



ACTION NO. S216008
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JOHN MOREL

PLAINTIFF

AND:

KONINKLIJKE PHILIPS N.V., PHILIPS ELECTRONICS LTD., PHILIPS NORTH
AMERICA LLC, PHILIPS RS NORTH AMERICA LLC, AND RESPIRONICS INC.

DEFENDANTS

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

ORDER MADE AFTER APPLICATION

BEFORE } THE HONOURABLE JUSTICE KER } September 29, 2025

ON THE APPLICATION of the plaintiff, John Morel; coming on for hearing in person and by MS Teams at the Courthouse at 800 Smithe Street Vancouver, BC and on hearing Anthony Leoni, Kendal Paul, and Louis Sokolov and Stephen Birman (in person) and Lucy Jackson (on MS Teams) for the plaintiff; and James Sullivan, K.C. and Parmida Elahi (in person) and Ariane Bisaillon, Jessica Lam and Robin Linley (on MS Teams) for the defendants..

AND ON READING all materials filed and on hearing the submissions of counsel

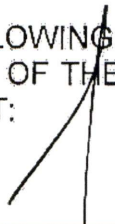
AND ON READING all materials filed and on hearing the submissions of counsel;

AND ON BEING ADVISED that the defendants take no position;

THIS COURT ORDERS that:

1. the terms of the distribution protocol attached as **Schedule "A"** to this Order are hereby approved.

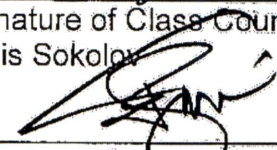
THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:



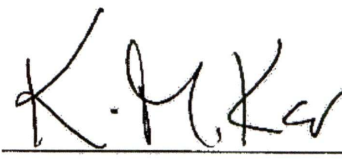
Signature of Class Counsel
Anthony Leoni



Signature of Class Counsel
Louis Sokolow



Signature of Lawyer for the Defendants
James Sullivan



By the Court
Registrar



Schedule "A"
Distribution Protocol

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CLAIMS ADMINISTRATION PROCEDURE AND DISTRIBUTION PROTOCOL

A partial class action settlement relating to class members' economic loss claims has been reached in *Morel v. Koninklijke Philips N.V. et al.*, S.C.B.C. No. VLC S-216008. The proposed settlement, legal fees, and claims administration procedure and distribution protocol (the "**Distribution Protocol**") must be approved by the Court to become binding.

Class Counsel have provided this Distribution Protocol, subject to the approval of the Court, for the allocation of damages to Class Members that meet the eligibility criteria set out herein. The Defendants are not endorsing any particular allocation formula or claim value.

This document sets out the proposed Distribution Protocol that Class Counsel will seek to have approved by the Court under section 33 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.

SECTION 1 – DEFINITIONS

1. The definitions set out in the partial settlement agreement dated February 21, 2025 ("**Settlement Agreement**"), apply to, and are incorporated in, the Distribution Protocol.

2. Further terms used in the Distribution Protocol and not defined in the Settlement Agreement have the following definitions:

- (a) **Acknowledgement Letter** means a letter from the Claims Administrator to a Claimant, acknowledging receipt of the Claimant's Claim Package. The Acknowledgement Letter is to be sent within seven (7) days of receipt of the Claimant's Claim Package.
- (b) **Approved Claim** means a Claimant's Claim for a Compensatory Payment approved by the Claims Administrator.
- (c) **Claim** means a Claimant's request for a Compensatory Payment under the distribution protocol.
- (d) **Claims Administrator** means KMPG Inc, as appointed by Order of the Court filed February 21, 2025.
- (e) **Claimant** means any Class Member who follows the Claim Administration Procedure to request a Compensatory Payment. For greater certainty, Claimant includes Class Members who are living and where a Class Member is deceased, the authorized representative of the Claimant's estate entitled to maintain a claim against the Defendants pursuant to the *Family Compensation Act*, R.S.B.C. 1996, s. 126, and Persons entitled to bring similar claims in other provinces and territories.
- (f) **Claims Administration Procedure** means the procedure set out in this Distribution Protocol for making a Claim.
- (g) **Claim Determination Decision** means a written decision from the Claims Administrator pronouncing a Claimant's eligibility for Compensatory Payments under the Settlement Agreement.
- (h) **Claim Package** means a package provided by the Claims Administrator, to be submitted by a Claimant pursuant to the Claims Administration Procedure.
- (i) **Claim Period** means the period of time 120 days from the Notice announcing the opening of the claim process.
- (j) **Compensatory Payment** means the amounts a Claimant is entitled to receive comprised of the universal device payment and/or the device replacement payment as defined at paragraphs 24(e)(i) and 24(e)(ii).

