British Columbia	
Saskatchewan	
Quebec	Between December 10, 2004 and August 12, 2014
Ontario	Between December 10, 2001 and January 1, 2004 OR Between December 10, 2005 and August 12, 2014
Alberta	December 10, 2005 and August 12, 2014