

DISTRIBUTION PROTOCOL

The Distribution Protocol has been developed with a view to providing restorative justice to the Eligible Student Class Members or their Estates, and to their families, and to limit the chances of causing further trauma to the Eligible Student Class Members.

The Distribution Protocol is intended to address the harms endured by students of the Royal Winnipeg Ballet who were photographed by Bruce Monk in a private setting, and for those who endured further harms because their photographs were published by Bruce Monk on the internet or elsewhere, without their consent. The Distribution Protocol is further intended to provide support for healing and the future well-being of the Eligible Student Class Members and their families. The financial compensation serves an important symbolic function in acknowledging the consequences of the harms endured by the Eligible Student Class Members.

Key elements of the Distribution Protocol are that the Class Members will not be subjected to an adversarial adjudicative process, and that it does not impose an onerous evidentiary burden on the Class Members in order to make their claims as Eligible Student Class Members. The Claims Administrator and/or Claims Evaluator shall draw all reasonable and favourable inferences that can be drawn in favour of the claimant.

1. INDEPENDENT ASSESSMENT PROCESS

A. Submission of Basic Claim Form

1. All claimants must submit their claim forms by the Claims Deadline.
2. The Claims Administrator shall keep confidential the names of each claimant, other than reporting the names to Class Counsel, and shall assign a unique numerical identifier to each claimant for the purposes of reporting to the court.
3. The Claims Administrator will have the discretion to accept claim forms that are no more than 30 days late, if the delay in delivery of the claim form is explained by the Class Member to the satisfaction of the Claims Administrator, acting reasonably, and arises from exceptional circumstances or a disability.
4. Claimants will be asked to complete a Basic Claim Form to establish:
 - a. Whether the claimant is an Eligible Student Class Member who will receive compensation from the Student Fund;
 - b. Whether the claimant is the Executor of the Estate of an Eligible Student Class Member who will receive compensation from the Student Fund;
 - c. Whether the claimant is seeking compensation from the Counselling Fund and, if so, to include adequate information for electronic payment from the Counselling Fund in the event that the claimant is determined to be an Eligible Student Class Member or the Estate of an Eligible Student Class Member; and

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- d. Whether the claimant is seeking compensation on behalf of a designated family member from the FLA Fund; and, if so, to provide the name of the designated family member recipient, their relationship to the claimant, contact information for the designated family member recipient, and adequate information for electronic payment to the designated family member recipient from the FLA Fund.
5. Claimants will be asked to include the following information on the Basic Claim Form in order to establish that they are an Eligible Student Class Member. This information shall be in the form of a Statutory Declaration:
 - a. Their name (now, and at the time they were enrolled as a student at the RWB, if different);
 - b. Their date of birth;
 - c. Their current contact information including: email address, mailing address, and phone number;
 - d. Dates they were a student at the RWB, to the claimant's best recollection;
 - e. The Division(s) they were enrolled in (Professional Division, General/Recreational Division, Aspirant and/or Teachers' Training) while they were a student at the RWB;
 - f. Confirmation that they were photographed by Bruce Monk in a private setting while they were a student at the RWB;
 - g. if the claim is being made by the Executor of the Estate of a Student Class Member, the claim must include evidence satisfactory to the Claims Administrator of the death of the Student Class Member, and the Executor's appointment.
 6. The Basic Claim form will include a section in which the claimant may confirm if they are seeking a payment from the Health Services Fund.
 7. The Basic Claim form will include a section in which the claimant will confirm if an FLA claim is being asserted, and if so who the designated FLA recipient is. If an FLA claim is being asserted, the designated FLA recipient, or their parent or guardian if they are a minor, shall include the following information in the form of a Statutory Declaration:
 - a. The FLA recipient's name;
 - b. Their relationship to the Student Class Member claimant;
 - c. Their current contact information including: email address, mailing address, and phone number;

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- d. The number of individuals on whose behalf the FLA claim is being asserted, and their relationships to the Student Class Member claimant;
- e. An attestation that any FLA payment received by the designated FLA recipient is for the benefit of all the FLA claimants, and that the designated FLA recipient is responsible for distributing any payment from the FLA Fund among all of the Eligible Class Members' FLA claimants as they deem fit.

