

CITATION: Carter v. LifeLabs Inc.
COURT FILE NO.: CV-20-00636642-00CP
DATE: 20231025

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:)	
)	
ALITA MARIE CARTER,)	<i>Bryan C. McPhadden and Andrew Stein for</i>
ANNA BELLE THARANI, and)	<i>the Plaintiffs</i>
ALBERT OTOTÉ)	
Plaintiffs)	
- and -)	<i>Dana M. Peebles and Amanda D. Iarusso for</i>
)	<i>the Defendants</i>
)	
LIFELABS INC., LIFELABS BC INC.,)	<i>Andrew Eckart for the objectors Debra</i>
LIFELABS BC LP, and LIFELABS LP)	<i>Kestenburg and David Haines</i>
)	
Defendants)	HEARD: October 25, 2023

PERELL, J.

ENDORSEMENT

[1] This is a privacy law class action under the *Class Proceedings Act, 1992*.¹ It was certified for settlement purposes in July of this year.²

[2] The Plaintiffs Alita Marie Carter, Anna Belle Tharani, and Albert Ototé sue LifeLabs Inc., LifeLabs BC Inc., LifeLabs BC LP, and LifeLabs LP (collectively “LifeLabs”) with respect to a data breach that “potentially” affected the personal information of 8.6 million customers. After four years of litigation, there is no evidence that the personal information was “actually” affected.

[3] The parties have agreed to settle the action subject to court approval. This is a motion for approval of the settlement and for Class Counsel’s fee. The Plaintiffs seek Orders:

- a. approving the Settlement Agreement as fair and reasonable and in the best interests of the Settlement Class;
- b. approving the Plan of Distribution of the Settlement Payment Benefits, as set out in the Settlement Agreement;
- c. appointing KPMG LLP as Claims Administrator, to administer the Plan of Distribution;
- d. protecting the information provided by Settlement Class Members to the

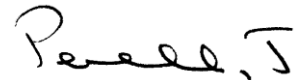
¹ S.O. 1992, c. 6.

² *Carter v. LifeLabs Inc.*, 2023 ONSC 4331

Defendants and the Claims Administrator;

- e. directing notice of approval of the Settlement Agreement be given in accordance with section 5 of the Settlement Agreement and that such notice shall satisfy any notice requirements under s. 29.4 of the *Class Proceedings Act, 1992*;
- f. directing that upon the Effective Date of the Orders sought, the Releasors forever and absolutely release, relinquish and discharge the Releasees from the Released Claims;
- g. dismissing the Action and each of the Parallel Ontario Actions upon the Effective Date;
- h. approving the Joint Contingency Fee Retainer Agreements with the Plaintiffs;
- i. approving Class Counsel fees of 25% plus applicable taxes on the Guaranteed Settlement Funds;
- j. approving Class Counsel fees of 25% plus applicable taxes on the Contingent settlement fund, if any;
- k. directing that Class Counsel fees, disbursements and applicable taxes be paid from the Guaranteed Settlement Funds and the Contingent Settlement Funds; if any, pursuant to the terms of the Settlement Agreement with the Defendants, dated July 5, 2023.

[4] For written reasons to follow, save for the request for a \$2,500 honourarium for each Representative Plaintiff, the motions and the requested Orders are granted.



Perell, J.

Released: October 25, 2023

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Plaintiffs

- and -

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

Defendants

ENDORSEMENT

PERELL J.

Released: October 25, 2023