



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

DARWIN ALLEN

Plaintiff

-and-

HALTON FAMILY HEALTH CENTRE INC. and TIMOTHY SALTER

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The Claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of Court Office:

Milton Courthouse
491 Steeles Avenue East
Milton, ON L9T 1Y7

TO: HALTON FAMILY HEALTH CENTRE INC.
2951 Walkers Line
Burlington, Ontario L7M 4Y1

AND TO: TIMOTHY SALTER
2951 Walkers Line
Burlington, Ontario L7M 4Y1

CLAIM

1. The Plaintiff, Darwin Allen, claims:
 - (a) damages in the sum of FIVE MILLION DOLLARS (\$5,000,000.00);
 - (b) pre-judgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (c) post-judgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (d) the costs of this proceeding, plus all applicable taxes; and
 - (e) such further and other relief as counsel may suggest and this Honourable Court may deem just.
2. The Plaintiff, Darwin Allen, resides in the City of Burlington, in the Province of Ontario, and was, at all material times, a patient of the Halton Family Health Centre Walk-In Clinic in Burlington, Ontario (hereinafter the “**Walk-In Clinic**”). Darwin contracted Hepatitis C after the Defendant, Timothy Salter, injected him with lidocaine using an unsterile needle at the Walk-In Clinic.
3. The Defendant, Halton Family Health Centre Inc., is a corporation duly incorporated pursuant to the laws of the Province of Ontario, and was, at all material times, the owner and/or occupier of the Walk-In Clinic.
4. The Defendant, Timothy Salter, was, at all material times, a medical doctor licensed to practice in the Province of Ontario and was an employee and/or agent of the Defendant, Halton Family Health Centre Inc.

5. In or around September 2023, the Plaintiff visited the Walk-In Clinic after suffering a cut to his heel. During the course of treatment, Dr. Salter injected the Plaintiff with lidocaine using an unsterilize needle (“**the Incident**”).

6. In or around November 2025, the Plaintiff received a letter from Halton Region Public Health advising him that they identified improper infection prevention and control practices involving the use of unsterile needles with multidose vials of anesthetic medication at the Walk-In Clinic. The letter further advised the Plaintiff that he should speak with his healthcare provider to get tested for Hepatitis B, Hepatitis C and HIV. Shortly thereafter, the Plaintiff underwent a Hepatitis C blood test.

7. In or around December 2025, the Plaintiff received a letter from Halton Region Public Health advising him that he tested positive for Hepatitis C.

The Defendants’ Liability

Negligence

8. The Defendants were responsible for providing the Plaintiff, a patient of the Walk-in Clinic, with medical care and treatment services. As a result, they were in a relationship of proximity with the Plaintiff.

9. At all material times, the Defendants – by virtue of their positions as the Plaintiff’s treatment provider and owner/operator of the Walk-in Clinic - owed a duty of care to the Plaintiff to (among other things):

- (a) Implement and follow appropriate and reasonable infection prevention and control measures;

- (b) Ensure that all needles were properly sterilized before use;
- (c) Educate their staff, employees and agents on reasonable infection prevention and control measures;
- (d) Provide the Plaintiff and other patients with reasonable and adequate care and attention;
- (e) Provide proper infection prevention and control equipment to their employees, staff and agents; and
- (f) Ensure that they and their employees, staff and agents followed reasonable infection prevention and control measures.

10. It was reasonably foreseeable to the Defendants that the Plaintiff would suffer harm if the Defendants did not take the foregoing measures and precautions.

11. The Plaintiff reasonably expected that the Defendants would take all reasonable steps to avoid exposing him to the risk of infection. At all material times, the Defendants had the ability to prevent harm to the Plaintiff, but failed to do so.