B. Additional Information from Student Fund Claims

8. At the same time as submitting the Basic Claim Form, claimants may submit the additional documentation ("Additional Information") in the form of a Statutory Declaration (with attachments, where appropriate and if available) in support of their claim for compensation from the Student Fund. **These forms of evidence are not required but will assist the Claims Administrator and/or Claims Evaluator. A claimant is not required to have had their photographs published in order to be found to be an Eligible Student Class Member, however some credible evidence will be required to establish that the photos were published. The Claims Administrator will be provided with a copy of all published photographs that have been collected by Class Counsel to assist with this assessment.**

The Statutory Declaration may include:

- a. Information, to the best of the claimant's recollection, about each photo shoot(s) with Monk, including:
 - i. the number of photo shoots, and where the shoots took place;
 - ii. whether the Student Class Member was clothed, partially clothed or unclothed during the photo shoot; and,
 - iii. whether Monk touched the Student Class Member in the genital, buttock, or breast areas during the photo shoot.
- b. If the claimant believes that Monk published intimate photographs of them on the Internet or elsewhere, information about the photograph(s) and the publication. This may include screenshots from the Internet, or any other evidence establishing that the photos were published. It may also include a statutory declaration from any witness who saw the claimant's photograph published on the Internet or elsewhere. Any such supporting declaration should include reasonable details to support the assertions in the declaration.
- c. Copies of any photographs or negatives from any of the photo shoots. This could include any photographs taken by Monk in a private setting, including fully clothed photographs of the claimant.
- d. A statutory declaration from any witness that the claimant told the witness about the photo shoot at a time that was relatively contemporaneous with the photo shoot

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or who will attest to having seen the photograph(s). Any such supporting declaration should include reasonable details to support the assertions in the declaration.

9. The Statutory Declaration must also include details of the effect that the photo shoots or photo publication have had on the claimant's life, including at the time of the photo shoot, and at any time since the photo shoot took place. This may include details of mental or physical health consequences, effects on relationships with others, effects on employment, or any other experiences that the claimant connects to the photo shoot, or publication of their images.
10. Claimants should not submit any information or documentation about any photo shoots that took place after they were students at RWB, as any such photo shoots are not included in this class action lawsuit.
11. Claimants need not submit any information or documentation about whether they were asked by Monk to sign a release (or that they did sign a release) as the issue of whether or not a release was signed will not be considered by the Claims Evaluators, unless the claimant considers the fact relevant to their experience and the impacts they have endured.
12. Claimants can choose to have the assistance of Class Counsel, or another lawyer or advisor of their own choosing to assist in the preparation of the Basic Claim Form and/or Additional Information, but they are not required to do so. The assistance of Class Counsel is no-charge. The assistance of another lawyer or advisor is at the claimant's own cost.
13. The Claims Administrator will provide the claimant with confirmation of receipt of the claim within seven business days of receiving the claim.
14. The Claims Administrator shall consider all claims received by the Claims Deadline (or the discretionary extension to the Claims Deadline) regardless of the form in which the claim is submitted.
15. The Claims Administrator shall not disclose the identities of any claimants to anyone other than Class Counsel.

C. Identification of Eligible Student Class Members

The Claims Administrator will assess all claims received by the Claims Deadline (or the discretionary extension to the Claims Deadline). Assessments will take place as the claims are received to determine if the claimant is an Eligible Student Class Member.

Each claimant who meets the criteria set out below will be determined to be an Eligible Student Class Member and will qualify for some form of compensation from the Net Settlement Fund, depending on the amount of harm they may have suffered, as set out below.

