

SETTLEMENT AGREEMENT

made as of October 31, 2017

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-

~~**HORIZON HEALTH NETWORK, a corporation
incorporated under the laws of the Province
of New Brunswick**~~

**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

TABLE OF CONTENTS

SECTION I – PREAMBLE & RECITALS	4
SECTION II -DEFINITIONS	5
SECTION III – THE ORDER APPROVING THIS SETTLEMENT AGREEMENT	8
The Settlement Approval Order	8
Consent to the Settlement Approval Order	8
SECTION IV -NOTICE TO THE CLASS	9
Hearing Notice	9
Settlement Approval Notice	9
Notice of Termination	9
SECTION V – DISTRIBUTION OF THE SETTLEMENT PAYMENT	9
Payment of the Settlement Payment by the Defendant	9
Settlement Fund	10
SECTION VI – INFECTED CLASS MEMBERS	11
SECTION VII - CLAIMS PROCESS	11
SECTION VIII -RELEASES AND JURISDICTION OF THE COURT	12
SECTION IX – DENIAL OF LIABILITY	13
SECTION X -CLASS COUNSEL FEES	13
Fee Approval	13
SECTION XI - TERMINATION OF AGREEMENT	14
Effect of Termination	14
Termination Orders	14
No Opting Out	15
SECTION XII - ORDER REQUIRING DISCLOSURE OF CLASS MEMBER NAMES AND ADDRESSES	15

SECTION XIII - MISCELLANEOUS PROVISIONS 15

SETTLEMENT AGREEMENT

SECTION I – PREAMBLE & RECITALS

1.1 Alta Christine Little, on her own behalf, and in her capacity as the Representative Plaintiff in NB Court File No.: N/C/93/2013 (the “Action”), and the Defendant, Regional Health Authority B, hereby enter into this settlement agreement (“Settlement Agreement”) providing for the settlement of claims arising from the Amended Notice of Action with Second Amended Statement of Claim, filed with the Court of Queen’s Bench of New Brunswick, Judicial District of Miramichi on February 25, 2016 (the “Second Amended Statement of Claim”), subject to approval of the Court as set forth herein;

WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present and future claims of Class Members arising out of or relating to the claims set out in the Second Amended Statement of Claim, and further intend that the Released Parties shall receive complete releases and final peace from all such Settled Claims on behalf of the Class, subject to Section VI;

WHEREAS on April 21, 2016, the Plaintiff obtained, with the consent of the Defendant, an Order from the Court certifying the proceeding as a class proceeding (the “Certification Order”);

WHEREAS the Parties shall seek an Order from the Court, substantially in the form attached hereto as Exhibit “A”, approving the Hearing Notice and the Hearing Notice Plan;

WHEREAS the Parties shall seek an Order from the Court, substantially in the form attached hereto as Exhibit “B”, approving this Settlement Agreement and ordering the Defendant to provide a list of the names and current addresses of Class Members for the purposes of distributing the Settlement Approval Notice and enclosed Claim Forms to Class Members, in accordance with the terms of this Settlement Agreement;

WHEREAS the Parties have conducted settlement negotiations with the assistance of a mediator;

WHEREAS the Defendant has denied and continues to deny any wrongdoing or liability of any kind, and this Settlement Agreement is not an admission of any liability on the part of the

Defendant;

WHEREAS as of the Execution Date the Parties are unaware of the existence of any Infected Class Members or Cross-Infected Persons; and

NOW THEREFORE for value received the Parties agree that this Settlement Agreement embodies the terms of the resolution of the proceeding, subject to Court approval:

SECTION II-DEFINITIONS

2.1 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.

Action shall mean New Brunswick Court of Queen's Bench, Court file No. N/C/93/2013.

Claim Deadline shall mean the date that is sixty (60) days from the date of mailing of the Settlement Approval Notice to Class Members.

Claim Form shall mean a form substantially in accordance with Schedule "B" to the Settlement Approval Order.

