

CANADIAN ABILIFY® AND ABILIFY MAINTENA® CLASS ACTIONS
NOTICE OF SETTLEMENT APPROVAL HEARINGS IN ONTARIO AND QUÉBEC &
NOTICE OF CERTIFICATION OF THE ONTARIO CLASS ACTION

Please read this notice carefully. Ignoring this notice will affect your legal rights

TO: All persons in Canada, including their estates, who:

- were prescribed and ingested ABILIFY® before **February 23, 2017**;
- were prescribed and received injections of ABILIFY MAINTENA® between **February 6, 2014** and **December 16, 2016**; and
- by virtue of a personal relationship with an ABILIFY® Class Member or an ABILIFY MAINTENA® Class Member, are entitled to assert a claim pursuant to the Ontario *Family Law Act* as amended, the *Civil Code of Québec* or equivalent provincial and territorial legislation (such as spouses, children, grandchildren, parents, grandparents, brothers and sisters).

The Canadian class action lawsuits allege that the Defendants were negligent in failing to warn Class Members that ABILIFY® and ABILIFY MAINTENA® can cause, contribute to, or exacerbate Compulsive Behaviours and Impulse Control Disorders, specifically compulsive or pathological gambling, hypersexuality, binge-eating, and uncontrollable shopping.

The parties in the Ontario and Québec class action have reached a proposed settlement (the “Settlement”), subject to approval of the Ontario Superior Court of Justice and the Superior Court of Québec (the “Courts”).

Neither the Ontario Court nor the Québec Court has made any determination of the merits of the claims. The Defendants have denied, and continue to deny, the allegations against them in the Class Actions and have had no role in the determination of Settlement Class Member eligibility to participate in the Settlement or the allocation of benefits available to Settlement Class Members (see Section “D” below).

The Settlement provides for the creation of a CDN \$14.75 million Settlement fund, of which approximately CDN \$8.5 million will be used to pay compensation for Approved Claims, including CDN \$368,750 in satisfaction of the claims of the Public Health Insurers, CDN \$595,000 for family Class Members, CDN \$1.7 million for economic losses, the costs of notice (CDN \$170,891.80) and administration (CDN \$204,750), and Court-approved Class Counsel Legal Fees (CDN \$4,425,000) plus disbursements and applicable sales taxes.

This Notice explains your rights and options as a Settlement Class Member.

A) THE ABILIFY® AND ABILIFY MAINTENA® CLASS ACTIONS

ABILIFY® (generic name aripiprazole) is a prescription medicine which is prescribed to treat certain mental health conditions, including schizophrenia, bipolar disorder and as an adjunctive treatment for major depressive disorder. During the time periods above, ABILIFY® was sold in Canada by Bristol-Myers Squibb Company Canada Co. (“BMS Canada”) and Otsuka Canada Pharmaceuticals Inc (“Otsuka Canada”). ABILIFY MAINTENA® is an injectable form of aripiprazole and during the time period above was sold in Canada by Otsuka Canada and Lundbeck Canada Inc. (“Lundbeck Canada”).

The Class Actions allege that ABILIFY® and ABILIFY MAINTENA® can cause, contribute or exacerbate a variety of compulsive behaviours and impulse control disorders, specifically compulsive or pathological gambling, hypersexuality, binge-eating, and uncontrollable shopping.

B) AUTHORIZATION OF A NATIONAL CLASS ACTION BY THE SUPERIOR COURT OF QUÉBEC

On December 19, 2019, the Superior Court of Québec authorized a national class action on behalf of:

All persons residing in Canada who were prescribed and have ingested and/or used the drug ABILIFY® (aripiprazole) before February 23, 2017 and who developed one or more of the following impulse control behaviours:

- pathological gambling (also known as gambling disorder or compulsive gambling);
- compulsive eating/ binge eating;
- uncontrollable or compulsive shopping or spending; and/or
- hypersexual behaviours/ sexual addiction
(the “Impulse Control Disorders”).

And their successors, assigned, family members, and dependants.

