

CLASS ACTION SETTLEMENT FREQUENTLY ASKED QUESTIONS

Please review the following Frequently Asked Questions about the *Proposed Settlement Agreement* in the Western Regional Integrated Health Authority (hereafter called "Western Health") Privacy Breach Class Action

FAQs:

Terminology:

Class Counsel mean Bob Buckingham Law and Brothers Law Office.

Class Members mean the eligible 887 members of the Class involved in the August 2012 Western Health privacy breach.

Claims Administrator means the court appointed firm that will distribute the settlement funds to the Class members. In this case, the Claims Administrator is expected to be Bob Buckingham Law.

1. Why did I get this Notice?

The Supreme Court of Newfoundland and Labrador approved the Notice you received by regular mail from Bob Buckingham Law. The court approved Notice is to let you know about the settlement, the settlement approval hearing date and how to claim the compensation.

2. What is the basis of this class action settlement?

A settlement has been reached in a class action lawsuit regarding the Western Health privacy breach. In August 2012, letters were sent to 1043 individuals from Western Health advising them that their personal health information had been inappropriately accessed by an employee.

Brothers Law Office and Bob Buckingham Law subsequently commenced class action proceedings against Western Health. The parties have reached an agreement to resolve the class action.

3. How many people are eligible for this settlement?

We believe there are, at most, 887 individuals who are eligible to receive the monetary settlement. Some individuals will not receive the monetary settlement because they have died, have invalid MCPs or have opted out.

4. What is the total settlement?

The settlement payment of \$962,552.40 is comprised of six elements: (1) general damages to each Class member, (2) pre-judgment interest to each Class member, (3) cost of settlement administration, (4) honorarium payment to the Representative Plaintiffs, (5) Class Counsel legal fees, and (6) Class Counsel disbursements.

The proposed settlement provides for a \$962,552.40 payment from the Defendant to the Class members. The settlement funds will pay \$610.00 for general damages and \$125.22 for pre-judgement interest to each Class members.

There will be a deduction of \$35.22 from each Class member to cover the cost of one of the Plaintiffs' experts which was not recovered. This will result in a payment of \$700.00 to each Class Member, if the settlement is approved by the Supreme Court.

5. How much will eligible class members receive?

Each eligible Class member is entitled to receive a sum of \$700.00 (subject to court approval on September 18, 2024). Payments to Class Members will be made via cheque sent by regular mail within thirty (30) days of the final Court Order being issued.

6. Who is eligible for the settlement?

If the settlement is approved, it will apply to all living persons who were sent letters from the Western Health in August 2012 advising them that their personal health information had been inappropriately accessed by an employee, but excluding any persons who have opted out of the class action. If you received the August 2012 letter referred above, you are automatically included as a class member, and you do not need to do anything.

7. Will I be informed if I am eligible?

Yes, eligible claimants will receive a letter, Notice and Frequently Asked Questions sent by regular mail from Bob Buckingham Law confirming their eligibility. This information will be sent to the Class member's address that is currently on file with Western Health. This address will also be used to send your cheque by regular mail within thirty (30) days of the final Court Order being issued.

If the address you have on file at Western Health is not up to date, it is important that you contact Bob Buckingham Law and provide your current mailing address and phone number.

8. How is the settlement being announced?

Bob Buckingham Law will issue a press release to inform the Class members about the settlement.

Both law firm websites have a link to Western Health privacy breach class action. Information related to the settlement can also be viewed, including the *Settlement Approval Application* which said Application will be heard on September 18, 2024 at 10:00 am in the Supreme Court, General Division, in Corner Brook.

9. What should I do if I believe I am eligible?

If you believe you are eligible to receive settlement funds, it is essential that you ensure we have your current mailing address. As noted above, the address that will be used to send your Notice, and later your settlement cheque, will be the address you have on file with Western Health.

If you believe your mailing address with Western Health is correct, then you are not required to do anything. If Western Health does not have your current mailing address, it is important that you contact Bob Buckingham at 709-739-6688 Ext 5 to provide your up-to-date mailing address.

10. Am I permitted to participate in the settlement approval application hearing?

Yes, any Class member can attend the Settlement Approval Application hearing. However, if you wish to object to the settlement, you must submit a written objection to Bob Buckingham Law by no later than August 15, 2024. The firm will file copies of all objections with the Court. **Do not** send an objection directly to the Supreme Court.

