



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

(Court Seal)

ELIAS FAIZ

Plaintiff

and

CANADIAN ALL CARE INC. operating as  
CANADIAN ALL CARE COLLEGE

Defendant

**STATEMENT OF CLAIM**

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000 for costs, within the time for serving and filing your Statement of Defence you may move to have this proceeding dismissed by the Court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$400 for costs and have the costs assessed by the Court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of court office: Superior Court of Justice  
330 University Avenue  
Toronto ON  
M5G 1R7

TO: Canadian All Care College  
240 Alton Towers, Unit 302  
Scarborough, Ontario  
M1V 3Z3

## CLAIM

1. The plaintiff, Elias Faiz, claims the following relief:
  - (a) An Order certifying this action as a class proceeding and appointing the Plaintiff as the representative plaintiff pursuant to the *Class Proceedings Act*, 1992, S.O. 1992, Chapter 6, as amended ("*CPA*");
  - (b) Aggregate damages in accordance with s.24(1) of the *CPA* in the amount of \$10,000,000.00 or such other amount to be assessed by this Honourable Court for breach of contract, breach of fiduciary duty, negligent misrepresentation, and/or breach of Parts II and/or III of the *Consumer Protection Act*, 2002, SO 2002, c 30, Sched A (the "*Consumer Protection Act*");
  - (c) In addition, or in the alternative to 1(b), damages for breach of contract, breach of fiduciary duty, negligent misrepresentation, and/or breach of Parts II and/or III of the *Consumer Protection Act*;
  - (d) In addition, or in the alternative to 1(b) and/or 1(c), restitution of \$10,000,000.00 or such other amount to be assessed by this Honourable Court for the amounts paid by the Plaintiff and the Class (as defined below) for incidental fees and expenses associated with enrollment in the Defendant's Diagnostic Medical Sonography Program ("*the DMS program*");
  - (e) In addition, or in the alternative to 1(b), 1(c), and/or 1(d), exemplary and/or aggravated damages in the amount of \$10,000,000.00 or such other amount to be assessed by this Honourable Court as a result of the defendant's unfair and bad faith conduct;
  - (f) Costs of publishing notice of certification of this proceeding;

- (g) Costs of distribution of all awards under s.24 and/or s.25 of the *CPA*;
  - (h) Costs of this proceeding on a substantial-indemnity basis, or in the alternative, a partial-indemnity basis, in accordance with s.131 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "*CJA*"); and
  - (i) Pre-judgment and post-judgment interest in accordance with ss.128-129 of the *CJA*.
2. Such further or alternative relief as this Honourable Court deems just.

### **THE PARTIES**

3. The Plaintiff is a resident of the Province of Ontario and at all material times was enrolled as a student in the Defendant's Diagnostic Medical Sonography program (the "DMS program") at Canadian All Care College ("CACC") .
4. The Plaintiff brings this action on his own behalf, and on behalf of all persons enrolled at CACC (the "Class Members").
5. CACC is a private career college in Ontario with campuses at 305-4630 Dufferin Street, Toronto, Ontario (known as "Toronto Campus") and 240 Alton Towers Circle, Scarborough (known as "Scarborough Campus"). Among other courses, CACC offered the DMS program beginning in 2020.
6. The Plaintiff seeks to be appointed as the representative plaintiff on behalf of the Class.
7. For the purpose of certification, the Class is comprised of all students of CACC as of January 1, 2020 who were enrolled in the DMS program (the "Class Definition").

