

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

CONREY FRANCIS

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

AND

Court File No. CV-20-00641003-00CP

B E T W E E N :

ADRIAN CHANDRA

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

Proceedings under the Class Proceedings Act, 1992

SETTLEMENT AGREEMENT

WHEREAS the plaintiffs Conrey Francis and Adrian Chandra brought the Actions (**all terms defined below**) under the *Class Proceedings Act, 1992* in respect of the defendant's alleged use of Administrative Segregation in Correctional Institutions;

AND WHEREAS the Court certified the Francis Action as a class proceeding and certified the Francis Class by order dated September 18, 2018;

AND WHEREAS the plaintiff in the Francis Action was granted summary judgment on the common issues on April 20, 2020, and the Judgment is now final;

AND WHEREAS the Judgment provided, among other things, that i) the Francis Aggregate Damages Award (less court-approved counsel fees and expenses) shall be distributed to the Francis Class pursuant to a distribution protocol that will be established by further order of the Court, and that ii) Class Members may seek additional damages at individual issues trials;

AND WHERAS the Court approved the legal fees and disbursements payable to Class Counsel in connection with the Francis Aggregate Damages Award in the Francis Class Counsel Fee Award on July 8, 2021, and all such fees have been paid by HMQ;

AND WHEREAS, after considering of all of the circumstances, and after extensive arms' length negotiations with the assistance of an experienced Mediator, the parties, through this Settlement Agreement, seek to resolve i) certification of the Chandra Action, ii) the aggregate damages component of the Chandra Action, and iii) the process by which Class Members' Claims for shares of the Aggregate Damages and individual issues damages may proceed in the Francis Action and Chandra Action;

AND WHEREAS the Parties have agreed to seek, on consent and as a term of this Settlement, certification of the Chandra Action as a class proceeding, the appointment of Adrian Chandra as representative plaintiff in the Chandra Action, and certification of the Chandra Class;

AND WHEREAS the Parties have agreed to settle, subject to Court approval, the aggregate damages claim in the Chandra Action for \$13,000,000, inclusive of all costs and disbursements;

AND WHEREAS Class Counsel agreed not to seek any contingency legal fees in connection with any aggregate damages award for the Chandra Class agreed through mediation;

AND WHEREAS counsel for the parties to this Settlement Agreement have conducted a thorough analysis of the claims and have taken into account the extensive burdens and expense of litigation;

AND WHEREAS, after investigation, the plaintiffs 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, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

Definitions

1. The following definitions apply in this Settlement Agreement:

- (a) “Actions” mean the Chandra Action and the Francis Action;
- (b) “Administrator” means Epiq Class Action Services Inc.;
- (c) “Administration Costs” means all costs paid to administer the Distribution Protocol, including the costs and professional fees of the Administrator and the costs of disseminating notices to Class Members in accordance with this Settlement Agreement and the Distribution Protocol, and all taxes applicable thereon;
- (d) “Aggregate Damages” means the Francis Aggregate Damages Award and the Chandra Aggregate Damages Settlement;
- (e) “Aggregate Damages Fund” shall mean a combined fund of the Francis Aggregate Damages Award, the Chandra Aggregate Damages Settlement, and any interest accrued thereon, to be paid by HMQ to the Administrator, in trust, and to be distributed in accordance with the Distribution Protocol;
- (f) “Certification and Notice Approval Order” means an order from the Court certifying the Chandra Class on the terms set out in Paragraph 3 below, appointing the Administrator, and approving the form and method of dissemination of the Notice of Certification and Settlement Hearing;
- (g) “Chandra Action” means the putative class proceeding *Chandra v Her Majesty the Queen in Right of Ontario*, bearing Court File No. CV-20-00641003-00CP;
- (h) “Chandra Aggregate Damages Settlement” means the amount of \$13,000,000, as agreed by HMQ, the plaintiff in the Chandra Action, and Class Counsel in this Settlement Agreement, and as approved by the Court, to be the quantum of aggregate damages (inclusive of all costs and disbursements) to be paid in the Chandra Action;
- (i) “Chandra Class” means all current and former Inmates, who were alive as of May 14, 2018:
 - I. Inmates with a Serious Mental Illness
 - (a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between September 18, 2018 and August 18, 2021,
 - (b) who were diagnosed by a medical doctor before or during their

incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”): Schizophrenia (all sub-types), Delusional disorder, Schizophreniform disorder, Schizoaffective disorder, Brief psychotic disorder, Substance-induced psychotic disorder (excluding intoxications and withdrawal), Psychotic disorder not otherwise specified, Major depressive disorders, Bipolar disorder I, Bipolar disorder II, Neurocognitive disorders and/or Delirium, Dementia and Amnesic and Other Cognitive Disorders, Post-Traumatic Stress Disorder; Obsessive Compulsive Disorder; or Borderline Personality Disorder; and who suffered from their disorder, in a manner described in Appendix “A”, and,

(c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation;

and/or,

II. Inmates in Prolonged Administrative Segregation who were subjected to Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions between September 18, 2018 and August 18, 2021.

- (j) “Claim” means a claim by a Class Member for compensation in the Actions brought pursuant to the Distribution Protocol;
- (k) “Class Counsel” means Koskie Minsky LLP;
- (l) “Class Member” and “Class” means a person who is a member of the Francis Class or the Chandra Class, or both, and who has not opted out of their respective class(es);
- (m) “Class Proceedings Fund” means the Class Proceedings Fund of the Law Foundation of Ontario;
- (n) “Common Issue” means the question “Is the Defendant liable to the Class?”;
- (o) “CPF Levies” means Class Proceedings Fund levies pursuant to O. Reg. 771/92;
- (p) “Correctional Institutions” means correctional institutions as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22, excluding the St. Lawrence Valley Correctional and Treatment Centre;
- (q) “Court” means the Ontario Superior Court of Justice;
- (r) “Court Approval Date” means the later of:

- (i) 31 days after the date on which the Court issues the Settlement and Distribution Protocol Approval Order; and
- (ii) The disposition of any appeals from the Settlement and Distribution Protocol Approval Order or the expiry of any applicable appeal periods if no appeal is initiated;
- (s) “Distribution Protocol” means the plan detailing how individual Claims for compensation are to be paid to eligible Class Members, substantially in the form attached as **Schedule “A”** to this Settlement Agreement;
- (t) “Francis Action” means the class proceeding *Francis v Her Majesty the Queen in Right of Ontario* bearing Court File No. CV-18-591719-00CP;
- g. “Francis Aggregate Damages Award” means the Judgment of \$30,000,000 on account of aggregate damages for the *Francis Class*, less \$10,220,027.75 comprising of fees, disbursements, plaintiff honourarium, and CPF Levies as set out in the Francis Class Counsel Fee Award;
- (u) “Francis Certification Order” means the Order of Perell J. dated September 18, 2018 certifying the Francis Action as a class proceeding;
- (v) “Francis Class” means all current and former inmates, who were alive as of April 20, 2015:

I. Inmates with a Serious Mental Illness

(a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between January 1, 2009 and September 18, 2018; and,

(b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”): Schizophrenia (all sub-types), Delusional disorder, Schizophreniform disorder, Schizoaffective disorder, Brief psychotic disorder, Substance-induced psychotic disorder (excluding intoxications and withdrawal), Psychotic disorder not otherwise specified, Major depressive disorders, Bipolar disorder I, Bipolar disorder II, Neurocognitive disorders and/or Delirium, Dementia and Amnesic and Other Cognitive Disorders, Post-Traumatic Stress Disorder; Obsessive Compulsive Disorder; or Borderline Personality Disorder; and who suffered from their disorder, in a manner described in Appendix “A”, and,

(c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation;

and/or

II. Inmates in Prolonged Administrative Segregation who were subjected to Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions between January 1, 2009 and September 18, 2018.

- (w) “Francis Class Counsel Fee Award” means the Order of Perell J. in the Francis Action, approving Class Counsel fees, plaintiff honorarium, and CPF Levies, dated July 8, 2021;
- (x) “HMQ” means Her Majesty the Queen in Right of Ontario;
- (y) “Judgment” means the Judgment of Perell J. in the Francis Action dated April 4, 2020;
- (z) “Mediator” means the Honourable Todd Archibald;
- (aa) “Notice of Certification and Settlement Hearing (Long Form)” means a notice substantially in the form of **Schedule “B”** hereto advising Class Members i) of a hearing in which the Court will consider whether to approve the Settlement and the Distribution Protocol, and of their entitlement to file objections by the Objection Deadline, and ii) of certification of the Chandra Class, and their entitlement to opt out by the Opt Out Deadline;
- (bb) “Notice of Certification and Settlement Hearing (Short Form)” means a condensed form of notice, substantially in the form of **Schedule “C”** hereto, advising Class Members i) of a hearing in which the Court will consider whether to approve the Settlement and the Distribution Protocol, and of their entitlement to file objections by the Objection Deadline, and ii) of certification of the Chandra Class, and their entitlement to opt out by the Opt Out Deadline;
- (cc) “Notice of Judgment and Settlement Approval” means a form of notice to be agreed to by the parties and to be approved by the Court, advising Class Members that the Court has i) issued Judgment, ii) approved the Settlement, and iii) approved the Distribution Protocol, and advising of the Claims process under the Distribution Protocol;
- (dd) “Objection Form” means a form substantially in the form of **Schedule “E”** hereto, which must be completed and delivered to Class Counsel by the Objection Deadline in accordance with the terms of this Agreement and the terms of the Court order approving the Notice of Certification and Settlement Hearing, by any i) members of the Chandra Class who wish to object to the motion for approval of this Agreement, and ii) Class Members who wish to

object to the motion for approval of the Distribution Protocol;

- (ee) “Objection Deadline” means the date that is 90 days after the Notice of Certification and Settlement Hearing is first disseminated to Class Members;
 - (ff) “Opt Out Deadline” means the date by which members of the Chandra Class who wish to opt out must do so, being 90 days after the Notice of Certification and Settlement Hearing is first disseminated to Class Members;
 - (gg) “Opt Out Form” means the document by which putative members of the Chandra Class may opt out of the Chandra Class, substantially in the form of **Schedule “D”** hereto, delivered in accordance with this Settlement;
 - (hh) “Parties” means the plaintiff in the Chandra Action, the plaintiff in the Francis Action, and HMQ;
 - (ii) “Prolonged Administrative Segregation” means placement in Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions;
 - (jj) “Referee” or “Referees” means a former judicial officer or senior legal practitioner, or a group of same, agreed to by the Parties and appointed by the Court to review and determine Track 2 Claims and make Aggregate Damages Eligibility Assessments under the Distribution Protocol;
 - (kk) “Releasees” means HMQ and all of its employees, servants, agents, Ministers, members of the Executive Council under the *Executive Council Act*, officers, insurers, representatives, and assigns;
 - (ll) “Settlement” means this Settlement Agreement, reached between the Parties to resolve certification of the Chandra Class, the Chandra Aggregate Damages Settlement, and the application of the Distribution Protocol as the process for the distribution of Aggregate Damages and administering the individual issues trials in the Chandra Action and Francis Action, as approved by the Court;
 - (mm) “Settlement Agreement” means this agreement, as executed by the Parties or their representatives, including the schedules hereto;
 - (nn) “Settlement and Distribution Protocol Approval Order” means an order from the Court granting i) approval of this Settlement and ii) approval of the Distribution Protocol substantially in the form set out in **Schedule “A”** hereto;
2. Any other defined terms used in this Settlement that are not defined in s. 1 above shall

have the meaning given to them in the Distribution Protocol.

Certification of the Chandra Action

3. Solely for purposes of implementing this Settlement Agreement and effectuating the Settlement, the Parties shall agree to seek, on consent, an order from the Court:

- (a) Certifying the Chandra Action as a class proceeding;
- (b) Appointing Adrian Chandra as the Representative Plaintiff in the Chandra Action;
- (c) Declaring the proposed common issues in the Chandra Action to be the Common Issues; and
- (d) Certifying the Chandra Class.

4. Neither the certification of the Chandra Class pursuant to the terms of this Agreement nor the statement of the Common Issues shall constitute, or be construed as, an admission on the part of HMQ that the Chandra Action or any other proposed class action, is appropriate for certification as a litigation class under any applicable law, or that the Common Issues or any other common issue is appropriate for certification on a contested basis in the Chandra Action or on any basis in any other proceeding against HMQ.

Administration

5. HMQ shall pay the Aggregate Damages and any interest accrued thereon, approved Claims (including any counsel fees awarded pursuant to the Distribution Protocol), the professional fees of the Referees, and Administration Costs, in full and final settlement of the Actions, all in accordance with the terms set out in the Distribution Protocol.

6. The Parties agree to seek the Court's appointment of the Administrator in the order approving the Notice of Certification and Settlement Hearing.

7. For the purposes of administration of this Settlement and the Distribution Protocol, the Court will retain an ongoing supervisory role.

Notice

8. The Parties shall seek Court approval of the form, content, and method of disseminating the Notice of Certification and Settlement Hearing at the time the order certifying the Chandra Class is sought.

