

Court File Nos.: CV-18-591719-00CP
CV-20-641003-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE

)

FRIDAY, THE 15TH

)

JUSTICE PERELL

)

DAY OF MARCH, 2022

)

BETWEEN:

CONREY FRANCIS

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

ADRIAN CHANDRA

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

ORDER
(Notice Approval)

WHEREAS in Court File No. CV-18-591719-00CP ("*Francis*") this Court i) certified the *Francis* class and ii) approved a form of notice of certification and a plan for giving notice of certification, on consent of the Defendant, by order dated September 18, 2018;

WHEREAS notice of certification has been given to the *Francis* Class Members, and the opt out period for the *Francis* Class Members expired on January 10, 2019;



WHEREAS summary judgment was granted in favour of the Plaintiff in *Francis* by order of this Court dated April 20, 2020, with notice of judgment to be given to the *Francis* Class Members in a manner to be decided by further motion before this Court;

WHEREAS the action in Court File No. CV-20-641003-00CP (“*Chandra*”) was certified as a class proceeding, on consent of the Defendant, by order of this Court dated March 11, 2022, with notice of certification and the opt out rights of the *Chandra* Class Members to be determined by separate order of this Court;

WHEREAS the parties have agreed on a proposed settlement agreement to settle the aggregate damages payable by the Defendant in *Chandra*, and a proposed protocol for the distribution of aggregate damages and the resolution of individual issues claims in both actions;

WHEREAS further motions are required before this Court with respect to: the approval of the proposed settlement agreement in *Chandra*, and the approval of the proposed protocol for aggregate damages distribution and individual issues claims in both actions, with notice to be given to the *Francis* Class Members and to the *Chandra* Class Members (together, the “**Class Members**”);

WHEREAS the parties have agreed on the form and content of the required draft notices to the Class;

ON READING the motion materials of the Plaintiff and on being advised of the consent of the Defendant to this Order,

1. **THIS COURT ORDERS** that the form and content of the notices to the Class Members of: the summary judgment award in *Francis*, the order for certification in *Chandra*, the motion for approval of the proposed settlement agreement in *Chandra*, and the motion for approval of the proposed distribution of aggregate damages and individual issues plan in both actions, is hereby approved, substantially in the forms attached as **Schedule “A”** (the “**Short Form Notice**”) and **Schedule “B”** (the “**Long-Form Notice**”) (collectively the “**Notices**”), subject to the right of the parties to make non-material amendments as may be necessary and agreed upon by the parties.

2. **THIS COURT ORDERS** that Epiq Class Action Services Canada, Inc. (the “**Administrator**”) be and is hereby appointed as the Administrator for both the *Francis* and *Chandra* actions, and that the Defendant shall pay the reasonable costs of the Administrator in disseminating the Notices in accordance with this Order.

3. **THIS COURT ORDERS** that the Notices shall first be published and distributed on April 25, 2022, and as follows (the “**Notice Plan**”):

- (a) The Administrator shall publish the Short Form Notice, or a French language version which is to be agreed upon by the parties, in ¼ of a page size in the weekend edition of the following newspapers:
 - (i) The Globe & Mail
 - (ii) The National Post
 - (iii) The Toronto Star
 - (iv) The Ottawa Citizen
 - (v) The Windsor Star
 - (vi) The Hamilton Spectator
 - (vii) The London Free Press
 - (viii) The Kingston Whig-Standard
 - (ix) The Chronicle Journal.
- (b) The Administrator shall distribute the Short Form Notice to all Ontario offices of the Elizabeth Fry Society, the John Howard Society, the Ontario Federation of Indigenous Friendship Centres, Nishnawbe Aski Nation Legal Clinic (Thunder Bay), Aboriginal Legal Services (Toronto), and the Chiefs of Ontario;
- (c) Ontario shall post the Short Form Notice in a conspicuous place within each Correctional Institution in common areas, making it possible for Class Members to see it;
- (d) The Parties will seek consent from the Government of Canada for its agreement to post the Long Form Notice in a conspicuous place within the common areas of each Federal correctional institution;
- (e) The Administrator and Class Counsel shall post the Short Form Notice, the Long Form Notice, the Opt Out Form, and the French language translations of these documents on their websites;
- (f) the Administrator shall forward the Short Form Notice, the Long Form Notice,

the Opt Out Form, and the French language translations of these documents to any Class Member who requests it;

- (g) the Administrator shall establish a toll-free support line, to provide assistance to Class Members, family, guardians or agency staff, or other persons who make inquiries on their own behalf or on behalf of Class Members;
- (h) the Defendant shall provide copies of the Short Form Notice and the Long Form Notice, to all probation and parole officers within Ontario, and make best efforts to have all probation and parole officers within Ontario distribute the Notice to each parolee/former inmate assigned to them; and,
- (i) the Defendant shall direct that the Short Form Notice be posted in all probation and parole offices throughout Ontario.

