

Court File Number: SJC-533-13

IN THE COURT OF KING'S BENCH
OF NEW BRUNSWICK

TRIAL DIVISION

JUDICIAL DISTRICT OF SAINT
JOHN

B E T W E E N :

COUR DU BANC DE LE ROI DE
NOUVEAU-BRUNSWICK

DIVISION DE PREMIERE
INSTANCE

CIRCONSCRIPTION JUDICIAIRE
DE SAINT JOHN

E N T R E:

ROBERT HAYES, on behalf of himself and
other class members

Plaintiff
(Demandeur)

– and –

THE CITY OF SAINT JOHN, a body corporate
by Royal Charter, confirmed and amended by
Acts of the Legislative Assembly of the Province
of New Brunswick

Defendant
(Defendeur)

SETTLEMENT AGREEMENT

WHEREAS the Plaintiff commenced this class action under the *Class Proceedings Act*, R.S.N.B. 2001, c. 125 (the "Act") against the City of Saint John for alleged negligence and vicarious liability arising from sexual abuses perpetrated by Kenneth Estabrooks;

AND WHEREAS the Action was certified as a class proceeding by the Court of King's Bench of New Brunswick on June 19, 2017, and the certification order included a common issue regarding the City of Saint John's vicarious liability for actionable physical, mental, and/or sexual harm perpetrated by Kenneth Estabrooks between 1953 and 1975 when he was a police officer;

AND WHEREAS on September 14, 2023, following the trial of the common issues, the Court of Appeal of New Brunswick granted judgment on the vicarious liability common issue in favour of the Plaintiff and Class (the "**Common Issues Judgment**"), and leave to appeal from the Common Issues Judgment was dismissed by the Supreme Court of Canada on May 16, 2024;

AND WHEREAS on October 16th, 2025, Mr. Justice Darrell Stephenson of the Court of King's Bench Ordered that Class Members could opt-out of these proceedings pursuant to the Act by delivering the completed Court approved form to Class Counsel within 60 days;

AND WHEREAS Class Counsel has confirmed that no Class Members have opted out of these proceedings within the prescribed time frame such that, pursuant to s. 37(4) of the Act, this Settlement Agreement is binding on all persons who have made - or may in the future wish to make - claims against the City of Saint John for injury, loss or damage as a result of being sexually abused by Kenneth Estabrooks in the City of Saint John between January 1, 1953 and November 1, 1975;

AND WHEREAS counsel for the parties to this Settlement Agreement have conducted a thorough analysis of the Class Members' claims and have considered the further inconvenience, expense, uncertainty, and burden of continued litigation, including the risks and delays of proceeding with an individual issues protocol;

AND WHEREAS in consideration of all the circumstances and after extensive arm's length negotiations, both directly and with the assistance of a mediator, the Parties to this Settlement Agreement wish to settle any and all issues in any way relating to claims against the City of Saint John for sexual abuse perpetrated by Kenneth Estabrooks between 1953 and 1975, subject to the approval of the Court;

AND WHEREAS the Parties and their counsel participated in a mediation on June 19, 20, and September 16, 2025, and reached a conditional settlement of the Action at that time;

AND WHEREAS after their investigation, the Plaintiff 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 the Parties to this Settlement Agreement agree to settle all matters related to the Action on the following terms and conditions:

Definitions

1. For the purposes of this Settlement Agreement and attached Schedules (hereinafter collectively the "**Agreement**"), the following definitions apply:
 - (a) "**Action**" means the class proceeding, including all amendments thereto, commenced by Robert Hayes in the Court of King's Bench of New Brunswick against the City of Saint John, bearing Court File Number SJC-533-13;
 - (b) "**Administration Costs**" means all costs to implement the Notice Plan and Claims Process and to administer and distribute the Settlement Fund, including the costs of the Administrator and all applicable taxes;
 - (c) "**Administrator**" means the persons or entities chosen by the Plaintiff and appointed by the Court to implement the Notice Plan, administer the Claims Process, and distribute the Settlement Fund;
 - (d) "**Approval Hearing**" means the Court hearing to approve the Settlement;
 - (e) "**Approval Order**" means the order of the Court approving the Settlement;
 - (f) "**Approved Claims**" means Claims assessed and approved by the Administrator pursuant to the Settlement Agreement in accordance with the Claims Process;
 - (g) "**Certification Order**" means the order of Justice Grant dated June 19, 2017, as amended on October 12, 2022 and June 18, 2024;

