

If You Worked as an Investment Advisor for BMO Nesbitt Burns in Nova Scotia

This Class Action Lawsuit May Affect Your Rights.

A court authorized this notice. You are not being sued.

You are receiving this notice as you have been identified by BMO Nesbitt Burns as having held the position in Nova Scotia of Investment Advisor, Associate Investment Advisor, or Investment Advisor Trainee at some point after January 1, 2009. You may be a class member in this class action (see further information below). If you qualify as a class member, you are automatically included and you do not have to do anything to participate in this class action.

A settlement has been reached with BMO Nesbitt Burns. You may be entitled to compensation as a result of this settlement, if the settlement is approved by the Court.

If you do not take the steps described below to opt out of the settlement, you will be bound by the settlement, if it is approved by the Court.

BASIC INFORMATION

1. Why was this notice issued?

This lawsuit has been conditionally "certified" as a Class Action because the Plaintiff and BMO Nesbitt Burns have reached a settlement of the lawsuit. This certification is conditional upon the Settlement Agreement being approved by this Court.

The case is known as *Wade v. BMO Nesbitt Burns Inc.*, Hfx. No. 461070. The person who sued (Ms. Wade) is the Plaintiff, who is pursuing the action for the benefit of the entire class. BMO Nesbitt Burns Inc. is the Defendant.

This notice has been issued to advise about the conditional certification of this action, to provide general information about the action, to provide information about the proposed settlement, and to provide information about how class members may opt out if they do not wish to participate in the action. Class members who opt out will not be entitled to share in any settlement.

You may visit this website to obtain further information: www.valentlegal.ca/class-action/bmo-nesbitt-burns-overtime-class-action.

You should read this notice carefully as it may affect your legal rights and you may need to take prompt action.

2. What is this lawsuit about?

The lawsuit alleges that BMO Nesbitt Burns Inc. improperly failed to pay overtime compensation to certain Investment Advisors, Associate Investment Advisors, and Investment Advisor Trainees working in Nova Scotia.

The class action alleges that the Defendant, BMO Nesbitt Burns Inc. breached its duties to the class by requiring them to work overtime but failing to appropriately compensate them for those overtime hours in accordance with the *Labour Standards Code*. It is alleged that class members were routinely required to work overtime, but that BMO Nesbitt Burns misclassified the class members as being ineligible for overtime pay to which they were entitled.

BMO Nesbitt Burns Inc. has defended this action on the basis that it alleges that Investment Advisors, Associate Investment Advisors, and Investment Advisor Trainees are exempt from the payment of overtime compensation.

The claims have not been proven, and the Court has not yet decided whether the plaintiff or the defendant is correct. BMO Nesbitt Burns Inc. denies the truth of the allegations in the Action and denies any liability whatsoever.

A copy of the Statement of Claim (which describes the claims against BMO Nesbitt Burns), a copy of the Statement of Defence (which describes BMO Nesbitt Burns' position), and other legal documents associated with this case, can be viewed at www.valentlegal.ca/class-action/bmo-nesbitt-burns-overtime-class-action.

3. Why is this a class action?

In a class action one or more people called "representative plaintiffs" (in this case Denise Wade) sue on behalf of people who have similar claims. All of these people are a "class" or "class members." The court resolves the common issues for all class members, except for those who remove themselves from the class by opting-out.

4. Who is a member of the Class?

The Class includes all current and former Nesbitt employees who at any time between January 1, 2009 to January 31, 2020 both: (i) held the position of Investment Advisor, Associate Investment Advisor, or Investment Advisor Trainee, or who performed the same or similar job functions under a different or previous Nesbitt job title; and (ii) carried out the roles and responsibilities of such position while working in and reporting to a Nesbitt branch in Nova Scotia.

Class members are automatically included in the class action now that it has been conditionally certified, unless they choose to opt out of the proceeding, as described below. If a class member opts out, they will not be entitled to the settlement of this action.

Class members who opt out of the proceeding can choose to proceed individually against BMO NBI, outside of this class action. However, class members who do not opt out of the proceeding cannot advance any claims individually against BMO NBI in respect of the allegations advanced in this class proceeding.

Class members who do not opt out will be bound by the settlement reached, provided it is approved by the Court.

If you have any questions about whether you are a member of the Class, please contact Class Counsel at the contact information provided below.

5. Will there be a settlement?

Yes, subject to Court approval.

