COURT FILE NO.: CV-15-00000701-0000
DATE: 2026-06-15

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:	)	
	)	
KAREN EMMA SLATKOVSKY and ADRIAN LEVYTSKY	)	David A. Morin and Peter Reinitzer for the Plaintiffs
	)	
Plaintiffs	)	
	)	
– and –	)	
	)	
YURI MACHADO, KARA MACHADO, GERARD ANTHONY LALL a.k.a. GERRY LALL and SUSAN JANE FORD ARMSTRONG	)	David Cameletti for the Defendants Yuri and Kara Machado
	)	Hans Engell for the Defendant Gerard Anthony Lall a.k.a. Gerry Lall
Defendants	)	
	)	
	)	**HEARD:** December 2, 3, 4, 5, 8, 9, 10, 11, and 12, 2025 at Kitchener

THE HONOURABLE JUSTICE A. SPURGEON

REASONS FOR JUDGMENT

Introduction

Factual Background – Summary

[1] This was a civil judge-alone trial spanning two weeks in December 2025. It involves a real estate transaction that occurred a dozen years before, in 2013.

[2] The plaintiffs, Karen Slatkovsky and Adrian Levytsky, bought a renovated century farm home[1] (the "Property") from the defendants, Yuri Machado and Kara Machado. Extensive renovations had been done by a contractor hired by Mr. Machado approximately ten years previous (2002 to 2003).[2] That work was done without a building permit being obtained. Because there was no building permit obtained, there had been no outside third-party inspection of the work done.

[1] The property in question is located at 4701 Watson Road South, Puslinch, Ontario.
[2] The court notes that at the time this occurred, the defendant, Yuri Machado had not yet met the defendant, Kara Machado.

[3] The agent who listed the house for sale by the vendors, Mr. and Ms. Machado, (Mr. Lall) ultimately double-ended the deal. In other words, he acted for both the sellers and buyers.

[4] Mr. Lall did not disclose to the plaintiffs the fact that the extensive renovations that had been done to the Property were done without a building permit.

[5] Mr. Lall was retained by the plaintiffs to sell their existing home in suburban Guelph as well – which he did.

[6] Subsequent to closing the transaction on the Property, the plaintiffs learned that the renovations had been done without a building permit. They then caused an engineer, Mr. Hu, to inspect the renovated work. That engineer reported that he found several deficiencies; some of them were structural and would be costly to repair.

[7] Additionally, in the winter immediately after closing, the well on the property froze resulting in the water supply being curtailed. This left the plaintiffs with an impression that the water supply was not reliable.

[8] By a sad coincidence, Ms. Slatkovsky, was contemporaneously diagnosed with cancer. Confronted with that disease, the plaintiffs elected to effectively walk away from the home they purchased.

[9] Ms. Slatkovsky's and Mr. Levytsky's evidence, in a nutshell, was that, though they initially seriously considered plowing ahead with repairing the Property, the repair of the deficiencies in the older part of the house in addition to the building of an addition they had planned was not a situation they felt they could handle. The conjunction of Ms. Slatkovsky's cancer diagnosis, the burden of repair and renovation as with the additional concern of what they believed was an unreliable water source – the well on the property – caused the plaintiffs to decide to simply leave the Property and sell it.

[10] The plaintiffs moved out of the Property into rental accommodations and then put the Property on the market with full disclosure of the structural deficiencies and lack of permit regarding the renovations and the water well issues. They sold the Property for a loss.

Summary of Causes of Action Alleged

[11] The plaintiffs in this trial seek recovery for losses from the defendants premised on the following causes of action:

a. In respect of the Machados, the plaintiffs, in their submissions, assert the evidence adduced at trial reveals two causes of action:

i. negligence flowing from the failure to obtain a proper building permit when the Property was renovated in 2002 to 2003 and again in 2008 (approximately); and

ii. negligent misrepresentation in respect of the allegedly inaccurate sales presentation and characterization of the renovations done to the Property as well as with respect to the condition of the well on the property.

b. In respect of Mr. Lall, three causes of action were alleged and advanced at trial. Each of them is underlined by the fact that Mr. Lall acted as the agent for both the vendors (Machados) and the plaintiffs as purchasers of the Property:

i. professional negligence in that Mr. Lall is alleged to have failed to disclose, procure, and provide accurate material information about the condition of the well – the known need to replace a pressure tank – and the unpermitted status of the renovations done to the Property by the vendors;

ii. breach of contract in that as agent for the plaintiffs he failed to procure for and provide to the plaintiffs' accurate material information concerning the Property; and

iii. breach of fiduciary duty in that, as a dual agent (acting for both the vendors and purchasers), he was in a conflict of interest. This conflict manifested itself in a failure to provide material information to the purchasers to their detriment and to the benefit of the vendors.

Summary of Response/Position of the Machados

[12] The Machados defend the case on four footings.

[13] First, they vigorously assert that the plaintiffs did not adequately plead such causes of action against them. The case went on for over ten years, and during that time, despite examinations for discovery and revelations in evidence generated in that time, the plaintiffs never amended the claim to properly include a negligence claim against the Machados in respect to the failure to obtain a building permit or in relation to the construction work executed in the interior renovation of the historic part of the Property.

[14] Second, as an evidentiary point, the Machados argue that the plaintiffs have failed to demonstrate that the builder, who did the renovations on the Property in 2002-2003 did not actually get a building permit. The absence of a building permit in the municipality's file on the Property is not necessarily demonstrative of the fact that none was actually obtained. That being the case, the whole foundation of the plaintiffs' claim fails.

[15] Third, even if the allegations of negligent failure to obtain a permit/negligent construction or negligent misrepresentation in respect of the permit or the condition of the well were properly pleaded, the evidence actually adduced by the plaintiffs in respect of those causes of action are insufficient to prove those causes of action against the Machados. The Machados submit that within the context of the tort of negligent construction damages are only exigible in circumstances where the negligent construction poses a danger – not just if the work done was shoddy. In this case, they say the "deficient" construction posed no danger.

[16] Lastly, the Machados argue that the plaintiffs further fail in their claim on a causation basis. They suggest, as does Mr. Lall, that the decision of the plaintiffs to vacate the Property and subsequently sell it at a loss was driven not by any deficiency in the Property for which liability could be ascribed to them, but rather the unfortunate personal circumstances of Ms. Slatkovsky's coincidental cancer diagnosis and their decision to refrain from undertaking a planned renovation project at a personally challenging time.

