

**NOTICE OF SETTLEMENT APPROVAL OF THE MIRAMICHI PATHOLOGY CLASS ACTION**  
**JULY 31, 2019**

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

A settlement (“Settlement”) has been reached in the Miramichi Regional Hospital pathology class action. In order to receive payment under the Settlement, you must obtain a Claim Form from the Claims Administrator and send the completed Claim Form to the address provided below **by February 26, 2020 (the “Claim Deadline”)**. Additional documents may be required, as outlined below.

**WHO IS INCLUDED?**

In February 2008, notice was given to the public that all pathological tests analyzed by a former pathologist at the Miramichi Regional Hospital, Dr. Rajgopal Menon, during the period from 1995 to 2007, would be subject to an external review.

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

- a) Patients whose tissue samples underwent pathology testing for potential cancer or potential cancer-related disease, and were reported by Dr. Menon at the Miramichi Regional Hospital between January 1, 1995 and February 7, 2007, and whose tissue samples the Miramichi Regional Hospital subsequently caused to be retested; and
- b) The estates, children, parents and spouses (as defined by the *Fatal Accidents Act*) of deceased patients.

For clarity, not all Class Members as described above will be eligible for compensation under this Settlement. To be eligible for payment, a Class Member must be living at the date of approval of the Settlement and must not have opted out of this action. Matrimonial and common law spouses will receive no monetary reward under the Settlement.

Wagners Law Firm is class counsel. You can review the Settlement Agreement at Wagners’ website: [www.wagners.co](http://www.wagners.co), or you can contact Wagners at the contact information listed later in this Notice.

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

The Settlement provides for a **\$2,500,000.00 (CDN)** settlement payment, which will be used to pay each Eligible Class Member who meets certain criteria and **who submits a Claim Form and, where required, supporting medical records within the deadlines provided**. To obtain relevant medical records to support a claim at no cost the Release of Medical Records Authorization Form must be received within the deadline provided. The Settlement will also be used to pay **legal fees, the costs of notifying Class Members about the Settlement, the costs of administering the Settlement and of distributing the payments**.

The Settlement provides for two categories of awards. You are eligible for compensation under the Settlement if you fall within one of the two categories. Category 1 Class Members are those who suffered harm as a result of a change in Dr. Menon’s diagnosis with respect to a cancer or cancer-related disease; Category 2 Class Members are those who had a partial or complete change in Dr. Menon’s diagnosis with respect to a cancer or cancer-related disease who do not qualify for an award under Category 1. Category 1 Class Members who submit a completed Release of Medical Records Authorization Form by October 29, 2019, and a completed Category 1 Claim Form and any necessary supporting documentation by

February 26, 2020 (the “**Claim Deadline**”) may be entitled to an award ranging from **CAD \$2,500.00 to a maximum of CAD \$50,000.00**. Category 2 Class Members who submit a Category 2 Claim Form within the Claim Deadline may be entitled **to an award of a maximum of CAD \$750.00**. Awards may be subject to a pro rata reduction depending on the number of claims received by the Claims Administrator.

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

If you believe you are a Category 1 Class Member who suffered harm as a result of a change in Dr. Menon’s diagnosis with respect to a cancer or cancer-related disease, **in order to receive your payment you must:** (1) submit your completed Release of Medical Records Authorization Form to the Claims Administrator **on or before October 29, 2019 (if you wish to obtain your records at no cost)**; (2) on receipt of a copy of your relevant medical records (which will be provided at no charge to you if the Release of Medical Records Authorization Form is received on or before October 29, 2019), you must submit the documents you believe support your entitlement to compensation **and** a completed Category 1 Claim Form to the Claims Administrator at the address provided below **on or before the expiry of the Claim Deadline of February 26, 2020.**

If you believe you are a Category 2 Class Member who had a partial or complete change in diagnosis with respect to a cancer or cancer-related disease, and you do not qualify for an award under Category 1, **in order to receive your payment you must** submit a completed Category 2 Claim Form to the Claims Administrator at the address provided below **on or before the expiry of the Claim Deadline of February 26, 2020.**

Payments will be mailed out by regular mail as soon as possible after the Claim Deadline. 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 its retainer agreement with the Representative Plaintiffs, which provides for a fee of 25% of the first \$10 million of a settlement or any part thereof, plus applicable taxes, and recovery of disbursements. The legal fees for which court approval was obtained total \$625,000 plus applicable taxes.

Class Counsel's legal fees, disbursements and applicable taxes will be paid out of the Settlement. At the Settlement Approval Hearing, Class Counsel requested and received the Court’s approval for payment of their fees, disbursements and applicable taxes in the total amount of \$1,101,039.33.

### **FOR MORE INFORMATION**

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

The Court has appointed Epiq Class Action Services Canada Inc. as the Claims Administrator for the Settlement. **To receive compensation, you must mail your completed documents to the Claims Administrator at the following address:**

**Miramichi Pathology Class Action Claims Administrator  
Nelson P.O. Box 20187  
322 Rideau Street  
Ottawa ON K1N 5Y5**

**If you are a Category 1 Class Member, the Release of Medical Records Authorization Form must be postmarked no later than October 29, 2019, or if there is no legible postmark, the Release of Medical Records Authorization Form must be received by the Claims Administrator no later than October 29, 2019. Otherwise you will not receive your relevant medical records at no charge.**

**The Claim Form and, for Category 1 Class Members, the relevant medical records must be postmarked no later than the Claim Deadline of February 26, 2020, or if there is no legible postmark, the Claim Form must be received by the Claims Administrator no later than the Claim Deadline of February 26, 2020.**

**You may contact the Claims Administrator for further details at:**

**[info@miramichipathologyclassaction.ca](mailto:info@miramichipathologyclassaction.ca)**

**- OR -**

**1-833-449-4583**

**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***