

Court File No.: CV-14-50642300CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**SHARON CLEGG AS LITIGATION GUARDIAN  
OF MARLENE MCINTYRE**

**Plaintiff**

**- and -**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO**

**Defendant**

**Proceeding under the *Class Proceedings Act, 1992***

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**SETTLEMENT AGREEMENT**

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**WHEREAS** the Plaintiffs brought this class action under the *Class Proceedings Act, 1992* for alleged negligence and breach of fiduciary duty in respect of the Defendant's operation and management of the 12 Facilities as more particularly described in paragraph (1b) below;

**AND WHEREAS** counsel for the parties to this Agreement have conducted a thorough analysis of the claims, and they have also taken into account the extensive burdens and expense of litigation, including the risks of going to trial;

**AND WHEREAS** in consideration of all of the circumstances and after extensive arms' length negotiations, both directly and with the assistance a mediator, the parties to this Agreement wish to settle any and all issues among themselves in any way relating to the operation and management of the 12 Facilities;

**AND WHEREAS** after their investigation, the Plaintiff and Class Counsel have concluded that this Settlement Agreement provides substantial benefits to the Class Members and is fair, reasonable and in the best interests of the Class Members;

**NOW THEREFORE** the parties to this Agreement agree to settle the issues in dispute in the Class Action relating to the operation and management of the 12 Facilities on the following terms and conditions:

### **DEFINITIONS**

1) For the purposes of this Settlement Agreement, the following definitions apply:

- a) “Action” means the class proceeding commenced by Marlene McIntyre by her Litigation Guardian Sharon Clegg in the Superior Court of Justice against Her Majesty the Queen in Right of Ontario, as Court File No. CV-14-50642300CP, and certified as a class proceeding by this Court;
- b) The facilities whose operations are at issue in this litigation identified as “12 Facilities” were formally known as:

Adult Occupational Centre

Bluewater Centre

D’Arcy Place

Durham Centre for the Developmentally Handicapped

L.S. Penrose Centre

Midwestern Regional Centre

Muskoka Centre

Northwestern Regional Centre

Oxford Mental Health Centre – in the unit known as the “Mental Retardation Unit” or “MR Unit” of the Oxford Mental Health Centre

Oxford Regional Centre

Pine Ridge

Prince Edward Heights

St. Lawrence Regional Centre

- c) "Administration Costs" means all costs to administer and distribute the Settlement Fund including the costs and professional fees of the Claims Administrator and the costs of implementing the Notice Plan;
- d) "Approval Hearing" means the hearing at the Court to approve the settlement of the Action;
- e) "Approval Order" means the Order of the Court approving the settlement;
- f) "Claim" means the claim made by a Claimant by filing a Claim Form with the Claims Administrator in accordance with the procedure in this Settlement Agreement;
- g) "Claims Administrator" means the persons or entities agreed by the parties or appointed by the Court to administer the claims process in accordance with the Compensation Plan. The parties agree that the Honourable Ian Binnie will oversee the Claims administration process;
- h) "Class" or "Class Members" is defined as per the Certification Order of Justice Belobaba dated August 20, 2015, except that it excludes any person who validly opts out of the Class Proceeding pursuant to that Order;
- i) "Claimant" means any person who resided at the 12 Facilities during the time periods set out in the Certification Order and who files a Claim Form pursuant to the terms hereof. Claimants are those individuals who were alive as of June 16, 2012, and who resided at the Facilities during the following periods:

Adult Occupational Centre – (January 1, 1966 – March 31, 1999)

Bluewater Centre – (April 1, 1976 – December 20, 1983)

D'Arcy Place – (September 1, 1963 – December 31, 1996)

Durham Centre for the Developmentally Handicapped – (April 1, 1974 – September 28, 1986)

L.S. Penrose Centre – (April 1, 1974-March 31, 1977)

Midwestern Regional Centre – (September 1, 1963 – March 31, 1998)

Muskoka Centre – (August 28, 1973 – June 30, 1993)

Northwestern Regional Centre – (April 1, 1974 – March 31, 1994)

Oxford Mental Health Centre – in the unit known as the “Mental Retardation Unit” or “MR Unit” of the Oxford Mental Health Centre between January 1, 1969 and March 31, 1974 and not in the other units of the Mental Health Centre