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The Claims Administrator will apply the following process to assess if a claimant is an Eligible Student Class Member:

1. The claim must have been received by the Claims Deadline (or the discretionary extension to the Claims Deadline);
2. The claimant's name appears on the Student Class Member List. If the claimant's name does not appear on the Student Class Member List, then the claimant must establish with credible evidence that they attended the RWB as a student during the Class Period. Proof may include a statutory declaration from the claimant or other objective evidence supporting the fact that the claimant attended the RWB as a student during the Class Period;
3. The claimant must establish with reasonably credible evidence that they were photographed by Bruce Monk in a private setting during the Class Period. Proof must include the Statutory Declaration in the Basic Claim form, and may include the Additional Information, or any other evidence deemed credible by the Claims Administrator supporting the fact that the claimant was photographed by Bruce Monk in a private setting while they were enrolled as a student at the RWB during the Class Period; and
4. If the Claims Administrator deems it necessary, they may arrange for a personal interview with the claimant (or any of their witnesses) to take place by telephone or video conference to assist the Claims Administrator in determining whether the claimant is an Eligible Student Class Member.

D. Assessment of Claims of Eligible Student Class Members

1. The Claims Administrator will notify each claimant in writing whether or not they have been found to be an Eligible Student Class Member.
2. Any claimant who is found not to be an Eligible Student Class Member will have 30 days from the date of the notice to provide further evidence satisfactory to the Claims Administrator demonstrating that they were a student of the RWB during the Class Period, and that they were photographed by Bruce Monk in a private setting. Failure to provide such evidence within the 30 day period will result in the claimant being conclusively excluded from being an Eligible Student Class Member.
3. Once the Claims Administrator has determined that the claimant is an Eligible Student Class Member and if the claimant seeks a payment from the Student Fund, then the Claims Administrator or Claims Evaluator will assess the claimant's claim as a whole, and will assign points to the claim on a scale from 1 – 7, as set out below.
4. If the Claims Administrator or Claims Evaluator deems it necessary, they may arrange for a personal interview with the claimant to take place by telephone or video conference to assist the Claims Administrator or Claims Evaluator in gaining a holistic understanding of the claimant's experience and resulting harms, for the purpose of

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allocating the number of points appropriate for the harms suffered by the Eligible Student Class Member.

5. The Claims Administrator or Claims Evaluator may also request additional information from the claimant if they conclude that a decision cannot be reasonably made about points allocation without additional information. The additional information may be provided by the claimant in writing, through additional documentation or witness statements, or through a personal interview to take place by telephone or video conference. Class Counsel or a lawyer or advisor of the claimant's own choosing may attend the personal interview to assist the claimant in establishing their claim.
6. If an Eligible Student Class Member's claim for a payment from the Student Fund is disallowed, the Claims Administrator will provide reasons in writing for rejecting the claim to the claimant, as soon as the claim has been determined. The claimant will have until 30 days after the expiry of the Claim Period to provide additional information to the Claims Administrator in support of their claim for a payment from the Student Fund, or such further time as may be allowed by the Claims Administrator in its sole discretion. In no case shall the extension of time to provide additional information exceed six months from the expiry of the Claim Period.
7. The Claims Administrator will notify in writing each Eligible Student Class Member who has made a claim for payment from the Student Fund the total points awarded in respect of their claim.
8. If an Eligible Student Class Member disagrees with the points awarded for their claim, they will have until 30 days after the expiry of the Claim Period to provide additional information to the Claims Administrator in support of their claim, or such further time as may be allowed by the Claims Administrator in its sole discretion. In no case shall the extension of time to provide additional information exceed six months from the expiry of the Claim Period.
9. The Claims Administrator shall take into consideration such further information as may be provided by a claimant to reconsider their eligibility for a payment from the Student Fund, and/or the total points awarded for their claim.
10. At the end of the Claim Period and any extensions of time granted to provide further submissions in support of a request for reconsideration, and as soon as possible after all reconsiderations are completed, the Claims Administrator shall distribute all the funds in the Student Fund to the Eligible Student Class Members as set out below.

E. Appointment of Claims Evaluators

1. The Claims Administrator has overall responsibility for deciding if a claimant is an Eligible Student Class Member and the point allocation for the level of harm that they have suffered.

