

## SHORT FORM NOTICE OF SETTLEMENT

**The \$13.375 million settlement of a class action lawsuit brought on behalf of Dr. Barwin's former fertility patients and their children has now been approved by the court.**

The Court has approved a class action settlement for former patients of Dr. Barwin and their children who gave him consent to use or safeguard specific semen for artificial insemination ("AI") procedures administered by him (or at another fertility clinic with semen previously stored with him).

You may qualify for **compensation** if Dr. Barwin used semen in the AI procedures that did not accord with your consent, the consent of your spouse or your parents' consent. You may also qualify for **compensation** if you provided consent to Dr. Barwin to safeguard and store your semen and he used your semen contrary to your consent in AI procedures on other patients that resulted in the conception of one or more children.

### **Who is included?**

You may only qualify for compensation if you fall under one of the three classes. The classes are defined as:

#### **Mother Class:**

All patients of the defendant who were administered artificial insemination (AI) in Canada during the Class Period by either (i) the Defendant, or (ii) at another fertility clinic, with semen originally entrusted to the Defendant, from which AI they conceived and gave birth to a child whose biological father does not accord with the consent given by these patients in regard to the semen.

#### **Spouse/Partner/Former Patient Class:**

1. All persons who were a partner or spouse of a Mothers Class Member when the AI was administered and who agreed to have their own semen or specified donor semen used for the AI of a Mothers Class Member, but where the biological father of the child born of the AI does not accord with their said agreement; and
2. All patients of the defendant in Canada who entrusted their semen to the defendant for storage, safe-keeping or specific purpose but which semen was used in the course of AI performed by the defendant during the Class Period that resulted in the birth of one or more children who do not accord genetically with the consent

these patients gave in regard to the storage and/or use of their semen.

**Child Class:**

All persons conceived and born by Mother Class Members as a result of AI performed by the defendant during the Class Period with semen entrusted to the defendant whose biological father does not accord with the consent given by their biological mother for the AI.

**How do I make a claim?**

You must fill in the Claim Form that corresponds to your respective class and send it to the claims Administrator. You must attach the legal DNA or other compelling evidence you have that proves your claim. You must send the form by February 28, 2022. The Administrator will review your form and supporting evidence and decide whether you are entitled to compensation from the settlement and in what amount.

**How much will I get?**

How much you receive depends on the category of harm that you qualify for and the number of people who make claims. The three (3) harm categories are:

**Harm Category 1:** Cases where a couple went to see Dr. Barwin (typically husband and wife) and where the couple consented to the Spouse/Partner’s semen to be used in the process of artificial insemination. Claimants will qualify for compensation where they have DNA evidence showing that the child or children conceived with Dr. Barwin’s assistance or with semen previously entrusted to Dr. Barwin is/are not the biological child of the man in the couple.

The Claimants in this category include, the Mother, the Spouse/Partner and their Child(ren) conceived with semen other than the Spouse/Partner’s semen.

Mother Class	up to \$50,000
Spouse/Partner Class	up to \$50,000
Children Class	up to \$40,000
In cases where the Mother and Spouse/Partner had more than one child who qualifies for compensation under this category, they will be entitled up to a further \$10,000 each, in total.	

**Harm Category 2:** Cases where a parent or parent(s) had one or more children by way of artificial insemination administered by Dr. Barwin and where the couple consented to a specific donor or donors being used in the artificial insemination procedure(s). Claimants will qualify for compensation where they have DNA evidence demonstrating that (a) their child or children do not match their sperm

donor; or (b) the parent(s) consented to the same donor being used for all their children and the children do not share the same sperm donor. In some cases, Claimants may prove their case by way of reliable evidence other than a legal DNA tests where, for instance, they are unable to locate their sperm donor.

The Claimants in this category include, the Mother, the Spouse/Partner of the mother and any Child(ren) who were conceived by artificial insemination with semen other than the semen consented to by their Mother.

**Harm Category 2A:**

In cases where the Child(ren) is/are the biological offspring of Dr. Barwin:

Mother Class	up to \$40,000
Spouse/Partner Class	up to \$40,000
Children Class	up to \$30,000

**Harm Category 2B:**

In cases where the biological father has been identified otherwise or not at all:

Mother Class	up to \$30,000
Spouse/Partner Class	up to \$30,000
Children Class	up to \$30,000

In cases where the Mother and Spouse/Partner had more than one child who qualifies for compensation under either Harm Category 2A and/or 2B, they will be entitled up to a further \$10,000 each, in total.
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**Harm Category 3:** Cases where an individual entrusted semen with Dr. Barwin for the purposes of storage and safe-keeping or other specified purpose and that semen resulted in the conception of one or more children for another unrelated patient. Claimants will qualify for compensation where they provide DNA evidence that the semen entrusted with Dr. Barwin resulted in the conception and birth of another unrelated patient's child or children. Anonymous sperm donors are excluded from this claim.

The Claimants in this category are the Former Patients who entrusted the semen with Dr. Barwin.

Former Patient	up to \$25,000
In cases where there is more than one such child conceived using the Former Patient's semen, up to a further \$5,000 per additional child up to a maximum of \$10,000 in total.	

**Where can I get more information and help completing the form?**

Please contact:

- Phone 1-866-753-2594
- Administrator’s website: <https://barwinclassaction.ca>

The lawyers acting for the class are Nelligan O’Brien Payne. You can visit Class Counsel website at <https://nelliganlaw.ca/class-actions/dr-barwin/> and/or contact the lawyers below:

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