9. The Notice of Certification and Settlement Hearing (Long Form) proposed by the Parties shall be substantially in the form of **Schedule "B"** hereto. The Notice of Certification and Settlement Hearing (Short Form) proposed by the Parties shall be substantially in the

form of **Schedule “C”** hereto.

10. Within forty five (45) days of the date of the Court order approving the Notice of Certification and Settlement Hearing, HMQ the Notice of Certification and Settlement Hearing shall first be published and distributed as follows:

- (a) The Administrator shall publish the Notice of Certification and Settlement Hearing (Short Form), in the form set out in **Schedule “C”** hereto, 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 Notice of Certification and Settlement Hearing (Short Form), in the form set out in **Schedule “C”** hereto, 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) HMQ shall post the Notice of Certification and Settlement Hearing (Short Form) 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 Notice of Certification and Settlement Hearing (Short Form) in a conspicuous place within the common areas of each Federal correctional institution;
- (e) The Administrator and Class Counsel shall post the Notice of Certification and Settlement Hearing (Long Form), the Notice of Certification and Settlement Hearing (Short Form), the Opt Out Form, the Objection Form, the Settlement Agreement, and the French language translations of these documents on their websites;

- (f) the Administrator shall forward the Notice of Certification and Settlement Hearing (Long Form), the Notice of Certification and Settlement Hearing (Short Form), the Opt Out Form, the Objection Form, the Settlement Agreement, 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) HMQ shall provide copies of the Notice of Certification and Settlement Hearing (Long Form), the Notice of Certification and Settlement Hearing (Short Form),, to all probation and parole officers within Ontario, and make best efforts to have all probation and parole officers within Ontario distribute the Notice of Certification and Settlement Hearing, and the short form version thereof, to each parolee/former inmate assigned to them; and,
- (i) HMQ shall direct that the short form version of the Notice of Certification and Settlement Hearing be posted in all probation and parole offices throughout Ontario.

11. If the Court approves the Settlement and Distribution Protocol, the Parties and the Administrator shall distribute the Notice of Judgment and Settlement Approval as soon as practicable after the Court Approval Date, and in accordance with **Section 5 – Notice and Notice Plan** in the Distribution Protocol (attached hereto as **Schedule “A”**).

12. The Parties shall seek Court approval of the form, content, and method of disseminating the Notice of Judgment and Settlement Approval at the same time that Court approval of the Settlement and Distribution Protocol is sought.

13. The Parties agree that the Notice of Certification and Settlement Hearing, Notice of Judgment and Settlement Approval, and methods of disseminating these notices to Class Members pursuant to this Settlement Agreement and the Distribution Protocol are reasonable, constitute the best notice practicable under the circumstances, and constitute due and sufficient notice of certification, Judgment, Settlement, the Claims process under the Distribution Protocol, and the other matters set forth in the notices to all persons entitled to receive notice, and fully satisfy the requirements of class action legislation in Ontario and Canadian natural justice.

Opting Out

14. The Parties hereto acknowledge that the Francis Class has already been provided with notice of certification and has been given the opportunity to opt out. The deadline by which members of the Francis Class were required to opt out of the Francis Class expired on January 10, 2019, being 90 days from the date the notice of certification of the Francis Class was

published, pursuant to the Francis Certification Order. One additional opt out of the Francis Class by Adam Capay was confirmed by order of Perell J. dated January 23, 2020.

15. At the motion in which the certification of the Chandra Class and approval of the Notice of Certification and Settlement Hearing is sought, the Parties agree to seek Court approval of an opt-out process which includes the following terms:

- (a) An Opt Out Form from a putative member of the Chandra Class will not be effective unless it is signed, sent by email or regular mail, addressed to the Administrator, and postmarked on or before the Opt Out Deadline.
- (b) A putative member of the Chandra Class who has delivered an Opt Out Form to the administrator may withdraw his or her Opt Out Form before the Opt Out Deadline by advising the Administrator, in writing, that they wish to withdraw their Opt Out Form.
- (c) 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 Chandra Class, if any.

16. The Parties acknowledge that any putative member of the Chandra Class who does not submit a properly completed Opt Out Form to the Administrator before the Opt Out Deadline shall be deemed to be a Chandra Class member, shall be bound by this Settlement, and in order to be eligible for compensation must submit any claims for compensation arising from his or her placement in Administrative Segregation during the Chandra Class Period in accordance with the Distribution Protocol.

17. The Parties acknowledge that any putative member of the Chandra Class who submits an Opt Out Form by the Opt Out Deadline in accordance with this Settlement: (1) is no longer a member of the Chandra Class; (2) may not receive any benefits under this Settlement or the Distribution Protocol, and (3) may bring his/her lawsuit against HMQ, as the case may be, at his/her own expense and subject to any limitation period.

Objections

18. At the motion in which the certification of the Chandra Class and approval of the Notice of Certification and Settlement Hearing is sought, the Parties agree to seek Court approval of a process for submitting objections. The Parties seek approval of an objection process in which any member of the Chandra Class or Francis Class who wishes to object to the fairness, reasonableness or adequacy of this Settlement, including the Distribution Protocol, will be required to serve on Class Counsel by the Objection Deadline an Objection Form, signed by the objector containing the following information:

- (a) the objector's full name, address, email address, and telephone number;
- (b) a statement that the objector meets the criteria for membership in the Francis Class or the Chandra Class;

- (c) to the best of the objector's recollection, a list of the objector's placements in Administrative Segregation, with placement dates, release dates, locations, and lengths of time;
- (d) a written statement of all factual and legal grounds for the objection accompanied by any legal support for such objection;
- (e) copies of any papers, briefs or other documents upon which the objection is based;
- (f) a statement setting out whether the objector intends to appear at the hearing to obtain the Settlement and Distribution Protocol Approval Order; and
- (g) a statement setting out whether the objector intends to appear at the hearing through counsel, and if so, identifying any counsel representing the objector who intends to appear at the hearing.

19. The objection process that the Parties agree to propose will provide that upon the expiry of the Objection Deadline, Class Counsel will deliver copies of each Objection Form to counsel for HMQ and shall file them with the Court.

Aggregate Damages

20. HMQ agrees to pay the Aggregate Damages in accordance with the Distribution Protocol.

21. Accrued interest from the Francis Aggregate Damages Award and the Chandra Aggregate Damages Settlement shall be added to the Aggregate Damages Fund.

Communications

22. The Parties, including counsel and the plaintiffs, agree that, when commenting publicly on the Settlement, they shall:

- (a) Inform the inquirer that the Judgment has been issued, and that the Settlement has been reached, subject to court approval, and that Class Members may seek to have any claims for individual damages determined in accordance with the Distribution Protocol;
- (b) Inform the inquirer that it is the view of the parties that the Settlement is fair, reasonable and in the best interests of the Class Members; and
- (c) Decline to comment in a manner that casts the conduct of any party in a negative light, disparages any party, or reveals anything said during the settlement negotiations.

23. Nothing in this Settlement Agreement precludes Class Counsel from making legal

submissions referring to the practice and effects of Administrative Segregation in Ontario in other legal proceedings.

Court Approval

24. As soon as practical after execution of this Settlement Agreement, the Parties shall advise the Court, and seek to schedule hearings to obtain the Certification and Notice Approval Order and the Settlement and Distribution Protocol Approval Order, provided that the hearing to obtain the Settlement and Distribution Protocol Order shall be heard after the Opt Out Deadline and Objection Deadline.

25. The parties agree to file motion materials, as necessary, with respect to the hearings to obtain the Certification and Notice Approval Order and Settlement and Distribution Protocol Order Approval Order, and counsel shall act reasonably and in good faith regarding the content of such motion materials.

Release

26. The Parties acknowledge that any member of the Francis Class who submits a claim for compensation under the Distribution Protocol will be deemed to have released HMQ from all other claims arising from their placement(s) in Administrative Segregation in accordance with the applicable provisions of the Distribution Protocol.

27. As at the Court Approval Date, each member of the Chandra Class, whether or not he or she submits a claim or receives compensation in accordance with the Distribution Protocol, 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 or arising out of the statement of claim in the Chandra Action with respect to the use of Administrative Segregation in Correctional Institutions, except for any member of the *Chandra* Class's entitlement to be paid in accordance with a successful Track 1, Track 2, or Track 3 claim brought under the Distribution Protocol.

28. As at the Court Approval Date, each member of the Chandra Class will be forever barred and enjoined from commencing, instituting, or prosecuting any action, litigation, investigation (other than an investigation under the *Ombudsman Act*, R.S.O. 1990, c. O.6) 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, or any of them, any claims relating to or arising out of the statement of claim in the Chandra Action, other than a Track 3 claim brought in strict accordance with the Distribution Protocol.

29. As at the Court Approval Date, each member of the Chandra Class will be forever barred and enjoined from commencing, instituting, or prosecuting any action, litigation, investigation (other than an investigation under the *Ombudsman Act*, R.S.O. 1990, c. O.6) 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 and/or indemnity at 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 or arising out of the Actions. It is understood and agreed that if such member of the Chandra Class 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 member of the Chandra Class will immediately discontinue the proceedings and claims or otherwise narrow the proceedings and claims to exclude the several liability of the Releasees.

30. This Settlement 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 member of the Chandra Class with respect to the matters covered herein. This Settlement 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 member of the Chandra Class in any subsequent action that the parties in the subsequent action were not privy to the formation of this Settlement Agreement.

No Admissions, No Use

31. 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 of 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, HMQ denies the truth of the allegations in the Actions and denies any liability whatsoever.

Termination

32. This Settlement Agreement shall, without notice, be automatically terminated if the Court does not approve either i) this Settlement Agreement, or ii) the Distribution Protocol substantially in the form of Schedule "A" to this Settlement Agreement. In the event of termination, this Settlement Agreement shall have no force or effect, save and except for this

section, which shall survive termination.

General

33. This Settlement Agreement shall be governed, construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

34. 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.

35. 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, this Settlement Agreement has been executed by the undersigned, on behalf of each of the Parties, and is effective as of March 3, 2022.

Date: March 4, 2022



**James Sayce, Koskie Minsky LLP, Counsel
for the Plaintiffs**

Date: March 3, 2022



**Sean Kearney, Director, Crown Law
Office – Civil, for the Defendant**

(I have the authority to bind Her Majesty the
Queen in right of Ontario)

Appendix “A” (Class Definition)

For the purposes of the definition of Class Member in this Agreement and in the Distribution Protocol, Appendix “A” provides as follows:

Significant impairment in judgment (including all of the following: the inability to make decisions, confusion, and disorientation);

Significant impairment in thinking (including both paranoia and delusions that make the offender a danger to self or others);

Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders or staff);

Significant impairment in communications that interferes with ability to effectively interact with other offenders or staff; hallucinations; delusions; or severe obsessional rituals that interferes with ability to effectively interact with other offenders or staff;

Chronic and severe suicidal ideation resulting in increased risk for suicide attempts; or

Chronic and severe self-injury.

**Francis and Chandra - Distribution and Individual
Issues Protocol**

1. General

- 1.1. Pursuant to the *Class Proceedings Act, 1992*, this Protocol governs:
- a. the distribution of the aggregate damages award in *Francis*;
 - b. the distribution of the Aggregate Damages Settlement in *Chandra*;
 - c. the procedures for the determination of the individual issues in *Francis* and *Chandra*.
- 1.2. This Protocol may be amended by further order of the Court.
- 1.3. In this Protocol:
- a. “**Administrative segregation**” refers to segregation as outlined in section 34 of Regulation 778, R.R.O. 1990 under *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.
 - b. “**Aggregate Damages**” means the *Francis* Aggregate Damages Award and *Chandra* Aggregate Damages Settlement, combined into a single aggregate damages fund.
 - c. “**Chandra**” means the action styled *Chandra v Ontario*;
 - d. “**Chandra Aggregate Damages Settlement**” means the amount of \$13,000,000 as agreed by Ontario and Class Counsel in the *Chandra* Settlement Agreement, and as approved by the Court, to be the quantum of aggregate damages (inclusive of costs, and disbursements) payable to the *Chandra* Class, to be disseminated in accordance with this Protocol.
 - e. “**Class Counsel**” means Koskie Minsky LLP.
 - f. “**Class Member**” and “**Class**” means a person who is a member of the *Francis* Class or the *Chandra* Class, as set out by the Court in the *Francis* consent Certification Order, and in the *Chandra* Settlement Approval and Certification Order (reproduced and defined below), respectively, and who have not opted out of their respective classes:
 - i. The “**Francis Class**”:

All current and former inmates, who were alive as of April 20, 2015:

I. Inmates with a Serious Mental Illness¹

(a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between January 1, 2009 and September 18, 2018; and,

(b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”): Schizophrenia (all sub-types), Delusional disorder, Schizophreniform disorder, Schizoaffective disorder, Brief psychotic disorder, Substance-induced psychotic disorder (excluding intoxications and withdrawal), Psychotic disorder not otherwise specified, Major depressive disorders, Bipolar disorder I, Bipolar disorder II, Neurocognitive disorders and/or Delirium, Dementia and Amnesic and Other Cognitive Disorders, Post-Traumatic Stress Disorder; Obsessive Compulsive Disorder; or Borderline Personality Disorder; and who suffered from their disorder, in a manner described in Appendix “A”, and,

(c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation;

and/or

II. Inmates in Prolonged Administrative Segregation

(a) who were subjected to Administrative Segregation for 15 or more consecutive days (“Prolonged Administrative Segregation”) at one of the Correctional Institutions between January 1, 2009 and September 18, 2018.

ii. The “*Chandra Class*”:

All current and former Inmates, who were alive as of May 14, 2018:

I. Inmates with a Serious Mental Illness

(a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between September 18, 2018 and August 18, 2021,

¹ All defined terms have the meanings set out in the Judgment dated April 20, 2020.

