

# Schedule "A"

## NOTICE TO CONSUMERS OF GREEK STYLE PASTA SALAD BETWEEN MAY 1, 2002 AND MAY 31, 2002 IN CANADA AND THEIR RELATIVES OF PROPOSED SETTLEMENT OF CLASS ACTION

PLEASE READ THIS NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS

### NOTICE

This notice is directed to all persons in Canada who consumed Greek style pasta salad between the 1<sup>st</sup> of May, 2002 and the 31<sup>st</sup> of May 2002 and who became ill, and all persons as are described in Section 61 of the *Family Law Act* who suffered compensable loss by reason of that relationship to a person falling within the defined class ("Class Members").

A class proceeding was commenced against Tiffany Gate Foods Corporation ("Tiffany Gate") alleging that Tiffany Gate was responsible for the manufacture of Greek style pasta salad that was consumed by Class Members. Tiffany Gate has vigorously denied all allegations that it was responsible for the contamination of any of its products and continues to deny any wrongdoing or liability of any kind to Class Members.

An agreement (the "Settlement" or "Settlement Agreement") has been reached and in order for the Settlement Agreement to become effective, it must be approved by the Ontario Superior Court of Justice.

### SETTLEMENT TERMS AND BENEFITS

If the Settlement Agreement is approved, Class Members will be eligible to receive compensatory payments under the Settlement in accordance with their level of illness. The payment will be based, among other things, on the number of days the claimants were ill. The Settlement Agreement describes in detail payment amounts for different durations of illness. Generally, so that you can decide about your rights before the Settlement is final, the following gives an overview:

Payments for those who qualify could range from \$1,000 to \$8,000 respectively for persons who were ill for 1 to 3 days and those who were ill in excess of 22 days. Payments for the relatives of the persons who were ill range from \$250 to \$1,500 for the same respective durations of illness. The amounts set forth above are intended to provide fair and reasonable compensation for general damages. In some cases, any loss of income from employment that is proven with supporting documentation as set out in the Settlement Agreement will be paid in addition to the compensatory payments outlined above.

Further details about the terms of the Settlement can be found at [www.msmb.ca](http://www.msmb.ca) and [www.nelligan.ca](http://www.nelligan.ca)

### PROPOSED CLASS

### SETTLEMENT APPROVAL HEARING & CLASS MEMBERS' RIGHT TO OBJECT

This Notice is to advise you of the Approval Hearing for the Settlement in the herein action brought on behalf of Class Members resident in Canada, which will take place on **July 4, 2008 at 10:00 a.m.**, at 361 University Avenue, Toronto, Ontario.

Members of the proposed class who do not oppose the Settlement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the Settlement. Members of the proposed class are entitled to object to the Settlement and have the right to appear at the appropriate hearing, in person or through a lawyer.

Members of the proposed class who wish to object to the Settlement are encouraged to send an objection in writing by mail or by fax, delivered on or before June 25, 2008, to the Claims Administrator at the address or fax number below. All written objections will be presented to the Court for consideration. If a written objection is filed, it is requested that the written objection include the following information:

1. The individual's name, address, telephone number, fax number, and e-mail address.
2. A statement that he or she is a member of the proposed class.
3. A brief statement of the nature of and reasons for the objection.
4. Whether he or she intends to appear at the appropriate Court hearing in person or through a lawyer and if through a lawyer, the lawyer's name, address, telephone number, fax number and e-mail address.

Even if a written objection is not filed and/or an intention to appear is not indicated, Class Members will be entitled to appear and raise any objections at the applicable approval hearing, at the Court's discretion.

Those claimants whose information was already migrated electronically to the Claims Administrator MUST notify Class Counsel of their updated information.

