

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) WEDNESDAY, THE 25<sup>th</sup>  
 )  
JUSTICE BELOBABA ) DAY OF AUGUST, 2021

BETWEEN:



MATT McCALLUM,  
MATT McCALLUM DENTURIST PROFESSIONAL CORPORATION

Plaintiffs

- and -

AVIVA INSURANCE COMPANY OF CANADA

Defendant

Proceeding under the *Class Proceeding Act, 1992*

**ORDER**

THIS MOTION, made by the Plaintiffs, on consent, for an Order for providing Notice of Certification to the Class, was read on August , 2021.

ON READING the material filed,

1. **THIS COURT ORDERS** that the Notice of Certification (the "Notice"), a copy of which is attached to this Order as **Schedule "A"** is hereby approved.
2. **THIS COURT ORDERS** that the Defendant provide Class Counsel with the names, addresses, emails and phone numbers for all Class Members by August 27, 2021.
3. **THIS COURT ORDERS** that by September 15, 2021, the Notice will be given in the following manner (the "Notice Program"):

- (a) Class Counsel shall:
- (i) deliver by direct mailing via physical mail and/or email by Lerners LLP to all Class Members at the email address and physical address provided by the Defendant, where applicable, or known by Class Counsel;
  - (ii) posting on Lerners LLP's Website for this class proceeding;
  - (iii) Updating Lerners LLP's toll-free telephone recording to advise that Notice has been sent out and advising to check the Website or contact Lerners LLP if it is a Class Member and has not received a copy of the Notice;
- (b) The Denturist Association of Ontario shall post the Notice on its website for the duration of the opt-out period.

4. **THIS COURT ORDERS** that Notice is deemed given on September 15, 2021, and that the opt-out period expires at 5:00pm on November 14, 2021.

5. **THIS COURT DECLARES** that the Notice Program satisfies the requirements of section 17 of the *Class Proceedings Act, 1992* and is the best notice practicable under the circumstances.

6. **THIS COURT ORDERS** that the Defendant will pay the reasonable costs of the Notice Program.

**Signed:** Justice Edward Belobaba

Notwithstanding Rule 59.05, this Judgment [Order] is effective and binding from the date it is made and is enforceable without any need for entry and filing. Any party to this Judgment [Order] may submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

**Authorized by the Ontario Superior Court of Justice**  
**—NOTICE OF CERTIFICATION OF THE DENTURIST CLASS ACTION—**  
**Read this notice carefully as it may affect your legal rights.**

**TO ALL CLASS MEMBERS, WHO ARE:**

All persons, natural or corporate, carrying on operations usual to a dentist who were insured by and have submitted a claim to Aviva Insurance Company of Canada ("Aviva") under a Commercial Insurance Policy issued by Aviva on behalf of the Denturist Association of Ontario, pursuant to the Denturists and Hearing Aid Specialists Program ("Denturist Program"), bearing Policy 81278157, which included "Restricted Access" coverage and/or "Negative Publicity" coverage under Business Income - Actual Loss Sustained (Broad Form Perils) (Form 402014-02), and which claimed loss of business income: a) while access to its premises was restricted in whole or in part ("Restricted Access") by the mandatory closure order made by the Province of Ontario on March 23, 2020 (the "Closure Order"), and/or b) while access to its premises was restricted in whole or in part by any subsequent order of civil authority, and/or c) as a direct result of an outbreak of COVID-19 within 1 kilometre of its premises (the "Class").

**CERTIFICATION**

On July 15, 2021, the Ontario Superior Court of Justice certified the action *Matt McCallum, Matt McCallum Denturist Professional Corporation v Aviva Insurance Company of Canada* as a class proceeding and appointed Matt McCallum, Matt McCallum Denturist Professional Corporation as the representative plaintiffs of the Class. The class action seeks damages on behalf of the Class in the form of coverage for loss of business income pursuant to the policies of insurance issued by Aviva held by the Class. The class action alleges that Aviva breached its contracts with the Class by denying coverage of loss of business income.

