

## **Plaquemine 2016 Incident Class Action**

**18<sup>th</sup> Judicial District Court in and for the Parish of Iberville, Louisiana**

### **Persons who were located in or near the Dow Chemical/Blue Cube plants in Plaquemine on December 2, 2016 may be affected by a proposed class action settlement.**

*A state court authorized this legal notice. This is not a solicitation from a lawyer.*

- A partial settlement has been reached in a class action lawsuit involving the Blue Cube Operations, LLC chemical manufacturing plant located at 21255 LA-1, Plaquemine, Louisiana 70764 (Plant). The partial settlement has been reached with Colony Insurance Company and B & T Farms (Settling Parties). The lawsuit and partial settlement are about the chlorine release that occurred at the Plant between approximately 3:45 pm and 6:34 pm on December 2, 2016 (Incident).
- A \$160,000 settlement fund will be established by Settling Parties to pay amounts to holders of valid claims as well as lawyers' fees and costs approved by the Court.
- Generally, you may be included in the Class if, between approximately 3:45 pm and 6:34 pm on December 2, 2016, you: (a) were located in a specified geographic area in or near the Plant (Area), and (b) resided or were at your place of employment within the Area, and (c) claim to have experienced damages—including only emotional damage such as fear, fright, or inconvenience—allegedly caused by the Incident. Certain persons are specifically included in the Class. Certain other persons are specifically excluded from the Class, even though they may have been located in the Area during the Incident.
- If you recently presented a claim form for the incident, you are automatically included in this claims settlement.
- You may receive a payment only if you file a valid claim. If you do not file a valid claim, you will get no payment.
- Your legal rights are affected whether you act or do not act. Read this notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS:</b>	
<b>SUBMIT A CLAIM</b>	This is the only way to ask for and receive a payment from this settlement. Claim forms must be postmarked on or before <b>October 4, 2024</b> . Any claim form that is postmarked after <b>October 4, 2024</b> will not be paid.
<b>EXCLUDE YOURSELF FROM THE CLASS</b>	You will get no payment from this partial settlement. This is the only option that allows you to be part of any other lawsuit against Settling Parties and certain others about the legal claims in this case. Any request to exclude yourself from the partial settlement must be postmarked on or before <b>October 4, 2024</b> .

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YOUR LEGAL RIGHTS AND OPTIONS:	
<b>OBJECT TO THE SETTLEMENT</b>	You may write to the Court about why you do not like the partial settlement. Objections must be postmarked on or before <b>October 4, 2024</b> .
<b>GO TO A HEARING</b>	The Fairness Hearing will start at <b>October 18, 2024 at 9:00 am</b> At this hearing, the Court will decide if the partial settlement is fair to the Class.
<b>DO NOTHING</b>	You get no payment and you give up rights to be part of any other lawsuit against Settling Parties and certain others about the legal claims being settled.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the partial settlement. **Please be patient.**

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# **Plaquemine 2016 Incident Class Action**

## **BASIC INFORMATION**

### **1. Why has this notice been issued?**

A Court has authorized this notice because you have a right to know about the proposed partial settlement of certain claims in this class action lawsuit, including the right to submit a claim, and about all of your options, before the Court decides whether to give “final approval” to the partial settlement. If the Court approves the partial settlement, and after any appeals are resolved, amounts will be paid to holders of valid claims. This notice explains the lawsuit, the partial settlement, your legal rights, what benefits are available, who may be eligible for them, and how to get them.

Judge Alvin Batiste, Jr. in the 18th Judicial District Court, Iberville Parish, Louisiana, is overseeing the case. The case is known as “*Darryl Riley, Dionne B. Riley, and All Others Similarly Situated v. Blue Cube Operations, LLC., et al.*” No.: 76,483, Division “C”. The people who sued are called the Plaintiffs. The party they are suing the Settling Parties and others called the Defendants.

