

CITATION: Cavanaugh v. Grenville Christian College, 2023 ONSC 4263
COURT FILE NO.: 08-CV-347100-00CP
DATE: 20230720

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**LISA CAVANAUGH, ANDREW HALE-
BYRNE, RICHARD VAN DUSEN,
MARGARET GRANGER and
AMANDA AYLESWORTH THE
EXECUTOR FOR THE ESTATE OF
TIM BLACKLOCK**

Plaintiffs

- and -

**GRENVILLE CHRISTIAN COLLEGE,
THE INCORPORATED SYNOD OF
THE DIOCESE OF ONTARIO,
DONALD FARNSWORTH AND
BETTY FARNSWORTH FOR THE
ESTATE OF CHARLES
FARNSWORTH, BETTY
FARNSWORTH, JUDY HAY THE
EXECUTRIX FOR THE ESTATE OF J.
ALASTAIR and MARY HAIG**

Defendants

*Michael Peerless, Sabrina Lombardi,
Valerie A. Edwards, and Christopher Haber
for the Plaintiffs*

*David Boghosian and Matt Brown for the
Defendants*

HEARD: In writing

*Proceeding under the Class Proceedings
Act, 1992*

PERELL, J.

REASONS FOR DECISION

[1] This is an action under the *Class Proceedings Act, 1992*.¹

[2] After a common issues trial, an appeal to the Court of Appeal and while in the process of setting a procedure for an individual issues phase to determine the compensation for Class Members, the parties have reached a settlement that will resolve the claims of all students who (a) have not validly opted-out, and (b) attended and boarded at Grenville Christian College between

¹ S.O. 1992, c. 6.

September 1973 and July 1997, (excluding children and grandchildren of Charles Farnsworth and/or Alastair Haig).

[3] This is a motion by the Plaintiffs, on consent of the Defendants, seeking an Order: (a) approving the Notice of Settlement Approval Hearing and the Notice Distribution Plan, and (b) approving the procedure for objections from Class Members before the Settlement Approval Hearing, including approving the appointment of Epiq Class Action Services Canada, Inc. as Notice Administrator.

[4] For the reasons that follow, the motion is granted as requested.

[5] The factual background is as follows:

1. This class action involves students who attended and resided at Grenville Christian College between September 1973 and July 1997 (excluding children and grandchildren of the individual Defendants). The Class Members suffered damages arising from systemic and pervasive physical, sexual and psychological abuse by the College's staff.
2. The action was certified as a class proceeding by the Ontario Divisional Court on about February 24, 2014. The action proceeded to a common issues trial in the fall of 2019. The plaintiffs were successful,² and the judgment was affirmed by the Ontario Court of Appeal on October 26, 2021.³
3. The trial judge, Justice Leiper, found that while the standard of care owed to the students varied over time, the defendants nevertheless failed to fulfill and/or were grossly negligent in fulfilling their fundamental obligations to Class Members during the entirety of the Class Period and that this could cause harm. The plaintiffs proved systemic negligence.
4. Justice Leiper further found that the defendants breached their fiduciary duties to the students and that there should be an award of punitive damages.
5. In dismissing the defendant's appeal, the Court of Appeal stated in its judgment at paragraph 65:

65. The appellants admitted that they owed a duty of care to the Class members to take reasonable steps, among other things, to protect them from actionable physical, psychological or emotional harm. The trial judge concluded that the appellants were systemically negligent in the operation of Grenville. She identified practices that she found were in breach of the standards of the day and were harmful. The trial judge considered whether, as the appellants argued at trial, the harms had been "one-offs", that is isolated incidents of excessive discipline that were responsive to individual student conduct. She concluded instead that the practices, which were part of the "culture" of the school, aligned with its philosophy and embedded in its operational policies to enforce its norms, rules and expectations, were systemic. Grenville lacked policies or controls to ensure that students would not suffer harm. The harms flowed from the Class members' exposure to discipline that was imposed arbitrarily or excessively, even if not all Class members were singled out for punishment. All of the Class members were subject to Grenville's disciplinary practices during the Class Period. This is the basis on which the trial judge found that there was

² [*Cavanaugh et al. v. Grenville Christian College et al.*, 2020 ONSC 1133.](#)

³ [*Cavanaugh v. Grenville Christian College*, 2021 ONCA 755](#)

systemic negligence. She did not reason that harm to a single student constituted harm to the Class.

6. After the appeal, the parties have been engaged in a labour-intensive effort to establish a procedure for the individual issues phase of the class proceeding and to set an Individual Issues Litigation Plan.⁴
7. In late March 2023, the parties attended a successful two-day mediation and signed a Memorandum of Understanding to settle the Action, which was followed by a Settlement Agreement, dated July 13, 2023.
8. The Settlement Approval Hearing is scheduled to take place on November 16, 2023.
9. The parties had agreed upon the form and content of the short-form and long-form First Notice and the Notice Distribution Plan for their dissemination.
10. The First Notice provides Class Members with information regarding the background and status of the action, the Settlement Agreement, the Settlement Approval Hearing and the objection process and deadlines, along with information about how to contact Settlement Class Counsel and the Notice Administrator for more information.
11. The Notice Distribution Plan provides for dissemination of the First Notice by way of direct notice, where available, along with publication of the First Notice on multiple social media channels, and a press release.
12. The parties have agreed to the appointment of Epiq Class Action Services Canada, Inc as the Notice Administrator to disseminate the First Notice, and, more generally, to be subject to all of the other terms and conditions set out in the Settlement Agreement.
13. Epiq has consented to this appointment and has extensive experience and expertise in providing notice and other class action administration services.
14. Pursuant to the Settlement Agreement, the costs and fees of the Notice Administrator, including the notice costs associated with the First Notice, are payable by the Defendants from the Settlement Amount.

[6] While the *Class Proceedings Act, 1992* requires that notice of certification be given, it does not require that notice of a settlement approval hearing be given. Nevertheless, dissemination of a notice of settlement approval hearing has become convention and has been agreed to by the parties.⁵

[7] Section 19(1) of the *Class Proceedings Act, 1992* authorizes the court to order any party to give such notice as it considers necessary to protect the interests of any class member or party or to ensure the fair conduct of the proceeding. Section 17(3) of the *Class Proceedings Act, 1992* lists the factors that the Court should consider when making an order respecting notice.

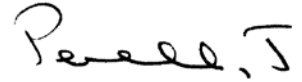
[8] In the immediate case, I am satisfied that the notice and the notice distribution plan comply with all the requirements of the *Class Proceedings Act, 1992* and will ensure that Class Members are aware of: (a) the proposed settlement, (b) the date of the Settlement Approval Hearing; and

⁴ [*Cavanaugh v. Grenville Christian College, 2022 ONSC 5405*](#); Case Management File Direction, dated February 22, 2023.

⁵ *McCarthy v. Canadian Red Cross Society*, [2007] O.J. No. 2314 (S.C.J.).

(c) the procedures and timelines for filing an objection. The notice and the notice plan are consistent with the notices and notice programs approved and implemented in other similar cases.

[9] For the above reasons, I grant the Plaintiffs' motion as requested.

A handwritten signature in black ink, appearing to read "Perell, J.", with a stylized flourish at the end.

Perell, J.

Released: July 20, 2023

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