Claim Period shall mean the period of sixty (60) days, commencing from the date of mailing of the Settlement Approval Notice and Claim Form to Class Members and expiring on the Claim Deadline.

Claims Administration Costs shall mean all costs, other than Class Counsel Fees, required to implement this Settlement Agreement and distribute Qualified Class Member Payments, including, without limitation, costs required to execute the Hearing Notice Plan.

Claims Administrator shall mean the party approved by the Court to administer, manage and direct the processing of Claim Forms and distribution of Qualified Class

Member Payments in accordance with this Agreement.

Class and Class Members shall mean the class certified by Order of Justice Ouellette on the 18th day of April, 2016 and who are living as of the Effective Date and did not opt-out of this class proceeding.

Class Counsel shall mean the law firms of Wagners and Patient Injury Law.

Class Counsel Fees shall mean all legal fees, disbursements and applicable taxes in respect of all legal services provided by Class Counsel for the benefit of the Class Members, subject to approval by the Court.

Court shall mean the Court of the Queen's Bench in New Brunswick.

Cross-Infected Person shall mean a person who contracts an infection as a result of their relation to and/or interaction with an Infected Class Member.

Defendant shall mean the Regional Health Authority B.

Defendant's Counsel shall mean the law firm of Cox & Palmer.

Effective Date shall mean the date on which the Settlement Approval Order is issued by the Court.

Execution Date shall mean the date on which this Settlement Agreement is signed by the Parties.

Final Distribution shall mean the date on which all cheques have been sent by the Claims Administrator to Qualified Class Members.

Hearing Notice shall mean the Court-approved notice, substantially in the form attached hereto as Exhibit "A", Schedule "A" which provides Class Members with notice of the Settlement Approval Hearing and of their right to object to the Settlement.

Hearing Notice Approval Order shall mean the Order of the Court that approves the Hearing Notice and Hearing Notice Plan, substantially in the form attached hereto as Exhibit "A".

Hearing Notice Date shall mean the date on which the Hearing Notice is first published, which date shall be no more than twenty (20) business days following issuance of the Hearing Notice Approval Order, or such other date as may be approved by the Court.

Hearing Notice Plan shall mean the Court-approved plan to disseminate the Hearing Notice, substantially as described at Schedule "B" to the Hearing Notice Approval Order.

Hospital shall mean the Miramichi Regional Hospital.

Infected Class Member shall mean a Class Member with an Infection Claim, whether known or unknown, asserted or unasserted, past, now existing or in the future.

Infections shall mean Hepatitis B, Hepatitis C and HIV.

Infection Claim shall mean a claim by a Class Member that she has contracted an Infection caused by the colposcopy clinic at the Hospital not following recommended cleaning practices used on forceps used for biopsies.

Parties shall mean the Plaintiff and the Defendant.

Plaintiff includes the Representative Plaintiff Alta Christine Little.

Qualified Class Member shall mean a Class Member who submits a Claim Form on or before the Claim Deadline.

Qualified Class Member Payment shall mean cheque payments made by the Claims Administrator to Class Members in settlement of the Settled Claims.

Released Parties shall mean the Defendant and the Hospital as well as their related bodies corporate, present and former employees, officers, directors, executors, administrators, insurers, predecessors, successors, and assigns.

Settled Claims shall mean any and all claims of Class Members, against the Released Parties, whether or not assigned and whether known or unknown, asserted or unasserted, past, now existing or in the future, in any way arising out of or relating to any of the allegations made or that could have been made in the Second Amended Statement of Claim.

For certainty, Settled Claims excludes Infection Claims.

Settlement shall mean the settlement described in this Agreement.

Settlement Approval Notice shall mean the Court-approved Notice, substantially as described at Schedule "A" to the Settlement Approval Order, by which notice of Settlement Approval is disseminated, and which encloses the Claim Form.

Settlement Approval Order shall mean the order of the Court that approves this Settlement, substantially in the form attached hereto as Exhibit "B" and as provided in paragraph 3.1 of this Agreement.