Oxford Regional Centre – (April 1, 1974 – March 31, 1996)

Pine Ridge – (September 1, 1963 – August 31, 1984)

Prince Edward Heights – (January 1, 1971 – December 31, 1999)

St. Lawrence Regional Centre – (April 1, 1975 to June 30, 1983)

- j) “Compensation Plan” means the plan detailing how compensation to Class Members shall be made, attached as Schedule “A” to this Agreement;
- k) “Class Counsel” means Koskie Minsky LLP;
- l) “Counsel Fee” means an amount not to exceed \$3,700,000, inclusive of all disbursements plus \$481,000 for HST, which Class Counsel shall seek approval of by the Court;
- m) “Court” means the Ontario Superior Court of Justice;
- n) “Court Approval Date” means the later of:

- i) 31 days after the date on which the Ontario Superior Court of Justice issues the Approval Order; and
- ii) The disposition of any appeals from the Approval Order;
- o) “HMQO” means Her Majesty the Queen in Right of Ontario;
- p) “Mediator” means Ronald Slaght, Q.C., Lenczner Slaght Royce Smith Griffin LLP;
- q) “Notice of Certification and Opting-Out Period” means the Court approved notice to the Class Members advising that the Court has certified this proceeding and advising of the ability for individual class members to opt-out;
- r) “Notice of Approval of Settlement” means the Court approved notice to the Class Members advising that the Court has approved the settlement and advising of the claims process;
- s) “Notice of Settlement Approval Hearing” means the Court approved notice to the Class Members that the proposed settlement will be considered by the Court;
- t) “Notice Plan” means the plan created and approved by the Court to disseminate the Notice of Certification and the Opting-out Period, Notice of Approval of Settlement and Notice of Settlement Approval Hearing to the Class;
- u) “Releasees” means HMQO and each of its employees, servants, agents, Ministers, members of the Executive Council under the *Executive Council Act*, insurers, representatives and assigns;

- v) "Settlement Agreement" means this agreement, as executed by the parties or their representatives, including the attached schedules;
- w) "Settlement Fund" means the \$ 35,989,646.66 HMQO has agreed to pay to settle the Action, inclusive of claims, class proceedings fund levy (CPF Levy), legal costs and disbursements, but exclusive of Administration Costs;

### **SETTLEMENT FUND**

- 2) The Settlement Fund will be used to pay the Claims , CPF Levy and Counsel Fees in accordance with this Agreement in full and final settlement of the Action.
- 3) The Settlement Fund shall accrue interest at the rate of 2% per annum, commencing on the Court Approval Date, forming part of the Settlement Fund, until such time as the payments required by this Agreement have been made.
- 4) HMQO shall pay for all Administration Costs that are approved by the Court. The Claims Administrator will be mutually agreed upon and approved by the Court. The Notice Plan will provide for joint Notice of the Certification, Opting-Out Period, and Settlement Approval Hearing for the Action, this joint notice will be mutually agreed upon and approved by the Court. In the event the Court approves the settlement of the Action the Notice Plan will provide for notice of the claims process. Any disputes relating to the design, content or dissemination of the Notice Plan shall be resolved by the Court. Neither party will appeal the Court's decision on Administration Costs or the Notice Plan.
- 5) The Settlement Fund shall be paid as follows:
  - a) First, to satisfy the Counsel Fees in the amount approved by the Court.

- b) Second, to pay the CPF Levy in the amount of \$2,891,695.15 or in another amount as approved by the Court.
  - c) The remainder of the Settlement Fund will then be used to compensate Claimants in accordance with the Compensation Plan.
  - d) Any amounts remaining in the Settlement Fund after all of the above payments have been made will be returned to HMQO.
- 6) HMQO confirms that the settlement funds received by individual Class Members will not affect eligibility for, the amount, nature and/or duration of social assistance programs administered by or on behalf of HMQO, including, but not limited to, the Ontario Disability Support Program. HMQO shall also send a letter to the federal government and any other applicable provincial government to request their agreement that any social assistance benefits available to Class Members from those other governments will not be affected by any settlement funds received by individual Class Members. The letter shall be in the form attached as Schedule "B".