Notice of Authorization of the Québec Class Action was previously published on January 6, 2020. The opt out deadline for class members who did not wish to participate in the Québec Class Action expired on November 19, 2020. If you previously opted out of the Québec Class Action and wish to participate in the Settlement, see **Part F** below.

Individuals who were prescribed and received injections of ABILIFY MAINTENA® are not part of the Québec Action, but are Settlement Class Members by virtue of being Class Members in the Ontario Class Action.

C) CERTIFICATION OF A NATIONAL CLASS ACTION BY THE ONTARIO SUPERIOR COURT OF JUSTICE

On March 13, 2020, Justice Morgan of the Ontario Superior Court of Justice certified a national class action on behalf of:

All persons in Canada including their estates who:

- a) between July 9, 2009 and February 23, 2017 were prescribed and ingested ABILIFY® tablets;
- b) between February 6, 2014 and December 16, 2016 were prescribed and used ABILIFY MAINTENA®; and
- c) by virtue of a personal relationship with an ABILIFY Class Member or an ABILIFY MAINTENA® Class Member, are entitled to assert a claim pursuant to the Ontario *Family Law Act* as amended or equivalent provincial and territorial.

All appeals were completed on February 28, 2022.

D) THE SETTLEMENT AGREEMENT & BENEFITS AVAILABLE TO SETTLEMENT CLASS MEMBERS

The parties to the Class Actions have reached a proposed national Settlement on behalf of Settlement Class Members. The Settlement offers monetary benefits to Settlement Class Members who experienced Compulsive Behaviours or Impulse Control Disorders and related consequences, including psychological harm, illness and hospitalization, financial loss, and loss of care, guidance, and companionship.

The Defendants will pay CDN \$14,750,000.00 (the “Settlement Amount”) to settle the Class Actions on a national basis, without admitting liability. This amount is inclusive of all amounts claimed including without limitation damages, costs, interest, notice costs, administrative costs, and the claims of provincial health insurers. The Settlement Agreement, in English or French, can be obtained from the [Settlement Website](#), through [Rochon Genova LLP](#) and [Consumer Law Group Inc.](#) or by contacting the Claims Administrator, as listed below.

MNP Ltd. – Class Actions Claims Administration
2000, 112 - 4th Avenue SW
Calgary, AB, T2P 0H3
abilifysettlement@mnp.ca
Toll-Free: 1 (855) 653-0027

Your entitlement to benefits under the Settlement will be determined by the Claims Administrator, or, in the case of a disagreement, by a referee, based on the court-approved Distribution Plan, which provides for monetary compensation based on the following categories of psychological

harm and financial harm, as well as compensation to Family Class Members. The Defendants have had no role in the development of the proposed Distribution Plan or the categories for which compensation may be available.

Claimants can qualify for compensation for both **Psychological Harm** and **Financial Loss**.

A. Compensation for Psychological Harm

1. Mild:

- a) documentary evidence of prescription¹ of ABILIFY or ABILIFY MAINTENA[®] during the class period for **at least 1-6 months; and**
- b) a signed attestation by or on behalf of the Class Member that they both ingested/received injections of ABILIFY[®]/ABILIFY MAINTENA[®] for 1-6 months and experienced one or more Compulsive Behaviours or Impulse Control Disorders while on or within 3 months of discontinuing their use of ABILIFY[®] and/or receiving injections of ABILIFY MAINTENA[®].

2. Moderate: Claimants can qualify under the following scenarios:

- **Scenario #1:**

- a) documentary evidence of prescription of ABILIFY[®]/ABILIFY MAINTENA[®] for **more than 6 months; and**
- b) a signed attestation by or on behalf of the Class Member that they both ingested/received injections of ABILIFY[®]/ABILIFY MAINTENA[®] and experienced one or more Compulsive Behaviours or Impulse Control Disorders while on or within 3 months of discontinuing their use of ABILIFY[®] and/or receiving injections of ABILIFY MAINTENA[®].

