

FAMILIES TAKE AUTISM CLASS ACTION TO SUPREME COURT OF CANADA
Final documentation in leave to appeal to be filed on Wednesday

August 26, 2008 – Toronto, Ontario – The plaintiffs in the Ontario Autism Class Action Lawsuit are taking their case to the Supreme Court of Canada, continuing their battle for full and timely access to effective treatment and education for children with autism. In their application to the Supreme Court, with final documentation to be submitted on **Wednesday, August 27, 2008**, the families involved in the class action are requesting leave to appeal a decision of the Ontario Court of Appeal, aspects of which threatened the lawsuit.

“It speaks to how important the case is, that we're going as far as the Supreme Court,” said Taline Sagharian, one of the parents participating in the suit. “Families of children with autism in Ontario today are forced to choose between prohibitively expensive private programs and a public school system that refuses to allow appropriate services in the classroom. It's a terrible situation.”

The families are seeking to have the Supreme Court consider two main issues arising from Justice Maurice Cullity's original decision, handed down in May 2008 and upheld, with some changes, by the Court of Appeal. First, they are asking to be allowed to seek damages under the Charter of Rights – a crucial point of law for people whose Charter rights have been breached by government and who are, as a result, out-of-pocket thousands of dollars.

Second, on a more technical front, they are seeking to ensure their ability to argue an equality analysis that rests on a comparison between access to public education for children with autism, and that of non-disabled children. They argue that children with autism are specifically discriminated against in ways no other students in Ontario are.

The class action was filed in 2005 by five families, representing six children with autism, against the province and seven provincial school boards. The families allege that the educational authorities have failed to adequately provide or fund crucial ABA/IBI (short for Applied Behaviour Analysis and Intensive Behavioural Intervention) treatment in the school system or without excessive and detrimental delays. They are seeking a change to current autism services, as well as compensation for the expenses they have been forced to incur to place their children into private therapy or education programs.

“In the United States and elsewhere in Canada, children with autism are able to access ABA/IBI through the education system,” said lawyer David Baker, who represents the group of families. “Ontario stands alone in forcing families to choose between therapy and public education for their children.”

For the families, it's been a long and difficult battle, with more hurdles ahead. If the Supreme Court agrees to hear the families' appeal, the full process would take approximately one year, after which the case would return to the Ontario Superior Court for certification as a class action.

But the families say they are prepared to fight on as long as it takes. "The current situation for families of children with autism in Ontario is really untenable," said Ms. Sagharian. "People are taking out second mortgages, or collapsing their RRSPs to ensure their kids' needs are met. Others have emigrated to the U.S. or other provinces in Canada - they're known as the 'autism refugees.' There's just a desperate need for change."

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