### RIGHT TO OPT OUT

Even if the Settlement is approved and the class proceeding is certified as a class action, Class Members shall have the right to exclude themselves from the Settlement (and the appropriate proceeding), and in such event neither the person who has opted out nor their family members shall be eligible for any of the payments set out in the Settlement Agreement. Any such person

The Settlement Agreement proposes certification of the following Class:

- a) *All persons who consumed the Greek style pasta salad manufactured by Tiffany Gate Foods Corporation, between May 1, 2002 and May 31, 2002 and who became ill as a consequence of the contamination of this salad with shigella sonnei bacteria; or*
- b) *All living parents, grandparents, children, grandchildren, siblings and spouses (within the meaning of s. 61 of the Family Law Act R.S.O. 1990 c. F.3, as amended) of Class Members.*

#### **CLAIMS PROCESS**

Class members will have 45 days after the Notice of Approval and certification is published to submit their Claim Form and package or their Opt-out form to the Claims Administrator. The actual date will be indicated in a second Notice to be published in this Newspaper. Claims package and all other forms applicable to the Settlement can be obtained now at [www.msmb.ca](http://www.msmb.ca) and [www.nelligan.ca](http://www.nelligan.ca) or by calling the Claims Administrator at 1-866-640-0039 proposed Class Counsel at 416-363-7485 or at 613-238-8080.

#### **CLASS COUNSEL RECOMMENDATION**

Class Members in Canada are represented by the law firms of McPhadden, Samac, Merner, Barry (Toronto – 416-363-5195) and Nelligan O'Brien Payne (Ottawa -613-238-8080). Their websites are [www.msmb.ca](http://www.msmb.ca) and [www.nelligan.ca](http://www.nelligan.ca)

Class Counsel are experienced in product liability litigation and recommend the Settlement. Detailed material in support of Settlement approval and approval of Class Counsel fees are posted at [www.msmb.ca](http://www.msmb.ca) and [www.nelligan.ca](http://www.nelligan.ca) and may be updated from time to time. Class Members are encouraged to review this material in considering whether or not to object to the Settlement.

who does not opt out shall be bound by the terms of the Settlement Agreement and all related court orders and shall be forever barred from commencing any proceeding against Tiffany Gate or any other third parties in respect of the said pasta salad. An additional notice advising of Court approval of the Settlement, if approval is granted, will be published in this newspaper specifying the deadline by which Class Members will be required to opt out. The proposed opt out deadline is forty five (days) after notice of the approval of the Settlement is published. Class Members are also encouraged to go to [www.msmb.ca](http://www.msmb.ca) or [www.nelligan.ca](http://www.nelligan.ca) for updated information and important dates.

#### **CLASS COUNSEL FEES**

Under the terms of the proposed Settlement, Class Counsel will seek \$700,000 in legal fees. These funds shall be paid by Tiffany Gate in addition to the Compensatory Payments to Class Members and OHIP. Class Counsel fees are subject to the approval of the Court.

#### **CLAIMS ADMINISTRATORS**

Crawford Class Action Services  
3-505, 133 Weber St N.  
Waterloo, Ontario, N2J 3G9  
Tel.: 1-866-640-0039

#### **Questions about the Settlement**

Do not direct any questions about this notice or the Settlement to the Court. The Court cannot answer them. Any questions should be directed to Class Counsel and/or the Claims Administrator following a review of the Settlement Agreement and Exhibits including the claim form on [www.msmb.ca](http://www.msmb.ca). and at [www.nelligan.ca](http://www.nelligan.ca).

#### **Interpretation**

If there is any conflict between the provisions of this Notice and the Settlement Agreement and any of its Exhibits, the terms of the Settlement Agreement shall prevail. This notice has been approved by the Honourable Justice Lax of the Ontario Superior Court of Justice.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MADAM ) Thursday, THE 26<sup>TH</sup> DAY  
JUSTICE LAX ) OF May , 2008

BETWEEN:

NICKIE TOURLOS

Plaintiff

and

TIFFANY GATE FOODS CORPORATION

Defendant

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

**ORDER**

**THIS MOTION** made by the Plaintiff for an order, *inter alia*, approving the notice advising members of the proposed class of a hearing to approve a Settlement Agreement (“Notice of Approval Hearing”), attached as Schedule “A” hereto, entered into between the Plaintiff and Tiffany-Gate Foods Corporation (“Tiffany-Gate”), was read at the Court House, 361 University Avenue, Toronto, Ontario.

