

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

P.M. and J.K.

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

REPLY

1. The plaintiffs deny all of the allegations contained in the Statement of Defence.
2. The plaintiffs plead and rely on the allegations set out in their Amended Statement of Claim.
3. The plaintiffs deny that the defendant is exempt from compliance or ensuring the compliance of its agents with respect to s. 127 of the *Child and Family Services Act* with respect to any of the Facilities, as defined in the Amended Statement of Claim.
4. The plaintiffs deny that s. 2(2)(b) of the *Proceedings Against the Crown Act* applies to the within action.
5. The defendant assumed responsibility for the Class members in its care, all of whom are and/or were minors. It failed in its fiduciary, statutory and common law duties to all Class members. The plaintiffs plead that the defendant did not properly exercise its discretion with regards to the operation and/or oversight of the Facilities during the Class period.
6. The plaintiffs repeat that all Facilities are and were operated at all material times by the Crown, and/or its employees and/or agents.

7. The plaintiffs deny that any fault and/or liability lies with any party other than the defendant for the defendant's systemic negligence and/or breach of fiduciary duties. In any event, the plaintiffs plead only several liability for the defendant's systemic negligence and breach of fiduciary duty. The plaintiffs plead that their claims and the claims of each class member are limited to the damages that would be apportioned to the defendant in accordance with the relative degree of fault that is attributable to the defendant's negligence.

8. The plaintiffs also deny that their claims and those of the Class are barred by the application of the *Limitations Act, 2002*, S.O. 2002, c. 24, Sched. B or any other limitations legislation. In particular, and without limitation, the plaintiffs deny that the fiduciary claims of Class members are subject to any statutory limitation periods. Further, the plaintiffs plead that any applicable limitation periods were suspended pursuant to sections 6 and 7 of the *Limitations Act, 2002*.

May 13, 2016

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PM et al
Plaintiff

and

HER MAJESTY THE QUEEN
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Defendant

Court File No.: CV-16-543895-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at TORONTO
Proceedings under the *Class Proceedings Act*, 1992

REPLY

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