CITATION: Drehlich v. Southbridge Health Care GP Inc., 2026 ONSC 6039
COURT FILE NO.: CV-26-00005379-0000
DATE: 20261026

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SUPERIOR COURT OF JUSTICE - ONTARIO

RE: URSULA DREHLICH by her estate representative SYLVIA LYON, DONNA HATINEN by her estate representative KAREN MacRAE, LEO HATINEN by his estate representative KAREN MacRAE, SYLVIA LYON, and KAREN MacRAE personally, Plaintiffs

– and –

SOUTHBRIDGE HEALTH CARE GP INC., SOUTHBRIDGE CARE HOMES INC., CVH (NO.1) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.2) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.3) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.4 LP) by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.5) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.6) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.7) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.8) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), CVH (NO.9) LP by its general partners SOUTHBRIDGE HEALTH CARE GP INC. and SOUTHBRIDGE CARE HOMES LP (by its general partner SOUTHBRIDGE CARE HOMES INC.), SOUTHBRIDGE HEALTH CARE LP by its general partner SOUTHBRIDGE HEALTH CARE GP INC., and 1942454 ONTARIO INC., Defendants

BEFORE: Justice E.M. Morgan

COUNSEL: *Joel P. Rochon, Annelis K. Thorsen, Golnaz Nayerahmadi, Sophie Chase, Peter Proszanski, David Himelfarb, Cerise Latibeaudiere, Darryl Singer, Sandra Zisckind, Mathura Santhirasegaram, Gary Will, and Gordon Marsden*, for the Plaintiffs

Elizabeth Bowker and Andrea LeDrew, for the Defendants

HEARD: October 26, 2026 (in writing)

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CERTIFICATION

[1] The Plaintiffs move to certify this proposed class action. The Defendants have consented to certification.

[2] The Plaintiffs claim that the Defendants were grossly negligent in their response to COVID-19 at the long-term care homes owned, licensed and operated by the Defendants. The Plaintiffs allege that, as a result of the Defendants' gross negligence, the Defendant long-term care ("LTC") homes experienced numerous outbreaks of COVID-19 from January 25, 2020 to May 5, 2023, which resulted in at least 1,966 Residents being infected with COVID-19 and at least 244 passing away from COVID-19.

[3] The Plaintiffs represent classes of persons who allege to have suffered serious and preventable harm as a result of the Defendants' delayed, *ad hoc*, and inadequate response to the COVID-19 pandemic at the Defendant LTC homes. In focusing on gross negligence, the Plaintiffs have pleaded a cause of action already recognized in *Pugliese v. Chartwell*, 2024 ONSC 1135 for COVID-related cases against LTC homes. The characterization of the Defendants as operating as a single enterprise with respect to infectious disease policies and their implementation likewise conforms with the principles set out in *Pugliese*.

[4] The proposed class definitions are:

> "Residents", "Resident Class" and "Resident Class Members" mean all persons who contracted COVID-19 and who were Residents in, or received care at the Defendant LTC homes at any time between January 25, 2020 and May 5, 2023 or, where the person is deceased, the estate of that person;
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> "Visitors", "Visitor Class" and "Visitor Class Members" means all persons who were visitors at the Defendant LTC homes between January 25, 2020 to May 5, 2023, who contracted COVID 19 or, where the person deceased, the estate of that person; and

> "Family Class" and "Family Class Members" means all persons including, but not limited to, spouses, children, parents, and other relatives who, on account of a personal relationship to any one or more Resident Class Members and Visitor Class Members, have a derivative claim for damages under s. 61 of the Family Law Act, R.S.O. 1990, c. F.3.

[5] The proposed class definitions also mirror the class definitions certified in *Pugliese*, in that the Classes are limited to residents and visitors who contracted COVID-19 and their family members. The Class Period begins on January 25, 2020, and ends on May 5, 2023, the date that the Public Health Agency of Canada issued a statement that the World Health Organization announced that COVID-19 no longer constituted a Public Health Emergency of International Concern.

