

Appendix 4

Gaétane Cummings vs. VIA Rail Canada Inc.
Superior Court of Quebec: 500-06-000521-100

CLASS ACTION COURT AUTHORIZED NOTICE

Class action regarding the accessibility of VIA Rail Canada Inc. trains

You could receive an indemnity.

- VIA Rail Canada Inc. and Gaétane Cummings reached an agreement ending the class action regarding the accessibility of VIA trains.
- The agreement provides that VIA will offer an indemnity to the members of the group.
- This agreement may have repercussions on your rights, whether or not you act.

PLEASE READ THIS NOTICE CAREFULLY.

| YOUR RIGHTS IN RELATION TO THIS AGREEMENT: | |
|--|--|
| TO REQUEST EXCLUSION/TO OPT OUT | If you request exclusion/opt out, you will not receive any indemnity under this agreement. This option enables you to sue VIA on your own if you have a complaint to lodge regarding the accessibility of its trains and you suffered damages as a result thereof. |
| TO CONTEST | You can tell the court that you disagree with the agreement. |
| TO ATTEND A HEARING | You can attend the hearing that will be held to approve the agreement. |
| TO RECEIVE AN INDEMNITY | You must complete the claim form available at www.viarail.ca/en/classaction within 120 days following the court's final judgment. If you do not do anything, you will not receive the indemnity provided under the agreement and you waive your rights. |

These rights – **and the cut-off date to exercise them** – are explained in this notice

The Superior Court of Quebec, the court appointed to hear this case, must decide whether or not to finally approve the agreement at a hearing to be held on October 16, 2013 in Montreal.

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BASIC INFORMATION

1. Why is this notice being issued?

An agreement was reached in connection with a class action instituted by Ms. Gaétane Cummings against VIA Rail Canada Inc. (hereinafter “VIA”). The class action was brought in Quebec, but it covers all the members in Canada. The agreement reached between Gaétane Cummings and VIA may concern you. You have rights to take into consideration before the court decides to approve the agreement. This notice explains how the class action works, who is a member of the group, the agreement itself and your rights.

2. What is the purpose of this class action?

Gaétane Cummings instituted a class action against VIA on behalf of all the members in Canada with regard to the accessibility of VIA trains. Gaétane Cummings basically contends that VIA trains and the sleeper cars that form part of them are not accessible for disabled people who permanently rely on a wheelchair for their mobility and, therefore, that VIA would be in default of complying with the obligations imposed on it by law. VIA disputes these contentions.

3. Why a class action?

In a class action, a person referred to as the “representative of the group” institutes legal proceedings in the name of all those who have the same problem and who are referred to as the “group”. Gaétane Cummings represents all the members of the group. The group includes all Canadian residents. A class action enables the court to rule on the issue in dispute for all the members of the group, except for those who elect to be excluded from/to opt out of the group.

4. Why an agreement?

The court did not render a final decision in favour of either Gaétane Cummings or VIA. There was no trial. Instead, both parties reached an agreement to settle the class action once and for all. Gaétane Cummings and her attorney, Mr. Jean Yanakis, feel that the agreement is the best solution for all the members of the group in Canada; therefore, they have asked the court to approve it.

5. Who is a member of the group?

You are a member of the group if you are part of one of the following sub-groups:

Group A: all persons residing in Canada who have a disability and are permanently reliant on a wheelchair for their mobility and who personally purchased a train ticket from VIA for a trip these individuals took between August 31, 2007 and August 31, 2010 between Toronto and Vancouver with at least one night onboard in a rail car with a sleeping compartment used by VIA in trains that namely travel between Toronto and Vancouver (“**Sleeper Car**”);or

Group B: all persons residing in Canada who have a disability and are permanently reliant on a wheelchair for their mobility, but who are not members of Group A, and who want to travel onboard a VIA train for a trip between Toronto and Vancouver with at least one night onboard in a renovated Park sleeper car, with an accessible double sleeping compartment, in the year following the putting into service by VIA of this renovated sleeper car between Toronto and Vancouver (“**Renovated Sleeper Car**”), the putting into service by VIA of this Renovated

Sleeper Car is scheduled for 2014.

6. Can I intervene in this class action recourse?

Yes. If you are a member of the group and you submit a request, the court may allow you to intervene in the legal proceedings if it deems that your intervention is useful to the group. An intervention is useful if, for instance, it supports Gaétane Cummings' application or her allegations. If you intervene, you may have to give a deposition at VIA's request and pay legal costs.

