

2020



Hfx. No. 502113

Between:

CARLA MUNROE

Plaintiff

and

THE NOVA SCOTIA HEALTH AUTHORITY, a body corporate

Defendant

Proceeding under the *Class Proceedings Act*, S.N.S. 2007, c. 28

AMENDED NOTICE OF ACTION

TO: The Nova Scotia Health Authority

Action has been started against you

The Plaintiff takes action against you.

The Plaintiff started the action by filing this notice with the court on the date certified by the Prothonotary.

The Plaintiff claims the relief described in the attached Statement of Claim. The claim is based on the grounds stated in the Statement of Claim.

Deadline for defending the action

To defend the action, you or your counsel must file a Notice of Defence with the court no more than the following number of days after the day this Notice of Action is delivered to you:

- 15 days if delivery is made in Nova Scotia
- 30 days if delivery is made elsewhere in Canada
- 45 days if delivery is made anywhere else.

Judgment against you if you do not defend

The court may grant an order for the relief claimed without further notice, unless you file the Notice of Defence before the deadline.

You may demand notice of steps in the action

If you do not have a defence to the claim or you do not choose to defend it you may, if you wish to have further notice, file a Demand for Notice.

If you file a Demand for Notice, the Plaintiffs must notify you before obtaining an order for the relief claimed and, unless the court orders otherwise, you will be entitled to notice of each other step in the action.

Rule 57 - Action for Damages Under \$150,000

Civil Procedure Rule 57 limits pretrial and trial procedures in a defended action so it will be more economical. The Rule applies if the plaintiff states the action is within the Rule. Otherwise, the Rule does not apply, except as a possible basis for costs against the plaintiff.

This action is not within Rule 57.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the Prothonotary located on 1815 Upper water Street, Halifax, Nova Scotia (telephone # 902-424-4900).

When you file a document you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information

The Plaintiff designates the following address:

Chuck Ford
Valent Legal
1741 Brunswick Street
Suite 401
Halifax, NS B3J 3X8

Valent Legal
1701 Hollis Street, Suite 106
Halifax, NS B3K 1M8
Solicitor for the Plaintiff

Documents delivered to this address are considered received by the Plaintiff on delivery.

Further contact information is available from the Prothonotary.

Proposed place of trial

The Plaintiff proposes that, if you defend this action, the trial will be held in Halifax, Nova Scotia.

Signature

Signed this 23rd day of November, 2020

Chuck J. Ford
Valent Legal
Solicitor for the Plaintiff
Telephone: (902) 443-4488
Facsimile: (902) 443-6593
Email: chuck@valentlegal.ca

Signature

Signed this 13 day of May, 2026

Fol: _____
Chuck J. Ford
MDW Law
5755 Young Street
Halifax, NS B3K 1Z9
Co-Counsel for the Plaintiff

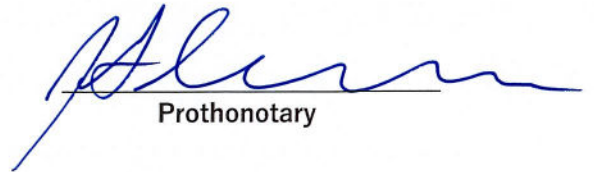
Basia Sowinski
Valent Legal
1701 Hollis Street, Suite 106
Halifax, NS B3K 1M8
Co-Counsel for the Plaintiff

Prothonotary's certificate

I certify that this Notice of Action, including the attached Statement of Claim, was filed with the court on November 23rd, 2020.

Prothonotary's certificate

I certify that this Notice of Action, including the attached Statement of Claim, was filed with the court on May 13, 2026.

A handwritten signature in blue ink, appearing to read 'J. Glencross', is written over a horizontal line.