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2. The Claims Administrator may designate up to 10 Claims Evaluators to assist in reviewing and assessing Class Members' claims. The Claims Evaluators shall be entitled to be remunerated for each claim assessed. The rate of remuneration shall be set by the Claims Administrator and approved by Class Counsel, and is payable as part of the costs of the settlement administration.
3. It is preferred, but not required, that Claim Evaluators have had legal training. They must be compassionate individuals who have experience dealing with survivors of trauma, and have an understanding of the restorative principles underlying this Claims and Distribution Protocol. Claim Evaluators must have very good written and verbal communication skills and have experience exercising discretion in a decision-making process.
4. Claims Evaluators must act in good faith, not in a conflict of interest and must swear a statutory declaration committing to maintain all information that they receive in the utmost confidence. The Claims Administrator shall have full discretion to discharge and replace any Claims Evaluator who is not acting in keeping with the claims evaluation criteria or the spirit of the Claims and Distribution Protocol.
5. The Claims Administrator will review each decision of the Claims Evaluators for reasonableness before the decision becomes final and is communicated to the claimant.

2. DISTRIBUTION OF NET SETTLEMENT FUNDS

The Net Settlement Funds are the Settlement Fund, inclusive of all accrued interest, and after deduction of the court approved Class Counsel fees, the levy payable to the Class Proceedings Fund, any honoraria payable to the Representative Plaintiffs or others, and all costs of the Administration of the Settlement.

The Claims Administrator will distribute the Net Settlement Funds in the following order.

PHI Payments

1. \$50,000.00 shall be paid to the Provincial Health Insurers to be allocated on the following basis:
 - a. BC: 11,764.72;
 - b. AB: 20,588.26
 - c. SK: 5,882.36
 - d. MB: 5,882.36
 - e. QC: 5,882.36
2. The PHI payments shall be made immediately following the receipt of the Settlement Funds by the Claims Administrator.

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The FLA Fund

1. \$500,000 shall be allocated to a fund to make payments to Eligible FLA Class members (the “FLA Fund”).
 - a. For each Eligible Student Class Member’s claim, if a claim is also made for compensation for that claimant’s associated FLA Class members, then the designated associated FLA Class member (the “designated FLA recipient”) will automatically qualify to receive a single lump sum payment of no more than \$2500 to be distributed by the designated FLA recipient to all of the Eligible Student Class Member’s family members as the designated FLA recipient deems fit;
 - b. The FLA payments will be paid once all Eligible Student Class Members have been finally determined by the Claims Administrator, and the total number of valid FLA claims can be determined;
 - c. Payments shall be made by electronic transfer whenever possible;
 - d. in the event that there are more than 200 Eligible Student Class Members with an associated designated FLA recipient, then the \$500,000 fund shall be distributed to the designated FLA recipients on a pro-rata basis;
 - e. in the event that there are less than 200 Eligible Student Class Members with associated FLA payments, then each designated FLA recipient will be paid the maximum amount of \$2,500, and the remaining balance of the FLA Fund will be reallocated and added to the Student Fund.

The Health Services Fund

2. \$500,000 shall be allocated to a Health Services Fund.
 - a. Any Eligible Student Class Member may make a request for a payment from the Health Services Fund, regardless of whether or not they have any points allocated to them for harms arising from their photo shoot with Bruce Monk.
 - b. The intended use of payments from the Health Services Fund is to reimburse Eligible Student Class Members for past counselling or health services expenses or to pay for future counselling or health service expenses in respect of the impacts suffered by the Eligible Student Class Members related to being photographed by Bruce Monk in a private setting. No proof of how the payments will be used by the Eligible Student Class Members is required.
 - c. One payment of \$1000 shall be paid immediately to each Eligible Student Class Member who requests a payment from the Counselling Fund, until such time as the Counselling Fund is fully disbursed, or until all Eligible Student Class Members have been finally determined by the Claims Administrator, whichever is first.
 - d. Payments shall be made by electronic transfer whenever possible.

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- e. In the event that any amount of the Health Services Fund has not been disbursed once all Eligible Student Class Members seeking this payment have been finally determined by the Claims Administrator, then the balance of the Health Services Fund will be reallocated and added to the Student Fund.