### **2. What is this lawsuit about?**

This class action lawsuit generally stems from the Incident; that is, the chlorine release that occurred at Blue Cube Operations, LLC chemical manufacturing plant located at 21255 LA-1, Plaquemine, Louisiana 70764, Louisiana, within the Dow Chemical Complex, between approximately 3:45 pm and 6:34 pm on December 2, 2016. The Plaintiffs claim that they suffered damage because of the Incident. The Plaintiffs further claim that Defendants legally responsible for this damage and they thus want compensation from Defendants. Defendants deny that they are legally responsible for any damages.

### **3. Why is the case a class action?**

In a class action, one or more people, called Class Representatives, sue on behalf of people like you who have similar claims. All of these people are a “Class” or “Class Members.” One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

### **4. Why is there a settlement?**

Both sides agreed to a settlement to avoid the cost and risk of future trials and appeals, and so that the people allegedly affected can get compensation, in exchange for releasing Settling Parties and certain others from all liability and dismissing this lawsuit and the settled claims with prejudice. Settling Parties deny any wrongdoing, and the settlement does not mean that Settling Parties did anything wrong or that Settling Parties violated any laws. The Class Representatives and the lawyers representing them think the settlement is best for all Class Members.

### **5. Who are the class representatives?**

The Court has approved the following people to represent the Class: (a) Darryl Riley and (b) Dione Riley. The Certification Order and Other Related Orders, available at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com), provides more details on the Class Representatives.

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### **WHO IS IN THE SETTLEMENT**

To see if you will be affected by this partial settlement or if you can get anything from this partial settlement, you first have to determine if you are a Class Member.

#### **6. How do I know if I am a part of the settlement?**

Generally, you may be a Class Member if, between approximately 3:45 pm and 6:34 pm on December 2, 2016, you: (a) were located in a specified geographic area in or near the Plant (Area), and (b) resided or were at your place of employment within the Area, and (c) claim to have experienced damage—including emotional damage such as fear, fright, or inconvenience—allegedly caused by the Incident. Certain persons are specifically included in the Class. Certain other persons are specifically excluded from the Class, even though they may have been located in the Area during the Incident. *See* the Court’s Class definition below in Question 7 and the exceptions to being included in the Class in Question 8.

More detailed descriptions of the Class and the Settlement Agreement are available at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com) and in the official records of these proceedings on file with the Clerk of Court for the 18<sup>th</sup> Judicial District Court, Iberville Parish, 58050 Meriam Street, Plaquemine, Louisiana 70764.

#### **7. The Court’s Class definition.**

The Court specifically defined the Class as:

- a. Any person residing within the Specified Geographic Boundary on the date of the Incident, who was present within the Specified Geographic Boundary during the Incident, and who sustained damage from the Incident.
- b. Any person who was employed within the Specified Geographic Boundary on the date of the Incident, who was present in their place of employment within the Specified Geographic Boundary during the Incident, and who sustained damage from the Incident.
- c. Any person residing in any residence identified as being reached by the Code Red call system of the Iberville Parish Office of Emergency Preparedness (“Iberville OEP”) on December 2, 2016, who was present at the time the call was received, and who sustained damage from the Incident.
- d. Any person employed in any business identified as being reached by the Code Red call system of Iberville OEP on December 2, 2016, who was present at the time the call was received, and who sustained damage from the Incident.

For purposes of this Question 7:

- i. The term “Specified Geographic Boundary” shall mean the area within the following boundaries: Beginning at a point, being the levee of the Mississippi River at the Plaquemine Lock Historic Site; thence west along Bayou Plaquemine to the intersection of Bayou Jacob Road and Kirtley Drive; thence north along Kirtley Drive to the northern end of Kirtley Drive; thence in a straight line from the northern end of Kirtley Drive due north to LA Highway

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1148/Iberville Parish line; thence east along the Iberville Parish line to LA Highway 988; then southeast to LA Highway 988/Warren Road at the levee of the Mississippi River; thence south down the levee of the Mississippi River to the Plaquemine Lock Historic Site; and

The Specified Geographic Boundary also includes any households or business establishments physically located on the outer edges of the highways, roads, streets and parkways identified above which make up the borders of the Geographic Boundary and which households or business establishments have addresses on those highways, road, streets, and parkways.

