

This Agreement relates to the Settlement of:

2012

Hfx. No. 390420

Supreme Court of Nova Scotia

Between:

BEVERLY MOORE and MARY SCHINOLD

PLAINTIFFS

and

**CAPITAL DISTRICT HEALTH AUTHORITY,
a body corporate and KATHARINE ZINCK LAWRENCE**

DEFENDANTS

SETTLEMENT AGREEMENT

1. PREAMBLE & RECITALS

Beverly Moore, on her own behalf, and Mary Schinold, on her own behalf, and in their capacities as the representative plaintiffs in Hfx. No. 390420, and the Defendants, Capital District Health Authority and Katharine Zinck Lawrence, hereby enter into this Settlement Agreement (“Settlement Agreement”) providing for the settlement of claims arising from the Further Amended Statement of Claim filed with the Supreme Court of Nova Scotia on February 18, 2016 (the “Further 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 in any way arising out of or relating to the claims set out in the Further Amended Statement of Claim;

WHEREAS, on March 4, 2016, the Plaintiffs obtained an Order from the Court certifying the proceeding on the consent of the Defendants (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 attached here to as Exhibit “B” and the Notice Plan attached hereto as Exhibit “C” and ordering the Defendants to provide a list of the names and addresses of Class Members for the purposes of distributing the Hearing Notice and, if the Settlement Agreement is approved, compensation to Class Members in accordance with the terms of this Settlement Agreement (the “Notice Approval Order”);

WHEREAS, the Parties shall seek an Order from the Court, substantially in the form attached hereto as Exhibit “D”, approving this Settlement Agreement (the “Approval Order”);

WHEREAS, counsel to the Parties have conducted arm’s length settlement negotiations through correspondence, meetings and conference calls;

WHEREAS, the Defendants have denied and continue to deny any wrongdoing or liability of any kind, and the Plaintiffs and Class Counsel agree that this Settlement Agreement is not an admission of any liability on the part of the Defendants;

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;

NOW THEREFORE, subject to the Court's approval, this Settlement Agreement embodies the terms of the resolution of the proceeding.

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.

"Arbitrator" shall mean Augustus M. Richardson, Q.C..

"**Arbitration Award**" shall mean the amount awarded to an Arbitration Fund Claimant to a maximum of \$8000.00, including the Guaranteed Payment, pursuant to the Arbitration Fund claims process, as described herein, including an award of nothing over the Guaranteed Payment;

"**Arbitration Fund**" shall mean the fund of \$125,000 paid by the Defendants to be used to pay Arbitration Fund Claimants any and all Arbitration Awards, as described herein, excepting Arbitration Awards resulting from the misclassification of Class Members as Non-Family Class;

"**Arbitration Fund Claim**" shall mean a claim initiated by a Class Member for an Arbitration Award pursuant to the Arbitration Fund claims process, as described herein;

"**Arbitration Fund Claimant**" shall mean any Class Member who initiates an Arbitration Fund Claim;

"**Arbitration Fund Claims Deadline**" shall mean forty-five (45) days from the date Class Counsel mail the Guaranteed Payment cheques, with the exception further described in this Settlement Agreement;

"**Guaranteed Payment**" shall mean the payment each Class Member is automatically entitled to by virtue of membership in the Class;

"**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 Hearing Notice provisions;

“Class” shall mean all members of the Family Class and Non-Family Class;

“Class Counsel” shall mean the law firms of Patterson Law, Wagners and Valent Legal;

“Class Counsel Legal 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, as approved by the Court;

“Class Members” shall mean members of the Class;

“Defendants’ Counsel” shall mean the law firms of Stewart McKelvey and Burchell MacDougall LLP;

“Effective Date” shall mean the date on which the Approval Order is issued by the Court;

“Execution Date” shall mean the date on which this Settlement Agreement has been signed by Class Counsel and Defendants’ Counsel, collectively;

“Family Class” shall mean all living persons who are related by blood or marriage to Katharine Zinck Lawrence, and who were sent letters from the Capital District Health Authority advising them that their personal health information had been inappropriately accessed by Katharine Zinck Lawrence between the years 2005 and 2012;

“Hearing Notice” shall mean the Court-approved notice, substantially in the form attached hereto as Exhibit “B”, which advises putative Class Members of the hearing to approve this Settlement Agreement;

