

SETTLEMENT AGREEMENT

Court File No.: 1076/17 CP

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N

SARAH CONNELL

Plaintiff

and

**LAURENTIAN UNIVERSITY OF SUDBURY
and SPENCER BRYDGES**

Defendants

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made as at May 22, 2019 between SARAH CONNELL (the “**Plaintiff**”) and SPENCER BRYDGES (“**Brydges**”) (individually a “**Party**” and collectively the “**Parties**”):

RECITALS:

WHEREAS the Parties intend by this Settlement Agreement to resolve all past, present, and future claims of the Plaintiff in any way arising out of or relating to the security incidents that occurred in or about November 5, 2015 through November 10, 2015 and January 21, 2017 through January 25, 2017 impacting the information technology database(s) of Laurentian University of Sudbury;

WHEREAS Brydges denies any liability or wrongdoing and further denies that the Plaintiff has any justifiable claim for relief or that he has any liability to the Plaintiff;

WHEREAS the Parties have agreed on the consideration to be paid to settle all claims made by the Plaintiff;

WHEREAS the Parties agree that neither this Settlement Agreement nor any document relating thereto, nor any action taken to carry out this Settlement Agreement, shall be offered in evidence in any action or proceeding against Brydges in any court, administrative agency or other tribunal in Canada or elsewhere for any purposes

whatsoever other than to give effect to and enforce the provisions of this Settlement Agreement or to seek court approval of the Settlement Agreement;

WHEREAS the Parties have agreed that the settlement set out in this Agreement shall be contingent upon the Parties' compliance with the terms set out herein;

NOW, THEREFORE, subject to Court approval, without any admission or concession by Brydges or the Plaintiff or Class Counsel, it is agreed as follows.

ARTICLE 1 THE TERMS OF SETTLEMENT

1.1 General Terms of Settlement

The general terms of settlement are as follows:

- a) Brydges shall provide a statement of the events regarding the incident that occurred between January 21, 2017 and January 25, 2017 impacting the information technology database(s) of Laurentian University of Sudbury and such statement shall be provided to counsel for the Plaintiff within 30 days of this Settlement Agreement obtaining Court approval;
- b) Brydges shall be examined by counsel for the Plaintiff on the statement provided for in subsection (a) above within 60 days of such statement being provided and shall be permitted to be represented by counsel during any such examination;
- c) Brydges shall swear an affidavit prepared in conjunction with counsel for the Plaintiff in support of certification of the Plaintiff's action in Court File 1076/17CP (the "**Action**") pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- d) if the Action is certified, Brydges shall make himself available for an examination for discovery, if requested, and shall be permitted to be represented by counsel during any such examination;
- e) Brydges shall provide counsel for the Plaintiff with a copy of the transcript from the related criminal trial within 14 days of this Settlement Agreement obtaining Court approval or within 14 days of Brydges obtaining the transcript, whichever date is later;
- f) Subject to applicable provincial and federal laws, Brydges shall provide counsel for the Plaintiff with all information in his possession or knowledge with respect to the vulnerability of Laurentian's information technology systems as they were at the time of the security incident, and which may still exist, and Laurentian University of Sudbury's efforts/abilities to rectify such vulnerabilities; and
- g) the Action shall be dismissed as against Brydges on a without costs and with prejudice basis;

ARTICLE 2 GENERAL

2.1 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, understanding, negotiations, and discussions, whether oral or written, of the Parties, and there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement or the other agreements and documents delivered under this Agreement.

2.2 Costs and Expenses

The Plaintiff shall fully bear the costs incurred for the preparation of this Settlement Agreement and any and all ancillary costs, including the fees associated with obtaining independent legal advice on behalf of Brydges, including any fees associated with ongoing independent legal advice required to fulfill all terms of this Agreement.

2.3 Termination of this Agreement

This Agreement shall terminate upon completion of final judgment being awarded to the Plaintiff as against Laurentian University of Sudbury and/or Court approval of a settlement agreement as between the Plaintiff and Laurentian University of Sudbury.

2.4 Survival of Representations and Warranties

All representations and warranties made in this Agreement or any other document delivered in connection with this Agreement will survive the execution and delivery of this Agreement and the other documents in accordance with the provisions of the *Limitations Act, 2002* (Ontario).

2.5 Reviewed by Legal Counsel

Each Party represents and warrants to the other Party that it understand fully the terms of this Agreement and the consequences of its execution and delivery and has been afforded an opportunity to have this Agreement reviewed by, and to discuss this Agreement and any documents executed in connection herewith, such legal and other counsel as they may wish.

Independent Legal Advice

Brydges represents and warrants that he has obtained independent legal advice with respect to the terms, consequences, execution, and delivery of this Settlement Agreement and has completed the Certification of Independent Legal Advice attached hereto as Exhibit "A".

2.6 Governing Law and Jurisdiction

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario. Each of the Parties irrevocably submits and attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario to determine all issues, whether at law or in equity arising from this Agreement.

2.7 Notices

Any communication must be in writing and either personally delivered, sent by prepaid registered mail, or sent by facsimile, electronic mail or functionally equivalent electronic means of communication.