- **Scenario #2:**

- a) documentary evidence of prescription of ABILIFY[®]/ABILIFY MAINTENA[®] **for 1-6 months; and**
- b) medical records specifying the form of treatment or counselling sought or provided and the specific Compulsive Behaviours or Impulse Control Disorders for which treatment or counselling was sought or provided. If the treatment in question was not covered by provincial health insurance, attach receipts or confirmation of payment; **and**

¹ The terms “prescribed” and “prescription” include receipts of samples of ABILIFY[®] from healthcare professionals.

- c) a signed attestation by or on behalf of the Class Member that they both ingested/received injections of ABILIFY®/ABILIFY MAINTENA® for 1-6 months and, while on or within 3 months of discontinuing their use of ABILIFY® and/or receiving injections of ABILIFY MAINTENA®, they experienced one or more Compulsive Behaviours or Impulse Control Disorders of such severity that treatment or counselling was sought for the Compulsive Behaviours or Impulse Control Disorders in question.
- b) **Severe:** Claimants can qualify under the following scenarios, based on duration of usage:

- **Scenario #1:**

- a) documentary evidence of prescription of ABILIFY®/ABILIFY MAINTENA® for a period of **more than 6 months; and**
- b) records demonstrating that the Class Member experienced Compulsive Behaviours or Impulse Control Disorders while on or within 3 months of discontinuing their use of ABILIFY® or receiving injections of ABILIFY MAINTENA® (e.g. gambling records, such as ATM withdrawals at casinos, self-exclusion from a casino, credit card or banking statements showing payments for gambling, medical records referencing the Compulsive Behaviors, or medical records or counselling records documenting that treatment was sought for Compulsive Behaviours or Impulse Control Disorders); **and**
- c) documentary evidence of bankruptcy, divorce, re-mortgaging of a property, and/or criminal prosecution for fraud, theft, etc. contemporaneous to or after experiencing Compulsive Behaviours and/or Impulse Control Disorders; **and**
- d) a signed attestation by or on behalf of the Class Member that they experienced one or more Compulsive Behaviours or Impulse Control Disorders while on or within 3 months of discontinuing their use of ABILIFY® or receiving injections of ABILIFY MAINTENA® and that they experienced bankruptcy, divorce, re-mortgaging of a property, and/or criminal prosecution for fraud, theft, etc. contemporaneous to or after experiencing the Compulsive Behaviours and/or Impulse Control Disorders.

AND/OR

- **Scenario #2:**

- a) documentary evidence of both prescription of ABILIFY®/ABILIFY MAINTENA® for a period of **more than 6 months; and**
- b) identify and attach medical records specifying the form of treatment or counselling sought or provided and the specific Compulsive Behaviour or Impulse Control Disorders for which treatment or counselling was sought

or provided. If the treatment in question was not covered by provincial health insurance, attach receipts or confirmation of payment; **and**

- c) records demonstrating that the Class Member experienced Compulsive Behaviours or Impulse Control Disorders (e.g. gambling records, such as ATM withdrawals at casinos, self-exclusion from a casino, credit card or banking statements showing payments for gambling, medical records referencing the compulsive behaviors, or medical records or counselling records documenting that treatment was sought for Compulsive Behaviours or Impulse Control Disorders); **and**
- d) a signed attestation by or on behalf of the Class Member that, while on or within 3 months of discontinuing their use of ABILIFY® and/or receiving injections of ABILIFY MAINTENA®, they experienced one or more Compulsive Behaviours or Impulse Control Disorders of such severity that treatment or counselling was sought for the Compulsive Behaviours or Impulse Control Disorders in question **for more than 6 months**.

4. **Residual Catastrophic Injury (compensation available for catastrophic injury in addition to compensation available for Mild, Moderate and Severe Psychological Harm):** documentary evidence demonstrating that the Class Member experienced catastrophic physical or psychological consequences of Compulsive Behaviours or Impulse Control Disorders alleged to have been caused by the use of ABILIFY® and/or ABILIFY MAINTENA®, including but not limited to: contracting HIV, Hepatitis, or a non-treatable STI (sexually transmitted infection) as a result of hypersexuality, suicidality and related hospitalization related to Compulsive Behaviours or Impulse Control Disorders and their consequences.