(b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”): Schizophrenia (all sub-types), Delusional disorder, Schizophreniform disorder, Schizoaffective disorder, Brief psychotic disorder, Substance-induced psychotic disorder (excluding intoxications and withdrawal), Psychotic disorder not otherwise specified, Major depressive disorders, Bipolar disorder I, Bipolar disorder II, Neurocognitive disorders and/or Delirium, Dementia and Amnesic and Other Cognitive Disorders, Post-Traumatic Stress Disorder; Obsessive Compulsive Disorder; or Borderline Personality Disorder; and who suffered from their disorder, in a manner described in Appendix “A”, and,

(c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation;

and/or,

II. Inmates in Prolonged Administrative Segregation

a) who were subjected to Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions between September 18, 2018 and August 18, 2021.

Appendix "A" states as follows:

Significant impairment in judgment (including all of the following: the inability to make decisions, confusion, and disorientation);

Significant impairment in thinking (including both paranoia and delusions that make the offender a danger to self or others);

Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders or staff);

Significant impairment in communications that interferes with ability to effectively interact with other offenders or staff; hallucinations; delusions; or severe obsessional rituals that interferes with ability to effectively interact with other offenders or staff;

Chronic and severe suicidal ideation resulting in increased risk for suicide attempts; or

Chronic and severe self-injury.

- g. “**Court**” means the Ontario Superior Court of Justice.
 - h. “**Correctional Institutions**” are correctional institutions as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22, excluding the St. Lawrence Valley Correctional and Treatment Centre.
 - i. “**Francis Aggregate Damages Award**” means the judgment of \$30,000,000² plus interest, less fees, disbursements, plaintiff honourarium, and CPF levies in the amount of \$10,220,027.75,³ on account of aggregate damages for the *Francis* Class, to be disseminated in accordance with this Protocol.
 - j. “**Incarcerated Class Member**” means a Class Member who remains incarcerated in a Correctional Institution.
 - k. “**Inmates**” are inmates as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.
- 1.5 For this Protocol, it shall be considered one placement with consecutive days in segregation if the placements are: (1) separated by 24 hours or less, or (2) interrupted by a transfer to another institution and continued after the transfer.
- 1.6 Nothing in this Protocol precludes the parties from settling a claim proceeding on Tracks 2 or 3 of the Protocol.
- 1.7 Nothing in this Protocol precludes the parties from applying for an amendment to the protocol. The parties may consent to procedural modifications to the protocol, such as extensions of time for certain steps without requiring court approval, as long as such changes do not substantively affect the rights and remedies provided for in the Protocol.
- 1.8 Ontario shall obtain an order under the *Youth Criminal Justice Act*, S.C. 2002, c. 1, authorizing disclosure of Class Member youth records in accordance with this Protocol. No disclosure of youth records shall be made to the Administrator, experts, or any other parties until such Order is granted.

2. Retainer of Class Counsel

- 2.1 Unless the Claimant in their Claims Form elects to be self-represented or provides the name and contact information for the lawyer retained to act for the Claimant, Class Counsel shall continue to have a solicitor and client relationship with the Claimant.

² Judgment of Justice Perell dated April 20, 2020.

³ Order of Justice Perell dated July 8, 2021.

- 2.2 If a Claimant selects or is deemed to have selected Track 1, then Class Counsel or the lawyer retained to act for the Claimant cannot charge for their services for the Claimant with respect to the Track 1 claim.
- 2.3 If a Claimant selects Track 2 or 3 and does not retain the services of another attorney, no Power of Attorney need be signed for Class Counsel to obtain the records held by Ontario relating to the Claimant subject to disclosure under this Protocol.
- 2.4 Subject to the Court's approval, if a Claimant selects Track 2, Class Counsel or the lawyer retained to act for the Claimant may charge a fee for services with respect to the Track 2 claim, with such fee not to exceed 15% of the damages awarded plus reasonable disbursements, and any award of costs made in favour of the Claimant.
- 2.5 If the Claimant selects Track 3, the Class Counsel or the lawyer retained to act for the Claimant may charge a fee for their services as may be approved by the Court.

3. Administrator

- 3.1 “**Administrator**” means Epiq Class Action Services Inc..
- 3.2 Within 40 days of Court approval of this Protocol and the *Chandra* Settlement Agreement, Ontario shall transfer the *Francis* Aggregate Damages Award and *Chandra* Aggregate Damages Settlement to the Administrator, in trust. The Administrator shall invest the Award at a Bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46.
- 3.3 The Administrator shall establish and maintain a trust account (“**Administrator’s Incarcerated Claimant Trust Account**”) for the purpose of holding in trust any monies owing to Incarcerated Claimants awarded under this Protocol that are not otherwise directed to be paid in accordance with instructions given by the Claimant on their Claim Form. The Administrator shall pay any monies owing to an Incarcerated Claimant to the Incarcerated Claimant upon his or her release from the correctional institution.
- 3.4 Ontario shall make its best efforts to prepare an electronic spreadsheet with the information set out in a. to d. below for each inmate incarcerated in a Correctional Institution who was placed in Administrative Segregation during the *Chandra* Class Period and the *Francis* Class Period (the “**Spreadsheet**”). Within 90 days of approval of this Protocol, Ontario shall provide the Administrator and Class Counsel with its first iteration of the Spreadsheet. The Spreadsheet shall contain the following information about Claimants, if available:

- a. their name and any known aliases;
 - b. their date of birth;
 - c. their OTIS number; and
 - d. the date of placement and the release date for each placement in Administrative Segregation together with the corresponding Correctional Institution(s) where the Administrative Segregation placement(s) took place.
- 3.5 The Spreadsheet shall be updated in accordance with this Protocol as more information about Claimants is obtained through the claims process.
- 3.6 The Administrator shall distribute the Notice and the Claims Form approved by the Court in accordance with this Protocol, as set out in Section 5 – Notice and Notice Plan.
- 3.7 Where mail to a Claimant is returned to the Administrator as undeliverable, the Administrator shall have no responsibility for locating the Claimant.
- 3.8 The Administrator shall provide a bilingual (English and French) toll-free support line to assist Claimants, or their authorized legal representative or guardian making inquiries on their behalf.
- 3.9 Subject to measures to combat COVID-19 and applicable security restrictions, Ontario shall provide to the Administrator and Class Counsel reasonable access to Claimants in Correctional Institutions for the purpose of delivering information about the case.
- 3.10 The Administrator will determine each Claimant’s eligibility to a share of Aggregate Damages with the information provided in the Final Spreadsheet and each Claimant’s Database file.
- 3.11 There is no appeal of the Administrator’s decision with respect to a Claimant’s eligibility to receive a share of Aggregate Damages made pursuant to the Final Spreadsheet.
- 3.12 For Track 1 Claims, the Administrator shall pay an eligible Claimant’s share of Aggregate Damages within 90 days after the following events have all occurred:
- a. The Claims Deadline has expired;
 - b. The time for Claimants to have submitted Track Selection Forms

- has expired;
 - c. The Referee has completed all Aggregate Damages Eligibility Assessments under 7.14, and the Final Spreadsheet has been prepared; and
 - d. The Administrator has determined all Claimants' eligibility for Aggregate Damages pursuant to the Final Spreadsheet.
- 3.13 For Track 2 and Track 3 Claims, the Administrator shall hold the Claimant's share of the Aggregate Damages Award in trust pending the completion of the Claimant's Track 2 or Track 3 Claim, after which the Administrator shall pay the Claimant their share of Aggregate Damages.
- 3.14 For successful Track 2 and Track 3 Claims, the Administrator shall pay:
- a. Any amounts owing to the Class Proceedings Fund, **if any**, including reimbursement for disbursements.
 - b. Class Counsel's and/or the lawyer retained by the Claimant's fee; and
 - c. The balance of the individual damages award, along with the Claimant's share of the Aggregate Damages, to the Claimant.
- 3.15 Where there are unclaimed funds from the distribution of Aggregate Damages, the Administrator shall make a cy-près payment as the Court may direct upon submissions by the parties upon disposition of all Claims made under this Protocol.
- 3.16 The Administrator shall pay any monies owing to an Incarcerated Class Member as directed by the Incarcerated Class Member on their Claim Form, in accordance with s.7.10(f) of this Protocol.
- 3.17 The Administrator may, but is not required to, reissue payments to a Class Member that were returned as undeliverable.
- 3.18 The Administrator shall comply with the *Personal Information Protection and Electronic Documents Act*, S.C. 2000 c. 5.
- 3.19 After the distribution of:
- a. Aggregate Damages;
 - b. Any awards for Track 2 or 3 Claimants; and
 - c. Any cy-près payments;
- the Administrator shall apply to be discharged and shall file with

the Court a report containing its best information respecting the following:

- a. The total number of *Francis* Class Members claiming under this Protocol;
- b. The total number of *Chandra* Class Members claiming under this Protocol;
- c. The number of Class Members who received Notice under this Protocol, and a description of how notice was given;
- d. The number of Claimants who made a claim pursuant to Track 1, 2, or 3 respectively;
- e. The amounts distributed to Class Members and others and a description of how the awards were distributed;
- f. The administrative costs associated with the distribution of the awards.

3.20 Any party or the Administrator may move to have any part of this report placed under seal.

3.21 Upon being discharged as Administrator, the Administrator shall retain in hard copy or electronic form, all documents relating to a Claim for two years after which the Administrator shall destroy the documents, and shall notify Ontario in writing that such documents have been destroyed.

3.22 The reasonable fees and expenses of the Administrator under this Protocol shall be paid by Ontario as approved by the court.

4. **Database**

4.1 Within 90 days of approval of this Protocol, the Administrator shall develop a secure database in consultation with Ontario for all Claimants' documents and information (the "**Database**").

4.2 Each Claimant's file in the Database shall contain the information provided in the Claims Forms, the relevant portions of the Claimant's information contained in the Spreadsheet, the choice of the selected Track, as well as all documents exchanged between a Claimant and Ontario, as authorized by the Claimant pursuant this Protocol.

4.3 Ontario shall have secure access to all Database files, as authorized by the Claimant pursuant to this Protocol.

4.4 Counsel shall have secure access to the Database files of the Claimants they represent, as authorized by the Claimant pursuant to this Protocol.

- 4.5 The Referee Roster shall have secure access to the Database files of i) the Track 2 Claimants' files and ii) the Aggregate Damages Eligibility Assessment files that they are assigned to assess, as authorized by the Claimant pursuant this Protocol.
- 4.6 The transmission and access of all documents shall be made via the Database. In cases where the Claimant is self-represented, the Administrator shall provide the Claimant an alternative means to transmit and access all documents related to their claim.

5. Notice and Notice Plan

- 5.1 In this Protocol, "Notice" means:
- a. the Notice of Judgment in *Francis*; and
 - b. the Notice of Settlement in *Chandra*
- in English that have been approved by the court and the French translations thereof, which will be prepared by the Administrator.
- 5.2 The Administrator shall make the availability of French and English versions of the Notice known to Claimants.
- 5.3 The reasonable cost of the Notice and the Notice Program shall be paid by Ontario.
- 5.4 Class Counsel shall post the Notice and the Claims Form on their websites.
- 5.5 The Administrator shall post the Notice and the Claims Form on its website and provide any other form of notice agreed to by Class Counsel and Ontario, such as advertisements on social media and the circulation of a press release approved by Class Counsel and Ontario. The Administrator will prepare an educational video similar to that produced in *Brazeau*, *Reddock*, and *Gallone*, with the content to be approved by Ontario and Class Counsel. The video will be posted on the websites of Class Counsel and the Administrator.
- 5.6 The Administrator shall provide the Notice and the Claims Form to any Claimant who requests it, together with a postage paid return envelope.
- 5.7 The date the Notice is first transmitted, posted, or otherwise disseminated to Class Members by the Administrator shall be the "**Notice Date**".
- 5.8 On or promptly after the Notice Date:
- a. the Administrator shall distribute the Notice and the Claims Form to all offices of:
 - Elizabeth Fry Society of Ontario;
 - St. Leonard's Society of Canada;
 - John Howard Society of Ontario;

- Operation Springboard;
 - Salvation Army Correctional & Justice Services;
 - Stonehenge Therapeutic Community;
 - Homewood Health Centre;
 - The Ontario Federation of Indigenous Friendship Centres;
 - Nishnawbe Aski Nation Legal Clinic (Thunder Bay);
 - Aboriginal Legal Services (Toronto);
 - The Chiefs of Ontario; and
 - Parole and Probation offices
- b. Ontario shall post the Notice and a reasonable quantity of the Claims Forms together with a postage paid return envelope in a conspicuous place within the common areas of each Correctional Institution, and make available reasonable facilities for Claimants to complete the Claims Form;
- c. The parties will seek consent from the Government of Canada for its agreement to post the Notice and a reasonable quantity of the Claims Forms together with a postage paid return envelope in a conspicuous place within the common areas of each Federal Correctional institution, and to make available reasonable facilities for Claimants to complete the Claims Form. In the event the Government of Canada withholds its consent, Class Counsel will seek such an order from the Court.
- d. Ontario shall make Claims Forms available and provide postage paid return envelopes to every probation and parole office in Ontario, and make available reasonable facilities for Claimants to complete the Claims Form. In addition, a copy of the Notice and the Claims Form shall be posted in a conspicuous place within a visible area of the probation and parole office. For greater certainty, Ontario correctional services staff shall not respond to Claimants' inquiries about the claims process under this Protocol, and shall be directed to refer all inquiries to the Administrator.

