

COURT FILE NO.: N/C/93/2013

IN THE COURT OF QUEEN'S BENCH OF  
NEW BRUNSWICK

COUR DU BANC DE LA REINE DU  
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE

JUDICIAL DISTRICT OF MIRAMICHI

CIRCONSCRIPTION JUDICIAIRE DE  
MIRAMICHI

BETWEEN:

ENTRE:

**ALTA CHRISTINE LITTLE**

Plaintiff,

Demandeurs,

- and -

-et-

**REGIONAL HEALTH AUTHORITY B,  
a corporation incorporated under the laws  
of the province of New Brunswick**

Defendant



Defendeurs.

Brought under the *Class Proceedings Act*,  
S.N.B. 2011, c.125

### **SETTLEMENT APPROVAL ORDER**

**BEFORE THE HONOURABLE JUSTICE OUELLETTE**

**THIS MOTION** made by the Plaintiff, on consent of the Defendant, for an order approving a settlement agreement dated October 31, 2017 (the "Settlement Agreement"), was heard this day at the Miramichi Law Courts, 673 King George Highway, Miramichi, New Brunswick.

**ON HEARING** the submissions of counsel for the Plaintiff and counsel for the Defendant;

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

1. **THIS COURT ORDERS** that the definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.
2. **THIS COURT ORDERS** that the Settlement Agreement is fair and reasonable and in the best interests of the Class, and is hereby approved pursuant to section 37(1) of the *Class Proceedings Act*, and shall be implemented in accordance with its terms.
3. **THIS COURT ORDERS** that the Defendant shall disclose to Class Counsel and the Claims Administrator, within twenty (20) business days of the issuance of this Order, a list of the names and addresses of all Class Members. The Defendant shall take all steps within its control to provide current and valid addresses of Class Members. Information relating to the identity and addresses of Class Members provided by the Defendant shall be kept confidential by Class Counsel and the Claims Administrator except as required by this Settlement Agreement or otherwise required by law.
4. **THIS COURT ORDERS** that The Bruneau Group be appointed as the Claims Administrator.
5. **THIS COURT ORDERS** that the form and content of the Settlement Approval Notice substantially in the form attached as Schedule "A" is approved.
6. **THIS COURT ORDERS** that the Claim Form attached as Schedule "B" is approved.
7. **THIS COURT ORDERS** that the Claim Deadline is sixty (60) days from the date of the mailing of the Settlement Approval Notice.
8. **THIS COURT ORDERS** that the Settlement Agreement be otherwise implemented in accordance with its terms.

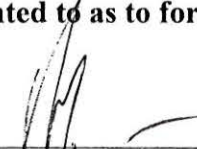
## Representative Plaintiff Honorarium


9. **THIS COURT ORDERS** that Alta Christine Little shall receive an honorarium in the amount of \$2,000.00, payable from the Settlement Fund.


March 20<sup>th</sup>, 2018.

  
Judge of the Court of Queen's Bench

**Consented to as to form:**

  
\_\_\_\_\_  
Raymond F. Wagner, Q.C.  
Wagners Law Firm  
1869 Upper Water Street  
Suite PH301, Historic Properties  
Halifax, Nova Scotia B3J 1S9  
Class Counsel

  
\_\_\_\_\_  
for Chesley F. Crosbie, Q.C.  
Patient Injury Law  
169 Water Street, 4th Floor  
St. John's, NL A1C 1B1  
Class Counsel

  
for David T. Hashey, Q.C.  
Cox & Palmer  
TD Tower  
300-77 Westmorland Street  
PO Box 310 Fredericton, NB E3B 4Y9  
Counsel for the Defendant





## SCHEDULE "A"

### NOTICE OF SETTLEMENT APPROVAL OF THE MIRAMICHI COLPOSCOPY CLASS ACTION [INSERT DATE OF MAILING HERE]

#### **PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS**

#### **WHO IS INCLUDED?**

A settlement ("Settlement") has been reached in the Regional Health Authority B colposcopy class action lawsuit. This Notice advises you of the Settlement and encloses a Claim Form, which you must fill out and send to the Claims Administrator at the address provided below **by [X] (the "Claim Deadline")** in order to receive payment under the Settlement.

In 2013 letters were sent to 2497 patients of the Miramichi Colposcopy Clinic, advising them of the risk of infection associated with the colposcopy clinic not following recommended cleaning practices on forceps used for biopsies.

The Settlement applies to all "Class Members", defined as follows:

all persons living as of the Effective Date who were patients of the colposcopy clinic at the Miramichi Regional Hospital who received correspondence in 2013 from the Horizon Health Network advising of the risk of infection associated with the colposcopy clinic not following recommended cleaning practices on forceps used for biopsies and excluding any persons who opted out of the class action by providing a valid opt-out form by the opt-out deadline.