**FACTS IN SUPPORT OF THE PROPOSED  
CAUSES OF ACTION AND COMMON ISSUES**

8. In early 2019, CACC registered to have its DMS program accredited by Accreditation Canada. Accreditation Canada accepted the registration application such that the DMS program achieved “registered” status, and the application was permitted to proceed to the off-site and on-site program review stages.
9. On or about August 27, 2019 the Ministry of Colleges and Universities approved the provision of the DMS program at CACC’s Toronto campus, subject to certain conditions. However, these conditions were never communicated to the public at large, including the Plaintiff and Class Members.
10. On or about November 22, 2019 the Ministry of Colleges and Universities approved the provision of the DMS program at CACC’s Scarborough campus, subject to certain conditions. One of the approval conditions required the DMS program to maintain good standing with Accreditation Canada. However, these conditions were never communicated to the public at large, including the Plaintiff and Class Members.
11. Sonography Canada is the governing body for sonographers in Canada. To obtain national certification with Sonography Canada, a candidate must have graduated from a DMS program accredited by healthcare accreditation body, Accreditation Canada (subject to limited exceptions).
12. At all material times, and prior to the enrollment by the Plaintiff and Class Members, CACC failed, refrained, or refused to reveal that its DMS program had been provisionally approved by the Ministry of Colleges and Universities.
13. At all material times, CACC failed, refrained, or refused to reveal to the Plaintiff and Class Members that successful completion of its DMS program was subject to satisfying approval

conditions mandated by the Ministry of Colleges and Universities and/or Accreditation Canada.

14. At all materials times, CACC represented to the Plaintiff and Class Members, through online materials, printed materials and during a Pre-Admission Interview, that its DMS program was fully accredited, and that the successful completion of the DMS program would allow the Plaintiff to be properly accredited by Sonography Canada, and subsequently find gainful employment as a Diagnostic Medical Sonographer.
15. The plaintiff applied to the DMS program in September 2020. The Plaintiff relied on the marketing materials and statements made by CACC and its employees. The Plaintiff chose to enroll in the DMS program because it would allow him to work as an accredited Diagnostic Medical Sonographer upon his successful completion of the DMS program.
16. CACC offered the Plaintiff and Class Members enrollment in its DMS program starting in October 2020, and expected the program to run for two years until completion on or about September 2, 2022. The Plaintiff and Class Members entered into a binding and legal contract evidenced in writing (the “enrollment documentation and agreement”) with CACC.
17. The enrollment documentation and agreement required the Plaintiff and Class Members to acknowledge receiving “a copy or an email or a link” regarding eleven (11) different items, but none of them included an acknowledgment that the DMS program was offered by CACC on a conditional or probationary basis.
18. Additionally, the enrollment documentation and agreement required the Plaintiff and Class Members to acknowledge having been informed of six (6) items with respect to “course delivery provisions”, but none of them included an acknowledgment that the DMS program was offered by CACC on a conditional or probationary basis.

19. The enrollment documentation and agreement indicates, *inter alia*, that CACC agrees to supply its DMS program to the Plaintiff and Class Members “upon the terms herein mentioned”, but the enrollment documentation and agreement is completely silent with respect to the DMS program being offered by CACC on a conditional or probationary basis.
20. The Plaintiff and Class Members paid considerable amounts of money (approximately \$41,000 CAD) to CACC as enrollment fees, student fees, material fees, and other ancillary fees demanded by CACC as a condition of enrollment during the two-year DMS program.
21. Prior to January 2022, CACC failed, refrained, or refused to reveal to the Plaintiff and Class Members that its DMS program had only been provisionally approved by the Ministry of Colleges and Universities, and was being offered only on a probationary basis.
22. In January 2022, CACC demanded that the Plaintiff and each Class Member sign or initial a material change to the original enrollment documentation and agreement to indicate that the DMS program was only being offered by CACC on a probationary basis. To be clear, the Plaintiff alleges that the original enrollment documentation and agreement mentioned nothing about the probationary or conditional status of the DMS program. It was only in January 2022 that CACC required the Plaintiff and Class members to add the word “PROBATIONARY” to the original enrollment documentation and agreement, and this word was hand-written onto the enrollment documentation and agreement of the Plaintiff and each Class Member.
23. The Plaintiff and Class Members were under duress when CACC demanded that they sign or initial a material change to their original enrollment documentation and agreement. CACC required the plaintiff and Class Member to sign or initial the material change the same day that CACC demanded that they do so, failing which, CACC advised that they would be immediately removed from the DMS program.