6. Referees

- 6.1 In this Protocol, “**Referee Roster**” means the group of former judicial officers or senior legal practitioners agreed to by the parties and appointed by the Court under this Protocol to review and determine Track 2 claims, and make Aggregate Damages Eligibility Assessments under s. 7.14.
- 6.2 The duties of the Referee Roster include reviewing Claim Forms, Track 2 Selection Forms, Disclosure, the parties' Track 2 submissions and records, making s. 7.14 Aggregate Damages Eligibility Assessments, and preparing a report to the Ontario Superior Court of Justice on:

- a. whether a Track 2 Claimant is SMI;
- b. the degree of pain and suffering experienced by an Inmate with a Serious Mental Illness Class Member while in Administrative Segregation;
- c. whether the degree of pain and suffering is low, medium or high;
whether or not the placement in Administrative Segregation caused or contributed to cause any of the following:

Post-traumatic stress disorder, Severe Clinical Depression, Self-injurious behavior, substantial degradation in Axis I Disorder (excluding substance use disorders), or substantial degradation of Borderline Personality Disorder (“BPD”).

- 6.3 No later than 60 days from the Notice Date, Class Counsel and Ontario shall constitute the Referee Roster, failing which the court shall appoint the Referee Roster from a list of candidates submitted by Class Counsel and/or Ontario.
- 6.4 A member of the Referee Roster shall be a qualified professional, agreed upon by the parties or failing that selected by the Court, drawn from the following groups:
 - a. a senior practitioner of law in any Canadian jurisdiction;
 - b. a retired senior practitioner of law in any Canadian jurisdiction; or
 - c. a person who has acted as a judicial officer in any Canadian jurisdiction.
- 6.5 After a report is released, Ontario shall pay a member of the Referee Roster \$5,000 for a Track 2 report.

7. **Claims Process**

Eligibility

- 7.1 The *Chandra* class period is from September 19, 2018 to August 18, 2021 (the “**Chandra Class Period**”).
- 7.2 The presumptive class period for the *Francis* class is from April 20, 2015 to September 18, 2018 (the “**Francis Class Period**”).
- 7.3 Subject to rebutting the presumption that their individual claims for damages are statute-barred, the claims of *Francis* Class Members imprisoned in administrative

segregation before April 20, 2015, are statute-barred. A Class Member whose claim is presumptively statute barred must elect to proceed by Track 3.

- 7.4 Ontario shall provide the Administrator with a list of the names of all persons who have opted out of the *Chandra* Class and *Francis* Class. The Administrator shall deny any Claims Form received by a person who has opted out of the *Chandra* Class or the *Francis* Class, and notify the Claimant, Class Counsel, and Ontario in writing of the basis for the denial.

Aggregate Damages

- 7.5 A share in the Aggregate Damages Award is equal to the Aggregate Damages Award divided by the number of Class Members eligible to receive a share as determined by the Administrator on the basis of the Final Spreadsheet.
- 7.6 “**Claims Form**” means the electronic or paper claims form in English or in French that a Claimant must complete and submit before the Claims Filing Deadline to participate in the distribution of Aggregate Damages under Track 1, and to be eligible to have their individual issues determined under Track 2 or Track 3.
- 7.7 “**Claims Filing Deadline**” means the date by which the Claims Form must be electronically submitted, sent via mail, or received in person by the Administrator, which date shall be one year after the Notice Date.
- 7.8 A Claimant must submit a Claims Form to the Administrator before the Claims Filing Deadline. The Administrator shall deny Claim Forms received by the Administrator after the Claims Filing Deadline, and advise the Claimant in writing that the Claims Form was denied as untimely. Claimants whose Claims Forms have been denied as untimely may seek leave from the Court to file a late Claims Form, but leave shall be granted only if the Claimant establishes that the failure to file a timely Claims Form was due to circumstances beyond their control or that provide a reasonable explanation for the delay.
- 7.9 A Claimant whose claim is presumptively barred by a limitation period shall elect to proceed by Track 3.
- 7.10 In the Claims Form, a Claimant shall provide the following information:
- a. Their name and all aliases or previously used names;
 - b. Their date of birth;
 - c. Their OTIS number, if known;

- d. Their mailing address, email address, and phone numbers, if any;
- e. For other than Incarcerated Class Members, a direction as to how the Claimant should be paid their share of Aggregate Damages and their individual issues award (if any);
- f. For Incarcerated Class Members, a direction to pay their share of Aggregate Damages and their individual issues award (if any) to i) a person designated by the Incarcerated Class Member; ii) a bank account designated by the Incarcerated Class Member; or iii) to the Administrator's Incarcerated Claimant Trust Account;
- g. An acknowledgement that the Administrator is authorized to contact the Claimant to obtain further information;
- h. Their election to:
 - i. be a self-represented Claimant;
 - ii. appoint a new lawyer to act for them along with the name and contact information for the new lawyer; or
 - iii. continue to be represented by Class Counsel;
- i. An acknowledgment that Ontario is authorized to upload relevant information in the Claimant's file to the shared Database, for disclosure to the Administrator, counsel for Ontario, the Claimant's retained counsel, the Referee Roster, and to the Court;
- j. A declaration that the Claimant claims to be an Inmate with a Serious Mental Illness, if applicable;
- k. A check box indicating whether the Claimant requests Disclosure of the Claimant's Medical and Health Care file;
- l. A check box indicating whether the Claimant spent more than 15 consecutive days in Administrative Segregation;
- m. A list of placements in Administrative Segregation, with corresponding placement date, release date, locations and lengths of time, to the best of the Claimant's recollection; and
- n. A declaration that the information submitted in the Claims Form is true and correct.

7.11 Upon receipt of a Claims Form, the Administrator shall upload the Claims Form to the Database and examine the form to determine if it is complete.

The Administrator will have discretion to accept minor deficiencies in the Claims Form. If the Claims Form is not complete or contains significant deficiencies that prevent the Administrator from processing the Claims Form, the Administrator may contact the Claimant and Class Counsel to obtain further information to complete the Claim Form and to identify deficiencies. Claimants with deficient Claims Forms will have 60 days from the date on which they are contacted by the Administrator to provide the requested information and to address any identified deficiencies, failing which the Administrator shall reject the Claim Form. The Administrator must provide the Claimant and Class Counsel with its rejection in writing, and state the basis for its rejection. A Claimant whose claim is rejected under this paragraph may file a revised Claims Form within the Claims Period.

- 7.12 Within thirty (30) days of receipt of a Claims Form that is not deficient, the Administrator shall attempt to identify the Claimant in the Spreadsheet provided by Ontario under section 3.4.
- 7.13 If the information in the Claim Form accords with the information in the Spreadsheet, the Administrator will complete the Claimant's file in the Database with the Spreadsheet's information regarding the date of placement and the release date for each placement in Administrative Segregation together with the corresponding Correctional Institution(s) where the Administrative Segregation placement(s) took place.
- 7.14 If the Claimant cannot be identified by the Administrator in the Spreadsheet, or if the Claimant's claim that he or she was placed in Administrative Segregation for 15 or more consecutive days is inconsistent with the information in the Spreadsheet, the Administrator shall provide the Claim Form to Ontario.
- a. Ontario shall review the information provided by the Claimant in the Claim Form. Ontario shall either:
 - i. update the Spreadsheet within 90 days confirming the Claimant was placed in Administrative Segregation for 15 or more consecutive days during the Francis Class Period and/or the Chandra Class Period; or
 - ii. provide the Administrator with:
 - Records that contain information that supports the Claimant's declared placement in Administrative Segregation for 15 or more days during the Francis Class Period and/or the Chandra Class Period;
 - Records that contain information that is relevant to the Claimant's declared placement in Administrative Segregation for 15 or more days during the Francis Class

- Period and/or the Chandra Class Period; or
 - Records that contain information that does not support the Claimant's declared placement in Administrative Segregation for 15 or more days during the Francis Class Period and/or the Chandra Class Period (collectively, "**Ontario Class Membership Records**").
- iii. Ontario shall have 110 days from receipt of the Claim Form to provide Ontario Class Membership Records to the Administrator if the Claimant claims to have been placed in Administrative Segregation in one Correctional Institution or on only one occasion. If the Claimant asserts he or she was placed in Administrative Segregation at two (2) or more different Correctional Institutions, Ontario shall have an additional 90 days to provide Ontario Class Membership Records. If the Claimant asserts he or she was placed in Administrative Segregation on two (2) or more separate occasions at the same Correctional Institution, Ontario shall have an additional 30 days to provide Ontario Class Membership Records.
- b. Within fifteen (15) days of receipt of Class Membership Records from Ontario, the Administrator shall then notify the Claimant and Class Counsel in writing that the Claimant cannot be identified in the Spreadsheet, and refer the Claimant's Claim Form and Ontario Class Membership Records to the Referee for a determination of fact. Within thirty (30) days, the Referee shall determine whether the Claimant was placed in Administrative Segregation for 15 or more consecutive days within the Chandra Class Period and/or the Francis Class Period (the "**Aggregate Damages Eligibility Assessment**") and shall advise the Administrator of the determination. The Administrator shall update the Spreadsheet accordingly.
- c. At the end of the Claims Period, the Administrator will produce a final spreadsheet ("**Final Spreadsheet**") to Class Counsel and the Defendants identifying all Claimants who were placed in Administrative Segregation for 15 or more consecutive days during the Chandra Class Period and the Francis Class Period.

7.15 Within 30 days of completion of the Final Spreadsheet, the Administrator shall make best efforts to determine if the Claimant is eligible to receive a share of Aggregate Damages, and shall thereafter distribute the Aggregate Damages in accordance with s. 3.12.

- 7.16 Within sixty (60) days of receipt of a Claims Form that is not deficient, the Administrator shall notify the Claimant that a Track Selection Form should be completed, and the Claimant's counsel shall provide the Claimant with a Track Selection Form. If the Claimant is self-represented, the Administrator will provide the Claimant with a Track Selection Form at the same time Tier A Disclosure referred to at s. 8.5 is provided.
- 7.17 If a Claimant submitted a Claims Form, but (i) has no placements in Administrative Segregation that would make that person a member of the *Francis* Class or *Chandra* Class, or (ii) the person's claim predates the *Francis* Class Period, the Administrator will deny the Claim, and will provide in writing its denial to the Claimant. Such a denial letter shall also include the following language, which may be varied on consent of the parties: "If you spent 15 or more days in administrative segregation before April 20, 2015, or if you have a serious mental illness and spent any time in administrative segregation before April 20, 2015, you or your representative must write to the Administrator. To succeed with any such claim, you will have to follow the Track 3 process under the Protocol, and you will have to show that you were under a legal disability and could not start a lawsuit. Class Counsel may be able to assist you in making such a claim".

8. Two Tier Disclosure

- 8.1 In disclosing any Claimant records in accordance with this Protocol, Ontario may, at its discretion, redact Claimant records on one or more of the following grounds:
- (i) the records contain information that identifies, or may identify, the names or identities of correctional staff, police, or confidential informants;
 - (ii) the records contain information identifying other inmates;
 - (iii) the records contain information that may put Ontario staff or any member of the public at risk;
 - (iv) the records contain security information that may put the safety and security of a correctional facility at risk; or
 - (v) the records contain information that is protected by a legal privilege.
- 8.2 If Ontario redacts a document, Ontario shall upload the redacted version of the document to the database, but shall also disclose the unredacted version to counsel for the Claimant on a "counsel's eyes only" basis unless the

document contains information protected by a legal privilege. Ontario is not required to provide unredacted information to which a legal privilege applies.

- 8.3 Unredacted documents disclosed to counsel for a Claimant on a "counsel's eyes only" basis shall not be disclosed to the Claimant;
- 8.4 If a Claimant intends to rely on unredacted documents in making a Claim, such unredacted documents may only be submitted to the Referee Roster and the Court under seal, and will in no circumstances form part of any publicly-accessible record.
- 8.5 Ontario shall make best efforts to conduct a search for Claimant records relevant to the Claimant's placement in administrative segregation or status as an Inmate with a Serious Mental Illness and upload the following documents which are relevant to making the determination of which Track to select to the Database ("**Tier A Disclosure**"):
 - a. A printout of the Claimant's OTIS Client Profile and OTIS Reports;
 - b. The Claimant's Segregation Decision/Review Form(s);
 - c. The Claimant's Segregation Observation Form(s); and
 - d. The Claimant's Medical and Health Care file, if requested in the Claim Form.

