

**SCHEDULE "A" DISTRIBUTION PROTOCOL**

**2017 01G 2568 CP**

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR**

**GENERAL DIVISION**

**BETWEEN:**

**JANE DOE (#7), ~~JOHN DOE (#9)~~, (Discontinued)**

**JOHN DOE (#10) AND JOHN DOE (#11)**

**PLAINTIFFS**

**AND:**

**HER MAJESTY IN RIGHT OF NEWFOUNDLAND**

**AND LABRADOR**

**DEFENDANT**

*Brought under the Class Actions Act, S.N.L. 2001, c. C-18.1*

**DISTRIBUTION PROTOCOL**

**1. PURPOSE**

The Purpose of this Distribution Protocol is to provide for the distribution of the Net Settlement Funds to Abuse Claimants.

**2. DEFINITIONS**

All defined terms in the Settlement Agreement are applicable to the Distribution Protocol. In addition, the following definitions apply in the Distribution Protocol.

## **2.1 Defined Terms**

- 2.1.1** “Abuse Claim” means a completed Claim Form.
- 2.1.2** “Abuse Claimant” means a person who submits a Claim Form to the Claims Administrator during the Claims Period.
- 2.1.3** “Abuse Claims Reviewer” or “ACR” means the person, or designee of such person, who is appointed by the Claims Administrator to administer the Distribution Protocol. The Claims Administrator has appointed Rhonda Fiander, R.S.W., M.S.W, of Conception Bay South, Newfoundland and Labrador, as the Abuse Claims Reviewer, subject to removal and replacement in accordance with the Distribution Protocol.
- 2.1.4** “Claim Form” means either a Track 1 Claim Form or a Track 2 Claim Form.
- 2.1.5** “Sexual Abuse” means non-consensual conduct of a sexual nature perpetrated by a Delegate or another resident of an Institution, which occurred while the Abuse Claimant was resident at, or attended for any period of time, one or more of the Institutions, and which violated the sexual integrity of the Abuse Claimant, including sexual battery and sexual assault. Sexual Abuse excludes conduct that was merely physical or psychological in nature, but not sexual.
- 2.1.6** “Track 1 Claim Form” means an attestation substantially in the form appended hereto at Schedule “A”, which states that the Abuse Claimant suffered Sexual Abuse during the Class Period while resident at an Institution.
- 2.1.7** “Track 2 Claim Form” means statutory declaration substantially in the form appended hereto at Schedule “B”, which describes Sexual Abuse that an Abuse Claimant suffered during the Class Period while resident at an Institution.

## **3. RULES OF INTERPRETATION AND GENERAL GUIDELINES**

### **3.1 Sole and Exclusive Method**

An Abuse Claim in accordance with this Distribution Protocol shall be the sole and exclusive method by which a Class Member may obtain any damages in connection with the Settlement or participate in the distribution of the Net Settlement Funds. The determination of an Abuse Claim is not subject to reconsideration, appeal or review except in accordance with this Distribution Protocol.

### **3.2 Conflict with Settlement Agreement**

The terms of the Settlement Agreement shall prevail if there is any discrepancy between the terms of this Distribution Protocol and the Settlement Agreement.

### **3.3 Withdrawal of Claims**

An Abuse Claimant may irrevocably withdraw an Abuse Claim at any time on written notice to the Claims Administrator.

### **3.4 Effect of Decision**

A decision rendered under this Distribution Protocol shall not be admissible in any other proceeding except as a determination that a person was a Class Member and a Releasor.

### **3.5 Confidentiality**

All information that the Claims Administrator and ACR receive from any source about any Abuse Claimant shall be held in strict confidence. Notwithstanding the foregoing, the Claims Administrator and the ACR shall produce a copy of any Claim Form or Claims Administrator or ACR decision to Class Counsel or the Defendant, on request. The Claims Administrator and the ACR shall otherwise maintain the confidentiality of all information from any source about any Abuse Claimant absent an Order of the Court or the written consent of the Abuse Claimant or counsel acting for the Abuse Claimant.

## **4. CLAIMS ADMINISTRATOR**

Trilogy Class Action Services will serve as the Claims Administrator for this Distribution Protocol, unless Trilogy Class Action Services is replaced by order of the Court.

