

LEGAL NOTICE

Were you a teacher at one of Blyth Academy's Ontario campuses from 2002 to August 31, 2019?

You might be entitled to a payment as part of a class action settlement. Please read this notice carefully.

Notice of Class Action Settlement and Claim Discontinuance

A settlement agreement was recently reached in the Blyth Academy Class Action. If you ever taught at Blyth Academy in Ontario, you might be entitled to a payment under this settlement.

Teachers who *exclusively* taught Blyth Academy Online courses are not part of this settlement. The Action on behalf of teachers who only taught Blyth Academy Online courses will be discontinued. Please read section B7 for more information.

Please read this notice carefully for details of the Proposed Settlement.

The Ontario Superior Court authorized this notice. This is not a solicitation from a lawyer.

Proposed Settlement of the Blyth Academy Class Action

A former Blyth Academy teacher, Karen Walmsley (the "**Representative Plaintiff**"), sued Blyth Academy on behalf of Blyth Academy teachers. The class action lawsuit claimed:

- Blyth Academy misclassified its teachers as "independent contractors" when they were in fact "employees";
- As a result, Blyth did not compensate these teachers for overtime, public holiday pay, and vacation pay; and,
- Additionally, Blyth Academy did not compensate its "employee" teachers for the overtime hours they also worked.

Blyth Academy has denied all of these allegations.

After extensive litigation and settlement discussions, Walmsley and Blyth Academy have now reached a proposed settlement that provides compensation to eligible teachers.

However, in order to finalize the settlement and begin the claims process, a judge of the Superior Court in Toronto must first approve this proposed agreement.

The Court's approval hearing will be held on March 3, 2020. On that day, the Parties will present evidence and argue that the proposed settlement is fair and reasonable. Class Members can participate if they wish. For more information on your right to participate, please read the section "Your Legal Rights and Options in this Proposed Settlement", below.

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A. BASIC INFORMATION

1. Why did I get this notice?

The Ontario Superior Court of Justice authorized this notice to let you know about a proposed settlement. [*For the Direct Mailing Only* – Based on Blyth Academy's records, we believe you may be a Class Member.]

This notice explains the lawsuit, the proposed settlement, and your legal rights.

2. What is a class action?

In a class action, one or more people called the “representative plaintiff(s)” sue on behalf of people who have similar claims, called the “class” or “class members”.

In a class action, the court can resolve all or some of the class members' claims at the same time. People who meet the definition of a "class member" are automatically included in the claim, unless they choose to "opt out". Opting out is explained in more detail below.

3. What is this class action about?

Karen Walmsley (the “Representative Plaintiff”), commenced the lawsuit and is represented by Cavalluzzo LLP (“Class Counsel”). Blyth Academy is defending the case and is represented by Stieber Berlach LLP (“Defence Counsel”).

The lawsuit alleges that Blyth Academy misclassified its Ontario teachers as independent contractors when they were truly employees. As employees, these teachers were entitled to receive vacation pay, public holiday pay and overtime pay.

As well, the lawsuit alleges that Blyth Academy did not pay overtime to its employee teachers.

The lawsuit claims for all lost wages, including public holiday pay, vacation pay, and overtime pay, and all damages, including punitive damages, that flow from Blyth's failure to properly classify and compensate its teachers.

Blyth Academy has denied all of the allegations advanced in this class action.

4. Has there been a trial?

This case has not yet gone to trial. A judge has not made any decision on the merits of this lawsuit.

On February 20-21, 2018 there was a "certification motion" hearing. At this hearing, Class Counsel argued the issues in the Statement of Claim should be certified as a class action.

The Parties reached the proposed settlement before the Court released its decision on certification.

5. Why is there a proposed settlement?

The Representative Plaintiff and Blyth Academy have agreed to the proposed settlement.

By agreeing to the proposed settlement, the parties avoid the costs and uncertainty of a trial and the potential delays in obtaining judgment. It also means that the Class Members will not need to testify in court.

The Representative Plaintiff and Class Counsel think the proposed settlement is in the best interests of all Class Members.

B. WHO IS INCLUDED IN THE PROPOSED SETTLEMENT?

6. Who is included in the proposed settlement?

The Class Members included in the proposed settlement are:

Any person who, from 2002 until August 31, 2019 [the “Class Period”], worked for Blyth Academy in Ontario and taught at least one course, but excluding those who worked exclusively as Principals or Vice-Principals or who exclusively taught Blyth Academy online courses.

You are a Class Member if you meet this definition. This includes part-time teachers, those who taught private and semi-private classes, and teachers who taught full courses. This does not include teachers who exclusively taught online courses.

Estates of Class Members may be eligible. A claim must be filed by the Estate Executor for deceased class members.

If the settlement is approved, all Class Members, except those who validly opt out of the settlement, will be bound by the proposed settlement and will be covered by the releases in the proposed settlement.

