

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
JUSTICE PERELL

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MONDAY, THE 10<sup>TH</sup>  
DAY OF MAY, 2021

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

**G.C., and J.C., and A.C.**

Plaintiffs

- and -

**MARTIN JUGENBURG and  
DR. MARTIN JUGENBURG MEDICINE PROFESSIONAL CORPORATION**

Defendants

Proceeding under the *Class Proceedings Act, 1992*



**CERTIFICATION ORDER**

**THIS MOTION**, made by the Plaintiffs for an order certifying this action as a class proceeding, was heard April 12-13, 2021, by judicial videoconference at Osgoode Hall courthouse, 130 Queen Street West, Toronto, Ontario.

**ON READING** the materials filed by the parties, and upon hearing the submissions of counsel for the parties:

1. **THIS COURT ORDERS** that this action is certified as a class proceeding as against the Defendants Martin Jugenburg and Dr. Martin Jugenburg Medicine Professional Corporation, pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.

2. **THIS COURT ORDERS** that the Class is defined as:

*All patients who attended at the Toronto Cosmetic Surgery Institute from January 1, 2017, to December 13, 2018.*

3. **THIS COURT ORDERS** that G.C., J.C., and A.C. are appointed as the representative plaintiffs on behalf of the Class.

4. **THIS COURT ORDERS** that the common issues attached as Appendix "A" are certified.

5. **THIS COURT DECLARES** that the following claims are asserted on behalf of the Class: breach of fiduciary duty, breach of trust, intrusion upon seclusion, and negligence.

6. **THIS COURT ORDERS** that Notice of Certification of this action as a class proceeding shall be given to Class Members at a time and in a form and manner to be directed by the Court.

7. **THIS COURT ORDERS** that any person who opts out of this action on a timely basis in accordance with the provisions for doing so in the Notice of Certification shall be excluded from the Class and the action.

8. **THIS COURT ORDERS** that the costs of this motion shall be determined by further order of this Court.



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The Honourable Justice P. Perell

## **APPENDIX "A" - CERTIFIED COMMON ISSUES**

### Negligence

1. Did the Defendants, or either of them, owe a duty of care to the Class Members in the collection, retention, use, and/or disclosure of the Class Members' Personal Information?
2. If the answer to question #1 is yes, what is the applicable standard of care?
3. If the answer to question #1 is yes, did the Defendants, or either of them, breach the duty of care? If so, how?

### Vicarious Liability

4. Are the Defendants, or either of them, vicariously liable for the wrongful conduct of employees or contractors of Dr. Martin Jugenburg Medicine Professional Corporation or the Toronto Cosmetic Surgery Institute?

### Breach of trust and fiduciary duty

5. Did the Defendants, or either of them, owe a fiduciary duty to the Class Members?
6. If the answer to question #5 is yes, did the Defendants, or either of them, breach their fiduciary duty? If so, how?
7. Were the Defendants, or either of them, a trustee of the Class Members with regard to their Personal Information and, if so, did the Defendants, or either of them, breach the duty of trust imposed upon him, it, or them with respect to maintaining the confidentiality of the Class Members' Personal Information? If so, how?

### Intrusion upon seclusion

8. Did the Defendants, or either of them, invade, without lawful justification, the private affairs or concerns of the Class Members?

9. If the answer to question #8 is yes, did the Defendants, or either of them, act intentionally or recklessly?
10. If the answer to questions #8 and #9 is yes, would a reasonable person regard the invasion of the Class Members' privacy as highly offensive causing distress, humiliation or anguish?

Damages

11. Can an award of aggregate damages be made pursuant to s. 24(1) of the *Class Proceedings Act, 1992*?
12. Does the conduct of the Defendants, or either of them, justify an award of punitive, exemplary and/or aggravated damages?

G.C. et al. -and- MARTIN JUGENBURG et al.  
Plaintiffs Defendants

Court File No.: CV-19-00631903-00CP

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**PROCEEDING COMMENCED IN TORONTO**

**CERTIFICATION ORDER**

**Beyond Law LLP**  
67 Yonge Street, Suite 200  
Toronto, ON M5E 1J8

**Howie, Sacks and Henry LLP**  
20 Queen Street West  
Suite 3500  
Toronto, ON M5H 3R3

**Kate Mazucco (LSO #: 54356S)**

[kate@beyond.law](mailto:kate@beyond.law)

**Paul Miller (LSO #: 39202A)**

**Josh Nisker (LSO #: 53799A)**

[josh@beyond.law](mailto:josh@beyond.law)

[pmliller@hshlawyers.com](mailto:pmliller@hshlawyers.com)  
**Valerie Lord (LSO #: 70962H)**

[vlord@hshlawyers.com](mailto:vlord@hshlawyers.com)

Tel: 416.613.1225

Fax: 647.243.2852

Tel: 416.361.5990

Fax: 416.361.0083

**Waddell Phillips Professional**

**Corporation**

36 Toronto St., Suite 1120

Toronto, ON M5C 2C5

**Margaret Waddell (LSO #: 29860U)**

[marg@waddellphillips.ca](mailto:marg@waddellphillips.ca)

**Tina Q. Yang (LSO #: 60010N)**

[tina@waddellphillips.ca](mailto:tina@waddellphillips.ca)

Tel: 647.261.4486

Fax: 416.477.1657

Lawyers for the Plaintiffs