

SETTLEMENT AGREEMENT

Agreement Relating to Class Actions Proposed for
Certification in the following matters:

In the Ontario Superior Court of Justice (Court File No. 05-18369CP)

DOUGLAS JONES

Plaintiff

and

**ROYAL BOTANICAL GARDENS and
1242238 ONTARIO INC., OPERATING AS
COMPTON & GREENLAND FINE FOODS AND CATERING LTD.**

Defendants

In the Ontario Superior Court of Justice (Court File No. 05-CV-290254CP)

DIANE SCHUNK

Plaintiff

and

**ROYAL BOTANICAL GARDENS and
COMPTON & GREENLAND FINE FOODS & CATERING**

Defendants

WHEREAS Douglas Jones and Diane Schunk, in their capacity as proposed class representatives (the "Plaintiffs") and the Defendants, Royal Botanical Gardens ("RBG") and 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd./Compton & Greenland Fine Foods & Catering, ("Compton"), (hereinafter collectively referred to as the "Parties"), enter into this Agreement (hereinafter defined) providing for settlement of the proposed class actions described below, subject to the approval of the Ontario Superior Court of Justice (the "Court");

AND WHEREAS Douglas Jones on his own behalf and as representative of the proposed Class/Class Members (hereinafter defined), commenced action against RBG and Compton by Statement of Claim issued May 30, 2005 ("the Jones Action");

AND WHEREAS Diane Schunk on her own behalf and as representative of the proposed Class/Class Members, commenced action against RBG and Compton by Statement of Claim issued May 27, 2005 (“the Schunk Action”);

AND WHEREAS Family Class Members (hereinafter defined) also may have claims against the Defendants.

AND WHEREAS Class Counsel (hereinafter defined), namely, the law firms of Scarfone Hawkins ^{LLP} (“Scarfone”) and Minden Gross Grafstein & Greenstein ^{LLP} (“Minden”) have conducted settlement negotiations with the Defendants’ counsel, namely, Agro, Zaffiro, Parente, Orzel & Baker ^{LLP} (“Agro”) for RBG, and Bell Temple ^{LLP} (“Bell”) for Compton;

AND WHEREAS neither the Jones Action nor the Schunk Action (together, the “Actions”) has yet been certified as a class action;

AND WHEREAS the Defendants have denied and continue to deny the Plaintiffs’ claims in the Actions described above, have denied and continue to deny any wrongdoing or liability to the Plaintiffs, Class Members and Family Class Members, the Plaintiffs seek to represent, and have raised numerous defences;

AND WHEREAS the Defendants between themselves have agreed that any and all liability in connection with the Plaintiffs’ claims in the Actions described above lies solely with Compton and not with RBG;

AND WHEREAS Compton and RBG have agreed that any and all liability, responsibility and obligation arising pursuant to this Agreement shall be the responsibility of Compton alone;

AND WHEREAS based upon an analysis of the claims of the Class Members and Family Class Members, taking into account the extensive burdens and expense of litigation, including the risks and uncertainty associated with the proposed certification of class actions, protracted trials and appeals, as well as the fair, cost-effective and assured method of resolving claims of the Class Members and Family Class Members provided for in this Agreement, the Plaintiffs and Plaintiffs’ counsel have concluded that this Agreement provides substantial benefits to the Class Members and Family Class Members and is fair, reasonable and in the best interests of them;

AND WHEREAS the Defendants and their counsel have similarly concluded that this Agreement is desirable in order to avoid the time, risks and expense of defending multiple and protracted litigation and to resolve finally and completely the pending and potential claims relating of Class Members and Family Class Members;

AND WHEREAS the Plaintiffs assert that there are common aspects to their claims and given the willingness of the Defendants to settle those claims on the basis

set forth in this Agreement, the Parties agree that certification of the actions described above, subject to this Agreement, is a preferable procedure for resolving the Class Members' and Family Class Members' claims, subject to obtaining court approval of this Agreement;

AND WHEREAS the Parties intend by this Agreement to resolve fully and finally all of the claims of Class Members and Family Class Members arising from attendance at the RBG Mother's Day Brunch, May 8, 2005, and infection with salmonella poisoning or other illness as a result of consuming contaminated foods while at said Brunch;

AND WHEREAS the Parties agree that this Agreement, any certification of the above described actions as class actions, and any approval of this Agreement by the Court, will not constitute any admission by the Defendants, or be used as any evidence against the Defendants or either of them, of liability or damages or for any other purpose in these Actions or in any other proceeding or matter;

NOW THEREFORE, subject to the approval of the Court, this Agreement embodies the provisions for the resolution of the Actions brought against RBG and Compton, on terms set out below:

1. Interpretation

1.1 Definitions

In this Agreement, all capitalized terms shall have the meanings set out in Appendix "A".

1.2 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, and words importing gender include both genders.

2. Compensation for Class Members

2.1 Adjudicator/Adjudication

This Agreement contemplates that all claims of Class Members and Family Class Members will require submission of a completed Application Form, evaluation and adjudication of the claims and an award of compensation as set out below.

All claims of Class Members and Family Class Members will be adjudicated by Weir Milne of Kerygma Reconciliation, whose classification of claims and awards of compensation shall be final and binding without any right of review or appeal.