“Hearing Notice Date” shall mean the date on which the Hearing Notice is first published, which date shall be no more than ten (10) business days following issuance of the Notice Approval Order, or such other date as may be approved by the Court;

“Non-Family Class” shall mean all living persons who are not related by blood or marriage to Katharine Zinck Lawrence, and who were sent letters from the Capital District Health Authority advising them that their personal health information had been inappropriately accessed by Katharine Zinck Lawrence between the years 2005 and 2012;

“Notice Plan” shall mean the Court-approved method, substantially as described at Exhibit “C” hereto, by which the Hearing Notice is disseminated;

“Parties” shall mean the Plaintiffs and the Defendants;

“Released Parties” shall mean the Defendants as well as their present and former employees, officers, directors, executors, administrators, insurers, 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 Further Amended Statement of Claim;

“Settlement Agreement” shall mean this Settlement Agreement, inclusive of the recitals and exhibits attached hereto; and

“Trust Account” means the Trust Account of Valent Legal.

3. THE ORDER APPROVING THIS SETTLEMENT AGREEMENT

The Approval Order

3.1 The Plaintiffs shall, as soon as is reasonably practicable after the Execution Date, file a motion seeking the Approval Order.

Consent

3.2 The Defendants shall consent to the Approval Order for the purpose of settlement of the proceeding and implementation of this Settlement Agreement, without prejudice to the rights of the Defendants to proceed to trial on a without prejudice basis in the event that the Approval Order is not obtained or this Settlement Agreement is otherwise terminated in accordance with its provisions.

4. NOTICE TO THE CLASS

Notice

4.1 The Parties hereby agree to the form, contents and method of dissemination of the Hearing Notice, substantially in the form attached hereto as Exhibit “B”, and the Notice Plan, attached hereto as Exhibit “C”, subject to the issuance of the Notice

Approval Order, which shall be sought by way of a Chambers Motion as soon as is reasonably practicable after the Execution Date.

Notice Approval Order – Requiring Disclosure of Class Member Information

4.2 Class Counsel will, as part of the Notice Approval Order, seek an order requiring the Defendants to provide Class Counsel with a list of members of each of the Family and Non-Family Classes, including their names, and last-known mailing addresses, for the purposes of disseminating the Hearing Notice and, if the Settlement Agreement is approved, sending Guaranteed Payments by regular mail to Class Members.

4.3 Where the Class Member is a minor, Defendants shall identify the Class Member as a minor and shall provide the name, and last-known mailing address of their legal guardian.

4.4 Information relating to the identity, addresses and ages of Class Members shall be kept confidential by Class Counsel and shall not be used or provided to persons except as may be provided in this Settlement Agreement or otherwise required by law.

4.5 The Defendants agree to cooperate with Class Counsel in seeking the Notice Approval Order.

4.6 The Defendants shall determine membership in the Family Class according to the relationship at the time of the alleged breach. All of the following relationships to the Defendant Katharine Zinck Lawrence shall fall within the Family Class: sibling (including biological, adopted, step and by marriage); parent (including biological, step and by marriage); legal guardianship; child (including biological, adopted, and step child); spouse (including common law spouse); niece and nephew (including biological, adopted and by marriage); aunt and uncle (including biological and by marriage); grandparent (including biological, step and by marriage).

4.7 Any Non-Family Class Member may challenge the designation as “non-family” by providing evidence of consanguinity or, as the case may be, other evidence substantiating the familial relationship to Katharine Zinck Lawrence to Class Counsel, for review among the Parties. Absent agreement among counsel, the designation challenge will be submitted to the Arbitrator for determination.

5. THE SETTLEMENT BENEFITS

Payment by Defendants

5.1 The Defendants shall, no later than twenty (20) business days after the Effective Date, pay into the Trust Account a lump sum equalling the total amount of Guaranteed Payments to be distributed to Class Members by Class Counsel according to the terms of this Agreement.

5.2 The Defendants shall, no later than twenty (20) business days after the Effective Date, pay the Arbitration Fund amount of CAD \$125,000.00 into the Trust Account to be held in trust for the benefit of Class Members determined to be entitled to Arbitration Awards.

5.3 The Defendants shall, no later than twenty (20) business days after the Effective Date, pay into the Trust Account CAD \$100,000 plus HST as a contribution toward Class Counsel Legal Fees.