B. Compensation for Financial Loss

In addition, CND \$1.5 million will be set aside from the Settlement to compensate financial harm for Claimants with provable loss of income or employment, gambling losses, or loans incurred as a result of gambling caused or exacerbated by ABILIFY® or ABILIFY MAINTENA®. Such losses will require, in addition to the documentation necessary to qualify for a claim for psychological harm, the following:

Compensable gambling losses:

- a) all available Gambling Records for all venues at which gambling took place. This documentation must show the gambling activities at each venue. Gambling venues include casinos, online gambling websites, and any other venue in which the at issue gambling occurred whether in person or virtually. Supportive documentation may include, but is not limited to, records of gambling counselling, ATM withdrawal at casinos, credit card or banking statements showing payments for gambling); **and**
- b) a signed attestation by or on behalf of the Class Member of the net amount of any gambling losses; **and**

- c) Class Members will be required to disclose if they took any other prescription medications with dopamine agonist properties while the at issue gambling occurred;

- **Compensable income loss:**

- a) documentation to demonstrate that the Class Member experienced the Compulsive Behaviours (gambling records, such as ATM withdrawals at casinos, self-exclusion from a casino, credit card or banking statements showing payments for gambling, or medical records or counselling records documenting that treatment was sought for Compulsive Behaviours); **and**
- b) a signed attestation that the Class Member experienced the Compulsive Behaviours or Impulse Control Disorders; **and**
- c) records of any income loss demonstrating that the Class Members' Compulsive Behaviours or Impulse Control Disorders resulted in their termination or loss of employment, including: the applicable employment agreement and income tax returns for the two years preceding the termination; **and**
- d) an attestation by or on behalf of the Class Member **and/or** an attestation from each of the Class Member's previous employers describing the reason for termination of the Class Members' employment;

- **Compensable loan loss:**

- a) documentation to demonstrate that the Class Member experienced the Compulsive Behaviours (gambling records, such as ATM withdrawals at casinos, self-exclusion from a casino, credit card or banking statements showing payments for gambling, or medical records or counselling records documenting that treatment was sought for Compulsive Behaviours); **and**
- b) a signed attestation by or on behalf of the Class Member that they experienced the Compulsive Behaviours; **and**
- c) all available financial records related to any loan for which compensation is sought. If the loan is from a financial institution, a current statement of account for the loan must be included. If the loan is from a private lender, friend, or family member, an attestation from the lender, under penalty of law, must be provided confirming: the balance of the loan outstanding, the loan principal, accrued interest to date, and an account of all payments toward the loan received to date.

C. Compensation for Family Class Members (such as spouses, children, grandchildren, parents, grandparents, brothers and sisters)

Eligible Family Class Members are entitled to claim compensation. Eligible Family Class Members are spouses, children, parents, grandparents, brothers, and sisters of a Class Member by or for whom a claim is being advanced under the Settlement.

Eligible Family Members are entitled to file a claim only if the Class Member has not opted out of the class action and is submitting a claim to receive benefits under the Settlement.

Family Class Members must fill out and sign the relevant section of the Claims Package and the Claimant will file the claim on behalf of both themselves and Family Class Members, if Family Class Members wish to make claims. The following must be provided for Family Class Members to be entitled to settlement benefits:

- a) document(s) demonstrating proof of each Family Class Member's relationship to the Class Member and, where the Family Class Member is a minor, under a legal disability or deceased, document(s) demonstrating proof of the individual's authority to act on behalf of the Family Class Member; **and**
- b) the name, address, relationship to a Claimant, as well as the Family Class Member's signature.

Family Class Members who are eligible for settlement benefits will receive a fixed sum that is a percentage of the Claimant's payment for psychological harm. Spouses will receive 10%, parents and children will receive 5% each, and grandparents, brothers and sisters will receive 2.5% each. These awards are in addition to, not deducted from, the benefits conferred to the Claimant. Total compensation to Family Class Members will be capped at \$595,000. If the fund for Family Class claimants is oversubscribed or undersubscribed, it will be adjusted downwards or upwards on a *pro rata* basis.

