
SUPREME COURT REJECTS APPLICATION FOR LEAVE TO APPEAL IN AUTISM CLASS ACTION LAWSUIT

Five families behind case express their disappointment over the decision

Ottawa – December 4, 2008 – Today the Supreme Court of Canada rejected the application for leave to appeal filed by the plaintiffs in the Ontario Autism Class Action Lawsuit. The five families behind the case, which seeks full and timely access to treatment and education for children with autism, expressed their disappointment over the decision, and noted that they would be meeting with their legal counsel in the coming days to determine next steps.

“Obviously, the court’s decision today was a letdown for us,” said Taline Sagharian, one of the parents participating in the class action. (Her 12-year-old son, Christopher, has autism.) “Our case has been ongoing since 2004, and for almost a decade now, families of children with autism have continued to face an impossible choice between prohibitively expensive private autism programs and an unresponsive public school system. The need for change remains desperate.”

The families’ application requested that the Supreme Court consider a number of issues arising from a previous Ontario Superior Court decision, which was subsequently upheld, with some changes, by the Court of Appeal. Among these issues, the families asked to be allowed to seek damages under the Charter of Rights, an important aspect of the class action.

The case was originally filed in 2004 by the five families, representing six children with autism, against the province of Ontario 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 have been 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 treatment programs.

The plaintiffs will now consider their options regarding the case, including the possibility of returning to the Ontario Superior Court, where the previous appeal decision left open a number of possible legal avenues.

Whatever the parents ultimately decide, they emphasize that the issue is not going away. “Autism is an increasingly common condition, and the members of any growing family could find themselves in this impossible situation we face,” said Sagharian. “Techniques and therapy that work do exist. What is desperately needed is a proper system for getting kids with autism the access to help they need to grow up as high-functioning and independent as possible.”

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