Settlement Fund shall mean a fund of CAD\$875,600.00, of which CAD\$873,600.00 will be used to pay Qualified Class Member Payments, and of which CAD\$2,000.00 will pay the Representative Plaintiff honorarium (which is subject to Court approval).

Settlement Payment shall mean the total payment made by the Defendant to Class Counsel of CAD\$1,275,000.00, inclusive of all Class Counsel Fees, costs of notice and claims administration, applicable taxes and compensation to Class Members, as described herein.

Trust Account means the interest-bearing trust account of Wagners established in accordance with the terms of this Agreement.

SECTION III – THE ORDER APPROVING THIS SETTLEMENT AGREEMENT

The Settlement Approval Order

3.1 The Plaintiff shall, as soon as is reasonably possible after the Execution Date, file a motion seeking the Settlement Approval Order.

3.2 The Parties will use their due diligence, and shall cooperate in order to secure the appropriate court orders and approvals necessary to implement and give effect to this Agreement.

Consent to the Settlement Approval Order

3.3 The Defendant shall consent to the Settlement Approval Order for the purpose of Settlement

of the proceeding and implementation of this Settlement Agreement, without prejudice to the rights of the Defendant to proceed to trial on a without prejudice basis in the event that the Settlement Approval Order is not obtained or this Settlement Agreement is otherwise terminated in accordance with its provisions.

SECTION IV - NOTICE TO THE CLASS

Hearing Notice

4.1 The Parties hereby agree to the form and contents of the Hearing Notice (Exhibit "A", Schedule "A") and of the Hearing Notice Plan (Exhibit "A", Schedule "B") subject to the issuance of the Hearing Notice Approval Order (Exhibit "A"), which shall be sought by way of a hearing by the parties after the Execution Date. The Parties agree to request that a hearing be scheduled for this purpose as soon as is reasonably practicable after the Execution Date.

Settlement Approval Notice

4.2 The Settlement Approval Notice and Claim Form shall be disseminated in accordance with the terms of the Settlement Approval Order.

Notice of Termination

4.3 If this Settlement Agreement is terminated after the Settlement Approval Order has been issued, a notice of the termination will be given to the Class. Class Counsel will cause the notice of termination, in a form approved by the Court, to be published and disseminated as the Court directs and the costs of so doing shall be paid by Class Counsel.

SECTION V – DISTRIBUTION OF THE SETTLEMENT PAYMENT

Payment of the Settlement Payment by the Defendant

5.1 The Defendant shall, no later than 20 Business Days after the Effective Date deposit the Settlement Payment into the Trust Account to be distributed in accordance with this Agreement.

Settlement Fund

5.2 A Qualified Class Member, by submitting a completed Claim Form verified by the Class Member's solemn declaration, on or before the Claim Deadline and in accordance with Section VII of this Agreement, is entitled to compensation in an amount no less than CAD\$350.00. The Settlement Fund, excluding any Court approved amount, if any, for the Representative Plaintiff honorarium, will be distributed equally among the Qualified Class Members. The Qualified Class Member Payments are subject to equal, proportional increase depending upon the number of valid Claim Forms received by the Claims Administrator by the Claim Deadline up to a maximum of CAD\$1,000.00 per Qualified Class Member. Any amounts remaining in the Settlement Fund, following this distribution are residue and shall be distributed to the Miramichi Regional Hospital Foundation to be used for patient safety and quality improvement purposes.

For greater certainty, matrimonial and common law spouses will receive no monetary award under this settlement.

5.3 As soon as reasonably practicable after the Claim Deadline, the Claims Administrator shall distribute the Settlement Fund to pay the claims of Qualified Class Members.

5.4 In accordance with the Settlement Approval Order, the Defendant shall provide Class Counsel and the Claims Administrator with 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 the Settlement Agreement or otherwise required by law.

5.5 The Qualified Class Member payments shall be paid by cheque and delivered by regular mail.

5.6 Any interest earned on the Settlement Payment shall accrue to the benefit of the Class and shall become and remain part of the Settlement Fund.