5.4 The Defendants shall, no later than twenty (20) business days after the Effective Date, pay into the Trust account CAD \$7,500.00 plus HST as a contribution towards the costs and disbursements to be incurred by Class Counsel in administering the settlement distribution pursuant to the terms of this Settlement Agreement.

The Trust Account

5.5 If any portion of the Arbitration Fund is returned to the Defendants pursuant to the provisions of this Settlement Agreement, the taxes payable on the interest portion of the returned amount shall be the responsibility of the Defendants.

6. PAYMENTS TO CLASS MEMBERS

6.1 No later than forty (40) business days after the payment of the Guaranteed Payments into the Trust Account, Class Counsel shall distribute the Guaranteed

Payments to the Class Members. No Class Counsel Legal Fees will be deducted from Guaranteed Payment Amounts.

6.2 Members of the Family Class each shall be entitled to a Guaranteed Payment of CAD \$2,750.00 to be paid by cheque and delivered by regular mail.

6.3 Members of the Non-Family Class each shall be entitled to a Guaranteed Payment of CAD \$1,400.00 to be paid by cheque and delivered by regular mail.

6.4 In the case of Class Members who are identified as minors as at the date the Guaranteed Payments are mailed, Class Counsel shall distribute the Guaranteed Payments to the identified legal guardians according to the information disclosed by the Defendants pursuant to section 4.

6.5 Unless the Class Member initiates the Arbitration Fund claims process according to the terms of this Agreement, the Guaranteed Payment shall be in full and final satisfaction of the Class Member's claims.

6.6 Each Class Member shall have six (6) months from the date the Guaranteed Payment is sent by Class Counsel to deposit his or her Guaranteed Payment.

6.7 In the event that a Guaranteed Payment is returned as undeliverable or otherwise, Class Counsel, within thirty (30) business days from the date the Guaranteed Payment is returned and received by Class Counsel, shall make reasonable efforts to locate the Class Member and deliver the Guaranteed Payment.

6.8 Guaranteed Payment amounts that are not cashed within 6 months from the date the Guaranteed Payments were sent or that are ultimately undeliverable will be returned to the Defendant, Capital District Health Authority, including any interest accrued on monies in the Trust Account.

6.9 Class Members will be notified of their right to participate in the Arbitration Fund claims process and of the Arbitration Fund Claims Deadline.

7. **ARBITRATION FUND CLAIMS PROCESS**

General

7.1 The Arbitrator's fees shall be paid directly by the Defendants.

7.2 Subject to section 7.4, any Class Member who believes she suffered harm beyond that compensated for by the Guaranteed Payment may initiate an Arbitration Fund Claim, but must do so by the Arbitration Fund Claims Deadline.

7.3 Subject to section 7.4, Non-Family Class Members who wish to challenge their classification and establish they belong in the Family Class must do so by the Arbitration Fund Claims Deadline. For greater certainty, any adjustment to the Guaranteed Payment resulting from a Class Member's misclassification as Non-Family is not payable out of the Arbitration Fund.

7.4 Notwithstanding sections 7.2 and 7.3, a Class Member whose Guaranteed Payment is returned to Class Counsel as undeliverable or otherwise, shall not be

subject to the Arbitration Fund Claims Deadline. Instead, that Class Member shall have forty-five (45) days from the date the Guaranteed Payment is resent by Class Counsel to initiate her Arbitration Fund Claim. This shall be termed the "Revised Deadline".

7.5 A Class Member who fails to initiate her Arbitration Fund Claim by the Arbitration Fund Claims Deadline, or the Revised Deadline, as applicable, has no right to compensation above the Guaranteed Payment.

7.6 To initiate an Arbitration Fund Claim, a Class Member must complete an Arbitration Fund Claim Form, substantially in the form attached hereto as Exhibit E, including the declaration and mail, email or fax it to the address indicated on the Form.

Arbitration Procedure

7.7 A Class Member who initiates an Arbitration Fund Claim may submit documents and records in support of her claim but no oral evidence is admissible.

7.8 Class Counsel who receives an Arbitration Fund Claim, shall forthwith provide a copy, with any supporting documents and records to the Arbitrator and counsel for the Defendants.

7.9 The Defendants shall have the right, but not the obligation, to submit information or evidence in response to an Arbitration Fund Claim but no oral evidence is admissible.

7.10 The admissibility and weight to be assigned to any evidence submitted is in the absolute discretion of the Arbitrator.

