Nova Scotia Waitlist Settlement

Summary of the Settlement Approval Hearing

Isai Estey, by his litigation guardian E. Anne MacRae vs. The Attorney General of Nova Scotia Representing His Majesty the King in right of The Province of Nova Scotia

Supreme Court of Nova Scotia, November 7, 2025

What was this hearing about?

This court hearing was held to determine whether a proposed settlement in the disability rights class action should be approved. The case concerns allegations that people with disabilities in Nova Scotia experienced discriminatory treatment through the province's disability support system, including long waiting lists for services and placement in institutions, nursing homes, or hospitals when community-based supports were unavailable.

Who participated?

The hearing was presided over by Justice Darlene Jamieson. Lawyers for the representative plaintiff and lawyers for the Province of Nova Scotia (the Attorney General) attended. The representative plaintiff, Isai Estey, and his litigation guardian were also present.

What were the key issues that were discussed?

The proposed settlement

Class counsel explained that the parties had negotiated a settlement valued at up to $34 million, with a guaranteed minimum of $32 million. The settlement was designed to compensate eligible class members while avoiding the risks, delays, and uncertainties of continuing the litigation through trial and appeals.

Why settle instead of go to trial?

Plaintiff counsel argued that although previous litigation had found discrimination in Nova Scotia's disability support system, significant legal questions remained unresolved. A trial could have taken many more years, carried considerable risk, and potentially required individual hearings for class members to establish their damages. Counsel emphasized that many class members are vulnerable individuals who would benefit from a faster resolution.

The Province advised that it supported the settlement and did not oppose approval. It took no position on the request for class counsel fees.

Accessibility and Claims Process

A significant portion of the hearing focused on the proposed Claims Process. Counsel described a claims system intended to be:

- Accessible and user-friendly
- Low barrier and trauma-informed
- Primarily paper-based
- Supported by a claims administrator
- Designed so class members would not have to attend court or publicly testify about their experiences

The proposed process included review and administration by Deloitte LLP, with mechanisms to address eligibility, compensation, appeals, and special circumstances such as claims involving legal incapacity or deceased class members.

Class member participation

The court heard that:

- Notice of the settlement had been widely circulated.
- No objections to the settlement had been received.
- No class members had opted out.

- Hundreds of individuals had already registered to receive updates about the proceeding.

Community perspective

A member of the public was permitted to address the court. She spoke in support of the settlement, thanked the representative plaintiff and his family for their efforts, and expressed appreciation that the voices of people affected by the disability support system were being heard.

Class counsel fees and honorarium

The court also considered a separate motion relating to:

- Approval of legal fees for class counsel
- Reimbursement of litigation expenses
- An honorarium (a recognition payment) for the representative plaintiff in acknowledgment of his role and participation in the litigation

The Court's decision

After hearing submissions and taking a short recess to consider the matter, Justice Darlene Jamieson delivered an oral decision. The court:

- Approved the settlement.
- Approved the claims administration process.
- Approved the appointment of Deloitte LLP as claims administrator.
- Approved the honorarium for the representative plaintiff.
- Approved class counsel's fees and disbursements.
- Approved the litigation funding levy that had previously been authorized by the court.

Why the court approved the settlement

In her reasons, the judge concluded that the settlement was fair, reasonable, and in the best interests of the class. Key considerations included:

- The significant compensation available to class members.
- The risks and uncertainties of continuing the litigation.
- The time and expense that would be required to proceed through trial and potential appeals.
- The accessibility and confidentiality of the claims process.
- The absence of objections or opt-outs.
- The recommendation and experience of counsel involved in the matter.

What happens next?

The court directed that the claims process move forward and required future reporting to the court regarding implementation and administration of the settlement. An update to the court was scheduled for 2026 to monitor progress.