

## NOTICE TO ALL FORMER GENERAL MOTORS DEALERS THAT SIGNED A WIND-DOWN AGREEMENT IN OR AFTER MAY 2009 (THE “CLASS MEMBERS”)

### The Lawsuit:

This notice is about a judgment granted in a class action brought by Trillium Motor World Ltd. (“**Trillium**”), a former General Motors dealer in Scarborough, Ontario. Trillium signed a Wind-Down Agreement in May 2009.

Trillium alleged that General Motors of Canada Limited (“**GMCL**”) breached the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3 (“**Wishart Act**”) and similar laws in Alberta and Prince Edward Island when it presented the Wind-Down Agreement to the dealers in May 2009. GMCL brought a counterclaim against the class members and the dealer operators of the class members. The counterclaim alleged that by remaining in the class action against GMCL, the class members were in breach of the Wind-Down Agreement.

Trillium also alleged that the law firm of Cassels Brock & Blackwell LLP (“**Cassels**”) was retained to represent the dealers’ interests in the event of a restructuring of GMCL and that it failed to properly do so. Trillium claimed damages from Cassels on behalf of the class for breach of contract, negligence and breach of fiduciary duties.

### The Judgment of the Court:

The litigation determined that GMCL did not breach the *Wishart Act*. As such, the claim against GMCL was dismissed. GMCL’s counterclaim was also dismissed.

With respect to Cassels, the litigation determined that Cassels was negligent and breached its contractual and fiduciary duties to the dealers that retained Cassels. The trial judge has determined that the damages award against Cassels is in the aggregate amount of \$28,745,304.00, plus prejudgment interest in the amount of \$825,000.00, plus postjudgment interest on those amounts (the “**Judgment Amount**”).

The Class Members entitled to share in the Judgment Amount are **only those Class Members that retained Cassels**. These Class Members are: (a) dealers that: (i) sent to CADA the form attached to the May 4, 2009 or the May 13, 2009 memorandum which CADA sent to the dealers regarding the retainer of Cassels; and/or (ii) sent funds to CADA pursuant to the May 4, 2009 or the May 13, 2009 memorandum (defined as the “**Participation Form Dealers**”); and (b) Saturn dealers. In other words, only Participation Form Dealers and Saturn Dealers (collectively, the “**Clients**”) will share in the Judgment Amount payable by Cassels.

### Distribution of the Judgment Amount

The Judgment Amount, after deduction of certain amounts described below, will be distributed to Clients in accordance with a Plan of Distribution that has been approved by the court.

Under the Plan of Distribution, a Client will receive a share of the Judgment Amount that is proportional to the amount of the wind-down payment that it received from GMCL compared to the total amount of wind-down payments received by all Clients. For example, if a Client’s

wind-down payment represented 3% of the wind-down payments received by all Clients combined, it will receive 3% of the Judgment Amount net of deductions.

### **How to Submit a Claim for Payment**

In order to submit a claim for payment, you must complete the statutory declaration attached to this notice. The statutory declaration must be sworn before a commissioner of oaths, which includes any lawyer practicing in Ontario, a notary public or other commissioner approved by the province in which you reside.

### **Deadline for Submitting Claim**

All claims forms must be submitted by no later than **April 30, 2019**.

If, after the expiry of the deadline, certain Clients have not applied for their share of the Judgment Amount, Class Counsel will apply to the court for directions and may request an order that any remaining balance be paid proportionately to the class members which have submitted a valid claim.

Accordingly, there may be more than one distribution to class members which have submitted a valid claim.

**Other Matters:** To date, the court has approved class counsel fees in the sum of 20% of the Judgment Amount plus HST. This amount will be paid from the Judgment Amount. Clients will receive a certificate showing the amount of HST attributable to their share of the fees so that they may claim any credit that may be available.

In addition, the court has approved the reimbursement of unpaid disbursement amounts incurred by Class Counsel in the litigation in the amount of \$63,653.77. This amount will be paid from the Judgment Amount.

