

Form 78.05

2009



Hfx. No. 315567

**SUPREME COURT OF NOVA SCOTIA**

B E T W E E N:

**ALBERT CARL SWEETLAND and BARBARA FONTAINE**

Plaintiffs

- and -

**GLAXOSMITHKLINE INC. and GLAXOSMITHKLINE LLC**

Defendants



Proceeding under the *Class Proceedings Act*, S.N.S 2007, c. 28

**ORDER APPROVING HEARING NOTICE AND NOTICE PLAN**

**BEFORE THE HONOURABLE JUSTICE MICHAEL J. WOOD**

**THIS MOTION**, made by the Plaintiffs, on consent of the Defendants, for an Order approving the form and contents of notice (the "Hearing Notice") to Class Members of certification of the within class action and of a hearing to approve a proposed Settlement Agreement dated October 11, 2018 (the "Settlement Agreement"), and approving the method by which the Hearing Notice is disseminated ("Notice Plan"), was heard this day at the Law Courts, 1815 Upper Water Street in Halifax, Nova Scotia.

**ON HEARING** the submissions of counsel for the Plaintiffs and of counsel for the Defendants,

**AND ON READING** the materials filed on this motion:

1. **THIS COURT DECLARES** that, except as otherwise stated, this Order incorporates and adopts the definitions set out in the Settlement Agreement, attached as Schedule "A".

**Approval of the Hearing Notice**

2. **THIS COURT ORDERS** that the form and content of the Hearing Notice, substantially in the full and abridged forms, attached as Schedule "B", is approved as it satisfies the requirements of section 22 of the *Class Proceedings Act*, and it shall supersede the Notice of Certification attached as Schedule "A" to the Certification Order issued December 7, 2016 and previously approved by this Court.

**Approval of the Notice Plan**

3. **THIS COURT DECLARES** that the Notice Plan attached hereto as Schedule "C" is approved.
4. **THIS COURT ORDERS** that the Hearing Notice be disseminated pursuant to the Notice Plan.

**Opt-Outs**

5. **THIS COURT ORDERS** that any Class Member may opt out of the action by sending Class Counsel, Wagners, by the Opt Out Deadline of January 15, 2019, a completed Opt Out Form attached hereto as Schedule "D", by regular mail or e-mail, signed by the Class Member or the authorized representative of the Class Member, stating that he or she opts out of the action and also stating his or her full name, address, telephone number and birth date.
6. **THIS COURT ORDERS** that no person may opt out a Class Member who is a minor or a person who is otherwise under a legal disability without leave of the court after notice to the

office of the Children's Lawyer or the Public Guardian and Trustee, as the case may be in the Province of their residency.

7. **THIS COURT ORDERS** that no Class Member may opt out of this action after the Opt Out Deadline.
8. **THIS COURT ORDERS** that any putative Class Member who validly opts-out of this action shall be excluded from this action and shall no longer participate or have the opportunity to participate in this action in the future.
9. **THIS COURT ORDERS** that if a Primary Class Member opts out of the action, all related Family Class Members will be deemed to have opted out of the action and such persons will no longer be considered to be Family Class Members.
10. **THIS COURT ORDERS** that within 30 days after the Opt Out Deadline, Class Counsel shall provide Defendants' Counsel with a report advising as to the number of Opt Outs, and details of the Opt Out's individual claim, if known, and a copy of all information provided, including the Opt Out Form.
11. **THIS COURT ORDERS** that there shall be no costs of this motion.

November 5, 2018.



Kim Webber  
~~Prothonotary~~  
KIMBERLEY WEBBER  
Deputy Prothonotary

KIMBERLEY WEBBER  
Deputy Prothonotary

**AVANDIA CLASS ACTION  
NATIONAL SETTLEMENT AGREEMENT**

Made as of October 11, 2018

Between

ALBERT CARL SWEETLAND AND MARY PATRICIA ADDICOTT-ANDREWS

and

GLAXOSMITHKLINE INC. AND GLAXOSMITHKLINE LLC

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## AVANDIA NATIONAL SETTLEMENT AGREEMENT

### 1. PREAMBLE & RECITALS

The Parties hereby enter into this Settlement Agreement providing for the settlement of the Avandia class proceeding commenced in the Supreme Court of Nova Scotia under Halifax Court File No. 315567 (the "Nova Scotia Proceeding") pursuant to the terms and conditions set forth herein, subject to the approval by the Courts as set forth herein;

**WHEREAS**, the Nova Scotia Proceeding was certified as an "all users" national class action by the Supreme Court of Nova Scotia pursuant to an Order issued on December 7, 2016 (the "Certification Order");

**WHEREAS**, the Parties intend by this Settlement Agreement to resolve all claims for damages due in any way to the use of Avandia by (a) all persons in Canada, including their estates, who were prescribed and ingested Avandia (the "Primary Class"); and (b) the spouses (including common-law spouses and same-sex spouses), children, grandchildren, parents, grandparents and siblings of deceased members of the Primary Class (the "Family Class") who do not Opt Out of the Nova Scotia Proceeding;

**WHEREAS**, Class Counsel shall bring a motion on consent for leave to amend the pleadings in the Nova Scotia Proceeding and, if deemed necessary by the Court, to formally amend the Certification Order issued December 7, 2016, to remove Mary Patricia Addicott Andrews as a representative plaintiff and substitute Barbara Fontaine as a representative plaintiff for the Family Class;

**WHEREAS**, individual actions have been commenced in Ontario by Siskinds LLP arising from the same subject matter as the Nova Scotia Proceeding;

**WHEREAS**, proposed class proceedings have been filed, but not certified, in other jurisdictions across Canada, arising from the same subject matter as the Nova Scotia Proceeding;

**WHEREAS**, counsel to the Parties have conducted settlement negotiations;

**WHEREAS**, the Defendants have denied and continue to deny any wrongdoing or liability of any kind;

**WHEREAS**, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement provides substantial benefits to Class Members and is fair, reasonable and in the best interests of Class Members based on an analysis of the facts and applicable law, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method provided in this Settlement Agreement of resolving the claims of Class Members;

**WHEREAS**, the Defendants have similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risk, uncertainty and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of Class Members;

**WHEREAS**, Class Counsel have obtained approval of the settlement provided for in this Settlement Agreement from, and have the authority to sign this Settlement Agreement on behalf of the Related Counsel Firms;

**WHEREAS**, the Parties, in accordance with Protocols established for the management of multi-jurisdictional class actions, seek to conclude all outstanding Avandia litigation in Canada, including all putative class actions and representative actions;



**WHEREAS**, The Honourable Justice Michael J. Wood of the Supreme Court of Nova Scotia is the Designated Settlement Administrative Judge within the meaning of the Canadian Judicial Protocol for the Management of Multi-Jurisdictional Class Actions;

**WHEREAS**, the Parties shall seek the Settlement Approval Order;

**WHEREAS**, the Provincial and Territorial Health Insurers ("Provincial Health Insurers") have confirmed, or shall confirm, that they approve, and will not object to court approval of, the settlement provided for in this Settlement Agreement, they will accept ten percent (10%) of the allocation made by the Claims Administrator for each Settling Claimant in satisfaction of all Rights of Recovery that they may have, whether by subrogation or by independent right of action, respecting the Settling Claimant's use of Avandia, and they will execute and deliver to the Claims Administrator a Provincial Health Insurer Release in exchange for each payment;

**WHEREAS**, if the Settlement Approval Order is obtained, the Parties shall seek the Dismissal Orders;

**NOW THEREFORE**, subject to the issuance of the Settlement Approval Order and the Dismissal Orders, this Settlement Agreement embodies the terms of the resolution of claims of Class Members and of the Provincial Health Insurers.

## **2. DEFINITIONS**

Unless a particular section of this Settlement Agreement explicitly provides for another interpretation, the following terms, as used in this Settlement Agreement and its exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and *vice versa*, where appropriate. Feminine pronouns and female references shall be deemed to include the masculine, and *vice versa*, where appropriate.

- (a) **"Administrative Account"** means the interest bearing trust account with one of the Canadian Schedule 1 banks under the control of the Claims Administrator.
- (b) **"Approved Claimants"** shall mean Class Members who are approved by the Claims Administrator or are Pre-Approved Claimants, as defined herein, to receive compensation pursuant to this Settlement Agreement.
- (c) **"Claim Deadline"** shall mean the date eight (8) months after the date on which the Settlement Approval Notice is first published, or such other date as may be approved by the Supreme Court of Nova Scotia.
- (d) **"Claim Form"** shall mean the form developed by the Claims Administrator, in consultation with Class Counsel and Defendants' Counsel, which Class Members shall complete in order to file a claim under this Settlement Agreement.
- (e) **"Claims Administration Costs"** shall mean all costs, other than Class Counsel Legal Fees, required to implement this Settlement Agreement, including without limitation, costs required to satisfy the notice provisions.
- (f) **"Claims Administration Protocol"** shall mean Schedule A to the Compensation Protocol.
- (g) **"Claims Administrator"** shall mean, subject to the approval of the Supreme Court of Nova Scotia, RicePoint Administration Inc.
- (h) **"Class"** shall mean (a) All persons in Canada, including their estates, who were prescribed and ingested Avandia (the "Primary Class"); and (b) the spouses (including common-law spouses and same-sex spouses), children, grandchildren, parents, grandparents and siblings of deceased members of the Primary Class (the "Family Class").

- (i) **"Class Counsel"** shall mean the law firms of Wagners and Siskinds LLP.
- (j) **"Class Counsel Legal Fees"** shall mean all legal fees, disbursements and applicable taxes in respect of all legal services provided by Class Counsel, Related Counsel Firms, or any other law firm for the benefit of the Class, as approved by the Supreme Court of Nova Scotia.
- (k) **"Class Members"** shall mean members of the Primary Class and Family Class.
- (l) **"Compensation Protocol"** shall mean the Court-approved plan, substantially in the form attached hereto as Exhibit "A", for administering this Settlement Agreement and distributing the Escrow Settlement Payment.
- (m) **"Courts"** shall mean the Supreme Court of Nova Scotia, the Ontario Superior Court, the Court of Queen's Bench for Saskatchewan, Superior Court of Québec, the Supreme Court of British Columbia, the Court of Queen's Bench of Alberta, the Court of Queen's Bench of Manitoba, the Court of Queen's Bench of New Brunswick, the Supreme Court of Prince Edward Island, and the Supreme Court of Newfoundland and Labrador.
- (n) **"Defendants"** shall mean those entities named as defendants in the Nova Scotia Proceeding.
- (o) **"Defendants' Counsel"** shall mean the law firm of Gowling WLG (Canada) LLP.
- (p) **"Dismissal Orders"** shall mean those orders that grant approval, recognition, dismissal and/or discontinuance of the cases listed in Exhibit "B", as may be necessary and appropriate, to conclude related litigation and give effect to this Settlement Agreement across Canada.