### **COMMUNICATIONS**

- 7) The parties agree that when commenting publicly on the Action or this Settlement Agreement, they shall only:
- a) Inform the inquirer that the Action has been settled to the satisfaction of all parties;
  - b) Inform the inquirer that it is the view of the parties that the settlement of the Action is fair, reasonable and in the best interests of the Class; and

- c) Decline to comment in a manner that casts the conduct of any party in a negative light or reveals anything said during the settlement negotiations.
- 8) Any dispute over compliance with the agreement on communications may be referred to the Mediator for a determination.

### **COURT APPROVAL**

- 9) Notice of Certification and Opting-out Period combined with the Notice of Settlement Approval Hearing will be disseminated commencing December 1, 2015 and will be completed by no later than January 31, 2016. For the sake of greater certainty, the provision of the class list will proceed in accordance with the litigation timetable as agreed by the parties on September 3, 2015. The deadline to opt-out of the proceeding shall be April 15, 2016.
- 10) It is understood and agreed that Court Approval of this Settlement Agreement and Compensation Plan is required.
- 11) The Parties shall seek a Settlement Approval hearing to be heard as soon as possible after the Opt-Out Period ends.

### **RELEASES**

- 12) On the Court Approval Date, each Class Member, whether or not he or she submits a claim or otherwise receives compensation in accordance with the Compensation Plan, will be deemed by this Settlement Agreement to have completely and unconditionally released, remised and forever discharged the Releasees of and from any and all actions, counterclaims,



causes of action, claims, whether statutory or otherwise and demands for damages, indemnity, contribution, costs, interest, loss or harm of any nature and kind whatsoever, known or unknown, whether at law or in equity, and howsoever arising which they may heretofore have had, may now have or may hereafter have whether commenced or not in connection with all claims relating to the matters raised in the Action, including, without limitation, any and all claims relating to the operation and management of the 12 Facilities, except for any Claimant's entitlement to be paid in respect of a Claim pursuant to the terms hereof.

13) On the Court Approval Date, each Class Member will be forever barred and enjoined from commencing, instituting or prosecuting any 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, asserting against the Releasees any claims relating to the matters raised or which might have been raised in the Action, including, without limitation, any and all claims relating to the operation and management of the 12 Facilities.

14) On the Court Approval Date, each Class Member will be forever barred and enjoined from commencing, instituting or prosecuting any 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 or entity that could or does result in a claim over against the Releasees or any of them for contribution, indemnity in common law, or equity, or under the provisions of the *Negligence Act* and the amendments thereto, or under any successor legislation thereto, or under the *Rules of Civil Procedure*, relating to the matters raised or which might have been

raised in the Action, including, without limitation, any and all claims relating to the operation and management of the 12 Facilities. It is understood and agreed that if such Class Member commences such an action or takes such proceedings, and the Releasees or any of them, are added to such proceeding in any manner whatsoever, whether justified in law or not, such Class Member will immediately discontinue the proceedings and claims or otherwise narrow the proceedings and claims to exclude the several liability of the Releasees. This 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. This Agreement may be pleaded in the event that any such claim, action, complaint or proceeding is brought, as a complete defence and reply, and may be relied upon in any proceeding to dismiss the claim, action, complaint or proceeding on a summary basis and no objection will be raised by such Class Member in any subsequent action that the parties in the subsequent action were not privy to the formation of this Agreement.

**NO ADMISSIONS, NO USE**

15) This Settlement Agreement, whether or not consummated, and any proceedings taken pursuant to this Settlement Agreement, are for settlement purposes only. Neither the fact of, nor any provision contained in this Settlement Agreement or its Schedules, or any action taken hereunder, shall be construed as, offered in evidence as, and/or deemed to be evidence of a presumption, concession or admission of any kind by the parties of the truth of any fact alleged or the validity of any claim or defence that has been, could have been or in the future might be asserted in any litigation, Court of law or equity, proceeding, arbitration, tribunal, government action, administrative forum, or any other forum, or of any liability,

responsibility, fault, wrongdoing or otherwise of any parties except as may be required to enforce or give effect to the settlement and this Settlement Agreement. For greater clarity, HMQO denies the truth of the allegations in the Action and denies any liability whatsoever.

