

**UNPAID OVERTIME CLASS ACTION**  
**FRESCO v CANADIAN IMPERIAL BANK OF COMMERCE**  
**NOTICE OF CERTIFICATION**

**THIS NOTICE MAY AFFECT YOUR RIGHTS – PLEASE READ IT CAREFULLY**

You are receiving this notice because the records of the Defendant, Canadian Imperial Bank of Commerce (“CIBC”), indicate that you may be a Class Member (as described below) in the class action lawsuit described below. You do not have to do anything to participate in this class action.

For more information about this class action please see: [www.cibcunpaidovertime.ca](http://www.cibcunpaidovertime.ca) or contact Class Counsel.

**Summary**

The lawsuit of *Dara Fresco v. CIBC* alleges that CIBC failed to properly compensate Class Members for overtime, in breach of its legal obligations. As a result of this alleged failure, Class Members are alleged to have suffered financial damages in the form of lost overtime compensation. If the Plaintiff is successful in her lawsuit, you may be eligible to receive compensation from CIBC for any overtime work for which you have not been compensated already.

On June 26, 2012, the Court of Appeal for Ontario ordered that the lawsuit be certified as a class action.

The Court has not yet determined whether the lawsuit will be successful and it will now proceed to a common issues trial. A trial date has not yet been set by the Court.

The law firms **Roy O’Connor LLP**, **Sack Goldblatt Mitchell LLP** and **Sotos LLP** have been appointed by the Court to represent the Class Members.

For more information about how this class action may affect your legal rights please visit [www.cibcunpaidovertime.ca](http://www.cibcunpaidovertime.ca) or please contact Amanda Grainger at Roy O’Connor LLP by telephone at 1 (888) 687-2431, by email at [ag@royoconnor.ca](mailto:ag@royoconnor.ca) or by regular mail at 2300-200 Front Street West, Toronto ON, M5V 3K2.

This Notice explains:

1. The Lawsuit;
2. Who is included in the Lawsuit;
3. Your right to choose whether or not to be part of the Lawsuit;
4. Financial consequences for you;
5. Class Counsel & Other Matters; and
6. More Information

## 1. The Lawsuit

The Representative Plaintiff, Ms. Dara Fresco, has sued CIBC alleging that CIBC failed to compensate Class Members for overtime. Ms. Fresco alleges that in failing to compensate Class Members for overtime work, CIBC:

1. breached the minimum standards of overtime compensation provided for by the *Canada Labour Code*;
2. breached its contracts of employment with the Class Members; and
3. was unjustly enriched by keeping money for itself that should have been paid to the Class as wages.

The lawsuit asks the Court to award monetary damages to Class Members and to make orders requiring CIBC to change its policies and practices relating to overtime compensation.

A copy of the Statement of Claim and other legal documents associated with this case can be viewed at <http://www.cibcunpaidovertime.ca>.

## 2. Who is included in the Lawsuit?

You do not have to do anything to participate in this class action.

Class Members are automatically included in a class action once certified, unless they choose to opt-out of the proceeding as further described in section 3 below. This includes Class Members who reside anywhere in Canada, not just in Ontario.

By order of the Court of Appeal for Ontario the Class Members are composed of the following persons:

Current and former non-management, non-unionized employees of CIBC in Canada who worked at CIBC's retail branches, High Value Cluster offices or Imperial Service offices at any time from February 1, 1993 to June 18, 2009, as tellers or other front-line customer service employees, including the following:

1. Customer Service Representatives (also formerly known as Tellers);
  2. Assistant Branch Managers (Level 4);
  3. Financial Service Representatives (also formerly known as Personal Banking Associates, Personal Bankers, Senior Personal Bankers and Business Advisors);
  4. Financial Service Associates;
  5. Branch Ambassador;
- And other employees who performed the same or similar job functions as the above under a different or previous CIBC job title.

## 3. Your right to choose whether or not to be part of the lawsuit

(a) **How to be included in the Class:**

You do not need to do anything if you wish to remain a Class Member in this action.

If you fall within the Class definition described above, you are a Class Member and are automatically included in the action.

If you wish to be excluded from this action please see section 3(b) below.

**(b) If you wish to be excluded from the action take the following steps:**

To be excluded from this class action you must send a signed and dated Opt-Out Form to Class Counsel at the address specified below confirming that you do not want to be a part of the lawsuit. A copy of the Opt-Out Form is enclosed with this letter. Further details on how to opt-out of the lawsuit can be found at [www.cibcunpaidovertime.ca](http://www.cibcunpaidovertime.ca) or by contacting Class Counsel.

The deadline for opting out is May 20, 2014. If your written request to opt-out is not received by that date you will remain a Class Member.

By opting out of this Class, you are confirming that you do not wish to participate in this class action and you will be excluded from any settlement or any damages that may be awarded by the Court.

Once you opt-out of this class action, you will receive no further communications regarding this action from Class Counsel, but for a confirmation that you intended to exclude yourself from this class action.