### **4.1 Role of the Claims Administrator**

#### **4.1.1 Review for Completeness**

The Claims Administrator shall review each claim form for completeness. If a Claim Form is incomplete, the Claims Administrator shall advise the Abuse Claimant within 10 business days of receiving the Claim Form. If a person does not submit a completed Claim Form to the Claims Administrator before the end of the Claims Period, the Claims Administrator and the ACR will not consider a further Claim Form from that person, and that person will receive no benefit in connection with the Settlement, even if they are a Releasor.

#### **4.1.2 Assessment of Eligibility of Abuse Claims**

Within 45 business days, the Claims Administrator shall review each Claim Form submitted during the Claims Period, together with any supporting documents, and determine whether the Abuse Claimant is eligible for inclusion in the Class. To determine eligibility for inclusion in the Class, the Claims Administrator shall review the Claim Form to confirm that:

- (a) The Abuse Claimant is not an Excluded Person;
- (b) Either:
  - i. the Abuse Claimant was ordinarily resident in Newfoundland and Labrador as of the date of the Certification Order and did not opt-out of the class proceeding; or
  - ii. the Abuse Claimant was not ordinarily resident in Newfoundland and Labrador as of the date of the Certification Order but opted-in to the class proceeding; and
- (c) The Abuse Claimant claims to have suffered Sexual Abuse perpetrated by a Delegate or another resident of an Institution while the Abuse Claimant was resident or otherwise attending an Institution during the Class Period.

Additionally, the Claims Administrator shall ask the Defendant to confirm that: (a) the Abuse Claimant was a resident of an Institution during the Class Period; and (b) the Abuse Claimant has not executed a release for any Released Claim. The Defendant shall make reasonable efforts to respond to the Claims Administrator's request within 30 business days. The

Defendant's failure to confirm the Abuse Claimant's residency at an Institution during the Class Period shall not be determinative of Class Membership. If there is no response from the Defendant, the Administrator is to evaluate the claim.

#### **4.1.3 Notice of Ineligibility**

If the Claims Administrator determines that an Abuse Claimant is not eligible for inclusion in the Class, the Claims Administrator shall provide notice to the Abuse Claimant within 45 days.

#### **4.1.4 Request for Reconsideration**

The Abuse Claimant shall have 30 days following receipt of the Claims Administrator's notice of ineligibility to submit a written request for reconsideration to the Claims Administrator, together with any additional documents. If the Abuse Claimant fails to submit a request for reconsideration within 30 days of receiving the notice of ineligibility, the Claims Administrator shall dismiss the Abuse Claim and shall not consider any further Abuse Claim from the Abuse Claimant.

#### **4.1.5 Reconsideration**

If an Abuse Claimant requests reconsideration in accordance with section 4.1.4, the Claims Administrator shall review the Abuse Claimant's request for Reconsideration, together with any accompanying documents, and determine whether the Abuse Claimant is eligible for inclusion in the Class. If the Claims Administrator determines that an Abuse Claimant is not eligible for inclusion in the Class, the Claims Administrator shall provide notice to the Abuse Claimant within 45 days, the Claims Administrator shall dismiss the Abuse Claim, and the Claims Administrator shall not consider any further Abuse Claim from the Abuse Claimant. The Administrator's determination is not subject to any further reconsideration, review, or appeal.

#### **4.1.6 Eligible Abuse Claims**

Once the Claims Administrator has determined that an Abuse Claimant is eligible for inclusion in the Class, the Claims Administrator shall compile a list of Abuse Claimants who submitted Track 1 Claim Forms. The Claims Administrator shall forward copies of the Track 2 Claim Forms to the Abuse Claims Reviewer for further assessment, as set out in sections 5, 6, and 7.

## **5. ABUSE CLAIMS REVIEWER**

### **5.1 Role of the Abuse Claims Reviewer**

The ACR shall evaluate each Track 2 Claim Form in accordance with the guidelines set forth in sections 5, 6, and 7. The ACR shall allot a point value to each Track 2 Claim in accordance with section 7. The ACR's evaluation of each Track 2 Claim Form shall be final and subject to review or reconsideration only as set forth in section 8.

### **5.2 Appointment of Abuse Claims Reviewer**

The ACR shall have the authority to employ qualified assistants and consultants as they deem appropriate.

### **5.3 Change or Removal of Abuse Claims Reviewer**

Should Rhonda Fiander, MSW, RSW be unable or unwilling to serve as the Abuse Claims Reviewer, the Claims Administrator shall solicit suggested replacements from Class Counsel and then shall appoint a new Abuse Claims Reviewer.