- (q) **“Effective Date”** shall mean the date on which the Settlement Approval Order becomes a Final Order and all of the Dismissal Orders have been obtained and become Final Orders.
- (r) **“Escrow Account”** means the interest bearing trust account with one of the Canadian Schedule 1 banks under the control of the Claims Administrator.
- (s) **“Escrow Settlement Payment”** means the Settlement Payment plus any interest accruing thereon after payment of taxes and all Non-Refundable Expenses.
- (t) **“Execution Date”** shall mean the date on which this Settlement Agreement has been signed by Class Counsel and Defendants' Counsel, collectively.
- (u) **“Final Order”** means any order contemplated by this Settlement Agreement from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal, or proposed appeal such as the delivery of a notice of appeal or application for leave to appeal.
- (v) **“Hearing Notice”** shall mean the notice approved by the Supreme Court of Nova Scotia, substantially in the full and abridged forms attached hereto as Exhibit “C”, which advises Class Members of Certification and the hearing to approve the settlement provided for in this Settlement Agreement.
- (w) **“Hearing Notice Date”** shall mean the date on which the Hearing Notice is first published, which date shall be agreed upon by the Parties, or such other date as may be approved by the Supreme Court of Nova Scotia.
- (x) **“Hearing Notice Order”** shall mean the order of the Supreme Court of Nova Scotia that approves the Hearing Notice.
- (y) **“Maximum Settlement Amount”** shall mean a fund of up to CAD\$6,750,000.00.

- (z) **“Minimum Settlement Amount”** shall mean a fund of CAD\$4,116,666.67.
- (aa) **“Non-Refundable Expenses”** shall mean the costs of publishing and distributing the Hearing Notice, including the associated professional fees, and any Claims Administration Costs incurred prior to payment of the Minimum Settlement Amount by the Defendants.
- (bb) **“Notice”** means the Hearing Notice and the Settlement Approval Notice.
- (cc) **“Notice Plan”** shall mean the method approved by the Supreme Court of Nova Scotia, substantially as described at Exhibit “D” hereto, by which the Hearing Notice and the Settlement Approval Notice are disseminated.
- (dd) **“Opt Out”** shall mean a person who would have been a Class Member but for his or her timely and valid request for exclusion pursuant to the process set out in section 8.1 of this Settlement Agreement.
- (ee) **“Opt Out Deadline”** shall mean the date sixty (60) days after the date of publication of the Hearing Notice, or such other date as may be approved by the Supreme Court of Nova Scotia.
- (ff) **“Opt Out Form”** shall mean the form for requesting exclusion from the Class as defined in the Nova Scotia Proceeding, attached hereto as Exhibit “E”.
- (gg) **“Opt Out Threshold”** shall mean the number of Opt Outs required to trigger the Defendants’ right to elect to terminate this Settlement Agreement as described in section 7.1(a) of this Settlement Agreement, fixed by way of a supplementary agreement and kept confidential subject to the direction of the Supreme Court of Nova Scotia.
- (hh) **“Parties”** shall mean the Plaintiffs and the Defendants.



- (ii) **"Plaintiffs"** shall mean the persons appointed by the Supreme Court of Nova Scotia as representative plaintiffs in the Nova Scotia Proceeding;
- (jj) **"Pre-Approved Claimants"** shall mean the claimants listed in the confidential Schedule who the Parties agree are deemed to be Approved Claimants, who satisfy the criteria for a myocardial infarction ("MI"), coronary artery bypass grafting ("CABG"), and cardiac stenting procedures ("Stenting") claim, or congestive heart failure ("CHF") claim, as set out in the Compensation Protocol.
- (kk) **"Provincial Health Insurers"** shall mean all provincial and territorial Ministries of Health or equivalents, provincial and territorial governments, and/or provincial and territorial plans funding medical services throughout Canada.
- (ll) **"Provincial Health Insurer Release"** shall mean the form of Release, attached hereto as Exhibit "F", to be executed in exchange for any payment hereunder to a Provincial Health Insurer.
- (mm) **"Provincial Health Insurer Rights of Recovery"** or **"Rights of Recovery"** shall mean the statutory authority for the recovery of costs of insured health or medical services, as defined in the empowering legislation of each jurisdiction, as set out in the attached Exhibit "G".
- (nn) **"Related Counsel Firms"** shall mean Consumer Law Group (including Arias, Sanguinetti Stahle and Torrijos LLP), McPhadden Samac Tuovi Haté, Higgerty Law (counsel, Clint Docken, formerly of Docken & Company), and Ches Crosbie Barristers.
- (oo) **"Released Parties"** shall mean the Defendants as well as their respective predecessors, successors, parents, subsidiaries, affiliates, associated companies and divisions, and each of their respective current and former shareholders, officers,

directors, employees, lawyers, attorneys, agents, insurers, trustees, assigns, owners, consultants, suppliers, distributors and partners.

- (pp) **"Settlement Agreement"** shall mean this Avandia National Settlement Agreement, inclusive of the recitals and exhibits attached hereto.
- (qq) **"Settlement Approval Notice"** shall mean the notice approved by the Supreme Court of Nova Scotia, substantially in the full and abridged forms attached hereto as Exhibit "H", which advises Class Members of the approval of the settlement provided for in this Settlement Agreement.
- (rr) **"Settlement Approval Order"** shall mean the order of the Supreme Court of Nova Scotia approving the settlement provided for in this Settlement Agreement.
- (ss) **"Settlement Notice Order"** shall mean the order of the Supreme Court of Nova Scotia that approves the Settlement Approval Notice.
- (tt) **"Settlement Payment"** shall mean the payment of an amount not to exceed CAD\$6,750,000, inclusive of all interest, taxes, costs, Class Counsel Legal Fees, and Claims Administration Costs, as compensation for the Settling Claimants and the Provincial Health Insurers.

### 3. ORDERS APPROVING SETTLEMENT

#### **The Settlement Approval Order**

3.1 The Plaintiffs shall, as soon as is reasonably possible, file a motion with the Supreme Court of Nova Scotia seeking the Settlement Approval Order.

3.2 Defendants' retain their rights to appeal the certification of the Nova Scotia Proceeding in the event that the Settlement Approval Order is not obtained or this Settlement Agreement is otherwise terminated in accordance with its provisions.

### **The Dismissal Orders**

3.3 Once the Supreme Court of Nova Scotia has granted the Settlement Approval Order, the Defendants will file motions seeking the Dismissal Orders.

3.4 Class Counsel and Related Counsel Firms will support the Defendants in seeking the Dismissal Orders.

## **4. NOTICE TO THE CLASS**

### **The Notices**

4.1 The Parties hereby agree to the form, contents and method of dissemination of the Notices, as specified in the draft Hearing Notice Order, Settlement Approval Notice Order and Notice Plan, subject to the Supreme Court of Nova Scotia's approval of same, which shall be sought by way of the Plaintiffs' motion.

4.2 The costs of publishing and distributing the Hearing Notice, including the associated professional fees, will be shared equally by the Parties; provided, however, that Defendants' share of such costs and fees and any other contribution towards disbursements and administration expenses shall not, under any circumstance, exceed CAD\$250,000.00.

### **Notice of Termination**

4.3 If this Settlement Agreement is terminated and the Court orders that a notice of termination be given to the Class, the Defendants will cause the notice of termination, in a form approved by the Supreme Court of Nova Scotia, to be published and disseminated as such Court directs.

4.4 The Parties shall share equally in any costs incurred in the publication and distribution of the notice of termination.



## **Cooperation**

4.5 The Parties shall cooperate, assist one another and the Claims Administrator and undertake all reasonable actions in order to ensure that the Notices are disseminated in a timely manner by the Claims Administrator.

## **5. THE SETTLEMENT BENEFITS**

### **Allocation of Settlement Payment**

5.1 The Maximum Settlement amount of up to CAD\$6,750,000 will be allocated, calculated, and payable as follows:

- (a) The Defendants shall pay the Minimum Settlement Amount of CAD\$4,116,666.67, inclusive of:
  - (i) CAD\$250,000.00 as a contribution towards disbursements and administration expenses;
  - (ii) CAD\$3,666,666.67 for up to 200 Settling Claimants (as defined in Section 5.3), including the Pre-Approved Claimants, who satisfy the criteria for a myocardial infarction ("MI"), coronary artery bypass grafting ("CABG"), and cardiac stenting procedures ("Stenting") claim, as set out in the Compensation Protocol and in the Claims Administration Protocol; and
  - (iii) CAD\$200,000.00 for up to 60 Settling Claimants who meet the criteria for payment of a congestive heart failure ("CHF") claim, as set out in the Compensation Protocol and in the Claims Administration Protocol.
- (b) The Defendants shall pay up to an additional CAD\$2,633,333.33 based on the following:
  - (i) CAD\$18,333.33 for each Settling Claimant who meets the criteria for payment of a MI, CABG, or Stenting claim, as set out in the Compensation Protocol and

in the Claims Administration Protocol, in excess of the 200 Settling Claimants referred to in section 5.1(a)(ii), up to an aggregate total of 300 such claimants (i.e., up to an additional CAD\$1,833,333.33, reaching an aggregate total of CAD\$5,500,000 for such claims, regardless of whether more than 300 such claims are made); and

- (ii) CAD\$3,333.33 for each Settling Claimant who meets the criteria for payment of a CHF claim, as set out in the Compensation Protocol and in the Claims Administration Protocol, in excess of the 60 Settling Claimants referred to in section 5.1(a)(iii), up to an aggregate total of 300 such claimants (i.e., up to an additional CAD\$800,000, reaching an aggregate total of CAD\$1,000,000 for such claims, regardless whether more than 300 such claims are made).
- (c) To the extent that there are more than 300 Settling Claimants who meet the criteria for payment of an MI, CABG, or Stenting claim, then any unused portion of the aggregate capped total of CAD\$1,000,000 available for payment of Settling Claimants who meet the criteria for payment of a CHF claim, may be used for Settling Claimants who meet the criteria for payment of MI, CABG, or Stenting claims in excess of 300.
- (d) The Defendants' maximum payment caps for MI, CABG, and Stenting claims and for CHF claims shall in no way limit the number of claimants who shall be afforded an opportunity to settle, and may settle, such claims. For clarity, if more claims come forward to be paid than would permit CAD\$18,333.33 to be paid for each MI, CABG, or Stenting claim and/or more than CAD\$3,333.33 to be paid for each CHF claim because of the caps on the Defendants' payment obligation, then such per claim averages would effectively be adjusted downward, on a pro rata basis, on account of payment to the greater number of Settling Claimants.



- (e) Except for the Pre-Approved Claimants, the validity of all claims for payment shall be adjudicated in accordance with the Compensation Protocol and the Claims Administration Protocol by the Claims Administrator.
- (f) No Class Member shall be eligible to receive a settlement payment under both section 5.1(a)(ii) and 5.1(a)(iii).

#### **Payment by Defendants**

5.2 The Defendants shall, no later than thirty (30) business days after the Effective Date, pay CAD\$4,116,666.67 (less such amount paid by Defendants for the costs of publishing and distributing the Hearing Notice and associated professional fees pursuant to section 4.2) into the Administrative Account, controlled by the Claims Administrator, to be held in trust for the benefit of the Class and Provincial Health Insurers.

5.3 The Defendants shall, no later than thirty (30) business days after the receipt of a report from the Claims Administrator on the number of Approved Claimants who have provided fully executed and witnessed Releases in the form provided ("Settling Claimants"), pay the balance of the Settlement Payment as determined pursuant to section 5.1(b) into the Escrow Account, controlled by the Claims Administrator, to be held in trust for the benefit of the Class Members and Provincial Health Insurers.

#### **Taxes and Interest**

5.4 All interest earned on the monies in the Administrative Account and in the Escrow Account shall accrue to the benefit of the Class and Provincial Health Insurers and shall become and remain part of the Escrow Settlement Payment.