Any communication must be sent to the intended recipient at its address as follow:

To the Plaintiff at:

c/o Matthew D. Baer
McKenzie Lake Lawyers LLP
1800-140 Fullarton Street
London ON N6A 5P2
baer@mckenzielake.com
Fax: 519-672-2674

To Brydges at:

c/o Golnaz Nayerahmadi
Rochon Genova LLP
121 Richmond Street West, Suite 900
Toronto ON M5H 2K1
gnayerahmadi@rochongenova.com
Fax: 416-363-0263

Any communication delivered to the Party to whom it is addressed will be deemed to have been given and received on the day it is so delivered at that Party's address, provided that if that day is not a business day then the communication will be deemed to have been given and received on the next business day. Any communication transmitted by facsimile, electronic mail or other form of electronic communication will be deemed to have been given and received on the day on which it was transmitted (but if the communication is transmitted on a day which is not a business day or after 5 p.m. (local time of the recipient), the communication will be deemed to have been received on the next business day). Any communication given by registered mail will be deemed to have been received on the 5th business day after which it is so mailed.

2.8 Further Assurances

Subject to applicable provincial and federal laws, each Party will execute and deliver all further agreements and documents and provide all further assurances, assistance and co-operation as

may be reasonably required by any other Party to give effect to this Agreement and, without limiting the generality of the foregoing, will do or cause to be done all acts and things, execute and deliver or cause to be executed and delivered all agreements and documents and provide such assurances, undertakings and information as may be required from time to time by all regulatory or governmental bodies.

2.9 Amendment and Waiver

No supplement, modification, amendment, waiver, discharge or termination of this Agreement is binding unless it is executed in writing by the Party to be bound. No waiver of, failure to exercise or delay in exercising, any provision of this Agreement constitutes a waiver of any other provision (whether or not similar) nor does such waiver constitute a continuing waiver unless otherwise expressly provided.

2.10 Assignment and Enurement

This Agreement may not be assigned by any Party without the express written consent of the other Parties, acting reasonably. This Agreement enures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns.

2.11 Severability

Each provision of this Agreement is distinct and severable. If any provision of this Agreement, in whole or in part, is or becomes illegal, invalid or unenforceable in any jurisdiction by a court of competent jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Agreement.


2.12 Counterparts and Facsimile Signatures

This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which when so executed and delivered will be an original and such counterparts will together constitute one and the same instrument. Delivery of this Agreement by facsimile or "pdf" or other electronic transmission constitutes valid and effective delivery.

IN WITNESS HEREOF the undersigned have executed this Agreement on May 23, 2019:

Witness: *Emily Assini;*
hijlasei

For Sarah Connell

By: 
McKenzie Lake LLP
Per: Matthew D. Baer

Witness: *Golnaz Nayyerahmaeli*




Spencer Brydges

CERTIFICATE OF INDEPENDENT LEGAL ADVICE

TO: Emily Assini, McKenzie Lake Lawyers ("McKenzie Lake")
FROM: Golnaz Nayerahmadi, Rochon Genova LLP (the "Legal Representative")
AND FROM: Spencer Brydges ("Brydges")
RE: Laurentian University Class Action, Settlement Agreement between the Plaintiff Sarah Connell and the Defendant Spencer Brydges (the "Agreement")

RECITALS:

The Legal Representative hereby confirms that Brydges has entered into the Agreement voluntarily and with a full understanding of its legal implications.


The Legal Representative is a solicitor in good standing in the province of Ontario, and has been retained by McKenzie Lake to provide independent legal advice to Brydges in relation to the Agreement.

In this regard, the Legal Representative hereby confirms:

1. I was and am not acting in any way on behalf of McKenzie Lake or any other party in connection with the action;
2. I have no interest in the matter;
3. I have read the Agreement;
4. I have explained the binding nature and effect of the Agreement to Brydges;
5. Brydges acknowledged to me that he has carefully read the Agreement;
6. I am satisfied that Brydges understands the binding nature and effect of the Agreement, and intends to be bound by the Agreement;
7. Brydges stated to me, and it appeared to me, that he entered into the Agreement willingly and was not under any threat, compulsion, duress, intimidation, inducement, influence or stress from McKenzie Lake or any other person; and
8. I believe that prior to executing the Agreement, Brydges was fully advised and informed with regard to all of the foregoing matters.

Dates at Toronto, this 22nd day of May, 2019

LEGAL REPRESENTATIVE



Golnaz Nayerahmadi
ROCHON GENOVA

ACKNOWLEDGEMENT

The undersigned Brydges acknowledges that he has read the above Certificate of Independent Legal Advice and that statements said to be made by him are true.

Brydges acknowledges that the Legal Representative provided him with independent legal advice in relation to the Agreement. Brydges understands the Legal Representative's explanation of the nature and effect of the Agreement, which will be signed by him.

Brydges is not entering into this Agreement under any duress, stress, influence or inducement.

Dates at Toronto, this 22nd day of May, 2019

By: 
Spencer Brydges

Date: 22/05/2019