### **TERMINATION**


- 16) This Settlement Agreement shall, without notice, be automatically terminated if the Court does not approve this Settlement Agreement. In the event of termination, this Settlement Agreement shall have no further force or effect, save and except for this section and section, which shall survive termination.

### **GENERAL**

- 17) This Settlement Agreement shall be governed, construed and interpreted in accordance with the laws of the Province of Ontario.
- 18) This Settlement Agreement constitutes the entire agreement between the parties and may not be modified or amended except in writing, on consent of the parties, and with Court approval.
- 19) This Settlement Agreement may be signed by the parties in counterpart which shall have the same effect and enforceability as a single executed document.

**IN WITNESS WHEREOF**, each of the parties has caused this Settlement Agreement to be executed on his/her/their behalf by his/her/their duly authorized counsel of record, effective as of November 4, 2015.

  
 KOSKIE MINSKY LLP  
 Counsel for the Plaintiffs

  
 TROY HARRISON  
 Counsel for the Defendant

### **Schedule “A” – Compensation Plan**

- 1) The following definitions apply in this Schedule:
  - a) “Approval Order” means the order approving settlement of this Action.
  - b) “Claim Form” means the Claim Form as described herein, which shall be in the form of a Solemn Declaration.
  - c) “Claimant” means any person who resided at the 12 Facilities as set out in the Settlement Agreement at paragraph 1(i) and who files a Claim Form pursuant to the terms hereof.
  - d) “Excluded Claims” means a Claim by a person who has previously and validly opted out of the Action in writing or who has previously settled claims against the Defendant and has executed a release in favour of HMQO in relation to matters that are the subject of this Action.
  - e) "Notice of Court Approval" means the court-approved notice advising of the approval of the settlement and advising of the claims process.
  - f) "Points Allocation System" means the method of determining the number of points assigned to a Section B Claim in order determine the amount of compensation to be awarded for that Section B Claim (as set out below).
  - g) “Resident File Request” means the request made in accordance with the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F. 31 (“FIPPA”) by or for a Class Member for his/her resident file to HMQO.

- h) "Resident File Request Deadline" means the date by which a request for a resident file must be made with HMQO. This deadline is four months after the Court Approval Date.
  - i) "Resident File Production Deadline" means the date by which HMQO will produce the files requested, if available. This date is three months after the Resident File Request Deadline.
  - j) "Serious Physical Injury" means physical injury that led to or should have led to hospitalization or serious medical treatment by a physician; permanent or demonstrated long-term physical injury, impairment or disfigurement; loss of consciousness; broken bones; or a serious but temporary incapacitation such that bed rest or infirmity care of several days duration was required.
  - k) "Serious Sexual Assault" means non-consensual oral, vaginal or anal penetration or attempted non-consensual oral, vaginal or anal penetration.
- 2) All other capitalized terms used in this schedule have the same meaning as in the Settlement Agreement.
  - 3) HMQO shall make distributions to the Claimants in accordance with the determinations made by the Claims Administrator as set out below.
  - 4) Any person who wishes to claim compensation shall deliver to or otherwise provide the Claims Administrator with a Claim Form no later than 9 months after the Court Approval Date. If the Claims Administrator does not receive a Claim Form from a Class Member by the deadline, then the Class Member shall not be eligible for any compensation whatsoever.

- 5) While the Class Member's resident file will not be required to make a claim, it is appreciated that many Class Members will wish to obtain a copy of their resident file. HMQO will make efforts to provide Class Members with their own resident files upon request, if available. These resident files will be redacted in accordance with FIPPA.. Requests shall be made by the Resident File Request Deadline to allow production by the Resident File Production Deadline. Resident files shall be produced on a rolling basis as requests are received and processed. Reasonable efforts shall be made to produce resident files requested after the Resident File Request Deadline
- 6) The parties agree to posting on their websites and on the Claims Administrator's website information on the individual file request process as soon as this Agreement can be made public.
- 7) The Claim Form consists of two Sections, A and B. Section A of the Claim Form requires a solemn declaration that the Claimant suffered harm while resident at the 12 Facilities. All Claimants must complete Section A of the Claim Form. Section B of the Claim Form allows Claimants to make specific allegations of harm. Claimants completing Section B of the Claim Form are required to provide details of the harm suffered and any supporting documents they have, if available. Claimants are not required to complete Section B of the Claim Form.
- 8) A Claimant may not submit more than one Claim Form for each Facility for which he or she was a resident. In particular, a Claimant shall submit one Claim Form that comprises all claims that he or she may have individually at that Facility. If more than one Claim Form is