The Adjudicator will evaluate each Application individually taking into account the particular facts of each Application.

If the Adjudicator requires further information, the Adjudicator may communicate with the Class Member/Family Class Member to request such further information as is required in order for the Adjudicator to properly classify the claim.

Upon receipt of a completed Application Form, the Adjudicator will evaluate the claim and will, within 30 days, notify the Class Member/Family Class Member, in writing, of the classification of the claim and the award of compensation, with a copy of such notification to be sent to Class Counsel and Defendants' Counsel.

Within 20 days of receipt of written notice from the Adjudicator of classification of a Class Member's/Family Class Member's claim, the Defendants will make payment to the Class Member/Family Class Member of the compensation awarded by the Adjudicator, including general damages, Special Damages and interest.

All costs of the Adjudicator are to be paid by the Defendants in addition to insurance policy limits of \$2 Million which exist as referenced below.

The Adjudicator shall, with respect to all Family Class Members, assess damages on an individual basis, only where the related Class Member has already been awarded Category 4 relief pursuant to Article 2.4 described below.

2.2 Claim Procedure

(a) Class Members

A Class Member who wishes to apply for compensation under this Agreement must do so by submitting a completed Application Form to the Adjudicator. The Application Form is attached as Appendix B.

Applications on behalf of a Class Member under a disability must, in the case of a minor, be completed by a person having custody of the minor, or in other cases, such representative as the Adjudicator decides.

The Application Form is designed to provide the Adjudicator the information necessary to assess each claim. All Class Members or their representatives will be required to provide any supporting documentation, income information and medical documentation, to establish their claims and to enable the Adjudicator to understand and properly evaluate the Applications properly and efficiently.

All Application Forms must be submitted to the Adjudicator by mail, fax or courier to Kerygma Reconciliation, 3425 Harvester Road, Suite 202, Burlington, Ontario, L7N 3N1, fax 905-632-8200, by December 1, 2006.

The Application Form shall include a Statutory Declaration by the Class Member verifying that he/she:

- (a) Attended at the RBG Mother's Day Brunch;
- (b) Consumed food at the RBG Mother's Day Brunch and became ill shortly thereafter;
- (c) Indicate in as much detail as possible the symptoms experienced by the Class Member including the length of time that the symptoms lasted; and
- (d) Provide supporting documentation where necessary and appropriate to establish any claim for Special Damages and any claim for Category 2, 3 or 4 relief, as referenced below;

(b) Family Class Members

A Family Class Member who wishes to apply for compensation under this Agreement must do so by submitting a completed Application Form to the Adjudicator. The Application Form is attached as Appendix B. The provisions specific to the Family Class claim must be completed.

All Application Forms must be submitted to the Adjudicator by mail, fax or courier to Kerygma Reconciliation, 3425 Harvester Road, Suite 202, Burlington, Ontario, L7N 3N1, fax 905-632-8200, by December 1, 2006.

The Application Form shall include a Statutory Declaration by the Family Class Member verifying that he/she:

- (a) Is the partner, spouse, child, grandchild, parent, grandparent or sibling of a Class Member;
- (b) That the related Class Member attended at the RBG Mother's Day Brunch, consumed food and became ill shortly thereafter;
- (c) Was deprived of the care, companionship, guidance, etc., of the related Class Member for a period of time, indicating in as much detail as possible the circumstances surrounding same; and

- (d) Provide supporting documentation where necessary and appropriate to establish any claim for Special Damages;

It is specifically acknowledged and agreed that the Defendants have insurance coverage of \$2 Million with respect to the claims of the Class Members and Family Class Members and that the said amount represents the maximum payable under this Agreement. Said payment is being funded by the insurer of Compton and not by RBG and/or its insurer.

In the event that the total compensation adjudged to be payable under this Agreement exceeds the sum of \$2 Million, payments shall be made out to Class Members and Family Class Members on a pro-rata basis.

2.3 Classification of Claims

The Adjudicator shall classify all claims of Class Members as follows:

- (a) Category 1 – Class Members who suffered mild symptoms of salmonella poisoning or other illness.

Mild symptoms last no more than 72 hours and do not involve the Class Member having been hospitalized and/or having sought and received medical treatment.

The Adjudicator may consider the Class Member's lost time from work, school, etc., and all information provided by the Class Member on the completed Application Form.

- (b) Category 2 – Class Members who suffered moderate symptoms of salmonella poisoning or other illness.

Moderate symptoms last more than 72 hours but no more than 15 days and may, but need not necessarily, involve the Class Member having been hospitalized and/or having sought and received medical treatment.

The Adjudicator may consider the Class Member's lost time from work, school, etc., and all information provided by the Class Member on the completed Application Form.

- (c) Category 3 – Class Members who suffered serious symptoms of salmonella poisoning or other illness.

Serious symptoms last more than 15 days but not more than 60 days and involve the Class Member having been hospitalized or having sought and received medical treatment. These symptoms may, but need not

necessarily, involve complications or other medical difficulties or residual effects as a result of the salmonella poisoning/other illness.

- (d) Category 4 – Class Members who suffered severe symptoms of salmonella poisoning or other illness.

Severe symptoms last more than 60 days and involve the Class Member having been hospitalized or having sought and received medical treatment. These symptoms may, but need not necessarily, involve complications or other medical difficulties or residual effects as a result of the salmonella poisoning/other illness.