- (h) "**Claim**" means a claim to receive compensation from the Settlement Fund made by a Claimant by filing a Claim Form with the Administrator in accordance with the Claims Process;
- (i) "**Claimant**" means any person who files a Claim Form in accordance with the Claims Process;
- (j) "**Claims Deadline**" means the date by which all Claims must be submitted to the Administrator in order to apply for compensation pursuant to the Claims Process;
- (k) "**Claim Form**" means the form, to be designed by the Plaintiff, through which Class Members may make a Claim;
- (l) "**Claims Process**" means the procedure for the submission, review and determination of Claims;
- (m) "**Class**" or "**Class Members**" is defined as per the Certification Order as being:

All persons who allege that they suffered injury, loss or damage as a result of being sexually abused by Kenneth Estabrooks in the City of Saint John between January 1, 1953 and November 1, 1975;
- (n) "**Class Counsel**" means Koskie Minsky LLP and McKiggan Hebert;
- (o) "**Counsel Fees**" means the fees, disbursements and all applicable taxes awarded to Class Counsel as determined and approved by the Court pursuant to s. 40 of the *Class Proceedings Act*, R.S.N.B. 2001, c. 125;
- (p) "**Court**" means the Court of King's Bench of New Brunswick;
- (q) "**Defendant**" means the City of Saint John, a body corporate by Royal Charter, confirmed and amended by the Acts of the Legislative Assembly of the Province of New Brunswick;
- (r) "**Effective Date**" means the date upon which the Approval Order becomes a Final Order;

- (s) **"Final Order"** means the time to appeal an order has expired without any appeal being commenced, or if an appeal was commenced, all appeals have been resolved and any time for a further appeal has expired without any appeal being commenced;
- (t) **"Honorarium"** means an honorarium, if any, to be paid to the Plaintiff in an amount determined by the Court at the Approval Hearing or thereafter;
- (u) **"Litigation Funder"** means Bridgepoint Global Litigation Services Inc.;
- (v) **"Notice Plan"** means the Court-approved plan to disseminate the Notice of Approval Hearing and the Notice of Settlement Approval to the Class Members;
- (w) **"Notice of Approval Hearing"** means the Court-approved notice to the Class Members advising of the Approval Hearing;
- (x) **"Notice of Settlement Approval"** means the Court-approved notice to the Class Members advising that the Court has approved the Settlement and advising of the Claims Process;
- (y) **"Opt-Out Order"** means the Order of Justice Stephenson dated October 16th, 2025;
- (z) **"Party"** or **"Parties"** means one or both of the Plaintiff and the Defendant;
- (aa) **"Phase 1 Order"** means the order of the Court approving the Notice of Approval Hearing and the Notice Plan;
- (bb) **"Plaintiff"** means Robert Hayes;
- (cc) **"Releasees"** means, jointly and severally, the Defendant and each of its past, present and future employees, servants, agents, officers, representatives, officials (including but not limited to police officers), councillors and their respective heirs, successors, executors, and assigns and the Defendant's insurers and re-insurers;

- (dd) "**Settlement**" or "**Settlement Agreement**" means this agreement, as executed by the Parties or their representatives, including the recitals; and
- (ee) "**Settlement Fund**" means the amount of Sixteen Million Five-Hundred Thousand Canadian Dollars (CAD \$16,500,000) the Defendant has agreed to pay to settle the Action, inclusive of compensation of Approved Claims, Counsel Fees, Litigation Funder fees, Administration Costs, and any Honorarium.

Settlement Fund

2. The Settlement Fund will be used to pay all Approved Claims, Counsel Fees, Litigation Funder fees, Administration Costs, and any Honorarium, in accordance with the Settlement Agreement in full and final settlement of the Action. For greater clarity, the maximum amount the Defendant shall pay under this Settlement Agreement is \$16,500,000.
3. The Settlement Fund will be paid as follows:
 - (a) First, to pay the Litigation Funder's fees;
 - (b) Second, to satisfy Counsel Fees and the Honorarium, as approved by the Court;
 - (c) Third, to pay the Administration Costs;
 - (d) Fourth, the remainder of the Settlement Fund will be used to pay all Approved Claims in accordance with the Claims Process.
4. The Defendant will pay to Class Counsel the Litigation Funder's fees, Counsel Fees and the Honorarium, as approved by the Court, in trust within fourteen (14) days of the Effective Date.
5. The Defendant will pay the Administration Costs as payments to the Administrator come due up to the Claims Deadline.

6. The Defendant will pay the remainder of the Settlement Fund upon the Claims Deadline, in accordance with paragraph 3(d) above to the Administrator to pay all Approved Claims. This amount will accrue interest at the rate of 2% per annum, commencing on the Claims Deadline, forming part of the Settlement Fund, to the date the Administrator delivers the final payment for an Approved Claim.

Claims Process

7. The Settlement Fund will be distributed by the Administrator to Approved Claims in accordance with a Claims Process to be formulated at the Plaintiff's sole discretion, as approved by the Court.
8. The Defendant will have no involvement in the formulation, implementation, and/or administration of the Claims Process.