If you choose to submit a written objection, and in addition to reading the Frequently Asked Questions, you should read the *Memorandum of Settlement* and *Settlement Approval Application* on the Class Counsels' websites www.buckinghamlaw.ca and www.brotherslaw.ca.

You may also attend the Settlement Approval hearing, and if you submitted a written objection to Bob Buckingham Law, you may make oral submissions to the Court if permitted by the Judge.

11. What does the settlement cover, if approved?

The settlement payment of \$962,552.40 is comprised of six elements: (1) general damages to each Class member, (2) pre-judgment interest to each Class member, (3) cost of settlement administration, (4) honorarium payment to the Representative Plaintiffs, (5) Class Counsel legal fees, and (6) Class Counsel disbursements.

12. What happens to the claims of deceased potential claimants?

Unfortunately, neither deceased persons nor their estates/families are eligible to receive funds from this settlement if the date of death is before the date of the final Court Order. However, if a claimant dies after the settlement approval (date of the final Court Order) then an estate representative may claim the settlement amount, and to do so he/she should contact Bob Buckingham Law for further guidance. The final Court Order will be posted on the Class Counsel websites.

13. What has happened to the employee responsible for the breach?

The Office of the Information and Privacy Commissioner conducted an investigation into the alleged privacy breach and charged the employee with breaching section 88(1) of the *Personal Health Information Act*. In 2014 the employee plead guilty to the offence. The employee involved in the privacy breach has not been employed with Western Health since August 2012.

14. Will the settlement amount be taxable?

No, the money received from this settlement is not taxable.

15. How will the settlement funds be distributed?

Eligible claimants will receive their settlement funds via a cheque sent by regular mail from Bob Buckingham Law. As noted above, it is essential that you ensure we have your current mailing address. The address that will be used to send your notice, and later your settlement cheque, will be the address you have on file with Western Health. If this is your current mailing address, you are not required to do anything. If Western Health does not have your current mailing address, it is important that you contact class counsel at 709-739-6688 Ext 5 to provide your up-to-date mailing address.

16. What will happen to settlement funds that are not claimed?

Any undistributed funds will be deposited into a special account called a "cy-pres account". Any funds that are not claimed within two years of the Final Order being issued, will be donated to the Western Regional Hospital Foundation.

17. I believe I am a Class Member. I haven't received any communications from Buckingham Law about the settlement. What steps should I take?

If you believe you are a Class member and you have not received notification by July 15, 2024 you should contact Bob Buckingham Law to confirm whether you are a member. If you are a class member, we will require your up-to-date address. We may need to take extra steps to verify your identification.

18. I have moved away from Newfoundland and Labrador. Am I still eligible to receive my settlement payment?

Yes, if you are currently residing outside the province, you are still eligible to receive your settlement payment. If this is the case, please contact Bob Buckingham Law to provide your current mailing address and phone number.

19. My family member is in the Class, and they require assistance from me in connection with this settlement. Is this permitted? How can I make these arrangements? What documentation do I need to provide to Buckingham Law?

If a class member requires assistance from family to receive settlement funds, please contact the Claims Administrator (Bob Buckingham Law) so that we can assess your circumstances and work with you to ensure settlement funds are appropriately distributed.

20. I am the parent or guardian of a minor (meaning s/he has not yet turned 19) who is a member of the Class. What process is the Claims Administrator following for payments to minors? [Are there steps that people need to take?]

The Claims Administrator has a plan in place for any minor who is a class member under the age of 19 (the age of majority in Newfoundland and Labrador). The Claims Administrator will work with the minor's next of kin and the Public Trustee to ensure the settlement funds are properly distributed. If you are in this situation, please contact Bob Buckingham Law for further information. (See Question 23)

21. How will the lawyers be paid?

Class counsel fees will be paid from the settlement funds. The Court must approve the lawyers' fees and disbursements.

22. What if I want my own lawyer?

If you want to hire your own lawyer, you may do so at your expense.

23. Who should I contact with questions?

The Claims Administrator will be appointed by the Supreme Court. It is expected to be Bob Buckingham Law. You can contact his firm at claims@buckinghamlaw.ca or call at 709-739-6688 Ext 5.

You can visit class counsel's websites for this class action at www.buckinghamlaw.ca and/or also www.brotherslaw.ca.

You can also write the Claims Administrator (Bob Buckingham Law), c/o 81 Bond Street, St. John's, NL A1C 1T2.