

**SUPREME COURT OF NOVA SCOTIA**

**BETWEEN**



**THE ESTATE OF ELMER STANISLAUS MORRISON**, By His  
Executor or Representative Joan Marie Morrison, **JOAN MARIE**  
**MORRISON, JOHN KIN HUNG LEE**, By His Legal Guardian  
Elizabeth Lee and **ELIZABETH LEE**

Court Administration  
JUN 04 2012  
Halifax, N.S.

**PLAINTIFFS**

- and -

**THE ATTORNEY GENERAL OF NOVA SCOTIA**, representing Her  
Majesty the Queen in right of the Province of Nova Scotia,  
(Department of Health), **THE MINISTER OF HEALTH FOR THE**  
**PROVINCE OF NOVA SCOTIA** at the relevant time and **THE**  
**EXECUTIVE DIRECTOR OF CONTINUING CARE FOR THE**  
**PROVINCE OF NOVA SCOTIA**

sgd  
ADM  
J.

**DEFENDANTS**

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

Order – Certification of s. 15(1) of the *Charter* as a cause of action

**BEFORE THE HONOURABLE JUSTICE A. DAVID MACADAM**

**WHEREAS** the Plaintiffs filed their Motion for Certification with this Honourable  
Court on the 6<sup>th</sup> day of February 2009;

**AND WHEREAS** the Motion for Certification was heard on the 23<sup>rd</sup> and 25<sup>th</sup> days  
of November 2009, and the 12<sup>th</sup> day of April, 2010;

**AND WHEREAS** by Order of the Honourable Justice A. David MacAdam dated  
the 29<sup>th</sup> day of November 2010, the Plaintiffs' Motion for Certification was granted;

**AND WHEREAS** the Defendants applied to the Nova Scotia Court of Appeal on the 10<sup>th</sup> day of December 2010 for leave to appeal the Certification Order;

**AND WHEREAS** the Nova Scotia Court of Appeal rendered its decision on the 15<sup>th</sup> day of July 2011 and remitted the matter to the Honourable Justice A. David MacAdam for a determination of whether the *Charter* claims should be certified;

**AND WHEREAS** Counsel appeared before the Honourable Justice A. David MacAdam on the 24<sup>th</sup> day of October 2011, the 14<sup>th</sup> day of December 2011 and the 22<sup>nd</sup> day of December 2011;

**AND WHEREAS** the Honourable Justice A. David MacAdam released his decision on the 22<sup>nd</sup> day of December 2011 with respect to the *Charter* claims that the Plaintiffs' sought to be certified;

**AND WHEREAS** the Plaintiffs undertook to amend their Third Amended Statement of Claim during the hearing of the motion, the Third Amended Statement of Claim will be substituted by the filing of the Fourth Amended Statement of Claim with this Honourable Court.

**NOW UPON HEARING** Raymond F. Wagner and Michael Dull on behalf of the Plaintiffs and Edward Gores, Q.C., Aleta Cromwell and Alison Campbell on behalf of the Defendants;

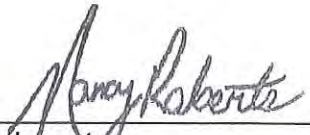
**AND UPON IT** appearing that all Counsel have consented as to form.

**IT IS ORDERED** that the Plaintiffs' cause of action alleging breach of s. 7 of the *Charter* is not certified for the purposes of this proceeding as a class action.


**AND IT IS FURTHER ORDERED** that the Plaintiffs' cause of action alleging breach of s. 15(1) of the *Charter* is certified for the purposes of this proceeding as a class action.

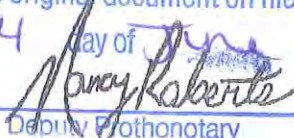
AND IT IS FURTHER ORDERED that the costs of this motion are to be determined by the Certification Judge if necessary.

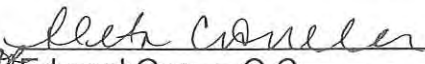
June 4  
May, 2012

  
\_\_\_\_\_  
Prothonotary

**NANCY ROBERTS**  
Deputy Prothonotary  
Consented as to form:

  
\_\_\_\_\_  
for Raymond F. Wagner  
**Solicitor for the Plaintiffs**  
Wagners  
1869 Upper Water Street  
Halifax, NS B3J 2V2

IN THE SUPREME COURT OF NOVA SCOTIA  
I hereby certify that the foregoing document,  
identified by the Seal of the Court, is a true  
copy of the original document on file herein.  
Dated the 4 day of June A.D. 2012  
  
\_\_\_\_\_  
Deputy Prothonotary

  
\_\_\_\_\_  
for Edward Gores, Q.C.  
**Solicitor for the Defendants**  
Department of Justice (NS)  
5151 Terminal Road  
Halifax, NS B3J 2L6

**NANCY ROBERTS**  
Deputy Prothonotary