Nesbitt has agreed to pay an all-inclusive sum of CDN \$375,000 (inclusive of all claims, costs, interest, and taxes), as well as paying for certain settlement administration costs. After deducting Class Counsel's fees, and subject to applicable deductions, the balance of settlement fund (the "Net Settlement Amount") will be distributed as follows:

- (c) 60% of the Net Settlement Amount will be divided equally among and paid, less applicable withholdings, to current and former Nesbitt employees who held the position of Investment Advisor Trainee, or who performed the same or similar job functions under a different or previous Nesbitt job title, at any time during the period between January 1, 2009 through June 1, 2016 and carried out the roles and responsibilities of such position while working in and reporting to a Nesbitt branch in Nova Scotia ("IA Trainee Class Members");
- (d) 40% of the Net Settlement Amount will be divided equally among and paid, less applicable withholdings, to current and former Nova Scotia current and former Nesbitt employees who, at any time between January 1, 2009 to January 31, 2020, held the position of Investment Advisor, Associate Investment Advisor, or Investment Advisor Trainee, or who performed the same or similar job functions under a different or previous Nesbitt job title, and carried out the roles and responsibilities of such position while working in and reporting to a Nesbitt branch in Nova Scotia.

Class members will have to complete a Distribution Confirmation Form at a later point in time in order to receive payment. These will be sent to an independent third party who is not permitted to disclose your participation in the settlement to Nesbitt.

Class members will not have to prove that they worked any overtime hours in order to receive payment.

Class Counsel will be seeking a fee of 25% on the CDN \$375,000 settlement fund, plus HST and repayment of disbursements in accordance with the retainer agreement in this case. The 25% contingency fee in this case must be approved by court.

The amount of the distribution you will receive as part of the settlement depends on whether you went through the BMO Nesbitt Burns Trainee program as a new IA, or whether you were already working as an IA when hired and did not have to participate in the Nesbitt IA Trainee program.

Settlement Class Members who opted out cannot receive any compensation.

A complete copy of the Settlement Agreement and other information about this lawsuit is available at: www.valentlegal.ca/class-action/bmo-nesbitt-burns-overtime-class-action.

YOUR RIGHTS AND OPTIONS

6. How do I participate in the Class Action?

If you meet the class definition, you are automatically included in the class action as a class member. You do not need to take any action.

7. What if I don't want to be in the Class and wish to "Opt Out"?

If you decide you do not wish to be included as a class member in the lawsuit, you must remove yourself – in other words, "opt out." If you opt out, you will not be permitted to share in the settlement of the lawsuit.

If you wish to opt out and if you wish to make any claim against BMO Nesbitt Burns yourself, you may need to retain your own lawyer, at your own expense, and proceed with your individual claim on your own. Class members who do not opt out of the proceeding cannot advance any claims individually against BMO NBI in respect of the allegations advanced in this class proceeding.

To opt out of the action, you need to fill out the attached Opt-Out Form (which can also be obtained from Robert Dunnell, in BMO Nesbitt Burns' Employee Relations Group) and you must mail your Opt-Out Form by no later than January 14, 2021 to:

BMO Nesbitt Burns Class Action Claims Administrator
c/o RicePoint Administration Inc.
P.O. Box 4454, Toronto Station A
25 The Esplanade
Toronto, ON M5W 4B1

You should contact Class Counsel or your own lawyer to discuss whether it is advisable for you to opt out under the circumstances. You may reach Class Counsel as follows:

Valent Legal
telephone: 902-443-4488
email: info@valentlegal.ca

8. What if I disagree with the settlement?

The court will hear submissions on whether this settlement and the legal fees and costs of Valent Legal should be approved on March 18, 2021. You can attend this hearing if you wish, but you do not need to. If the settlement is approved, payments to Settlement Class Members will be made in accordance with the terms of the settlement agreement.

If you wish to object to the settlement, you must notify Ricepoint in writing by using the enclosed objection form by January 14, 2021. Your objection will be filed with the Court.

9. What if I still work at BMO Nesbitt Burns?

If you still work at BMO Nesbitt Burns, you can still participate in this case. In Nova Scotia, an employer is not allowed to take action against a current employee for legal actions related to their potential employment rights. Your participation in this settlement will be kept confidential from BMO Nesbitt Burns.

If you have any questions about how this class action might affect your employment, you can contact Robert Dunnell in BMO Nesbitt Burns' Employee Relations group at 647-294-7741 or robert.dunnell@bmo.com.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in the case?

Yes. The Court has appointed Valent Legal to represent you and other Class Members as "Class Counsel." You will not be charged for these lawyers at this time. Class Counsel will only receive compensation if they are successful in this case for the Class Members. The court must approve all fees paid to Class Counsel.

GETTING MORE INFORMATION

10. How do I get more information?

You can get more information at <https://valentlegal.ca/class-action/bmo-nesbitt-burns-overtime-class-action/> or by email at info@valentlegal.ca.

You can also contact Robert Dunnell in BMO Nesbitt Burns' Employee Relations group at 647-294-7741 or robert.dunnell@bmo.com.