



Court File No. 67/13

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) Thursday, this 30th day
JUSTICE EDWARDS)
)
) of August, 2023

BETWEEN:

**HEIKE HESSE and the Estate of ERKENRAADJE WENSVOORT by her Estate Trustee
Willemyntije Hammond ON BEHALF OF THEMSELVES AND ALL OTHERS
SIMILARLY SITUATED**

Plaintiffs

- and-

**ANDREA KAY, DANA GILDON CORMIER, MANDY EDGERTON REID, DAWN
DECIOCCI, JANE DOE “A”, JANE DOE “B”, JANE DOE “C”, and PETERBOROUGH
REGIONAL HEALTH CENTRE**

Defendants

BROUGHT UNDER THE CLASS PROCEEDINGS ACT, 1992, S.O. 1992, c. 6

ORDER

THIS MOTION, brought by the proposed representative plaintiff, on consent of the Peterborough Regional Health Centre (“PRHC”) and for settlement purposes, for an order certifying this action as a class proceeding, identifying the common issues, appointing the representative plaintiff and appointing class counsel pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended (the “*Class Proceedings Act*”), was heard virtually this day in the Ontario Superior Court of Justice.

UPON READING the motion record filed by the proposed representative plaintiff, and hearing submissions from counsel for the representative plaintiff and counsel for PRHC,

1. **THIS COURT ORDERS** that the within action be and is certified as a class proceeding as against PRHC pursuant to the *Class Proceedings Act*.

2. **THIS COURT ORDERS** that the action be and is hereby dismissed as against Andrea Kay, Dana Gildon Cormier, Mandy Edgerton Reid, Dawn deCiccio, Jane Doe “A”, Jane Doe “B” and Jane Doe “C”.
3. **THIS COURT ORDERS** that the “Class” or “Class Members” (as applicable) is defined as follows:

All individuals who were notified in 2011 and 2012 by PRHC that their medical records were inappropriately accessed between June 2010 and March 2012 by one of the following former PRHC employees: Dawn deCiccio, Dana Gildon Cormier, Mandy Reid or Andrea Kay.
4. **THIS COURT ORDERS** that the Estate of Erkenraadje Wensvoort by her Estate Trustee Willemyntije Hammond is hereby appointed as the representative plaintiff on behalf of the Class.
5. **THIS COURT ORDERS** that Heike Hesse be and is removed as a plaintiff in this action and that her name, address and other personal information contained in the statement of claim and/or amended statement of claim or any other document filed in this action cannot and shall not be used by anyone in any publication whatsoever relating to this action.
6. **THIS COURT ORDERS** that Spiteri & Ursulak LLP and Greenspon Granger Hill are hereby appointed as joint Class Counsel in this action.
7. **THIS COURT DECLARES** that the claim of negligence asserted on behalf of the Class against PRHC is hereby certified.
8. **THIS COURT DECLARES** that the relief sought by the Class is general damages arising from the from the negligence of PRHC, pre- and post-judgment interest and costs.
9. **THIS COURT ORDERS** that the common issues in this class proceeding shall be as follows:

Liability

- a. Did PRHC owe a duty of care to its patients?
- b. If yes to (a), what was the applicable standard of care owed by PRHC to its patients?
- c. Did PRHC breach its duty of care to the Class Members?
- d. If yes to (c), did the Class Members suffer harm that they would not have suffered but for the breach of duty on the part of PRHC?

Damages

- e. If PRHC is liable to the Class as a whole, can the damages be assessed, in whole or in part, on an aggregate basis?
- f. If yes to (e), what is the quantum of aggregate damages owed to Class Members; and, what is the appropriate method or procedure for distributing the aggregate damages awarded to the Class Members?

Interest

- g. Should PRHC be ordered to pay pre-judgment interest?
- h. If so, how should the pre-judgment interest be calculated?

10. **THIS COURT ORDERS** that the requirement for notice of certification in accordance with section 17 of the *Class Proceeding Act* be and is hereby waived pursuant to section 17(2) of the *Class Proceedings Act*.

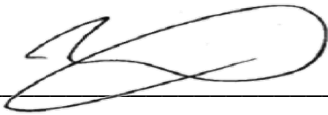
11. **THIS COURT ORDERS** that the requirement for a litigation plan in accordance with section 5(e) of the *Class Proceeding Act* be and is hereby waived.

12. **THIS COURT ORDERS AND DECLARES** that the August 16, 2023 deadline to opt out has passed and that no Class Member who has not already validly opted out may do so in the future.

13. **THIS COURT ORDERS** that Class Counsel shall provide PRHC with a list of the names of all Class Members who have opted out of this class proceeding.

14. **THIS COURT ORDERS** that each party shall bear its own costs of the within motion for certification of this proceeding.

Entered at Peterborough
Entré à Peterborough



Thursday, September 7, 2023

In Book No. 74-65
au registre no.

HEIKE HESSE et al
Plaintiffs

and

ANDREA KAY et al
Defendants
Court File No. 67/13

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Peterborough

CERTIFICATION ORDER

GREENSPON GRANGER HILL

331 Somerset Street West
Ottawa, ON K2P 0J8

Lawrence Greenspon (#20103D)
lawrence@gghlawyers.ca

Tina Hill (#46325J)
tina@gghlawyers.ca

Tel: (613) 288-2890
Fax: (613) 288-2896

Lawyers for the Plaintiff