The Specified Geographic Boundary includes the area depicted on the map attached to the Settlement Agreement as Exhibit 1.

- ii. The term “Incident” means the loss of power and resulting chlorine release on December 2, 2016, from Blue Cube’s chlor-alkali facility within Dow’s chemical complex.

### **8. Are there exceptions to being included?**

Yes. The following are not included as Class Members:

- i. Any person who was employed by Blue Cube and working at Blue Cube’s facility during the Incident, regardless of whether such person qualifies as a member of the Proposed Class, above.
- ii. Any person who was employed by Dow and working at Dow’s Plaquemine complex during the Incident, regardless of whether such person qualifies as a member of the Proposed Class, above.
- iii. Any person who was employed by a contractor and working at either Blue Cube’s facility or Dow’s Plaquemine complex plant during the Incident, regardless of whether such person qualifies as a member of the Proposed Class, above.
- iv. Any person who, during the Incident, did not reside within the Geographic Boundary or work within the Geographic Boundary, but was traveling through the Specified Geographic Boundary or an invitee within the Specified Geographic Boundary.
- v. However, these exclusions do not apply to any person identified on Exhibit 2 (“Specific Persons Included Within the Class as Defined”).

Of course, if you are not included within the Court’s Class definition (*see* Question 7 above), you are not included in the partial settlement and you do not need to take any further action.

### **9. I’m still not sure if I am included.**

If you are not sure whether you are included in the Class, you can visit the website at

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www.plaquemine2016incident.com, call 1-504-581-9065 for more information, or write to: Class Counsel, at Plaquemine 2016 Class Settlement Claims Office, 338 Lafayette Street, New Orleans, LA 70130.

### **THE SETTLEMENT BENEFITS – WHAT YOU GET**

#### **10. What does the settlement provide?**

Settling Parties have established a \$160,000.00 settlement fund (Settlement Amount) to pay valid claims from Class Members, as well as lawyers' fees and costs, as approved by the Court. The Settlement Agreement, available at the website and in the official records of these proceedings on file with the Clerk of Court, describes all of the details about the proposed partial settlement. The Settlement Amount shall be allocated as follows:

- a. No more than 40% of the Settlement Amount, i.e., \$64,000.00, shall be allocated to Class Counsel for attorneys' fees and litigation expenses.
- b. The remainder of the Settlement Amount -- after deduction of the amounts set forth in Sections 10.a above ("Remainder") shall be allocated to Class Members. The exact amount will depend on the amount of claims received.
- c. If (a) the Court awards Class Counsel less than 40% of the Settlement Amount for attorneys' fees or (b) if no Settlement Reserve is required, those amounts will be added to the Remainder.
- d. If the Remainder is insufficient to provide the allocations to Class Members as set forth in Section 10.c, the individual allocations shall be reduced proportionally.
- e. Generally, any funds remaining after (i) the allocation to Class Members, (ii) payment of attorneys' fees and costs, (iii) payment of settlement administration costs and expense, and (iv) use of the Settlement Reserve, shall be returned to Settling Parties.

More details are available in the Settlement Agreement at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com).

#### **11. What can I get from the settlement?**

The amount of each payment may be based, in part, on the total number of claims received. Generally, payments will be made to Class Members as follows:

Each Class Member who was residing, working, or located in the Specified Geographic Boundary at the time of the Incident shall be allocated. To receive this award, you must submit (i) a Louisiana driver's license or state identification card that shows a residence address in the Geographic Boundary during the Incident, or (ii) a time card, payroll record, or similar record for those Class Members who claim to have been working in the Geographic Boundary during the Incident, or (iii) an affidavit of the Class Member's employer or the owner of the facility at which the Class Member was working in the Specified Geographic Boundary during the Incident, or (iv) other documentary evidence reasonably deemed acceptable by an independent Claims Administrator.

