

## **PRE-APPROVAL SETTLEMENT NOTICE**

### **Red Bull Energy Drink Settlement Program in Canada**

#### **NOTICE OF COURT HEARING ON DECEMBER 17, 2019 CONCERNING THE APPROVAL OF A CLASS ACTION SETTLEMENT AGREEMENT IN THE CASE OF *ATTAR v. RED BULL* QUEBEC SUPERIOR COURT NO: 500-06-000780-169**

#### **PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS**

#### **THE SETTLEMENT CLASS:**

A proposed settlement has been reached with respect to the class action commenced by Michael Attar (“Plaintiff”) against Red Bull Canada Ltd. and Red Bull GmbH (collectively referred to as “Red Bull”) before the Superior Court of Quebec for the judicial district of Montreal (the “Court”) under docket number 500-06-000780-169 (the “Action”) on behalf of the Settlement Class defined in the parties’ July 18, 2019 Settlement Agreement as:

All legal and natural persons (excluding minors, defined as natural persons under 18 years of age as of July 23, 2019) who were residents of Canada (including without limitation any of its provinces and territories) at any time between January 1, 2007 until July 23, 2019 (the “Class Period”) and who purchased and/or used or consumed one or more Red Bull caffeinated energy drinks (“CEDs”) in Canada during the Class Period, excluding the Released Parties (which for informational purposes only is generally comprised of Red Bull and its affiliates, employees, contractors, and other related parties).

If you would like to exclude yourself from the class action, then you must timely and validly request exclusion (i.e. “opt out”) as described in this Notice.

#### **SUMMARY:**

Plaintiff alleges that Red Bull used or published certain labelling and advertising material that contained false or misleading information and failed to inform or disclose the alleged health risks associated with consuming Red Bull CEDs. Red Bull completely denies any and all wrongdoing or liability. Plaintiff and Red Bull negotiated and ultimately agreed to the proposed settlement after counsel for all parties extensively evaluated the facts and law relating to this case, and took into account a variety of factors such as the burdens and expense of the lawsuit, and the risk and uncertainty of litigation.

Members of the Settlement Class who do not opt out may qualify for compensation under the proposed settlement.

Although Red Bull denies any wrongdoing or liability, to avoid the distraction of litigation, Red Bull has voluntarily amended and updated its marketing and labeling directed at Canadian consumers and agreed to settle the Action.

Plaintiff and Class Counsel believe that the settlement is in the best interest of the Settlement Class.

As part of the settlement process, the Class Action will be authorized by the Court for settlement purposes only.

**The settlement is ultimately subject to the Court's approval. Compensation will only be issued if the Court grants final approval to the Settlement and after the time for appeals has ended and any appeals are resolved. Please be patient.**

#### **WHAT THE SETTLEMENT PROVIDES:**

Red Bull has agreed to pay the total amount of \$850,000 (the "Settlement Fund") to settle the Action. If the proposed settlement is approved, the Settlement Fund will be used to: (a) compensate Settlement Class Members who timely submit valid Claim Forms; (b) pay all costs and expenses related to the settlement including without limitation the costs of the Claims Administrator (as defined in the Settlement Agreement) and Plaintiff's Class Counsel's fees (not to exceed \$250,000 plus applicable taxes, plus Class Counsel costs and disbursements not to exceed \$15,000 (subject to the Court's approval); and (c) pay the Plaintiff an honorarium of \$5,000 (subject to the Court's approval).

Only Settlement Class Members may qualify to receive compensation under the proposed settlement as described in this Notice.

#### **HOW TO QUALIFY FOR COMPENSATION:**

Settlement Class Members will be able to submit claims for compensation for a period of thirty (30) calendar days (the "Claims Period") until the Claim Form Due Date (to be determined by the Court). To participate, you must sign up to receive notice of the Claims Period by submitting your e-mail address on the Settlement Web Site <https://www.energydrinksettlement.ca> by no later than **5:00 PM Eastern on October 14, 2019**. The Claims Administrator will send an e-mail to the e-mail address you provide alerting you that the Claims Period is open and advising you of the Claim Form Due Date.

To qualify for compensation, a Settlement Class Member will be required to: (a) within the Claims Period, submit a valid and complete Claim Form, attesting under penalty of perjury where and when he/she purchased and/or used or consumed such Red Bull CEDs in Canada between January 1, 2007 and July 23, 2019. Each Settlement Class Member may submit only one (1) Claim Form. Each Settlement Class Member who timely submits a valid Claim Form

will receive payment from the Claims Administrator appointed by the Court of an equal amount up to a maximum of \$10.00 per Settlement Class Member regardless of the number of Red Bull CEDs purchased and/or used or consumed by such Settlement Class Member. Under the terms of the settlement, certain conditions may lead to Settlement Class Members with valid claims receiving less than this amount. For example, the compensation available to Settlement Class Members will be reduced proportionately among all Settlement Class Members with valid claims if the total amount of eligible claims exceeds the Settlement Fund minus the costs and expenses of the settlement described in the Settlement Agreement, and summarized in (b) and (c) above.

