

## NOTICE OF SETTLEMENT DR. SOLOMON CLASS ACTION

**This Court Approved Notice is directed to all Class Members as described below. This Notice may affect your rights. Please Read Carefully.**

### THE CLASS ACTION

You are receiving this Notice because you have been identified as a patient of Dr. Anthony Garry Solomon, deceased, who had been notified by the police that you were surreptitiously video recorded by Dr. Solomon, deceased (the "Class" or "Class Members").

The Ontario Superior Court of Justice has ordered that persons who have been identified as Class Members be sent this Notice for the purpose of providing information about this class proceeding and your legal rights.

Please refer to the Notice of Certification & Settlement Approval previously sent to you and attached hereto as **Appendix "A"**.

### THE CERTIFICATION ORDER

The Ontario Superior Court has certified the action titled *Jane Doe v Dr. Anthony Garry Solomon, Deceased*, Court file no. CV-17-0343-00CP, as a class proceeding and appointed Sarah Davidson as the representative plaintiff of the Class defined as follows:

- "All persons who were notified by the police that they had been surreptitiously video recorded by the Defendant".

### NATURE OF THE SETTLEMENT

The Ontario Superior Court has now approved the Settlement Agreement reached by the parties. If you are a Class Member, as defined above, you are eligible to apply for compensation under the settlement.

All Class Members seeking compensation must submit a completed Compensation Request Form to Thomson, Rogers on or before **July 1, 2020**. The Compensation Request Form can be obtained online at: <https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>.

**If you do not submit your Compensation Request Form by July 1, 2020, you will not receive any compensation.**

There is no guarantee that submitting a claim will result in compensation to you. In order to be eligible, you must confirm that you were notified by the police that you were surreptitiously video recorded by Dr. Anthony Garry Solomon, deceased, and that you were negatively impacted as a result of being so notified.

You will receive a Claimant Explanation Letter from Class Counsel by July 23, 2020 setting out your entitlement, if any. If you disagree with Class Counsel's assessment of your entitlement, you will have the opportunity to appeal (see "Appeal Process" below).

## **PATIENTS OF THE DEFENDANT NOT INCLUDED IN THE CLASS**

If you were a patient of the Defendant and you were not notified by the police that you had been surreptitiously video recorded by the Defendant, you will not receive compensation under the proposed settlement agreement. Such individuals are defined as "Uncompensated Patients" under the proposed settlement agreement.

If you are an Uncompensated Patient and you intend to issue a civil proceeding against the Defendant in relation to alleged surreptitious video recording, you must provide written notice to Defence Counsel by **no later than July 1, 2020**. You must also issue a claim in the Ontario Superior Court of Justice and serve it on Defence Counsel by **no later than August 31, 2020**. The written notice and service of the issued claim must be addressed to:

Stevenson Whelton LLP  
Attn. Daniel McConville  
15 Toronto Street, Suite 200  
Toronto, ON  
M5C 2E3

***Uncompensated Patients who do not issue and serve a claim on Defence Counsel by August 31, 2020 will be forever barred from bringing a claim against the Defendant in relation to surreptitious video recording.***

## **APPEAL PROCESS**

If you disagree with Class Counsel's assessment of your entitlement, in relation to eligibility, you may request a binding review of Class Counsel's assessment by the Administrator.

Epiq Class Action Services Canada Inc. ("Epiq") has been appointed as the Administrator.

If you wish to file for a review of your claim, you must submit an "Appeal Form" to Epiq **on or before August 24 2020**. The Appeal Form can be accessed at

<https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>.

To succeed on an appeal, you must establish that Class Counsel made material errors in the evaluation of your entitlement, pursuant to the terms of the Settlement Agreement and the Settlement Administration Guideline which will be available only at <https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>. If you are able to establish a material error was made, Epiq will then review Class Counsel's analysis of your claim and determine whether you are entitled to compensation as a result.

If your appeal is unsuccessful (that is, Epiq does not change your compensation amount), \$250 will be deducted from your compensation. In the event that no compensation is awarded, you will be required to pay \$250 upon receipt of the Appeal decision.

## **OPTING OUT OF THE CLASS ACTION**

Class Members who wish to participate in the Class Action are automatically included in the Class Action.