JACLYN GLENCROSS
Deputy Prothonotary

AMENDED STATEMENT OF CLAIM

Proceeding under the *Class Proceedings Act*, S.N.S. 2007, c. 28

I. Overview

1. In Canada, the privacy of an individual is valued as a legitimate right and interest that is afforded protection by existing law. Its value and protection emanate from both common and statutory law.
2. Hospitals are endowed the enormous responsibility of protecting the personal health information of patients, specifically in the form of medical records. Personal health information is particularly vulnerable to privacy concerns due to the nature of the information enclosed in the records.
3. The Nova Scotia Health Authority ("NSHA") is a custodian of health information under the *Protection of Health Information Act*, SNS 2010, c 41, as amended ("*PHIA*"). As such, the Nova Scotia Health Authority has a duty to protect the health information that it is entrusted with by the patients of its hospitals across Nova Scotia.
4. On ~~several~~ three occasions, employees of the Nova Scotia Health Authority intentionally intruded upon the private and personal health information of hospital patients and staff. The proposed Class Members are victims of these highly offensive breaches of privacy. The Plaintiff brings this action on behalf of herself and the other victims of the privacy breaches to seek redress for the harms that they have incurred.

II. Representative Plaintiffs and Class

5. The Plaintiff, Carla Munroe, currently resides at 1561 Hammonds Plains Road in Bedford, Nova Scotia.
6. The Plaintiff has been a patient at a hospital falling under the authority of the Defendant, the Nova Scotia Health Authority. As such, the Defendant NSHA is in possession of her medical records. These records contain private and personal health information.
7. The information was stored on the Defendants database and was stolen, accessed and compromised on or about December 4, 2018.

8. On September 26, 2019, the Plaintiff received correspondence from the Defendant, advising that her personal health information had been inappropriately and unlawfully accessed by one of its employees: transcriptionists, Amanda Henwood. At the time, Ms. Henwood had a personal connection to the Plaintiff.
9. The Plaintiff suffered distress, humiliation and anguish over the breach of privacy.
10. The Defendant has confirmed that the same employee accessed the personal health information of approximately 60 other patients. The Defendant notified the affected individuals by correspondence that their personal health information had been accessed by an employee of the Defendant without authorization.
11. The Defendant has confirmed that two separate employees unlawfully accessed the personal health information of approximately 89 patients at the Valley Regional Hospital and the Aberdeen Hospital (approximately 76 and 113 patients respectively). The Defendant notified the affected individuals by correspondence that their personal health information had been accessed by an employee of the Defendant without authorization.
12. The Plaintiff seeks to certify this action as a Class Proceeding and pleads the *Class Proceedings Act*, S.N.S. 2007, c. 28, as amended ("*CPA*"), as providing the basis for such certification. The Plaintiff, as the Representative Plaintiff, does not have any interest adverse to any of the members of the proposed Class. The Plaintiff states that there is an identifiable class that would be fairly and adequately represented by her; that the Plaintiff's claims raise common issues; and that a Class Proceeding would be the preferable procedure for the resolution of such common issues.
13. The Plaintiff proposes to bring a Class Proceeding on behalf of herself and a Class ~~of other Nova Scotian residents whose medical records were inappropriately and unlawfully accessed by the Defendant's employees. The proposed Class will be further defined in the Motion for Certification:~~ defined as all living persons who were sent letters from the Defendant between 2018 and 2020, advising that an employee of the Defendant accessed their personal health information without a valid medical or hospital purpose, and who are members of one of the following four (4) Subclasses:
 - a. Aberdeen Subclass;

- b. Central Zone Subclass;
- c. Valley (EMR) Subclass; and
- d. Valley (Non-EMR) Subclass.

14. For the purposes of this proceeding, "EMR" means electronic medical records. The Valley Regional Hospital group is divided into two Subclasses: those Class Members whose EMRs were accessed by the breaching employee, and those Class Members whose EMRS were not accessed.
15. The precise definition of the Class and Subclasses will be further defined on the motion for certification.

III. The Defendant

16. The Defendant, the Nova Scotia Health Authority, is a body corporate and the health authority for the Province. The Defendant NSHA provides health services to the entire Province, except for those health services provided by the IWK Health Centre.
17. The Defendant was at all material times in possession of Fair Warning, a software system that targets, prevents privacy breaches, and warns employees when they are at risk of accessing confidential information.
18. At all material times, the Defendant was in possession of the private health information contained in the medical records of the Plaintiff and proposed Class Members.
19. At all material times, the Defendant had a duty to protect the private health information contained in the medical records of the Plaintiff and proposed Class Members, imposed by both the *PHIA* and the common law.
20. At all material time, the Defendant knew or ought to have known that breaches were occurring, possessed the means to address said breaches, and failed to both implement those means and take other reasonable steps to mitigate against such risk.