Summary of Response/Position of Mr. Lall

[17] Mr. Lall's position is that he did not breach any standard of care owed to the plaintiffs, nor breach any contractual obligation or fiduciary duty, by not disclosing the absence of a building permit from the municipality in relation to the renovations done in the envelope of the heritage farmhouse. Rather, he submits that he suggested that the draft offer he prepared be reviewed by a lawyer for the plaintiffs in advance of making the offer – which actually happened.

[18] That draft offer contained within it conditions prepared by Mr. Lall relating to municipal and building regulations "which might affect the suitability of the subject property for the buyer's intended use and needs as a single-family residence/agricultural property."[3] That clause was removed by the plaintiffs after meeting their lawyer, prior to presentation to the Machados for consideration. Moreover, the plaintiffs' real estate lawyer, Ms. Armstrong, made no recommendation to and took no action to search the municipal property file to determine if a permit was obtained – and inspections done – in relation to the 2002-2003 renovations of the Property.

[19] In addition, Mr. Lall points out that Ms. Slatkovsky, prior to making the offer on the Property, actually attended the municipal offices of the Township of Puslinch to research the Property herself. She was concerned that the Property was "plaqued" meaning that it may have had a heritage designation which could have frustrated the plaintiffs' plans to tear down the rear addition and replace it with a new addition.

[20] In that visit, Ms. Slatkovsky did not investigate, nor determine, if there had been a building permit issued for the prior renovation. Ms. Slatkovsky's own due diligence, along with the participation of her lawyer, negates or displaces any liability in respect of any duty or obligation owed by Mr. Lall to the plaintiffs.

[21] Likewise, with respect to the well, the position of Mr. Lall is that the well had potable water, which was tested regularly, had tested with good flow, and was reliable. The only "deficiency" in respect of the well was a 20-year-old pressure tank that had been noted as being in need of replacement but functioning.

[22] On the issue of causation, like the Machados, Mr. Lall takes the position that the damages that the plaintiffs suffered – specifically, diminution of value, living costs outside the Property, and sunk costs of architectural design and planning work in relation to the Property, etcetera – were all incurred and thrown away; not because of the lack of building permit being disclosed or any "negligence" on the part of Mr. Lall, but because of the

[3] Exhibit 4

unfortunate cancer diagnosis of Ms. Slatkovsky which coincided with taking possession of the Property. The choice to abandon the project was not related to the condition of the Property but to her medical condition.

The Material Events

The Players – Witnesses in This Trial

[23] The following persons gave evidence in the trial of this matter – in order of appearance:

a. Ms. Karen Slatkovsky, plaintiff;

b. Mr. Adrian Levytsky, plaintiff;

c. Ms. Susan Armstrong, real estate lawyer consulted by the plaintiffs;

d. Mr. Graham Lobban, home inspector;

e. Ms. Trudy Dickinson, realtor who sold the Property for the plaintiffs after discovering deficiencies;

f. Mr. Andrew Hartholt, chief building official of the Township of Puslinch;

g. Mr. Kevin Hu, engineer retained by the plaintiffs who inspected the Property after closing and identified deficiencies;

h. Mr. Barry Lebow, expert on real estate agency tendered by the plaintiffs;

i. Mr. Yuri Machado, defendant;

j. Ms. Kara Machado, defendant;

k. Ms. Uta Kayser, real estate agent who knew Mr. Barrales, the contractor who renovated the Property;

l. Ms. Justine Brotherston, director of corporate services and municipal clerk for the Township of Puslinch;

m. Mr. Gerry Lall, defendant; and

n. Mr. William Johnston, expert on real estate agency tendered by the defendant Mr. Lall.

The History of the Property Prior to the Transaction in Question

[24] In 2013, the Property, at the time it was sold by the Machados to Ms. Slatkovsky and Mr. Levytsky, was a three-bed, two-bath farmhouse located on three-and-a-half acres of land in Puslinch. The pictures of the Property reveal a very beautiful, bucolic place to live. The Property was listed for sale at $799,000.

[25] It is believed that the main part of the farmhouse built of brick was constructed in or around1887. There was an addition on the rear of the house which was of a much more recent vintage. The older part of the home was the most desirable part of the home. The sales material created by Mr. Lall for the Machados and provided to the plaintiffs, boasted that the old, original part of the house had "extensive, 'to the walls' renovation/restoration in 2002/2003" and "mechanical and structural updates for functional living and 'peace-of-mind.'"[4]

[26] There indeed was extensive renovation work done on the Property at the behest the defendant Yuri Machado in 2002-2003. He bought the Property soon before doing the renovation. He hired a local builder/renovator named Joseph Barrales operating under the name "Premier Trades" to do the renovations.

[27] Mr. Machado's evidence was that, though he had some personal experience in doing renovations on other properties, at the time the work was being done at the Property, he was living in Toronto, Ontario and the Property, being in Puslinch – quite some distance away from where he lived – required a builder with extensive experience in heritage properties to do the job for him, including managing the project in its entirety. Mr. Machado said this included ensuring the build was in compliance with all rules and regulations. His evidence was that he left the renovation fully in Mr. Barrales' hands. As far as Mr. Machado was concerned, everything was done properly by Mr. Barrales and his team.

[28] At the time the renovations were done on the Property, Mr. Machado had not yet met his wife, the defendant Kara Machado. She had no direct personal knowledge or participation in the renovation process with respect to the Property.

The Property is Listed Attracting the Plaintiffs

[29] In 2013, when Mr. and Ms. Machado decided it was appropriate for their family to move, they enlisted the help of Mr. Lall as their agent to list the Property. Mr. Lall was a family friend of Mr. Machado's family. The primary source of contact between Mr. Lall and the Machado family was Mr. Machado's brother.

[30] Mr. Lall marketed the Property. He and his firm's staff created the marketing material describing the property for sale.[5]

[31] The Property came to the attention of Ms. Slatkovsky who made an email inquiry to which Mr. Lall responded to via email on May 27, 2013.[6] In that email, Mr. Lall provided a series of attachments containing information about the Property. These included, among other things:

a. the sales brochure describing the renovations;

[4] Exhibit 1, pp. A146-147 (Case Center)
[5] Exhibit 1
[6] Exhibit 2

b. a series of stamped engineers' drawings of the renovation; and

c. a document from a water pumping equipment and maintenance business called D.M. Davidson indicating the flow rate of the well on the property.

[32] Ms. Slatkovsky was impressed by the drawings as an indicator of the quality of renovations done, as well as of the other documents containing information relating to the status and quality of the Property's mechanical, water, and other systems. She said this information provided her a sense of reassurance about the Property.[7]

[33] The document from D.M. Davidson dated April 26, 2013, was ultimately included as a component of the agreement of purchase and sale ("APS"). That document indicated the well provided a flow rate of five gallons per minute (which by all relevant witnesses is considered quite good) and the water was potable.