In order to receive any compensation from the settlement, a Settlement Class Member must have a valid e-mail address and a bank account capable of receiving payments via Interac e-transfer, as e-transfer is the only method through which compensation will be sent. Compensation can only be collected for a period of thirty (30) days after the e-transfer is sent.

#### **SETTLEMENT APPROVAL:**

##### **Approval**

A motion to approve the settlement will be heard by the Court on **December 17, 2019 at 9:30 a.m. in room 1.156.**

If the proposed settlement is approved, it will be binding on the Settlement Class except those who timely and properly opt out. Unless you opt out from the settlement, you will lose any right to sue in relation to the Released Claims, as described in the Settlement Agreement. Settlement Class Members who do not opt out will be subject to the releases in the Settlement Agreement regardless of whether or not they submit a Claim Form or ultimately receive any compensation from the settlement.

Class Members have the right to seek intervenor status in the class action, and no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.

#### **OPT OUTS AND OBJECTIONS:**

##### **Opt Out**

If you do not wish to be part of the Class Action and bound by the Settlement Agreement, you may opt out of the Settlement Class by **5pm Eastern on October 14, 2019** (the “Opt Out Period”) by informing the clerk of the Court of your choice to opt out. Any attempt to opt out after this time will not be valid. If you opt out of the class action, you will not be eligible to receive any compensation from the settlement but you will retain the right to sue on an individual basis in relation to the Released Claims. Your signed request of exclusion must contain all of the following information:

1. The name and Court docket number of this case, which is: *Attar vs. Red Bull Canada Ltd. et al.* (500-06-000780-169);
2. Your name, address, phone number(s) and email address; and

3. Specific confirmation that you wish to exclude yourself (opt out) of the *Class Action against Red Bull* and the *Red Bull Settlement Agreement*.

The request for exclusion (opt out) must be sent by mail to the Court at the following address:

TO: Greffe de la Cour supérieure du Québec  
PALAIS DE JUSTICE DE MONTRÉAL  
1 Notre-Dame Street East  
Room 1.120  
Montréal (Québec) H2Y 1B5

If you do not timely and properly opt out of the class action within the Opt Out Period, you will irrevocably be bound by all the terms and conditions of the Settlement Agreement in the event it is approved by the Court.

### **Objections**

So long as you do not opt out, you may object to the settlement by explaining to the Court that you think the proposed settlement terms are unfair. Those who object to the settlement will remain part of the Settlement Class and will lose any right to sue in relation to the Released Claims.

If you wish to object to the proposed settlement, you must send a written notice of objection to the Claims Administrator at the following e-mail address [INFO@VELVETPAYMENTS.COM](mailto:INFO@VELVETPAYMENTS.COM) by no later than **5 pm Eastern on October 14, 2019**. Any attempt to object after this time will not be valid. Your written objection should include: (a) your name, address, e-mail address and telephone number; (b) a brief statement of the reasons for your objection; and (c) whether you plan to attend the hearing in person or through a lawyer, and if by lawyer, the name, address, e-mail address and telephone number of the lawyer.

Settlement Class Members who do not oppose the proposed settlement need not appear at the settlement approval hearing or take any other action at this time.

### **FURTHER INFORMATION:**

A complete copy of the Settlement Agreement, and detailed information on how to obtain or file a Claim Form are available on the following Settlement Web Site <https://www.energydrinksettlement.ca>.

The law firm representing the Plaintiff and the Settlement Class is the following:

Joey Zukran  
**LPC Avocat Inc.**  
5800 blvd. Cavendish, Suite 411  
Côte St-Luc, Québec, H4W 2T5  
Phone: 514.379.1572  
Fax: 514.221.4441  
E-mail: [JZUKRAN@LPCLEX.COM](mailto:JZUKRAN@LPCLEX.COM)

The law firm representing Red Bull is the following:

Nick Rodrigo  
**Davies Ward Phillips & Vineberg LLP**  
1501 McGill College Avenue  
Montréal, Québec, H3A 3N9  
Fax: 514.841.6499  
E-mail: [nrodrigo@dwvp.com](mailto:nrodrigo@dwvp.com)

The Claims Administrator is:

Velvet Payments  
5900 Andover Avenue, Suite 1  
Montreal (Québec) H4T 1H5  
[info@velvetpayments.com](mailto:info@velvetpayments.com)

**RED BULL IS NOT RESPONSIBLE FOR THE ADMINISTRATION OF THE SETTLEMENT OR THE DISTRIBUTION OF THE SETTLEMENT FUND. PLEASE CONTACT CLASS COUNSEL OR THE CLAIMS ADMINISTRATOR – NOT THE COURT OR RED BULL’S COUNSEL – FOR FURTHER INFORMATION.**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**This notice has been approved by the Court.**

There will be no further notice in the newspapers of this settlement.