12. The Plaintiff's injuries were caused solely by the negligence of the Defendants, their agents, servants and/or employees, the particulars of which are as follows:

A. AS TO THE NEGLIGENCE OF THE DEFENDANT, TIMOTHY SALTER, FOR WHOSE NEGLIGENCE THE DEFENDANT, HALTON FAMILY HEALTH CENTRE INC., IS IN LAW RESPONSIBLE:

- (a) he failed to maintain adequate care and attention to the Plaintiff;
- (b) he failed to provide proper care to the Plaintiff;
- (c) he failed to follow reasonable infection prevention and control procedures;

- (d) he failed to provide the proper infection prevention and control equipment to the Plaintiff when he knew or ought to have known that he was required to do so;
- (e) he allowed and/or caused the needle to be used in an unsanitary manner;
- (f) he allowed and/or caused an unsterilized needle to be used on the Plaintiff;
- (g) he failed to warn the Plaintiff of the risks associated with the procedure being carried out;
- (h) he failed to obtain informed consent from the Plaintiff with respect to the procedure being carried out;
- (i) he failed to properly notify public health authorities of his infection prevention and control lapses with respect to the Plaintiff's treatment;
- (j) in the treatment rendered to the Plaintiff, he fell below the reasonable standard of care required of competent professional in the circumstances; and
- (k) he failed to adequately supervise, maintain and review the condition of the Plaintiff after the incident occurred.

B. AS TO THE NEGLIGENCE OF THE DEFENDANT, HALTON FAMILY HEALTH CENTRE INC.:

- (a) It failed to maintain proper infection prevention and control procedures;
- (b) It failed to properly educate its staff, employees and physicians on infection prevention and control procedures;
- (c) It failed to take proper steps to ensure that its staff maintained appropriate and proper conduct towards the Plaintiff;

- (d) It failed to discipline or otherwise sanction its staff, employees and physicians for failing to follow or not adhering to infection prevention and control procedures;
- (e) It failed to notify public health agencies of infection prevention and control lapses in a timely manner;
- (f) it failed to maintain adequate care, attention and supervision of the Plaintiff, when it knew or ought to have known that such care, attention and supervision were mandatory in the circumstances;
- (g) it failed to employ competent physicians, servants, agents and/or employees to properly treat and care for the Plaintiff;
- (h) in the treatment rendered to the Plaintiff, it fell below the reasonable standard of care required of competent professionals in the circumstances; and
- (i) it failed to adequately supervise, maintain and review the condition of the Plaintiff after the Incident occurred.

13. But for the Defendants' negligence, the Plaintiff would not have suffered the harm and injuries outlined below.

Vicarious Liability

14. The Defendant, Halton Family Health Centre Inc., is vicariously liable for the acts and omissions of its employees, servants and agents (including Timothy Salter) as carried out in the course of their employment, or in sufficiently close connection with their assigned duties such that it is just and fair to impose liability on the Clinic.

15. The acts and omissions of Timothy Salter were:

- (a) carried out on clinic property;

- (b) during the course of invasive medical treatment that Timothy Salter was employed to provide;
- (c) in furtherance of the treatment Halton Family Health Centre Inc. offered to the public and profited from; and
- (d) using equipment that Halton Family Health Centre Inc. gave to Timothy Salter for the purpose of treating patients.

16. Accordingly, the Plaintiff pleads, and the fact is, that Timothy Salter's acts and omissions were closely linked to his authorized duties, or, in the alternative, so connected with his authorized duties that they may be regarded as modes of doing an authorized act. There was thus a significant connection between the Defendant's creation of risk and the negligence of its staff and employees, giving rise to a claim for vicarious liability.

17. Further, the Plaintiff sought treatment from the Walk-in Clinic, not Timothy Salter specifically. The Plaintiff had a reasonable belief that the owner/operator of the Walk-in Clinic, Halton Family Health Centre Inc., would ensure that he was provided with safe, proper and reasonable care, viewing the physicians it employed as an extension of the Walk-in Clinic itself. This reasonable belief informed his decision to obtain treatment from the Walk-in Clinic, which the Defendants profited from.

Breach of Fiduciary Duty

18. The nature of the relationship between the Defendants and the Plaintiff is fiduciary.

19. At all material times, the Plaintiff was a patient of the Defendants and, as such, was in a power dependency relationship with them where he put his trust and confidence in the Defendants to provide him with safe and proper medical treatment. Like most patients, the

Plaintiff was vulnerable to the acts and omissions of the Defendants. He had the reasonable expectation and understanding that the Defendants would prioritize his best interests and provide him safe and proper treatment.