[34] However, neither Mr. Lall nor the Machados provided another document from D.M. Davidson dated the same day prior to entering and completing the APS. That second document from D.M. Davidson was subsequently discovered by the plaintiffs in a file folder left at the Property for them to read after closing. It indicated that the well's water system was approximately 20 years old and that the pressure tank connected to the well needed to be replaced.[8]

[35] The plaintiffs, who did not have a real estate agent, decided to view the Property. They were hosted by Mr. Lall during that viewing of the Property.

[36] During the viewing, the plaintiffs and Mr. Lall had a conversation wherein Ms. Slatkovsky said that Mr. Lall raised the idea of doing a major addition to the Property. This would entail tearing down the existing later addition to the main century house portion of the building and replacing it with a new one. Ms. Slatkovsky's evidence is that this idea captured her imagination and was central to the plaintiffs' decision to make an offer to purchase the Property.

[37] As part of the marketing strategy adopted by Mr. Lall, he procured a home inspection report from a home inspector that he worked with. His name was Graham Lobban, and he was a qualified professional engineer, though he did not inspect the Property in that capacity. Mr. Lobban's home inspection report was made available to the plaintiffs to review prior to making an offer to purchase, which they did.[9]

[38] Both of the plaintiffs gave evidence that they were very charmed by the extensive renovations to the main portion (historical part) of the Property and were reassured by the apparent quality of the renovations and modernizations done. They felt that the main,

---

[7] As it turns out, those stamped engineer's drawings were design drawings. They were not *as built* drawings, confirmatory of any compliance with any required building standard – including the *Ontario Building Code*.
[8] Exhibit 10
[9] That home inspection report did not identify the deficiencies that were subsequently identified by Mr. Hu, another professional engineer, retained by the plaintiff after closing on the transaction.

historical part of the home – which they intended to maintain without change – offered them peace-of-mind.

The Plaintiffs, Defendants, and Mr. Lall Enter a Multiple Representation Arrangement

[39] The plaintiffs decided that they wanted to buy the Property. They and Mr. Lall discussed the fact that the plaintiffs did not have a real estate agent. Mr. Lall indicated a willingness to act as agent for both Ms. Slatkovsky and Mr. Levytsky as purchasers and the Machados as sellers.

[40] Embarking upon this, a representation agreement was provided to the plaintiffs to sign which acknowledged Mr. Lall's conflict of interest. As well, a written consent acknowledging the conflict of interest was obtained from the Machados. This set the stage for Mr. Lall to act as agent for both the purchasers and sellers in relation to the Property.

[41] As part of the process to bring about a contract between the parties, Mr. Lall prepared a draft offer to enter the APS. He provided the draft offer to the plaintiffs and advised them to consult a lawyer and review it before formally presenting it to the vendors for consideration.

Steps Taken by Ms. Slatkovsky Prior to Making an Offer to Purchase the Property

[42] Ms. Slatkovsky took the draft offer to Ms. Susan Armstrong, a real estate lawyer, and discussed it with her. The draft offer contained certain clauses. One of which said:

> MUNICIPAL CONDITION: THIS OFFER IS CONDITIONAL until 8:00 p.m. on the SEVENTH (7th) business day after acceptance upon the Buyer, at the Buyer's expense, satisfying himself, in his sole and absolute discretion, as to the … Municipal restrictions, building regulations or any other activities, which might affect the suitability of the subject property for the Buyer's intended use …"[10]

[43] While the plaintiffs were considering whether to put in an offer on the Property, the Machados already had a conditional offer on the Property proffered by a separate prospective purchaser. The plaintiffs were made aware of this by Mr. Lall. The terms of that other offer were not disclosed to them. Nevertheless, Ms. Slatkovsky's evidence was that she felt pressured by Mr. Lall that, if she wanted the Property, she needed to go in with as few conditions as possible and to go in with her best price.

[44] As part of the recommendation of Mr. Lall, and after meeting Ms. Armstrong, Ms. Slatkovsky undertook to address items on what she characterized as her own pre-purchase diligence "to-do list" prior to putting in an offer to purchase. Items on this list included:

a. having contractors attend the Property to view it from a preliminary opinion as to the feasibility of doing an addition;

[10] Exhibit 4

b. attend the offices of the Township of Puslinch to determine if renovations would be permitted – of particular concern was whether the Property was "plaqued" meaning she was concerned about whether there was a heritage designation that would prevent or impede an addition on the Property; and

c. attend the Grand River Conservation Authority to verify that her intention to install geo-thermal heating would not be prohibited.

[45] Ms. Slatkovsky did these things, and as far as she could tell, given the information she gleaned, there was nothing preventing her and her husband from doing the addition to the Property she hoped for.

[46] The one thing she did not do was ask the municipality whether the renovations previously done to the Property had been done with a building permit. This was something she did not think to ask. Likewise, Mr. Lall did not advise her to ask.

The Offer is Made and Accepted

[47] Mindful of the information the plaintiffs received from Mr. Lall, Ms. Armstrong, and through their own due diligence, Ms. Slatkovsky and Mr. Levytsky made an offer to enter the APS with the Machados, which was accepted by them on June 7, 2013. It had the following features:

a. a purchase price of $800,000;[11]

b. omission of the municipal condition clause that Mr. Lall had prepared in draft and was reviewed by Ms. Armstrong;

c. a home inspection condition clause for their benefit until June 12, 2013; and

d. a closing date of August 7, 2013.

[48] The plaintiffs utilized the services of Mr. Graham Lobban, who had pre-inspected the Property on behalf of the vendors, for the purposes of the home inspection. After walking through the Property with Mr. Lobban, the plaintiffs then waived that condition and the APS went firm.

[49] Within the APS itself, the plaintiffs obtained an agreement that the vendors would allow for a series of extensive pre-closing visits by the plaintiffs to enable them to bring in prospective contractors, designers, and architects to inspect the Property for the purpose of developing renovation plans and proposals for the plaintiffs to consider. This was done, and the process of developing renovation/addition plans for the Property continued after closing. The plaintiffs incurred significant expenses in that regard.[12]

[11] The actual listing price for the property was $799,000.

[12] These expenses included retaining surveyors ($1,695), an architect to design the planned addition ($10,369) and a geo-thermal heating provider ($558).