5.7 Taxes payable on any interest that accrues on the Settlement Payment shall be the responsibility of Class Counsel and shall be payable from the interest accrued on the Settlement

Payment.

5. 8 The Defendant shall have no liability or responsibility with respect to any conduct of the Claims Administrator, Class Members, Qualified Class Members or Class Counsel, in connection with the use of, or administration of, the Settlement Fund or otherwise.

SECTION VI – INFECTED CLASS MEMBERS

6.1 The Parties agree that this Settlement Agreement shall not preclude Infected Class Members from asserting an Infection Claim.

6.2 For certainty, and with respect to Settled Claims, Infection Class Members are entitled to Qualified Class Member Payments.

SECTION VII - CLAIMS PROCESS

7.1 To qualify for a Qualified Class Member Payment, a Class Member must submit a completed Claim Form (verified by the Class Member's solemn declaration) to the Claims Administrator postmarked not later than the Claim Deadline, or if there is no legible postmark, the Claim Form must be received by the Claims Administrator not later than the Claim Deadline. The Claims Administrator shall reject any Claim Form not clearly post-marked on or before, or received prior to, the Claim Deadline.

7.2 All Claim Forms shall be processed by the Claims Administrator. The Claims Administrator shall report its activities and progress upon the request of Class Counsel or as ordered by the Court.

7.3 Class Counsel shall pay the claims administration costs.

7.4 The Claims Administrator shall maintain reasonably detailed records of its activities under this Agreement, including all Claim Forms and all Qualified Class Member Payments issued, until one (1) year after all claims are finally resolved and/or paid. Such records shall be made available upon request for inspection by any Party.

7.5 Qualified Class Member Payments shall be in full and final satisfaction of the Class

Members' Settled Claims.

7.6 Qualified Class Member shall have six (6) months from the date the Qualified Class Member Payment is sent by the Claims Administrator to deposit her Qualified Class Member Payment. After six (6) months the cheques will be void.

SECTION VIII -RELEASES AND JURISDICTION OF THE COURT

8.1 On the Effective Date, each Class Member, whether or not she submits a Claim Form or deposits her Qualified Class Member Payment, shall be deemed by this Agreement to have completely and unconditionally released, forever discharged and acquitted the Released Parties from any and all of the Settled Claims.

8.2 The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, Parties, Class Members and the Claims Administrator to interpret and enforce the terms, conditions and obligations under this Agreement.

8.3 All claims arising out of the facts pleaded in the Action made or which could have been made in the Action shall be released without admission of liability, subject to Section VI, and the Action shall be dismissed without costs.

8.4 Notwithstanding any other terms in this Settlement Agreement, it is the intent of the Parties hereto that, subject to Court approval of the Settlement, the Released Parties shall not be liable, either at the present or in the future to make any payment whatsoever to the Class or Class Members, or any other person in respect of this Action, including costs, other than the Settlement Payment, subject to Section VI. The Class and Class Members acknowledge that the Released Parties have no further financial exposure to the Class and Class Members for any amount of the Plaintiff's claims in the Action or for costs.

8.5 The Plaintiff hereby acknowledges that upon payment of the Settlement Payment of \$1,275,000.00, the Class and Class Members will have received full and complete satisfaction of their claim in the Action.

SECTION IX – DENIAL OF LIABILITY

- 9.1. The Defendant denies all claims made by the Plaintiff against the Defendant in the Action.
- 9.2. The Defendant makes no admission of any liability or wrongdoing with respect to any of the claims made by the Plaintiff.
- 9.3. This Settlement Agreement shall not be deemed or construed to be an admission or evidence of any violation of any statute or law, or of any liability or wrongdoing by the Defendant, or of the truth of any of the allegations alleged in the Action or otherwise, and such is specifically denied by the Defendant.
- 9.4. This Settlement Agreement shall not be offered or received in evidence for any purpose whatsoever, except for enforcement, and shall not be construed as an admission of any kind.