submitted for a given Facility within the time specified in paragraph 4, the Claims Administrator will treat them as one Claim Form.

- 9) The Claims Administrator shall review each Claim Form and verify that the Claimant is eligible for compensation, as follows:
  - a) for a Claimant claiming as a Class Member, the Claims Administrator shall be satisfied that (i) the Claimant is a Class Member and did not opt out of the action; and (ii) the claim is not an Excluded Claim.
  - b) For a Claimant claiming on behalf of a Class Member or a Class Member's estate, the Claims Administrator shall be satisfied that (i) the Claimant has authority to act on behalf of the Class Member or the Class Member's estate in respect of financial affairs; (ii) the person or estate on whose behalf the claim submitted is a Class Member and there was no valid opt out submitted for that person or estate; and (iii) the claim is not an Excluded Claim.
- 10) All Claimants who complete only Section A of the Claim Form shall be eligible for an award of up to \$2000, in accordance with the payment scheme below.
- 11) For Claimants who also complete Section B of the Claim form, once the Claims Administrator has verified that the Claimant is eligible for compensation, the Claims Administrator shall forward a copy of the Section B Claim Form to HMQO. HMQO may, within 60 days of receiving the Section B Claim Form, submit to the Claims Administrator any documentation from the Claimant's resident file (without argument) that HMQO determines in its sole discretion is relevant to the determination of the Section B Claim. Any



documents provided to the Claims Administrator shall be copied to Class Counsel at the same time as they are provided to the Claims Administrator, and Class Counsel shall have the right to submit any further documentation (without argument) within 15 days of said date.

- 12) The Claims Administrator shall review the Section B Claim Forms, any supporting documentation, and the documentation submitted by HMQO and Class Counsel to assign the number of points to the claims prescribed by the Points Allocation System set out below. The Claims Administrator shall base the award of points on both the type of harm suffered and the sufficiency of the evidence provided. Every claim made must identify which of the 12 Facilities to which the claim(s) made relates. If a Claimant resided at more than one of the 12 Facilities, he/she shall specifically identify the facility to which the claim relates and date of harm, if known. If harm is alleged to have occurred at more than one facility, the facility at which the specified harm occurred shall be identified. If a Claimant identifies harms which occurred at separate Facilities, the claims of harm for each facility shall be considered for compensation separately.
- 13) The Claims Administrator shall cross-reference all claims submitted by a Claimant in this case along with the claims submitted in the Huronia Regional settlement, the Rideau Regional Settlement and the Southwestern Regional settlement. The Claims Administrator will consider whether the claim made is duplicative of a claim for which compensation has already been awarded.
- 14) The Claims Administrator shall take reasonable measures to verify that the Claimants are eligible for points in the compensation scheme and that the information in the Section B Claim Forms is accurate. The Claims Administrator may make inquiries of the Claimants or

HMQO in the event of any concerns, ambiguities or inconsistencies in the Claim Forms or documents submitted by HMQO. If the Claims Administrator determines that a Claimant has not made any Claim which meets the minimum evidentiary threshold for a Section B Claim made by that Claimant, the Claimant's Claim will automatically be included as a Section A Claim only.