With respect to claims classified by the Adjudicator to be Category 4, the Adjudicator shall, immediately after such classification, provide written notice to the Defendants, through their respective counsel, and Class Counsel, of said classification.

The Defendants shall have the right to conduct a cross-examination, under oath, of the Class Member whose claim has been so classified by the Adjudicator.

The Defendants, through their respective counsel, shall be obligated to notify the Adjudicator and Class Counsel of their intention to conduct a cross-examination of the Class Member, within 10 days, and the cross-examination shall take place within 30 days. The Adjudicator will be present at the cross-examination or will receive a transcript of the cross-examination forthwith after same is conducted. Class Counsel may also be present. The Class Member may also be represented at the cross-examination by his/her own counsel of choice.

The Adjudicator is entitled to consider the evidence from the cross-examination in determining the final classification of the claim of the Class Member and shall, within 30 days of the cross-examination, notify the Class Member, in writing, of the final classification of the claim and the award of compensation consistent with the procedure set out in Article 2.1 above.

The Adjudicator shall assess all Family Class Member claims on an individual basis only where the related Class Member has already been awarded Category 4 relief. The Adjudicator shall be guided in awarding compensation to Family Class Members, as set out in Article 2.4 below.

The decision of the Adjudicator in respect of classification of all claims and awards of compensation is final and binding and not subject to any right of review or appeal, except in respect of claims classified as Category 4 in which cases, the Defendants may appeal the classification and award of compensation of the

Adjudicator to the Honourable Mr. Justice Crane, or his designate, before whom the standard of review will be whether or not the Adjudicator's decision is patently unreasonable.

2.4 Compensation for Class Members

- (a) Category 1 Class Members shall be entitled to compensation of \$500.00 as general damages, plus any Special Damages as awarded by the Adjudicator;
- (b) Category 2 Class Members shall be entitled to compensation of \$3,000.00 as general damages, plus any Special Damages as awarded by the Adjudicator;
- (c) Category 3 Class Members shall be entitled to compensation of \$5,000.00 as general damages, plus any Special Damages as awarded by the Adjudicator;
- (d) Category 4 Class Members shall be entitled to compensation of at least \$5,000.00 as general damages, but not more than \$50,000.00, such general damages amount to be determined by the Adjudicator, plus any Special Damages as awarded by the Adjudicator.

Family Class Members shall be entitled to Family Class compensation as awarded by the Adjudicator. Family Class Members shall be entitled to an award of compensation only where the related Class Member has already been awarded Category 4 relief.

The maximum award in favour of a Family Class Member where the related Class Member has been awarded Category 4 relief is \$10,000.00, plus any Special Damages as awarded by the Adjudicator.

3. **OHIP Subrogated Interest**

The Defendants hereby agree to pay to Scarfone, Counsel for the Ontario Ministry of Health, the Ministry of Health's subrogated claim on behalf of Class Members, in full, plus pre-judgment interest thereon at 2.8% per annum from May 8, 2005 to date of payment, plus an additional 15% of the said amount as a contribution towards Class Counsel legal costs. This costs contribution is in addition to the costs to be paid pursuant to Article 14.

The Defendants agree to pay said amount within 15 days of being provided details in respect of the Ontario Ministry of Health subrogated claim and particulars.

4. Opting Out

- 4.1 A Class Member/Family Class Member who wishes to be excluded from this Agreement must indicate his/her intention to opt out by filing written notice with Class Counsel as indicated in Appendix D postmarked or delivered on or before November 9, 2006.
- 4.2 On the Court Approval Date, this Agreement will be binding on all Class Members/Family Class Member, except those who file with Class Counsel, as provided for in Article 4.1, written notice of their intention to opt out of this Agreement.

5. Administration of Settlement

- 5.1 RBG and Compton shall be responsible for co-ordinating and administering this settlement diligently and in good faith according to the terms of this Agreement.
- 5.2 The co-ordination and administration of this settlement will be subject to reasonable audit and review by Class Counsel and/or their experts, consultants or agents for the purposes of determining that the Defendants are complying with the terms of this Agreement.
- 5.3 If, in the opinion of Class Counsel, the terms of this Agreement are not being performed in a manner consistent with this Agreement, and if the Defendants have not remedied the alleged problems after having been given reasonable notice of them, Class Counsel may bring a motion to the Court for directions.

6. Interest

- 6.1 Under this Agreement, interest is payable and is to be calculated in accordance with the provisions of Section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. 43, as amended.

Interest payable under this Agreement is to be calculated on the basis of simple, not compound interest, from May 8, 2005 to the date of Adjudication of each claim by the Adjudicator. The Adjudicator will calculate the interest due and owing to each Class Member/Family Class Member. Interest shall be payable on both general damages and Special Damages awarded to each Class Member/Family Class Member.

Interest is payable at 2.8% per annum.