5.5 All taxes payable on any interest which accrues in relation to the Settlement Payment, shall be the responsibility of the Class and Provincial Health Insurers and shall be paid by

Class Counsel or the Claims Administrator, as appropriate, from the Escrow Settlement Payment.

**6. DISTRIBUTION OF THE SETTLEMENT PAYMENT**

6.1 On or after the Effective Date, the Claims Administrator shall distribute the Escrow Settlement Payment to pay, *pro rata*, the claims of Settling Claimants, in accordance with the Compensation Protocol and the Claims Administration Protocol, including, from the *pro rata* share allocated to each Settling Claimant, ten percent (10%) payment to the corresponding Provincial Health Insurer, after payment of the following:

- (a) to pay Class Counsel Legal Fees, as approved by the Supreme Court of Nova Scotia;
- (b) to pay all of the costs and expenses reasonably and actually incurred in connection with the provision of Settlement Approval Notice in accordance with the Notice Plan;
- (c) to pay the remaining Claims Administration Costs, including the professional fees of the Claims Administrator; and
- (d) to pay any taxes required by law to be paid to any governmental authority.

6.2 Payments made to the Provincial Health Insurers shall be in full and final satisfaction of all subrogated claims and independent actions for recovery of claims (Rights of Recovery) they may have in relation to the use of Avandia by Settling Claimants, for the costs of services (pursuant to the legislation of each jurisdiction, as set out in Exhibit "G"), whether already provided or to be provided to Settling Claimants, and the Provincial Health Insurers shall have no other claim of recovery (pursuant to the legislation of each jurisdiction, as set out in Exhibit "G") in relation to the Settling Claimants.

## 7. TERMINATION OF THE SETTLEMENT AGREEMENT

### General

7.1 Termination rights are as follows:

- (a) The Defendants shall have the right to terminate this Settlement Agreement in the event that:
  - (i) the Opt Out Threshold is exceeded;
  - (ii) any of the Provincial Health Insurers or Related Counsel Firms were not to confirm, or were to rescind, their approval of this Settlement Agreement or were to object to court approval of the settlement provided for in this Settlement Agreement;
  - (iii) a Dismissal Order were to be denied by one or more of the Courts; or
  - (iv) a Dismissal Order entered by one or more of the Courts were to be reversed on appeal.
- (b) Each of the Parties shall have the right to terminate this Settlement Agreement in the event that:
  - (i) the Settlement Approval Order were to be denied and, following appeal, the denial of the Settlement Approval Order were to become a Final Order; or
  - (ii) the Settlement Approval Order were to be entered, but reversed on appeal and the reversal were to become a Final Order.

### **Effect of Termination**

7.2 In the event this Settlement Agreement is terminated in accordance with its terms:

- (a) it shall be null and void and shall have no force or effect, and the Parties shall not be bound by its terms, except as specifically provided in this Settlement Agreement;
- (b) all negotiations, statements and proceedings relating to this Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and the Parties shall be deemed to be restored to their respective positions existing immediately before this Settlement Agreement was executed; and
- (c) Non-Refundable Expenses shall not be returned to the Defendants.

### **Survival**

7.3 Notwithstanding section 7.2(a) of this Settlement Agreement, if this Settlement Agreement is terminated, the provisions of this section, and sections 4.3, 4.4 and 7.4 through 7.7, and the definitions applicable thereto of this Settlement Agreement, shall survive termination and shall continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of interpreting these sections of this Settlement Agreement, but for no other purposes.

### **Accounting**

7.4 If this Settlement Agreement is terminated, Class Counsel shall account to the Supreme Court of Nova Scotia and the Parties for all payments made from the administrative Account and/or the Escrow Account by no later than ten (10) days after such termination.

### **Termination Orders**

7.5 If this Settlement Agreement is terminated, Class Counsel shall, within thirty (30) days after termination, apply to the Supreme Court of Nova Scotia, on notice to the Claims Administrator, for an order:



- (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions of those sections listed in section 7.3 of this Settlement Agreement; and
- (b) requesting an order setting aside the Settlement Approval Order in accordance with the terms of this Settlement Agreement.

7.6 Subject to section 7.7 of this Agreement, the Parties shall consent to the orders sought in any motion made pursuant to section 7.5 of this Settlement Agreement.

7.7 If there is any dispute about the termination of this Settlement Agreement, the Supreme Court of Nova Scotia shall determine any dispute by motion on notice to the Parties.

## **8. OPT OUT PROVISIONS**

### **Opting Out**

8.1 Class Members may exclude themselves from the Class by exercising their rights to opt out pursuant to section 19 of the *Class Proceedings Act*, SNS 2007, c 28, by submitting a complete and signed Opt Out Form to Wagners in accordance with the Hearing Notice Order, within sixty (60) days of the Hearing Notice Date.

8.2 Class Members who do not opt out shall be bound by the Settlement Approval Order.

8.3 In the event that an Opt Out seeks to retain Class Counsel or any Related Counsel Firms for any purpose related to the Proceeding, Class Counsel or any Related Counsel Firms hereby agree to refuse to represent the Opt Out.

### **Opt Out Report**

8.4 Class Counsel shall provide Defendants' Counsel with a report advising as to the number of Opt Outs, the reasons for their opting out and details of the Opt Out's individual claim, if known, and a copy of all information provided, including the Opt Out Form, within thirty (30) days of the Opt Out Deadline.



### **Opt Out Threshold**

8.5 In the event the Opt Out Threshold is exceeded, the Defendants may terminate this Settlement Agreement by giving notice in writing to Class Counsel of their intent to do so within thirty (30) days of the report referenced in section 8.4. The failure to deliver notice in accordance with this section shall be deemed a waiver of the Opt Out Threshold.

8.6 The Defendants shall maintain their right to waive the Opt Out Threshold.

## **9. RELEASES AND DISMISSALS**

### **Exclusive Remedy**

9.1 This Settlement Agreement shall be the exclusive remedy for all claims by, through, or under Class Members who do not Opt Out, including subrogation claims respecting their Avandia use.

9.2 On the Effective Date, each Class Member who does not Opt Out, whether or not he or she submits a claim or otherwise receives compensation, shall be deemed by this Settlement Agreement to have completely and unconditionally released, forever discharged, and acquitted the Released Parties from any and all claims arising out of the purchase and use of Avandia in Canada prior to the Hearing Notice Date.

9.3 In order to receive a settlement payment, a Claimant shall release all Avandia-related claims against any and all individuals and entities alleged to have Avandia-related liability, including all Defendants in the Avandia litigation in Canada, and against all GSK entities, their predecessors and successors, and all parents, subsidiaries, and affiliates and their representatives and, in any event, shall be deemed to release all Avandia-related claims upon receipt of their settlement payment.

9.4 In consideration of the Settlement Payment as aforesaid, Class Counsel and Related Counsel Firms agree, on behalf of the Class Members, that any prosecution of a settled claim

in breach of section 9.2 shall cause irreparable harm to the Released Parties, in respect of which a stay or injunction is an appropriate remedy. For the same consideration, Class Counsel agree on behalf of Class Members to cooperate with the Released Parties in seeking such a stay or injunction.

### **Third-Party Contribution or Indemnity Claims**

9.5 Class Members who do not opt out and who commence or continue litigation against any person or entity who may make a claim for contribution and/or indemnity against the Defendants and/or any Released Party, shall limit the value and right of recovery of such claim against such person or entity to the quantum of damages, interest, costs and all losses and other compensation proven and apportioned against such person or entity, severally and not jointly with the Defendants and/or any Released Party.

## **10. SUBMITTING CLAIMS**

10.1 Claims shall be submitted by Class Members, who do not Opt Out, by the Claim Deadline in the manner contemplated by the Compensation Protocol and the Claims Administration Protocol, or in any other manner approved by the Court.

## **11. LIMITATION DEFENCE**

11.1 Except as provided herein, no Class Member who satisfies the criteria for payment pursuant to the Compensation Protocol and the Claims Administration Protocol shall be considered ineligible to receive a payment pursuant to this Settlement Agreement on the basis of any statute of limitation or repose, prescription period, or any other limitation or prescription defence.

11.2 Nothing in this Settlement Agreement shall constitute or be deemed to constitute a waiver by the Defendants of defences based on statutes of limitation or repose, prescription periods or any other limitation or prescription defence with respect to any Class Member who Opts Out.

**12. AMENDMENTS TO THE SETTLEMENT AGREEMENT**

12.1 The Parties may amend this Settlement Agreement in writing, by consent and upon approval of the Supreme Court of Nova Scotia.

**13. LEGAL FEES AND DISBURSEMENTS**

**Fee Approval**

13.1 Class Counsel shall bring a motion to the Supreme Court of Nova Scotia for the determination of Class Counsel Legal Fees to be paid from the Settlement Payment.

13.2 Class Counsel shall not be precluded from making additional motions to the Supreme Court of Nova Scotia for expenses incurred as a result of implementing the terms of this Settlement Agreement. All amounts awarded on account of Class Counsel Legal Fees shall be paid from the Escrow Settlement Payment.

13.3 The Released Parties hereby acknowledge and agree that they are not parties to the motions concerning the approval of Class Counsel Legal Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Legal Fees and they will not take any position or make any submissions to the Courts concerning Class Counsel Legal Fees.

**Individual Claims**

13.4 Class Members who retain lawyers to assist them in making their individual claims for compensation pursuant to this Settlement Agreement or to appeal the classification or rejection of their claim for compensation, shall be responsible for the legal fees and expenses of such lawyers.

13.5 If a Class Member retains Class Counsel to assist him or her in making his or her individual claim for compensation under this Settlement Agreement, Class Counsel hereby agree to cap their fees at fifteen (15) percent of the amount awarded to that Class Member.



13.6 Class Counsel shall request that the order approving Class Counsel Fees provides that the fee applicable to Class Members who retain non-Class Counsel lawyers to assist them in making their individual claims for compensation pursuant to this Settlement Agreement, including lawyers in Related Counsel Firms, be capped at fifteen (15) percent of the amount awarded to that Class Member.

#### **14. MISCELLANEOUS PROVISIONS**

##### **Ongoing Authority**

14.1 The Supreme Court of Nova Scotia shall retain exclusive and continuing jurisdiction over the approval, implementation and administration of this Settlement Agreement.

##### **Recitals**

14.2 The Parties represent and warrant that the recitals referred to in section 1 are accurate and agree that they form part of this Settlement Agreement.

##### **Entire Agreement**

14.3 This Settlement Agreement, including its recitals and exhibits, constitutes the entire agreement by and among the Parties with regard to the subject matter of this Settlement Agreement and, on the Effective Date, shall supersede any previous agreements and understandings between the Parties with respect to the subject matter of this Settlement Agreement.

##### **Counterparts**

14.4 This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

##### **Party Notification**

14.5 Any notification, request, instruction or other document to be given by any Party to any other Party to this Settlement Agreement (other than class notification) shall be in writing.

### **Class Member Notification**

14.6 All communications from the Claims Administrator to Class Members may be made by regular mail to such person's last mailing address provided by such person to the Claims Administrator.

### **Governing Law**

14.7 For the purpose of the settlement of the Nova Scotia Proceeding, this Settlement Agreement shall be governed by and interpreted pursuant to the laws of Nova Scotia.

### **Severability**

14.8 If any provision of this Settlement Agreement is held to be void or invalid, the same shall not affect any other provision and the remainder shall be effective as though such provision had not been contained herein.

### **Dates**

14.9 Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and, as necessary, with the approval of the Courts.