24. Additionally, in January 2022, CACC demanded that the Plaintiff and Class Members sign a document titled “Disclaimer for a Student in a “Probationary” Sonography or Ultrasound Technology Program”. For the first time since prior to or after the Plaintiff’s enrollment, CACC now indicated that its DMS program was offered on a probationary basis. The Plaintiff and Class Members were told by CACC that they must sign this document, and the Plaintiff and Class Members signed this document without the benefit of independent legal advice or consideration.
25. At all materials times, CACC failed, refrained, or refused to explain to the Plaintiff and Class Members why an amendment to the original enrollment documentation and agreement was necessary. CACC did not provide the Plaintiff or Class Members with the opportunity to seek independent legal advice before it demanded a change to a binding and legal contract as between CACC and the Plaintiff (and each Class Member).
26. At all material times, CACC refrained, failed, or refused to take all necessary and appropriate steps to satisfy the accreditation requirements set out by Accreditation Canada. Had CACC taken these reasonable steps, there is a strong likelihood that the DMS program would have been approved by Accreditation Canada.
27. On or about November 4, 2022 Accreditation Canada notified CACC that its latest attempt at accreditation was unsuccessful. As a result, on or about November 7, 2022 the DMS program lost its “registered” status with Accreditation Canada.
28. On or about November 9, 2022 the Ministry of Colleges and Universities revoked the approval previously granted to CACC to deliver its DMS program. On the same date, CACC communicated to all DMS students, including the Plaintiff, that the Ministry of Colleges and Universities had revoked the program effective immediately.



29. CACC notified the Plaintiff and Class Members on or about November 9, 2022 that the Ministry of Colleges and Universities had revoked the DMS program effective immediately.
30. After November 9, 2022, CACC intentionally deleted online posts and materials pertaining to the DMS program from its Website and social media channels which contained representations that the Class Members relied upon before applying to the program. CACC's intentional deletion of its content was done in anticipation of litigation and with the intent of defeating the Class Members' claim.
31. To date, CACC has only refunded the enrollment fees paid by the Plaintiff and Class Members because it was statutorily required to do so by the *Private Career Colleges Act, 2005*.

#### **THE PLAINTIFF AND CLASS MEMBERS LOSSES AND DAMAGES**

32. The Plaintiff and Class Members have lost two years of their working life and career due to the acts and omissions of CACC. The Plaintiff and Class Members will have to start a new and accredited DMS program at another institution, and complete the two-year program, before they can be accredited and licenced to work as a Diagnostic Medical Sonographer.
33. According to [jobbank.gc.ca](http://jobbank.gc.ca), the expected income for a Medical Sonographer in Canada is national average ranging from \$26.44 per hour to \$53.00 per hour (as of November 16, 2022). At 37.5 hours per week (presumed full-time hours) for 50 weeks per year (presume two weeks of vacation), the potential income for a licenced and accredited Medical Sonographer in Canada, as of November 2022, was as high as \$99,375 per year.
34. The Plaintiff and Class Members seek damages for the loss of approximately \$200,000 in income that they could have earned beginning in September 2022 had they not been

required to enroll in and complete another two-year DMS program at another accredited school.

35. The Plaintiff and Class Members also seek damages for necessary expenses incurred during their attempted completion of the DMS program at CACC, including, but not limited to:

- (a) Extraordinary living expenses;
- (b) Travel expenses to the CACC campus;
- (c) Books and materials applicable to the DMS program at CACC;
- (d) All other fees not refunded by CACC.

36. The Plaintiff and Class Members also seek exemplary and/or aggravated damages as a result of the stress, humiliation, mental anguish, and financial insecurity that they experience due to CACC's unfair and bad faith conduct.

### **CAUSES OF ACTION**

37. In respect of all proposed causes of action, the Plaintiff and Class Members allege:

- (a) Misrepresentation of Accreditation: CACC misrepresented the accreditation status of the DMS program;
- (b) Failure to Disclose Probationary Accreditation: CACC failed to disclose the probationary status of accreditation of the DMS program;
- (c) Misleading Advertising: CACC engaged in misleading advertising about the DMS program's accreditation;
- (d) Failure to Act in Students' Best Interests: CACC failed to act in the best interests of the Plaintiff and Class Members regarding accreditation;

- (e) Failure to Provide Accurate Information: CACC failed to provide accurate and complete information about the DMS program's accreditation;
- (f) Failure to Maintain Accreditation Standards: CACC failed to maintain the necessary standards for accreditation of the DMS program;
- (g) Failure to Remediate Accreditation Issues: CACC failed to take steps to remediate accreditation issues once known;
- (h) Failure to Notify Students of Accreditation Issues: CACC failed to promptly notify students of any changes in accreditation status of the DMS program;
- (i) Inducing Reliance on False Accreditation Claims: CACC induced the Plaintiff and Class Members to rely on false claims of accreditation of the DMS program;
- (j) Financial Loss Due to Misrepresentation: CACC caused financial loss and other damages due to misrepresentation of the accreditation status of the DMS program, and for failing to maintain the necessary standards for accreditation of the DMS program, and for failing to take steps to remediate accreditation issues once known