7. I'm a Blyth Academy Online teacher. What does the settlement mean for me?

As part of the settlement, the class action on behalf of teachers who exclusively taught online courses will be discontinued. This means that if you only taught Blyth Academy Online courses, you are not part of the class action settlement, and the settlement will not affect your ability to pursue any cause of action that has been advanced on your behalf in this class action. If you taught some online courses, but you also taught at one of Blyth Academy's Ontario campuses, you remain part of the class. However, the proposed settlement does not compensate you for the online courses you taught.

If you exclusively taught online courses and you would like to start your own legal claim against Blyth Academy in respect of any causes of action raised in this class action, you should be aware that your claim must be commenced within a specified time period or it might be legally barred. Although the running of any limitation periods applicable to the causes of action advanced in this class action was paused while the class action was ongoing, it will start running again once the action is discontinued. If you would like to pursue legal action against Blyth, we recommend you take all necessary legal steps—including seeking legal advice—to protect any claim you may have.

8. What if I am not sure whether I am included in the proposed settlement?

If you are not sure whether you are included in the proposed settlement, you may call 844-253-7730 or visit cavalluzzo.com/blythacademyclassaction.

C. PROPOSED SETTLEMENT

8. What does the proposed settlement provide?

If approved, the settlement provides that Class Members are eligible for compensation.

- In order to receive payment, Class Members must fill out a claims form that details, to the best of their abilities, their teaching history with Blyth Academy.
- Blyth Academy will receive these forms and will review their own records to corroborate each teacher's claim form.
- Blyth Academy will send a notification letter to each teacher and explain what it has concluded regarding the teacher's teaching history.
- If a Class Member disagrees with Blyth Academy's assessment, they can file an appeal.
- Once all appeals are complete, Blyth Academy will calculate the amount of each teacher's payment using a pre-determined formula.

The Proposed Settlement is for a total possible payment of \$2,525,000 (or \$2,625,000 if a large number of teachers apply). This amount will be distributed on a pro-rata basis according to the number of Class Members that apply for payment and according to the number and type of contracts each Class Member taught.

A full copy of the proposed Settlement Agreement is available for your review at: cavalluzzo.com/blythacademyclassaction.

9. What am I giving up in the proposed settlement?

Once the proposed settlement becomes final, you will have given up your right to sue Blyth Academy for the claims outlined in the Statement of Claim. In other words, you will be “releasing” Blyth Academy from liability for the claims set out by this Class Action. This means you cannot sue Blyth Academy for anything in respect of pay for alleged overtime hours worked, public holiday pay, vacation pay from 2002 to August 31, 2019.

The proposed Settlement Agreement describes the released claims with specific descriptions, so please read it carefully. If you have any questions about what this means, you may contact Class Counsel or you may engage your own lawyer. If you decide to retain your own lawyer, you are responsible for paying their legal fees.

10. Can I Opt Out of the Proposed Settlement?

Yes. If the proposed settlement is approved, a notice will be sent describing the process for removing yourself from the Proposed Settlement. This is called "Opting Out".

If you do not wish to be a part of the class action you must Opt Out before a date that will be set by the Court. If you opt out, you will not be bound by any order made in this class action and you will not be eligible for compensation. You may hire and pay for your own lawyer and commence your own lawsuit.

If you want to commence your own lawsuit, you must Opt Out. If you Opt Out, you must abide by all applicable limitation periods. We strongly recommend you consult a lawyer before making a decision to opt out.

Further information on how to Opt Out – and the deadline by which you must do so – will be available if the proposed Settlement Agreement is approved.

D. HOW TO RECEIVE A PAYMENT IF THE PROPOSED SETTLEMENT IS APPROVED

11. How will I receive a payment?

To ask for a payment, all Class Members must complete and submit a Claim Form. Blyth Academy will assess all claims using a strict formula that the Parties have agreed upon. Eligible Class Members will not need to testify in court. Once the claim is verified, Class Members will receive compensation as soon as reasonably possible.

Before anyone can file a Claim Form or be assessed, the Ontario Superior Court must decide whether to grant final approval of the proposed settlement (see "**The Approval Hearing**" below).

If the settlement is approved, we will provide more information about the claims process, including the Claim Form, in a further notice.

12. How will payments be calculated?

Blyth Academy, in consultation with Cavalluzzo LLP, will review your Claim Form and determine if you qualify for a payment. If you do, Blyth Academy, in consultation with Cavalluzzo LLP, will determine the amount of your payment based on the pre-set formula described in the Settlement Agreement.

Importantly, the majority of the settlement is for a fixed amount, meaning that Blyth Academy does not "save" money by denying claims.

The amount each Class Member will receive will depend on a number of factors. They are:

- (1) the number of Class Members that apply for payment;
- (2) when you taught for Blyth Academy;
- (3) the number of employment agreements and contracts you entered into with Blyth Academy;
- (4) the types of agreements you signed; and,
- (5) the number of courses you taught per term.

For example, the proposed settlement provides as a starting point that a Class Member will receive \$5,300 for each employment agreement they entered into between September 2015 and August 2019. However, the \$5,300 figure will increase or decrease depending on the number of Class Members who apply for payment. Importantly, the figure can never exceed \$10,600 per employment agreement.

