

NOTICE OF MOTION SEEKING APPROVAL TO DISCONTINUE PROPOSED CLASS PROCEEDING

THIS IS AN IMPORTANT NOTICE FOR PERSONS WITH AUTISM SPECTRUM DISORDER IN THE PROVINCE OF ONTARIO AND THEIR PARENTS AND GUARDIANS THAT MAY AFFECT LEGAL RIGHTS

This notice relates to an important development in a proposed Class Proceeding (issued on April 5, 2005) on behalf of all persons with autism spectrum disorder in the Province of Ontario between the point of diagnosis and the age of 21 as of April 5, 2005, who received and benefited from the provincially-funded Intensive Behavioural Intervention (IBI) program, known as the Intensive Early Intervention Program for Children with Autism (IEIP) or who could have benefitted from Applied Behaviour Analysis (ABA) intervention if it had been available to them, including all persons described who were registered or attempted to register with the York Region District School Board, the York Catholic District School Board, the Peel District School Board, the Dufferin-Peel Catholic District School Board, the Toronto District School Board, the Toronto Catholic District School Board, and the Durham District School Board (collectively, the "Boards"); and the parents or guardians of the persons described.

A MOTION will be heard April 25, 2012 in the Superior Court of Justice Courtroom 5, Osgoode Hall, 130 Queen Street West, Toronto to determine whether or not to approve the discontinuance of the proposed Class Proceeding. Limitation periods within which a lawsuit could be commenced by the persons described above wishing to claim compensation based on the causes of action asserted in the proposed Class Proceeding are currently suspended. If discontinuance is approved, such persons must file their own lawsuit by a date fixed by the Court. If they fail to do so, they may be disentitled from pursuing any legal remedies. Anyone who feels they will suffer prejudice as a result of the Court approving discontinuance of the proposed Class Proceeding may attend and seek leave to address the Court.

Background

In 1999, the Ontario government established the IEIP to provide children with autism with IBI services, an intensive form of ABA. On April 5, 2005, Christopher Sagharian, Andrew Cesario, Joshua Martini, Noah Martini, Brandon Robinson and Adam Shane, all minor children with autism spectrum disorder in Ontario and represented by litigation guardians, and Taline Sagharian and Harout Sagharian, Patricia Cesario and Pasquale Cesario, Anna Martini and Umberto Martini, Karen Robinson and Lester Robinson, and Lynn Shane and David Shane, parents of minor children with autism spectrum disorder (autism) in Ontario (collectively, the representative plaintiffs) commenced an action identified as *Sagharian et al. v. Ontario et. al.*, Court File No. 05-CV-287168 CP (the "proposed Class Proceeding"). In the proposed Class Proceeding, it is alleged that the defendants' failure to provide or to fund ABA, speech therapy, occupational therapy and other programs and services for children with autism amounts to a violation of section 15 of the *Canadian Charter of Rights and Freedoms* and negligence.

Decision to Discontinue

The representative plaintiffs have decided to seek the Court's approval to discontinue the proposed Class Proceeding in light of recent court decisions. They do not propose to initiate individual actions.

Implications for Other Persons with Autism Spectrum Disorder and their Parents and Guardians

If approval to discontinue is granted by the Court, other persons with autism in Ontario and their parents and guardians who might have been relying on the proposed Class Proceeding to protect their rights would have to file their own lawsuits if they believe they were harmed and wish to pursue such claim in the courts. If they do not start their own lawsuit by a date fixed by the Court, persons such as those named above who were potential class members may be prohibited from bringing an action against the Province of Ontario and the Boards.

Making a Claim

Persons with autism and their living parents and guardians who wish to make a claim but have not started an individual lawsuit to protect their rights should seek the advice of a lawyer licensed to practice in Ontario.

Further information regarding this Notice can be obtained by contacting David Baker at the number below. Please do not contact the Court office.

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