The Defendant Mr. Lall is Engaged by the Plaintiffs to Sell Their Own Property

[50] After the plaintiffs entered the deal to buy the Property, they needed to sell their suburban home in Guelph, Ontario. They hired Mr. Lall to represent them as the vendors of their Guelph home. That home was successfully sold.

[51] The plaintiffs, while owning the Guelph home, finished their basement. In her evidence, Ms. Slatkovsky said that when Mr. Lall was looking at the Guelph property in preparation for listing it for sale, he asked Ms. Slatkovsky whether she and her husband had obtained a building permit to do that work.

[52] Ms. Slatkovsky advised Mr. Lall that she and her husband had in fact obtained a building permit from the City of Guelph to do that renovation.

[53] Mr. Lall subsequently sold the Guelph home for the plaintiffs, armed with this knowledge.

After the Deal Closes the Plaintiffs Learn About Certain Issues with the Property They Bought

First – No Building Permit Was Obtained for the Original Renovation

[54] In the fall of 2013, the plaintiffs, contemplating doing their own addition to the Property, attended the Township of Puslinch municipal offices and learned that there was no building permit was on file for the previous renovations and additions done to the Property.

[55] The plaintiffs then obtained a zoning compliance letter dated November 28, 2013 from the Township of Puslinch indicating that no building permit has been issued, no occupancy permit had been issued, and no final inspection had been done in respect of the Property.[13]

Second – Structural Deficiencies Found in the Renovation Work Done

[56] Concerned, the plaintiffs retained the assistance of an engineer to investigate the condition of the Property. That engineer performed an investigation, the remit of which was more invasive and extensive than done by the home inspector, Mr. Lobban.

[57] By a report dated February 25, 2014, Mr. Kevin Hu P. Eng., identified four main structural deficiencies which are as follows:

a. The 6" x 6" pressure treated post (column) in the basement designed to support the center of the house was deficient in that it was not installed vertically plumb; the bottom of which was buried under the basement concrete slab, such that the footing could not be observed; it was, at the top, not properly connected to the load bearing column above it; and ultimately, the column was not capable of supporting the forces acting on it. It was improperly installed and contravened provisions of the *Ontario Building Code* ("OBC"), clauses 9.17.3.4 and 9.17.2.2. The engineer's view was that the installation is likely to be subject to ultimate failure.

[13] Exhibit 17

b. A column installed during renovation in the north exterior wall to support a paralam beam above was not properly supported from below and was incapable of transmitting loads from the paralam above to the foundation wall below.

c. A column next to the stairwell on the main floor was not built in accord with proscribed drawings and did not feature adequate fastening or connection between it and the beam it was supporting. The engineer determined via a load analysis that the column installed was not structurally sufficient.

d. A column installed on the east wall was likewise not in accord with the proscribed drawings. However, the engineer determined the installed column to have "adequate load-resisting capacity" to support the beam above and that it was adequately connected to the beam it was supporting.

[58] Mr. Hu provided the following opinion: "In our opinion, the discrepancies between the as-built condition of the renovation work and the design drawings prepared by Argue and Associates would have been identified by the building department if the work had been carried out under a building permit."[14]

[59] Much of the inspection and analysis of the Property done by Mr. Hu required cutting holes in walls and exposing structural members. This work involved a depth of review and inspection that could not have been done by Mr. Lobban, the building inspector, hired by both the Machados and by the plaintiffs while the Property was being sold.

Third – The Well Froze Up During the Plaintiffs' First Winter in the Property

[60] In December of 2013, during the first winter of the plaintiffs' possession of the Property, the well froze up and there was no water available to the plaintiffs for their use for a period of time. This of course, would, in normal circumstances, pose a significant inconvenience.

[61] In response to the well freezing up, Mr. Levytsky contacted a well drilling company called Hanlon Well Drilling Ltd. ("Hanlon"). Hanlon had serviced the well on the Property on previous occasions when Mr. Machado owned the Property.

[62] After Hanlon's service call, which occurred on December 19, 2013, Hanlon produced a quotation/estimate to Mr. Levytsky. In that document, Hanlon advised Mr. Levytsky that the present well should be abandoned because it is not compliant with MOE Regulation 903 and that a new well that is compliant should be drilled. Hanlon, in the quotation/estimate further stated, "Please note same recommendations have been made multiple times dating back to 2001."[15]

---

[14] Exhibit 53, at p. A368 of Case Center. It is to be noted that this report was prepared not necessarily for litigation but for investigation and remediation. Mr. Hu was not tendered as an expert witness pursuant to rule 53. The defendants contest the admissibility of Mr. Hu's opinion concerning the tendered.

[15] Exhibit 63, List of service calls of Hanlon

[63] No document from Hanlon was produced by either Mr. Lall or the Machados to the plaintiffs prior to entering or closing the APS. This is despite the fact that on the December 19, 2013, quotation/estimate there is an indication that the same recommendations were made on April 5, 2013 – which was just prior to the Property going on the market, listed by Mr. Lall.

The Intervention of Personal Circumstances

[64] For the plaintiffs, the normal inconvenience one would expect of a well freezing up was compounded in a profound way.

[65] Ms. Slatkovsky was coincidentally diagnosed with breast cancer, which required her to undergo aggressive chemotherapy and endure a significant period of illness and recovery.

[66] As these factors of discovering that there was no prior building permit, structural deficiencies in the building, and the freezing up of the well on the Property converged with the diagnosis of cancer, the plaintiffs claim they decided to move out of the Property and into rental accommodation in town. Their evidence is that they believed that, given the circumstances, they needed a reliable water supply and the "peace of mind" they thought they were buying when they purchased the Property. By the winter of 2013, the Property did not provide those things.

The Plaintiffs Sell the Property

[67] The plaintiffs, therefore, consulted a different real estate agent, Ms. Trudy Dickinson, and listed the Property for sale with her.

[68] In that listing, the plaintiffs disclosed all the issues they had experienced with the Property. They ultimately sold the Property for a loss in August 2014.

[69] Initially, the purchaser offered, and the plaintiffs accepted, a sales price of $740,000. Prior to closing, the plaintiffs and the purchasers agreed to abatements of the purchase price of a further $6,000 and again a further $4,000.

[70] This resulted in a net sales price differential for the plaintiffs of $70,000 between the price they bought the Property for and the price they actually sold it for one year later.

