

SCHEDULE E

COURT FILE NUMBER **Q.B. NO. 1512 OF 2003**

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE **SASKATOON**

PLAINTIFFS **JUSTIN LYBECK, TOM SAVAS, TREVOR MOSER
and CODY ARMSTRONG, a minor suing under
his legal guardian, TAMI ARMSTRONG**

DEFENDANTS **THE CITY OF NORTH BATTLEFORD, HER
MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF SASKATCHEWAN and
SASKATCHEWAN WATER CORPORATION**

Clerk's Stamp

"BROUGHT UNDER *The Class Action Act*"

LITIGATION PLAN OF THE INFANT CLASS

**CLASS COUNSEL AND THE RESOURCES AVAILABLE TO PROSECUTE
THE ACTION:**

1. The Plaintiffs' class counsel is comprised of the following law firm which possesses the requisite knowledge, skill, experience, personnel and financial resources to prosecute this action;
 - a. Cuelenaere, Kendall, Katzman & Watson LLP
#500 -128 4th Avenue South
Saskatoon, SK S7K 1M8

The Cuelenaere, Kendall, Katzman, & Watson LLP, lawyer in charge of this matter is Jay Watson, who has 30 years' experience at the Bar. Assisting Mr. Watson will be Bradley Jamieson, who has 13 years' experience at the Bar. This law firm comprises approximately 23 lawyers practicing in the judicial centre of Saskatoon, SK.

Class counsel anticipate that prosecuting this action will require:

- a. Assembling, organizing, reading and analyzing a large number of documents;
- b. Retaining experts to assist in the analysis, interpretation of the technical aspects of the work and in the area of damages;

- c. The analysis of complex legal issues; and
- d. Interviewing and obtaining the evidence of witness who will testify as to the issues raised in this Action.

CLASS COMPOSITION:

- 2. The class definition is proposed as follows:

All persons who:

- i) Contracted cryptosporidiosis or symptoms of cryptosporidiosis as a result of consuming contaminated water supplied by the City of North Battleford between March 20 and April 25, 2001; and
 - ii) Who were under the age of 18 years at the time of such consumption.
- 3. It is estimated that there is in excess of 1,000 members of the Infant Class who contracted cryptosporidiosis or symptoms of cryptosporidiosis as a result of consuming contaminated water supplied by the City of North Battleford between March 20, 2001 and May 9, 2001.

COMMUNICATIONS:

- 4. In the event of certification, and upon approval of an appropriate notice, class members will be directed to a website address created by Cuelenaere Kendall Katzman & Watson LLP. The website will allow members to:
 - a. Gain detailed up to date information on the Action;
 - b. Register online or otherwise as members and claimants;
 - c. Be directed where to send information via email or through other modes;
 - d. Contact Class Counsel for further information via telephone, email, mail or through a "Contact Us" hyperlink, a feature which allows class members to submit inquiries directly to Class Counsel;
 - e. Read copies of court documents including pleadings, motions and decisions of the Court; and
 - f. Receive notifications relevant to their claims.
- 5. For those members of the Infant Class without computer access, information will be sent to them by mail directly from Class Counsel. Information will be provided to those individuals as to how to contact Class Counsel.

ADMINISTRATION:

6. Apart from ongoing duties set out above, Cuelenaere, Kendall, Katzman & Watson LLP will provide relevant administrative services as follows:
 - a. Database management; and
 - b. Claims form design.

CASE MANAGEMENT:

7. The parties have come to terms on a settlement agreement. It is proposed that the application for approval of the settlement pursuant to Sec. 38 of *The Class Actions Act* be conducted at the same time as the application for certification.

COMMON ISSUES:

8. Subject to Court amendments on Certification, the Plaintiffs propose the following as common issues:
 - i) Did the City of North Battleford owe a duty of care to the Infant Class?;
 - ii) If the City of North Battleford owed a duty of care to the Infant Class, was the City of North Battleford negligent?; and
 - iii) If the City of North Battleford was negligent are the members of the Infant Class entitled to damages and if so in what amount?;
 - iv) Did Her Majesty the Queen In Right of the Province of Saskatchewan and the Saskatchewan Water Corporation owe a duty of care to the Infant Class?;
 - v) If Her Majesty the Queen In Right of the Province of Saskatchewan and the Saskatchewan Water Corporation owed a duty of care to the Infant Class, was Her Majesty the Queen In Right of the Province of Saskatchewan and the Saskatchewan Water Corporation negligent?; and
 - vi) If Her Majesty the Queen In Right of the Province of Saskatchewan and the Saskatchewan Water Corporation was negligent are the members of the Infant Class entitled to damages and if so in what amount?