If the Claimant underwent an Aggregate Damages Eligibility Assessment, Ontario shall have 50 days from the date the Aggregate Damages Eligibility Assessment is complete to provide Tier A Disclosure. If the Claimant did not undergo an Aggregate Damages Eligibility Assessment, Ontario shall have, from the date the Claim Form is uploaded to the Database by the Administrator, i) 110 days to provide Tier A Disclosure, and ii) an additional 90 days to deliver Tier A Disclosure if the Claimant was placed in Administrative Segregation at two (2) or more different Correctional Institutions, or an additional 30 days to deliver Tier A Disclosure if the Claimant was placed in Administrative Segregation on two (2) or more separate occasions at the same Correctional Institution.

- 8.6 If a Claimant determines that the Tier A Disclosure is insufficient to select one of Track 1, Track 2, or Track 3, and to complete a Track Selection Form, the Claimant may request further disclosure from Ontario by submitting a written request to the Administrator. The Claimant shall endeavour to make any such request within 30 days of the Tier A Disclosure being made available to the Claimant, and shall be as precise as possible in their request. If any additional responsive records are identified, Ontario shall make best efforts to upload these documents within 90 days of notification of the request. For clarity, nothing in this paragraph obligates Ontario to provide additional Tier A Disclosure in the event no additional

records under s. 8.5 can be identified within this timeframe. In the event Ontario cannot identify or locate any additional Tier A Disclosure records for the Claimant relevant to the Claimant's placement in administrative segregation or status as an Inmate with Mental Illness, Ontario shall notify the Administrator, and the Administrator shall advise the Claimant in writing that no additional Tier A Disclosure documents were identified.

- 8.7 The Claimant shall return a completed Track Selection Form to the Administrator in writing or electronically within 60 days of Tier A Disclosure, or 30 days after any additional Disclosure under s. 8.6 is made available to the Claimant. If the Claimant fails to submit the Track Selection Form within this timeframe, the Administrator will either: (a) deem the Claimant to have selected Track 1 if the Claim Form and Final Spreadsheet have provided the Administrator with sufficient information to determine whether the Claimant is eligible for Aggregate Damages, or (b) will deny the claim, and notify the Claimant and the parties in writing with the basis for the denial, if the Administrator has determined the Claimant is not eligible to a share of Aggregate Damages.
- 8.8 Within 90 days of receipt of a Track Selection Form in which a Claimant selects Track 2 or Track 3, Ontario shall review the locations, archives, notifications, and inmate-specific records identified in the subsections below to identify additional relevant documents, if any, and upload such records to the Database:
- a. OTIS and OTIS Reports where applicable (including but not limited to mental health alerts, housing history, and care in placement records);
 - b. The Claimant's physical or hard copy inmate file stored at the Correctional Institution(s) in which the Claimant was placed in administrative segregation during the Class Period;
 - c. The applicable archive or offsite record centre, in the event that the Correctional Institution informs Ontario that the Claimant's physical or hard copy inmate file has been stored off-site at same;
 - d. The Claimant's physical or hard copy Medical and Health Care file and Psychology files stored at the Correctional Institution(s) in which the Claimant was placed in administrative segregation during the Class Period;
 - e. The applicable archive or offsite record centre, in the event that the Correctional Institution informs Ontario that the Claimant's physical or hard copy Medical and Health Care file and Psychology files has been stored off-site at same; and
 - f. Statistics Unit records (collectively, "**Tier B Disclosure**").

- 8.9 Should a Claimant determine that their Tier B Disclosure is insufficient to prepare their Track 2 or Track 3 submissions, the Claimant may request further Tier B Disclosure from Ontario by submitting a written request to the Administrator. The Claimant shall endeavour to make any such request within ninety (90) days of receipt of their Tier B Disclosure and shall be as precise as possible in their request. Ontario shall make best efforts to upload the additional documents, if any, within ninety (90) days of notification of the request.
- 8.10 In circumstances where Ontario has already been released of a Claimant's rights for compensation with respect to their placement in administrative segregation, Ontario may move before the court, on notice to the Claimant, to have the Claimant excluded from the benefit of any award or the possibility to make any Track selection in the class actions.
- 8.11 The Administrator shall report their decision respecting the Claimant's eligibility to receive a share of Aggregate Damages to the parties, who shall report that decision to the Court.

9. Track 1 Claims

- 9.1 A Claimant who selects Track 1 is entitled to a share in the distribution of Aggregate Damages if the Administrator is able to confirm:
- a. The Claimant was placed in Administrative Segregation for fifteen (15) or more consecutive days on or after April 20, 2015, on the basis of the Final Spreadsheet or in accordance with s. 7.12;
 - b. The Claimant has not opted out of the *Chandra* Class or the *Francis* Class, as applicable; and
 - c. The Claimant is a member of the *Francis* Class and/or the *Chandra* Class.
- 9.2 Where a Claimant elects to proceed on Track 1, or is deemed by the Administrator to have elected to proceed on Track 1, they shall be deemed to have released Ontario from all other claims arising from their placement(s) in Administrative Segregation.
- 9.3 Where a Claimant selects Track 1, or is deemed by the Administrator to have elected to proceed on Track 1, the Administrator shall determine the Claimant's eligibility to receive a share of the distribution of Aggregate Damages by reviewing the information in their Database and the Final Spreadsheet.

10. Track 2 Claims

- 10.1 A Claimant who selects Track 2 is entitled to a share in the distribution of

Aggregate Damages if the Administrator is able to confirm on the basis of the Final Spreadsheet:

- a. The Claimant was placed in Administrative Segregation for fifteen (15) or more consecutive days on or after April 20, 2015;
 - b. The Claimant has not opted out of the *Francis* Class or the *Chandra* Class, as applicable; and
 - c. The Claimant is a member of the *Francis* Class or the *Chandra* Class.
- 10.2 The Claimant’s share of Aggregate Damages is a credit to the payment of any individual issues damages awarded under Track 2. The balance of the claim shall be determined in accordance with the procedures for Track 2.
- 10.3 Where a Claimant elects to proceed in Track 2 for individual issues damages, they shall be deemed to have released Ontario from all other claims arising from their placement(s) in Administrative Segregation save for Aggregate Damages and the claims as set out in the damages grid set out below (“**Damages Grid**”):

CRITERIA FOR AWARD	AWARD
15-29 consecutive days in administrative segregation	Up to \$10,000
30-44 consecutive days in administrative segregation	Up to \$15,000
45-80 consecutive days in administrative segregation	Up to \$20,000
81-100 consecutive days in administrative segregation	Up to \$30,000
More than 100 consecutive days in administrative segregation	Up to \$40,000
Additional damages if an Inmate with Serious Mental Illness:	
If the Referee concludes the level of harm is low	Up to \$10,000
If the Referee concludes the level of harm is medium	Up to \$15,000
If the Referee concludes the level of harm is high	Up to \$20,000
Additional damages for any one or more of: Post-traumatic stress disorder, Severe Clinical Depression, Self-injurious behavior, substantial degradation in Axis I Disorder (excluding substance use disorders), or substantial degradation of Borderline Personality Disorder):	

If the Referee concludes the level of harm is low	Up to \$20,000
If the Referee concludes the level of harm is medium	Up to \$30,000
If the Referee concludes the level of harm is high	Up to \$40,000

10.4 The process for making a Track 2 claim shall be as follows:

- a. Within ninety (90) days of the Tier B Disclosure or further disclosure being made available to the Claimant under s. 8.9, the Claimant shall file with the Administrator:
 - i. An Affidavit from the Claimant of no more than twenty (20) pages in length, excluding exhibits, in support of the Track 2 Claim;
 - ii. A concise Position Statement of no more than ten (10) pages; and
 - iii. All records and evidence in the possession of the Claimant not already produced by Ontario in its Disclosure (including, for example but without limitation, any assessments or medical/psychiatric reports), upon which the Claimant intends to rely in support of the quantum claimed under the Damages Grid.
- b. The Administrator shall then upload the Claimant's documents into the Database, and notify the parties.
- c. Within sixty (60) days of being notified by the Administrator, Ontario may file with the Administrator:
 - i. An Affidavit from a representative of the Ontario of no more than twenty (20) pages in length, excluding exhibits, in support of the Track 2 Claim;
 - ii. A concise Position Statement of no more than ten (10) pages;
 - iii. Any records in the possession of Ontario not already produced by Ontario in its Disclosure relevant to the assertions made or records produced by the Claimant.
- d. The Administrator shall promptly upload Ontario's documents (if any) into the Database, and notify the parties.
- e. Within fifteen (15) days of the Administrator notifying the parties of the upload of Ontario's documents, the parties shall inform each other and the Administrator, whether or not they intend to engage in cross-examinations, who they intend to examine, and whether these examinations will be oral or written. Any such examinations shall be limited to sixty (60) minutes of questions per party or the equivalent in written interrogatories and must be completed within sixty (60) days of notification of the intent to cross-examine.

- f. Within thirty (30) days of cross-examinations, the parties may file with the Administrator and serve on each other: (i) transcripts (if any), and ii) an addendum position statement (if any) of no more than 5 pages.
 - g. Within ten (10) days of confirmation that no cross-examinations will be conducted or receipt of copies of transcripts from cross-examinations or copies of written interrogatories, whichever is later, the Administrator will assign a Referee to assess the Claimant's file and will provide access to the Referee to the Claimant's Database file and all materials filed pursuant to this section 10.4.
- 10.5 The Referee shall review the affidavits, position statements, transcripts, and records produced by the Claimant and Ontario (if any), and:
- a. Approve a Track 2 individual damages award in full, in an amount not exceeding the amount claimed by the Claimant in their Track Selection Form (in any event, not to exceed \$100,000);
 - b. Approve a Track 2 individual damages award in part;
 - c. Determine an appropriate cost award (if any), in an amount up to \$12,000, and assess and approve reasonable disbursements;
 - d. Deny a Track 2 individual damages award in its entirety.
- 10.6 The Referee shall give written reasons for any determination made under section 10.5, and deliver written reasons to the Administrator stating the basis for their determination (the "**Determination**"). The Referee shall deliver the Determination to the Administrator, who shall promptly upload the Determination into the Database.
- 10.7 Where a Claimant selects Track 2, the parties and the Referee are bound by the findings of fact made in the reasons for decision of Justice Perell in the *Francis* summary judgment motion reported at *Francis v. Ontario*, 2020 ONSC 1644, including on general causation of harm by the use of Administrative Segregation. The findings of fact in the *Francis* summary judgment motion are also applicable where a Claimant selects Track 2 in respect of placements which occurred during the *Chandra* Class Period.
- 10.8 Upon completion of the Referee's Determinations of Track 2 Claims, within every 6 month period from the beginning of the Claims Period, the parties shall jointly make a motion to the Court for the confirmation of all Determinations made within that period in accordance with the following procedures:
- a. The parties shall serve a joint motion record containing copies of all Determinations issued within the 6-month period for which confirmation is sought.
 - b. Where a Claimant or Ontario is of the view that the Referee has made an error in a Determination, the Claimant or

- Ontario may oppose the confirmation of the Determination by filing with the court written submissions of no more than five pages in length (excluding appendices).
- c. Where three or more Claimants represented by the same counsel are of the view that the Referee has made a common error which appears in the three or more Determinations relating to the Claimants, or where Ontario is of the view that the referee has made a common error which appears in three or more Determinations, the Claimants or Ontario may oppose the confirmation of the Determinations by filing with the court written submissions of no more than eight pages in length (excluding appendices).
 - d. The responding party(ies) may file with the Court written submissions of no more than five pages in length (excluding appendices) for each opposed Determination, or up to eight pages in length (excluding appendices) if responding to a written submission in respect of a common error alleged to appear in three or more Determinations.
 - e. The party(ies) alleging the Referee made an error may file a reply of no more than three pages (excluding appendices).
 - f. A Claimant, group of Claimants, or Ontario may file written submissions exceeding the lengths outlined in [b.] – [e.] above only if the parties agree or with leave of the Court.
 - g. The Claimant, group of Claimants, or Ontario may not introduce new evidence at the Determination confirmation stage. The record before the Court hearing in respect of any opposed confirmations may only consist of the written submissions in [b.] – [e.], above, case law, and any records or materials that were before the Referee making the Determination.
 - h. The party(ies) opposing confirmation bears the burden of demonstrating that the Referee made the alleged error.
 - i. If the Court is not satisfied that the Referee has made an error, the Court shall confirm the Determinations at issue.
 - j. Should the Court conclude that the Referee has made an error, the Court shall make a direction in respect of the error, and may, at its discretion, i) revise the Determination or ii) refer the Track 2 Claim to the Referee for reconsideration on the basis of that direction. The direction shall also be binding on all future Track 2 Claims.
 - k. Each Determination shall be confirmed by the Court, revised and confirmed pursuant to the Court's directions, or referred back to the Referee for reconsideration on the basis of the Court's directions.
 - l. For clarity, the entitlement of a Claimant to an individual damages award under Track 2, together with entitlement to

costs of the Determination (not exceeding \$12,000 and reasonable disbursements if successful), together with costs (if any) of any contested confirmation under s. 10.8.n below, shall be finally determined by the Court.