### **French Translation**

14.10 Defendants' Counsel shall prepare a French translation of this Settlement Agreement.


14.11 The Defendants shall be responsible for the costs incurred to translate settlement documents into French, as necessary or required by the Quebec court. The text of the translation shall be subject to approval by Class Counsel.

14.12 In case of any ambiguity or dispute about interpretation, the English version is official and shall prevail.



**English Language Clause**

14.13 Les parties ont convenu que cette Entente soit rédigée en anglais.




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**Raymond F. Wagner, Q.C.**  
**WAGNERS**




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*for* **Charles Wright**  
**SISKINDS LLP**



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**CONSUMER LAW GROUP INC.**  
**Per: Jeff Orenstein**



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**David Woodfield**  
**GOWLING WLG (CANADA) LLP**  
Lawyers for the Defendants

## **Exhibit A**

### **Compensation Protocol for Claims Submitted Pursuant to the Avandia National Settlement Agreement**

#### **(“Compensation Protocol”)**

##### **1. Claimant Eligibility**

To be eligible to receive a settlement payment pursuant to the Settlement Agreement, a claimant must:

- i. be, or if acting in a representative capacity, be representing the interest of a Canadian resident; and
- ii. demonstrate, from contemporaneous medical records, one of the following cardiac events:
  - a. received a final diagnosis of a myocardial infarction (which includes a final diagnosis in medical records generated in the course of medical care that interpret clinical signs and/or diagnostic tests as establishing the occurrence of an MI at or about such time or, alternatively for purposes of this criterion, death from a cardiac event in the absence of any other cause of death);
  - b. received a final diagnosis of initial onset or exacerbation of congestive heart failure (“CHF”) (which includes a final diagnosis in medical records generated in the course of medical care that interprets clinical signs and/or diagnostic tests as establishing the initial onset or exacerbation of CHF at or about such time);
  - c. underwent a coronary artery bypass graft (CABG); or
  - d. underwent a percutaneous coronary intervention with stent placement.
- iii. demonstrate, from contemporaneous medical or pharmacy records, at least 30 days of uninterrupted Avandia usage at the time of, or within one year prior to, such cardiac event; and
- iv. demonstrate, from contemporaneous medical or pharmacy records, that such Avandia use occurred prior to December 2010, or that an uninterrupted period of such use began prior to December 2010.

##### **2. Allocation of Settlement**

The Settlement Payment will be allocated among (i) MI, CABG, or stenting claims and (ii) CHF claims, pursuant to the Settlement Agreement. No claimant shall be eligible to receive settlement payment for both a MI, CABG, or stenting claim and a CHF claim. In the event that an Approved Claimant meets the criteria for more than one type of claim, the Approved Claimant will receive compensation for the MI, CABG, or stenting claim and not the CHF claim.

Damages attributable to individuals who are entitled to make claims under the *Family Law Act*, RSO 1990, c F.3, s 61 and similar legislation and common law in other provinces, will be allocated to the Approved Claimant.

##### **3. Quantum of Settlement**

Compensation for (i) MI, CABG, and stenting claims and (ii) compensation for CHF claims will be allocated from two distinct pools of funds. Approved Claimants will receive benefits in proportion to the cumulative points they are awarded under this Compensation Protocol.

Base Points		
LEVEL	CARDIAC EVENT	POINTS
1	Myocardial Infarction (which requires a final diagnosis in medical records generated in the course of medical care that interpret clinical signs and/or diagnostic tests as establishing the occurrence of an MI at or about such time or, alternatively for purposes of this criterion, death from a cardiac event in the absence of any other cause of death)	100 points
2	Coronary Artery Bypass Graft (CABG),	75 points
3	Percutaneous Coronary Intervention with Stent Placement	50 points
4	Congestive Heart Failure (which requires a final diagnosis in medical records generated in the course of medical care that interprets clinical signs and/or diagnostic tests as establishing the initial onset or exacerbation of CHF at or about such time)	50 points

Age Adjustment	
Age	a) 0- 20 years = + 30 points b) 21-31 years = + 20points c) 31- 40 years = + 10 points d) 41- 50 years = + 5 points e) 51- 60 years = +/- 0 points f) 61- 70 years = - 10 points g) 71- 80 years = - 20 points h) 81+ years = - 30 points

Risk Factor Adjustment		
Class Members who swear a Risk Factor Declaration and submit the required records. If medical records submitted clearly contradict the Declaration, no compensation will be payable and any entitlement to compensation will be forfeited.		50% increase to cumulative point value.
The existence of <b>any</b> of the following risk factors makes an Approved Claimant ineligible for the Risk Factor Adjustment.		
<b>A</b>	Pre-existing congestive heart failure	Approved Claimants who received a diagnosis of congestive heart failure before their cardiac event.
<b>B</b>	Prior MI	Approved Claimants who suffered an MI before their cardiac event.
<b>C</b>	Pre-existing Coronary Artery Disease ("CAD")	Approved Claimants who received a diagnosis of coronary artery disease (CAD) before their cardiac event.
<b>D</b>	Smoking	Approved Claimants who smoked cigarettes or cigars within one (1) year of their cardiac event.
<b>E</b>	High Cholesterol	Approved Claimants who received a diagnosis of high cholesterol or were on a statin on or before their cardiac event.
<b>F</b>	Hypertension	Approved Claimants who received a diagnosis of hypertension or were on an anti-hypertensive medication on or before their cardiac event.
<b>G</b>	Obesity	Approved Claimants whose medical records indicate obesity or a BMI of $\geq 30$ at or before their cardiac event.
<b>I</b>	Alcohol Abuse	Approved Claimants diagnosed with alcoholism, alcohol dependence, or alcohol abuse, or a similar reference, within two (2) years of their cardiac event.
<b>J</b>	Illegal Drug Use	Approved Claimants with evidence of the use of illegal drugs (including, but not limited to, cocaine, LSD and heroin, but excluding marijuana) within two (2) years of their cardiac event.



**Claims Administration Protocol for Claims Submitted Pursuant to the Avandia Settlement Agreement**

**(“Claims Administration Protocol”)**

Administration of the Settlement Agreement<sup>1</sup> and the submission, processing, approval, compensation, and appeal of individual claims made pursuant to the Settlement Agreement shall be governed by this Claims Administration Protocol. This Claims Administration Protocol shall be implemented by the Claims Administrator, subject to the ongoing authority and supervision of the Supreme Court of Nova Scotia.

**1. Purpose of the Claims Administration Protocol**

The purpose of this Claims Administration Protocol is to provide further guidance to the Claims Administrator to help ensure that:

- a) only Approved Claimants who satisfy the eligibility criteria set out in the Compensation Protocol will receive compensation from the Settlement Payment;
- b) similarly situated Approved Claimants will be treated as uniformly as possible; and
- c) Approved Claimants will receive timely compensation in a way that minimizes, to the extent reasonably possible, the Claims Administration Costs and other transaction costs associated with implementation and administration of the Settlement Agreement.

**2. Reporting Obligations of the Claims Administrator**

● days after the Claim Deadline, the Claims Administrator shall provide a written report to Class Counsel and to Defendants indicating the total number of Approved Claimants who meet the criteria for payment of a MI, CABG, or stenting claim, and the total number of Approved Claimants who meet the criteria for payment of a CHF claim, as set out in the Compensation Protocol (“Approved Claimant Report”).

**3. Claim Form and Claim Deadline**

The status of a Class Member as an Approved Claimant requires, in addition to the requirements set forth in the Settlement Agreement and Compensation Protocol, that the Class Member properly complete, execute and submit the claim form developed by the Claims Administrator in consultation with Class Counsel (the “Claim Form”) to the Claims Administrator by the Claim Deadline. The Claims Administrator may develop such other forms as it deems necessary for the implementation and administration of the Settlement Agreement in accordance with the purpose of this Claims Administration Protocol.

Claims that are not properly and timely submitted to the Claims Administrator by the Claim Deadline will be denied by the Claims Administrator.

**4. Evidence Required for Proof of Injury**

This section lists the information and documentation (the “Evidence”) that must be provided as sufficient proof of each level of “Injury” (as that term is defined in the Compensation Protocol).

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<sup>1</sup> Unless otherwise indicated or required by context, capitalized terms in this Claims Administration Protocol have the meanings assigned to them in the Settlement Agreement.

### **a) Mandatory Evidence**

A Class Member must submit proof, by way of contemporaneous medical records, which may include contemporaneous physician records supplemented by a letter from the physician providing any needed clarification of the contents of the record, and/or contemporaneous pharmacy records, as follows:

- a) contemporaneous medical records demonstrating one or more of the following cardiac events:
  - i. a final diagnosis of a Myocardial Infarction (“MI”) (which includes a final diagnosis in medical records generated in the course of medical care that interpret clinical signs and/or diagnostic tests as establishing the occurrence of an MI at or about such time or, alternatively for purposes of this criterion, death from a cardiac event in the absence of any other cause of death);
  - ii. underwent a Coronary Artery Bypass Graft;
  - iii. underwent percutaneous coronary intervention with stent placement;
  - iv. a final diagnosis of initial onset or exacerbation of Congestive Heart Failure (which includes a final diagnosis in medical records generated in the course of medical care that interprets clinical signs and/or diagnostic tests as establishing the initial onset or exacerbation of CHF at or about such time) and
- b) contemporaneous medical and/or pharmacy records demonstrating Avandia consumption for at least 30 days at the time of, or within one year prior to, such cardiac event; and
- c) contemporaneous medical and/or pharmacy records demonstrating that the 30 days of Avandia use occurred prior to December 2010, or that an uninterrupted period of such use began prior to December 2010.

### **b) Optional Risk Factor Adjustment Evidence**

Class Members who are seeking the Risk Factor Adjustment must:

- a) submit a Risk Factor Adjustment Declaration; and
- b) submit a copy of his or her general practitioner’s medical records for the 2 years before he or she suffered the cardiac event.

A failure to report true or accurate information may result in the rejection of Class Members’ claims.

## **5. Claims Processing Guidelines**

If, during claims processing, the Claims Administrator finds that technical deficiencies exist in a Class Member’s Claim Form or Evidence, the Claims Administrator shall notify the Class Member, by way of letter sent through first class regular mail, of the technical deficiencies and shall allow the Class Member 60 days from the date of mailing to correct the deficiencies. If the deficiencies are not corrected within the 60 day period, the Claims Administrator shall reject the claim and the Class Member shall have no further opportunity to correct the deficiencies. “Technical deficiencies” shall not include missing the Claim Deadline or failure to provide sufficient Evidence to support the Class Member’s claim. In the event that a Class Member has requested but not yet received the Mandatory Evidence, the Class Member must submit true copies of the records requests that were made and this will be deemed a “technical deficiency”.

## **6. Claimant Notification and Claim Appeals**

### **a) Notification**

The Claims Administrator shall notify each Class Member by way of a letter sent through first class regular mail as to the approval or rejection of his or her claim and the points awarded to the Class Member.

### **b) Appeals**

Class Members will be granted a 30-day period from the date of mailing to appeal the rejection and/or classification of their claims. In accordance with Rule 11 of the *Nova Scotia Civil Procedure Rules*, appeals will be reviewed and assessed by the Designated Settlement Judge or Referee. Appeals will be made in writing to such Judge or Referee, supported only by the documentation provided to the Claims Administrator. Following the outcome on appeal, there shall be no right of further appeal or review.