Arbitrator's Decision

7.11 The Arbitrator's decisions respecting the Arbitration Awards are final and binding and will be rendered without reasons.

7.12 No Arbitration Awards will be distributed to Arbitration Fund Claimants until the Arbitrator has decided all Arbitration Fund Claims.

7.13 The Arbitrator may award up to a maximum total of CAD\$8,000.00, inclusive of the amount of the Guaranteed Payment, to any Arbitration Fund Claimant.

7.14 After the Arbitrator has reached decisions on each Arbitration Fund Claimant, he or she shall notify Class Counsel of each such decision. Class Counsel shall deduct from each Arbitration Award the Guaranteed Payment already received by the Arbitration Fund Claimant and, within thirty (30) business days of being

notified of the Arbitrator's decision on all Arbitration Fund Claims, deliver a cheque by regular mail to the Arbitration Fund Claimant.

7.15 If the total amount of the Arbitration Awards exceeds the amount of the Arbitration Fund, the Arbitration Awards will be reduced on a *pro rata* basis. If, however, the total amount of the Arbitration Award is less than the amount of the Arbitration Fund, Class Counsel will return the surplus amount to the Defendant, Capital District Health Authority, with any interest accrued.

8. TERMINATION OF THE SETTLEMENT AGREEMENT

General

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

Effect of Termination

8.2 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) Any funds paid into the Trust Account by the Defendants will be returned to the Defendants forthwith in accordance with this Settlement Agreement; and
- (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.

Termination Orders

- 8.3** If this Settlement Agreement is terminated, Class Counsel shall, within thirty (30) business 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 and who should pay for the costs thereof; and
 - (c) authorizing the payment of all funds in the Trust Account, including accrued interest, to the Defendant, Capital District Health Authority directly or indirectly, as the case may be, minus any amounts paid out of the Trust Account, in accordance with this Settlement Agreement.

8.4 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.

9. ACCOUNTING

9.1 Upon request of the Defendants from time to time, Class Counsel shall provide to the Defendants and the Case Management Judge a report and accounting of payments mailed to Class Members, payments returned or uncashed. Arbitration Fund Claimants, Arbitration Fund Awards and all Trust Account transactions.

Reports shall be provided:

- (a) Within thirty (30) business days of mailing the Guaranteed Payments; and
- (b) Within thirty (30) business days of mailing Arbitration Awards.

10. AMENDMENTS TO THE SETTLEMENT AGREEMENT

10.1 The Parties may amend this Settlement Agreement in writing, by consent, with approval of the Court.

11. LEGAL FEES, DISBURSEMENTS AND ADMINISTRATION COSTS

Fee Approval

11.1 Class Counsel shall bring a motion to the Court for approval of Class Counsel Legal Fees and the costs of administration. .

11.2 All amounts awarded on account of Class Counsel Legal Fees shall be paid from the payment made in accordance with section 5.3 of this Agreement.

11.3 All amounts awarded on account of the costs and disbursements incurred by Class Counsel in administering the settlement distribution pursuant to the terms of this Settlement Agreement shall be made in accordance with section 5.4 of this Agreement.

12. EXCLUSIVE REMEDY/EFFECT ON CLAIMS

12.1 This Settlement Agreement shall be the exclusive remedy for the Class Members.

12.2 Where a Class Member does not initiate an Arbitration Fund Claim, on the Arbitration Fund Claim Deadline, that Class Member, whether or not she deposits her Guaranteed Payment, and whether or not the Class Member is a minor at the time the Guaranteed Payment is mailed, 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 relating to the matters raised or which could have been raised in this proceeding.

12.3 Where a Class Member does initiate an Arbitration Fund Claim, on the date of decision by the Arbitrator, that Class Member, whether or not she deposits her Guaranteed Payment and/or Arbitration Award (if any), and whether or not the Class Member is a minor at the time the decision is made, 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 relating to the matters raised or which could have been raised in this proceeding.

12.4 Every Settled Claim against the Released Parties shall be conclusively compromised, settled and released. All Class Members shall be barred from initiating, asserting or prosecuting any claim, action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively, or derivatively, against any person, corporation or entity which might claim against any of the Released Parties damages and/or contribution and indemnity and/or other relief under the common law, in equity, or under any other statute for any relief whatsoever, including relief of a monetary, declaratory or injunctive nature. This Settlement Agreement shall operate conclusively as an estoppel in the event of any claim, action, complaint or proceeding which might be brought in the future by such Class Member with respect to the matters covered herein.