- 15) For any Claims of Level 3 physical or sexual assault, the Claims Administrator shall require a sworn affidavit from the Claimant and any available medical records or treatment records in respect of the claimed assault.
- 16) As soon as possible after (i) all timely Section B Claim Forms have been processed (ii) the time to request a reconsideration for disallowed claims has expired; and (iii) all administrative reviews have concluded, the Claims Administrator shall allocate amounts to the Claimants from the Settlement Fund subject to the following limitations:
  - a) There will be no compensation for an Excluded Claim;
  - b) Each Claimant who completed only Section A of the Claim Form or who did not meet the evidentiary threshold for Section B claims in the discretion of the Claims Administrator shall receive a proportionate share of 20% of the net Settlement Fund, to a maximum of \$2000. For greater clarity, Claimants awarded points under Section B shall not share in this allocation to Section A Claimants, but instead will only be compensated under Section B as set out in clauses 16(c) to (f) below. To the extent that the 20% allocated to Section A claims is not exhausted to satisfy the claims of Section A Claimants, the surplus shall flow to compensate Section B Claimants.

- c) The maximum compensation available to each Section B Claimant shall not exceed \$35,000 for each Facility, subject to clause 16(f). The value of each point prescribed by the Points Allocation System shall be \$35, subject to clause 16(e).
  - d) Section B Claimants shall receive compensation in accordance with the number of points awarded by the Claims Administrator pursuant to the Points Allocation System and the dollar value set out at clause 16(c) and subject to clause 16(e) or 16(f).
  - e) If there are not enough funds in the Settlement Fund to compensate all Section B Claimants on the basis of the point value determined in clause 16(c) and (d) above, the value of each point shall be adjusted downward such that each Section B Claimant receives the proportionate share of the Settlement Fund based on the number of points awarded.
  - f) If there are funds remaining in the Settlement Fund after the payments are made in clause 16(d) above, successful Section B Claimants shall be awarded a proportional payment of up to 20% of their initial award. For greater certainty, every successful Section B Claimant shall be entitled the same percentage increase in their payment, up to 20% of their initial award, and the Claims Administrator shall not award less than that same percentage increase to every Section B Claimant.
- 17) The Claims Administrator shall advise HMQO and Class Counsel of the amounts to be awarded to each Claimant and the global compensation amount required to satisfy those payments. HMQO shall provide a cheque for the global compensation amount to the Claims Administrator and the Claims Administrator shall mail the individual compensation cheques to the Claimants at the postal addresses indicated in the Claim Forms, within 30 days, and

shall provide a copy to Class Counsel. If, for any reason, a Claimant does not cash a cheque within 6 months after the date of the cheque, the Claimant shall forfeit the right to compensation and the funds shall be distributed in accordance with paragraph 5 of the Settlement Agreement. Thirty days prior to the expiry of the 6 month period described above, the Claims Administrator shall:

- a) provide Class Counsel with a list of Claimants who have not cashed their compensation cheques; and
- b) send the Claimant a further letter (copied to Class Counsel) advising the Claimant that they have 30 days to cash the compensation cheque.

18) If, for any reason, a living Class Member is unable to complete a Claim Form then it may be completed by the Class Member's personal representative, or a member of the Class Member's family.

19) The claims process is intended to be expeditious, cost effective and "user friendly" and to minimize the burden on Class Members. The Claims Administrator shall, in the absence of reasonable grounds to the contrary, assume the Class Members to be acting honestly and in good faith.

20) Where a Claim Form contains minor omissions or errors, the Claims Administrator shall correct such omissions or errors if the information necessary to correct the error or omission is readily available to the Claims Administrator.

21) The claims process is also intended to prevent fraud and abuse. If, after reviewing any Claim Form, the Claims Administrator believes that the claim contains unintentional errors which would materially exaggerate the number of points to be awarded to the Claimant, then the

Claims Administrator may disallow the claim in its entirety or make such adjustments so that an appropriate number of points are awarded to the Claimant or include the Claimant as a Section A Claimant only. If the Claims Administrator believes that the claim is fraudulent or contains intentional errors which would materially exaggerate the number of points to be awarded to the Claimant, then the Claims Administrator shall disallow the claim in its entirety.

22) Where the Claims Administrator disallows a claim in its entirety, the Claims Administrator shall send to the Claimant at the Claimant's postal or email address as indicated in the Claim Form and to Class Counsel, a notice advising the Claimant that he or she may request the Claims Administrator to reconsider its decision. For greater certainty, a Claimant is not entitled to a notice or a review where a claim is allowed in whole or in part, but the Claimant wishes to dispute the points awarded, his or her individual compensation, or any other finding or determination of the Claims Administrator. For further clarity, a Section B Claimant is also not entitled to a notice or a review if his or her claim is allowed solely as a Section A Claim.