7. Court Approval and Other Legal Proceedings

- 7.1 The terms of this Agreement are subject to and conditional upon a final judgment of court approval in Ontario. Unless so approved by the Court, this Agreement is of no force and effect.
- 7.2 Subject to Court approval, the Parties agree that no formal Court approval is required in respect of any awards made by the Adjudicator to minors/infants or any other person under a disability. The Parties agree that the Order of the Court approving this Agreement will include a provision dispensing with the formal requirement of Court approval in respect of compensation for infants/minors or any other persons under a disability who are entitled to compensation under the terms of this Agreement.
- 7.3 The Parties agree that a judgment of certification and court approval shall be obtained in the Jones Action and that contemporaneous with such Judgment, an Order will be issued in the Schunk Action dismissing that claim, on consent, without costs.

8. Effect of Non-Approval or Termination

- 8.1 If the condition to which this Agreement is subject, as set out in Article 7, is not satisfied as provided therein:
- 8.1.1 This Agreement shall be null and void and shall have no force and effect, and no party to this Agreement shall be bound by any of its terms, except for the terms of this Article;
- 8.1.2 This Agreement and all of its provisions and all negotiations, statements and proceedings relating to it shall be without prejudice to the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before the execution of this Agreement; and
- 8.1.3 This Agreement, the fact of its negotiation and execution, the certification of the Jones Action and any approval of this Agreement by The Court shall not constitute any admission by the Defendants or be used as evidence against the Defendants for any purpose or in any proceeding or matter. For greater certainty, this Agreement shall not constitute an admission by the Defendants that either of the Actions should be certified as class actions and the fact or terms of this Agreement or anything connected with it shall not be used in any way in support of certification of either of the Actions or any other legal proceeding as a class action.

9. Final Judgment

9.1 The Parties will jointly submit to the Court a proposed judgment approving this Agreement and certifying the Jones action. The judgment shall provide that, subject to the terms of this Agreement, it shall constitute:

9.1.1 The full and final resolution and release of all claims and causes of action that have or could have been raised by any Class Member and Family Class Member in the two Actions;

9.1.2 A full and final Release by all Class Members and Family Class Member against the Defendants and their respective employees, directors, officers, agents and independent contractors (the "Releasees") from any and all liability or damages for salmonella poisoning or other illness suffered as a result of consuming contaminated foods at the RBG Mother's Day Brunch, May 8, 2005; and

9.1.3 A covenant by all Class Members and Family Class Member not to make any claim or commence or maintain any action or proceeding against any third party including any person or corporation or the Crown arising from or in connection with any negligence or other conduct by the Releasees that occurred in connection with the RBG Mother's Day Brunch, May 8, 2005 and the consumption of contaminated foods leading to salmonella poisoning or other illness, in which any claim could arise against the Releasees, or either of them, for contribution, or indemnity, or any other relief over.

10. Jurisdiction of The Court

The Ontario Superior Court of Justice shall retain exclusive and continuing jurisdiction over the class action, and the Class Members/Family Class Members.

11. Notices

11.1 The Defendants shall publish the Appendix C Notice in the Hamilton Spectator and the Burlington Post Newspaper, within 10 days of execution of this Agreement by the Parties, or such other date as ordered by the Court. The Appendix C notice shall be published once, in prominent fashion and forwarded by mail or e-mail to each Class Member who has provided his/her contact information to Class Counsel.

11.2 The Defendants shall publish the Appendix E Notice of this Agreement and Court

approval thereof as set out below in Article 11.3.

11.3 Immediately following the Court Approval Date, the Defendants shall provide Notice of this Agreement and Court approval thereof as follows:

(a) The Defendants shall publish a Notice in the form set out in Appendix E in the Hamilton Spectator and Burlington Post Newspapers. This publication shall take place on two consecutive days within 14 days following the Court Approval Date; and

(b) In addition, a copy of the Appendix E Notice shall be forwarded by mail or e-mail to each Class Member who has provided his/her contact information to Class Counsel. This notification will be sent within 10 days of the Court Approval Date.

11.4 All expenses relating to publication of Notice and sending of Notice by mail or e-mail pursuant to this Agreement shall be borne by the Defendants.

12. **No Oral Modifications or Waivers**

No amendment or termination of any provision of this Agreement shall be effective unless it is in writing and is executed by or on behalf of each of the Parties. No Party will be deemed to have waived the exercise of any right or obligation under this Agreement unless such waiver is in writing and signed by or on behalf of the Party.

13. **Enurement**

This Agreement shall enure to the benefit of and be binding upon each of the Parties and each Class Member/Family Class Member and each of their respective successors and personal representatives.

14. **Legal Fees and Expenses**

In addition to the relief and benefits provided under this Agreement, the Defendant, Compton, agrees to pay the fees and disbursements of Class Counsel in an amount to be mutually agreed upon or as determined by the Court at the time of motion/application for certification of the Jones Action and for approval of this Agreement.

The Defendant, Compton, agrees to negotiate with Class Counsel in good faith in an attempt to reach agreement on the amount to be paid for legal fees and expenses and furthermore agree to participate in a mediation session before the Honourable Mr. Justice Warren Winkler of the Ontario Superior Court of Justice in that regard.

Court approval of this Agreement and implementation of the settlement on behalf of Class Members/Family Class Members are not conditional upon or in any way related to agreement on or court determination of the amount to be paid for legal fees and expenses.

15. Governing Law

This Agreement shall be interpreted in accordance with the laws of the Province of Ontario.

16. Counterparts

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument.