WHAT THE AGREEMENT GRANTS YOU

7. What does the agreement provide?

VIA grants the following to the members of the group:

- **Group A:** members of Group A will receive a credit of 50% of the purchase price for the ticket that they paid, including taxes, for the trip taken between August 31, 2007 and August 31, 2010 between Toronto and Vancouver with at least one night onboard in a Sleeper Car, as defined in Question 5 above. They may use this credit to book one or more train tickets on the VIA network for one or more trips they may take in the year following the court's final judgment approving the Settlement.
- **Group B:** members of Group B will receive a discount of 50% on the lowest purchase price for a VIA train ticket between Toronto and Vancouver, with at least one night onboard in a Renovated Sleeper Car, as defined in Question 5 above. They may use this discount for a trip taken in the year following the putting into service by VIA of these renovated cars scheduled for 2014.
- Ms. Gaétane Cummings will receive the sum of \$1,666.67, including taxes, that is, the sum she disbursed to book her train ticket for a trip between Toronto and Vancouver taken from September 17 to 21, 2009, as well as the sum of \$30,000, in capital, interest and costs, for damages that are specific and unique to her and that result from the particular facts outlined in the Settlement.

The use of the aforementioned credit or discount is subject to seat availability in accordance with VIA's policy entitled *Special Needs* which is found on VIA's Internet site at <http://www.viarail.ca/en/travel-info/special-needs> and is subject to the provisions stipulated in the Settlement Agreement which is available on VIA's Internet site at www.viarail.ca/en/classaction.

8. What should you do?

If you are a member of Group A, you must:

1. Complete the required claim form to avail yourself of the offered credit, which is attached to the Settlement Agreement (**Appendix 1-A**) and is available on VIA's Internet site at www.viarail.ca/en/classaction;

2. Attach to the claim form the ticket that you personally booked with VIA for a trip you personally took between August 31, 2007 and August 31, 2010 between Toronto and Vancouver with at least one night onboard in a sleeper car or proof of purchase of such ticket with sufficient details to show that you did purchase a ticket for the aforementioned trip;
3. Return the claim form and the ticket or proof of purchase of the ticket to VIA within 120 days following the final judgment by the court that authorizes the institution of the class action on behalf of the group for settlement purposes.

If the court approves the agreement, members of Group A who made a claim will receive an e-mail containing further information about the procedure to claim the credit offered to them.

The credit offered to members of Group A must be used for a trip taken within 12 months following the court's final judgment.

The use of the credit is subject to seat availability in accordance with VIA's policy entitled *Special Needs* which is found on VIA's Internet site at: <http://www.viarail.ca/en/travel-info/special-needs>.

If you are a member of Group B, you must:

1. Complete the required claim form to avail yourself of the discount that is offered to members of Group B, which is attached to the Settlement Agreement (**Appendix 1-B**) and is available on VIA's Internet site at www.viarail.ca/en/classaction;
2. Return the claim form to VIA within 120 days following the final judgment by the court that authorizes the institution of the class action on behalf of the group for settlement purposes.

If the court approves the agreement, members of Group B who made a claim will receive an e-mail containing further information about the procedure to use the discount that is offered to them as well as the exact date of the putting into service by VIA of its Renovated sleeper cars on the Toronto/Vancouver corridor once this date is determined.

The discount offered to members of Group B must be used in the year following the putting into service by VIA of the Renovated sleeper cars.

The use of the discount is subject to seat availability in accordance with VIA's policy entitled *Special Needs* which is found on VIA's Internet site at: <http://www.viarail.ca/en/travel-info/special-needs>.

TO REQUEST EXCLUSION/TO OPT OUT

If, for whatever reason, you do not want to be bound by the class action and the agreement, you must take steps to request your exclusion from/to opt out of the group. This could be the case if you think you can secure an indemnity by suing VIA on your own.

9. What happens if I request my exclusion/opt out?

If you request your exclusion/opt out:

1. You will not receive any credit or discount;
2. You will not be bound by this class action and the agreement;
3. You will maintain the right to sue VIA on your own.
4. You will not be able to object to the agreement.

10. What happens if I do not request my exclusion/opt out?

If you do not request your exclusion/opt out:

1. You may receive a credit or a discount;
2. You may object to the agreement;
3. You will be bound by all the orders rendered by the court in this class action;
4. If the settlement is approved, you waive your right to sue VIA for any recourse regarding the accessibility of its trains.

