

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

JANE DOE

Plaintiff

and

ANTHONY GARRY SOLOMON

Defendant



Issued under the Class Proceedings Act, 1992

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.

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 SEP 29 2017

Issued by


Local Registrar

Address of
court office: 15 Bridge Street West
Belleville ON K8P 0C7

TO: ANTHONY GARRY SOLOMON
99 Harbour Square
Toronto, ON M5J 2H2

CLAIM

1. The plaintiff claims on behalf of herself and the classes of individuals defined herein:
 - a. an order certifying this proceeding and appointing her as representative plaintiff for the class;
 - b. non-pecuniary damages in an amount to be assessed for each Victim (as defined herein);
 - c. pecuniary and special damages in the amount of \$1,000,000;
 - d. damages pursuant to the *Family Law Act*, R.S.O. 1990, c F.3 in the amount of \$50,000 for each Family Law Claimant (as defined herein);
 - e. punitive and exemplary damages in the aggregate sum of \$500,000;
 - f. prejudgment and post-judgement interest in accordance with the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended;
 - g. the costs of this proceeding on a substantial indemnity basis, plus taxes; and
 - h. such further and other relief as this Honourable Court may deem just.

The Parties

2. The plaintiff, resides in the Province of Ontario and is a former patient of the defendant.
3. The defendant was at all material times an orthodontist practicing in Belleville, Ontario. At all material times, the defendant was a registered member of the Royal College of Dental Surgeons of Ontario.

Class Definitions

4. The plaintiff brings this action pursuant to the *Class Proceedings Act, 1992*, on behalf of all of the following class of persons:

- a. All former patients whom the defendant surreptitiously video recorded while he was examining them at his office located in Belleville, Ontario (the “Victims”); and
- b. All family members, as defined by section 61 of the *Family Law Act* of the Victims (the “FLA Claimants”).

Background

5. For many years, the defendant provided orthodontist services out of his office located at 187 North Front Street in Belleville Ontario.
6. After retiring from his orthodontal practice, the defendant moved to Toronto Ontario.
7. Throughout the many years he practiced as an orthodontist, the defendant would surreptitiously video record the Victims during the course of providing them with treatment.
8. The defendant retained the video recordings of the Victims.
9. The defendant never disclosed to any of his patients that he had video recorded them as he was providing treatment. He never disclosed that he kept the videos of his patients after he retired from practicing as an orthodontist.
10. The defendant never sought and never obtained consent or permission from any of the Victims to record them during treatment or at any time.

Jane Doe’s Experience

11. The plaintiff attended to see the defendant for orthodontal services when she was about 13 years old.
12. During the course of providing orthodontal services to the plaintiff, the defendant surreptitiously video recorded her without her consent, including video recording her breasts.
13. The defendant never asked the plaintiff for her consent or permission to video record her while providing her with treatment.
14. The defendant video recorded the plaintiff for his sexual gratification.

15. The defendant did not video record the plaintiff or any of the Victims for legitimate purposes.
16. Since finding out what the defendant had done while she was his patient, the plaintiff now distrusts male health professionals, worries that the videos have been shared with others, that the videos may be made public; is anxious about who may have seen the videos and feels that she was taken advantage of by a trusted medical professional.

The Defendant's Arrest and Criminal Prosecution

17. On or about July 12, 2017, police executed a warrant on the defendant's home in Toronto, Ontario.
18. During the search of the defendant's home, the police seized hundreds of video recordings that the defendant had surreptitiously taken of his former patients.
19. The video recordings taken by the defendant were sexual in nature and included video recordings of the Victims' breasts.
20. The defendant video recorded the Victims for his sexual gratification.
21. Most of the Victims were under the age of 18 when he surreptitiously video recorded them.
22. In July 2017, the police arrested the defendant and charged him the following criminal charges:
 - a. Making child pornography;
 - b. Possession of child pornography; and
 - c. Voyeurism.
23. The police investigation identified approximately 400 Victims.
24. The police have been tracking down Victims and letting them know of the defendant's arrest and that they have been identified as a Victim in one of the defendant's video recordings.
25. The police contacted the plaintiff and advised her that she was a Victim who was on one of the defendant's recordings.

Duty

26. The defendant at all material times owed a duty of care to the plaintiff and all the Victims to not abuse his position of trust.
27. Further, the relationship between the defendant and the Victims was one of trust and confidence. The defendant had a position of power and authority relative to the Victims and he owed the Victims a fiduciary duty to act with utmost good faith and loyalty. He was obliged to act for the good of and in the best interests of the Victims without regard to his own personal interests.
28. The defendant breached his fiduciary duty to the plaintiff and to all Victims by surreptitiously video recording them.

Damages

29. The defendant intentionally intruded upon the seclusion of the plaintiff and all Victims in their private physical, bodily integrity.
30. As a result of defendant's conduct, the plaintiff and all Victims have suffered an invasion of privacy.
31. As a result of the defendant's wrongful conduct, the plaintiff and all Victims have suffered and will continue to suffer distress, annoyance and embarrassment.
32. The plaintiff and all Victims have suffered damage, including pain and suffering, psychological stress and anxiety, emotional harm, loss of income, impairment of earning ability, past and future care costs, medical costs, loss of amenities and enjoyment of life and out of pocket expenses. The nature and amount of which will be particularized prior to trial.
33. As a result of the wrongful conduct of the defendant set out herein, the *Family Law Act* Claimants are entitled to damages pursuant to section 61 of the *Family Law Act*. The damages for these class members include pecuniary losses resulting from the injury and invasion of privacy of their family member, expenses incurred for the benefit of their family member, travel expenses incurred in visiting their family member, a reasonable allowance for loss of income and the value of nursing, housekeeping and other services rendered to their family

member, and an amount to compensate for the loss, guidance and companionship reasonably expected to be received from their family member if the aforesaid wrongful conduct had not occurred.

Punitive Damages

34. The defendant's conduct was intentional, highly offensive, egregious, callous and a complete violation of his professional duty to the plaintiff and all Victims. His wrongful conduct calls for punitive and exemplary damages.

Victims' Bill of Rights

35. The plaintiff pleads and relies upon the provisions of the *Victims' Bill of Rights*, S.O. 1995, c. 6, and in particular the following sections:

3.(1) A person convicted of a prescribed crime is liable in damages to every victim of the crime for emotional distress, and bodily harm resulting from the distress, arising from the commission of the crime. 1995, c. 6, s. 3 (1).

4.(6) A judge who makes an order for costs in favour of a victim shall make the order on a solicitor and client basis, unless the judge considers that to do so would not be in the interests of justice. 1995, c. 6, s. 4 (6).

The plaintiff proposes that this action be tried at Belleville, Ontario.

DATED: September 29, 2017

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JANE DOE

v.

ANTHONY GARRY SOLOMON

Court File No. W-17-0343-00

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding Commenced at BELLEVILLE

STATEMENT OF CLAIM

BONN LAW OFFICE
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