#### **4. What are the Financial Consequences of the Lawsuit?**

There is no cost to you to participate in the lawsuit.

If the lawsuit is successful at the common issues trial, or any subsequent appeal, the Court will determine what damages or compensation, if any, Class Members are entitled to receive.

If the class action is successful, legal fees and disbursements incurred by the lawyers for the Class will be deducted from the total amounts recovered on behalf of the Class. The amount of such legal fees and disbursements will be approved by the Court. In this case, the Plaintiff has received financial support from the Class Proceedings Fund (the "Fund"), which is a body created by statute and designed to allow access to the courts through class actions in Ontario. The Fund has agreed to reimburse the Plaintiff for some disbursements incurred in pursuing this action. The Fund will also be responsible for costs that may be awarded against the Plaintiff in this case. In exchange, the Fund will be entitled to recover from any court award or settlement in favour of the class the amount of its funded disbursements (except amounts repaid by the Plaintiff or ordered paid by the Defendant). The Fund is also entitled to 10% of any amounts that may be payable to class members.

Class counsel have been retained on a contingency basis, which effectively means that fees and disbursements will only be paid to Class counsel in the event of success.

If the class action is unsuccessful, Class Members will not be awarded damages and you will not receive any compensation from this lawsuit. If the class action is unsuccessful, Ms. Fresco may be responsible for

any costs or other legal expenses incurred in prosecuting the action, however, you and other Class Members will have no financial obligations in respect of the lawsuit.

Whether or not the class action lawsuit is successful, all Class Members who do not opt out of the class action will be bound by the final judgment of the Court. This means, for example, that if you remain a Class Member, you could not start your own lawsuit against CIBC in respect of the same issues and claims after the completion of this lawsuit.

#### **5. Class Counsel & Other Matters**

The law firms of **Roy O'Connor LLP**, **Sack Goldblatt Mitchell LLP** and **Sotos LLP** have been appointed as Class Counsel by the Court.

Class Counsel will be paid legal fees only if the lawsuit is successful. These legal fees will have to be approved by the Court prior to being paid.

If you wish to participate personally in the lawsuit, please contact class counsel or you may apply directly to the Court for permission to do so.

The Court filings in this lawsuit are available for inspection at the office of the Superior Court of Justice, Courthouse, 393 University Ave., Toronto, Ontario, Court File No.: 07-CV-334113 PD2.

#### **6. More Information**

For further information about the class proceeding lawsuit please visit <http://www.cibcunpaidovertime.ca/> or contact Amanda Grainger at Roy O'Connor at:

**Roy O'Connor LLP**

Attn: Amanda Grainger  
2300-200 Front St. W.  
Toronto, ON M5V 3K2  
Tel: (416) 362-1989  
Fax: (416) 362-6204  
Email: [ag@royoconnor.ca](mailto:ag@royoconnor.ca)  
Website: [www.royoconnor.ca](http://www.royoconnor.ca)

Overtime Hotline: 1(888) 687-2431

**PLEASE DO NOT CALL CIBC, THE COURTHOUSE, OR THE REGISTRAR OF THE COURT ABOUT THIS ACTION. ALL QUESTIONS ABOUT THE LAWSUIT SHOULD BE DIRECTED TO CLASS COUNSEL.**

This notice is published pursuant to the section 17 of the Ontario *Class Proceedings Act, 1992* and was approved by the Court.

**OPT-OUT FORM**

By completing this Opt-Out Form, you are choosing to irrevocably opt out of the Overtime Class Action. By opting out, you are choosing not to take part in the class action against CIBC. By opting out, you are confirming that you do not wish to participate in this class action and you will be excluded from any settlement or any damages that may be awarded by the Court.

Once you opt-out of this class action, you will receive no further communications regarding this action from Class Counsel, but for a confirmation that your Opt-Out Form has been received.

This form must be fully completed and must be received no later than May 20, 2014. Opt-Out Forms received after that date will not be accepted.

For more information on the Overtime Class Action, please see the Notice enclosed with this Opt-Out Form, visit [www.cibcunpaidovertime.ca](http://www.cibcunpaidovertime.ca), or contact Class Counsel.

Your Name: \_\_\_\_\_ (required)

Your Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (required)

Your telephone number: (\_\_\_\_) \_\_\_\_\_ (required)

Your email address: \_\_\_\_\_ (optional)

**DECLARATION**

I declare that I wish to opt out of the Overtime Class Action.

I understand that by submitting this Opt-Out Form, I will be excluded from the class action and will not be bound by its outcome. As a result, I will be excluded from any settlement or any damages that may be awarded by the Court.

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Signature \_\_\_\_\_ Date \_\_\_\_\_

Return your completed Opt-Out Form to:  
**Roy O'Connor LLP**  
Attn: Amanda Grainger  
2300-200 Front St. W.  
Toronto, ON M5V 3K2