

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

JUSTICE PERELL

) MONDAY, the 11TH DAY
)
) OF SEPTEMBER, 2023



ALITA MARIE CARTER,
ANNA BELLE THARANI, and ALBERT OTOTÉ

Plaintiffs

and

LIFELABS INC., LIFELABS BC INC.,
LIFELABS BC LP, and LIFELABS LP

Defendants

Proceeding under the *Class Proceeding Act, 1992*

Amended and Restated ORDER
(Conditional Certification and Notice Approval)

THIS MOTION, made by the Plaintiffs, on consent, for an Order granting conditional certification and approving the form of a notice of the settlement approval hearing was heard on July 25, 2023 at Osgoode Hall Court House, 130 Queen St. W., Toronto by video conference, and has come back before the Court for amendment to the Order of that date ("the First Notice Order").

ON READING the Affidavit of Peter E. Tuovi, sworn July 18, 2023 and on being advised of the consent of the Defendants and on hearing the submissions of counsel for the parties:

1. THIS COURT ORDERS that this Action is conditionally certified as a class proceeding as against the Defendants LIFELABS INC., LIFELABS BC INC., LIFELABS BC LP, and LIFELABS LP for settlement purposes only;

2. THIS COURT ORDERS that the notice of conditional certification, and of the settlement approval hearing (the "Notice") in the form attached to the First Notice Order hereto as Schedule "A" is hereby approved.

3. THIS COURT ORDERS that the plan of dissemination of the Notice (the "Plan of Dissemination") attached to the First Notice Order hereto as Schedule "B" is hereby approved, and that the Notice shall be disseminated in accordance with the Plan of Dissemination;

4. THIS COURT ORDERS that the "Settlement Class" is defined as follows:

All persons in Canada who are living as of the date of Settlement Approval who is a current or former user of LifeLabs services whose personal information is known to have been exfiltrated as part of the Data Breach, excluding any officer, director, or executive level employee of the Defendants.

5. THIS COURT ORDERS that ALITA MARIE CARTER, ANNA BELLE THARANI, and ALBERT OTOTÉ are hereby appointed as the representative Plaintiffs;

6. THIS COURT ORDERS that the cause of action asserted is negligence;

7. THIS COURT ORDERS that the following common issue is certified:

Did the Defendants owe the Plaintiffs and Class Members a duty of care in respect of the Data Breach?

8. THIS COURT ORDERS that KPMG LLP is hereby appointed Claims Administrator;

9. THIS COURT ORDERS that the Defendants are granted leave to produce to the Claims Administrator such Personal Information that LifeLabs has in its possession in respect of the proposed Settlement Class Members, to be used solely for the purpose of identifying Class Members in order to effect Notice, and the settlement, as contemplated herein, as necessary;

10. THIS COURT ORDERS that the Defendants shall provide to the Claims Administrator the regular mail address for those persons in the Settlement Class who received the December 2019 notice from LifeLabs by mail.

11. THIS COURT ORDERS that, in addition to the Plan of Dissemination, the parties will, on the first available date, send the Notice to all Settlement Class members whose email addresses were not properly transmitted to the Claims Administrator in fulfillment of the Order of July 25, 2023, and so were not included in the tranche of Notice emails sent on August 10, 2023.

12. THIS COURT ORDERS that the process for objections to the Settlement and/or Class Counsel Fees as set out in Section 2.5(4) of the Settlement Agreement, which is attached as Schedule "C" to the First Notice Order, is approved;

13. THIS COURT ORDERS that Class Members seeking to opt out of the Action must do so by sending a written election to opt out to the Claims Administrator at an address to be identified in the Notice, and received on or before thirty (30) days from the first date of distribution of the Notice ("the Opt-Out Deadline"), except for those Class Members receiving the second tranche of Notice emails in compliance with paragraph 11 of this Amended and Restated Order, whose deadline to opt out shall be thirty (30) days from the date of distribution of their email.

14. THIS COURT ORDERS that the written election to opt out sent by the Class Member or the Class Member's designee must include the following information:

(i) the Class Member's full name, current address, email address (if any) and telephone number; and,

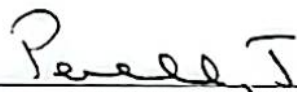
(ii) a statement to the effect that the Class Member wishes to be excluded from the Action;

15. THIS COURT ORDERS that any member of the Settlement Class who validly opt-outs of the proceeding shall be excluded from the Settlement Class, and shall have no further right to participate in the proceeding or to share in the distribution of any funds;

16. THIS COURT ORDERS that any member of the Settlement Class who does not validly opt-out in the manner and time prescribed above shall be deemed to have elected to participate in the proceeding;

17. THIS COURT ORDERS that within five (5) days of the Opt-Out Deadline, the Claims Administrator shall provide a report to the Parties and the Court containing the names of each person who has validly and timely opted out of the Action.

18. THIS COURT ORDERS that there shall be no costs of this motion.



JUSTICE P. PERRELLI
ENTERED SEP 11/2023

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Amended and Restated ORDER
**(For Settlement Approval,
Fee Approval and Dismissal)**

McPhadden, Samac, Tuovi LLP
161 Bay Street, 27th Floor
Toronto ON M5J 2S1

Bryan C. McPhadden LS#: 28160K
Tel: (416) 363-5195
Fax: (416) 363-7485

Lawyers for the Plaintiffs