**UPON BEING ADVISED** that the Plaintiff and Tiffany-Gate, by their counsel, have entered into a Settlement Agreement executed on the 21st day of December, 2008 as amended and that Tiffany-Gate has consented to the terms of this Order;

**AND ON READING** the materials filed, including the Notice of Approval Hearing and the Notice Plan, and on hearing the submissions of counsel for the Plaintiff and Tiffany-Gate:

1. **THIS COURT ORDERS** that the motion to approve the settlement and certify this
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action as a class proceeding as against Tiffany-Gate shall be heard on July 4th, 2008, at 10:00 a.m., at the Court House, 361 University Avenue, Toronto, Ontario (the "Approval Hearing");

2. THIS COURT APPROVES the form of the Notice annexed as Schedule "A", which shall be published/disseminated, on a Saturday, once in the Toronto Star, once in the Ottawa Citizen, once in the London Free Press and once in the Kingston Whig-Standard no later than Saturday June 14, 2008;

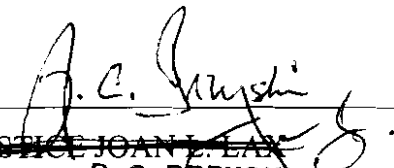
3. THIS COURT ORDERS that Class Counsel (as defined in the Settlement Agreement) shall send or cause to be sent the Notice annexed as Schedule "A" by e-mail or ordinary mail to all class members known to them forthwith and in no event, no later than June 4, 2008;

4. THIS COURT ORDERS that Class Counsel shall post or cause to be posted the Notice on their respective websites forthwith and in no event no later than June 4, 2008;

5. THIS COURT DECLARES that this dissemination/publication provided for in the Notice Plan constitutes fair, adequate and reasonable notice to the proposed class of the Approval Hearing and of class members' right to object to the settlement, and satisfies the requirements of section 19 of the *Class Proceedings Act, 1992*;

6. THIS COURT ORDERS that members of the proposed class may submit written objections to the Settlement Agreement on or before June 25th, 2008 at 4 p.m. (Eastern Standard Time) to the Claims Administrator, Crawford Class Action Services, which shall send a report of the objections to proposed Class Counsel and to the Defendant's counsel no later than two days before the hearing, but that any class member shall be entitled to appear and raise any objection at the Approval Hearing, at the Court's discretion;


7. THIS COURT ORDERS that Tiffany-Gate shall pay to proposed Class Counsel the costs associated with the dissemination/publication of the Notice of Approval Hearing upon receipt of Class Counsel's invoice.

  
~~MADAM JUSTICE JOAN L. LAZ~~  
R. C. BRZYSKI  
DEPUTY REGISTRAR, SUPERIOR COURT OF JUSTICE  
GREFFIER ADJOINT, COUR SUPÉRIEURE DE JUSTICE

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAY 27 2008

AS DOCUMENT NO.:  
À TITRE DE DOCUMENT NO.:  
PER / PAR:



NICKIE TOURLOS  
Plaintiff

and TIFFANY GATE FOODS CORPORATION  
Defendant

Court File No: 02-CV-230368CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT*  
1992

**ORDER**

McPHADDEN ♦ SAMAC ♦ MERNER ♦ BARRY  
Suite 300, 8 King Street East  
Toronto, Ontario M5C 1B5

David G. Merner LSUC#: 19997D  
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Fax: 416-363-7485  
Email: [dmerner@msmb.ca](mailto:dmerner@msmb.ca)

Solicitors for the Defendant