The Damages Claimed – Causation Issue Framed

[71] In addition to the $70,000 price differential, the plaintiffs say they expended certain other costs in relation to the Property which they claim as further damages. They include:

a. land transfer tax and legal fees paid on the original purchase of $13,942;

b. Realtor fees and legal fees on the sale of the Property of $42,971;

c. improvements to the Property while it was owned by the plaintiffs of $7,913;

d. costs sunk into planned renovation of $12,645;

e. maintenance costs of the Property of $901;

f. investigation and repair costs on the Property of $10,760;

g. mortgage costs incurred by the plaintiffs on the Property of $5,848;

h. alternative living expenses and carrying costs of $68,415.

[72] The total damage figure claimed by the plaintiffs is $233,395.[16]

[73] By contrast, the defendants point out that if the plaintiffs had decided to stay in the Property and simply did repairs to the Property and its well, the measure of damages would be far more modest:

a. The projected costs of repairing the deficiencies in the house as noted by Mr. Hu was approximately $46,500.[17]

b. The full cost of addressing issues related to the well was estimated at $11,600.[18][19]

[74] The total repair costs for the deficiencies identified in the house and remediation of the well – assuming the plaintiffs had retained the Property and continued to live there – were in the range of $58,000.

[75] The defendants submit that, to the extent they may be liable for damages, the damages are limited to the direct repair costs and nothing beyond that. The defendants submit that the bulk of the damages the plaintiffs claim to have incurred, arose because Ms. Slatkovsky was diagnosed with cancer in December 2013.

[76] The defendants submit that the cancer diagnosis with the prospect of chemotherapy arose at a time when the plaintiffs were about to embark upon a large and increasingly expensive home renovation/addition to the Property. The combination of these two undertakings was simply too much for the plaintiffs, and they made the decision to move back to town and sell the Property.

---

[16] Exhibit 26, It should be noted that in the Special damages summary the sum of $226,922 was outlined as the sum for damages sought. However, the above quantum equals $233,395.
[17] Exhibit 46, Estimate for remedial work of Trevor Gonsalves of WSP Group
[18] Exhibit 45, Cost estimate for replacement of the well and closing the old well
[19] Exhibit 63, List of service calls of Hanlon

Analysis

Regarding the Machados – Allegations of Negligence

The Duty of Care

[77] Section 8(1) of the *Building Code Act, 1992*, S.O. 1992, c. 23, says: "No person shall construct or demolish a building or cause a building to be constructed or demolished unless a permit has been issued therefor by the chief building official."

[78] Under s. 1 of that Act, the word "construct" or "construction" includes renovation.

[79] Both a building owner and a contractor are persons who were required to obtain a building permit and submit the project (including engineering and architectural drawings) to the municipality for review and submission to the inspection oversight regime inherent in the *Building Code Act* and its regulations.[20]

[80] The oversight and inspection regime outlined in the *Building Code Act* clearly exists as a mechanism to promote public safety in built structures in this province, and to ensure the buildings we inhabit and visit are built to be structurally sound and safe. It exists to help owners and builders avoid causing foreseeable harm to others.

[81] On this point, the court notes the following judicial observation informing the issue of the standard of the duty of care to be applied: "The *Ontario Building Code* sets minimum standards for building construction in Ontario. These minimum standards are in place so that owners of houses will be safe from poor construction. The standard of care is, at a minimum, the *OBC*'s requirements."[21]

Breach of the Duty of Care

[82] It is clear on the evidence that Mr. Machado did not get a building permit to do the renovations that were done. He admits he did not go to the municipal office and obtain one.

[83] Mr. Machado says he relied on his contractor, Mr. Barrales, to do everything. However, it is clear on the evidence that Mr. Machado took no steps to verify that Mr. Barrales:

a. obtained a building permit when he commenced the renovations;

b. ensured inspections were done as required under the *Building Code Act*; and

c. obtained an occupancy permit pursuant to the Act showing that the renovations were done in compliance with the Act and the home was indeed safe to occupy.

[84] Counsel for Mr. Machado submits that there is no proof that a building permit was not obtained and that the record retention policies of the Township of Puslinch were not

---

[20] *Oliva v. Dickson*, 2025 ONSC 6666, at para. 124

[21] *Wesley v. Geneau,* 2020 ONSC 868, at para. 68; see also: *Danyliw v. 578693 Ontario Ltd.*, 2006 CanLII 13101 (Ont. S.C.)

reliable. Counsel for the Machados asks the court to conclude that there is no evidence that Mr. Barrales did not obtain a building permit.

[85] When confronted with the straightforward question of what is more likely than not – whether a permit was applied for, granted, and then all records of it were lost, including any evidence of the application, inspections, and the issuance of an occupancy permit upon completion, or whether no building permit was ever sought or obtained by either Mr. Machado or Mr. Barrales – the answer is clear. The court must reject the position of Mr. Machado.

[86] The following points cause the court to conclude that no building permit for the 2002-2003 renovations of the Property was ever obtained by Mr. Machado (or anyone else) in relation to the renovations to the Property:

a. Mr. Machado admits he did not apply for a building permit. He says he relied on his contractor to do everything that needed to be done.

b. Mr. Barrales, the contractor, did not testify. He provided no evidence that he applied for or obtained a building permit.

c. There was no written contract between Mr. Machado and Mr. Barrales identifying who was responsible for obtaining a building permit.

d. The municipality has no record of a permit being obtained, nor of any inspection being done, nor of an occupancy permit being granted at the end of the building process.

Causation

[87] The renovations done by Mr. Machado through his contractor, Mr. Barrales, were completed with the significant structural deficiencies identified by Mr. Hu. These deficiencies were in violation of the *Ontario Building Code*.

[88] Further, three of the four deficiencies identified by Mr. Hu are characterized as structural, relating to the vertical support of lateral structures above those supports in the house. One vertical post, in particular, because it was not plumb, was characterized by Mr. Hu as at risk of failure. All three of these deficiencies could be characterized as dangerous to the inhabitants of the structure.

[89] The causational "does it matter" or "but for" question must be asked: If a building permit had been obtained, and the requisite inspections been done by municipal building officials, would the deficiencies that remained at the end of the renovation occurred in any event?

[90] The court concludes that on the balance of probabilities, it is likely that a second set of trained eyes, the eyes of a building inspector, looking at the work done in a timely fashion, would more likely than not have resulted in the structural deficiencies being detected and rectified prior to completion, and those deficiencies would not have been passed on to the plaintiffs to deal with.

Damages

[91] The structural load bearing deficiencies identified by Mr. Hu, especially the one that was identified as at risk of failure, may pose a danger to the inhabitants of the structure. Clearly the repair of them was necessary to ensure the safety of the inhabitants of the dwelling.