Dated: August , 2006

ROYAL BOTANICAL GARDENS

By:

AUTHORIZED SIGNING OFFICER

Dated: August , 2006

**1242238 ONTARIO INC., operating as
COMPTON & GREENLAND FINE FOODS
AND CATERING LTD.**

By:

AUTHORIZED SIGNING OFFICER

Dated: August , 2006

SCARFONE HAWKINS ^{LLP}

On their own behalf and as counsel to Douglas Jones

Dated: August , 2006

**MINDEN GROSS GRAFSTEIN &
GREENSTEIN^{LLP}**

On their own behalf and as counsel to Diane Schunk

Dated: August , 2006

**AGRO, ZAFFIRO, PARENTE, ORZEL &
BAKER^{LLP}**

On their own behalf and as counsel to Royal Botanical Gardens

Dated: August , 2006

BELL TEMPLE^{LLP}

On their own behalf and as counsel to 1242238 Ontario inc., operating as Compton & Greenland Fine Foods and Catering Ltd.

Appendix A

Definitions

“Actions” means, together the proceedings commenced by the Statement of Claim issued May 30, 2005 and the Statement of Claim issued May 27, 2005, as described in the preamble to this Agreement;

“Adjudicator” means Weir Milne of Kerygma Reconciliation;

“Agreement” means this Agreement, including any appendices hereto, and including any modifications made by any further written agreement among the Parties;

“Application Form” means the Appendix B document;

“Class/Class Member” means a person having been infected with salmonella food poisoning or other illness as a result of consumption of contaminated food served at the Royal Botanical Gardens Mother’s Day Brunch, May 8, 2005;

“Class Counsel” means the law firms of Scarfone and Minden, as described in the preamble to this Agreement;

“Compton” means 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd.;

“Court” means the Ontario Superior Court of Justice, as defined in the preamble to this Agreement;

“Court Approval Date” means the date on which the order/judgments of the Ontario Superior Court of Justice approving this Agreement and any order(s)/judgment(s) contemplated by Article 7 are made;

“Defendants” means together, Royal Botanical Gardens and 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd.;

“Family Class/Family Class Members” means the partner, spouse, child, grandchild, parent, grandparent or sibling of a Class Member;

“Jones Action” means the action commenced by Douglas Jones by Statement of Claim issued May 30, 2005;

“Notice” means the notice described in Article 11.1 and 11.3, being the Appendix C and Appendix E notices respectively, both of which shall be approved by the Court;

“Plaintiffs” means, together, Douglas Jones and Diane Schunk;

“Parties” means, collectively, Douglas Jones, Diane Schunk, Royal Botanical Gardens and 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd.;

“RBG” means Royal Botanical Gardens;

“RBG Mother’s Day Brunch” means the brunch hosted at the Royal Botanical Gardens on May 8, 2005;

“Schunk Action” means the action commenced by Diane Schunk by Statement of Claim issued May 27, 2005;

“Special Damages” means reimbursement of Class Members/Family Class Members for actual out-of-pocket losses suffered including, but not limited to lost wages/remuneration, prescription or medical expenses, etc., net of any collateral benefits received by Class Members/Family Class Members. No double recovery shall be permitted;

Appendix B

Application Form

ROYAL BOTANICAL GARDENS' MOTHER'S DAY BRUNCH SALMONELLA CLASS ACTION APPLICATION FORM

A separate Application Form must be submitted for each Class Member and Family Class Member. If more than one person in your family or party was infected, a separate Application Form must be completed for each individual.

PLEASE SEND THIS COMPLETED APPLICATION FORM by mail, fax or courier to Kerygma Reconciliation, 3425 Harvester Road, Suite 205, Burlington, Ontario, L7N 3N1, fax 905-632-8200, by December 1, 2006.

NOTE: If your Application Form is not submitted on time, you will lose your right to make a claim for benefits under the Agreement.

CLASS MEMBER INFORMATION

This information must be provided for each Class Member. Please answer all of the questions. Add extra pages if you require more space.

NAME	
ADDRESS	
CITY	
PROVINCE	
POSTAL CODE	
BIRTH DATE (y/m/d)	
HOME TELEPHONE NUMBER	
WORK TELEPHONE NUMBER	
MOBILE TELEPHONE NUMBER	
E-MAIL ADDRESS	

REPRESENTATIVE INFORMATION

Complete this Section only if you are acting as the Representative of a person under a disability, if you are the custodian of a claimant under 19 years of age or if you are acting in some representative capacity.

NAME	
ADDRESS	
CITY	
PROVINCE	
POSTAL CODE	
BIRTH DATE (y/m/d)	
HOME TELEPHONE NUMBER	
WORK TELEPHONE NUMBER	
MOBILE TELEPHONE NUMBER	
E-MAIL ADDRESS	

Your relationship to the Class Member Applicant:

Parent of a minor

Guardian

Representative

Other _____

QUESTIONS

1. Were you in attendance at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005?

YES

NO

2. Did you eat at the Brunch?

YES

NO

3. Were you ill shortly after the Brunch?

YES

NO

4. When did your symptoms begin (time and date)?

5. What symptoms did you experience as a result of your illness (describe in as much detail how you felt and the symptoms you experienced)?

6. How long did you experience these symptoms (how long were you ill/sick)?

7. Did you seek out or obtain any medical treatment?

YES

NO

8. If the answer to questions 7 above is "yes", please indicate in as much detail as possible the medical treatment you obtained including the name, address, etc., of the doctor and when and where you obtained medical treatment?