The Student Fund

3. The Student Fund shall comprise the remainder of the Net Settlement Fund after payment of Class Counsel's fees, any honoraria approved by the Court, the levy payable to the Class Proceedings Fund, any taxes payable on interest earned by the Settlement Fund, and the Administration Expenses, and less the payment to the Provincial Health Insurers, the FLA Fund and the Health Services Fund, but inclusive of any unpaid balances of the FLA Fund and the Health Services Fund.
 - a. The Claims Administrator and the Claim Evaluators will assess each Eligible Student Class Member's Claim to determine the number of points allocable to their claim.
 - b. Points will be allocated on the following basis:
 - i. If the Eligible Student Class Member was touched by Bruce Monk in the genital, buttock, and/or breast areas during the photo shoot while they were either unclothed or partially unclothed, and their photos were published on the internet or elsewhere without the Eligible Class Member's consent: 7 points.
 - ii. If the Eligible Student Class Member's intimate photos were published on the internet or elsewhere without the Eligible Class Member's consent: 6 points.
 - iii. If the Eligible Student Class Member was touched by Bruce Monk in the genital, buttock, or breast areas during the photo shoot while they were either unclothed or partially unclothed: 6 points.
 - iv. If Bruce Monk took photos of the Eligible Student Class Member while they were unclothed, or partially unclothed, or while they were clothed but the photographs were intimate, and the Eligible Student Class Member has suffered a severe degree of harm as a result of the photo shoot, such that it has impacted on their quality of life, employability, family relationships or otherwise: 5 points.
 - v. If Bruce Monk took photos of the Eligible Student Class Member while they were unclothed, partially unclothed, or while they were clothed but the photographs were intimate, and the Eligible Class Member has suffered a significant degree of harm as a result of the photo shoot, which has impacted on their quality of life, employability, family relationships or otherwise: 3 points.

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- vi. If Bruce Monk took photos of the Eligible Student Class Member while they were unclothed, partially unclothed, or while they were clothed but the photographs were intimate, and the Eligible Student Class Member has suffered a moderate degree of harm as a result of the photo shoot, which has impacted on their quality of life: 1 point.
- c. Severe harm may include such things as the Eligible Student Class Member required psychiatric treatment, or hospitalization, suffering from severe depression (whether diagnosed as such or not) such that it impacts on the ability to carry on the functions of daily living, nightmares, lack of self-esteem, alcohol or drug dependency, or similar.
- d. Significant harm may include such things as moderate depression, difficulty in dealing with male authority figures, affects on family relationships or employment, excessive use of alcohol or drugs, or similar.
- e. Moderate harm may include lowered self esteem or intermittent depressive episodes, general anxiety related to the photoshoot or anxiety about photos potentially being posted on the internet, or similar.
- f. The Claims Administrator and Claims Evaluators will have full discretion to determine the level of harm each Eligible Student Class Member has endured.
- g. Each Eligible Student Class Member will be assigned to only one of the 6 categories described above, to whichever category has the highest number of points.
- h. Once all Eligible Student Class Members' claims for a payment from the Student Fund have been finally assessed and the points allocated, the Claims Administrator will disburse the Student Fund by dividing the total number of points allocated to all Eligible Student Class Members who made such claims into the total Settlement Fund to determine the value of one point, and then paying the value of the total points awarded to each Eligible Student Class Member accordingly.

For greater clarity, and by way of example, if the Student Fund totals \$5,000,000, and 500 points in total are awarded, then each point will have a value of \$10,000, so that each Eligible Student Class Member awarded 7 points would be paid \$70,000, each Eligible Student Class member awarded one point would be paid \$10,000, and so forth.
- i. Payments shall be made by electronic transfer whenever possible.

The Cy-près Distribution

If, 6 months following the conclusion of the distribution of the Settlement Fund to all Eligible Class Members there remains any unallocated amounts, or distributed Settlement Fund cheques have become stale dated without being cashed, then such amounts remaining in the Settlement Fund shall be paid cy-près to the Dancer Transition Resource Centre to be used by it to provide counselling services.