**COST TO THE CLASS OF THE ACTION**

The Court will determine whether Class Members' claims for business income losses trigger insurance coverage. As a member of the Class you will not be required to pay any costs in the event that the class action is unsuccessful. If the class action is successful in establishing coverage, it may be necessary for Class Members to submit business income loss claims for individual determination. Class Counsel will assist Class Members with respect to determination of your individual claim amount if requested by the Class Member. You will have the opportunity to decide if you wish to proceed with your individual loss claim and determination before it begins.

**DO NOTHING IF YOU WANT TO PARTICIPATE IN THE CLASS ACTION**

Members of the Class who want to participate in the class action are automatically included and do not need to do anything at this time. Each member of the Class who does not opt out of the class action will be bound by the decisions made in the action, and the terms of any judgment or settlement - whether favourable or not - and will not be allowed to start their own action against Aviva for the same claims.

**OPTING OUT**

Members of the Class who do not want to participate in the class action must opt out. To opt out you must complete and send the opt-out form below or a written, signed opt-out election indicating:

- that the Class member wishes to opt-out;
- the name of the Class member;

- your name, and contact information; and
- your authority to act on behalf of the Class Member

**Send the completed opt-out form or signed written election to:**

Lerners LLP  
 85 Dufferin Avenue  
 P.O. Box 2335  
 London, ON  
 N6A 4G4  
 Attention: Denturist Class Action  
 Email: denturistclassaction@lerners.ca  
 Fax: 519.932.3362

No Class Member will be permitted to opt out of the class action unless the election to opt out is **received by Lerners LLP on or before November 14, 2021 at 5:00 p.m. E.S.T.**

A member of the Class who opts out will not be entitled to participate in the class action, will not be bound by any judgment in the class action, and will not be eligible for any recovery in the class action. A Class Member who opts out may be eligible to pursue a claim in a separate proceeding. If you wish to pursue your own claim in a separate proceeding, you should consult with a lawyer immediately. This is because there are time limitations and other considerations for starting a law suit and the decision to opt-out may not be reversible.

**CLASS COUNSEL FEES AND DISBURSEMENTS**

The representative Plaintiffs and Class Counsel entered into a retainer agreement providing for the payment of legal fees, disbursements and applicable taxes. The agreement provides that Class Counsel will not receive payment for their work unless and until the class action is successful. In that case, Class Counsel will be paid out of any recovery in the class action. The Class Counsel fees, disbursements and applicable taxes must be approved by the Court. Class Counsel will assist Class Members with respect to determination of your individual amount if requested to by the Class Member.

**DO NOT CALL THE COURT WITH ANY QUESTIONS ABOUT THIS NOTICE**

Any questions regarding the class action should be directed to:  
 Alfonso Campos Reales Tel: 1.844.867.9024 (toll free)  
 Lerners LLP Fax: 519.932.3362  
 85 Dufferin Avenue  
 P.O. Box 2335  
 London, ON  
 N6A 4G4

Email: denturistclassaction@lerners.ca

This Notice is a summary of some of the terms of the certification order. If there is a conflict between the provisions of this Notice and the terms of the certification order, the certification order prevails.

**Additional information, including the certification order, may be found on the website: <https://www.lerners.ca/cases/denturists-class-action>**

**OPT-OUT FORM**

I do **not** want to be included in the Denturist Class Action. I want to **opt out (be excluded from)** this class action. My information is as follows:

Name of Class Member	Name of authorized representative
Address:	Relationship/Title:
City and Province	Telephone:
Postal Code:	Email address:
Date:	Signature:

Matt McCallum, Matt McCallum Denturist  
Professional Corporation  
Plaintiffs

and

Aviva Insurance Company of Canada  
Defendant

Court File No.: CV-20-00000981-00CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

**ORDER**

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