You can review the Settlement Agreement at Wagners' website: [www.wagners.co](http://www.wagners.co), or you can contact Wagners at the address listed later in this Notice.

#### **HOW MUCH WILL I RECEIVE UNDER THE SETTLEMENT?**

The Settlement provides for a **total settlement payment of \$1,275,000.00 (CDN)**, which will be used to pay the claims of each Class Member who submits a Claim Form (enclosed with this Notice) by the Claim Deadline. If this Notice and Claim Form are returned as undeliverable, we will try to locate you at the proper address within thirty (30) days of it being received by us.

If you submit a Claim Form within the deadline you will be entitled to **no less than CAD\$350.00** ("Qualified Class Member Payments"). The Qualified Class Member Payments may slightly increase depending upon the number of valid Claim Forms submitted. The Qualified Class Member Payments will not exceed CAD\$1000.00 each.

The Settlement will also be used to pay **legal fees, the costs of notifying Class Members about the Settlement, and the costs of distributing the payments.**

#### **HOW DO I RECEIVE MY PAYMENT?**

To receive your payment you **must** submit the enclosed Claim Form to the Claims Administrator at the address provided below **on or before the expiry of the Claim Deadline of [DATE]**. Payments will be mailed out as soon as possible after the Claim Deadline.

Payments will be mailed by regular mail. Cheques must be deposited within six (6) months from the time they are sent out.

## **LEGAL FEES**

Class Counsel pursued this lawsuit on a contingency basis and sought approval from the Court for such payment in accordance with the terms of our retainer agreement.

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

## **FOR MORE INFORMATION OR TO UPDATE YOUR ADDRESS**

The Settlement Agreement is available on our website at [www.wagners.co](http://www.wagners.co).

The Courts have appointed The Bruneau Group as the Claims Administrator for the Settlement. **To receive compensation, you must mail your completed Claim Form to the Claims Administrator at the following address:**

[Address]

**The Claim Form must be postmarked not later than the Claim Deadline of [X], or if there is no legible postmark, the Claim Form must be received by the Claims Administrator no later than the Claim Deadline of [X].**

If you have questions about the Settlement and/or would like to obtain more information, please contact Wagners by email at [classaction@wagners.co](mailto:classaction@wagners.co) or by telephone at 1-800-465-8794 / 902-425-7330.

This Notice contains a summary of some of the terms of the Settlement. If there is a conflict between this Notice and the Settlement, the terms of the Settlement shall prevail.

*This Notice has been approved by the New Brunswick Court of Queen's Bench*



**SCHEDULE "B"**

**MIRAMICHI COLPOSCOPY CLINIC CLASS ACTION  
CLAIM FORM**

**You are receiving this claim form because you have been identified as being eligible for compensation under the settlement of this class action.**

**To receive your cheque payment by mail, this form must be completed and returned to the below-noted address by [Claim Deadline].**

Note: you are only eligible for compensation if you meet the following criteria:

1. You are the individual who received a letter in 2013 from the Horizon Health Network advising of the risk of infection associated with the colposcopy clinic not following recommended cleaning practices on forceps used for biopsies.
2. You are alive as of the Effective Date of [date]. (Note: Family members cannot collect compensation on behalf of Class Members who died prior to the Effective Date.)<sup>1</sup>
3. You did not previously opt-out of this class proceeding by providing an opt-out form to Wagners Law Firm.

**\*\*By signing this form, you certify that you meet the three criteria listed above.\*\***

**Claimant's Name:**

*First*

*Middle*

*Last*

**Claimant Information:**

Address:

\_\_\_\_\_  
\_\_\_\_\_

Home Phone: \_\_\_\_\_

Cell Phone: \_\_\_\_\_

<sup>1</sup> Should a Class Member pass away after the Effective Date, family members of the deceased Class Member may contact Wagners at [classaction@wagners.co](mailto:classaction@wagners.co) or by telephone at 1-800-465-8794 / 902-425-7330 for further instruction.



Email: \_\_\_\_\_

**By signing this form, I solemnly declare that** I am the individual who received a letter in 2013 from the Horizon Health Network advising of the risk of infection associated with the colposcopy clinic not following recommended cleaning practices on forceps used for biopsies and I did not previously opt-out of this class proceeding by providing an opt-out form to Wagners Law Firm.

Signature of Claimant: \_\_\_\_\_

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

**Please return this Claim Form by \_\_\_\_\_ to:**

**[address of Claims Administrator]**