20. The Plaintiff's interests were directly affected by the Defendants' exercise of discretion and control. The Defendants undertook to act in the best interests of their patients, including the Plaintiff. As such, they owe the Plaintiff a fiduciary duty of loyalty.

21. The Defendants controlled all aspects of the Plaintiff's medical treatment. The Plaintiff reasonably relied on the Defendants to ensure that he was given proper, safe and reasonable medical care and treatment.

22. In breach of its fiduciary duties, the Defendants authorized, permitted and/or enabled the acts set out in the preceding paragraphs. As a result, they failed to make the well-being and safety of the Plaintiff a priority and failed to protect the Plaintiff from physical and psychological damage and harms.

23. The Defendants' breaches of their fiduciary duties led to the injuries set out below.

Damages

24. As a result of the Incident, the Plaintiff, Darwin Allen, sustained severe, painful and permanent injuries, which include, but are not limited to:

- (a) Hepatitis C; and
- (b) psychological injuries, including depression, and anxiety.

25. As a result of said injuries, the Plaintiff, Darwin Allen, has suffered and will continue to suffer from, among other symptoms:

- (a) a diagnosis of Hepatitis C;
- (b) irritability;
- (c) emotional and psychological trauma, post-traumatic stress, anxiety and depression;
- (d) insomnia;
- (e) a reduction in the activities which he enjoyed prior to the Incident;
- (f) a reduction in his social interactions, which has had an impact on his interpersonal relationships; and
- (g) a reduction in his enjoyment of life.

26. As a result of the Incident, the Plaintiff has undergone and will continue to undergo extended therapy, rehabilitation and other forms of medical treatment, and, in addition, has received and will continue to receive medication for his Incident-related injuries.

27. As a result of the Incident, the Plaintiff has incurred and will continue to incur attendant care expenses, as well as expenses for medication, therapy, rehabilitation, medical treatment and other forms of care, the full particulars of which will be provided prior to trial.

28. As a result of the Incident, the Plaintiff has sustained and will continue to suffer loss of income, a reduction in his ability to compete in the labour market, a reduction in his ability to earn an income, and restrictions in the types of employment he will be able to undertake.

29. As a result of injuries sustained in the Incident, the Plaintiff may very well be forced to retire earlier than he would otherwise have done and will suffer a loss of income as a result.

30. As a result of the Incident, the Plaintiff is unable to perform household chores to the extent that he was able to before the Incident, and has required, and will continue to require, assistance in the future to complete such chores.

31. The Plaintiff pleads and relies upon the *Negligence Act*, R.S.O. 1990, c.N.1, the *Occupiers' Liability Act*, R.S.O. 1990, c. O.2 and The *Insurance Act*, R.S.O. 1990, c. I.8, all as amended.

32. The Plaintiff pleads and relies on the doctrine of discoverability.

33. The Plaintiff proposes that this action be tried at Milton.

Date: February 25, 2026

**DIAMOND AND DIAMOND
LAWYERS LLP**

255 Consumers Road, 5th Floor
Toronto ON M2J 1R4
Tel: 416-256-1600

Darryl Singer

LSO# 34473R

Email: darryl@diamondlaw.ca

Mathura Santhirasegaram

LSO# 73033G

Email: mathura@diamondlaw.ca

Lawyers for the Plaintiff

**ALLEIN
Plaintiff**

-and-

Court File No./N° du dossier du greffe : CV-26-00000484-0000

MILTON FAMILY HEALTH CENTRE INC. et al.

Defendants

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
MILTON

STATEMENT OF CLAIM

DIAMOND AND DIAMOND LAWYERS LLP

255 Consumers Road, 5th Floor

Toronto ON M2J 1R4

Tel: 416-256-1600

Darryl Singer

LSO# 34473R

Email: darryl@diamondlaw.ca

Mathura Santhirasegaram

LSO# 73033G

Email: mathura@diamondlaw.ca

Lawyers for the Plaintiff