Phase 1 Notice

9. After this Settlement Agreement is executed, the Plaintiff will move before the Court as soon as possible to seek the Court's approval of the Phase 1 Order. The Defendant will consent to the Court's approval of the Phase 1 Order.
10. The Plaintiff agrees to file motion materials, as necessary, with respect to the motion to approve the Phase 1 Order and counsel shall act reasonably and in good faith on the content of such motion materials.

Communications

11. The Parties agree that when commenting publicly on the Action or this Settlement, they shall:
 - (a) Inform the inquirer that the Action has been settled to the satisfaction of all Parties;
 - (b) Inform the inquirer that it is the view of the Parties that the Settlement of the Action is fair, reasonable and in the best interests of the Class; and
 - (c) Decline to reveal anything said during the settlement negotiations.

Court Approval

12. The Parties will use their best efforts to effectuate this Settlement Agreement and will cooperate to seek and obtain the Court's approval of this Settlement Agreement and all other matters required herein.
13. Except for those provisions expressly stated herein to survive termination of this Settlement Agreement, this Settlement Agreement will be of no force or effect unless the terms of this Settlement Agreement are approved by the Court substantially in the form attached hereto as "Schedule "A" (without modification to the release provisions found in paragraphs numbered 2, 5, 6, 7, 8, 13 and 14).
14. As soon as practicable after the Phase 1 Order is made, the Plaintiff will bring a motion to seek the Court's approval of the Approval Order.
15. The Parties agree to file motion materials, as necessary, with respect to the motion to approve the Approval Order and counsel shall act reasonably and in good faith on the content of such motion materials.
16. Class Counsel will bring a motion for approval of their requested Counsel Fees and the Litigation Funder's fees by the Court at the same time as the Approval Hearing. The Defendant will take no position on Class Counsel's motion to approve their requested Counsel Fees and the Litigation Funder's fees.

Releases

17. Upon the Effective Date, each Class Member, whether or not they submit a Claim or otherwise receives compensation in accordance with the Claims Process, 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 the matters raised in the Action, except for any Claimant's entitlement to be paid in respect of an Approved Claim pursuant to the terms hereof.

18. Upon the Effective Date, each Class Member will be forever barred and enjoined from continuing, commencing, instituting, or prosecuting any action, litigation, investigation 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 any claims relating to the matters raised in the Action.
19. On and after the Effective Date, in the event that a Class Member commences, institutes or prosecutes any action, litigation, investigation or other proceeding any court of law or equity, arbitration, tribunal, proceeding, governmental forum or any other forum, directly, representatively, or derivatively, relating to the matters raised in the Action, against any person, firm, corporation, or administrative entity or regulator who may claim contribution or indemnity from the Releasees under the provision of any statute or otherwise, and the Releasees or any of them are added to such proceeding in any manner whatsoever, whether justified in law or not, such Class Member shall immediately discontinue the proceedings and claims or otherwise narrow the proceedings and claims to exclude the several liability of the Releasees. 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 Class Member 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 shall be raised by such Class Member in any subsequent action that the parties in the subsequent action were not privy to the formation of this Settlement Agreement.

No Admission, No Use

20. This Settlement Agreement, whether or not approved by the Court, and any proceeding taken pursuant to this Settlement Agreement are for settlement purposes only. Neither the fact of, nor any provision contained in this Settlement Agreement, 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 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 this Settlement Agreement. For greater clarity, Defendant denies the truth of the allegations in the Action, and denies any and all liability whatsoever, save and except for the determinations contained in the Common Issues Judgment.

Termination

21. This Settlement Agreement will, without notice, be automatically terminated if the Court declines to approve this Settlement Agreement substantially in the form attached hereto as Schedule "A" (without modification to the release provisions found in paragraphs numbered 2, 5, 6, 7, 8, 13 and 14) and all appeals from that order are disposed of. In the event of termination, this Settlement Agreement will be deemed to be a without prejudice settlement discussion and will have no further force or effect, save and except for this section and section 20, which shall survive termination.

General

22. This Settlement Agreement shall be governed, construed and interpreted in accordance with the laws of the Province of New Brunswick.
23. 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.