Individual allocations to Class Members will not be subject to deductions for attorneys' fees or costs. More details are available in the Settlement Agreement at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com).

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**QUESTIONS? CALL 1-504-581-9065, OR VISIT  
[www.plaquemine2016incident.com](http://www.plaquemine2016incident.com)**

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### **12. Who will oversee the settlement fund?**

An independent Claims Administrator will recommend to the Court how to allocate the settlement fund, pursuant to the Settlement Agreement, among the Class Members if and when the Court gives final approval to the partial settlement. (See the section on “The Court’s Fairness Hearing” below.)

## **THE CLAIMS PROCESS**

### **13. How can I get a payment?**

Class Members can submit their claims on the approved proof of claim form by United States mail, postage prepaid, to the Plaquemine 2016 Class Settlement Claims Office, Plaquemine 2016 Class Settlement Claims Office, 338 Lafayette Street, New Orleans, LA 70130. All claims must be postmarked on or before **October 4, 2024**. The Settlement Agreement and the claim form set forth what you will need to provide to prove your claim and receive a payment. Thus, you must use the proof of claim form approved by Class Counsel and Settling Parties in order to file a valid claim. You may obtain the approved proof of claim form by calling 1-504-581-9065 or going to [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com).

An independent Claims Administrator will review each claim and propose how much money to pay each Class Member based on the terms of the Settlement Agreement. See, Exhibit 8 to the Settlement Agreement. If you timely submit a valid claim, Class Counsel will send you a letter to tell you the proposed amount, if any, you are to receive. In this letter, Class Counsel will also tell you what else you may need to do in order to receive a payment and how to object if you do not like your proposed payment. The Court will decide in a separate hearing how much money each Class Member who files a valid claim gets.

Each Class Member must submit a separate claim form. The legal representative of a Class Member who is deceased or who is a minor may submit a claim form on behalf of that Class Member. You cannot be included on someone else’s claim form. You will not receive any payment for non-emotional damage claims until all known Medicare/Medicaid liens, if any, affecting your individual claim are resolved.

As more fully described in the Settlement Agreement, each Class Member’s settlement check will include language so that the Class Member’s endorsement and/or deposit thereof will serve as the Class Member’s agreement to the terms and conditions in the Settlement Agreement.

### **14. When would I get my payment?**

The Court has scheduled a hearing on **October 18, 2024 at 9:00 am.** to decide whether to approve the partial settlement. If the Court approves the partial settlement at that time or some time after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time. Payments to holders of valid claims cannot be made until the appeal process is finished, the partial settlement is final, and the allocation process has been completed. **Please be patient.**

### **15. What am I giving up to get a payment or stay in the Class?**

Even if you do not get money from the partial settlement, if the partial settlement becomes final, you will release Settling Parties and certain related parties from all liability for any claims that are being settled.



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That means you cannot sue Settling Parties and certain others ever again for these claims and your claims will be dismissed with prejudice. (This lawsuit also will be dismissed with prejudice, at least as to Settling Parties and Settling Parties' related parties.) The specific claims you will be releasing, called "Released Claims," are described in Section 1.29 of the Settlement Agreement that is available at the website and in the official records of these proceedings on file with the Clerk of Court. You will also agree to certain obligations in favor of Settling Parties and certain related parties (*see, e.g.*, Sections 6.3 through 6.5 of the Settlement Agreement), including but not limited to defending, indemnifying, and holding harmless certain parties against any claim by any person who derives his or her right or claim as a result of or in any way arising out of your claim. The Settlement Agreement describes the relevant lawsuit(s), the Released Claims, and your obligations with specific descriptions, in necessarily accurate legal terminology, so read it carefully. Talk to Class Counsel (*see* the section on "The Lawyers Representing You") or your own lawyer if you have questions about the relevant lawsuit(s), the Released Claims, and your obligations, or what they mean.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this partial settlement, but you want to keep the right to sue or continue to sue Settling Parties and others over the legal issues being settled in this case, then you must take steps to get out of the Class. This is called asking to be excluded from—or sometimes called "opting out" of—the Class. Any Class Members who do not request exclusion will be bound by all of the judgments made by the Court, whether favorable or not.

