

CITATION: McCallum v. Aviva Insurance Co., 2026 ONSC 4606
COURT FILE NO.: CV-24-00729943-00CL
DATE: 20260810

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: MATT McCALLUM, MATT McCALLUM DENTURIST PROFESSIONAL CORPORATION, Plaintiffs

– and –

AVIVA INSURANCE COMPANY OF CANADA, Defendant

BEFORE: Justice E.M. Morgan

COUNSEL: *Kevin L. Ross, Peter W. Kryworuk, Anthony J. Bedard, Alfonso E. Campos Reales, Jacob R.W. Damstra, Minki Jeong*, for the Plaintiffs

Alan L. W. D'Silva, Glenn Zacher, Daniel S. Murdoch, Lesley Mercer, for the Defendant

HEARD: August 10, 2026 (in writing)

NOTICE APPROVAL MOTION

[1] The Plaintiffs in this certified class action move for approval of a Notice of Proposed Settlement and a Pre-Approval Notice Plan. The motion is brought on consent of the Defendant.

[2] The action was certified by Justice Belobaba on July 27, 2021 on behalf of the following class:

All persons, natural or corporate, carrying on operations usual to a denturist who were insured by and have submitted a claim to Aviva Insurance Company of Canada (“Aviva”) under a Commercial Insurance Policy issued by Aviva on behalf of the Denturist Association of Ontario, pursuant to the *Denturist and Hearing Aid Specialists Program* (“*Denturist Program*”), bearing Policy 81278157, which included “Restricted Access” coverage and/or “Negative Publicity” coverage under Business Income – Actual Loss Sustained (Broad Form Perils) (Form 402014-02), and which claimed loss of business income:

(a) while access to its premises was restricted in whole or in part (“Restricted Access”) by an order of civil authority, including the mandatory closure order made by the Province of Ontario on March 23, 2020 (the “Closure Order”), and/or

(b) while access to its premises was restricted in whole or in part by any subsequent order of civil authority, and/or

(c) as a direct result of an outbreak of COVID-19 within 1 kilometre of its premises (the “Class Members”).

[3] On August 25, 2021, by Order of Belobaba J., the certification notice program was approved. In accordance with that Order, the Defendant provided class counsel with the names, addresses, emails and phone numbers for all class members. Class counsel disseminated the certification notice by direct notice as required by Justice Belobaba’s Order.

[4] On July 2, 2026, the parties executed a Settlement Agreement. The Settlement Agreement is conditional upon court approval pursuant to section 29(2) of the *Class Proceedings Act, 1992*.

[5] The parties are to provide notice to class members in advance of the settlement approval hearing, which includes a process for class members to object to the Settlement Agreement. They have proposed a notice program that involves providing direct notice to class members in the manner described in their Pre-Approval Notice Plan and which is consistent with the certification notice program. The Notice provides for an objection filing deadline of August 28, 2026.

[6] The proposed Notice appears appropriately informative. In addition, the proposed pre-approval plan for dissemination of the Notice follows the successful methods of the certification notice in this action.

[7] As a result of some complex procedural history, which included some period of time that the action spent on Commercial List, the court file number is a CL number rather than a CP number. The file number is a formality that is not to impede the timely filing of these and any subsequent motion materials with the court as if it had a CP file number.

[8] Now that the settlement approval process is underway, the action is to be treated as if it had a CP file number. To facilitate all necessary filings, Plaintiffs’ counsel should email my assistant a revised draft Order, in Word format, that contains an operative paragraph reflecting this endorsement.

[9] The Notice of Proposed Settlement and the Pre-approval Notice Plan are hereby approved.

Date: August 10, 2026

Morgan J.