4. **THIS COURT ORDERS AND DECLARES** that dissemination of the Notice as provided in the Notice Plan is the best notice practicable under the circumstances, constitutes sufficient notice to all Class Members entitled to notice, and satisfies the requirements of notice under sections 17 through 22, inclusive, of the *Class Proceedings Act* 1992, SO 1992, c 6.

5. **THIS COURT ORDERS** that a *Chandra* Class Member may opt out of that class proceeding by delivering a signed Opt Out Form, a copy of which is attached as **Schedule "C"**, by July 25, 2022 (the "**Opt Out Deadline**"), to the Administrator, by mail or by email.

6. **THIS COURT ORDERS** that the Administrator shall preserve all Opt Out Forms it receives until permitted to dispose of such information by further order of this Court or by written direction jointly signed by Class Counsel and by the Defendant.

7. **THIS COURT ORDERS** that if a *Chandra* Class Member has delivered an Opt Out Form to the Administrator, they may withdraw their opt-out before the Opt-Out Deadline by advising the Administrator, in writing, that they wish to withdraw their opt-out.

8. **THIS COURT ORDERS** that no *Chandra* Class Member may opt out of that class proceeding after the Opt-Out Deadline, except with leave of the Court.

9. **THIS COURT ORDERS** that the Administrator shall serve on the parties and file with the Court, within ten (10) days of the expiry of the Opt Out Deadline, an affidavit listing all persons who have opted out of the class proceeding, if any.

10. **THIS COURT ORDERS** that the *Chandra* Class Members who wish to object to the motion for approval of the proposed settlement agreement in *Chandra*, and the Class Members of either action who wish to object to the motion for approval of the proposed distribution of aggregate damages and individual issues plan in both actions, are required to complete a form substantially in the form of **Schedule “D”** (the “**Objection Form**”) and deliver it, by mail or by email, to Class Counsel by July 25, 2022 (the “**Objection Deadline**”) at the following addresses:

Mail: Koskie Minsky LLP
20 Queen St. West
Suite 900, Box 52
Toronto, ON M5H 3R3

Email: ontarioadminsegclassaction@kmlaw.ca

11. **THIS COURT ORDERS** that if a Class Member has delivered an Objection Form to Class Counsel, they may withdraw their objection by advising the Administrator or Class Counsel, that they wish to withdraw their objection, and by Class Counsel confirming that their objection is withdrawn in writing.

12. **THIS COURT ORDERS** that no *Chandra* Class Member may object to the motion for approval of the proposed settlement agreement in *Chandra* after the Objection Deadline, except with leave of the Court; and no Class Member of either action may object to the motion for approval of the proposed distribution of aggregate damages and individual issues plan after the Objection Deadline, except with leave of the Court.

13. **THIS COURT ORDERS** that Class Counsel shall serve on the parties and file with the Court copies of all Objection Forms within ten (10) days of the Objection Deadline.

Perrell, J.

JUSTICE PERELL

Entered on MARCH 15, 2022



CHANDRA /
FRANCIS
Plaintiff

and

HER MAJESTY THE QUEEN IN RIGHT
OF ONTARIO
Defendant

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ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

ORDER
(Notice Approval)

KOSKIE MINSKY LLP
900-20 Queen Street West
Toronto ON M5H 3R3

Kirk M. Baert LSO#: 309420
Tel: 416-595-2117 / kmbaert@kmlaw.ca

James Sayce LSO#: 58730M
Tel: 416-542-6298 / jsayce@kmlaw.ca

Nathalie Gondek LSO#77660H
Tel: 416-542-6286 / ngondek@kmlaw.ca

Jamie Shilton LSO# 80270R
Tel: 416-595-2065 / jshilton@kmlaw.ca

Lawyers for the Plaintiff