13. NO OPTING OUT

13.1 With the exception of Class Members who provided valid opt-out forms by the opt-out deadline, no Class Member may exclude him or herself from the proceedings or from this Settlement Agreement.

14. MISCELLANEOUS PROVISIONS

Recitals

14.1 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

14.2 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

14.3 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

14.4 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,

(a) if to the Defendants, to the attention of Defendants' Counsel:

(i) Stewart McKelvey
Attention: Nancy Rubin, Q.C.
1959 Upper Water Street
Suite 900
Halifax NS B3J 2X2

(ii) Burchell MacDougall LLP
Attention: Tia Silver Surette
29 Elm Avenue
Wolfville, NS B4P 2A1

(b) if to the Class Members, to the attention of Class Counsel:

(i) Valent Legal, Attention: Mike Dull
700-1741 Brunswick St
Halifax, NS B3J 3X8

Governing Law

14.5 For the purpose of the settlement of the proceedings, this Settlement Agreement shall be interpreted pursuant to the laws of Nova Scotia.

Severability

14.6 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

14.7 Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and with the approval of the Court.

French Translation

14.8 This Settlement Agreement is available in the English language. Nevertheless, if requested by a Class Member, the staff of Class Counsel shall prepare a French translation of the Settlement Agreement. In case of any ambiguity or dispute about interpretation, the English version is official and shall prevail.

English Language Clause

14.9 Les parties ont convenu que cette entente soit rédigée en anglais.

Date: August 28, 2018



Nancy G. Rubin, Q.C.
STEWART MCKELVEY

Date: August 28, 2018

Tia Silver Surette.
BURCHELL MACDOUGALL LLP

Date: August 28, 2018

Raymond F. Wagner, Q.C.
WAGNERS

Date: August 28, 2018

Robert H. Pineo
Patterson Law

EXHIBIT "A"

Form 78.05

2012

Hfx. No.: 390420

SUPREME COURT OF NOVA SCOTIA

Between:

BEVERLY MOORE and MARY SCHINOLD

PLAINTIFFS

-AND-

**CAPITAL DISTRICT HEALTH AUTHORITY, a body
corporate and KATHERINE ZINCK LAWRENCE**

DEFENDANTS

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

**ORDER APPROVING HEARING NOTICE AND NOTICE PLAN AND DISCLOSURE
OF CLASS MEMBERS**

BEFORE THE HONOURABLE JUSTICE PETER ROSINSKI

THIS MOTION made by the Plaintiffs, on consent of the Defendants, for an order approving the form and contents of notice to Class Members of a hearing (the "Hearing Notice") to approve a proposed settlement agreement dated August 29, 2018 (the "Settlement Agreement") and the method by which the Hearing Notice is disseminated (the

“Notice Plan”), was heard September 4, 2018 at the Law Courts, 1815 Upper Water Street in Halifax, Nova Scotia.

ON HEARING the submissions of counsel for the Plaintiffs and counsel for the Defendants;

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 1 is hereby approved.

Approval of the Notice Plan

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

Class Member Names and Addresses

4. **THIS COURT ORDERS** that the Defendants disclose to Class Counsel, within thirty (30) business days of the issuance of this Order, a list of members of each of the Family and Non-Family Classes, including their names, last-known mailing addresses, for the purposes of disseminating the Hearing Notice and, if the Settlement Agreement is approved, sending Guaranteed Payments and Arbitration Awards, if entitled, by regular mail to Class Members. For those Class Members for whom a notice previously sent was returned

undelivered, the Defendant, Capital District Health Authority, shall update the address listed to provide any more recent address on file with the Defendant, Capital District Health Authority. The information provided by the Defendants shall also identify any Class Members who are known to be minors at the time the information is provided by the Defendants and, in all such cases, the names and addresses of their respective legal guardians as known by the Defendants. This information shall be held confidential by Class Counsel and used solely for the purpose of distributing the Hearing Notice, distributing Guaranteed Payments and Arbitration Awards and administering this settlement.

, 2018.

Prothonotary

EXHIBIT "B"

SCHEDULE 1

NOTICE OF PROPOSED SETTLEMENT OF CAPITAL DISTRICT HEALTH AUTHORITY PRIVACY BREACH 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 Capital District Health Authority privacy breach class action. Class Counsel in this class action consist of three law firms: Patterson Law, Wagners and Valent Legal.