SECTION X - CLASS COUNSEL FEES

Fee Approval

- 10.1 Class Counsel shall seek Court approval of Class Counsel Fees.
- 10.2 The Released Parties hereby acknowledge and agree that they are not parties to the motion concerning the approval of Class Counsel Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Fees and they will not take any position or make any submissions to the Court concerning Class Counsel Fees.
- 10.3 Any order or proceeding relating to Class Counsel Fees, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the finality of the Approval Order and the resolution of the proceeding provided herein.
- 10.4 The procedure for, and the allowance or disallowance by the Court of, any requests for Class Counsel Fees to be paid out of the Settlement Payment are not part of the Settlement provided for herein, and are to be considered by the Court separately from its consideration of the fairness, reasonableness and adequacy of the Settlement provided for herein.

10.5 The Defendant is solely responsible for the costs of the mediator and such payment is not to be paid from the Settlement Fund.

SECTION XI - TERMINATION OF AGREEMENT

11.1 The Defendant shall have the right to terminate this Settlement Agreement in the event that an order substantially in the form of the Settlement Approval Order is not granted by the Court.

11.2 The failure of the Court to approve in full the request by Class Counsel for the Class Counsel Fees shall not be grounds to terminate this Settlement Agreement.

Effect of Termination

11.3 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) the Settlement Payment will be returned to the Defendant forthwith in accordance with this Settlement Agreement, minus any amounts paid out of the Trust Account, in accordance with this Settlement Agreement;
- (c) all negotiations, statements and proceedings relating to the 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 the Settlement Agreement was executed; and
- (d) all statutes of limitation and/or repose for all claims asserted in such cases shall be deemed to have been tolled from the date of signature of this Agreement by all Parties until the date of reinstatement and reactivation, or for such longer period as the law may provide without reference to this Agreement.

Termination Orders

11.4 If this Settlement Agreement is terminated, Class Counsel shall, within thirty (30) days after termination, apply to the Court for an order:

- (a) declaring this Settlement Agreement null and void and of no force or effect;
- (b) determining whether a notice of termination shall be provided to Class Members and, if so, the form, content and method of disseminating such a notice;
- (c) authorizing the payment of all funds in the Trust Account, including accrued interest, to the Defendant directly or indirectly, as the case may be, minus any amounts paid out of the Trust Account, in accordance with this Settlement Agreement; and
- (d) if there is any dispute about the termination of this Settlement Agreement, the Court shall determine any dispute by motion on notice to the Parties.

No Opting Out

11.5 With the exception of the one Class Member who provided a valid opt-out form by the opt-out deadline, no Class Member may exclude herself from the proceedings or from this Settlement Agreement.

SECTION XII - ORDER REQUIRING DISCLOSURE OF CLASS MEMBER NAMES AND ADDRESSES

12.1 Class Counsel shall seek an Order requiring the Defendant to provide to Class Counsel and the Claims Administrator 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.

12.2 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.

12.3 Class Counsel will request that the Order requiring disclosure form part of the Settlement Approval Order. The Defendant agrees to cooperate with Class Counsel in seeking the Order.

SECTION XIII - MISCELLANEOUS PROVISIONS

13.1 This Agreement, including all schedules hereto, shall constitute the entire Agreement

among the Parties with regard to the subject matter of this Agreement and shall supersede any previous agreements, representations, communications and understandings among the Parties with respect to the subject matter of this Agreement. This Agreement may not be changed, modified, or amended except in writing signed by all Parties and will require Court approval.

13.2 This Agreement shall be construed under and governed by the laws of the province of New Brunswick.

13.3 This Agreement may be executed by the Parties 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.

13.4 Any notice, instruction, application for Court approval or application for Court orders sought in connection with this Agreement or other document to be given by any Party to any other Party shall be in writing:

(a) if to the Defendant, to the attention of David T. Hashey, QC, Cox & Palmer, TD Tower, 300-77 Westmorland Street, PO Box 310, Fredericton, New Brunswick, E3B 4Y9;

(b) if to the Plaintiff, to the attention of Raymond F. Wagner, QC, 1869 Upper Water Street, Suite PH301, Halifax, Nova Scotia, B3J 1S9; and

(c) if to other recipients, as the Court may specify.

