

**ONTARIO
SUPERIOR COURT OF JUSTICE**

| | | |
|---|---|---|
| BETWEEN: |) | |
| |) | |
| KATELYN LOWE and MEGAN LOWE, |) | |
| by their litigation guardian, |) | <i>Gordon Marsden</i> for the Plaintiffs |
| KIMBERLEY LOWE, and |) | |
| KIMBERLEY LOWE |) | |
| |) | Plaintiffs |
| |) | |
| - and - |) | |
| |) | |
| |) | |
| DR. MEIKLE DENISTRY |) | |
| PROFESSIONAL CORPORATION |) | <i>Rahool Agarwal</i> for the Defendant Dr. |
| c.o.b. GUELPH DENTAL |) | Meikle Dentistry Professional Corp. |
| ASSOCIATES, DR. KATHERINE |) | |
| ZETTLE, DR. KANISHA CAMPBELL, |) | <i>Eric Baum</i> for the Defendants Dr. Katherine |
| DR. LADAN MANSOURI and DR. |) | Zettle, Dr. Kanisha Campbell, Dr. Ladan |
| ANDREW MEIKLE |) | Mansouri and Dr. Andrew Meikle |
| |) | |
| |) | |
| |) | Defendants |
| |) | |
| Proceeding under the <i>Class Proceedings</i> |) | HEARD: July 19, 2021 |
| <i>Act, 1992</i> |) | |

PERELL, J.

REASONS FOR DECISION

[1] In this proposed class action under the *Class Proceedings Act, 1992*,¹ the Plaintiffs Katelyn Lowe and Megan Lowe by their litigation guardian Kimberley Lowe and Kimberley Lowe sue the Defendants Dr. Meikle Dentistry Professional Corporation, Dr. Katherine Zettle, Dr. Kanisha Campbell, Dr. Ladan Mansouri and Dr. Andrew Meikle.

[2] The Plaintiffs move for certification of the action as a class proceeding for settlement purposes. They also move for approval of the notice of certification and for the appointment of

¹ S.O. 1992, c. 6.

Epiq Class Action Services Canada Inc. as claims administrator.

[3] The action was commenced on July 20, 2017, and the Plaintiffs allege that the Defendants were negligent in providing dental service at the dental clinic known as “Guelph Dental Associates” and exposed their patients to certain communicable diseases.

[4] For settlement purposes, the proposed class definition is:

All persons, or their estates, who received dental care and services at the dental clinic formerly located at 380 Eramosa Road in Guelph, Ontario and known as “Guelph Dental Associates” between January 21, 2015 and June 21, 2017.

[5] For settlement purposes, the Plaintiffs seek to certify the cause of action in negligence.

[6] For settlement purposes, the Plaintiffs seek to certify the following common issue:

Did some or all of the Defendants owe a duty of care to the Class and, if so, what were the standards of care to which the Defendants were required to adhere in relation to the infection control and prevention practices at the clinic?

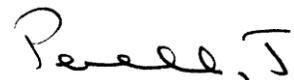
[7] For settlement purposes, the Plaintiffs seek to have Kimberley Lowe appointed as a Representative Plaintiff on behalf of the Class.

[8] The Court is required to certify the action as a class proceeding where the following five-part test in s. 5 of the *Class Proceedings Act, 1992* is met: (1) the pleadings disclose a cause of action; (2) there is an identifiable class of two or more persons that would be represented by the representative plaintiff; (3) the claims of the class members raise common issues; (4) a class proceeding would be the preferable procedure for the resolution of the common issues; and (5) there is a representative plaintiff who: (a) would fairly and adequately represent the interests of the class; (b) has produced a plan for the proceeding that sets out a workable method of advancing the proceeding on behalf of the class and of notifying class members of the proceeding, and (c) does not have, on the common issues for the class, an interest in conflict with the interests of other class members.

[9] The fact that an action is certified on consent for settlement purposes does not dispense with the need to meet the certification criteria but they may be less rigorously applied in a settlement context.²

[10] Pursuant to s. 5 (1) of the *Class Proceedings Act, 1992*, having reviewed the motion record, I am satisfied that all of the criteria for certification have been satisfied.

[11] I grant the relief requested. I have signed the Order.



Perell, J.

Released: July 19, 2021

² *Osmun v. CadburyAdams Canada Inc.*, [2009] O.J. No. 5566 at para. 21 (S.C.J.).

CITATION: Lowe v. Dr. Meikle Professional Corporation. 2021 ONSC 5050
COURT FILE NO.: CV-17-579325
DATE: 20210719

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KATELYN LOWE and MEGAN LOWE, by their
litigation guardian, KIMBERLEY LOWE, and
KIMBERLEY LOWE**

Plaintiffs

- and -

**DR. MEIKLE DENISTRY PROFESSIONAL
CORPORATION c.o.b. GUELPH DENTAL
ASSOCIATES, DR. KATHERINE ZETTLE, DR.
KANISHA CAMPBELL, DR. LADAN MANSOURI
and DR. ANDREW MEIKLE**

Defendants

REASONS FOR DECISION

PERELL J.

Released: July 19, 2021