

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVAN DRADY and KATHRYN ANNE TAYLOR

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF CANADA
as represented by the MINISTER OF HEALTH,
THE ATTORNEY GENERAL FOR CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

DEMAND FOR PARTICULARS

The Plaintiffs hereby demands particulars of the Statement of Defence of the Attorney General for Canada as follows:

1. With respect to paragraph 20:
 - a. the names and all last known contact particulars of the “variety of manufacturers” who have imported, distributed or sold TMJ devices in Canada; and
 - b. the list of “device names”, and all device information, referred to therein.
2. With respect to paragraph 22:
 - a. the list of TMJ devices, and all device information, which were imported, distributed and sold in Canada in compliance with the regulatory scheme in place at the relevant time; and

- b. the list of the “other devices”, and all device information, which “were never authorized by Health Canada for importation, distribution or sale in Canada.”
3. With respect to paragraph 76, the fraction that TMJ devices account for of devices and medical devices sold in Canada.
4. With respect to paragraphs 77 and 80, a complete list of the names and all last known contact particulars of the corporations responsible for manufacturing devices used in the TMJ that were sold in Canada.
5. With respect to paragraph 78, a complete list of the names and all last known contact particulars of the corporations responsible for the importation and distribution of TMJ devices in Canada.
6. With respect to paragraph 81:
 - a. the model designations of devices, and all device information, that may have been used in the TMJ have or may have been sold in Canada by manufacturers and importers;
 - b. the source of this information; and
 - c. the names and all last known contact particulars of the manufacturers and importers of the devices referred to therein.
7. With respect to paragraph 84:
 - a. a list of the TMJ devices, and all device information, referred therein; and

- b. how these TMJ devices varied in one or more of the enumerated characteristics in paragraph 84.
8. With respect to paragraph 89, the names and all last known contact particulars of the “other manufacturers” referred to therein.
 9. With respect to paragraph 91, the names and all last known contact particulars of the “other manufacturers” referred to therein.
 10. With respect to paragraph 111, copies of the Request and Notices referred to therein.
 11. With respect to paragraph 112, copies of the advisory letter and information package referred to therein.
 12. With respect to paragraph 170, copies of the scientific, medical, and other evidence referred to therein.
 13. With respect to paragraph 171, copies of the scientific, medical, and other evidence referred to therein.
 14. With respect to paragraph 172:
 - a. a list of all allegations “similar to the allegations made in this action against Health Canada, with respect to the safety of TMJ devices” which “have been made previously against selected manufacturers, importers of TMJ devices and others in proceedings before the courts in Canada and elsewhere”; and
 - b. copies of the Statements of Claim in all of the proceedings referred to

therein.

15. With respect to paragraph 205, a list of the provincial government bodies divided into the categories referred to therein.
16. With respect to paragraphs 213:
 - a. the results and particulars of the four focus groups held on October 2 and 3, 1991, conducted by the Angus Reid Group Inc.; and
 - b. a copy of the questionnaire presented by telephone to the 1,500 Canadians referred to therein.
17. With respect to paragraph 214:
 - a. the results of the "Angus Reid poll"; and
 - b. copies of the publications that Health Canada issued "to clarify, for Canadians, Health Canada's role in the regulation of devices and medical devices."
18. With respect to paragraph 240:
 - a. the names of the various professional medical bodies that Health Canada assisted in the preparation of:
 - i. care guidelines for TMJ device recipients; and
 - ii. information packages and notices for distribution to their membership;

- b. copies of the following:
 - i. care guidelines for TMJ device recipients; and
 - ii. information packages and notices for distribution to the membership of the various professional medical bodies.

28 September 2004

FROM: LEGGE & LEGGE
800 - 65 St. Clair Avenue East
Toronto, Ontario M4T 2Y3
(John Legge, LSUC #23777 W)
Telephone: (416) 923-1776
Facsimile: (416) 925-5344
Solicitors for the Plaintiffs

TO: **HMQ in RIGHT of CANADA**
Christopher A. Amerasinghe, Q.C.
Department of Justice Canada
2 First Canadian Place, Suite 3400
Toronto, Ontario M5K 1K6
Telephone: (416) 973 2271
Facsimile: (416) 973 3004

AND TO: **James Newland, Esq.**
Lerners LLP
Barristers and Solicitors
Suite 2400 - 130 Adelaide Street West
Toronto, Ontario M5H 3P5
Telephone: (416) 601-2640
Facsimile: (416) 867-2398
Solicitors for OHIP