- (k) **Deficiency Letter** means a letter from the Claims Administrator advising the Claimant of any deficiencies in their Claim Package. The Deficiency Letter is to be sent within 15 days of receipt of the Claimant's Claim Package.
- (l) **Settlement Amount** is the all-inclusive sum of twenty million Canadian dollars (CAD \$20,000,000.00), which includes costs, Class Counsel Fees, Class Counsel Disbursements, applicable taxes, notice and Administration Expenses, and any interest accrued thereon.

SECTION 2 – CLAIMS ADMINISTRATION PROCEDURE

Appointment and Role of the Claims Administrator

3. The Court shall approve the appointment of the Claims Administrator.
4. The Claims Administrator shall be responsible for:
 - (a) receiving, reviewing, and creating and storing electronic copies of every submitted Claim Package;
 - (b) administering the Settlement Agreement and distributing the Settlement Amount and related documentation in keeping with the Settlement Agreement and the Distribution Protocol;
 - (c) establishing a dedicated e-mail account whereby Class Members can direct inquiries about the Claims Administration Procedure;
 - (d) periodically preparing a report for Class Counsel summarizing the number of Claim Packages received on an anonymous basis;
 - (e) preparing and sending Acknowledgement Letters, Deficiency Letters, Claim Determination Decisions, lists of each Claimant with an Approved Claim authorized for a Compensatory Payment, and any other necessary correspondence or communications to, from, or between Claimants, Class Counsel, and Counsel for the Defendants, as required by, or incidental to, the administration of the Settlement Agreement, reporting the total number of Claims received by category, calculating any necessary *pro rata* adjustments, and the total amounts payable by category and allocating the Settlement Amount to pay Compensatory Payments, and any other amounts under the Settlement Agreement;
 - (f) distributing the Settlement Amount to pay Compensatory Payments to Claimants with an Approved Claim and any other amounts under the Settlement Agreement, and
 - (g) anything that is required by, or incidental to, the duties of the Claims Administrator, described in the Settlement Agreement.

5. Any information provided by or regarding Class Members, or otherwise obtained pursuant to the Settlement Agreement, shall be kept strictly confidential and shall not be disclosed except to appropriate persons, and only to the extent necessary to process a Claim or to provide benefits under the Settlement Agreement, as otherwise expressly provided for in the Settlement Agreement, or as contingent upon either the presentation or Court's approval of a Claims Administration Procedure.

6. The Claims Administrator shall institute and maintain strict internal procedures to reasonably protect the identity of all Claimants and all information regarding their Claim. In particular, Claim Packages shall be kept strictly confidential and shall not be provided to any person or entity unless provided for in the Settlement Agreement or as required by law.

7. Class Counsel shall have access to all information maintained by the Claims Administrator regarding each Claimant and the processing and payment of a Claim.

8. All written communications with each Claimant shall be conducted by e-mail or by regular mail to the last known address provided by the Claimant. Each Claimant shall keep the Claims Administrator apprised of their current contact information.

9. If, for any reason, the Claims Administrator becomes unable or unwilling to continue to act in this role, the Parties may choose an alternate claims administrator, subject to the approval of the Court.

Claims Administration Procedure

10. Upon the Effective Date, the Claims Administrator shall issue the Notice described in the Partial Settlement Agreement advising of the process for applying to receive settlement benefits and setting out the Distribution Protocol.

11. All Class Members will be required to submit a completed Claim form on a dedicated claims portal (the "Portal"), a site map of which is enclosed as **Appendix A** to this Distribution Protocol, to the Claims Administrator before the end of the Claim Period to be entitled to receive any benefits under the settlement. Alternatively, Class Members may submit a Claim form in paper form, upon request to the Claims Administrator.

12. All Claims with supporting documents must be received by the Claims Administrator before the end of the Claim Period. The Claims Administrator shall deny any Claim received or completed after that date and time. The Claims Administrator shall issue an Acknowledgement Letter to the Claimant within seven (7) days of receipt of the Claim Package.