THE FOLLOWING ASSUMES THAT THE COURT CERTIFIES THIS ACTION AS A CLASS ACTION:

NOTICE OF CERTIFICATION AND OPT-OUT PROCEDURE:

9. If the action is certified as a class proceeding, the Court will be asked to:
 - a) Settle the form and content for Notification of the Certification Approval and the Opt-Out Form; and
 - b) Settle the means by which the Notice of Certification Approval and Opt-Out period will be given (the “Notice Program”).
10. The Court will be asked to:
 - a) Set the Opt-Out date to 42 days after the first date of publication of the Notice of Settlement Approval and Certification (the “Notice”);
 - b) Settle the form and content of the Notification of Settlement Approval and Certification and the Opt-Out period generally in accordance with the proposed Notice; and
 - c) Settle the means by which the Notice of Settlement Approval and Certification and Opt-Out period will be given.
11. It is proposed that the Notice of Settlement Approval and Certification be disseminated in accordance with the following Notice Program:
 - a) Mailed to all persons who meet the class definition from contact information provided by Class Members who have already self-identified themselves to Class Counsel for which Class Counsel has a current mailing address;
 - b) Publish once per week for three consecutive weeks an advertisement in the Battlefords News-Optimist newspaper;
 - c) Publish once per week for three consecutive weeks an advertisement in the the Saskatoon Star Phoenix;
 - d) Post on the website maintained by Cuelenaere, Kendall, Katzman & Watson LLP; and
 - e) Delivered by the Defendants, or Class Counsel or Bruneau Group Inc. to any person who requests the Notice of Certification and Opt-Out procedure.
12. The cost of the Notice Program shall be paid for by the Defendants. Class Counsel will ask the Court to appoint Bruneau Group Inc. as administrator to receive the

written elections from any Class Members opting-out of the class action and within 30 days after the expiry of the Opt-Out period, to deliver to the Court and the Parties an Affidavit listing the names of all persons who have opted-out of this Class Action. Bruneau Group Inc. has previously been appointed by the Court to fulfill these tasks.

PLEADINGS:

13. Unless requested otherwise, Class Counsel requests that the Rules of the Court of Queen's Bench for Saskatchewan apply to this Action.

DAMAGES ASSESSMENT:

14. The Parties have agreed to a Compensation Grid which is annexed to the Settlement Agreement as Schedule "A" and the Court will be asked to approve the compensation grid as part of the settlement approval application.
15. Individual damages will be calculated based on information provided in the completed Claims Form and according to a process established by the Parties in the Settlement Agreement exhibited to the Affidavits of Tom Savas and Cody Armstrong.
16. Once completed and returned to the administrator, the information provided on the damages assessment forms will provide the basis for the calculation of individual entitlement according to the formula determined by the Parties as set out the Settlement Agreement.

CLAIMS ADMINISTRATOR:

17. In the event of an approved settlement, the Defendants shall engage Bruneau Group Inc. to provide class action administrative services to assist in the evaluation of claims, cheque writing, cheque distribution, reconciliations and reporting settlement fund management.
18. Payments will be made by the Administrator out of the fund to Eligible Claimants in a manner prescribed in the Settlement Agreement based on that grid and the information provided by the completed Claims Form as well as any additional pertinent information provided by a Claimant.

REVIEW OF THE LITIGATION PLAN:

20. This Litigation Plan will be reconsidered and may be revised under the continuing case management authority of the Court of Queen's Bench for Saskatchewan both for and after the determination of the common issues.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 28th day of September, 2016.



Brad Jamieson, Solicitor for the Plaintiffs

This Litigation Plan is delivered by:

If prepared by a lawyer for the party:

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