The Settlement Agreement also draws an important distinction between those who taught before August 31, 2015 and those that taught after. The Agreement stipulates that amounts awarded for courses taught before August 31, 2015 will be lower. This is in recognition of the fact that it is very difficult to advance these older claims, and so they have a lower chance of success.

Finally, the net figure payable to Class Members will depend on: (a) how much of the \$2,525,000 or \$2,625,000 is allocated to pay Class Counsel's legal costs; and, (b) for Class Members receiving payment for their employment agreements, the amounts withheld to the CRA.

The full settlement agreement at cavalluzzo.com/blythacademyclassaction explains fully how much is being paid and how it is being distributed.

13. What if I disagree with the decision?

If you disagree with how Blyth Academy describes your teaching experience, you can appeal their assessment. All appeals will be decided by a neutral referee.

E. THE LAWYERS REPRESENTING YOU

15. Who is Class Counsel?

Cavalluzzo LLP represents the Representative Plaintiff and the Class Members. If you want to be represented by or receive advice from another lawyer, you may hire one at your own expense.

16. Do I have to pay Class Counsel anything?

No.

Class Counsel is asking for the approval of fees and disbursements in the amount of \$750,000.00 plus disbursements plus HST. This amount will be paid directly by Blyth Academy from the total

amounts set aside to settle the class action. Class Counsel will not be paid unless the Ontario Superior Court declares that the proposed legal fees are fair and reasonable.

You will not need to pay any legal fees out of your own pocket for services from Class Counsel relating to the Class Action. If a Class Member retains other lawyers or a personal representative, that Class Member is responsible for paying their own lawyer or representative's fees, disbursements, and taxes.

F. PARTICIPATING IN THE PROPOSED SETTLEMENT HEARING

You may participate in the hearing to voice your support for the proposed settlement, you may object to the proposed settlement if you disagree with all or part of it, and you may also voice support or disapproval of the proposed legal fees payments. The Court will consider your views.

Participation in the hearing is optional. You may choose to wait for the outcome of the hearing.

17. How do I tell the Court if I support the proposed settlement?

To express your support for the proposed settlement, the proposed legal fees, or both, you may write a letter that includes the following:

- Your name, address, and telephone number;
- A statement saying that you support the Blyth Academy Class Action proposed settlement, legal fees, or both;
- The reasons you support the proposed settlement, legal fees, or both, along with any supporting materials; and,
- Your signature.

You may mail or email your letter to:

Blyth Academy Class Action
c/o Cavalluzzo LLP, 474 Bathurst Street, Suite 300
Toronto, Ontario, M5T 2S6
Email: BlythClassAction@cavalluzzo.com

18. How do I tell the Court if I do not like the proposed settlement or legal fees?

To object to the proposed settlement, you may either:

- (a) **Make a written objection:** Write a letter or email that includes the following information:
 - Your name, address, and telephone number;

- A statement saying that you object to the Blyth Academy Class Action proposed settlement or the legal fees or both;
- The reasons you object to the proposed settlement, fees, or both, along with any supporting materials; and
- Your signature.

(b) **Make an oral objection at the approval hearing:** You must fill out an Objection Form and indicate that you intend to appear at the hearing to object. The approval hearing before the Court is scheduled to be heard in Toronto, Ontario on March 3, 2020 at 10:00 a.m..

All objecting letters or emails, including any Objection Forms, must be sent on or before February 18, 2020 to:

Blyth Academy Class Action
c/o Cavalluzzo LLP, 474 Bathurst Street, Suite 300
Toronto, Ontario, M5T 2S6
Email: BlythClassAction@cavalluzzo.com

G. THE APPROVAL HEARING

19. When/where will the Court decide whether to approve the proposed settlement and/or the legal fees?

The Ontario Superior Court will hold an Approval Hearing in Toronto, Ontario on **March 3, 2020 at 10:00 a.m.**

This is a public hearing, and you may attend if you wish. As a Class Member, you may also ask to speak, but you do not have to.

The hearing date could be moved to a different date or time without additional notice. If you plan to attend the hearing, we recommend you check Class Counsel website at cavalluzzo.com/blythacademyclassaction or call 844-253-7730.

At the hearing, the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. If there are objections, the Court will listen to the people who submitted an Objection Form and asked to speak at the hearing.

After the hearing, the Court will decide whether to approve the proposed settlement. We cannot guarantee when the Judge will release his decision.

The Court will, at the same, consider whether the proposed legal fees are fair and reasonable.

20. What if I do nothing?

If you do nothing, you are deemed to have accepted the proposed settlement. The approval hearing will proceed and the Court will consider whether the proposed settlement is fair, reasonable, and in the best interests of the Class. You will have no further opportunity to make objections to the Court with respect to the proposed settlement.

H. GETTING MORE INFORMATION

21. How do I get more information?

This notice summarizes the proposed settlement. For full details, a copy of the proposed Settlement Agreement is available at: www.cavalluzzo.com/blythacademyclassaction.

If you have any questions, you may send them to:

Blyth Academy Class Action
Cavalluzzo LLP
474 Bathurst Street, Suite 300
Toronto, Ontario M5T 2S6

or email:

BlythClassAction@cavalluzzo.com

or call:

844-253-7730.