13. The Claims Administrator will review the Claim Package submitted by the Claimant to determine eligibility.

14. Where the Claim Package is incomplete or deficient, the Claims Administrator shall send a Deficiency Letter within 15 days of receipt of the Claim Package to the Claimant and shall grant the Claimant forty-five (45) days to amend or supplement it or permit the Claimant to advance a different type of Claim. This may occur where the Class Member making a Claim:

- (a) does not properly complete the Claim Package;
- (b) does not submit some or all the required documents;
- (c) provides a Claim Package and/or Claim Form which is deficient or discrepant;

15. Once the Claim Package is complete, the Claims Administrator shall assess the Claim for eligibility for a Compensatory Payment and shall prepare and send a Claim Determination Decision to the Claimant

16. The Claims Administrator must determine the Compensatory Payments to Class Members in accordance with paragraph 24(e) of the Distribution Protocol and shall use the best available evidence in making their final determination. The decision of the Claims Administrator is final.

17. As a condition precedent to the receipt of a Compensatory Payment under paragraph 24(e)(i) of the Distribution Protocol, a Claimant must:

- (a) certify that to the best of their knowledge, they, or a person on whose behalf they are claiming on behalf of an estate, purchased a Recalled Product in Canada during the class period;
- (b) provide the Serial Number for each Recalled Product for which they are advancing a claim.

18. As a condition precedent to the receipt of a Compensatory Payment under paragraph 24(e)(ii) of the Distribution Protocol a Claimant must:

- (a) provide the information set out in paragraph 17 above;
- (b) certify that they purchased a replacement device after the Recall;
- (c) provide proof of purchase of each replacement device for which they are advancing a claim; and
- (d) for each replacement device for which a claim is advanced, certify the amount that of any third-party contribution, including payments and/or reimbursements made by government entities, extended health insurers, voluntary organizations, or any other third-party funder.

19. A Claimant can make one Universal Device Payment claim as defined at paragraph 24(e)(i) for, and be awarded a Compensatory Payment for, each Recalled Product that they purchased during the Class Period.

20. A Claimant can make one Device Replacement Award claim as defined at paragraph 24(e)(ii) for, and be awarded a Compensatory Payment for, each Recalled Product that they purchased during the Class Period for which they purchased a replacement device.

21. The Claims Administrator will be at liberty to apply to the Court for directions if any problem arises in the claims administration process, which they are unable to resolve.

22. All Claims with supporting documents must be received by the Claims Administrator by 5:00pm Pacific Standard Time ("PST") on the last day of the Claim Period. The Claims Administrator shall deny any Claim received or completed after that date and time.

SECTION 3 – SETTLEMENT BENEFITS

Applicable Currency

23. All dollar amounts set forth in this Distribution Protocol are expressed in Canadian currency.

Distribution of the Settlement Funds

24. Pursuant to the terms and conditions of the Settlement Agreement and of the Distribution Protocol, the Claims Administrator shall pay the following from the Settlement Amount on the Effective Date:

- (a) Class Counsel Disbursements to be paid as a first charge on the Settlement Amount.
- (b) Claims Administration Costs to be paid out of the Trust Account, as incurred and payable and approved by Class Counsel.
- (c) The Honorarium to John Morel, in the amount of \$5,000 or as otherwise approved by the Court to be paid as a first charge on the Settlement Amount on the Effective Date.
- (d) "Class Counsel Fees" of 30% plus PST and GST (12%) on Compensatory Payments to Plaintiff and Class Members, 90% of which is to be paid as a first charge on the Settlement Amount on the Effective Date, and the balance, subject to approval of the Court, following delivery of the Final Report by the Claims Administrator.
- (e) Compensatory Payments in accordance with the Claims Administration

Procedure pursuant to one of the following categories, which are assigned the following base values:

- (i) A Universal Device Payment ("**UDP**") of \$125 for each Recalled Product, by a Claimant during the Class Period.
- (ii) Respecting a Claimant who purchased a Recalled Product during the Class Period and incurred cost in purchasing a replacement device, a Device Replacement Award ("**DRA**") as follows:
 - (A) For Claimants whose Recalled Product was purchased less than 3 years before the Recall date, 90% of the Comparable Device Cost, or the amount you paid for a replacement device after all Third-Party Contributions, whichever is lower;
 - (B) For Claimants whose Recalled Product was purchased more than 3 years and less than 5 years before the Recall date, 70% of the Comparable Device Cost, or the amount you paid for a replacement device after all Third-Party Contributions, whichever is lower; or;
 - (C) For Claimants whose Recalled Product was purchased more than 5 years before the Recall date, 30% of the Comparable Device Cost, or the amount you paid for a replacement device after all Third-Party Contributions, whichever is lower;
 - (D) For the purposes of paragraph 24(e)(ii):
 - "**Comparable Device Cost**" means:
 - For the replacement of a Recalled Product that was a CPAP Device: \$1,200;
 - For the replacement of a Recalled Product that was a BiPAP Device: \$2,500; and
 - For the replacement of a Recalled Product that was a Ventilator: \$11,835.
 - "**Third-Party Contributions**" means any payments and/or reimbursements made for a replacement device by any third party, including payments and/or reimbursements made by government entities, extended health insurers, voluntary organizations, or any other third-party

funder.

- (iii) The aggregate amount payable under the UDP (paragraph 24(e)(i)) shall be a maximum of \$6,223,371.60 before Class Counsel Fees, which are set out in paragraph 24(d). If the total quantum of Approved Claims under this paragraph exceeds \$6,223,371.60, then each individual award shall be reduced on a *pro rata* basis such that the total payable by the Defendants in respect of such claims shall not exceed \$6,223,371.60 before approved Class Counsel Fees. If the full amount of \$6,223,371.60, is not awarded, the remainder shall be distributed by the Claims Administrator, as follows:
 - (a) First, to satisfy any shortfall in the Compensatory Payments for under paragraph 24(e)(ii), until such claims are paid in full;
 - (b) Second, *pro rata* to Class Members who qualify for UDP payments under paragraph 24(e)(i).
- (iv) The aggregate amount payable under the DRA (paragraph 24(e)(ii)) shall be a maximum of \$12,287,750.40 before Class Counsel Fees, which are set out in paragraph 24(d). If the total quantum of Approved Claims under this paragraph exceeds \$12,287,750.40 before Class Counsel Fees, then each individual award shall be reduced on a *pro rata* basis such that the total payable by the Defendants in respect of such claims shall not exceed \$12,287,750.40. If the full amount of \$12,287,750.40, before Class Counsel Fees, is not awarded, the remainder shall be distributed by the Claims Administrator *pro rata* to Class Members who qualify for UDP payments under paragraph 24(e)(i).
- (v) In the event that the full amounts contemplated in paragraphs 24(e)(iii) and 24(e)(iv) are not awarded, the increased *pro rata* payment to a Class Member shall not exceed three (3) times the amount of their Approved Claim(s) under paragraphs 24(e)(i) and/or 24(e)(ii), less court approved Class Counsel fees and taxes. Any undistributed funds remaining, net of amounts owing to the Fonds d'aide aux actions collectives, pursuant to the Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives (chapter F-3.2.0.1.1, r. 2), will be distributed 50% to the Law Foundation of British Columbia and 50% to the Canadian Lung Association, pursuant to s. 36.2(1) of the *Class Proceedings Act*. For the purposes of calculating the Fund Levy payable to the Fonds d'aide aux actions collectives, 22.9% of the undistributed funds remaining will be allocated to Québec.

Payments From Trust Account

25. Payments to be made from the Trust Account shall be made in accordance with the following procedure:

- a. Within ten (10) days of the end of the Claim Period and resolution of all Deficiency Letters, the Claims Administrator will deliver a report to Class Counsel setting out the total number of Claims received by category, and the total amounts payable by category, after accounting for court approved Class Counsel Fees;
- b. The Claims Administrator shall issue the requisite Compensatory Payment by cheque or electronic transfer to each Claimant or estate with an Approved Claim, withholding applicable court approved Class Counsel Fees.
- c. The Claims Administrator may reissue an electronic transfer up to three (3) times, and a stale-dated or uncashed cheque up to one (1) time. Any unclaimed funds remaining, after accounting for court approved Class Counsel Fees, will be distributed as set out above in paragraph 24(e)(v).

Final Report

26. The Claims Administrator will issue a Final Report to Class Counsel, the Defendants, and the Court within sixty (60) days of the completion of payments from the Trust Account set out at paragraph 25.