13.5 The Exhibits to this Agreement are:

Exhibit "A" – Hearing Notice Approval Order

Exhibit "B" – Settlement Approval Order

13.6 No waiver of any provision of this Agreement shall be binding on any Party unless consented to in writing by such Party. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, and no waiver of any provision of this Agreement shall constitute a continuing waiver unless expressly so provided.

13.7 The Settlement Agreement is binding upon, and shall inure to the benefit of the successors

and assigns of the Parties hereto and to the Released Parties.

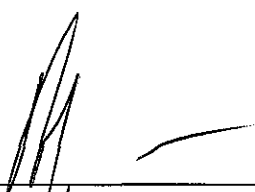
13.8 This Hearing Notice and Settlement Approval Notice will be available in both English and French. In case of any ambiguity or dispute about interpretation, the English version is official and shall prevail. The Defendant is responsible for translating the Hearing Notice and Settlement Approval Notice, at its sole expense.

Confidentiality


13.9 The Parties agree that no public statements shall be made regarding this Settlement which are in any way inconsistent with the terms of the Settlement Agreement. In particular, the Parties agree that any public statements will indicate clearly that the Settlement has been negotiated, agreed and approved by the Court without any admission or finding of liability or wrongdoing, and without any admissions or conclusions as to the truth of any of the facts alleged in the Action, all of which are specifically denied by the Defendant.

13.10 Each Party agrees not to disparage the opposite Parties or their counsel with respect to any of the matters in issue in the Action or the manner in which the Settlement was conducted. The Parties agree that any public statements that are inconsistent with the terms of this Settlement Agreement could cause irreparable harm, including harm to the business and reputation of the Defendant.

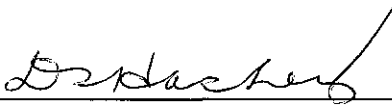
IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed on his/her/its behalf by its counsel of record, effective as of October 31, 2017.



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



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

EXHIBIT "A"

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

- and -
Plaintiff,

-et-
Demandeurs,

~~**HORIZON HEALTH NETWORK, a corporation
incorporated under the laws of the Province
of New Brunswick**~~

**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

ORDER APPROVING HEARING NOTICE AND NOTICE PLAN

BEFORE THE HONOURABLE JUSTICE OUELLETTE

THIS MOTION made by the Plaintiff, on consent of the Defendant, for an order approving the form and contents of notice to Class Members of a hearing to approve a proposed settlement

agreement dated _____, 2017 (the "Settlement Agreement") (the "Hearing Notice") and the method by which the Hearing Notice is disseminated (the "Notice Plan"), was heard this day by The Honourable Mr. Justice Ouellette.

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.

Approval of the Hearing Notice

2. **THIS COURT ORDERS** that the Hearing Notice attached hereto as Schedule "A" is hereby approved.

3. **THIS COURT ORDERS** that the Hearing Notice shall be first published no more than twenty (20) business days following the date of issuance of this Order.

Approval of the Notice Plan

4. **THIS COURT ORDERS** that the Hearing Notice Plan attached hereto as Schedule "B" is hereby approved.

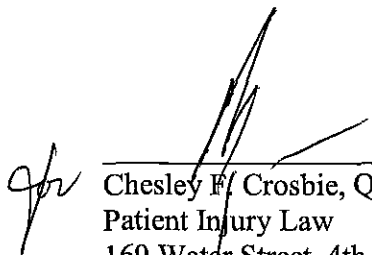
, 2017.

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



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



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 PROPOSED SETTLEMENT OF THE MIRAMICHI COLPOSCOPY CLASS ACTION

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

WHO IS ELIGIBLE?

A proposed settlement ("Settlement") has been reached in the Regional Health Authority B colposcopy class action lawsuit. This Notice advises you of the settlement agreement and of the hearing that will be held to decide whether the Settlement should be approved.