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THE CITY OF SAINT JOHN

Date

Mayor

Common Clerk

Schedule “A” – Draft Settlement Approval Order

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OF NEW BRUNSWICK

COUR DU BANC DE LE ROI DE
NOUVEAU-BRUNSWICK

TRIAL DIVISION

DIVISION DE PREMIERE INSTANCE

JUDICIAL DISTRICT OF SAINT JOHN

CIRCONSCRIPTION JUDICIAIRE DE
SAINT JOHN

B E T W E E N :

E N T R E:

**ROBERT HAYES, on behalf of himself and other
class members**

Plaintiff
(Demandeur)

– and –

THE CITY OF SAINT JOHN, a body corporate by
Royal Charter, confirmed and amended by Acts of
the Legislative Assembly of the Province of New
Brunswick

Defendant
(Defendeur)

ORDER
(Settlement Approval)

BEFORE: Justice Darrell J. Stephenson

AT: Saint Johns, New Brunswick

DATE OF HEARING: March 12, 2026

DATE OF DECISION: *

COUNSEL:

John McKiggan, K.C., Celeste Poltak, Adam Tanel and Elie Waitzer for the Plaintiff, Robert Hayes

Michel Brenton, K.C., for the Defendant, The City of Saint John

THIS MOTION, made by the Plaintiff for an Order approving the settlement of this action pursuant to subsection 37 of the *Class Proceedings Act*, S.N.B 2006, c. C-5.15 (the "Act"), was heard on Thursday, March 12, 2026 at 10 Peel Plaza, Saint John, New Brunswick.

ON HEARING the submissions of counsel for the Plaintiff, and upon reading the materials filed, including the motion record and factum of the Plaintiff and the Settlement Agreement dated December 1, 2025 and attached hereto as **Schedule "A"**;

AND ON BEING ADVISED that the Defendant consents to this Order,

1. **THIS COURT ORDERS** that the Settlement Agreement attached hereto as **Schedule "A"** is incorporated by reference into this Order and that, unless otherwise defined in this Order, capitalized terms in this Order shall have the meanings set out in the Settlement Agreement;
2. **THIS COURT ORDERS** that, as no Class Members have opted out of these proceedings in accordance with the Opt-Out Order of October 16, 2025, pursuant to s.37(4) of the Act this Settlement Approval Order is binding on all persons who have made - or may in the future wish to make - claims against the City of Saint John for injury, loss or damage as a result of being sexually abused by Kenneth Estabrooks in the City of Saint John between January 1, 1953 and November 1, 1975;
3. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and Class Members.
4. **THIS COURT ORDERS** that the Settlement Agreement be and hereby is approved and shall be implemented and enforced in accordance with its terms and the terms of this Order.
5. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon the Defendant in accordance with the terms thereof, and upon each Class Member, including those persons under disability, and that the requirements of Rule 7.06 of the *Rules of Court*, N.B. Reg. 82-73 are dispensed with in respect of this Action.

6. **THIS COURT ORDERS** that, upon the Effective Date, this Order incorporates and gives effect to the releases in favour of the Defendant provided for in paragraphs 17-19 of the Settlement Agreement.

7. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member, whether or not they submit a Claim or otherwise receive compensation under the Settlement Agreement, shall be deemed to have completely and unconditionally released and forever discharged the Defendant from any claims relating to the matters raised in the Action.

8. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any action, litigation, investigation 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 Defendant any claims relating to the matters raised in the Action.

9. **THIS COURT ORDERS** that ● is appointed as Administrator to perform the duties set out in the Settlement Agreement.

10. **THIS COURT ORDERS** that notice that the Settlement Agreement has been approved will be provided in substantially the same form as the short-form Notice of Settlement Approval attached hereto as **Schedule "B"** and the long-form Notice of Settlement Approval attached hereto as **Schedule "C"**, which are hereby approved, subject to the right of the parties to make non-material amendments as may be necessary and agreed upon by the parties.

11. **THIS COURT ORDERS** that the Notice Plan attached hereto as **Schedule "D"**, or substantially in the same form thereof, is hereby approved.

12. **THIS COURT ORDERS** that the Claims Process attached hereto as **Schedule "E"**, or substantially in the same form thereof, is hereby approved.

13. **THIS COURT ORDERS** that, upon the Effective Date, the Action shall be dismissed as against the Defendant without costs and with prejudice.

14. **THIS COURT ORDERS** that, upon the Effective Date, the action commenced by Richard Verner as Cause Number SJC-78-2021 shall be dismissed as against the Defendant without costs and with prejudice.

15. **THIS COURT ORDERS** that any person who is not a resident of New Brunswick and who would otherwise be a Class Member need not opt in to this Action, and that the requirements of sections 18(3) and (5) of the Act are dispensed with in respect of this Action.

16. **THIS COURT ORDERS** that without in any way affecting the finality of this Order, this Court reserves exclusive and continuing jurisdiction over this Action, the Plaintiff, the Class Members and the Defendant for the limited purposes of implementing the Settlement Agreement and enforcing and administering the Settlement Agreement and this Order.

DATED at Saint John, New Brunswick this ____ day of _____, 2026.

Justice Darrell J. Stephenson

Schedule "A"

[Settlement Agreement]

Schedule "B"

[Short-Form Notice of Settlement Approval]

Schedule "C"

[Long-Form Notice of Settlement Approval]

Schedule "D"

[Notice Plan]

Schedule "E"

[Claims Process]