The court has also approved the reimbursement of class member contributions to the funding of the class action plus interest. These amounts will also be paid from the Judgment Amount.

Finally, the court has approved the payment of honourariums to Trillium in the amount of \$50,000.00 and to Sheridan Chevrolet Cadillac Ltd. in the amount of \$25,000.00. These amounts will be paid from the Judgment Amount.

### **Additional Information and Questions:**

For further information about this Notice you may contact:

- Andy Seretis ([aseretis@sotosllp.com](mailto:aseretis@sotosllp.com)) of Sotos LLP, Barristers and Solicitors, Suite 1200, 180 Dundas St. West, Toronto, ON M5G 1Z8 | T. 416.977.0007 | F. 416.977.0717 | [www.sotosllp.com](http://www.sotosllp.com)
- Michael Statham ([mstatham@weirfoulds.com](mailto:mstatham@weirfoulds.com)) or Marie-Andrée Vermette ([mavermette@weirfoulds.com](mailto:mavermette@weirfoulds.com)) of WeirFoulds LLP, Barristers & Solicitors, 4100 – 66

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The statement of claim and other court papers in this action are available for inspection at the Ontario Superior Court of Justice, 393 University Avenue, 10th Floor, Toronto, ON M5G 2J6 and on Sotos LLP's website at <https://sotosclassactions.com/cases/current-cases/gm-dealers-claim>

**PLEASE DO NOT CALL** the Ontario Superior Court of Justice or the Registrar of the court. They will not be able to answer your questions about the lawsuit.

Date: December 21, 2018

**This notice is approved by the Ontario Superior Court of Justice.**

STATUTORY DECLARATION

CANADA )  
PROVINCE OF \_\_\_\_\_ )

IN THE MATTER OF the judgment  
of *Trillium Motor World Ltd. v. Cassels Brock &  
Blackwell LLP*, Ontario Superior Court of  
Justice, Court File No. CV-10-397096CP (the  
“Action”)

I, \_\_\_\_\_, of the \_\_\_\_\_ of \_\_\_\_\_, in  
(name) (City/Town) (Name of City/Town)  
the Province of \_\_\_\_\_, do solemnly declare:  
(Province you reside in)

1. I am the \_\_\_\_\_ of \_\_\_\_\_ (the “Class  
(Title) (Name of Corporation)  
Member”) and as such have knowledge of the matters herein deposed to.

2. (Please check one which applies)

(A) The Class Member is a subsisting corporation that is not in  
bankruptcy or receivership.

(B) The Class Member has been voluntarily dissolved by the filing of  
Articles of Dissolution with the appropriate governmental authority.

If (B),

(a) The Class Member was voluntary dissolved by the filing of Articles of  
Dissolution on \_\_\_\_\_. A copy of the Articles of Dissolution is  
attached. (Date)  
*(please attach a copy of the Articles of Dissolution)*

(b) At the time of dissolution, all of the Class Member’s undertaking,  
property, assets and rights of every nature and kind whatsoever and all of  
its right, title and interest therein and thereto were transferred to the  
persons or corporations listed below in the proportions indicated below:

\_\_\_\_\_ %  
\_\_\_\_\_ %  
\_\_\_\_\_ %

3. (Please check one which applies)

(A) The Class Member has not sold, pledged or assigned the proceeds of the Action to a third party and there is no Requirement to Pay existing in respect of the proceeds of the Action in favour of any tax authority.

(B) The Class Member has sold, pledged or assigned the proceeds of the Action to a third party. The name of third party is: \_\_\_\_\_

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

SWORN before me at the \_\_\_\_\_ )  
\_\_\_\_\_ of \_\_\_\_\_, in the \_\_\_\_\_ )  
Province of \_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_, 201\_ )  
\_\_\_\_\_ )  
\_\_\_\_\_ )

\_\_\_\_\_ l/s

\_\_\_\_\_  
A Commissioner for Oaths, etc.