#### **16. If I exclude myself, can I get money from the settlement?**

No. If you exclude yourself, do not write to the Class claims office to request a payment. If you ask to be excluded, you will not get any settlement payment, and you cannot object to the partial settlement. But you may sue, continue to sue, or be part of a different lawsuit against Settling Parties in the future. You will not be bound by the partial settlement in this lawsuit and you will have no rights under the Settlement Agreement. If you exclude yourself, you will no longer be a member of the Class, you will no longer be represented by Class Counsel, and you will have to take independent action to protect your interests.

#### **17. If I do not exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue Settling Parties and certain others for all the claims that this settlement resolves. You must exclude yourself from this Class to start or continue your own lawsuit or to be part of any different lawsuit relating to these claims.

#### **18. How do I get out of the settlement?**

If you wish to be excluded from the partial settlement you must, in writing, state that you want to be excluded from the Settlement Class. You must include (a) your name, (b) the last four digits of your social security number, (c) your date of birth, (d) your current residential address, (e) your mailing address, if different, from your current residence address, (f) the address where you were located within the Area on December 2, 2016, (g) your email address if you have one, and (h) your telephone numbers (day time, night time, and cell). You must sign and date your request to be excluded. If you send in an exclusion request on behalf of someone else, you must include all of the above information, sign and date the request and describe the capacity in which you are acting (for example, mother, father, succession representative, etc.). If you have a lawyer, you must provide his/her name, address, and telephone number

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on your exclusion request. Your lawyer cannot sign an exclusion request for you, and you cannot exclude a class or group of Class Members. You cannot ask to be excluded on the phone or at the website.

Any exclusion requests must be sent by United States mail, postage prepaid, to the following address and must be postmarked on or before **October 4, 2024**

Plaquemine 2016 Incident Class Exclusions  
338 Lafayette Street,  
New Orleans, LA 70130

## **THE LAWYERS REPRESENTING YOU**

### **19. Do I have a lawyer in this case?**

The Court has appointed the following lawyers to represent Class Members as “Class Counsel”: D. Blayne Honeycutt, Lawrence J. Centola, III, Lana Ourso Chaney, and Heidi Mabile Gould.

If you want to be represented by a lawyer of your choosing, you may hire one at your own expense. If you need assistance with your claim, Class Counsel will assist you at no charge to you. To contact Class Counsel, call 1-504-581-9065 or write to: Plaquemine 2016 Incident Class Counsel, 338 Lafayette Street, New Orleans, LA 70130.

### **20. How will the lawyers be paid?**

The lawyers will ask for not more than 40% of the \$160,000.00 settlement amount, i.e., \$64,000.00, for attorneys’ fees and for reimbursement of their out-of-pocket costs incurred in litigating the claims being settled. Class Counsel will ask the Court to award these amounts from the settlement fund for their work in litigating the case and obtaining the settlement. Class Counsel will also ask for \$2,000 for each of the Class Representatives who helped the lawyers on behalf of the Class. The Court may award less than the requested amounts to Class Counsel and the Class Representatives.