E) SETTLEMENT APPROVAL HEARINGS

For the Settlement to become effective, it must be approved by the Superior Courts of both Ontario and Québec.

A hearing to approve the Settlement will be held before the Ontario Superior Court on December 20, 2024 and the Superior Court of Québec on January 8, 2025 (the "Settlement Approval **Hearings**"). The Approval Hearing in Quebec will proceed in room 2.08 of the Montreal Court House or in any other room as the Judge sitting in room 2.08 on that day, may designate, subject to any adjournment by the Court without further notice to the Settlement Class members other than that which may be posted on the [Settlement Website](#) or on Class Counsel's website.

At these hearings, the Courts will determine if the Settlement is fair, reasonable and in the best interests of the Class Members.

Settlement Class Members have the right to opt out of the settlement and/or object to the Settlement, as detailed below.

If the Settlement is approved by the Courts, a further notice will be posted on the [Settlement Website](#) and the websites of Class Counsel at [Rochon Genova LLP](#) and [Consumer Law Group Inc.](#)

F) IF YOU WANT TO PARTICIPATE IN THE SETTLEMENT

Settlement Class Members who wish to participate in the proposed Settlement do not need to appear at the Settlement Approval Hearings or take any other action at this time. You do not need to appear at the Settlement Approval Hearings.

If the Settlement is approved, Claim Forms will be made available at [Rochon Genova LLP](#) and [Consumer Law Group Inc](#) and further information regarding the process for filing claims will be made available on the [Settlement Website](#), the websites of [Rochon Genova LLP](#) and [Consumer Law Group Inc](#), or from the Claims Administrator.

G) HOW TO OPT OUT OF THE SETTLEMENT

If you were prescribed and received injections of ABILIFY MAINTENA[®] and you do not wish to participate in the Settlement, you may opt out and exclude yourself from the Settlement by delivering a completed Opt Out Form to the Claims Administrator by December 20, 2024 (the “Opt-Out Deadline”).

The Opt Out Form is available on the [Settlement Website](#) and Class Counsel’s website at [Rochon Genova LLP](#) and [Consumer Law Group Inc](#), and must be postmarked or delivered by mail, courier or facsimile to the Claims Administrator by the Opt-Out Deadline.

If you were prescribed and ingested ABILIFY[®] and did not previously opt out of the Québec Action, you must make a request to the Québec Court if you now wish to opt out of the Settlement, by sending a notice to the clerk of the Superior Court of Quebec at 1 Notre-Dame St. East, Montreal, QC, H2Y 1B6, specifying the Court file no. 500-06-000831-160 and attaching a sworn declaration explaining your reasons. If you do not opt out and the Settlement is approved and becomes effective, you will be bound by the Settlement which includes a release of your claims.

The Claims Administrator will provide any Opt Out Forms postmarked or received by the Opt-Out Deadline to Class Counsel, who will then notify the Defendants, the Ontario Superior Court of Justice, and the Superior Court of Québec of the Opt-Outs, including any request by an ABILIFY[®] Class Member to opt-out late.

Settlement Class Members who have not properly opted out or have not opted out by the Opt-Out Deadline will be bound by the Proposed Settlement if it is approved by the Courts. The Settlement includes a release of any rights you may have to take further legal action against the Defendants if the settlement is approved by both the Ontario and Québec Superior Courts.

Settlement Class Members who have previously opted out of the Québec Class Action do not need to take any further action to opt out of the Settlement. If you have previously opted out of the Québec Class Action and now wish to participate in the Settlement, you must notify Class Counsel of your intention to participate in the Settlement by contacting Class Counsel at [Rochon Genova LLP](#) and [Consumer Law Group Inc](#), before December 20, 2024.

H) HOW TO OBJECT TO THE PROPOSED SETTLEMENT

If you are a Settlement Class Member and wish to object to the Settlement, you may deliver a written objection to the Claims Administrator. A valid objection must be postmarked or received by the Claims Administrator at the address below, at least 10 days in advance of the Settlement Approval Hearings.