[6] It is alleged by the Plaintiffs, and there is some basis in fact to allege, that long-standing chronic deficiencies relating to the outdated, physically neglected and over-crowded facility, inadequate IPAC training and protocols, systematic failures to inspect and oversee the long-term care home's compliance with applicable regulatory, legal and industry standards, and under-staffing, among others, made the Defendant LTC homes ripe for outbreaks.

[7] It is further alleged, and there is some basis in fact to allege, that despite recognizing their obligations to follow appropriate guidance and best practices to prevent the exposure of their elderly residents to infection and death, the Defendants adopted reactive, rather than proactive, delayed, and entirely deficient IPAC measures in the Defendant LTC homes that failed to reflect the state of knowledge of the long-term care sector and the medical community regarding the nature of COVID-19 and its risks to vulnerable populations, particularly the elderly.

[8] It is also alleged, and there is some basis in fact to allege, that the COVID-19 outbreaks at the Defendant LTC homes were preventable, and lives would have been saved, had the Defendants not breached their common law obligations to the Class Members in the years preceding and during the pandemic.

[9] The circumstances of the pandemic and the Defendants' operation of the Defendant LTC homes gave rise to claims by, and on behalf of, Residents and Visitors. These claims share stark factual and legal commonalities. The common issues proposed by the Plaintiffs are:

Gross Negligence

(1) Did the Defendants owe a duty of care to the members of the Classes related to COVID-19 outbreaks at the Defendant LTC homes?

(2) If the answer to 1) is "yes", what was the applicable standard of care?

(3) If the answer to 1) is "yes", did the Defendants breach the duty of care they owed to all or any of the members of the Classes? If so, when and how did the breach(es) occur?

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(4) If the answer to 3) is "yes", did any or all of the Defendants' breach(es) amount to gross negligence?

[10] The Plaintiffs also seek a Direction from the Court that if they are successful at the trial of the common issues, the proposed common issues with respect to causation and damages will be addressed in home-by-home minitrials subsequent to the common issues trial, and not as common issues for the entire Class:

Causation

(5) If the answer to (4) is "yes", did any or all of the Defendants' breaches cause or contribute to the harm(s) suffered and/or losses incurred by the Class Members?

Damages and Remedies

(6) Are the members of the Classes entitled to general damages arising from the Defendants' gross negligence?

(7) Are the Class Members entitled to disgorgement of the benefits and profits enjoyed by the Defendants as a result of their breaches?

(8) Does the conduct of the Defendants warrant an award of aggravated, exemplary and/or punitive damages?

(9) Can the Court make an aggregate assessment of all or some of the damages suffered by the Class Members pursuant to sections 24 and 25 of the CPA?

[11] Given the number of class members and the economics of pursuing a claim of this nature requiring expert evidence, a class proceeding is the preferable procedure for ensuring their just and expeditious determination, promoting judicial economy, and seeking behaviour modification.

[12] The requirements for certification in section 5(1) of the *Class Proceedings Act, 1992*, SO 1992, c.6, are satisfied, as follows:

(a) the Statement of Claim discloses reasonable causes of action in gross negligence;

(b) there is some basis in fact for the identifiable classes as defined above;

(c) there is some basis in fact for the common issues as set out above;

(d) there is some basis in fact that this class proceeding is the preferable procedure for the resolution of the common issues; and

(e) there is some basis in fact that the proposed representative Plaintiffs: (i) can fairly and adequately represent the interests of their respective classes; (ii) have produced

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> a workable plan for advancing the claims of the classes; and (iii) do not, on the common issues, have an interest in conflict with the interests of other members of the classes.

[13] The action is hereby certified as a class proceeding.

[14] The class is defined as in paragraph 4 above. The common issues are as set out in paragraphs 9 and 10 above.

[15] The Plaintiffs are the representative Plaintiffs for the class as defined. Counsel for the Plaintiffs is appointed as class counsel.

[16] There will be an Order to go as proposed by the Plaintiffs. Plaintiffs' counsel are requested to send my assistant a draft Order in Word format, with the Defendants' approval as to form and content.

Morgan J.

Date: October 26, 2026

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