23) Any request for reconsideration must be received by the Claims Administrator within 21 days of the date of the notice advising of the disallowance. If no request for reconsideration is received by the Claims Administrator within this time period, the Claimant shall be deemed to have accepted the Claims Administrator's determination and the determination shall be final and binding and not subject to further review by any court or other tribunal.

24) Where a Claimant files a timely request for reconsideration with the Claims Administrator in accordance with clause 23 above, the Claims Administrator shall advise Class Counsel of the request and conduct an administrative review of the Claimant's request for reconsideration.

- 25) Following its determination in an administrative review, the Claims Administrator shall advise the Claimant of its determination of the request for reconsideration. In the event the Claims Administrator reverses a disallowance, the Claims Administrator shall send the Claimant at the Claimant's postal or email address as indicated in the Claim Form (copied to Class Counsel), a notice specifying the revision to the Claims Administrator's disallowance.
- 26) The determination of the Claims Administrator in an administrative review is final and binding and is not subject to further review by any court or other tribunal.

### Points Allocation System

Categories of abuse	Points
<u>Level 3 sexual assault:</u> <ul style="list-style-type: none"> <li>One or more incidents of Serious Sexual Assault</li> </ul>	600
<u>Level 2 sexual assault:</u> <ul style="list-style-type: none"> <li>Repeated non-consensual sexual touching of a resident or other non-consensual sexual behaviour that is not a Serious Sexual Assault</li> </ul>	400
<u>Level 1 sexual assault:</u> <ul style="list-style-type: none"> <li>Any non-consensual sexual touching of a resident or other non-consensual behaviour that is not a Serious Sexual Assault</li> </ul>	200
<u>Level 3 physical assault:</u> <ul style="list-style-type: none"> <li>One or more physical assaults causing a Serious Physical Injury</li> </ul>	400
<u>Level 2 physical assault:</u> <ul style="list-style-type: none"> <li>One or more physical assaults not causing a Serious Physical Injury, but resulting in an observable injury such as a black eye, bruise or laceration.</li> </ul>	200
<u>Level 1 physical assault or other wrongful acts:</u> <ul style="list-style-type: none"> <li>One or more physical assaults not causing a Serious Physical Injury and not resulting in an observable injury.</li> <li>Repeated, persistent and excessive wrongful acts constituting demeaning behaviour, humiliation, or excessive physical punishment that in the opinion of the Claims Administrator warrants compensation above the Section A amount</li> </ul>	100

Section B Claimants may claim only one level of harm out of each of the sexual assault or physical assault/other wrongful acts categories of abuse. In the event that a Section B Claimant claims for more than one level within such category, they shall only receive points for the highest level within the category for which they qualify.

**Schedule "B" – Form of Letter to Other Governments**

Dear \_\_\_\_\_

Ontario has recently settled the class action Clegg v. Her Majesty the Queen in Right of the Province of Ontario which involved claims by former residents of the twelve facilities set out below (the "12 Facilities") relating to negligence and breach of fiduciary duty in the operation and management of the 12 Facilities. Pursuant to the terms of settlement, the Province has agreed to pay compensation to individual Class Members who file claims demonstrating that they were harmed; and has further agreed that any settlement funds received by those Class Members will not affect eligibility for, the amount, nature and/or duration of social assistance programs administered by or on behalf of the Ministry of Community and Social Services. We are writing to request your agreement that any social assistance benefits available to Class Members from your government will not be affected by any settlement funds received by individual Class Members. Please let us know if you are agreeable.

The 12 Facilities

Adult Occupational Centre

Bluewater Centre

D'Arcy Place

Durham Centre for the Developmentally Handicapped

L.S. Penrose Centre

Midwestern Regional Centre

Muskoka Centre

Northwestern Regional Centre

Oxford Mental Health Centre – in the unit known as the "Mental Retardation Unit" or "MR Unit" of the Oxford Mental Health Centre

Oxford Regional Centre

Pine Ridge

Prince Edward Heights



St. Lawrence Regional Centre

Yours truly