## **6. DETERMINATION OF NATURE OF ABUSE CLAIMS**

### **6.1 Track 1 Claims**

A Track 1 Claim Form will attest, under penalty of perjury, that the Abuse Claimant was subjected to Sexual Abuse during the Class Period. If the Administrator is satisfied that the Abuse Claimant is eligible for inclusion in the Class and the Administrator has no credible and reliable evidence to refute the attestation in the Track 1 Claim Form, the Claims Administrator will allot 10 points to the Track 1 Abuse Claim.

### **6.2 Track 2A and Track 2B Claims**

The ACR shall evaluate each Track 2 Claim Form and assign it to either Track 2A or Track 2B. Abuse Claims alleging Sexual Abuse that includes oral, vaginal or anal penetration will be assigned to Track 2B, as will those Abuse Claims which, in the discretion of the ACR, warrant an interview.

The ACR will assess all Track 2A Abuse Claims on the information provided in the Track 2 Claim Form and any accompanying documents. The ACR will assess all Track 2B Abuse Claims on the information provided in the Track 2 Claim Form, any accompanying documents, and a mandatory interview with the Abuse Claimant. Should an Abuse Claimant refuse an interview or decline to participate, their Abuse Claim will be reassigned to Track 2A.

### **6.3 Monetary distributions on account of Abuse Claims**

The ACR shall allot points to Track 2A and Track 2B Abuse Claims accordance with the guidelines and procedures set out in Section 7.

## **7. PROCEDURE FOR ALOTTING POINTS TO TRACK 2 ABUSE CLAIMS**

### **7.1 Assessment by ACR**

The ACR shall consider all of the facts and evidence presented by the Abuse Claimant. However, it is recognized that many Abuse Claimants may not have been involved in the litigation process before the filing of the class action and may not have documents such as medical or counseling records or expert reports. The ACR may, at their discretion, distinguish between the weight given to different kinds of evidence in support of the Abuse Claim, but the ACR shall not give undue emphasis to medical or counseling records or expert opinions over client testimony concerning damages. The presence or absence of medical or counseling records or expert opinions shall not, alone, advantage or disadvantage an Abuse Claimant if the information in support of the Abuse Claim is otherwise credible and reliable.

### **7.2 Proof of Abuse**

#### **7.2.1 Intention of Claims Process**

The claims process under this Distribution Protocol is intended to be expeditious, cost effective, user friendly, and trauma-informed. One of the central goals of the Distribution Protocol is to minimize the burden on Abuse Claimants. The Claims Administrator shall, in the absence of evidence to the contrary, assume Abuse Claimants are acting honestly and in good faith. With this said, the claims process is also intended to prevent fraud and abuse. If the Claims Administrator or the ACR believes that the Abuse Claim is fraudulent or contains intentional errors that would materially overstate the value of the Abuse Claim, then the Claims

Administrator or the ACR has the discretion to dismiss the Abuse Claim or reduce the Abuse Claim to cure the defect.

### **7.2.2 Supplementary Evidence**

Any Abuse Claimant who wishes to supplement the information provided in the Claim Form shall do so within 60 days of the date upon which the Abuse Claim was submitted. Thereafter, the Claims Administrator and the ACR shall not consider any further information supplied by the Abuse Claimant unless the Claims Administrator or the ACR, in their discretion, grants an extension of time on a showing of good cause by the Abuse Claimant.

## **7.3 Guidelines for Allocation/Monetary Distribution for Abuse Claims**

### **7.3.1 Initial Evaluation**

Before allotting points to an Abuse Claim, the ACR shall consider the degree to which the Abuse Claimant has established that the Sexual Abuse occurred. The ACR should consider the coherence, credibility and consistency of the Abuse Claimant's accounts of the abuse and should consider any and all evidence that may enhance or diminish the overall reliability of such claims. If the ACR considers that the Abuse Claimant likely did not suffer Sexual Abuse they may allot no points to an Abuse Claim.

### **7.3.2 Evaluation Factors**

Each Track 2A and 2B Abuse Claim will be evaluated by the ACR. Each Claim will be scored according to the following system.

#### **A Nature of the Sexual Abuse:                    **MAXIMUM 50 POINTS****

The ACR shall consider each of the factors below in assessing the severity of the Sexual Abuse and assign a point total as appropriate.

- a. Duration;
- b. Frequency/number of instances;
- c. Degree of intrusiveness into child's body (e.g., clothed/unclothed, oral, anal, vaginal);
- d. Level or severity of force/violence/coercion/threats;
- e. Control of environment (e.g., solitary confinement, Isolated on a field trip, etc.);
- f. Number of Delegates that abused the Claimant;
- g. Reported sexual abuse to an authority figure; and/or



h. Presence and extent of grooming.