Defendants shall have the right to request, from time to time, Claims and Evidence from the Claims Administrator for the purposes of reviewing the accuracy of the Compensation Protocol. Within 5 days of the Defendants receiving the Approved Claimant Report, Defendants shall notify the Claims Administrator whether they desire an opportunity to review the Claim Forms and Evidence submitted by specified Class Members. If so notified, the Claims Administrator shall promptly provide the specified Claims Forms and Evidence to Defendants. Within 10 days following receipt of such Claims Forms and Evidence, Defendants shall notify the Claims Administrator whether they wish to appeal the approval or classification of any claim. The Claims Administrator may then change the evaluation made or notify Defendants that the Claims Administrator does not agree that any change is warranted. In the event that the Claims Administrator make no change to the initial classification, Defendants shall have a right, exercisable within 10 days following receipt of the Claims Administrator's notification, to seek a review of said determination to the Designated Settlement Judge or Referee, as applicable. The decision of such Judge or Referee is final and binding and shall not be subject to any further appeal or review.

## **7. Releases**

Each Approved Claimant shall have 45 days from the date of mailing of a notice from the Claims Administrator approving his or her claim to deliver to the Claims Administrator a fully and properly executed Release, in the form attached hereto. Any Approved Claimant who does not return a fully and properly executed Release by such deadline shall be deemed to have forfeited a right to payment.

## RELEASE

**IN CONSIDERATION OF** the sum of ● (\$●) and other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the undersigned, ●, on behalf of himself or herself and all other individuals and entities who may claim damages due in any way to the use of Avandia by the undersigned (or if the undersigned was not an Avandia user, damages due in any way to the use of Avandia by the associated Avandia user), including all derivative claimants, successors, assigns, trustees, executors, representatives, heirs, and any other persons claiming by, through, under or on account of Avandia use by the undersigned or the associated Avandia user (hereinafter collectively referred to as the "Releasor"), releases any and all Avandia-related claims, actions, causes of action, claims over, indemnities, losses, covenants and liabilities, in equity or at law, that the Releasor, or any of them, now has or may have for or by reason of any cause, matter or thing whatsoever existing up to the present time, and thereby forever releases and discharges any and all claims against any and all individuals and entities that may have any Avandia-related liability, including GLAXOSMITHKLINE INC. and GLAXOSMITHKLINE LLC, their parents, subsidiaries and affiliated, related, predecessor or successor companies or entities and each of their respective directors, officers, shareholders, employees, servants, agents, trustees, successors, administrators, assigns, insurers and re-insurers, both present and former (hereinafter collectively referred to as the "Releasees").

**AND THE RELEASOR ACKNOWLEDGES** and agrees that s/he has not been induced to execute this Release by reason of any representation or warranty of any nature or kind whatsoever and that there is no condition express or implied or collateral agreement affecting the said release.

**AND FOR THE SAID CONSIDERATION** the Releasor covenants and agrees not to make claim or to commence or take proceedings against any of the Releasees, including any person, firm, partnership, business or corporation who or which might claim contribution from, or to be indemnified by, GLAXOSMITHKLINE INC. or GLAXOSMITHKLINE LLC, under the provisions of any statute or otherwise in respect of those matters to which this release applies.

**AND IT IS UNDERSTOOD** that Releasees, and each of them, do not admit any liability to the Releasor or others and that such liability is specifically and expressly denied.

**IN WITNESS WHEREOF** the Releasor ● has hereunto set his/her hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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Witness

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●



### Risk Factor Declaration

I, \_\_\_\_\_, from the City  
of \_\_\_\_\_, in the province of \_\_\_\_\_,

#### SOLEMNLY DECLARE:

1. Prior to suffering my Cardiac Event, I was **not** diagnosed with **any** of the following:
  - i. congestive heart failure (CHF);
  - ii. myocardial infarction (heart attack);
  - iii. coronary artery disease (CAD);
  - iv. high cholesterol and/or prescribed cholesterol lowering medication;
  - v. high blood pressure and/or prescribed blood pressure lowering medication;
  - vi. obesity; or
  - vii. alcohol dependency/alcohol addiction (within two (2) years of my cardiac event)
2. I did **not** smoke cigarettes or cigars within one (1) year of my cardiac event.
3. I did **not** use illegal drugs (including, but not limited to, cocaine, LSD and heroin, but excluding marijuana) within two (2) years of my cardiac event.
4. I acknowledge and understand that this Declaration is an official Court document sanctioned by the Court that presides over the Settlement, and submitting this Declaration to the Claims Administrator is equivalent to filing it with a Court.

Enclosed in support of this Declaration are my medical records required pursuant to the Compensation Protocol which I understand may be reviewed by the Claims Administrator to confirm the contents of this Declaration.

After reviewing the information that has been supplied in this Declaration I declare under penalty of perjury that the information provided in this Declaration and Claim Form is true and correct to the best of my knowledge, information and belief.

I hereby consent to the disclosure of the information contained herein to the extent necessary to process this claim for benefits. I hereby authorize the Claims Administrator to contact me as required in order to administer the claim.

Date: \_\_\_\_\_

\_\_\_\_\_  
Claimant's Signature (or Claimant's Representative)

\_\_\_\_\_  
Printed Name of Claimant (or Claimant's Representative)

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Claimant's Lawyer (if any)

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Printed Name of Claimant's Lawyer

Date: \_\_\_\_\_

---

Signature of Witness

---

Printed Name of Witness

### Exhibit B

Province	Plaintiffs' Counsel	Action
NS	Wagners	Albert Carl Sweetland v. Glaxosmithkline Inc. et al. Court File Hfx. No. 315567
NS	Merchant Law Group	Ronald Finck v. Glaxosmithkline Inc. et al. Court File No. SH-300379
ON	Kim Orr Barristers	Brenda Lloyd, Gary Lloyd and Francesca Imbesi v. Glaxosmithkline Inc. et al Court File No. CV-11-434420-00CP
ON	McPhadden, Samac, Merner, Touvi	Waheed v. Glaxosmithkline Inc. et al. Court file No. CV-09-385922CP
ON	Siskinds	Victor Vinerskis v Glaxosmithkline Inc. Court File No. 6809-12
ON	Siskinds	Richard Fontaine and Barbara Fontaine v Glaxosmithkline Inc. Court File No. 3777/14
ON	Siskinds	Jayanthina Ravindrakumar v Glaxosmithkline Inc. Court File No. 4084-14
NFL	Merchant Law Group	Catherine Morris v. Glaxosmithkline Inc. et al. Court File No. 0597
NFL	Russell Accident Law (Formerly Ches Crosbie Barristers)	Clyde Wiseman v. GlaxoSmithKline Inc. et al Court File No. 2582 CP
NB	Wagners	Gregory Ring v. Glaxosmithkline Inc. et al Court File No. MC 405-13
MB	Merchant Law Group	Andrew Kernel v. Glaxosmithkline Inc., et al. Court File No. CI07-01-53523
MB	Deeley, Fabbri, Sellen	Bonnie Latimer v. Glaxosmithkline Inc. Court File No. CI 07-01-51859
AB	Merchant Law Group	Debbie Allison, et al. v. Glaxosmithkline Inc., et al. Court File No. 0701-08275
AB	Docken & Company	Ralito Bernales v. GlaxoSmithKline Consumer Healthcare Inc, et al Court File No. 1001-14991 and Court File No. 1301-05007
BC	Merchant Law Group	Lanny Michael Honour v. Glaxosmithkline Inc., et al Court File No. 073210
PEI	Wagners	Yvon Lamoureux v. Glaxosmithkline Inc., GlaxoSmithKline PLC, et al Court File No. SI-GS-255577
QC	Arias Sanguinetti Wang and Torrijos LLP (Formerly Consumer Law Group)	Donna Woods v. GlaxoSmithKline Inc. and GlaxoSmithKline PLC Court File No. 500-06-000409-074
SK	Merchant Law Group	Estate of Iris Edith Wall and Vic Wall v. Glaxosmithkline Inc., et al. Q.B.G. No. 1073/2007

## Exhibit C

### **NOTICE OF CERTIFICATION AND SETTLEMENT** **APPROVAL HEARING IN THE CANADIAN AVANDIA LITIGATION**

**Read this Notice carefully as it may affect your rights**

#### **NOTICE OF CERTIFICATION AND SETTLEMENT**

A Canada-wide settlement has been reached in the Avandia Class Action. The Class Action sought compensation for cardiovascular injuries which were allegedly related to the use of Avandia. The Defendants deny the allegations made in the lawsuits and make no admission as to the truth of these allegations. Class Counsel is aware of additional similar Avandia litigation in Canada, a list of which may be accessed online at: [www.XXX](http://www.XXX). The settlement, if approved, will also resolve these actions.

#### **THE SETTLEMENT REQUIRES COURT APPROVAL**

In order for the Settlement to become effective, it must be approved by the Supreme Court of Nova Scotia. The Court must be satisfied that the Settlement is fair, reasonable and in the best interest of the Class. **The Settlement Approval Hearing is scheduled for [January 29, 2019 at 9:30 a.m.](#) at The Law Courts Building, 1815 Upper Water Street, Halifax, Nova Scotia.**

#### **WHO IS INCLUDED IN THE CLASS ACTION?**

If approved, the Settlement applies to: (a) All persons in Canada, including their estates, who were prescribed and ingested Avandia (the "Primary Class"); and (b) the spouses (including common-law spouses and same-sex spouses), children, grandchildren, parents, grandparents and siblings of deceased members of the Primary Class (the "Family Class").

#### **WHO REPRESENTS THE CLASS**

Albert Carl Sweetland & Barbara Fontaine, c/o Wagners.

#### **WHAT IF I DON'T WANT TO BE IN THE CLASS ACTION?**

If you are a Primary or Family Class Member and do not wish to be bound by the Class Action and/or by the Settlement (if approved), you must Opt Out. To Opt Out, you must fully complete and submit an Opt Out Form to [\[to be decided by Justice Wood\]](#) by the Opt Out Deadline of [DATE](#), 2018. Opt Out Forms are available at [www.XXX](http://www.XXX) or may be requested from [\[to be decided by Justice Wood\]](#). **If you Opt Out, you will not be able to make a claim for compensation under the Settlement.**

#### **WHAT SETTLEMENT HAS BEEN REACHED FOR THE CLASS ACTION?**

The Settlement provides for a Minimum Settlement Amount of \$4,116,666.67 (CND) and up to a Maximum Settlement Amount of \$6,750,000.00 (the "Settlement Payment"), depending on the number of approved claims. The Settlement Payment will be used to pay compensation for Approved Claimants, the claims of provincial health insurers, the costs of notice and administration and Class Counsel Legal Fees. Approved Claimants must satisfy the eligibility criteria set out in the Compensation Protocol. You can review the Settlement documents by contacting Class Counsel or visiting the settlement website at [www.XXX](http://www.XXX).

**Compensation is available for Class Members who used Avandia for at least thirty continuous days commencing before December 2010 and who suffered one of the following injuries within no more than year of such use:** myocardial infarction (heart attack), congestive heart failure, coronary artery bypass graft (CABG surgery), and percutaneous coronary intervention with stent placement. Other eligibility considerations described in the Settlement Agreement will affect how much compensation you receive.

#### **PARTICIPATION IN THE SETTLEMENT**

If the Settlement is approved, you must submit a Claim Form to the Claims Administrator by the Claims Deadline. Information about how and when to apply for settlement funds will be provided in a future notice and will be posted online at: [www.XXX](http://www.XXX).