A Settlement Class Member who wishes to object to the Settlement, or their counsel (if they are represented), shall provide in their objection:

- a) A caption or title that identifies it as an objection to the Settlement;
- b) The full name, current mailing address, telephone number, and email address of the person who is objecting or on whose behalf an objection is being delivered;
- c) A clear statement of the nature and reasons for the objection;
- d) A declaration that the person believes they are a Settlement Class Member and supporting documentation sufficient to establish the basis for that belief;
- e) Whether the person intends to appear at the Approval Hearings or intends to appear by counsel and if by counsel, the name, address, telephone number, and email address of counsel; and
- f) A declaration that the foregoing information is true and correct.

The Claims Administrator will provide a copy of your objection to Class Counsel, who will in turn provide it to the Ontario and Québec Superior Courts and the Defendants. You may, but are not required to, appear at the Settlement Approval Hearing(s) in order to make submissions orally with respect to your objection. A Teams Link will be made available on the [Settlement Website](#) and Class Counsel's Website for the Quebec Settlement Approval Hearing. If you wish to do so, whether in person or through a lawyer, you must send a notice of intention to appear in writing received by the Claims Administrator at least 10 days prior to the Settlement Approval Hearing.

The judge presiding over the Settlement Approval Hearing has discretion to determine whether you will be permitted to make oral submissions during the hearing.

DO NOT send an objection directly to the Ontario or Québec Superior Courts.

An objection to the Settlement is not an Opt Out Form. If you object to the Settlement, you will remain bound by its terms if it is approved by the Ontario and Québec Superior Courts. If you wish to be excluded from the Settlement, you must opt out (see **Part G** above).

D) WHO IS CLASS COUNSEL?

The Ontario Superior Court of Justice and the Superior Court of Québec have appointed *Rochon Genova LLP* and the *Consumer Law Group Inc.*, respectively, as Class Counsel. If you have any questions or wish to learn more about the Settlement, you may contact them at the phone number or e-mail address below.

ROCHON GENOVA LLP 900-121 Richmond St. W. Toronto, Ontario, M5H 2K1 Joel P. Rochon Golnaz Nayerahmadi Sarah J. Fiddes Tel: (416) 363-1867 1-800-462-3864 contact@rochongenova.com	CONSUMER LAW GROUP INC. 1030 rue Berri, Suite 102 Montreal (Québec) H2L 4C3 Jeff Orenstein Tel: 1 (888) 909-7863 (514) 266-7863 (613) 627-4894 abilify@clg.org
--	---

J) WHO IS THE CLAIMS ADMINISTRATOR?

The parties have agreed that MNP Ltd. will serve as the Claims Administrator. The Claims Administrator may be contacted at the phone number or email address below:

MNP Ltd. – Class Actions Claims Administration
 2000, 112 - 4th Avenue SW
 Calgary, AB, T2P 0H3
abilifysettlement@mnpc.ca
 Toll-Free: 1 (855) 653-0027

K) LEGAL FEES APPLICABLE TO ALL CLASS MEMBERS

At the Settlement Approval Hearings, Class Counsel will seek court approval of legal fees of \$4.425 million, plus disbursements and applicable taxes. The legal fees, disbursements, and taxes, if approved by the Ontario and Québec Courts, will be deducted from the Settlement Amount.

Class Counsel will also seek a specific amount (honorarium) for the Representative Plaintiffs in the Class Actions, up to a maximum of \$10,000, per individual, in relation to their exercise of their duties as Representative Plaintiffs. This amount, if approved by the Court, will be deducted from the Settlement Amount.

L) INTERPRETATION

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail. If there is a conflict between the English and the French versions of this document, the English version shall prevail. If the Settlement of the Class Actions is approved by the Ontario and Québec Superior Courts, a further notice will be published on the [Settlement Website](#) and the websites of *Rochon Genova LLP* and *Consumer Law Group Inc.* about how to participate in the Settlement. Questions regarding your right to participate in the Settlement may also be directed to the lawyers at the contact information above.

This Notice has been authorized by the Ontario Superior Court of Justice and the Superior Court of Québec. Any questions about the matters in this Notice should not be directed to the Courts.