**B Impact of Abuse:**

**MAXIMUM 40 POINTS**

The ACR shall consider whether the Abuse Claimant experienced any of the following impacts because of the Sexual Abuse.

- a. Behaviour problems;
- b. Academic problems;
- c. Loss of faith;
- d. Damage to family relationships/interpersonal difficulties;
- e. Mental health symptoms, including:
  - (i) Depression;
  - (ii) Suicide attempt and suicidal ideation;
  - (iii) Anxiety;
  - (iv) Substance abuse;
  - (v) Sexual acting out;
  - (vi) Runaway;
  - (vii) Flashbacks; or
  - (viii) Nightmares; or
- f. Adult and current functioning:
  - (i) Underemployment/unemployment
  - (ii) Relationship problems; or
  - (iii) Substance abuse.

In assessing the impacts of the Sexual Abuse, the ACR shall also consider whether the Abuse Claimant was predisposed to more serious impacts on account of risk factors, in which case the impact of the Sexual Abuse may be diminished. Risk factors include, but are not limited to:

- (i) Childhood of poverty;
- (ii) Family breakdown;
- (iii) Exposure to substance in home;
- (iv) Absence of parental supervision; and/or



The Claims Administrator shall provide notice on a rolling basis to Abuse Claimants as their Abuse Claims are allotted points. If the Administrator or the ACR concludes that the Abuse Claimant is not a Class Member, no points shall be allotted to the Abuse Claim and the Abuse Claimant shall receive no portion of the Net Settlement Funds. There shall be no reconsideration of the points allotted to a Track 1 Abuse Claim. The points allotted to a Track 2 Abuse Claim in the notice from the Claims Administrator shall be final 30 days after receipt of the notice unless the Abuse Claimant writes to the Claims Administrator to request reconsideration. The Claims Administrator will consider the request for reconsideration and any accompanying documents and determine the allotment of points to the Abuse Claim. The Claims Administrator's determination of the request for reconsideration shall be final and it shall not be subject to any further reconsideration, review or appeal.

## **9. FINANCIAL ADMINISTRATION**

### **9.1 Distribution of Trust Funds**

Class Counsel shall pay the Net Settlement Funds to the Claims Administrator in trust and the Claims Administrator shall pay Abuse Claims in accordance with this Distribution Protocol. Within 60 days of determining the last of the Abuse Claims and any requests for reconsideration, the Claims Administrator shall prepare a report on the distribution of the Net Settlement Funds, which will be provided to the parties and filed with the Court. Upon filing its report with the Court, the Claims Administrator shall pay any remaining portion of the Net Settlement Funds in accordance with the Settlement Agreement.

## **SECTION 7 - DISTRIBUTION OF SETTLEMENT FUNDS**

### **1.1 Distribution of Settlement Funds**

(1) Class Members shall be eligible to claim on the Net Settlement Funds in accordance with the Distribution Protocol, attached as **Error! Reference source not found.**, which assesses the strength of Class Members' claims and the magnitude of their damages relative to other Class Members.

(2) The costs of the Distribution Protocol, inclusive of all applicable taxes, will be paid out of the Settlement Funds and the Defendant will not be liable for these costs.

(3) The Parties acknowledge that the allocation of compensation pursuant to the Settlement is without any admission of liability by the Defendant, and without any admission by the Defendant that Class Members are entitled, at law, to compensation or payment for any of the losses and damages alleged in the Action.

## **1.2 Defendant's Participation in the Distribution Protocol**

(1) In accordance with the Distribution Protocol, the Defendant shall make reasonable efforts to confirm whether any person who claims on the Net Settlement Amount in accordance with the Distribution Protocol was resident at, or attended for any period of time, one of the Institutions during the Class Period.

(2) Other than the Defendant's obligations under s. 1.2(1), none of the Releasees shall have any obligation to assist or participate in the distribution of the Notice or the Settlement Approval Notice, in identifying or communicating with Class Members, administering the Settlement Agreement, or in producing any documents regarding Class Members or the subject matter of the Action.