#### **OBJECTING TO THE SETTLEMENT AND OPPORTUNITY TO APPEAR**

If you wish to object to the Settlement, you must submit a written objection to [\[to be decided by Justice Wood\]](#) by no later than [DATE](#), 2018 at the address listed in this Notice. [\[To be decided by Justice Wood\]](#) will file copies of all objections with the Court. Do not send an objection directly to the Court. You may also attend the Settlement Approval Hearing and, if you submitted a written objection to [\[to be decided by Justice Wood\]](#), you may make oral submissions to the Court.

#### **CLAIMS ADMINISTRATOR**

**RicePoint Administration Inc.**  
1480 Richmond Street, Suite 204  
London, Ontario, Canada, N6G 0J4  
Email: [support@ricepoint.com](mailto:support@ricepoint.com)  
Toll Free: 1 (866) 432-5534

#### **CLASS COUNSEL**

**Siskinds LLP**  
680 Waterloo St.  
London, ON  
N6A 3V8  
Tel: 877-672-2121  
[avandia@siskinds.com](mailto:avandia@siskinds.com)

**Wagners**  
1869 Upper Water St.  
Halifax, NS  
B3J 1S9  
Tel: 902-425-7330  
[classaction@wagners.co](mailto:classaction@wagners.co)

There is **no charge** to speak with Class Counsel.

#### **LEGAL FEES**

At or following the Settlement Approval Hearing, Class Counsel will request approval for payment of fees, disbursements and applicable taxes. Class Counsel have pursued this lawsuit on a contingency basis and will seek approval from the Nova Scotia Court for such payment in accordance with the terms of their retainer agreement.



# Avandia Litigation

A Canada-wide settlement has been reached in the Avandia Class Action. The settlement applies to Canadians who were prescribed Avandia before [Insert Date of Hearing Notice].

Compensation may be available to Class Members who suffered one of the following injuries:

- Heart attack
- Congestive heart failure
- Coronary artery bypass graft (CABG)
- Coronary intervention with stent placement

This settlement must be approved by the Court. Class Members who do not wish to participate in the lawsuit must opt out by [insert opt out deadline]. More information is available online at [www.settlementwebsite.com]

**Exhibit D**  
**Avandia Class Action Notice Plan**

Capitalized terms used in this Notice Plan have the meanings assigned in the Settlement Agreement.

The Hearing Notice and the Approval Notice (the “Notices”) shall be distributed in the following manner:

Direct Notice

1. Class Counsel will send the Notices (full form) directly to all Class Members known to Class Counsel and Related Counsel. Where the person is located in Quebec (or otherwise specifically requests), the Notices will be sent in English and French.
2. The Notices (full form), and/or the Opt Out Form will be provided by Class Counsel to any person who requests it.
3. Class Counsel will post the Notices (full form), in English and French, on their websites;
4. The Notices (full form) will be posted on the *Registre des actions collectives du Québec*.

Digital News Notice

5. A digital notice campaign will be established by the Claims Administrator using banner advertisements (abridged form) directing potential Class Members to the Settlement Website where they will be able to obtain more information about the Settlement Agreement. The banner advertisements will be displayed on the following online news sources, in English and French as proportionate to the population:

- (a) theglobeandmail.com
- (b) nationalpost.com
- (c) calgaryherald.com
- (d) vancouversun.com
- (e) thestarphoenix.com

- (f) [winnipegfreepress.com](http://winnipegfreepress.com)
- (g) [thechronicleherald.ca](http://thechronicleherald.ca)
- (h) [thetelegram.com](http://thetelegram.com)
- (i) [theguardian.pe.ca](http://theguardian.pe.ca)
- (j) [telegraphjournal.com](http://telegraphjournal.com)
- (k) [journaldemontreal.com](http://journaldemontreal.com)
- (l) [journaldequebec.com](http://journaldequebec.com)

#### Settlement Website

6. The Notices (full form) will be posted in English and French on the website created by the Claims Administrator for the purpose of this Settlement Agreement (the "Settlement Website"). All Notices will direct potential Class Members to the Settlement Website where they will be able to obtain more information about the Settlement Agreement, review the Settlement Agreement and related documents, download the Opt Out Form and claim forms and communicate with the Claims Administrator.

#### Press Release

7. A national press release will be issued in English and French through Canada Newswire.
8. Class Counsel may apply to the Court on notice to the Defendants for approval to make any further distribution of Notices to Class Members as may be deemed necessary to facilitate their interests in the settlement.

Exhibit E  
**OPT OUT FORM**  
**CANADIAN AVANDIA LITIGATION**

This is an **opt out form**. You should only fill out this form if you want to be **excluded** from the Avandia class action. The class action relates to cardiovascular injuries allegedly related to the use of Avandia. The Defendants deny the allegations made in the class action. If you have any questions, contact class counsel (Wagners) toll free at 1-800-465-8794 or online at [classaction@wagners.co](mailto:classaction@wagners.co).

**This form must be submitted no later than [60 days after Hearing Notice]**

You may submit this form one of three ways:

- By email to [classaction@wagners.co](mailto:classaction@wagners.co): To submit the form by email, fill it out and scan it and send the attachment to [classaction@wagners.co](mailto:classaction@wagners.co).
- By mail to:

Avandia Opt Out  
c/o

Wagners  
1869 Upper Water St.  
Halifax, NS, B3J 1S9

If you do not submit this form in time, you will not be able to opt out. In the case of email and fax submissions, the form will be deemed to have been submitted when received. In the case of mail submissions, the form will be deemed to have been submitted when postmarked.

**For more information about the Canadian Avandia litigation, see the “Long Form Notice” available at <http://www.wagners.co/current-class-actions/avandia> and the settlement website at “www.xxx”.**

**Class Counsel are:**

**SISKINDS LLP**  
680 Waterloo Street  
P.O. Box 2520  
London, ON, N6A 3V8

(800) 461-6166 x2367  
(519) 672-2121 x2367  
[avandia@siskinds.com](mailto:avandia@siskinds.com)

**WAGNERS**  
1869 Upper Water St.  
Halifax, NS, B3J 1S9

(800) 465-8794  
(902) 425-7330  
[classaction@wagners.co](mailto:classaction@wagners.co)



**Personal Information**

Please provide the following information about yourself, or, if you are filing this Opt Out Form as the legal representative of a Class Member, please provide the following information about the Class Member.

Name used by the person who consumed Avandia:

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Last Name	First Name	Middle Initial	Health Card Number	Date of Birth
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Current or last known residence address used by the person who consumed Avandia:

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Street Address

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City	Province/Territory	Postal Code
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( )	( )	
Daytime Phone Number	Evening Phone Number	E-mail Address

Please provide the particulars in question. If you do not know or are uncertain of the answer, please so indicate.

### **Avandia Use Information**

Date when first prescribed Avandia: \_\_\_\_\_

Prescribing physician(s) \_\_\_\_\_

Date of discontinuance of Avandia (If applicable) \_\_\_\_\_

### **Injury Information**

Which of the following injuries did you suffer?

- ☐ received a final diagnosis of a myocardial infarction (which includes a final diagnosis in medical records generated in the course of medical care that interpret clinical signs and/or diagnostic tests as establishing the occurrence of an MI at or about such time or, alternatively for purposes of this criterion, death from a cardiac event in the absence of any other cause of death);
- ☐ received a final diagnosis of initial onset or exacerbation of congestive heart failure ("CHF") (which includes a final diagnosis in medical records generated in the course of medical care that interprets clinical signs and/or diagnostic tests as establishing the initial onset or exacerbation of CHF at or about such time);
- ☐ underwent a coronary artery bypass graft (CABG); or
- ☐ underwent a percutaneous coronary intervention with stent placement.

Date of injury: \_\_\_\_\_

Location/facility where injury was treated \_\_\_\_\_

Treating physician(s) \_\_\_\_\_

**Legal Representative Information (if applicable)**

If you are filing this Opt-Out Form as the legal representative of a Class Member or a Class Member's estate, please provide the following information about ***yourself*** and attach a copy of your court approval or other authorization to represent the Class Member identified in "Personal Information" above.

<hr/>		
Last Name	First Name	Middle Initial
<hr/>		
Street Address		
<hr/>		
City	Province/Territory	Postal Code
<hr/>		
( )	( )	
Daytime Phone Number	Evening Phone Number	E-mail Address
<hr/>		
Relationship to Class Member		

Please attach a copy of a court order or other official document(s) demonstrating that you are the duly authorized legal representative of the Class Member and check the box below describing the Class Member's status:

☐ minor (court order appointing guardian or property or custody order, if any, or sworn affidavit of the person with custody of the minor). Date of birth of the minor:\_\_\_\_\_

☐ a mentally incapable person (copy of a continuing power of attorney for property, or a Certificate of statutory guardianship);

☐ Certificate of Appointment as Estate Trustee. Date of death:\_\_\_\_\_

**Lawyer Information (if applicable)**

If you or the Class Member have hired a lawyer in connection with a claim arising from the Class Member's Avandia use, in any way, please provide the following information about the lawyer:

---

Last Name	First Name	Middle Initial
-----------	------------	----------------

---

Street Address

---

City	Province/Territory	Postal Code
------	--------------------	-------------

---

( ) Office Phone Number	( ) Fax Number	E-mail Address
----------------------------	-------------------	----------------

---

Law Society Number

*If a claim has been filed:*

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Date of Issuance	Court File No	Jurisdiction of Filing
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## Acceptance and Acknowledgement

I have read the foregoing and reviewed and understand the Long Form Notice. I understand that by checking the box below, I am indicating my intention to OPT OUT of the class action relating to Avandia.

☐ I hereby opt out of the Avandia class action

I understand that by opting out:

- I will not be a member of the class and will never be eligible to receive any compensation through the class action opted out of.
- All family members who might otherwise be Class Members by virtue of a personal relationship with me are deemed to have opted out as well.
- I will not be entitled to participate in the designated class action.
- I will not be entitled to participate in the class action settlement.

By signing this form, I acknowledge that I have reviewed and understand the Long Form Notice

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Date	Signature (Class Member or Executor, Administrator, or Personal Representative)
------	---

To be effective as an election to opt out, this Form must be completed, signed and sent, as outlined above, **no later than [date], 2018**

The consequences of returning this Opt-Out Form are explained in the Long Form Notice. If you have questions about using or completing this Form, contact your lawyer or Class Counsel at (800) 465-8794.

**THE INFORMATION CONTAINED IN THIS FORM WILL BE PROVIDED TO THE DEFENDANTS. ALL INFORMATION PROVIDED WILL REMAIN CONFIDENTIAL WITHIN THIS PROCEEDING.**



## EXHIBIT F

### PROVINCIAL HEALTH INSURER RELEASE

**IN CONSIDERATION OF** the sum of ● (\$●) paid to the Provincial or Territorial Health Insurer as good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the undersigned, ●, on behalf of the Minister/Department of Health (hereinafter "Releasor"), releases any and all claims, causes of action, claims over, indemnities, losses, covenants and liabilities for the Provincial or Territorial Health Insurer's Rights of Recovery (as defined in the Settlement Agreement) for the [insured services or analogous term], pursuant to [province specific legislation], in equity or at law, whether by way of subrogation rights or by independent right of action, arising in any way from the use of Avandia by the Settling Claimants listed on the attached Schedule that the Releasor now has or may have for or by reason of any cause, matter or thing whatsoever existing up to the present time, and thereby forever releases and discharges any and all such claims against GLAXOSMITHKLINE INC. and GLAXOSMITHKLINE LLC, their parents, subsidiaries and affiliated, related, predecessor or successor companies or entities and each of their respective directors, officers, shareholders, employees, servants, agents, trustees, successors, administrators, assigns, insurers and re-insurers, both present and former (hereinafter collectively referred to as the "Releasees").