### **Breach of Contract**

- 38. The Plaintiff reiterates and re-alleges, and incorporates herein by reference, the preceding paragraphs as if fully set forth herein.
- 39. The Plaintiff and Class Members entered into a binding contract with CACC ("the Contract") based on material and/or negligent misrepresentations, which the Plaintiff and Class Members relied upon to their detriment. The Plaintiff and Class Members paid valuable consideration to CACC.

40. The Defendant was responsible to provide to the Plaintiff and Class Members with, *inter alia*, specific, clear and factual information regarding the fact that the DMS program was being offered on a conditional or probationary basis and allow the Plaintiff and Class Members to make an informed decision about whether they wished to enter into a contract for services with CACC.
41. CACC was required to be knowledgeable and up-to-date on the law, including the eligibility of its DMS program to become properly accredited, and the eligibility of CACC graduates to be licenced and employed as a Medical Diagnostic Sonographer upon graduation.
42. CACC knowingly, recklessly, or negligently provided the Plaintiff and Class Members with inaccurate understandings of the eligibility the DMS program's accreditation status, and the ability of the graduates of the DMS program to be licenced and employed as a Medical Diagnostic Sonographer upon graduation.
43. The Plaintiff and Class Members relied on CACC's representations to their detriment.
44. CACC's conduct is in breach of the Contract and caused significant damages to the Plaintiff and Class Members.
45. The Defendant is liable to the Plaintiff and Class Members for breaching the Contract.

### **Breach of Fiduciary Duty**

46. The Plaintiff reiterates and re-alleges, and incorporates herein by reference, the preceding paragraphs as if fully set forth herein.
47. The Plaintiff and the Class Members are and were in a position of vulnerability with respect to the Defendant insofar as the Defendant can exercise its de facto power over the organization and administration of its academic programs.

48. It is inherent in the nature of the special relationship between student and CACC that CACC shall have the students' best interests in mind.
49. CACC owed a fiduciary duty to the Plaintiff and Class Members.
50. This duty included, but is not limited to, CACC providing the Plaintiff and Class Members with specific, clear and factual information regarding the fact that its DMS program was being offered on a conditional or probationary basis, and allow the Plaintiff and Class Members to make an informed decision about whether they wished to enter into a contract for services with CACC.
51. CACC breached this duty by:
  - (a) misrepresenting the accreditation status of the DMS program;
  - (b) failing to provide accurate and complete information about the DMS program's accreditation status prior to the Plaintiff and Class Member entering into a contract with CACC and/or prior to the Plaintiff and Class Member paying all or a portion of the tuition fees demanded by the Defendant;
  - (c) informing the Plaintiff and Class Members that they could, upon completion of the DMS program, find employment in Canada as a Diagnostic Medical Sonographer;
  - (d) inducing the Plaintiff and Class Members to rely on false claims of accreditation applicable to the DMS program;
  - (e) engaging in misleading advertising about the DMS program's accreditation status;

- (f) failing to act in the best interests of the Plaintiff and Class Members regarding accreditation of the DMS program, including failing to undertake all means necessary and appropriate to facilitate the proper accreditation of the DMS program;
- (g) failing to maintain the necessary standards for accreditation of the DMS program;
- (h) failing to take steps to remediate accreditation issues once known;
- (i) failing to promptly notify the Plaintiff and Class Members of any changes in the accreditation status of the DMS program;
- (j) causing financial loss and other damages due to misrepresentation of accreditation;  
and
- (k) such further and other breaches as shall be proven at trial.

52. As a direct and/or proximate result of CACC's breach of the duty of care it owed the Plaintiff and Class Members, the Plaintiff and Class Members have suffered damages, including deprivation of the ability to promptly and upon graduation from the DMS program to seek employment as a licenced and/or accredited Diagnostic Medical Sonographer.

