

## **Notice of Conditional Certification & Scheduled Settlement Hearing**

### **LIFELABS DATA BREACH CLASS ACTION**

*Read this notice carefully as it may affect your rights.*

#### **INTRODUCTION**

A proposed Class Action was commenced arising out of a data breach announced by LifeLabs Inc. on December 17, 2019 (“the Action”). The representative plaintiffs are: Alita Marie Carter, Anna Belle Tharani, and Albert Ototé.

A Settlement has been negotiated, and the Action has been certified as a class action for the purpose of completing the Settlement.

#### **THE CLASS ACTION**

The Action was brought against LifeLabs Inc. and related LifeLabs companies (“LifeLabs”) following the attack by a criminal cyber-attacker on its database of customer personal health information. The Action alleged that LifeLabs was negligent in its protection of that data. LifeLabs denied all such allegations.

#### **The Class is:**

All Canadian resident customers or patients of the Defendant LifeLabs companies whose Personal Information was stored on computer systems in the control of LifeLabs that were compromised or accessed by unauthorized persons in the security breach announced by LifeLabs on December 17, 2019; including a subclass of:

- (i) all customers or patients of LifeLabs whose test requisitions or test results were accessed by persons unknown as a result of a security breach announced by LifeLabs on December 17, 2019

The Class includes approximately 8.6 million persons whose personal information (including provincial health card numbers) was stolen, including approximately 131,957 Class members whose confidential test requisitions or test results were stolen by hackers.

LifeLabs paid a ransom and the cyber-attackers returned the data. That data has not been identified as being sold on the dark web or otherwise misused by anyone.

#### **THE PROPOSED SETTLEMENT**

If the Settlement is approved by the Court, LifeLabs has agreed to pay compensation to Class members who submit a valid claim form within the time set by the Court for filing a claim.

If the Settlement is approved, LifeLabs will pay a guaranteed amount of \$4.9M, and up to a further \$4.9M depending on the number of claims made (“the Settlement Funds”). Each Class member

who completes a valid claim form will be eligible to receive **compensation of \$50, up to a maximum of \$150, from which will be deducted Court-approved legal fees, disbursements and taxes**. Class members may receive more or less than \$50, depending on the number of claims filed, and the legal fees and disbursements approved by the Court.

In exchange for LifeLabs paying the Settlement Funds, LifeLabs will be released by the Class from all forms of potential claims against LifeLabs arising from the data breach.

## **THE PROPOSED CONTINGENCY LEGAL FEES**

The Plaintiffs retained Class Counsel on a contingency fee basis, which means that the lawyers do not get paid unless the Court approves a settlement of the Action or awards a monetary judgment after a trial.

If the Settlement is approved, Class Counsel will request that the Court approve legal fees totalling 25% of the Settlement Funds paid by LifeLabs, plus taxes and disbursements.

## **HOW THE CASE WILL PROCEED**

The Court will convene a hearing to decide whether it approves the Settlement and the proposed Class Counsel fees. This hearing will be held on October 25, 2023 by videoconference.

If you are a Class member, and you object to the terms of the proposed Settlement, or to the fees that Class Counsel will request, you are entitled to file a written objection with the Court. The procedure for filing a written objection is as follows:

- Your objection must be sent to the Claims Administrator by October 20, 2023 at the latest;
- Your objection must include your full name, current address, email address, telephone number, and Provincial Health Number (which will be kept confidential and used only to confirm that you are a Class member);
- You must provide a statement to the effect that you object to the Settlement or to Class Counsel's proposed Fees; and
- You must provide your reason(s) for objecting.

Class members who object may also ask the Court for the right to speak at the hearing.

The contact particulars for the Claims Administrator are: <https://lifelabssettlement.kpmg.ca>.

If the Court approves the Settlement, then a further notice will be provided to the Class with details explaining how to make a claim for a portion of the Settlement Fund.

## **PARTICIPATING IN THE CLASS ACTION**

If the Settlement is approved by the Court, and you are a member of the Class, you are automatically included in the Action, and will be entitled to claim a share of the Settlement Funds, and you will give a release of all potential claims against LifeLabs regarding the data breach, unless you exclude yourself from the Action by “opting-out”.

If the Settlement is not approved by the Court, and you do not opt out, you will be bound by all results in the Action whether favourable to the Class or not. However, Class members are never liable to pay adverse court costs to the Defendants.

## **EXCLUDING YOURSELF FROM THE CLASS ACTION**

If you fall within the Class definition and you **do not wish to participate in the Action**, you must opt-out of the Action, by sending a written election to opt-out to the Claims Administrator at the address above.

The deadline to file the opt-out notice is September 9, 2023.

If you opt-out by the deadline, it means that you may seek to bring your own lawsuit, and you will not be bound by the Settlement or any result in the Action. It also means that you cannot object to the Settlement, or request or obtain any of the Settlement Funds approved by the Court.

## **IF THE COURT DOES NOT APPROVE THE SETTLEMENT**

If the Court declines to approve the Settlement, it will not be completed, the certification order will be set aside, and the Action will continue against the defendants on a contested basis.

## **ADDITIONAL INFORMATION**

Any questions about the matters in this notice should not be directed to the Court. The pending Settlement and other information may be obtained by visiting the website at <https://lifelabssettlement.kpmg.ca>.

If you have any questions for Class Counsel, or if you are unsure whether you fall within the Class, please contact Class Counsel at the following coordinates:

[Charney Lawyers PC](https://www.charneylawyers.com/) (Toronto, ON): <https://www.charneylawyers.com/>

[McPhadden Samac Tuovi LLP](https://mest.ca/#contact) (Toronto, ON): <https://mest.ca/#contact>

[Sotos LLP](https://www.sotosclassactions.com/cases/lifelabs/) (Toronto, ON): <https://www.sotosclassactions.com/cases/lifelabs/>

[Stein Law Office](https://www.andrewsteinlaw.com/) (Toronto, ON): <https://www.andrewsteinlaw.com/>

[Waddell Phillips PC](https://waddellphillips.ca/class-actions/lifelabs-class-action/) (Toronto, ON): <https://waddellphillips.ca/class-actions/lifelabs-class-action/>

[OV Counsel](https://ovcounsel.com/) (Ottawa, ON & Vancouver, BC): <https://ovcounsel.com/>

[Arsenault Aaron Lawyers](https://arsenaultaaron.com/lifelabs-class-action/) (Vancouver, BC): <https://arsenaultaaron.com/lifelabs-class-action/>

[Camp Fiorante Matthews Mogeran LLP](https://www.cfmlawyers.ca/) (Vancouver, BC): <https://www.cfmlawyers.ca/>

[Collette Parsons Corrin LLP](https://colletteparsons.com/contact/) (Vancouver, BC): <https://colletteparsons.com/contact/>

[Rosenberg Law](https://rosenberglaw.ca/contact/) (Vancouver, BC): <https://rosenberglaw.ca/contact/>