**AND THE RELEASOR ACKNOWLEDGES** and agrees that s/he has not been induced to execute this Release by reason of any representation or warranty of any nature or kind whatsoever and that there is no condition express or implied or collateral agreement affecting the said release.

**AND FOR THE SAID CONSIDERATION** the Releasor covenants and agrees not to make a claim or to commence or take proceedings against any of the Releasees, including any person, firm, partnership, business or corporation who or which might claim contribution from, or to be indemnified by, GLAXOSMITHKLINE INC. or GLAXOSMITHKLINE LLC, in respect of those matters to which this release applies.

**AND IT IS UNDERSTOOD** that Releasees, and each of them, do not admit any liability to the Releasor or others and that such liability is specifically and expressly denied.

**IN WITNESS WHEREOF** the Releasor ● has hereunto set his/her hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Witness

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On behalf of the [Province]  
Minister/Department of Health

## Exhibit G

### Provincial Health Insurer Legislation

Province/ Territory	Legislation	Right of Recovery
Nova Scotia	<i>Health Services and Insurance Act</i> , RSNS 1989, c 197	“costs of care, services and benefits”
New Brunswick	<i>Medical Services Payment Act</i> , RSNB 1973, c M-7	“entitled services”
Prince Edward Island	<i>Health Services Payment Act</i> , RSPEI 1988, c H-2	“basic health services”
Newfoundland and Labrador	<i>Medical Care and Hospital Insurance Act</i> , 2016 cM-5.01	“insured services”
Ontario	<i>Health Insurance Act</i> , RSO 1990 c H 6	“insured services”
Manitoba	<i>Health Services Insurance Act</i> , CCSM, 2015 c H35	“insured services”
Saskatchewan	<i>The Health Administration Act</i> , RSS 2014, c E-13.1	“health services”
Quebec	<i>Health Insurance Act</i> , 2017 CQLR c A-29	“insured services”
Yukon	<i>Hospital Insurance Services Act</i> , RSY 2002, c 112	“insured services”
Northwest Territories and Nunavut	<i>Hospital Insurance and Health and Social Services Administration Act</i> , RSNWT 1998, c T-3	“insured services”
Alberta	<i>Crown’s Right of Recovery Act</i> , SA 2009, c C-35	“cost of health services”
British Columbia	<i>Healthcare Costs Recovery Act</i> , SBC 2008 c. 27	“health care services”

## Exhibit H

### **NOTICE OF SETTLEMENT APPROVAL** **CANADIAN AVANDIA LITIGATION**

**Read this Notice carefully as it may affect your rights**

#### **NOTICE OF SETTLEMENT APPROVAL**

A Canada-wide settlement was reached in the Avandia Class Action. The Class Action sought compensation for cardiovascular injuries which were allegedly related to the use of Avandia. The Defendants deny the allegations made in the lawsuit and make no admission as to the truth of these allegations.

This Notice advises you that on [date], following publication of a Hearing Notice, the Supreme Court of Nova Scotia issued the Settlement Order approving the national Settlement Agreement (the “Settlement”) as being fair, reasonable and in the best interest of Class Members.

The Settlement Order and Settlement can be reviewed online at <http://www.wagners.co/current-class-actions/avandia>.

#### **WHO IS AFFECTED BY THE SETTLEMENT?**

The Settlement applies to: (a) All persons in Canada, including their estates, who were prescribed and ingested Avandia (the “Primary Class”); and (b) the spouses (including common-law spouses and same-sex spouses), children, grandchildren, parents, grandparents and siblings of deceased members of the Primary Class (the “Family Class”).

#### **WHAT ARE THE TERMS OF THE SETTLEMENT?**

The Settlement provides for a Minimum Settlement Amount of \$4,116,666.67 (CND) and up to a Maximum Settlement Amount of \$6,750,000.00 (the “Settlement Payment”), depending on the number of approved claims. The Settlement Payment will be used to pay compensation for Approved Claimants, the claims of provincial health insurers, the costs of notice and administration and Class Counsel Legal Fees. Approved Claimants must satisfy the eligibility criteria set out in the Compensation Protocol. Not all Class Members will be eligible for compensation.

**Compensation is available for Class Members who used Avandia for at least thirty continuous days commencing before December 2010 and who suffered one of the following injuries within no more than year of such use:** myocardial infarction (heart attack), congestive heart failure, coronary artery bypass graft (CABG surgery), and percutaneous coronary intervention with stent placement. Other eligibility considerations described in the Settlement Agreement will affect how much compensation you receive.

#### **PARTICIPATION IN THE SETTLEMENT**

To be eligible for any compensation under the Settlement, a Class Member must file a claim with the Claims Administrator on or before the Claims Deadline of **DATE**, 2019.

A detailed instruction package on how to file a claim and Claim Form are currently available from the Claims Administrator by telephone, email or in writing at the address noted below. Class Members are also invited to contact Class Counsel if they have questions about the Settlement.

#### **WHO REPRESENTS ME?**

##### **Siskinds LLP**

680 Waterloo St.  
London, ON  
N6A 3V8  
Tel: 877-672-2121  
[avandia@siskinds.com](mailto:avandia@siskinds.com)

##### **Wagners**

1869 Upper Water St.  
Halifax, NS  
B3J 1S9  
Tel: 902-425-7330  
[classaction@wagners.co](mailto:classaction@wagners.co)

#### **WHAT ARE THE LEGAL FEES?**

Class Counsel’s legal fees, disbursements and applicable taxes will be paid out of the Settlement. At the Approval Hearing, Class Counsel requested and received the Court’s approval for payment of their fees and disbursements and applicable taxes in the amount of \$XX.

Class Members may retain their own lawyers to assist them in making individual claims under the Settlement and will be responsible for any fees charged by such lawyers, although a lawyer is not necessary. Fees charged by Class Counsel and Related Counsel Firms for such services will not exceed 15% of any individual amounts recovered.

#### **CLAIMS ADMINISTRATOR**

The Courts have appointed RicePoint Administration Inc. as the Claims Administrator for the Settlement.

If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement and related documents, please contact the Claims Administrator at:

RicePoint Administration Inc.  
1480 Richmond Street, Suite 204  
London, Ontario, Canada, N6G 0J4  
Email: [support@ricepoint.com](mailto:support@ricepoint.com)  
Toll Free: 1 (866) 432-5534

# Avandia Litigation

Were you prescribed Avandia before December 2010 and suffered one of the following injuries?

- Heart attack
- Congestive heart failure
- Coronary artery bypass graft (CABG)
- Coronary Intervention with Stent Implantation

If so, you may be entitled to compensation from a class action settlement.

APPLY NOW at [www.settlementwebsite.com](http://www.settlementwebsite.com)

**NOTICE OF CERTIFICATION AND SETTLEMENT**  
**APPROVAL HEARING IN THE CANADIAN AVANDIA LITIGATION**

**Read this Notice carefully as it may affect your rights**

**NOTICE OF CERTIFICATION AND SETTLEMENT**

A Canada-wide settlement has been reached in the Avandia Class Action. The Class Action sought compensation for cardiovascular injuries which were allegedly related to the use of Avandia. The Defendants deny the allegations made in the lawsuits and make no admission as to the truth of these allegations. Class Counsel is aware of additional similar Avandia litigation in Canada, a list of which may be accessed online at: [www.XXX](http://www.XXX). The settlement, if approved, will also resolve these actions.

**THE SETTLEMENT REQUIRES COURT APPROVAL**

In order for the Settlement to become effective, it must be approved by the Supreme Court of Nova Scotia. The Court must be satisfied that the Settlement is fair, reasonable and in the best interest of the Class. **The Settlement Approval Hearing is scheduled for January 29, 2019 at 9:30 a.m. at The Law Courts Building, 1815 Upper Water Street, Halifax, Nova Scotia.**

**WHO IS INCLUDED IN THE CLASS ACTION?**

If approved, the Settlement applies to: (a) All persons in Canada, including their estates, who were prescribed and ingested Avandia (the "Primary Class"); and (b) the spouses (including common-law spouses and same-sex spouses), children, grandchildren, parents, grandparents and siblings of deceased members of the Primary Class (the "Family Class").

**WHO REPRESENTS THE CLASS**

Albert Carl Sweetland & Barbara Fontaine, c/o Wagners.

**WHAT IF I DON'T WANT TO BE IN THE CLASS ACTION?**

If you are a Primary or Family Class Member and do not wish to be bound by the Class Action and/or by the Settlement (if approved), you must Opt Out. To Opt Out, you must fully complete and submit an Opt Out Form to Wagners by the Opt Out Deadline of **January 15, 2019**. Opt Out Forms are available at [www.XXX](http://www.XXX) or may be requested from Class Counsel. **If you Opt Out, you will not be able to make a claim for compensation under the Settlement.**

**WHAT SETTLEMENT HAS BEEN REACHED FOR THE CLASS ACTION?**

The Settlement provides for a Minimum Settlement Amount of \$4,116,666.67 (CND) and up to a Maximum Settlement Amount of \$6,750,000.00 (the "Settlement Payment"), depending on the number of approved claims. The Settlement Payment will be used to pay compensation for Approved Claimants, the claims of provincial health insurers, the costs of notice and administration and Class Counsel Legal Fees. Approved Claimants must satisfy the eligibility criteria set out in the Compensation Protocol. You can review the Settlement documents by contacting Class Counsel or visiting the settlement website at [www.XXX](http://www.XXX).

**Compensation is available for Class Members who used Avandia for at least thirty continuous days commencing before December 2010 and who suffered one of the following injuries within no more than year of such use:** myocardial infarction (heart attack), congestive heart failure, coronary artery bypass graft (CABG surgery), and percutaneous coronary intervention with stent placement. Other eligibility considerations described in the Settlement Agreement will affect how much compensation you receive.

**PARTICIPATION IN THE SETTLEMENT**

If the Settlement is approved, you must submit a Claim Form by the Claims Deadline. Information about how and when to apply for settlement funds will be provided in a future notice and will be posted online at: [www.XXX](http://www.XXX).

**FURTHER DOCUMENTATION AVAILABLE DECEMBER 15, 2018**

No later than December 15, 2018 the documents being filed by Class Counsel in relation to the Settlement Approval Hearing and the motion to approve Class Counsel's fees will be available on the settlement website at: [www.X](http://www.X).

**OBJECTING TO THE SETTLEMENT AND OPPORTUNITY TO APPEAR**

If you wish to object to the Settlement, you may submit a written objection, referencing Hfx. No. 315567, to the Supreme Court of Nova Scotia at The Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia, B3J1S7, with a copy to Wagners at the address below, to be sent no later than **January 15, 2019**. You may also attend the Settlement Approval Hearing and you may make oral submissions to the Court.