IV. The Breaches of Privacy

21. The Defendant stores patient medical records electronically on a patient information system. The system is regularly audited. There are procedures in place to track and detect when patient records are accessed by employees.
22. The breaches occurred between 2018 and 2020 at various hospitals falling under the jurisdiction of the NSHA, including: the QEII Health Sciences Centre, the Valley Regional Hospital, and the Aberdeen Hospital.
23. ~~The information was released, accessed and/or stolen without a valid medical or hospital purpose.~~
24. In each instance, employees of the Defendant accessed personal health information without authorization and without a valid medical or hospital purpose.
25. The Defendant received information about inappropriate accessing of patient information systems through a targeted audit of employee access to electronic systems. The individuals whose information was accessed were contacted thereafter via mail correspondence.
26. The individuals who were notified that their privacy had been breached were given the opportunity to request further information about the breaches from the NSHA, or to file a complaint with the Privacy Commissioner. Through these processes, some individuals obtained further information pertaining to who accessed their records and which records were accessed.
27. Information obtained by these individuals revealed that the breaching employees intentionally or recklessly viewed private health information without a valid medical or hospital purpose. The breaching employees had direct or indirect personal connections to the individuals whose private health information they accessed. The information accessed was sensitive, and the degree and scope of access was significant.

V. Causes of Action

28. The Plaintiff pleads the following causes of action:

- a) Intrusion upon seclusion

b) ~~Negligence~~

e) ~~Breach of contract and warranty~~

b) Vicarious Liability

A) Intrusion upon seclusion

29. The Defendant's employees, at the QEII Health Sciences Centre, Valley Regional Hospital, and Aberdeen Hospital, intentionally intruded upon the seclusion of the respective hospitals' patients' private affairs in the form of the personal health information contained in their medical records.
30. The breaching employees were not authorized and did not have lawful justification to access the personal health information of the proposed Class/Subclasses of patients.
31. The breaching employees' conduct was intentional or reckless, as they were motivated by direct or indirect personal connections to the patients.
32. The invasions of privacy of the Plaintiff and the proposed Class Members ~~is~~ were highly offensive to a reasonable person, having regard to the sensitive nature of personal health information and the direct or indirect relationships of the breaching employees to the Plaintiff and proposed Class Members, due to the inherently personal nature of the information involved in the breach.
33. These highly offensive intrusions reasonably caused the Plaintiff and proposed Class Members distress, humiliation, and anguish.
34. The Plaintiff states that at all material times, the breaching employees were servants, agents, and employees of the Defendant and were acting in the course of their service, agency, or employment when they breached the Plaintiff and putative Class Members' privacy.

~~B) Systemic Negligence~~

35. ~~At all material times, the Defendant owed a duty of care to the proposed Class Members to ensure the privacy and confidentiality of their personal health information and to protect it from unauthorized disclosure to inappropriate parties.~~