Any Class Member who wishes to opt out of the Class Action must do so **on or before July 1, 2020** by sending a signed "Opt Out Form" to Class Counsel at the address below. The Opt Out Form can be found at: <https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>. It should be noted that if too many Class Members opt out, then the Defendant has the right to terminate the settlement. In those circumstances, you will be notified by Class Counsel.

**No Class Members will be permitted to opt out of the Class Action after July 1, 2020.**

No person may opt out on behalf of a minor or mentally incapable person without permission of the court after notice to The Children's Lawyer or to the Public Guardian and Trustee, as appropriate.

## **LEGAL FEES AND DISBURSEMENTS**

The Court has approved legal fees in the amount of \$142,973, inclusive of all disbursements and applicable taxes. Class Counsel has entered into an agreement with the Representative Plaintiffs with respect to legal fees and disbursements. Class Counsel was responsible for funding all disbursements incurred in pursuing this litigation. Pursuant to the settlement, the Defendant has agreed to pay a total of roughly \$55,000 towards Class Counsel's legal fees, disbursements and applicable taxes.

Class Members will **not** be personally liable to pay counsel any legal fees or disbursements.

## **ADDITIONAL INFORMATION**

Any questions about the matters in this notice should NOT be directed to the Court because their administrative structures are not designed to address this type of inquiry. The Notice Order and other information may be obtained online at: <https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>

Questions for counsel from Class Members should be directed by email, fax or telephone to:

Lucy Jackson  
Thomson, Rogers  
390 Bay Street, Suite 3100  
Toronto, Ontario, M5H 1W2  
Toll free: 1-888-223-0448, Fax: 416-868-3134  
[ljackson@thomsonrogers.com](mailto:ljackson@thomsonrogers.com)

## **INTERPRETATION**

This notice is a summary of terms of the Certification & Settlement Approval Order. If there is any conflict between the provisions of this notice and the terms of the Certification & Settlement Approval Order, the Certification & Settlement Approval Order shall prevail. The Certification & Settlement Approval Order may be viewed at the website: <https://www.thomsonrogers.com/practice-areas/class-action-against-belleville-orthodontist-dr-garry-solomon/>

This notice was approved by the Ontario Superior Court of Justice.

## APPENDIX "A"

### NOTICE OF CERTIFICATION AND SETTLEMENT APPROVAL MOTION REGARDING THE DR. SOLOMON CLASS ACTION

**This Court Approved Notice is directed to all potential Class Members as described below. This Notice may affect your rights. Please read it carefully.**

#### THE CLASS ACTION

You are receiving this Notice because you have been identified as a patient of Dr. Anthony Garry Solomon, deceased, who *may* have been notified by the police that you were surreptitiously video recorded by Dr. Solomon, deceased (the "Class" or "Class Members").

The Ontario Superior Court of Justice has ordered that this Notice be sent to you for the purpose of providing information about this class proceeding and your legal rights.

#### THE CONSENT CERTIFICATION & SETTLEMENT MOTION

Thomson Rogers and Bonn Law Office ("Class Counsel") and counsel for the Defendant have reached a settlement agreement in relation to this class proceeding, subject to Court approval. Details of the next steps and the settlement agreement are set out below. The Consent Certification and Settlement Motion is scheduled to be heard on **April 20, 2020 at 10:00 a.m.** at 15 Bridge Street West, Belleville, Ontario.

The Defendant has consented to a motion, subject to Court approval, certifying the action titled *Jane Doe v The Estate of Anthony Garry Soloman, Deceased*, Court file no. CV-17-0343-00, as a class proceeding and substituting/appointing Sarah Davidson as the representative plaintiff.

The certification of this class proceeding proposes that the class be defined as follows: "All persons who were notified by the police that they had been surreptitiously video recorded by the Defendant" (the "Class" or "Class Members").

If the Court certifies the within action as a class proceeding at the motion to be held on April 20, 2020, the Court will proceed to consider the settlement agreement that was reached on consent by the parties. Details of the nature of the settlement are outlined below.

#### NATURE OF THE SETTLEMENT

A settlement has now been reached by the parties following negotiations, subject to approval by the Court. If you are a Class Member, as defined above, you are eligible to apply for compensation under the settlement.