9. Were you admitted to Hospital?

YES

NO

10. If the answer to questions 9 above is “yes”, please indicate the name, address, etc., of the Hospital, number of days in Hospital, do you have hospital records showing dates, times, place and reason for your admission to hospital?

11. Have you given authorization to Class Counsel to obtain your medical records?

YES

NO

12. If yes, do you authorize Class Counsel to forward your medical records to the Adjudicator?

YES

NO

13. Are you applying for reimbursement for out-of-pocket expenses (including time off work)?

YES

NO

- 14. List any out-of-pocket expenses that you are claiming and attach available receipts.

EXPENSE DETAILS	AMOUNT CLAIMED

- 15. If you were unable to work because of illness, how many days were you off work?

- 16. What was your loss of income?

\$ _____

- 17. Did you use available sick leave time from your employer in respect of this illness:

YES

NO

- 18. Did you have available to you sick leave time with your employer but elected not use it?

YES

NO

19. Did you receive reimbursement for any of the out-of-pocket expenses you are claiming as referenced above (from any source, including your employer, benefit plan, insurance coverage, etc.)

YES

NO

If yes, please provide details:

20. What is your occupation?

21. Where did you work?

22. Provide your supervisor's name and telephone number?

FAMILY CLASS MEMBER CLAIMS

This section is to be completed by a partner, spouse, child, grandchild, parent, grandparent or sibling of a Class Member, where the individual applying claims to have been deprived of the care, companionship, guidance, etc. of the person who was ill following the RBG Mother's Day Brunch.

IT DOES NOT COVER claims by individuals who cared for a family member who was ill.

FAMILY CLASS MEMBER INFORMATION

This information must be provided for each Family Class Member. Please answer all of the questions. Add extra pages if you require more space.

NAME	
ADDRESS	
CITY	
PROVINCE	
POSTAL CODE	
BIRTH DATE (y/m/d)	
HOME TELEPHONE NUMBER	
WORK TELEPHONE NUMBER	
MOBILE TELEPHONE NUMBER	
E-MAIL ADDRESS	

REPRESENTATIVE INFORMATION

Complete this Section only if you are acting as the Representative of a person under a disability, if you are the custodian of a claimant under 19 years of age or if you are acting in some representative capacity.

NAME	
ADDRESS	
CITY	
PROVINCE	
POSTAL CODE	
BIRTH DATE (y/m/d)	
HOME TELEPHONE NUMBER	
WORK TELEPHONE NUMBER	
MOBILE TELEPHONE NUMBER	
E-MAIL ADDRESS	

23. What is your relationship to a Class Member who has made an application for compensation?

Partner

Spouse

Child

Grandchild

Parent

Grandparent

Sibling

24. Name of primary Class Member who made an application for compensation?

25. Was the Class Member in attendance at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005?

YES

NO

26. Did the Class Member eat at the Brunch?

YES

NO

27. Was the Class Member ill shortly after the Brunch?

YES

NO

28. Were you deprived of the care, companionship, guidance, etc. of the primary Class Member for a period of time ?

YES

NO

29. Provide details of your experience, i.e., specifics as to how you were deprived of the care, companionship, guidance, etc. of the primary Class Member in as much detail as possible. Provide details as to how long this lasted.

30. Are you applying for reimbursement for any out-of-pocket expenses incurred on behalf of the Class Member?

YES

NO

31. List any out-of-pocket expenses that you are claiming and attach available receipts.

EXPENSE DETAILS	AMOUNT CLAIMED

32. Did you receive reimbursement for any of the out-of-pocket expenses you are claiming as referenced above (from any source, including your employer, benefit plan, insurance coverage, etc.)

YES

NO

If yes, please provide details:

I DO HEREBY SOLEMN DECLARE that all the information provided in this completed Application Form as set out above is true and accurate to the best of my knowledge, information and belief and knowing that it is of the same force and effect as if made under oath.

DECLARED BEFORE ME at the City of Hamilton, Province of Ontario this _____ day of _____, 2006.



*Commissioner for Taking Affidavits
(or as may be)*

Appendix C

Royal Botanical Gardens settlement
Notice to be published in newspapers
SUBJECT TO COURT APPROVAL

Pre-Approval Notice

Proposed settlement of class actions regarding Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005

Please read this entire notice carefully. It may affect your legal rights.

Who should read this notice

You should read this notice if you were in attendance at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005, and became ill thereafter.

Why this notice has been published

An Agreement has been reached between Royal Botanical Gardens ("RBG") and 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd. ("Compton"), and the Plaintiffs in the class actions listed below. The class actions relate to allegations against RBG and Compton in respect of service of contaminated food at the RBG Mother's Day Brunch May 8, 2005 causing individuals to fall ill with salmonella poisoning/other illness.

The Agreement does not become effective until after the Ontario Superior Court of Justice has approved the Agreement and certified the action as a class action.

If the Agreement is approved by the Court, RBG and Compton will be bound by its terms as will all Class Members unless they opt-out.

If you were in attendance at the RBG Mother's Day Brunch and became ill with salmonella poisoning, you are entitled to participate in a Court hearing as set out below.