- m. The decision of the Court is final and binding, and shall not be subject to further appeal or review.
- n. Where confirmation of a Determination is opposed under this section 10.8, ordinary costs rules pursuant to the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194 apply with respect to the Court's disposition of the opposed confirmation, and may be awarded by the Court to the successful party (i.e. the party(ies) who successfully demonstrates an error in the Determination, or the party(ies) who successfully obtains confirmation of the opposed Determination).
 - i. For greater clarity, costs awarded pursuant to 10.8.n are payable in addition to any costs awarded by the Referee pursuant to s. 10.5.c.
 - ii. For greater clarity, the responding party is only entitled to costs pursuant to 10.8.n if it takes an adverse position pursuant to 10.8.c.

10.9 Damages awarded under Track 2 shall accrue pre-judgment interest:

- a. for members of the *Francis* Class at the rate of 2%, calculated from April 20, 2017; and
- b. for members of the *Chandra* Class at the rate of 2%, calculated from May 14, 2020.

10.10 Damages awarded under Track 2 shall accrue post-judgment interest at the rate of 2%, from the date of the Determination, or from the Court's disposition of a Determination whose confirmation was opposed.

10.11 Where the Claimant makes a successful claim under Track 2, Ontario shall pay any award to the Administrator within 40 days of the Court's confirmation of the Determination.

10.12 The Administrator shall pay any successful award to the Track 2 Claimant (net of their Aggregate Damages share) within 30 days of receipt of the payment from Ontario.

11. Track 3 Claims

11.1 Where a Claimant elects to proceed on Track 3, their individual issues claim shall be determined in accordance with the Track 3 summary judgment procedure described in this Protocol.

- 11.2 Track 3 Claims under this Protocol shall address the following:
- a. Claims for damages exceeding \$100,000;
 - b. Claims asserting punitive damages; and
 - c. Claims in which the Claimant seeks to rebut the presumptive limitation period in the *Francis* Class Period.
- 11.3 A Claimant who selects Track 3 is entitled to a share in the distribution of Aggregate Damages if the Administrator is able to confirm:
- a. The Claimant was placed in Administrative Segregation for fifteen (15) or more consecutive days on or after April 20, 2015;
 - b. The Claimant has not opted out of the *Chandra* Class or the *Francis* Class, as applicable; and
 - c. The Claimant is a member of the *Francis* Class or the *Chandra* Class.
- 11.4 The Claimant's share of Aggregate Damages is a credit to the payment of any individual issues damages awarded under Track 3. The balance of the claim shall be determined in accordance with the procedures for Track 3.
- 11.5 Where a Claimant selects Track 3, the Administrator shall report their decision respecting the Claimant's eligibility to receive a share of Aggregate Damages to the parties who shall report that decision to the Court.
- 11.6 Where the Claimant selects Track 3, the claim shall proceed by an individual issues summary judgment motion – without the involvement of the Administrator except as identified elsewhere in this Protocol - in accordance with the Ontario Rules of Practice before a judge of the Ontario Superior Court of Justice, as follows:
- a. Within 90 days of the Tier B Disclosure or within 30 days of further Disclosure under s. 8.9 being made available to the Claimant, the Claimant shall serve on Ontario a Statement of Claim;
 - b. Within 30 days of receipt of the Statement of Claim, Ontario shall deliver its Statement of Defence;
 - c. Within 20 days after receipt of the Statement of Defence, the Claimant shall deliver:
 - i. Their Reply,
 - ii. A Notice of Motion for Summary Judgment, and (iii) their supporting affidavit(s) for the motion, including any expert reports;

- d. Within 90 days after receipt of the Claimant's Notice of Motion for Summary Judgment, Ontario shall deliver its affidavits (including any expert reports) to respond to the summary judgment motion;
 - e. Within 30 days after receipt of Ontario's responding materials, the Claimant may deliver their reply affidavits, if any;
 - f. After 30 days from the receipt of Ontario's responding materials, the Claimant shall bring a motion to fix a timetable for the balance of the summary judgment motion.
- 11.7 Where a Claim proceeds under Track 3, the parties are bound by the findings of fact made in the reasons for decision of Justice Perell in the *Francis* summary judgment motion reported at *Francis v. Ontario*, 2020 ONSC 164, including on general causation of harm. The findings of fact in the *Francis* summary judgment motion are also applicable where a Claimant is a member of the Chandra Class and selects Track 3.
- 11.8 Damages awarded under Track 3 shall accrue pre-judgment interest at the rate of 2%. Damages awarded under Track 3 shall accrue post-judgment interest at the rate of 2% from the date of the judgment.

Schedule "B" - Long Form Notice

Were you placed in Administrative Segregation in an Ontario Correctional Institution between January 1, 2009 and August 18, 2021?

If YES, A Class Action May Affect Your Rights.

A Court authorized this Notice. You are not being sued.

The Ontario Superior Court of Justice decided that two class actions, brought on behalf two groups of people called "classes",¹ can go forward.

You may be a member of the Pre-2018 Class if:		
You were placed in Administrative Segregation in an Ontario Correctional Institution AND You did not already opt out of the <i>Francis v Ontario</i> class action AND Your placement was any time between January 1, 2009 and September 18, 2018 AND		
Your placement was for 15 or more consecutive days ("Prolonged Class Member")	OR	Your placement was for any length of time AND <u>You</u> were diagnosed by a medical doctor before or during your incarceration with at least one of the listed ² mental disorders AND You suffered from your mental disorder in the manner described in Appendix A ³ AND you reported your diagnosis and suffering to Ontario before or during your administrative segregation ("SMI Class Member")

¹Please note that the complete class definitions are described later in this Notice, and are found in the proposed Settlement and Protocol. Note also that you can be both a Prolonged Class Member and an SMI Class Member.

² The complete list of medical disorders is found on Pages [10-11] below.

³ Appendix A is set out on Page [11] below.

You may be a member of the Post-2018 Class if:		
<p>You were placed in Administrative Segregation in an Ontario Correctional Institution</p> <p style="text-align: center;">AND</p> <p>Your placement was sometime between September 19, 2018 and August 18, 2021</p> <p style="text-align: center;">AND</p>		
<p>Your placement was for 15 or more consecutive days (“Prolonged Class Member”)</p>	OR	<p>Your placement was for any length of time</p> <p style="text-align: center;">AND</p> <p>You were diagnosed by a medical doctor before or during your incarceration with at least one of the listed⁴ mental disorders</p> <p style="text-align: center;">AND</p> <p>You suffered from your mental disorder in the manner described in Appendix A⁵</p> <p style="text-align: center;">AND you reported your diagnosis and suffering to Ontario before or during your administrative segregation. (“SMI Class Member”)</p>

YOUR RIGHTS AND OPTIONS WILL DEPEND ON WHICH CLASS YOU BELONG TO AND THE DATES YOU WERE PLACED IN ADMINISTRATIVE SEGREGATION.

If you are a member of the Pre-2018 Class or Post-2018 Class:

On **August 11, 2022**, the Court will determine whether to approve a plan for distributing money owed to eligible class members, and describing how certain class members can make claims for more money (the “Protocol”).

Your rights to support or to object to this Protocol are described in this Notice.

⁴ The complete list of medical disorders is found on Page [10-11] below.

⁵ Appendix A is set out on Page [11] below.

If you are a member of the Pre-2018 Class, and you were placed in Administrative Segregation between April 20, 2015 and September 18, 2018:

You are already a class member in a class action lawsuit called *Francis v Ontario* that was certified by the Court on September 18, 2018. In that lawsuit, the Court has already awarded **\$30 million** (less certain fees and levies) in aggregate damages to Pre-2018 Class members with Administrative Segregation placement dates between April 20, 2015 and September 18, 2018.

If you did not opt out of this action, and if the Protocol is approved, you may be able to submit a claim for a share of aggregate damages and/or additional money under the Protocol at a later date.

Your rights to support or to object to this Protocol are described in this Notice.

If you are a member of the Pre-2018 Class, and you were placed in Administrative Segregation between January 1, 2009 and April 20, 2015:

The Court has decided that anyone placed in administrative segregation between January 1, 2009 and April 20, 2015 is barred from pursuing a claim from this time period, unless they can rebut the presumed limitation period. You may still object to the Protocol, and you may deliver a Track 3 claim at a later date if the Protocol is approved.

Your rights to support or to object to this Protocol are described in this Notice.

If you are a member of the Post-2018 Class, and you were placed in Administrative Segregation between September 18, 2018 and August 18, 2021:

On March 11, 2022, the Court certified a second lawsuit, called *Chandra v Ontario*, as a class action for the Post-2018 Class.

Ontario has agreed to settle aggregate damages claims in this second lawsuit for **\$13 million**, and has agreed to have claims for a share of aggregate damages and/or additional money be determined under the Protocol. If the Settlement and Protocol is approved by the Court, the **\$13 million** from the Settlement of this second lawsuit will be combined with the **\$30 million** (less certain fees and levies) awarded by the Court in the first lawsuit, and be shared among eligible

Prolonged Class Members under the Protocol. Both Prolonged and SMI Class Members will also be able to make claims for money under the Protocol. Your rights to opt out of the Post-2018 Class, and to support or to object to the Settlement and Protocol, are described in this Notice.

YOUR OPTIONS RIGHT NOW

If you are a member of either the Pre-2018 Class or the Post-2018 Class	
Do nothing	If you support the proposed Protocol for distributing money owed to class members and/or allowing class members to make a claim for additional money, you do not have to do anything right now. If the Court approves the Protocol on August 11, 2022, you will be able to make a claim at a later date for the money that you are entitled to. If you do nothing, you will give up any right to object to the Protocol.
Object to proposed Protocol	If you do not support the proposed Protocol for distributing money owed to class members and/or allowing class members to make a claim for additional money, you can voice your objection by submitting an Objection Form. Your Objection Form must contain certain things, like your name, address, and the reasons why you object to the Protocol. You can read more about objections on Page [15] below. If you want to object, you must send your Objection Form to Class Counsel by mail to Koskie Minsky LLP , 20 Queen St. West, Suite 900, Box 52, Toronto, ON M5H 3R3, or by email to ontarioadminsegclassaction@kmlaw.ca . Your objection must be received or postmarked no later than July 25, 2022 .
If you are a member of the Post-2018 Class	
Do nothing	If you support the proposed Settlement and the Protocol , you do not need to do anything right now. If the Court approves the Settlement and the Protocol, you will be able to make a claim at a later date for money that you may be entitled to. If you do nothing and stay in the class, you give up the right to sue Ontario or others in your own lawsuit in relation to your placement(s) in Administrative Segregation during this period.
Opt Out	You can decide to get out of this class action lawsuit and to get no money from it. If you opt out, you will keep your right to sue Ontario in your own lawsuit for your placement(s) in administrative segregation during this

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

	<p>time period. If you opt out, you will not be able to collect any money or benefits from the Settlement or under the Protocol⁶. To opt out, you must send the Opt Out Form by mail to [Admin address] or by email to [Admin email] no later than July 25, 2022.</p> <p>You can get a copy of the Opt Out Form at [Admin website], by emailing the Administrator at [Admin email], or by calling the Administrator at [Admin number].</p>
<p>Object to proposed Settlement and/or Protocol</p>	<p>If you do <i>not</i> support the proposed Settlement or Protocol, you can voice your concerns by submitting an Objection Form. Your Objection Form must contain certain things, like your name, address, and the reasons why you object to the Settlement or Protocol. You can read more about objections on Pages [8-9] below. If you want to object, you must send your Objection Form to Class Counsel by mail to Koskie Minsky LLP, 20 Queen St. West, Suite 900, Box 52, Toronto, ON M5H 3R3, or by email to ontarioadminsegclassaction@kmlaw.ca. Your objection must be received or postmarked no later than July 25, 2022.</p>

⁶ Unless you are also a member of the Pre-2018 Class and have claims for placements in Administrative Segregation occurring before September 18, 2018.

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

BASIC INFORMATION

Why is there a notice?

The Court has approved this notice to let you know your rights.

There are two lawsuits that have been authorized by the Court to proceed as class actions:

- **Pre-2018:** The Court has previously certified a lawsuit known as *Francis v. Ontario*, Court File No. CV-18-591719-00CP. Notice about the certification of this lawsuit has previously been disseminated to the Pre-2018 Class.

This notice lets you know about the **August 11, 2022** hearing to approve the Protocol, and lets you know about your rights to object to the Protocol by July 25, 2022.

- **Post-2018:** More recently, on [March 11, 2022], a judge of the Ontario Superior Court of Justice certified the case known as *Chandra v. Ontario*, Court File No. CV-18-591719-00CP, which covers the **Post-2018** Class. The person who sued is called the Plaintiff. Ontario is the Defendant.

This notice lets you know about the **August 11, 2022** hearing to approve the Settlement and the Protocol, and lets you know about your rights to object to the Settlement or to the Protocol by July 25, 2022. It also lets you know about your rights to exclude yourself from the class action by opting out by **July 25, 2022**.