11. How can I request my exclusion/opt out?

You must indicate that you want to be excluded from/to opt out of the class action. This can be done in one of the following two ways:

1. By completing the request for exclusion/to opt out, a copy of which is attached to the Settlement Agreement (**Appendix 7**) and accessible on VIA's Internet site at www.viarail.ca/en/classaction; or
2. By sending a letter to VIA. This letter must contain the following information:
 - Your name, home address, e-mail address and telephone number;
 - A solemn affirmation before a Commissioner of Oaths, or in provinces other than Quebec, a notary public, whereby you declare that you are a resident of Canada and a member of Group A or of Group B.
 - Your statement: "I am a member of Group A or B and I wish to be excluded from/to opt out of the class action";
 - Your signature.

Your request for exclusion/opt out or your letter must be sent to the following address by facsimile machine or by registered mail within *the 30 days following the publication of the notice in the media*:

Cummings vs. VIA Rail Class Action
VIA Rail Canada Inc.
3 Place Ville-Marie, Suite 500
Montreal, Quebec H3B 2C9
Facsimile no.: 514-871-6104

ATTORNEYS

12. Am I represented by an attorney in this matter?

Yes. Mr. Jean Yanakis represents the members of the group. You can reach him at:

Mr. Jean Yanakis
Attorney
1910, rue Notre-Dame
Lavaltrie, Quebec J5T 1N1

Telephone no.: 450 586-4905
Facsimile no.: (450) 586-5287

E-mail: jeanyanakisavocat@hotmail.com

13. Are there fees to be members of the class action?

If the agreement is approved, Ms. Cummings' attorney will request payment of his fees and reimbursement of his expenses. If the court approves these fees and expenses, VIA will pay them on behalf of the members of the group.

OBJECTION TO THE AGREEMENT

You may tell the court that you disagree with this agreement, the fees and the expenses of Ms. Cummings' attorney.

14. How can I tell the court that I disagree with this agreement?

If you have an objection, you must formulate it as follows:

By completing the objection form found in **Appendix 8** of the Settlement Agreement available on VIA's Internet site at www.viarail.ca/en/classaction and by sending it before midnight on October 7, 2013 by mail or facsimile machine to the following address:

VIA Rail Canada Inc.
Cummings vs. VIA Rail Class Action
3 Place Ville-Marie, Suite 500
Montreal, Quebec H3B 2C9
Facsimile no.: 514-871-6104

Your objection must include the following information:

1. Your name, home address, e-mail address and telephone number;
2. A solemn affirmation that you are a resident of Canada and member of Group A or member of Group B;
3. You must explain why you disagree with this agreement.

The attorneys will forward your objection form to the court. If you object, you do not have to attend the hearing before the court to explain why you disagree with the agreement. However, you may also be heard by the court and appear at the hearing. See the section below entitled “Approval Process by the Court”.

15. Do I need an attorney to object?

No. You can object without getting an attorney. If you want to be represented by counsel, you will have to retain and pay for his or her services.

16. If I object, will I still qualify for a credit or a discount?

Yes. If you submit an objection, but the agreement is approved, you may still benefit from a credit or a discount unless you have requested your exclusion/opted out.

FINAL APPROVAL PROCESS BY THE COURT

The court will hold a hearing to decide if it must approve the agreement.

17. When and where will the court make a decision on the agreement?

The court will hold a hearing to decide if the agreement is in the interests of the members. The court will hold a hearing in Montreal, on October 16, 2013, at the Montreal Court House located at 1 Notre-Dame Street East, Montreal, Province of Quebec, H2Y 1B6. If there are objections, the court will take them under advisement. The court will determine the fees and expenses to be paid to the group’s attorney.

18. Do I have to attend the hearing ?

No. The attorneys will answer all the judge’s questions. But you are welcome and may attend at your own expense. The date of the hearing may change without further notice; before attending, you should consult www.viarail.ca/en/classaction to verify if the hearing will be heard on the scheduled date.

19. Can I speak at the hearing?

You may attend the hearing and request permission to address the court. You may also ask an attorney to represent you, but you are not obliged to do so.

20. How long will it take the court to make a decision?

The court may decide to approve the agreement at the hearing or later.

FOR FURTHER INFORMATION

21. How can I get further information?

You can get a copy of the agreement at the following address:

- www.viarail.ca/en/classaction

If you have any questions, you can also call or write to VIA or the applicant's attorney, Mr. Jean Yanakis:

VIA Rail Canada Inc.
Cummings vs. VIA Rail Class Action
3 Place Ville-Marie, Suite 500
Montreal, Quebec H3B 2C9

Mr. Jean Yanakis, Attorney
Cummings vs. VIA Rail Class Action
1910 rue Notre Dame
Lavaltrie, Quebec J5T 1N1

Dedicated phone line : 1-855-882-7979
TTY Number: 1-800-268-9503

Telephone: 450 586-4905