[92] Repair of these deficiencies would reasonably cost the plaintiffs money and can be priced in different ways. Regardless of how measured., They are damages suffered by the plaintiffs. The full extent of the quantum of damages and the extent of what damages claimed by the plaintiffs can be related to the negligence of Mr. Machado will be discussed later.

Regarding the Machados – Negligent Misrepresentation

Elements

[93] In respect to the condition of the well, the plaintiffs allege that the Machados are liable to them for negligent misrepresentation. The elements of the tort of negligent misrepresentation are:

a. a misrepresentation is made by the defendant to the plaintiff;

b. it must be made negligently – without due care;

c. within a special relationship between the plaintiff and the defendant giving rise to a duty of care;

d. that is reasonably foreseeable by the defendant that the misrepresentation that would be relied upon by the plaintiff; and

e. that the plaintiff's reliance on the defendant's misrepresentation results in the plaintiff suffering damage.

[94] There clearly was a misrepresentation made by the defendants to the plaintiffs in respect of the quality of the well. Schedule "D" of the APS[22] contained limited information from the D.M. Davidson assessment of the well. Omitted from the APS, however, and not disclosed prior to closing, was a second document from D.M. Davidson, created contemporaneously, indicating that the pressure system in the well needed to be replaced.[23]

[95] An omission of negative information, in light providing positive information, may constitute a misrepresentation.

[96] Both documents were in the possession of the Machados. The Machados wanted the purchasers (plaintiffs) to rely – or expected them to rely – on the document containing positive information. The failure to disclose the co-ordinate document containing negative

[22] Exhibit 5
[23] Exhibit 10

information created a misrepresentation that one could easily foresee the plaintiffs would rely upon.

[97] The fact that the plaintiffs have suffered damage due to this negligent misrepresentation is clear. However, the quantum or measure of the damages is less certain. On the one hand, the existence of a deficiency in well equipment may relate only to price contingent on the cost of repair. While on the other hand, the plaintiffs argue that the measure of damages is on a different scale. The full extent of the quantum of damages and whether all damages claimed by the plaintiffs can be related to the negligent misrepresentation of the Machados will be discussed later.

The Pleading Issues

[98] As mentioned above, counsel for the Machados asserts that the statement of claim in this matter as far as it relates to them fails to disclose or properly describe a cause of action of negligence or negligent construction. As such, the claim must fail.

[99] I note the operative paragraph in the claim on this subject is paragraph 6, which says:

> The Machados purchased the property in or about 2002 and extensively renovated it with a view to increasing its potential value. To their knowledge, the renovations were performed without a building permit, suffered from extensive and significant defects including structural defects, and created a significant risk of legal liability and remediation costs to bring the property into compliance with municipal and building code requirements.

[100] On the face of this paragraph, the nature and character of the allegations against the defendants as negligence was clear from the outset. The allegations featured all the elements of negligence:

a. a duty of care – implicit in the paragraph is an allegation that the Machados had a duty of care to get a building permit and do the renovations consistent with applicable building standards;

b. breach of the duty of care – the claim clearly states that the Machados did the renovations without a permit, and further, those renovations featured deficiencies;

c. causation – the fact that the renovations were done in breach of the obligation to get a permit, and were done with defects, caused the plaintiffs to suffer two forms of damages;

d. damages – the two forms of damages suffered are:

    i. the potential for legal liability on the part of the plaintiffs; and

    ii. the cost of remediation of the defects to bring them into compliance with the *Ontario Building Code*.

[101] The plaintiffs' claim is not the most elegant example of legal prose. It is nevertheless sufficient to the task and must be read with the generosity the Supreme Court of Canada expects as they have exhorted us to in *Operation Dismantle v. The Queen*.[24] Mr. and Ms. Machado have not been placed at a disadvantage in defending the claim. The evidence at trial did not manifest any claim or cause of action in negligence against the defendants that had not been foreshadowed in the claim in the first place.

Regarding the Allegations Against Mr. Lall

Duty and Standard of Care to Obtain/Disclose Material Facts – Absence of a Building Permit

[102] The plaintiffs allege that Mr. Lall acted negligently and in breach of his fiduciary duty to the plaintiffs in not disclosing to them material information – that the renovations to the Property had been done without a building permit – which would have been required.

[103] As a real estate agent, Mr. Lall was aware of a seller property information sheet ("SPIS") document which is sometimes filled out by vendors to property either independently or at the request of a purchaser. The SPIS form is a standard form document provided by the Ontario Real Estate Association ("OREA"). It is a document that Mr. Lall was familiar with. It is a document that real estate agents acting for vendors ask their clients to complete.

[104] Under the part of the SPIS form related to "Improvements and Structural" there are several questions that vendors are asked to disclose, including:

a. Have you made any renovations, additions, or improvements to the property?

b. Was a building permit obtained?

c. Has the final building inspection been approved or has a final occupancy permit been obtained?

[105] In this case, Mr. Lall did not have the Machados, as vendors, complete the SPIS form.[25]

[106] Mr. Lall also acknowledged familiarity with a form called OREA Form 820 – Residential Information Checklist, which has a similar set of questions. However, the purpose of an OREA Form 820 is for the buyer's agent to ask questions from the vendors. The OREA Form 820 contains questions that mirror those in the SPIS form. Mr. Lall did not, on behalf of the plaintiffs, ask the Machados to complete an OREA Form 820. Like the SPIS form, the OREA Form 820 was available for use in 2013.

[107] Both the plaintiffs and Mr. Lall led expert evidence as to the standard and duty of care of a real estate agent in this case. The plaintiffs called Mr. Barry Lebow. Mr. Lall called Mr. William Johnston. Both witnesses were qualified to provide opinion evidence on the

[24] [1985] 1 S.C.R. 441, at p. 451
[25] SPIS forms were available in 2013 at the time of the transaction.

standards of practice and care applicable to real estate agents involved in multi-party transactions such as the one at hand.

[108] Both Mr. Lebow and Mr. Johnston acknowledged the importance of section 21 of the Real Estate Council of Ontario's code of ethics and its applicability to Mr. Lall. That section says:

> 21(1) – A broker or salesperson who has a client in respect of the acquisition or disposition of a particular interest in real estate shall take reasonable steps to determine the material facts relating to the acquisition or disposition and, at the earliest practicable opportunity, shall disclose the material fact to the client.
>
> 21(2) – A broker or salesperson who has a customer in respect of the acquisition or disposition of a particular interest in real estate shall, at the earliest practicable opportunity, disclose to the customer the material facts relating to the acquisition or disposition that are known by or ought to be known by the broker or salesperson.

