

## WESTERN DIGITAL CLASS ACTION

### NOTICE OF SETTLEMENT APPROVAL AND CLAIMS PROCEDURES

**Read this notice carefully as it may affect your rights.**

#### **THIS NOTICE IS DIRECTED TO:**

**All persons who are residents of Canada who purchased WD RED NAS Drives in Canada with model numbers WD20EFAX, WD30EFAX, WD40EFAX, and WD60EFAX between February 15, 2019 and April 22, 2020 (“Class Members”).**

#### **I. Nature of the Class Action**

On May 22, 2020, a proposed class action was commenced against Western Digital Corporation and Western Digital Canada Corporation (collectively referred to as “**Western Digital**”) in the Supreme Court of British Columbia, *Sheldon Irving v. Western Digital Corporation and Western Digital Canada Corporation* (Vancouver Registry, No. S-205402) (the **Action**”).

The Action was brought on behalf of Class Members alleging that the Western Digital changed the technology used in the WD RED NAS Drives from conventional magnetic recording to shingled magnetic recording (“**SMR**”) and misled consumers by not informing them of the change in breach of sale of goods legislation, consumer protection legislation, section 52 of the *Competition Act*, RSC 1985, c. C-34, and section 380(2) of the *Criminal Code*, RSC 1985, c C-46.

The Defendants deny these allegations, deny that SMR is inferior technology, or that it did anything wrong in changing the technology. The Defendants contend that its SMR-based WD Red NAS drives were designed and extensively tested for use in the applications for which they were marketed and are suitable for use in NAS devices employed in appropriate applications and workloads.

#### **II. Settlement**

The parties have reached a settlement of the Action, without an admission of liability on the part of Western Digital which has been approved by the Supreme Court of British Columbia (“**Settlement**” or “**Settlement Agreement**”).

Class Members are eligible to make a claim for cash payments for CAD \$6 for each 2-terabyte (WD20EFAX) and 3-terabyte (WD30EFAX) capacity WD RED NAS Drives and CAD \$9 for each 4-terabyte (WD40EFAX) and 6-terabyte (WD60EFAX) capacity WD RED NAS Drives purchased in Canada between February 15, 2019 and April 22, 2020 (“**Cash Payments**”).

Western Digital is obliged to fund up to CAD \$375,000 for the Cash Payments, Class Counsel fees, taxes and disbursements, and a charitable donation paid for the benefit of the Class to Law Foundation plus notice and administration costs up to a maximum of CAD \$25,000. For more information about how to submit a claim, please visit [www.westerndigitalclassaction.ca](http://www.westerndigitalclassaction.ca).

This Settlement resolves the Action for all Class Members as against Western Digital. A full release of all claims in the Action has been granted to Western Digital. This Settlement represents a resolution of disputed claims and Western Digital does not admit any wrongdoing or liability.

On January 25, 2022, the Honourable Mr. Justice Branch of the Supreme Court of British Columbia approved the settlement agreement as being fair, reasonable and in the best interests of class members. He also approved Class Counsel fees of up to CAD \$112,500.00, calculated as 40% of the total paid (1) to class members, or (2) as a cy près donation, disbursements of CAD \$20,487.24, and an honourarium to the representative plaintiff of CAD \$1,500.

### **III. Claims Process**

#### **A. Submitting a Claim**

To qualify for a cash payment, you must submit a completed claim form to the Claims Administrator, RicePoint, online at: <https://kccsecure.com/WesternDigitalClassAction/>.

Your claim form must include the following information:

- a) your name;
- b) your email address; and
- c) serial numbers and receipt reflecting the purchase of WD RED NAS Drives with model numbers WD20EFAX, WD30EFAX, WD40EFAX, and/or WD60EFAX purchased in Canada between February 15, 2019 and April 22, 2020.

The right to make a claim for cash payment is not assignable or transferable and cannot be claimed by anyone other than the claimant

#### **Your claim's form must be submitted by April 18, 2022.**

The Claims Administrator shall review the claims forms by May 18, 2022 to either approve or reject claims.

The Claims Administrator's decision concerning the validity of any particular Claim shall be final and binding. There shall be no right of appeal.

#### **B. Issuing Cash Payments**

The Claims Administrator will send an email with an Interact e-transfer for the amount of any cash payments to each claimant whose claim is approved to the email address provided by each claimant within thirty (30) days following the claims deadline.

#### **C. Questions about the Settlement**

This notice contains only a summary of the Settlement and Class Members are encouraged to review the complete Settlement Agreement. If you have questions that are not answered online,

please contact the appropriate Class Counsel identified below. The law firms Good Barrister and Slater Vecchio represent Class Members in the Action. They can be reached at:

**Slater Vecchio**

PO Box 10445 Pacific Center North  
18<sup>th</sup> Floor, Dunsmuir Street  
Vancouver, BC V7Y 1K4

Attention: Steven Nguyen re Western Digital  
Phone: 604.648.3571  
Email: snguyen@slatervecchio.com

**D. Interpretation**

This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between the provisions of this notice and the Settlement Agreement including the Schedules to the Settlement Agreement, the terms of the Settlement Agreement and/or the Court orders shall prevail.

**IV. Additional Information**

This notice is given to you on the basis that you may be a Class Member whose rights could be affected by the Action. This notice should not be understood as an expression of any opinion of the Courts as to the merits of any claim or defences asserted in the Action. Its sole purpose is to inform you of the Action so that you may decide what steps to take in relation to it.

**INQUIRIES SHOULD NOT BE DIRECTED TO THE COURTS.**

**THIS NOTICE HAS BEEN APPROVED BY THE SUPREME COURT OF  
BRITISH COLUMBIA**