**NOW THEREFORE**, in consideration of the covenants, agreements and releases set out in this Settlement Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action shall be settled and dismissed with prejudice, subject to the approval by the Court, on the following terms and conditions:

## **SECTION 2 – DEFINITIONS**

For the purposes of this Settlement Agreement, including the Recitals hereto:

- (1) **"Action"** means the action styled Jane Doe (#7), John Doe (#10) and John Doe (#11) v. Her Majesty in Right of Newfoundland and Labrador, and bearing Supreme Court of Newfoundland and Labrador General Division File No. 2017 01G 2568 CP, and pleaded in the Statement of Claim and the Amended Statement of Claim;
- (2) **"Administration Costs"** means the fees and disbursements of the Claims Administrator, inclusive of all applicable taxes.
- (3) **"Amended Statement of Claim"** means the Amended Statement of Claim in the Action that the Plaintiffs filed on September 10, 2019;

- (4) “**Claims Period**” means the period ending twelve (12) months after the Effective Date;
- (5) “**Claims Administrator**” means Trilogy Class Action Services;
- (6) “**Class**” and “**Class Members**” means all persons, except Excluded Persons, who were subjected to misconduct of a sexual nature by a Delegate or a fellow resident of the Institutions while the Class Member was resident at, or attended for any period of time, one or more of the Institutions during the Class Period. The Class includes the Plaintiffs;
- (7) “**Class Counsel**” means Morris Martin Moore Lawyers of Mount Pearl;
- (8) “**Class Counsel Disbursements**” means the disbursements incurred by Class Counsel in the prosecution of the Action, as approved by the Court, inclusive of any applicable taxes, interest, or charges, but less any amounts paid by the Defendant for the distribution of notice to Class Members;
- (9) “**Class Counsel Fees**” means the legal fees of Class Counsel, as approved by the Court, inclusive of any applicable taxes, interest, or charges;
- (10) “**Class Period**” means May 1, 1973 to June 28, 1989;
- (11) “**Class Actions Act**” means the *Class Actions Act*, S.N.L. 2001, c. C-18.1;
- (12) “**Court**” means the Supreme Court of Newfoundland and Labrador General Division;
- (13) “**Delegates**” mean the officers, employees, servants, contractors, agents, and volunteers of, or affiliated with, the Defendant, including but not limited to the officers, employees, servants, contractors, agents, and volunteers of the Institutions;
- (14) “**Distribution Protocol**” means the protocol for the distribution of the Net Settlement Funds that is approved by the Court. The Parties’ proposed form of Distribution Protocol is attached hereto as **Error! Reference source not found.** The costs of the Distribution Protocol will be paid from the Settlement Funds.
- (15) “**Effective Date**” means the date upon which the Court order approving the Settlement Agreement becomes a Final Order;
- (16) “**Excluded Persons**” means:

- (a) all persons who have executed a release to the benefit of the Defendant for any of the claims asserted in the Action;
- (b) all persons who, as of the date of the Certification Order, did not make their primary residence in the Province of Newfoundland and Labrador, and who did not opt into the Action in accordance with the Certification Order;
- (c) all persons who opted out of the Action in accordance with the Certification Order; and
- (d) all persons who died before March 10, 2022.

(17) **“Execution Date”** means the date on which the last of the Parties signs this Settlement Agreement;

(18) **“Final Order”** means the time to appeal an order has expired without any appeal being commenced, or if an appeal was commenced, all appeals have been resolved and any time period for a further appeal has expired without any appeal being commenced;

(19) **“Honoraria”** means the amount, if any, up to \$25,000, inclusive of taxes and interest, approved by the Court for payment by the Defendant to each of the Plaintiffs Jane Doe (#7), John Doe (#10), and John Doe (#11) for their services to the Class as representative plaintiffs;

(20) **“Institutions”** means the following facilities, which housed minors and were operated by the Defendant in the Province of Newfoundland and Labrador during part or all of the Class Period:

- (a) the facility known as the “Whitbourne Training School” and also known as, *inter alia*, the “Whitbourne Youth Center,” “the Boys’ Home,” “the Boys’ Home and Training School,” and “the Whitbourne School for Boys” and which was, at different times, located at the Town of Whitbourne, in the Province of Newfoundland and Labrador;
- (b) the facility known as “the Pleasantville Training School,” and also known as, *inter alia*, “the Girl’s Home,” “the Girls’ Home and Training School,” and “the Pleasantville School for Girls” and which was, at different times located at the Town of Torbay and the City of St. John’s, in the Province of Newfoundland and Labrador; and

(c) the facility known as the “St. John’s Youth Centre,” which was located in the City of St. John’s, in the Province of Newfoundland and Labrador.