The settlement will be considered by the Court at a motion on April 20, 2020 (the "Approval Motion"). The proposed settlement will provide compensation to Class Members with valid claims.

Having regard to the available information on the potential Class size, the settlement agreement proposes that Class Members will be entitled to receive a net amount of approximately \$1,000, each, after payment of Court approved legal fees.

In order to be considered for compensation under the settlement agreement, once approved, Class Members will have to provide confirmation, to the satisfaction of Class Counsel, that the Class Member was notified by the police that they were surreptitiously video recorded by Dr. Anthony Garry Solomon, deceased, and that the Class Member was negatively impacted as a result of being so notified.

If you are a Class Member, you will automatically be included in this class proceeding and are not required to take any further steps at this time. A further "Notice of Settlement" will be sent to you once the settlement is approved and only thereafter must you provide the required information to apply for compensation within a deadline that will be set by the Court.

***Those wishing to maintain their right to sue the Defendant and thus NOT participate in this class action must OPT OUT (see "Opting Out" below).***

#### **PATIENTS OF THE DEFENDANT NOT INCLUDED IN THE CLASS**

If you were a patient of the Defendant and you were not notified by the police that you had been surreptitiously video recorded by the Defendant, you will not receive compensation under the proposed settlement agreement. Such individuals are defined as "Uncompensated Patients" under the proposed settlement agreement.

If you are an Uncompensated Patient and you intend to issue a civil proceeding against the Defendant in relation to alleged surreptitious videotaping, you will be required to provide written notice to Defence Counsel on or before a date approved by the Court (likely to be July 1, 2020) and issue and serve a claim on or before a date approved by the Court (likely to be August 31, 2020).

#### **OPTION TO OBJECT TO THIS SETTLEMENT**

Class Members and/or Uncompensated Patients have the right to object to the proposed settlement agreement at the Approval Motion. Please also note that if the proposed settlement agreement is approved by the Court at the Approval Motion, Class Members who do not want to participate in the Class Action can still opt out (see "Opting Out" below).

If you wish to make submissions for or against the proposed settlement at the Approval Motion, you must send a request in writing with a summary of your submissions to Thomson Rogers at the address listed at the end of this Notice, by no later than **March 30, 2020**. Persons making submissions by the deadline will be provided with further information on how they may participate in the Approval Motion. Of course, any interested Class Member may attend the Approval Motion if they wish.

Subject to Court approval, Class Counsel will be seeking the approval of total fees of approximately \$150,000, inclusive of all disbursements and applicable taxes.

Following the Approval Motion, Class Members will be provided with a "Notice of Settlement" explaining how to apply for compensation under the settlement and the deadline to do so.

### **OPTING OUT OF THE CLASS ACTION**

Class Members who wish to participate in the class action are automatically included in the class action. Any Class Member who wishes to opt out of the class action may do so on or before a date approved by the Court (likely to be July 1, 2020). Notice of the deadline to opt out will be set in the Notice of Settlement. It should be noted that if too many people opt out of the settlement, the settlement may be nullified.

No Class Members will be permitted to opt out of the class action after the opt out deadline.

No person may opt out on behalf of a minor or a mentally incapable person without permission of the court and after notice to the Children's Lawyer or the Public Guardian and Trustee, as appropriate.

### **ADDITIONAL INFORMATION**

Any questions about the matters in this Notice should NOT be directed to the Court because their administrative structures are not designed to address this type of inquiry. The Notice Order and other information may be obtained online at: [www.thomsonrogers.com](http://www.thomsonrogers.com) under the headings "Class Actions" and "Class Action against Dr. Garry Solomon" and at [www.bonnlaw.ca/class-action-commenced-against-dr-solomon](http://www.bonnlaw.ca/class-action-commenced-against-dr-solomon).

Questions for counsel from Class Members should be directed by email, fax or telephone to:

Lucy Jackson  
Thomson, Rogers  
390 Bay Street, Suite 3100  
Toronto, Ontario, M5H 1W2  
Toll free: 1-888-223-0448, Fax: 416-868-3134  
[ljackson@thomsonrogers.com](mailto:ljackson@thomsonrogers.com)