36. ~~The Plaintiff pleads and relies upon the P/H/A, in particular section 3(a), section 3(f), and sections 61-70:~~
37. ~~The Defendant NSHIA is a custodian of personal health information under the P/H/A. As a custodian, the Defendant NSHIA has a statutory obligation to collect, use, disclose, and retain personal health information in a certain manner:~~
38. ~~The employees involved in the breaches are agents of the Defendant NSHIA, the custodian, in so far as they were authorized to act for or on behalf of the custodian in respect to personal health information, for the purposes of the custodian and not for their own purposes.~~
39. ~~The Defendant NSHIA, either directly or through its agents, employees, servants or assigns, has systemically breached their standard of care, the particulars of which are as follows but are not limited to:~~
- ~~a.—By failing to implement, maintain and comply with reasonable protective practices for information in their possession;~~
 - ~~b.—By failing to implement Fair Warning on a system-wide basis, and failing to enforce training and compliance with the software throughout the hospitals under the Defendant's jurisdiction;~~
 - ~~c.—By failing to ensure that appropriate measures and safeguards were put in place to prevent the theft, loss, unauthorized access to or use, disclosure, copying or modification of information in their possession;~~
 - ~~d.—By failing to implement additional safeguards for electronic information;~~
 - ~~e.—By failing to have in place management and operations procedures that would have reasonably prevented or detected the privacy breaches in a timely fashion;~~
 - ~~f.—By failing to ensure that employees were properly trained with respect to the utilization of Defendant's privacy systems regarding patients records;~~
 - ~~g.—By failing to properly monitor or supervise employees with access to patient records; and~~
 - ~~h.—Such other particulars of breaching the standard of care as may appear.~~

40. ~~The harms suffered by the Plaintiff and proposed Class Members flow directly from the privacy breaches perpetrated by the employees of the Defendant.~~

~~C) —Breach of contract and warranty~~

41. ~~The Plaintiff pleads breach of express or implied terms of contract to provide medical services in a skillful manner.~~

VI. Vicarious Liability

42. The Defendant's employees, without valid reason, intentionally intruded on the seclusion of the Plaintiff's and Class Members' private medical records in the course of their employment.
43. The Defendant's employees did not have a valid medical or hospital purpose ~~of or~~ lawful justification for accessing these private medical records.
44. ~~The actions of the Defendant's employees were contrary to their duty of care established by the PHIA and contrary to their contractual obligations.~~
45. The Plaintiff pleads the doctrine of *respondeat superior* and states that the Defendant is vicariously liable for the actions of the Defendant's employees, agents, servants or assigns.

VII. Damages

46. The Plaintiff and proposed Class Members have suffered injuries and damages that were caused by the Defendant and the Defendant's employees. The invasion of privacy is highly offensive, causing distress, humiliation and anguish.

~~VIII. —Aggravated, Punitive, and Exemplary Damages~~

47. ~~The Plaintiff submits that the conduct of the Defendant's employees, for which the Defendant is vicariously liable, herein amount to a reckless or willful disregard and gross violation of the privacy rights of the Plaintiff and proposed Class Members.~~
48. ~~The Plaintiff respectfully submits that this is an appropriate case for punitive, aggravated and/or exemplary damages.~~

IX. Relief Sought

49. The Plaintiff repeats the foregoing paragraphs and seeks the following relief:

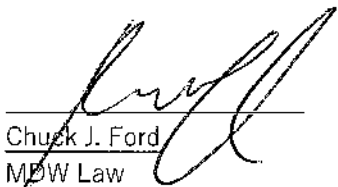
- a) An Order certifying this proceeding as a Class Proceeding and appointing the Plaintiff as the Representative Plaintiff for the Class or Classes;
- b) A declaration that the Defendant is vicariously liable for the actions of the Defendant's employees;
- c) General damages for pain and suffering, including damages for loss of privacy, dignity, and autonomy;
- d) Special damages, the particulars of which will be delivered;
- e) ~~Aggravated, punitive and/or exemplary damages;~~
- f) Pre-judgement interest pursuant to the *Judicature Act*;
- g) Costs and Disbursements, inclusive of any financing charges ; and
- h) Such further and other relief as their Honourable Court deems just.

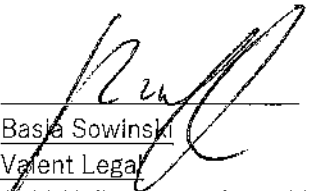
PLACE OF TRIAL: Halifax, Nova Scotia.

DATED at Halifax, in the Halifax Regional Municipality, Province of Nova Scotia this 23rd day of November, 2020:

Chuck J. Ford
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Solicitor for the Plaintiff
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DATED at Halifax, in the Halifax Regional Municipality, Province of Nova Scotia this 13 day of May, 2026.

For: 
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Co-Counsel for the Plaintiff


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TO: The Defendant Nova Scotia Health Authority
The Office of the Prothonotary