What are the lawsuits about?

Both lawsuits say that Ontario improperly subjected inmates to administrative segregation. The lawsuits claimed that such administrative segregation constituted systemic negligence and a breach of inmates' rights under the *Canadian Charter of Rights and Freedoms*. Ontario denies these claims.

These lawsuits are class actions because they represent a group of people who meet the class definition. These lawsuits may include you. In a class action, a person called the “Representative Plaintiff” (in the Pre-2018 case, Conrey Francis, and in the Post-

2018 case, Adrian Chandra) sues on behalf of the group of people who have similar claims. All of these people are a “Class” or “Class Members.” The Court resolves the issues for all class members in the same case, except for those who remove themselves from their class by opting out.

What happened with the Pre-2018 lawsuit?

On April 20, 2020, the Court awarded a judgment of \$30 million in aggregate damages to the Pre-2018 Class.

Ontario has agreed to the proposed Protocol which explains i) how eligible class members can make claims for a share of the aggregate damages, and ii) how all class members can claim additional individual damages in their own case. The hearing to determine if the proposed Protocol should be approved by the Court will take place via videoconference on **August 11, 2022**.

What is happening with the Post-2018 lawsuit?

On March 11, 2022, the Court certified the second lawsuit on behalf of the Post-2018 Class for settlement purposes.

Ontario has agreed to a proposed Settlement to resolve this lawsuit. Under the Settlement, if it is approved by the Court, Ontario will pay additional aggregate damages of **\$13 million** on behalf of the Post-2018 Class. Under the Settlement, this amount will be added to the \$30 million (less fees and deductions) from the Pre-2018 lawsuit, and will be shared among all eligible class members who submit claims under the Protocol. The **\$13 million** will not be reduced by Class Counsel fees, levies, or disbursements. In addition to a potential share of the aggregate damages, eligible Post-2018 Class members may also be able to make individual claims for additional money under the Protocol.

Members of the Post-2018 Class, who wish to do so, have until **July 25, 2022** to opt out of the class action, or to object to the Protocol or to the Settlement.

To receive a complete copy of the proposed Settlement, please contact the Administrator at [Admin phone], email [Admin email address] or visit [website].

A hearing to determine if the proposed Settlement is fair, reasonable and in the best interests of the Class Members, and to approve the proposed Protocol, will take place via videoconference on **August 11, 2022**.

What happens if I do nothing about the Post-2018 Lawsuit?

If you are a member of the Post-2018 Class, and you do nothing, you will stay in the Post-2018 Class. You will be bound by the Court's orders, and will give up your right to sue Ontario on your own for the administrative segregation placement(s) that you experienced between September 18, 2018 and August 18, 2021. However, if the Court approves the proposed Settlement and the proposed Protocol, you will be able to make your own claim for money under the Protocol at a later date.

What if I do not like the proposed Settlement in the Post-2018 Lawsuit?

If you are a member of the Post-2018 Class and you do NOT support the proposed Settlement, you can voice your objection to the Court by submitting an Objection Form.

Your Objection Form must include:

- (a) Your full name, address, and telephone number;
- (b) Whether you are a member of the Post-2018 Class, the Pre-2018 Class, or both;
- (c) To the best of your recollection, your list of placements in Administrative Segregation, with dates, locations and lengths of time;
- (d) the reasons for your objection accompanied by any legal support for such objection;
- (e) copies of any documents upon which you are basing your objection;
- (f) a statement of whether you intend to appear at the August 11, 2022 approval hearing; and
- (g) if you intend to appear at the hearing with a lawyer, and if so, identifying the lawyer representing you.

Your Objection Form must be signed by you, and sent to Class Counsel on time. You can send it to Class Counsel by mail to **Koskie Minsky LLP**, 20 Queen St.

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

West, Suite 900, Box 52, Toronto, ON M5H 3R3, or by email to ontarioadminsegclassaction@kmlaw.ca. Your objection statement must be sent to Class Counsel or postmarked no later than **July 25, 2022**.

What if I do not want to be in the Post-2018 Lawsuit?

If you do not want to be in the lawsuit, you must remove yourself from it. This is sometimes referred to as “opting out.” If you opt out, you will not receive any benefit that may be obtained from the lawsuit, including under the Settlement, and you will not be able to submit claims for damages under the Protocol. You will not be bound by any Court orders, and you keep your right to sue Ontario on your own regarding the issues in this case.

To opt out, you must submit an Opt Out Form by **July 25, 2022**. You can get an Opt Out Form at [Admin website]. You must mail your Opt Out Form by **[July 25, 2022]** to: [Admin address], or email it to [Admin email] by **July 25, 2022**.

Who is a member of these class actions?

The **Pre-2018 Class** includes:

All current and former Inmates, who were alive as of April 20, 2015:

I. Inmates with a Serious Mental Illness

a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between January 1, 2009 and September 18, 2018;

b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”):

- (A) Schizophrenia (all sub-types),
- (B) Delusional disorder,
- (C) Schizophreniform disorder,
- (D) Schizoaffective disorder,
- (E) Brief psychotic disorder,
- (F) Substance-induced psychotic disorder (excluding intoxications and withdrawal),
- (G) Psychotic disorder not otherwise specified,

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

- (H) Major depressive disorders,
- (I) Bipolar disorder I,
- (J) Bipolar disorder II,
- (K) Neurocognitive disorders and/or Delirium, Dementia and Amnestic and Other Cognitive Disorders,
- (L) Post-Traumatic Stress Disorder;
- (M) Obsessive Compulsive Disorder; or
- (N) Borderline Personality Disorder;

and who suffered from their disorder, in a manner described in Appendix “A”, and,

c) who reported such diagnosis and suffering to the Defendant's agents before or during their Administrative Segregation);

or,

II. Inmates in Prolonged Administrative Segregation

a) who were subjected to Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions between January 1, 2009 and the date of certification.

The **Post-2018 Class** includes:

All current and former Inmates, who were alive as of May 14, 2018:

I. Inmates with a Serious Mental Illness

(a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions between September 18, 2018 and August 18, 2021,

(b) who were diagnosed by a medical doctor before or during their incarceration with at least one of the following disorders, as defined in the relevant Diagnostic and Statistics Manual of Mental Disorders (“DSM”):

- (A) Schizophrenia (all sub-types),
- (B) Delusional disorder,
- (C) Schizophreniform disorder,
- (D) Schizoaffective disorder,
- (E) Brief psychotic disorder,
- (F) Substance-induced psychotic disorder (excluding intoxications and withdrawal),
- (G) Psychotic disorder not otherwise specified,
- (H) Major depressive disorders,
- (I) Bipolar disorder I,
- (J) Bipolar disorder II,

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

- (K) Neurocognitive disorders and/or Delirium, Dementia and Amnestic and Other Cognitive Disorders,
- (L) Post-Traumatic Stress Disorder;
- (M) Obsessive Compulsive Disorder; or
- (N) Borderline Personality Disorder;

and who suffered from their disorder, in a manner described in Appendix “A”,
and,

(c) who reported such diagnosis and suffering to the Defendant's agents before
or during their Administrative Segregation;

and/or,

II. Inmates in Prolonged Administrative Segregation

a) who were subjected to Administrative Segregation for 15 or more consecutive days at
one of the Correctional Institutions between September 18, 2018 and August 18, 2021.

Certain terms are defined as follows:

“**Correctional Institutions**” are correctional institutions as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22, excluding the St. Lawrence Valley Correctional and Treatment Centre.

“**Inmates**” are inmates as defined in the *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.

“**Administrative Segregation**” refers to segregation as outlined in section 34 of Regulation 778, R.R.O. 1990 under *Ministry of Correctional Services Act*, R.S.O. 1990, c. M.22.

Appendix “A”

- *Significant impairment in judgment (including all of the following: the inability to make decisions, confusion, and disorientation);*
- *Significant impairment in thinking (including both paranoia and delusions that make the offender a danger to self or others);*
- *Significant impairment in mood (including constant depressed mood plus helplessness and hopelessness; agitation; manic mood that interferes with ability to effectively interact with other offenders or staff);*
- *Significant impairment in communications that interferes with ability to effectively interact with other offenders or staff;*
- *Hallucinations; delusions; or, severe obsessional rituals that interferes with ability to effectively interact with other offenders or staff;*
- *Chronic and severe suicidal ideation resulting in increased risk for suicide attempts; or*
- *Chronic and severe self-injury.*

Please note: the glossary of the relevant DSM is to be used to interpret the foregoing terms where appropriate.

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

What money is available?

The Court awarded \$30 million in aggregate damages to the Pre-2018 Class. After the payment of all Court-approved deductions for class counsel fees, the Class Proceedings Fund's levy, an honorarium to the representative plaintiff, and disbursements owed, approximately \$19,779,961 will be available for distribution.

If the Court approves the proposed Settlement for the Post-2018 Class, an additional \$13 million, without deductions, will be available for distribution.

If the Court approves the proposed Protocol, both awards will be combined into a single fund of approximately **\$32,779,961**, which will be divided equally amongst all eligible class members of either action who file a claim. Additional damages may be available to certain class members if they choose to bring Track 2 or Track 3 claims.

No money or benefits are being distributed yet because the Court has not yet approved the Settlement or the Protocol.

How much money could I get if the Court approved the Protocol?

The Protocol that the Court must approve will allow you to choose one of three ways of claiming money:

	TRACK 1	TRACK 2	TRACK 3
Amount	<p>ONLY EQUAL SHARE</p> <p>of the \$32.7 million lump sum divided among all eligible Prolonged Class Member claimants.</p>	<p>UP TO \$100,000</p> <p>limit to your claim</p> <p>(All eligible Prolonged Class Member claimants will receive at least an equal share of the \$32.7 million lump sum. SMI Class Member claimants can also receive damages).</p>	<p>COURT AWARD</p> <p>With no limit to your claim</p> <p>(All eligible Prolonged Class Member claimants will receive at least an equal share of the \$32.7 million lump sum. SMI Class Member claimants can also receive damages).</p>

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

Documents	Claim Form + Track Selection Form	Claim Form + Track Selection Form + Your affidavit, plus brief written arguments on the harm caused by administrative segregation	Claim Form + Track Selection Form + Affidavits and other evidence, cross-examinations, plus legal documents demonstrating harm caused by your administrative segregation
Process	NO Court hearing. NO assessment of harm by a Referee. Fastest Process.	A legal Referee will review your evidence about the harms you claim, and determine your award on a grid up to a maximum of \$100,000. The award must then be approved by the Court.	A court hearing, called “a motion for summary judgment,” at which the Judge will review your evidence, any evidence that Ontario presents, and hear legal arguments. The Judge will then determine the amount of your award, if any.
Fees	NO additional legal fee	UP TO 15% on the additional money obtained, plus disbursements and a levy to any funder (But NO legal fee on the amount equivalent to the equal share of the \$32.7 million)	ANY legal fee agreed to between you and your lawyer on the additional money obtained, plus any disbursements, plus a levy to any funder (But NO legal fee on the amount equivalent to the equal share of the \$32.7 million)

The Pre-2018 Class Action has received financial support from the Class Proceedings Fund. There will be a levy that reduces the amount of any award or settlement funds that members of the Pre-2018 Class may receive. This levy is the sum of the amount of any financial support paid from the Fund plus 10 per cent of the amount of the award or settlement funds payable to Class Members, if any.

Within **Track 2**, a legal Referee will review your file, and determine an award on the basis of the following grid, up to a maximum of \$100,000:

CRITERIA FOR TRACK 2 AWARD	AWARD
15-29 consecutive days in administrative segregation	Up to \$10,000
30-44 consecutive days in administrative segregation	Up to \$15,000

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

45-80 consecutive days in administrative segregation	Up to \$20,000
81-100 consecutive days in administrative segregation	Up to \$30,000
More than 100 consecutive days in administrative segregation	Up to \$40,000
Damages or Additional damages if an Inmate with Serious Mental Illness:	
If the Referee concludes that the level of harm is low	Up to \$10,000
If the Referee concludes that the level of harm is medium	Up to \$15,000
If the Referee concludes that the level of harm is high	Up to \$20,000
Additional damages for any one or more of: Post-traumatic Stress Disorder, Severe Clinical Depression, Self-injurious Behavior, Substantial Degradation in Axis I Disorder (excluding Substance Use Disorders), or Substantial Degradation of Borderline Personality Disorder):	
If the Referee concludes that the level of harm is low	Up to \$20,000
If the Referee concludes that the level of harm is medium	Up to \$30,000
If the Referee concludes that the level of harm is high	Up to \$40,000

There are several other parts of the proposed Protocol that describe, amongst other things: access to records of segregation placements, disclosure of documents, costs, and pre-judgment and post-judgment interest. If you would like to request a complete copy of the Protocol, please contact: [Admin phone] or visit [Admin website].

What happens if I do nothing at all about the Protocol?

If you support or do not have any comments about the Protocol, you do not need to do anything right now. If the Court approves the Protocol, you will be able to make a claim for money at a later date through the process outlined in the Protocol.

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

What if I do not like the proposed Protocol?

