**DR SHELDON POLLACK LIQUID SILICONE INJECTION CLASS ACTION LAWSUIT**

**NOTICE REGARDING CLASS ACTION LAWSUIT DISMISSAL**

**Please read this notice carefully as it may affect your legal rights.**

**Summary**

You are receiving this notice because records indicate that you are a part of this class action lawsuit against Dr. Pollack, meaning that:

- you were a patient of Dr. Sheldon Pollack who received a liquid silicone injection from him; and,
- you did not opt out of (*i.e.* choose to exclude yourself from) this lawsuit.

**It is important for you to know that, on March 14, 2024, a judge of the Ontario Superior Court dismissed this class action for delay.** That means he ended the lawsuit before the common issues trial and before deciding whether the plaintiff's claims have merit, due to the length of time the action had taken to move forward and associated unfairness to the Defendant. The Plaintiff appealed that decision but the Ontario Court of Appeal rejected that appeal on December 17, 2024. You can read the Superior Court and Court of Appeal's Reasons for Decision here:

Superior Court:
https://www.canlii.org/en/on/onsc/doc/2024/2024onsc1548/2024onsc1548.htmlw

Court of Appeal:
https://www.canlii.org/en/on/onca/doc/2024/2024onca904/2024onca904.html

**This notice explains how the dismissal of this class action and a new proposed class action lawsuit affect your legal rights.**

**History of this class action**

The Representative Plaintiff Anna Barbiero sued Dr. Sheldon Pollack for damages arising from the alleged unauthorized use of liquid silicone in cosmetic surgery. The lawsuit was commenced on February 13, 2003. On December 11, 2003, the Ontario Superior Court of Justice certified Ms. Barbiero's case as a class action and appointed her to represent all of the people affected by this issue. The certification of a lawsuit as a class action means that it has been approved to go ahead as a class action, but it does not include a decision about whether the claims in the lawsuit have merit.

The group of affected people in a class action is known as a "class", and the members of this class include all persons who were patients of Dr. Pollack between August 1990 and May 8, 1999, and from May 9, 1999, onward, who received injections of liquid silicone in the course of cosmetic surgery, as well as their living parents, grandparents, children, grandchildren, siblings, spouses and same sex partners or, where such a family member has died, the personal representative of the estate of the deceased family member. The deadline to opt out/exclude yourself from this class action closed in 2004, meaning that anybody who falls within the class definition and did not opt out back in 2004 is affected by the outcome of this class action.

On February 16, 2004, Dr. Pollack delivered a Statement of Defence. He denied the Plaintiff's allegations, including the allegations regarding the legality of the use of liquid silicone and the allegations that Dr. Pollack breached any legal duty that he owed to the patients. As part of his legal defence, Dr. Pollack also took the position that each patient had provided informed consent to the injections.

Also as part of his defence, Dr. Pollack relied on a one-year limitation period for starting a lawsuit against a physician. A limitation period is a legal limit on the time period within which a person would be entitled to sue for an alleged wrong. More specifically, Dr. Pollack took the position that any class member who received their liquid silicone treatment(s) from him prior to February 13, 2002, and received no treatments on or after February 13, 2002, could no longer sue him because that one-year limitation period would have expired by the time the lawsuit was started on February 13, 2003.

As part of the certification order, the court approved the text of the "common issues" that could be resolved together at trial, including: whether the use of the liquid injectable silicone was prohibited by law, what duty of care Dr. Pollack owed to his patients as it related to the use of the silicone, whether Dr. Pollack breached any duty of care by using the silicone, and whether the defence of consent was available to Dr. Pollack relating to any breach of duty (including any claim of battery). The merit of those common issues would be resolved at one trial, which is known as the common issues trial.

Because of the individual aspects of the claims advanced in the class action, a favourable trial result for the Plaintiff and the class members would not have meant that any member of the class was automatically entitled to damages. Issues relating to individual claims by class members and individual defences by Dr. Pollack would still have remained to be resolved. For example, if the Court had decided at the common issues trial that Dr. Pollack had breached his

duty of care, any class member's entitlement to compensation may still have been dependent on individual issues, such as:

- whether they were personally harmed because of the liquid silicone injection(s) they received
- if the Court found that the defence of consent was available to Dr. Pollack, whether they had provided consent for the liquid silicone injection(s)
- the extent of the personal harm they experienced because of the liquid silicone injection(s)
- the appropriate amount of damages to compensate the class member for the extent of the personal harm, if any, they experienced; and/or
- whether a limitation period applied to stop their claim.

After certification of this class action, several steps on the pathway toward the common issues trial were completed, including the exchange of relevant documents and the completion of examinations for discovery (oral questioning). The Plaintiff and Dr. Pollack participated in settlement discussions and attended a mediation before an experienced mediator. Those discussions did not result in a settlement of this class action.

**Dismissal for delay & new lawsuit**

In February 2024, Dr. Pollack asked the Ontario Superior Court of Justice to dismiss this class action for delay. For the reasons set out in the links to the decisions above, the Court granted Dr. Pollack's request. The Court found that the Plaintiff's case was taking too long to get to trial, and that the passage of time had unfairly affected Dr. Pollack's ability to defend himself. The Plaintiff appealed the dismissal but the Court of Appeal confirmed the dismissal in December of 2024.

Please note that no Court has decided whether the Plaintiff's claims or Dr. Pollack's defenses have merit. The dismissal for delay is not related to whether Dr. Pollack breached or fulfilled any duty to patients included in the class.

Ontario's class action legislation, the *Class Proceedings Act, 1992,* suspends individual limitation periods when a proposed class action lawsuit is started, and while it is ongoing. In this case, each class member's limitation periods were suspended (*i.e.* they stopped running) on February 13, 2003, when the class action lawsuit was started, and remained suspended until the effective date of the dismissal of this action, which was the date the order approving this notice was signed, March 26, 2026.

Before the order approving this notice was signed on March 26, 2026, a new proposed class action against Dr. Pollack relating to the injection of the same liquid silicone was commenced by another former patient of Dr. Pollack (Sonia Pace) on August 13, 2025. That new proposed class action by Sonia Pace also suspended the limitation periods for the proposed class members when it was commenced.

**To understand more about how these issues affect you, including limitation period issues applicable to you individually, and what your individual rights and options are in the circumstances, you should seek independent legal advice as soon as reasonably possible.**

**To learn more about the new proposed class action lawsuit by Sonia Pace, you can also contact the lawyer listed below.**

**Costs**

As a class member, you have *not* been responsible for any legal costs relating to Ms. Barbiero's class action lawsuit or its dismissal, and you do *not* have any other financial obligations relating to that class action lawsuit or its dismissal.

If you choose to start your own individual lawsuit against Dr. Pollack at this time, you will be responsible for any related costs.

**More Information**

For more information, please contact Roy O'Connor LLP at:

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Toronto, ON
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The court papers in this lawsuit can be accessed in person at the office of the Superior Court of Justice, Court House, 393 University Ave., Toronto, Ontario, court file 03-CV-243858CP.

This Notice was approved by the Ontario Superior Court of Justice.