53. The Defendant is liable to the Plaintiff and Class Members for breaching the fiduciary duty that it owed them.

### **Negligent Misrepresentation**

54. The Plaintiff reiterates and re-alleges, and incorporates herein by reference, the preceding paragraphs as if fully set forth herein.

55. The Defendant owed a duty care to the Plaintiff and Class Members.

56. The Defendant held itself out to the Plaintiff and Class Members as being capable of offering the DMS program on an accredited basis, and whose graduates were eligible upon successful completion of the DMS program to find employment in Canada as a Diagnostic Medical Sonographer.
57. The Defendant held itself out to the Class Members that it had been properly accredited by Accreditations Canada, or some other body or regulatory authority, and were capable and experienced in providing an accredited DMS program to the Plaintiff and Class Members.
58. The Defendant knowingly or recklessly made false representations to the Plaintiff and Class Members about the eligibility of the Defendant to provide an accredited DMS program to the Plaintiff and Class Members.
59. The Defendant failed to exercise reasonable care to ensure that these representations were accurate.
60. These representations were intended by the Defendant to have the Plaintiff and Class Members enroll in CACC and pay the associated fees for enrollment.
61. It was reasonable that the Plaintiff and Class Members would rely upon the representations made by CACC, with respect to the accreditation status of the DMS program, as well as their ability their eligibility upon successful completion of the DMS program to find employment in Canada as a Diagnostic Medical Sonographer.
62. In reliance or reasonable reliance on the representations made by CACC, the Plaintiff and Class Members paid the associated fees, and incurred necessary and ancillary expenses, to enroll and study at CACC.

63. As a direct result of CACC's negligent and false representations, the Plaintiff and Class Members suffered damages.
64. CACC is liable for the negligent misrepresentations it made to the Plaintiff and Class Members.

**Breach of the Consumer Protection Act (CPA)**

65. The Plaintiff reiterates and re-alleges, and incorporates herein by reference, the preceding paragraphs as if fully set forth herein.
66. The Defendant is a Supplier for the purposes of the CPA and is located in Ontario.
67. The Plaintiff and Class Members are Consumers as defined in s. 1 of the CPA and enrolled in the DMS program as "an individual acting for personal, family or household purposes", in accordance with the CPA.
68. The Defendant entered into a contract for services to be performed in Ontario. The Contract was and is a Consumer Agreement for the purposes of the CPA.
69. It is in the interests of justice, and the Plaintiff and the Class Members are, to the extent necessary, entitled to a waiver of any notice requirements under the CPA.
70. The Defendant breached the CPA in the following manner:
  - (a) Contrary to section 14 of the CPA, the Defendant misrepresented the DMS program as accredited;
  - (b) The Defendant failed to correct the misrepresentation as required under section 18 of the CPA;



- (c) Contrary to section 14 of the CPA, the Defendant engaged in false, misleading or deceptive representation regarding the accreditation status of the DMS program;
- (d) The Defendant made unconscionable representations as per section 15 of the CPA by not disclosing the probationary status of the DMS program;
- (e) The Defendant failed to provide the Plaintiff and Class Members with material information as required under section 17 of the CPA regarding the true accreditation status of the DMS program;
- (f) Contrary to section 22 of the CPA, the Defendant failed to provide the Plaintiff and Class Members with a valid contract containing accurate representations of the DMS program's accreditation status;
- (g) The Defendant violated section 43 of the CPA by not complying with the Direct Agreement Provisions regarding accurate representation of the DMS program's accreditation status;
- (h) Contrary to section 14 of the CPA, the Defendant engaged in unfair practices by misrepresenting the DMS program as accredited;
- (i) The Defendant failed to remedy non-compliance with the CPA as required under section 18, causing financial and other damages to the Plaintiff and Class Members.

### **Hearing of Action**

71. The Plaintiff proposes that this action be tried in Toronto, Ontario.

*(Date of issue)*

**FLAHERTY McCARTHY LLP**

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putative Class Members

RCP-E 14A (June 9, 2014)

ELIAS FAIZ  
Plaintiff

-and- CANADIAN ALL CARE COLLEGES  
Defendant

Court File No.

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**ONTARIO SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
TORONTO

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**STATEMENT OF CLAIM**

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RCP-F 4C (September 1, 2020)