[109] Both Mr. Lebow and Mr. Johnston acknowledged that the questions contained in the SPIS form above – specifically whether there was a building permit obtained for renovation work done – would constitute material information about a property in a real estate transaction. Moreover, Mr. Johnston, in a set of training course materials he authored for real estate professionals, indicated that, as a matter of professional practice, the questions in the SPIS form are questions real estate professionals should ask their seller clients for the purpose of disclosure to purchasers.[26]

[110] Mr. Lall was told by Mr. Machado that he did a renovation on the Property. Mr. Lall characterized that renovation as extensive "to the walls" in his marketing material for the Property. The renovation would – to Mr. Lall's mind – be seen by buyers as material to their decision to their purchase of the Property.

[111] Yet, Mr. Lall did not ask Mr. Machado (or anyone else) whether a building permit was obtained for the renovation work done. Such would have verified whether the renovations were done in compliance with the requirements of the *Ontario Building Code*. Such a question is itemized in the SPIS form.

[112] Mr. Lall did not ask Mr. Machado (or anyone else) whether a final inspection of the renovation work done on the Property was ever obtained, or if an occupancy permit had been obtained after the renovations were completed. Such would have verified whether the renovations were done in compliance with the requirements of the *Ontario Building Code*. Such a question is itemized in the SPIS form.

[113] Mr. Lall did not ask these questions of his clients, the Machados. When the plaintiffs became his clients, he did not ask these questions of the Machados on their behalf either.

---

[26] Exhibit 79, William Johnston – Property Disclosure Course at Case Centre at. p. A1795.

[114] In cross-examination, Mr. Lall indicated that, at the time of the transaction in 2013, he was aware that Mr. Machado had not himself obtained a building permit for the renovations that were done – that Mr. Machado relied on Mr. Barrales entirely.

[115] Moreover, Mr. Lall admitted that he did not himself know that a building permit would have been required for the renovations done on the Property in 2002-2003. This is a shocking admission – especially given his awareness of the SPIS form and the standard questions contained therein.

[116] Mr. Lall had an obligation to take reasonable steps to procure and disclose all material facts about the Property to the plaintiffs in this case. The lack of a building permit – which was required – for a major renovation as was done is a material fact about the Property. It opens the Property up to potential work orders and the associated costs thereof. It clouds title on the Property.

[117] Mr. Lall's duty to make inquiries as to all material facts about the Property on behalf of his clients (the plaintiffs) and then to disclose those material facts about the Property arises both in the context of the tort of negligence and in his capacity as a fiduciary of the plaintiffs. Failing to do so constitutes a breach of both.

[118] Mr. Lebow gave opinion evidence to the effect that Mr. Lall was bound by and breached the Real Estate Council of Ontario's code of ethics, specifically section 21(1), in two ways:

a. First, as the vendor's agent, he failed to disclose the material fact of a lack of a building permit being obtained in a structural renovation as occurred at the Property; and

b. Second, he failed to follow up in procuring information from sources other than Mr. Machado once he learned that there was a structural renovation and it was unclear whether a building permit was obtained. He was required to verify this with the municipality.

[119] The court accepts these two propositions as correct. It was a breach of section 21(1) for Mr. Lall not to verify the unpermitted status of the structural renovation of the Property and disclose same to the plaintiffs.

[120] The Court of Appeal has held that:

> "… [t]he due diligence requirements of a real estate agent mandated by the Code, while not dispositive, are of considerable importance in informing what is expected of real estate agents in terms of verifying information about a property listed for sale." [27]

[27] *Krawchuk v. Scherbak*, 2011 ONCA 352, 106 O.R. (3d) 598, at para. 147

[121] The court is persuaded that in this case the provisions of section 21 of the Real Estate Council of Ontario's code of ethics are descriptive of the standard of care applicable in this case, and Mr. Lall breached that provision as indicated.

Mr. Lall's Defense of Referral to the Plaintiffs' Lawyer

[122] In this case, Mr. Lall created a draft offer containing the following clause:

> MUNICIPAL CONDITION: THIS OFFER IS CONDITIONAL until 8:00 p.m. on the SEVENTH (7th) business day after acceptance upon the Buyer, at the Buyer's expense, satisfying himself, in his sole and absolute discretion, as to the …… Municipal restrictions, building regulations or any other activities, which might affect the suitability of the subject property for the Buyer's intended use….[28]

and advised Ms. Slatkovsky to review it with her lawyer, which she did. After doing so, the clause was removed from the offer, with the lawyer's acquiescence and apparent agreement.

[123] Mr. Lall's position is that, in so doing, he met his duty of care. He could not prefer the position of either the vendor or the purchaser. By referring the plaintiffs to their lawyer reviewing the draft offer, Mr. Lall submits that it became the lawyer's duty (not Mr. Lall's) to the plaintiffs to make inquiries as to whether a building permit was obtained and advise as to the significance of the vendor having not obtained one when he did structural renovations.

[124] The court rejects this argument for three reasons:

a. First – Ms. Armstrong's evidence was that had that clause been included in the APS, it would not have triggered her as the buyers' lawyer to do a search of the municipality's file for the Property. This is because the standard practice among lawyers is not to search the property file because title insurance would be procured for the property and a title insurance policy is supposed to cover title defects flowing from work orders which would otherwise be found in a search of the property file. No evidence was led to contradict this. Further, Ms. Armstrong's evidence was that title insurance was obtained on this transaction. Moreover, her evidence was that a title insurance claim was advanced but was denied by the title insurer, and that the basis of the denial was that there was no work order or deficiency notice that had been issued by the municipality in relation to the Property, therefore there was no triggering event on the policy.[29]

---

[28] Exhibit 4

[29] It should be noted that it is not to be expected that a work order or deficiency notice would be ordered against the property and would not be recorded in the property file absent either (1) a complaint about the property triggering an inspection of the property wherein a deficiency or breach of a property standard is discovered, or (2) an unremedied deficiency noted by the municipality's building inspectors who would have attended the Property to do an inspection of work done in the normal course of the inspection process under the *Ontario Building Code*.

b. Second – Mr. Lall referring the plaintiffs to the lawyer for advice does not negate or displace the duty of care he owed to the plaintiffs. If it did, because of standard solicitor practice caused by the presence of title insurance, the impact would be to create a gap where no professional person would owe the relevant duty of care to the plaintiffs – to inquire about and advise them of the material fact that they were buying a property which had a structural renovation done without a building permit.

c. Third – Ms. Armstrong was initially a defendant in the claim wherein she was alleged to be negligent because she failed to identify the "red flag" of the Machados' refusal to warrant there were no outstanding work orders or deficiency notices in respect of the Property. Ms. Armstrong was the subject of a cross-claim by Mr. Lall. Mr. Lall agreed to dismiss his cross-claim against Ms. Armstrong. An order was made dismissing all claims against Ms. Armstrong in November 2023.

