



DD WEST LLP

**“Pislevich v Manitoba: A Decade in making”**

The Fred Pislevich et al. v The Government of Manitoba class action was initiated on March 15, 2013 by DD West LLP on behalf of Representative Plaintiffs. The Representative Plaintiffs approached Brian Meronek, Q.C. and contended that substantial damage was done to homes, cottages, businesses and farmlands surrounding Lake Manitoba as a consequence of the 2011 Lake Manitoba Flood and the Defendant’s operation of the Portage Diversion.

On April 4, 2018, the Manitoba Court of Queen's Bench certified the Class Action against the Government of Manitoba (“Manitoba”). DD West LLP, as Class Counsel, represented persons who owned property or carried on business within 30 kilometres of Lake Manitoba in 2011, excluding First Nation reserve lands. These persons included farmers, ranchers, business owners, homeowners and cottage owners.

Brian Meronek Q.C., William Klym and Erin Lawlor Forsyth of DD West LLP represented the Class (the Plaintiffs) in a 3-week trial on the issue of liability from late February to early March 2021, over which the Honourable Justice Joan McKelvey of the Court of Queen's Bench presided.

As part of the Plaintiffs’ case, nine Lake Manitoba residents, cottage owners, business owners and farmers testified along with two expert witnesses, which testimony was crucial to guiding the Court and was invaluable in proving the Plaintiffs’ case.

On June 11, 2021, Justice McKelvey released a 97 page written decision in *Pislevich v The Government of Manitoba*, 2021 MBQB 141, wherein she found in favour of the Plaintiffs and concluded that:

- "Manitoba, by its actions, caused flooding to occur on off-reserve areas surrounding Lake Manitoba;" and
- "The flooding substantially interfered with the use and enjoyment of the real property interests of the class."

Following the decision, negotiation on a settlement commenced with Manitoba on a total loss amount, with an agreement in principle being achieved on August 20, 2021 for a total Settlement Amount of \$85,500,000.

On January 13, 2022, Justice McKelvey presided over the Settlement Approval Hearing to determine whether the Settlement and its terms were reasonable, fair, and in the best interests of the Class. Justice McKelvey approved and signed the Settlement Agreement on the same day.

The Exchange Group, a firm of chartered professional accountants, business and technology consultants, has been engaged as claims administrator responsible for assessing and administering claims for this Class Action. Its website, Lake Manitoba Flood Class Action Lawsuit Settlement 2021, contains detailed next steps.