**LEGAL FEES**

At the Settlement Approval Hearing, Class Counsel will make a separate motion requesting approval for payment of fees, disbursements and applicable taxes. Class Counsel have pursued this lawsuit on a contingency basis, which provides for payment of legal fees of 25% of the total value of the settlement plus applicable taxes, as well as recovery of out of pocket expenses, and Class Counsel will seek approval from the Nova Scotia Court for such payment in accordance with the terms of their retainer agreement. The total value of the settlement depends on the number of approved claims. The maximum amount of legal fees for which Class Counsel will seek approval will be \$1,687,500 (25% of the maximum settlement amount of \$6,750,000) plus applicable taxes of 15%. If less than the maximum settlement amount is reached, Class Counsel will seek approval of a lower amount, i.e. 25% of the settlement amount paid, plus applicable taxes of 15%. The maximum amount of disbursements for which Class Counsel will seek approval is \$400,000, representing the out of pocket expenses incurred by Class Counsel. This excludes future costs of notice and claims administration, for which the Defendants have agreed to contribute up to \$250,000 out of the Maximum Settlement Amount.



**OBJECTING TO LEGAL FEES AND OPPORTUNITY TO APPEAR**

If you wish to object to Class Counsel's fees, you may submit a written objection, referencing Hfx. No. 315567, to the Supreme Court of Nova Scotia at The Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia, B3J1S7, with a copy to Wagners at the address below, to be sent no later than **January 15, 2019**. You may also attend the hearing to approve Class Counsel's fees, and you may make oral submissions to the Court.

**CLASS COUNSEL**

**Siskinds LLP**  
680 Waterloo St.  
London, ON  
N6A 3V8

Tel: 877-672-2121  
[avandia@siskinds.com](mailto:avandia@siskinds.com)

**Wagners**  
1869 Upper Water St.  
Halifax, NS  
B3J 1S9

Tel: 902-425-7330  
[classaction@wagners.co](mailto:classaction@wagners.co)

There is **no charge** to speak with Class Counsel.

**This Notice has been approved by the  
Supreme Court of Nova Scotia.**

## Avandia Litigation

A Canada-wide settlement has been reached in the Avandia Class Action. The settlement applies to Canadians who were prescribed Avandia before November 15, 2018 and, if that person is deceased, to their spouse, children, grandchildren, parents, grandparents and siblings.

Compensation may be available to Class Members who suffered one of the following injuries:

- Heart attack
- Congestive heart failure
- Coronary artery bypass graft (CABG)
- Coronary intervention with stent placement

This settlement must be approved by the Court. Class Members who do not wish to participate in the lawsuit must opt out by January 15, 2019. More information is available online at [\[www.settlementwebsite.com\]](http://www.settlementwebsite.com)

## **Avandia Class Action Hearing Notice Plan**

Capitalized terms used in this Notice Plan have the meanings assigned in the Settlement Agreement.

The Hearing Notice shall be distributed no later than November 15, 2018, except that Print News Notice will be implemented on November 17, 2018. For purposes of the Settlement Agreement, the Hearing Notice Date shall be November 15, 2018.

The Hearing Notice shall be distributed in the following manner:

### Direct Notice

1. Class Counsel will send the Notice (full form) directly to all Class Members known to Class Counsel and Related Counsel. Where the person is located in Quebec (or otherwise specifically requests), the Notice will be sent in English and French.
2. The Notice (full form), and/or the Opt Out Form will be provided by Class Counsel to any person who requests it.
3. Class Counsel will post the Notice (full form), in English and French, on their websites;
4. The Notice (full form) will be posted on the *Registre des actions collectives du Québec*.

### Print News Notice

5. The Notice (full form) will be printed in no less than a one-eighth page advertisement in the print edition of the Globe and Mail (national edition) on November 17, 2018.
6. The Notice (full form) will be printed in no less than a one-eighth page advertisement in the print edition of the Chronicle Herald on November 17, 2018.

### Digital News Notice

7. A digital notice campaign will be established by RicePoint Administration Inc. using banner advertisements (abridged form) directing potential Class Members to the Settlement

Website where they will be able to obtain more information about the Settlement Agreement.

The banner advertisements will be displayed on the following online news sources, in English and French as proportionate to the population:

- (a) theglobeandmail.com
- (b) nationalpost.com
- (c) calgaryherald.com
- (d) vancouversun.com
- (e) thestarphoenix.com
- (f) winnipegfreepress.com
- (g) thechronicleherald.ca
- (h) thetelegram.com
- (i) theguardian.pe.ca
- (j) telegraphjournal.com
- (k) journaldemontreal.com
- (l) journaldequebec.com

#### Settlement Website

8. The Notice (full form) will be posted in English and French on the website created by RicePoint Administration Inc. for the purpose of this Settlement Agreement (the "Settlement Website"). The Notice will direct potential Class Members to the Settlement Website where they will be able to obtain more information about the Settlement Agreement, review the Settlement Agreement and related documents, download the Opt Out Form and claim forms and communicate with RicePoint Administration Inc.

9. The motion records in support of the motions to approve the Settlement Agreement and Class Counsel Legal Fees will be made available on the Settlement Website no later than December 15, 2018.

Press Release

10. A national press release will be issued in English and French through Canada Newswire.
11. Class Counsel may apply to the Court on notice to the Defendants for approval to make any further distribution of Notice to Class Members as may be deemed necessary to facilitate their interests in the settlement.

Provincial and Territorial Health Insurers

12. Class Counsel will provide the designated representatives of the Provincial and Territorial Health Insurers with the motion records (electronically, where possible) in support of the motions to approve the Settlement Agreement and Class Counsel Legal Fees no later than December 15, 2018 and will obtain acknowledgement of receipt.



# OPT OUT FORM

## CANADIAN AVANDIA LITIGATION

This is an **opt out form**. You should only fill out this form if you want to be **excluded** from the Avandia class action. The class action relates to cardiovascular injuries allegedly related to the use of Avandia. The Defendants deny the allegations made in the class action. If you have any questions, contact class counsel (Wagners) toll free at 1-800-465-8794 or online at [classaction@wagners.co](mailto:classaction@wagners.co).

**This form must be submitted no later than [60 days after Hearing Notice]**

You may submit this form one of three ways:

- By email to [classaction@wagners.co](mailto:classaction@wagners.co): To submit the form by email, fill it out and scan it and send the attachment to [classaction@wagners.co](mailto:classaction@wagners.co).
- By mail to:

Avandia Opt Out  
c/o

Wagners  
1869 Upper Water St.  
Halifax, NS, B3J 1S9

If you do not submit this form in time, you will not be able to opt out. In the case of email and fax submissions, the form will be deemed to have been submitted when received. In the case of mail submissions, the form will be deemed to have been submitted when postmarked.

**For more information about the Canadian Avandia litigation, see the “Long Form Notice” available at <http://www.wagners.co/current-class-actions/avandia> and the settlement website at “www.xxx”.**

### **Class Counsel are:**

**SISKINDS LLP**  
680 Waterloo Street  
P.O. Box 2520  
London, ON, N6A 3V8

(800) 461-6166 x2367  
(519) 672-2121 x2367  
[avandia@siskinds.com](mailto:avandia@siskinds.com)

**WAGNERS**  
1869 Upper Water St.  
Halifax, NS, B3J 1S9

(800) 465-8794  
(902) 425-7330  
[classaction@wagners.co](mailto:classaction@wagners.co)

**Personal Information**

Please provide the following information about yourself, or, if you are filing this Opt Out Form as the legal representative of a Class Member, please provide the following information about the Class Member.

Name used by the person who consumed Avandia:

---

Last Name	First Name	Middle Initial	Health Card Number	Date of Birth
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Current or last known residence address used by the person who consumed Avandia:

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Street Address

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City	Province/Territory	Postal Code
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( )	( )	
Daytime Phone Number	Evening Phone Number	E-mail Address

Please provide the particulars in question. If you do not know or are uncertain of the answer, please so indicate.

### **Avandia Use Information**

Date when first prescribed Avandia: \_\_\_\_\_

Prescribing physician(s) \_\_\_\_\_

Date of discontinuance of Avandia (If applicable) \_\_\_\_\_

### **Injury Information**

Which of the following injuries did you suffer?

- ☐ received a final diagnosis of a myocardial infarction (which includes a final diagnosis in medical records generated in the course of medical care that interpret clinical signs and/or diagnostic tests as establishing the occurrence of an MI at or about such time or, alternatively for purposes of this criterion, death from a cardiac event in the absence of any other cause of death);
- ☐ received a final diagnosis of initial onset or exacerbation of congestive heart failure ("CHF") (which includes a final diagnosis in medical records generated in the course of medical care that interprets clinical signs and/or diagnostic tests as establishing the initial onset or exacerbation of CHF at or about such time);
- ☐ underwent a coronary artery bypass graft (CABG); or
- ☐ underwent a percutaneous coronary intervention with stent placement.

Date of injury: \_\_\_\_\_

Location/facility where injury was treated \_\_\_\_\_

Treating physician(s) \_\_\_\_\_

**Legal Representative Information (if applicable)**

If you are filing this Opt-Out Form as the legal representative of a Class Member or a Class Member's estate, please provide the following information about ***yourself*** and attach a copy of your court approval or other authorization to represent the Class Member identified in "Personal Information" above.

_____ Last Name	_____ First Name	_____ Middle Initial
_____ Street Address		
_____ City	_____ Province/Territory	_____ Postal Code
( ) Daytime Phone Number	( ) Evening Phone Number	_____ E-mail Address
_____ Relationship to Class Member		

Please attach a copy of a court order or other official document(s) demonstrating that you are the duly authorized legal representative of the Class Member and check the box below describing the Class Member's status:

☐ minor (court order appointing guardian or property or custody order, if any, or sworn affidavit of the person with custody of the minor). Date of birth of the minor:\_\_\_\_\_

☐ a mentally incapable person (copy of a continuing power of attorney for property, or a Certificate of statutory guardianship);

☐ Certificate of Appointment as Estate Trustee. Date of death:\_\_\_\_\_

**Lawyer Information (if applicable)**

If you or the Class Member have hired a lawyer in connection with a claim arising from the Class Member's Avandia use, in any way, please provide the following information about the lawyer:

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Last Name	First Name	Middle Initial
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Street Address
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City	Province/Territory	Postal Code
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( ) Office Phone Number	( ) Fax Number	E-mail Address
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Law Society Number
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*If a claim has been filed:*

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Date of Issuance	Court File No	Jurisdiction of Filing
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## Acceptance and Acknowledgement

I have read the foregoing and reviewed and understand the Long Form Notice. I understand that by checking the box below, I am indicating my intention to OPT OUT of the class action relating to Avandia.

☐ I hereby opt out of the Avandia class action

I understand that by opting out:

- I will not be a member of the class and will never be eligible to receive any compensation through the class action opted out of.
- All family members who might otherwise be Class Members by virtue of a personal relationship with me are deemed to have opted out as well.
- I will not be entitled to participate in the designated class action.
- I will not be entitled to participate in the class action settlement.

By signing this form, I acknowledge that I have reviewed and understand the Long Form Notice

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Date                      Signature (Class Member or Executor, Administrator, or Personal Representative)

To be effective as an election to opt out, this Form must be completed, signed and sent, as outlined above, **no later than [date], 2018**

The consequences of returning this Opt-Out Form are explained in the Long Form Notice. If you have questions about using or completing this Form, contact your lawyer or Class Counsel at (800) 465-8794.

**THE INFORMATION CONTAINED IN THIS FORM WILL BE PROVIDED TO THE DEFENDANTS. ALL INFORMATION PROVIDED WILL REMAIN CONFIDENTIAL WITHIN THIS PROCEEDING.**