In February 2012, letters were sent to some patients of the Capital District Health Authority advising them that their personal health information had been inappropriately accessed by an employee. These patients are now entitled to a remedy under the proposed settlement.

The Settlement applies to all Class Members who have not previously opted out of this class action. Class Members are defined as:

(1) All living persons, who are related by blood or marriage to Katharine Zinck Lawrence, and who were sent letters from the Capital District Health Authority advising them that their personal health information had been inappropriately accessed by Katharine Zinck Lawrence between the years 2005 and 2012 (the "Family Class"); and,

(2) All living persons, who are not related by blood or marriage to Katharine Zinck Lawrence, and who were sent letters from the Capital District Health Authority advising them that their personal health information had been inappropriately accessed by Katharine Zinck Lawrence between the years 2005 and 2012 (the "Non-Family Class").

HOW MUCH WILL I RECEIVE UNDER THE SETTLEMENT?

Guaranteed Payments

Each Class Member is entitled to receive compensation under this settlement. Each direct relative of Katherine Zinck Lawrence will receive a cheque of \$2,750. Each non-relative of Katherine Zinck Lawrence will receive a cheque of \$1,400. These cheques will be directly mailed to each Class Member if the settlement is approved by the court. Class Members must deposit their cheques within six months from the date they are mailed.

Any Class Member who believes they have been misclassified as a Non-Family Class Member when, in fact, they are related to Katharine Zinck Lawrence may challenge their classification by submitting proof to Class Counsel for review among the Parties.

Arbitration Fund

In addition, there is an arbitration process for Class Members who feel that they have been affected by the inappropriate access of personal health information in a manner that warrants higher compensation. Such individuals may submit a claim

in writing to an independent Arbitrator who has the discretion to award a total of up to \$8,000. Any payments already received will be deducted from any Arbitration Award (i.e. if you have received \$1,400, and the Arbitrator awards \$5,000, you will receive up to an additional \$3,600, dependent on the number of claimants and amount of total awards). Participating in the arbitration process does not risk forfeiting your Guaranteed Payment. There is no assurance that Class Members who submit claims to the Arbitrator will be awarded money beyond their Guaranteed Payment.

If you are a Class Member and have moved residences since June of 2012, we invite you to contact us by telephone or email as soon as possible to provide your updated mailing address. This will help ensure you receive your cheque.

SETTLEMENT APPROVAL HEARING – OCTOBER 31, 2018 AT 2:00 P.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 **October 31, 2018 at 2:00 p.m.** at the Law Courts Building, 1815 Upper Water Street, Halifax, Nova Scotia.

OBJECTION TO SETTLEMENT – DEADLINE OF OCTOBER 19, 2018

If you wish to object to the Settlement, you may submit a written objection to us. Your written objection must be received by us no later than **October 19, 2018** 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. As part of the settlement, the Defendants are paying \$100,000 plus HST to Class Counsel towards fees and disbursements, as well as \$7,500 plus HST towards the costs of administering this settlement. Should this amount be approved by the Court, there will be no legal fees deducted from individual payments to class members.

CONTACT US FOR MORE INFORMATION OR TO UPDATE YOUR ADDRESS

The Settlement Agreement is available on our websites at:

If you have any questions or wish to update your mailing address, please contact us by email at info@valentlegal.ca or by telephone at 902-443-4488.

Our mailing address is 700-1741 Brunswick Street, Halifax, Nova Scotia, B3J 3X8

EXHIBIT "C"

SCHEDULE 2

Hearing Notice Plan

The Hearing Notice will be announced/distributed in the following manner by Class Counsel no more than ten (10) business days following the issuance of the Notice Approval Order.

Direct Mailing

Class Counsel will mail the Hearing Notice to the last known address of all Class Members

Websites

The Hearing Notice will be posted in English on Class Counsel's websites and will remain posted until the date of the Settlement Approval Hearing.

Press Release

Class Counsel will issue a press release communicating the content of the Hearing Notice and attaching a copy of the Hearing Notice.