(21) **“Net Settlement Funds”** means the Settlement Funds less Class Counsel Fees, Class Counsel Disbursements, Administration Costs, costs of the Notice Plan that are not paid out of the Notice Administration Fund, costs of the Distribution Protocol, and any other expenses that are approved by the Court.

(22) **“Notice”** means the form or forms of notice, substantially as agreed to by the Parties and approved by the Court, which inform(s) the Class Members of:

- (a) the principal elements of the Settlement;
- (b) the date and location of the hearing of the Settlement Approval Application;
- (c) the Class Counsel Fees and Class Counsel Disbursements to be requested by Class Counsel; and
- (d) the process for objecting to the Settlement should any Class Member(s) wish to do so.

(23) **“Notice Administration Fund”** means a maximum of \$250,000, inclusive of taxes and interest, that the Defendant will reimburse Class Counsel for the reasonable costs of implementing the Notice Plan;

(24) **“Notice Approval Application”** means the application for an Order:

- (a) approving the Notice;
- (b) approving the Notice Plan; and
- (c) such other relief as the Parties may request.

(25) **“Notice Plan”** means the manner in which the Court orders that Class Counsel are to distribute Notice and Settlement Approval Notice and it shall constitute adequate notice to Class Members of the hearing of the Settlement Approval Application and the approval of the Settlement. The Parties’ proposed Notice Plan is attached hereto as **Error! Reference source not found.** The costs of the Notice Plan will be paid first from the Notice Administration Fund, and thereafter as Settlement Administration Expenses.

(26) **"Parties"** means the Plaintiffs and the Defendant, each being a party to this Settlement Agreement;

(27) **"Released Claims"** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual, representative or otherwise in nature, whether personal or subrogated, damages of any kind including compensatory, punitive or other damages, whenever incurred, liabilities of any nature whatsoever, including interest, costs, expenses, class administration expenses, penalties, and lawyers' fees (including Class Counsel Fees and Class Counsel Disbursements), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, and liquidated or unliquidated, in law, under statute or at equity, that the Releasors, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have, relating in any way to any conduct, at any time, relating to the subject matter of the Action, or which could have been alleged in respect of the subject matter in the Action, including, without limitation, any such claims which have been asserted, or could have been asserted, directly or indirectly, as a result of or in connection with any sexual misconduct related to the Institutions during the Class Period, directly or indirectly, including claims for vicarious liability, or any concealment of such claims. The Released Claims do not include the Defendant's obligations to make payment under this Settlement Agreement;

(28) **"Releasees"** means, jointly and severally, individually and collectively, the Defendant and its respective present and former, direct and indirect, ministries, departments, divisions, affiliates, Delegates, insurers, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and all of their respective past, present and future officers, employees, agents, employed or retained lawyers, servants and representatives; and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing;

(29) **"Releasors"** means, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and their respective successors, heirs, executors, administrators, trustees, assigns, and any person entitled to claim damages as a family member of any of the foregoing;

(30) **"Settlement"** means the settlement provided for in this Settlement Agreement;

(31) **"Settlement Agreement"** means this agreement, including the Recitals hereto;



(32) **“Settlement Approval Application”** means the application to the Court for an order:

- (a) approving the Settlement;
- (b) approving the manner of distribution of the Settlement Funds;
- (c) dismissing the Action with prejudice and without costs;
- (d) determining the amount of Class Counsel Fees and Class Counsel Disbursements payable;
- (e) determining the amount and recipient(s) of the Honoraria, if any; and
- (f) such other relief as the Court may deem just.

(33) **“Settlement Approval Notice”** means the form or forms of notice, substantially as approved by the Court, which inform(s) the Class Members of:

- (a) the principal elements of the Settlement;
- (b) the manner in which they can make a claim on the Net Settlement Funds;
- (c) the Claims Period and the deadline to make a claim on the Net Settlement Funds;
- (d) the contact information of Class Counsel.

The Parties shall agree on the forms of Settlement Approval Notice, subject to Court approval, and failing agreement the Court will order the forms of Settlement Approval Notice;

(34) **“Settlement Funds”** means \$12,500,000, inclusive of interest, taxes, and any other charges;

(35) **“Statement of Claim”** means the statement of claim issued by the Court in the Action on July 7, 2017.

(36) **“Trust Funds”** means the Settlement Funds, the Notice Administration Fund, and \$75,000 for the payment of any Honoraria, all of which was paid by the Defendant to Class Counsel and held in trust by Class Counsel to be distributed in accordance with this Settlement Agreement.

