

**SUPERIOR COURT OF JUSTICE - ONTARIO**

**RE:** Faiz

Plaintiffs

**AND:**

Canadian All Care Inc operating as Canadian All Care College

Defendants

**BEFORE:** Justice Glustein

**COUNSEL:** *S. Brown & C Lupis & L. Bassett*, for the for the Plaintiff

*N. O'Toole*, For the Defendants

**HEARD:** November 5, 2024

**ENDORSEMENT**

**Nature of Motion and Overview**

[1] This motion was brought in-writing, on consent, for certification of this proceeding as a class action, and ancillary relief relating to notice and other matters, under the Class Proceeding Act, 1992, S.O. 1992, r. 6 (the “CPA”). For the reasons that follow, I grant the motion.

**The Action**

[2] The claim arises from allegations that Canadian All Care College (the “College”) engaged in misleading practices and contractual breaches regarding the Diagnostic Medical Sonography Program (the “DMS Program”), which it allegedly offered without accreditation as purportedly required by the Ontario Ministry of Colleges and Universities.

[3] The proposed class consists of students enrolled in the DMS Program at the College between November 4, 2019 and November 9, 2022, who claim that the College (i) misrepresented the accreditation status of the DMS Program, violating Ministry guidelines and misleading students about the DMS Program’s compliance with required standards and (ii) breached contractual obligations and consumer protection statutes, causing students to incur substantial losses due to the alleged inadequacy of the educational services provided.

**Analysis**

[4] The court must be satisfied that all of the certification requirements under s. 5 of the CPA are met, even on a consent motion (albeit with a less stringent standard). For the reasons that follow, I find that the test has been met.

- i. Section 5(1)(a) – cause of action: The pleading sets out (a) the contractual relationship and terms expected between the College and the class members regarding the DMS Program (b) the alleged misrepresentations of the DMS Program’s probationary and accreditation status pursuant to Ontario’s Policy Directive #8 and (c) the alleged violations of consumer protection laws through allegedly misleading misrepresentations.
- ii. Section 5(1)(b) – Identifiable Class: the class definition of “all students enrolled in the DMS Program at [the College] from November 4, 2019 to November 9, 2022” sets out an objective class which does not require a merit-based determination. All class members are identifiable and have a shared interest in the litigation outcome.
- iii. Section 5(1)(c) – Common Issues: The proposed common issues related to the class for breach of contract, negligent misrepresentation, consumer protections act violations and aggregate and exemplary damages are all central to the liability of the College and can be resolved uniformly across the class.
- iv. Section 5(1)(d) – Preferable procedure: A class action advances the CPA objectives of promoting access to justice, judicial economy and behaviour modification. Many of the class members would not lack the resources to litigate individually. The proposed common issues should be determined by a common issues judge rather than numerous individual trials raising the risk of inconsistent judgment and delay. Behaviour modification can be addressed if systemic misrepresentations are established.
- v. Section 5(1)(e) – Adequate representative plaintiff: Faiz has a proper understanding of the proceedings, including the steps to be taken in a class and his responsibilities. Faiz prepared and willing to act as a representative plaintiff and is committed to so doing. Faiz has no conflict of interest and has provided a workable litigation plan (by class counsel affidavit) for the class action, Faiz’s interests align with those of the other class members and he is supported by experienced class counsel.

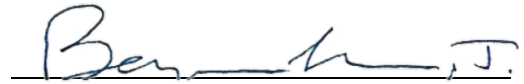
[5] As to the litigation plan, I have found above that it is workable. It provides a framework to advance the proceeding on behalf of the class. It outlines effective strategies for managing document production, facilitating common notices with class members and administering the notice and opt-out process in compliance with the CPA. It provides for systemic document review using electronic management tools. The litigation plan demonstrates that class counsel has the resources, experience and procedures in place to ensure the class action is prosecuted in an organized and effective manner.

**Notice**

[6] The proposed long form notice sets out the pertinent information, including the opt-out process, for the class members. The proposed notice plan includes emails by the defendants to class members and on the facebook page and website of class counsel devoted to this class action. I am satisfied that the notice is clear and the notice plan will reach class members in a practical manner.

**Conclusion**

[7] For the reasons above, I grant the motion. Order to go as per attached.

  
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J. Glustein

**Date:** November 5, 2024