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.

If the Settlement is approved, it will apply to all "Class Members", which is 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, or you can contact Wagners at the address provided in this Notice.

HOW MUCH WILL I RECEIVE UNDER THE SETTLEMENT?

The Settlement provides for a **\$1,275,000.00 (CDN)** settlement payment, which will be used to pay each Class Member **who submits a Claim Form within the time provided**. If the Settlement is approved, the Settlement Approval Notice and Claim Form will be mailed to Class Members.

Class Members who submit a Claim Form within the deadline ("Qualified Class Member") 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**.

If you are a Class Member and have moved residences since August of 2013, we encourage you to contact Wagners by telephone or email as soon as possible to provide your updated mailing address.

SETTLEMENT APPROVAL HEARING – [X], 2017 AT 9:30 A.M.

The Settlement will only be effective if the Court approves it as being fair, reasonable and in the best interests of Class Members. The Court will determine this at a Settlement Approval Hearing on **[X], 2017 at 9:30** at the Miramichi Law Courts, 673 King George Highway, Miramichi, New Brunswick.

You may attend the Settlement Approval Hearing and you may make oral submissions to the Court.

OBJECTING TO THE PROPOSED SETTLEMENT – DEADLINE OF [X], 2017

If you wish to object to the proposed Settlement, you may submit a written objection to us, explaining your reason for objecting to the proposed Settlement. **Your written objection must be received by us no later than [X], 2017 at the mailing address or email address provided below.** We will file copies of all objections with the Court. Do **NOT** send an objection directly to the Court. You may attend the Settlement Approval Hearing and you may make oral submissions to the Court.

LEGAL FEES

At the Settlement Approval Hearing, we will request approval for payment of our legal fees, disbursements and applicable taxes. We have pursued this lawsuit on a contingency basis and will seek approval from the Court for such payment in accordance with the terms of our retainer agreement.

CONTACT US FOR MORE INFORMATION OR TO UPDATE YOUR ADDRESS

The Settlement Agreement is available on our website at www.wagners.co.

If you have any questions or wish to update your mailing address, please contact us by email at classaction@wagners.co or by telephone at **1-800-465-8794 / 902-425-7330**.

Our mailing address is **Wagners, 1869 Upper Water St., Halifax, Nova Scotia, B3J 1S9**.

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

SCHEDULE "B"

Notice Plan

The Hearing Notice will be published/ distributed in the following manner by Class Counsel no more than twenty (20) business days following the issuance of the Hearing Notice Approval Order.

Print

1. The Hearing Notice and Settlement Approval Notice will be published once in each official language in the Miramichi Leader and The L'Acadie Nouvelle on ¼ of a newsprint page.

Website

2. The Hearing Notice will be posted in English and French on Wagners' website and will remain posted until the date of the Settlement Approval Hearing.
3. The Settlement Approval Notice will be posted in English and French on Wagners' website and will remain posted until the Claim Deadline.

Press Release

4. Wagners will issue a bilingual press release communicating the content of the Hearing Notice and the Settlement Approval Notice.

EXHIBIT "B"

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-

**~~HORIZON HEALTH NETWORK, a corporation
incorporated under the laws of the Province
of New Brunswick~~**

**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 ____, 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 Settlement Approval Notice.

8. **THIS COURT ORDERS** that the Settlement Agreement be otherwise implemented in accordance with its terms.

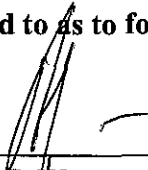
Representative Plaintiff Honorarium

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


, 2017.

Judge of the Court of Queen's Bench

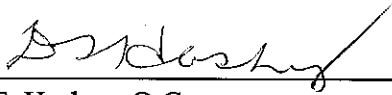
Consented to as to form:



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



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, 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.

The Courts have appointed The Bruneau Group as the Claims Administrator for the Settlement. **To receive compensation, 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 not 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 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.)¹
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: _____

Email: _____

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

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]