If the Agreement is approved, there will be a further Court-approved notice setting out the terms of the Agreement and the rights of Class Members under it, including the procedure to opt-out.

Summary of Benefits under the Agreement

The Agreement requires that all Class Members seeking compensation file with a Court-appointed Adjudicator a completed Application Form.

The Application Form includes a Statutory Declaration which must be sworn.

The Application Form requires provision of information and supporting documentation so that the Adjudicator can properly classify the claim.

Claims will be classified into four Categories:

Category 1 -- -- Class Members who experienced mild symptoms of salmonella poisoning/other illness;

Category 2 -- -- Class Members who experienced moderate symptoms of salmonella poisoning/other illness;

Category 3 -- -- Class Members who experienced serious symptoms of salmonella poisoning/other illness; OR

Category 4 -- -- Class Members who experienced severe symptoms of salmonella poisoning/other illness.

The primary criterion differentiating between Category 1, Category 2, Category 3 and Category 4 will be the length of time that the symptoms were experienced by the Class Member.

Class Members will receive a lump-sum award for general damages based on the classification of their claims.

The partner, spouse, child, grandchild, parent, grandparent or sibling of a Class Member can also make a claim.

In addition, Special Damages may be awarded which represent reimbursement for actual out-of-pocket expenses incurred, subject to proof and an award by the Adjudicator.

Interest will also be paid on any compensation amounts awarded by the Adjudicator.

How to participate in the Court Hearings

If you were in attendance at the RBG Mother's Day Brunch May 8, 2005, and consumed contaminated food and fell ill thereafter, you do not need to do anything now to be eligible to receive benefits under the Agreement if it is approved by the Court. **You do not need to participate in the Court hearing.**

If you were in attendance at the RBG Mother's Day Brunch May 8, 2005, and consumed contaminated food and fell ill thereafter, and if you wish to object to the settlement, you have the right to participate in the Court hearing.

If you wish, you may hire your own lawyer to represent you at the hearing. If you do, you are responsible for paying your own lawyer's fees and expenses. In addition, the Court may decide to hold you responsible for the costs of other parties' involvement in connection with your participation.

To participate in the Court hearing, you or your lawyer must:

- Prepare a written Notice of Appearance which sets out the name, address, telephone number of you and your lawyer;
- Prepare a written statement of objection to the Agreement approval. The statement of objection should set out the specific reasons for your objection, including any legal authority you wish to bring to the Court's attention and any evidence you wish to introduce in support of your objection.

At least 10 days before the hearing date:

- Deliver these documents by fax, courier, mail or in person to Class Counsel and Defendants' counsel as indicated below;
- File a copy of these documents with the Court, along with proof that you delivered them.

If you file a Notice of Appearance and statement of objection, you or your lawyer may also appear at the Court hearing and address the Court.

All Notices of Appearance and statements of objection must be served on Class Counsel and Defendants' counsel no later than 10 days before the Court hearing.

Location and time of hearing

The Court hearing to decide whether to approve the Agreement and certify the action as a class action will be held as follows:

Douglas Jones v. Royal Botanical Gardens (“RBG”) and 1242238 Ontario Inc., operating as Compton & Greenland Fine Foods and Catering Ltd., Court File No. 05-18369CP.

September 28, 2006, at 10:00 a.m., Ontario Superior Court of Justice, 45 Main Street East, Hamilton, Ontario, L8N 2B7.

If you have any questions about the Agreement, you may contact Class Counsel as follows:

DAVID THOMPSON or MATTHEW G. MOLOCI	STEPHEN C. NADLER or A. IRVIN SCHEIN
SCARFONE HAWKINS ^{LLP}	MINDEN GROSS ^{LLP}
Barristers & Solicitors	Barristers & Solicitors
One James Street South	111 Richmond Street West
14 TH Floor	Suite 700
Hamilton, Ontario	Toronto, Ontario
L8N 3P9	M5H 2H5
Telephone number: 905-523-1333	Telephone number: 416-362-3711
Fax number: 905-523-5878	Fax number: 416-864-9223
E-mail: thompson@shlaw.ca moloci@shlaw.ca	E-mail: snadler@mindengross.com ischein@mindengross.com
Website: www.classactionlaw.ca	

Or Defendants’ Counsel as follows:

KATHRYN A. McKAGUE	HUGH G. BROWN
AGRO, ZAFFIRO, PARENTE, ORZEL & BAKER	BELL TEMPLE ^{LLP}
Barristers and Solicitors	Barristers and Solicitors
One James Street South	393 University Avenue
4th Floor, P.O. Box 2069	Suite 1500
Hamilton, Ontario	Toronto, Ontario
L8N 3G6	M5G 1E6

Telephone number: 905-527-6877	Telephone number: 416-581-8200
Fax number: 905-527-6843	Fax number: 416-596-0952
E-Mail: kmckague@agrozaaffiro.com	E-Mail: hbrown@belltemple.com

**PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO
SUPERIOR COURT OF JUSTICE**

Appendix D

Opt-Out Notice

In the Ontario Superior Court of Justice (Court File No. 05-18369CP)

DOUGLAS JONES

Plaintiff

v.