If you are a member of either the Pre-2018 Class or the Post-2018 Class, and you do NOT support the proposed Protocol for distributing aggregate damages and for making individual claims for more money, you can voice your objection to the Court by submitting an Objection Form.

Your Objection Form must include:

- (a) Your full name, address, and telephone number;
- (b) Whether you are a member of the Post-2018 Class, the Pre-2018 Class, or both;
- (c) To the best of your recollection, your list of placements in Administrative Segregation, with dates, locations and lengths of time;
- (d) the reasons for your objection accompanied by any legal support for such objection;
- (e) copies of any documents upon which you are basing your objection;
- (f) a statement of whether you intend to appear at the August 11, 2022 approval hearing; and
- (g) if you intend to appear at the hearing with a lawyer, and if so, identifying the lawyer representing you.

Your Objection Form must be signed by you, and sent to Class Counsel on time. You can send it to Class Counsel by mail to **Koskie Minsky LLP**, 20 Queen St. West, Suite 900, Box 52, Toronto, ON M5H 3R3, or by email to ontarioadminsegclassaction@kmlaw.ca. Your objection statement must be sent to Class Counsel or postmarked no later than **July 25, 2022**.

THE LAWYERS REPRESENTING YOU

Do I have a lawyer in the case?

Yes. The Court has appointed Koskie Minsky LLP from Toronto to represent you and other Class Members as “Class Counsel.” You will not be personally charged for the services of these lawyers. If you want to be represented by another lawyer, you may hire one at your own expense.

If you have questions concerning this Notice you can call [number] (TTY: [number]) for assistance.

You can contact Koskie Minsky LLP at ontarioadminsegclassaction@kmlaw.ca or by phone 1-844-819-8527 (toll free).

How will the lawyers be paid?

Class Counsel only gets paid if they win a trial or if there is a settlement. Since they won a judgment for the Pre-2018 Class, Class Counsel has already been paid from the aggregate damages amount awarded. Class Counsel is not seeking any additional payment from the amount proposed in the Post-2018 Settlement Agreement.

If the Protocol is approved, Class Counsel will receive additional fees for:

- i) successful Track 2 claims brought by class members that they represent (up to 15% of the claim award, plus costs and disbursements), and
- ii) for successful Track 3 claims brought by class members that they represent (up to an amount agreed upon with each claimant, and approved by the Court).

If you hire a different lawyer to represent you in your individual claim under the Protocol, that lawyer's fee will also be limited in Track 2 to up to 15% plus disbursements, and will need to be approved by the Court if the claim is brought under Track 3.

How do I get more information?

You can get more information at [Admin website], by calling toll free at [Admin number], or writing to: [Admin address], or by email at: [Admin email]

"Schedule C" – Short Form Notice

Legal Notice

Were you placed in Administrative Segregation in an Ontario Jail between January 1, 2009 and August 18, 2021?

A Lawsuit May Affect You. Please Read this Carefully

You could be affected by one of two class action lawsuits. The Ontario Superior Court of Justice decided that two class actions on behalf of a class of people, that could include you, can go forward. The Court will soon determine a process through which money will be available to eligible class members. This notice summarizes your rights and options.

What are these cases about?

The lawsuits say that Ontario improperly subjected people to administrative segregation in Ontario jails, causing them emotional, physical, and psychological harm. Ontario denies these claims. However, the Court has already decided that Ontario should pay aggregate damages in one lawsuit, and Ontario has agreed to settle aggregate damages in the second lawsuit. The parties have proposed a plan, called the "Protocol", for distributing the aggregate damages and allowing class members to make claims for additional damages.

The Court must now decide whether to approve a proposed Settlement in the second lawsuit and whether to approve the proposed Protocol for claiming money in both lawsuits. The Court will decide these issues at the hearing on August 11, 2022. If you want to participate in the hearing, please contact the Administrator at [email] or [phone] by **July 25, 2022**.

Who represents the class?

The Court has appointed Koskie Minsky LLP to represent the class as "Class Counsel". You don't have to pay Class Counsel. Instead, if you make a claim for money under the proposed Protocol, they may ask for lawyers' fees to be deducted from any money that you obtain. You may also hire your own lawyer instead, but you may have to pay that lawyer.

Who is included in the class?

There are two classes that may be able to benefit from these lawsuits. The Pre-2018 Class includes current and former inmates who were subjected to Administrative Segregation between January 1, 2009 and September 18, 2018, were alive as of April 20, 2020, and fall into either Category 1 or Category 2 set out below. The time for excluding yourself from the Pre-2018 Class has expired.

The Post-2018 Class includes current and former inmates who were subjected to Administrative Segregation between September 18, 2018 and August 18, 2021, were alive as of May 14, 2018, and fall into either Category 1 or Category 2 set out below. If you belong to the Post-2018 Class, you have a choice of staying in the class, or leaving the class by opting out.

Category 1: Inmates with a Serious Mental Illness:

- (a) who were subjected to Administrative Segregation for any length of time at one of the Correctional Institutions;
- (b) who were diagnosed by a medical doctor before or during their incarceration with a listed disorder, and who suffered from their disorder, in a manner described, and,
- (c) who reported such diagnosis and suffering to Ontario's agents before or during their Administrative Segregation;

OR

Category 2: Inmates in Prolonged Administrative Segregation who were placed in Administrative Segregation for 15 or more consecutive days at one of the Correctional Institutions.

If you have questions concerning this notice you can call 1[number] (TTY: [number]) for assistance.

"Schedule C" – Short Form Notice

For more information about the proposed settlement, and a complete definition of the terms used in these categories, please review the documents which are available on the internet at: [Admin website address] or contact the Administrator.

What money is available to the class?

A Court awarded **\$30 million** in aggregate damages to be distributed to eligible members of the Pre-2018 Class, less fees and deductions. Ontario has also agreed to a Settlement that provides **\$13 million** in aggregate damages to eligible members of the Post-2018 Class, without deductions. The Court must approve this proposed Settlement, and it will decide whether to approve it at the hearing on **August 11, 2022**.

Eligible members of the classes may be entitled to additional damages. The Protocol explains who is eligible and how class members can make their claims for damages. Under the Protocol, there are three separate "Tracks" for making claims. Each Track has different requirements, advantages, and disadvantages. You can read more about the Tracks at [Admin website] and in the Protocol.

The Court must approve the proposed Protocol, and it will decide whether to approve it at the hearing on **August 11, 2022**.

What are my options as a class member?

Your options will depend on what class you are in.

If you were placed in Administrative Segregation anytime between Jan. 1, 2009 and Sept. 18, 2018 , your options are:	
Do nothing	If the Court approves the Protocol, you will be able to make a claim for damages at a later date..
Object to proposed Protocol	Complete an Objection Form and mail it to Class Counsel at Koskie Minsky LLP, 20 Queen St. West, Suite 900, Box 52, Toronto, ON M5H 3R3, or email it to ontarioadminsegclassaction@kmlaw.ca, no later than July 25, 2022 .

If you were placed in Administrative Segregation between Sep. 18, 2018 and Aug. 18, 2021 , your options are:	
Do nothing	If the Court approves the Settlement and the Protocol, you will be able to make a claim for damages at a later date.
Opt Out	Exclude yourself from the class, and get no money from the lawsuit, but keep your right to sue Ontario. If you want to opt out, you must submit an Opt Out Form by July 25, 2022.
Object to proposed Settlement and/or Protocol	Complete an Objection Form and mail it to Class Counsel at Koskie Minsky LLP, 20 Queen St. West, Suite 900, Box 52, Toronto, ON M5H 3R3, or email it to ontarioadminsegclassaction@kmlaw.ca, no later than July 25, 2022.

Where can I get more information?

To get a copy of the proposed Settlement, the proposed Protocol, the Objection Form, the Opt Out Form, or any other information, please contact the Administrator at: [Admin phone] or [Admin email], or by mail at: [Admin address]

If you have questions concerning this notice you can call 1[number] (TTY: [number]) for assistance.

Schedule "D" - Opt Out Form

OPT OUT FORM

To: Ontario Administrative Segregation Administrator
[address]
[email]

This is **NOT** a claim form. Completing this OPT OUT COUPON will exclude you from receiving any compensation arising out of any settlement or claim for damages in the class proceeding named below:

**Ontario Jails Administrative Segregation Class Action
Placements between September 18, 2018 and August 18, 2021**

(Chandra v. Ontario, Court File No. CV-20-641003-00CP)

My name is: _____ Address: _____
Tel.: _____
Email: _____
Dates in Segregation: _____

<input type="checkbox"/>	<p>I was placed in administrative segregation in an Ontario jail between September 18, 2018 and August 18, 2021.</p>
<input type="checkbox"/>	<p>I want to REMOVE myself from the class action and NOT participate in the class action.</p> <p>I understand that any individual claim I may have must be commenced within a specified limitation period or it will be legally barred. I understand that I must mail or email this opt-out form by July 25, 2022 or else it will not be valid.</p> <p>I understand that the filing of this class proceeding suspended the running of the limitation period from the time the class proceeding was filed. The limitation period will resume running against me if I opt out of this class proceeding.</p> <p>I understand that by opting out, I take full responsibility for the resumption of the running of any relevant limitation period and for taking all necessary legal steps to protect any claim I may have.</p> <p>Signature: _____ If you sign here, you will NOT get any money from this action. Date: _____</p> <p>Witness Signature: _____ Witness Name: _____ Date: _____</p>

Schedule "E" - Objection Form

OBJECTION FORM

Ontario Jails Administrative Segregation Class Actions

(*Francis v. Ontario*, CV-18-591719-00CP; *Chandra v. Ontario*, Court File No. CV-20-641003-00CP)

This is **NOT** a claim form. Carefully read the instructions below.

Questions? Visit [Epiq's website], contact [Epiq's email], or call [Epiq's phone]

Instructions:

- Complete this Objection Form **ONLY** if you want to OBJECT or ask the Court not to approve the proposed settlement or proposed distribution protocol. Refer to the Long Form Notice or visit [Epiq's website] if you want to learn more about the proposed settlement or the proposed distribution protocol.
- Fill out the sections with your name, address, telephone number, and email address.
- Fill in the box identifying whether you were placed in Administrative Segregation between **January 1, 2009**, and **September 18, 2018**, or **September 18, 2018** and **August 18, 2021**. If you were placed in Administrative Segregation during both time frames, you can fill out both boxes.
- To the best of your recollection:
 - list the dates you were placed in Administrative Segregation and the dates you were released from Administrative Segregation; and
 - list the locations or name of the Ontario jails in which you were placed in Administrative Segregation.
- Fill in the box indicating whether you want to object to the proposed settlement, or to the proposed distribution protocol. If you want to object to both, you can fill out both boxes.
- In the spaces provided, explain why you are objecting. You can use this space to give reasons why you think the Court should not approve the proposed settlement or the proposed distribution protocol. If you require more room, you can attach additional pages and include them with your Objection Form.
- If you want to include any other documents with your objection, fill in the box saying "I am including additional documents with my Objection Form". Make sure you include those documents with your Objection Form when you submit it.
- If you want to attend the hearing where the court will decide whether to approve the proposed settlement and distribution protocol, fill out the box saying "I wish to attend at the hearing on August 11, 2022." You do not need to attend the hearing unless you want to. A copy of your Objection Form will be provided to the Court whether or not you decide to go to the hearing. If you have a lawyer representing you at the hearing, please provide his or her name and contact information.
- Send your completed Objection Form by mail or by email to:
Mail: **Koskie Minsky LLP**
20 Queen St. West
Suite 900, Box 52
Toronto, ON M5H 3R3
Email: ontarioadminsegclassaction@kmlaw.ca
- Your Objection Form must be sent by **July 25, 2022**.

OBJECTION FORM

Ontario Jails Administrative Segregation Class Actions

(Francis v. Ontario, CV-18-591719-00CP; Chandra v. Ontario, Court File No. CV-20-641003-00CP)

My name is:

Phone number: _____

My Address: _____

Email: _____

<input type="checkbox"/>	I was placed in administrative segregation in an Ontario jail sometime between January 1, 2009 , and September 18, 2018 .				
<input type="checkbox"/>	I was placed in administrative segregation in an Ontario jail sometime between September 18, 2018 and August 18, 2021 .				
	I believe I was placed in Administrative Segregation on the following dates:				
	I believe I was placed in Administrative Segregation at the following locations:				
<input type="checkbox"/>	<p>I want to OBJECT to the proposed settlement agreement that is offering \$13 million in the lawsuit about administrative segregation placements between September 18, 2018 and August 18, 2021, because:</p> <table border="1"><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr></table> <p>Signature: _____ Date: _____</p>				
<input type="checkbox"/>	<p>I want to OBJECT to the proposed distribution protocol for distributing damages and allowing class members to claim additional damages, because:</p> <table border="1"><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr><tr><td> </td></tr></table> <p>Signature: _____ Date: _____</p>				
<input type="checkbox"/>	I am including additional documents with my Objection Form.				
<input type="checkbox"/>	I will attend the approval hearing on August 11, 2022.				
<input type="checkbox"/>	I will have a lawyer representing me at the approval hearing. The lawyer's name and contact information is:				