

## **NOTICE OF CERTIFICATION BREACH OF PRIVACY CLASS ACTION**

**Please read this notice carefully as it may affect your rights**

### **Who is this notice for?**

This notice is for all patients and former patients of the North Bay General Hospital, the Northeast Mental Health Centre and the North Bay Regional Health Centre whose personal health information was allegedly accessed and viewed by Registered Nurse, Melissa McLellan, without their consent while Nurse McLellan was not involved in their care.

This unauthorized access to personal health information is alleged to have occurred from around November of 2004 to around March of 2011 involving approximately 5,804 patients.

Some patients already received a letter from the North Bay Regional Health Centre notifying them of the breach of their privacy in September of 2011. Not all patients who had their privacy breached received this letter.

If you have never been contacted by the North Bay Regional Health Centre to be identified as a patient whose privacy has been breached and you believe that you may have had your personal health information accessed improperly by Registered Nurse, Melissa McLellan, please contact Class Counsel for more information concerning your eligibility to participate in this class action.

### **What is the court action about?**

A court action was commenced in the Ontario Superior Court of Justice in North Bay, *Daniells v. McLellan et al.*, Court File No. CV-13-5565-CP, as a proposed class action seeking damages on behalf of all patients and former patients of the North Bay Hospitals whose privacy was breached by Melissa McLellan.

On November 29, 2017, Justice Ellies of the Ontario Superior Court of Justice certified the action as a class proceeding and appointed Sherry-Lynn Daniells and Andrea Kendall as representatives for all claimants defined as follows:

*All patients and former patients of the North Bay Regional Health Centre whose personal health information was accessed by Melissa*

*McLellan without their consent, while Melissa McLellan was not involved in their care.*

If you are a Member of this Class, your rights will be affected.

### **How does this class action affect me?**

Class Members who wish to participate in the class action need not do anything at this time. They are all automatically included in the class action.

The members of the Class who do not opt out of this class action will be bound by the terms of any judgment or settlement, whether favourable or not.

Each Class Member will be entitled to share in the amount of any monetary award or financial settlement recovered in this class action.

After there is a determination of all issues that are common to all Class Members, it may be necessary that individual Class Members participate in individual hearings to determine the amount of their damages. The Court may establish a procedure for determining an individual Class Member's damages.

### **What if I choose not to participate?**

Class Members who do not wish to participate in the class action must opt-out.

Any Class Member that does not want to be a part of this court action and wishes to be excluded from the class action must sign a written election form stating that he or she opts out of the class action. An Opt Out Form is attached. The written election form should be sent by mail, fax or email to:

Larmer Stickland P.C.  
401 – 101 Worthington Street East  
North Bay ON P1B 1G5

Attention: Ms. Brianna Johns  
Facsimile Number: 705-478-8100  
Email address: [privacybreach@larmerstickland.com](mailto:privacybreach@larmerstickland.com)

The deadline for opting-out is **October 1, 2018**. No Class Member will be permitted to opt-out after the expiry of this deadline.

No person may opt-out on behalf of a minor or mentally incapable person without permission of the Court, after notice to the Children's Lawyer or the Public Guardian Trustee, as appropriate.

If you decide to opt-out you will not be bound by the terms of any judgment or settlement. However, you will also not be eligible for any of the benefits of any settlement or judgment if the action is successful.

### **Who is representing us?**

The Court has appointed Class Members, Sherry-Lynn Daniells and Andrea Kendall, as representative plaintiffs and has appointed the Law Firm of Larmer Stickland P.C. of North Bay, Ontario, as the lawyers for the Class.

### **What about legal costs?**

The Representative Plaintiffs have entered into agreements with Larmer Stickland P.C. with respect to legal fees and disbursements. These agreements provide that Class Counsel will not receive payment for their work unless and until the class action is successful. These fee agreements and all fees received by Class Counsel must be approved by the Court.

If the class action is not successful, the Class Members, other than the representative plaintiffs, will not be responsible for any legal costs of the class action and will not incur any financial obligations because of this class action.

### **Where can I get more information?**

If you want to find out more about this court action, please do not hesitate to contact the lawyers for the Class Members as follows:

By Mail: Larmer Stickland P.C.  
401 – 101 Worthington Street East  
North Bay ON P1B 1G5

Attention: Ms. Brianna Johns

By Email: privacybreach@larmerstickland.com

By Telephone: 705-478-8200

You may also wish to visit the class action website at:

[www.larmerstickland.com/classaction](http://www.larmerstickland.com/classaction)

At no time should any questions be directed to the Court.

This notice has been approved by Justice Ellies of the Ontario Superior Court of Justice.