## **OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the partial settlement or some part of it.

### **21. How do I tell the Court if I do not like the settlement?**

If you are a Class Member, you can object to the partial settlement if you do not like it or certain parts of it. You must give reasons why you think the Court should not approve the partial settlement. The Court will consider your views if you properly submit an objection on time. To object, prepare a written statement of the specific reasons you object to the partial settlement. Please clearly indicate that you are objecting to the BlueCube/Dow Class Settlement, Suit Number 76483. Be sure to include (a) your name, (b) the last four digits of your social security number, (c) your date of birth, (d) your current residential address, (e) your mailing address, if different, from your current residence address, (f) the address where you were located within the Area on December 2, 2016, (g) your email address if you have one, and (h) your telephone numbers (day time, night time, and cell). You must sign and date your objection. If you have a lawyer, you must provide his/her name, address, and telephone number on your objection. You must state your objection and also include copies of any supporting materials, papers, and legal briefs,

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along with the names and addresses of any witnesses you or your lawyer will use to support your objection, together with a summary of their proposed testimony. You must state in your objection that you are a Class Member and the basis therefor. You can hire your own lawyer, at your own expense, to appear with or without you at the Fairness Hearing; but you or your lawyer do not have to appear at the Fairness Hearing in order for the Court to consider your objection. If you or your lawyer intend to speak at the Fairness Hearing about your objection, you also must submit a notice of intent to appear with your objection materials. Any objection must be sent by United States mail, postage prepaid, to the following address and must be postmarked on or before **October 4, 2024**.

Plaquemine 2016 Incident Class Objections  
338 Lafayette Street,  
New Orleans, LA 70130

For more information, please see the Court orders at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com) and the official records of these proceedings on file with the Clerk of Court. **DO NOT CALL THE COURT WITH QUESTIONS.**

### **22. What is the difference between objecting and excluding yourself from the settlement?**

Objecting is simply telling the Court that you do not like something about the partial settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you cannot object to the partial settlement or to the attorneys' fees or costs, because the case no longer affects you, and you will not receive any settlement payment.

## **THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the partial settlement.

### **23. When and where will the Court decide whether to approve the settlement?**

The Court has scheduled a Fairness Hearing starting at 9:00 am on **October 18, 2024**, in the Iberville Parish Courthouse, 58050 Meriam Street, Plaquemine, Louisiana 70764. (The hearing may be moved to a different date or time without individual or newspaper notice to Class Members, so it is a good idea to check [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com).) At this hearing, the Court will consider whether the partial settlement is fair, reasonable, and adequate. The Court will consider whether to approve the partial settlement, any requested attorneys' fees, expenses, etc., and awards for Class Representatives. If there are objections, the Court will consider them.

### **24. Do I have to come to the hearing?**

No. Class Counsel will answer questions the Court may have. But, you are welcome to come to court at your own expense. You may also have your own lawyer attend (at your expense), but it is not required.

### **25. May I speak at the hearing?**

You can only speak at the Fairness Hearing if you file a timely objection to the partial settlement following the procedures set forth in this notice (*see*, "Objecting to the Settlement" above) and you

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include with your objection a notice of intent to appear. The date and time of the hearing is shown in question 23 above. You cannot speak at the Fairness Hearing if you exclude yourself.

### **IF YOU DO NOTHING**

#### **26. What happens if I do nothing at all and the settlement is approved?**

If you do not file a claim or exclude yourself and the partial settlement is approved, you will not receive any benefits from the partial settlement. And you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Settling Parties and certain others about the claims being settled, ever again. Again, in order to receive settlement benefits, you must timely file a valid proof of claim form.

### **GETTING MORE INFORMATION**

#### **27. How do I get more information?**

This notice summarizes the proposed partial settlement. The details of the partial settlement are in the Settlement Agreement. You can visit the website at [www.plaquemine2016incident.com](http://www.plaquemine2016incident.com) or the Clerk of Court's office, 58050 Meriam Street, Plaquemine, Louisiana 70764, where you will find the Settlement Agreement, other documents about the settlement, information about the claims process, and other information about the case. Or, you may call 1-504-581-9065, or write to Class Counsel at Plaquemine 2016 Incident Class Counsel 338 Lafayette Street, New Orleans, LA 70130. **While you can obtain copies of the documents from the Clerk of Court, you otherwise should not contact the Court with any questions about the settlement or settlement requirements.**