EXHIBIT "D"

Form 78.05

2012

Hfx. No.: 390420

SUPREME COURT OF NOVA SCOTIA

Between:

BEVERLY MOORE and MARY SCHINOLD

PLAINTIFFS

-AND-

**CAPITAL DISTRICT HEALTH AUTHORITY, a body
corporate and KATHERINE ZINCK LAWRENCE**

DEFENDANTS

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

SETTLEMENT APPROVAL ORDER

BEFORE THE HONOURABLE

THIS MOTION made by the Plaintiffs, on consent of the Defendants, for an order approving a settlement agreement dated August 29, 2018 (the "Settlement Agreement"), 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 counsel for the Defendants;

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 Settlement

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 38(1) of the *Class Proceedings Act*, and *Civil Procedure Rule 36.01(2)* and shall be implemented in accordance with its terms.

3. **THIS COURT ORDERS** that with respect to Class Members who are minors as at the date the Individual Payments are mailed, Class Counsel shall distribute the Guaranteed Payments to their identified legal guardians, and the claims of all Class Members shall be completely and unconditionally released pursuant to section 12 of the Settlement Agreement.

Class Member Addresses

4. **THIS COURT ORDERS** that if any Individual Payment is returned as undeliverable, Class Counsel shall make best efforts within 30 days to determine the current address of any Class Members.

, 2018.

Prothonotary

Consented to as to form:

Raymond F. Wagner, Q.C.
Solicitor for the Plaintiffs
Wagners
1869 Upper Water Street
Suite PH301, Pontac House
Halifax, NS B3J 1S9

Robert H. Pineo
Solicitor for the Plaintiffs
Patterson Law
2100-1801 Hollis Street
Halifax, NS B3J 3N4

Nancy G. Rubin, Q.C.
Solicitor for the Defendant,
Capital District Health Authority
Stewart McKelvey
900 - 1959 Upper Water Street
Halifax, NS B3J 2X2

Tia Silver Surette
Solicitor for the Defendant,
Katharine Zinck Lawrence
Burchell MacDougall LLP
29 Elm Avenue
Wolfville, NS B4P 2A1

Exhibit "E"

Beverly Moore and Mary Schinold v. Capital District Health Authority and Katharine Zinck Lawrence

Arbitration Fund Claims Form

This Arbitration Fund is for Class Members who feel they suffered harm beyond that compensated for by the Guaranteed Payment".

The deadline to submit a claim is **[insert date]**.

If you need help completing this form, or have any questions, call Class Counsel at 902-443-4488.

PART 1: NAME AND CONTACT INFORMATION

Note: Any correspondence from Class Counsel or the Arbitrator and any cheque for compensation will be sent to the address you provide on this form. All cheques will be made out to the name of the Class Member

Full name	
Any other names used	
Date of birth	

Mailing Address			
City/Town:		Province	
Country:		Postal Code:	
Daytime Tel. No.		Evening Tel. No.:	

E-mail address (if applicable)	
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If you are making a claim on behalf of someone as their parent, litigation guardian or Public Guardian and Trustee, fill out the below table.

Representative Name	
Basis of Representation	
Note:	Please attach any documents you may have that confirm your entitlement to represent the individual

PART 2: COMPENSATION ABOVE THE GUARANTEED PAYMENT AMOUNT

Note: You have already received compensation for the harms you may have experienced in common with all other class members. Only fill out this part if you believe you suffered additional harm, unique to your situation, beyond that compensated for by the Guaranteed Payment you have received.

<p>A. In the space below, please describe any additional or unique harm you suffered as a result of Katharine Zinck Lawrence’s inappropriate access of your personal health information. In determining damages, factors considered include:</p> <ul style="list-style-type: none"> • the nature of the personal health information at issue; • your relationship (other than family relationship) to Katharine Zinck Lawrence; • the effect the inappropriate access had on your health, welfare, social, business or financial position; • any distress, annoyance or public embarrassment you suffered; • Katharine Zinck Lawrence’s conduct before and after the inappropriate access, including any apology or acknowledgment of wrongdoing.

Signature of Claimant: _____

PART 4: SUBMIT YOUR CLAIM

All claims must be sent to the address below no later than **[insert date]**

You may email, fax, or mail your form to Class Counsel to the following addresses:

Mail: 700-1741 Brunswick St
Halifax, Nova Scotia
B3J 3X8

Fax: 902-443-6593

Email: info@valentlegal.ca

If you fail to submit this Arbitration Fund Claim Form to Class Counsel by [insert date], you will not receive any compensation from this settlement beyond the Guaranteed Payment you have already received.

Do **not** send this Arbitration Fund Claim Form to the court.