**ROYAL BOTANICAL GARDENS AND
1242238 ONTARIO INC., OPERATING AS
COMPTON & GREENLAND FINE FOODS AND CATERING LTD.**

Defendants

OPT OUT FORM

I,

NAME

ADDRESS

**TELEPHONE NUMBER
INCLUDING AREA CODE**

wish to opt out of this class action. I do not wish to participate in the settlement in respect of the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005, salmonella poisoning class action.

I understand that this class action is brought on behalf of all persons who attended at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005, consumed contaminated food and became ill thereafter.

I understand that if I opt out and complete this form, I will not take part in this class

proceeding, agree to be excluded from the class proceeding, and will not be bound by the result whether favourable or unfavourable.

I understand as well that I will not be entitled to any benefits under the settlement negotiated.

I understand that if I intend to proceed with my own legal action, I must commence my own lawsuit within a specified limitation period or my claim will be legally barred. I take full responsibility for obtaining legal advice about the limitation period applicable and for taking all necessary steps to protect my claim.

I am the person entitled to participate in this action.

YES

NO

If the answer to the above question is "NO", I act in the following capacity for the person who is opting out of the class action.

Name of person opting out: _____

The Class Member is under 19 years of age: YES

NO

The Class Member is under a legal
disability:

YES
NO

DATE : _____

WITNESS

SIGNATURE OF CLASS MEMBER OR
REPRESENTATIVE

PRINT NAME OF CLASS MEMBER

**TO CONSTITUTE A VALID OPT OUT, THIS OPT OUT FORM MUST BE MAILED OR
DELIVERED BEFORE NOVEMBER 9, 2006 TO SCARFONE HAWKINS LLP, ONE
JAMES STREET SOUTH, 14TH FLOOR, HAMILTON, ONTARIO, L8N 3P9, FAX: 905-
523-5878.**

Appendix E

Post-Approval Notice

In the Ontario Superior Court of Justice (Court File No. 05-18369CP)

DOUGLAS JONES

Plaintiff

v.

**ROYAL BOTANICAL GARDENS AND
1242238 ONTARIO INC., OPERATING AS
COMPTON & GREENLAND FINE FOODS AND CATERING LTD.**

Defendants

LEGAL NOTICE

Notice of Certification and Approval of Class Action settlement regarding Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005

YOU SHOULD READ THIS NOTICE if you were in attendance at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005, consumed contaminated food and fell ill with salmonella poisoning/other illness.

A class action settlement has received court approval and is now being implemented. The settlement was reached between the Plaintiffs and Defendants as set out in the above-noted class action.

The class action relates to allegations of service of contaminated foods at the Royal Botanical Gardens' Mother's Day Brunch, May 8, 2005.

The Court in Ontario has certified the lawsuit to proceed as a class action and has approved the Agreement, which applies to all persons who attended at the Royal Botanical Gardens' Mother's Day Brunch on May 8, 2005, consumed contaminated food and fell ill with salmonella poisoning/other illness.

If you attended at the Royal Botanical Gardens' Mother's Day Brunch on May 8, 2005, consumed contaminated food and fell ill with salmonella poisoning, or other illness you may be eligible for benefits under the Settlement Agreement.

SUMMARY OF BENEFITS UNDER THE AGREEMENT

The Agreement requires that all Class Members seeking compensation file with a Court-appointed Adjudicator a completed Application Form.

The Application Form includes a Statutory Declaration which must be sworn.

The Application Form requires provision of information and supporting documentation so that the Adjudicator can properly classify the claim.

Claims will be classified into Four Categories:

Category 1 -- -- Class Members who experienced mild symptoms of salmonella poisoning;

Category 2 -- -- Class Members who experienced moderate symptoms of salmonella poisoning;

Category 3 -- -- Class Members who experienced serious symptoms of salmonella poisoning; OR

Category 4 -- -- Class Members who experienced severe symptoms of salmonella poisoning.

The primary criterion differentiating between Category 1, Category 2, Category 3 and Category 4 will be the length of time that the symptoms were experienced by the Class Member.

Class Members will receive a lump-sum award for general damages based on the classification of their claims.

The partner, spouse, child, grandchild, parent, grandparent or sibling of a Class Member can also

make a claim.

In addition, Special Damages may be awarded which represent reimbursement for actual out-of-pocket expenses incurred, subject to proof and an award by the Adjudicator.

Interest will also be paid on any compensation amounts awarded by the Adjudicator.

OPT OUT

Class Members will be bound by the terms of the Settlement Agreement unless they opt out of the class action.

If you do not wish to participate in the class action or settlement, you must complete an Opt Out Form and must deliver same to Class Counsel on or before **November 9, 2006** as indicated in the form.

A copy of the Opt Out Form is available from Class Counsel at the address set out below and from Class Counsel's website at www.classactionlaw.ca.

Further information is available regarding the settlement at Class Counsel's website at www.classactionlaw.ca.

ADDITIONAL INFORMATION

If you have any questions about the Settlement Agreement or if you want to obtain the Application Form or Opt Out Form, contact:

CLASS COUNSEL

DAVID THOMPSON or MATTHEW G. MOLOCI
SCARFONE HAWKINS ^{LLP}
Barristers & Solicitors
One James Street South
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L8N 3P9
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DEFENDANTS' COUNSEL

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AUTHORIZED BY THE ONTARIO SUPERIOR
COURT OF JUSTICE**