Causation

[125] In this case, the plaintiffs' evidence is that, had they known that no building permit had been obtained for the renovation work done on the Property, and consequently no inspections of the renovation work were done to ensure compliance with regulated building standards, they would not have purchased the Property.

[126] The court accepts this evidence as true.

[127] A compelling point buttressing this conclusion is that, as a child, Ms. Slatkovsky lived in an old "century home" with her family and it burned down because of faulty wiring. Her evidence is that her sister died because of that fire. The absence of assurance that construction was done properly evidenced by official inspections and approvals would be material to her.

[128] The fact that the plaintiffs were not made aware of the lack of any building permit on the Property is exclusively the fault of Mr. Lall. He had the duty to investigate and to disclose the lack of a building permit as a material fact to the plaintiffs.

[129] Mr. Machado, as the owner of the Property at the material time, was negligent in not ensuring that the renovation work was done according to the *Ontario Building Code*.

[130] With respect to the well, both the Machados and Mr. Lall negligently misrepresented the condition of the well to the plaintiffs. The existence and disclosure of a positive document from D.M. Davidson but not the negative document from D.M. Davidson constituted a misrepresentation for which both are liable.

The Measures of Damages

Damages Owing by the Defendants Jointly and Severally

[131] The measures of damages that each defendant should bear flow from the different forms of wrong each engaged in.

[132] Had the status of the Property as having a renovation done without building permit been disclosed prior to the parties entering the APS, the proper valuation of the deficiencies to the Property (inclusive of the deficiencies related to the well) would have been reflected in the actual price point of the Property, as it was upon resale. Thus, an appropriate measure of damage in this regard is as follows:

a. $800,000 purchase price less $730,000 sale price for shortfall of **$70,000**; and

b. Deficiency investigation costs of **$10,760**.

This amounts to a total of **$80,760** in damages for which the defendants are jointly and severally liable to the plaintiffs.

[133] As between the Mr. Yuri Machado as the defendant at fault for negligent construction without a building permit and negligent misrepresentation as well as Ms. Kara Machado for negligent misrepresentation on one side, with Mr. Lall at fault for negligent misrepresentation and breach of duty to the plaintiffs as their agent, the proportional share of liability in respect of these damagers are 50% on the Machados and 50% on Mr. Lall.

Damages Owing by the Defendant Mr. Lall Exclusively

[134] In addition to the foregoing liability, Mr. Lall is exclusively liable to the plaintiffs for following damages:

a. **$42,971** for realtor and legal expenses for the sale of the Property. But for Mr. Lall's failure – in his capacity as agent for the plaintiffs – to procure and provide the material information related to the non-existence of the building permit on the Property, the Property would not have been sold to the plaintiffs and the plaintiffs would not have incurred these expenses.

b. **$13,942** in land transfer taxes and legal fees paid on the original purchase. But for Mr. Lall's failure – in his capacity as agent for the plaintiffs – to procure and provide the material information related to the non-existence of the building permit on the Property, the Property would not have been purchased by the plaintiffs and these expenses would not have been incurred by the plaintiffs.

c. **$12,645** in sunk costs of designs incurred by the plaintiffs for the planned additions onto the Property. But for Mr. Lall's failure – in his capacity as agent for the plaintiffs – to procure and provide the material information related to the non-existence of the building permit on the Property, the Property would not have been purchased by the plaintiffs and these expenses would not have been incurred by the plaintiffs.

[135] This amounts to a total of **$69,558** in damages for which the Mr. Lall, is exclusively liable to the plaintiffs.

Damages Claimed by the Plaintiffs but Not Proven

[136] The plaintiffs have asserted that due to the lack of building permit issued and consequent deficient construction of the Property, as well as the undisclosed deficiency of the well, they suffered the following damages:

a. maintenance costs of the Property: $901;

b. mortgage costs: $5,848; and

c. alternative living expenses: $68,415.

[137] The plaintiffs have failed to show that these costs are damages associated in some way with the negligence or default of the defendants.

[138] It is to be noted that there was a confluence of circumstances which caused the plaintiffs to abandon the Property in December 2013. The plaintiffs' evidence was that the juxtaposition of Ms. Slatkovsky's cancer diagnosis along with the well on the Property freezing made them feel insecure and want to leave the Property for the comfort and reliability of an urban home with municipal water.

[139] The problems the well experienced by the plaintiffs were not problems that would have been revealed by disclosure of the second D.M. Davidson document. The fact is that the quality and flow of the well was tested regularly and performed properly. The deficiency disclosed by the D.M. Davidson document provided after closing did not relate to the issue of potability or freezing.

[140] What intervened is the understandable fear of the unknown when Ms. Slatkovsky was diagnosed with cancer. As Ms. Slatkovsky said in an email on December 21, 2013: "Given our recent issues with the pipes freezing and the well problems, this house seems just too much to contend with, when in a very little time I will be too ill to drive. So, we will need to sell the house and rent in Guelph until such time that I might be better."

[141] It was the unfortunate intervention of the cancer diagnosis which caused Ms. Slatkovsky to leave the Property. But for that, these expenses would not have occurred. They are not recoverable damages.

[142] Further, the plaintiffs seek general damages in the sum of $35,000 each because of the negligence and breaches of duty of the defendants. The plaintiffs led no evidence in support of this claim – other than to indicate their upset at what happened. The plaintiffs' claim for general damages has not been made out and is not proven.

Conclusion

[143] For the reasons set out herein, judgment will go in favour of the plaintiffs in the total sum of **$150,318**, the liability of which shall be assessed as follows:

a. Damages in the sum of **$80,760** payable jointly and severally among all defendants (50% from the Machados and 50% from Mr. Lall;

b. Damages in the sum of **$69,558** payable exclusively by the defendant, Gerry Lall.

[144] The parties may, if they are unable to resolve the matter of costs, make submissions as to costs as follows:

a. The plaintiffs may serve and file their written submissions within two weeks of the date of release of these reasons; and

b. The defendants may serve and file their written submissions within four weeks of the date of release of these reasons.

c. Exclusive of Bills of Costs and offers to settle, the parties are limited to five pages of submissions each in their costs submissions.

A. Spurgeon, J.

Date Released: June 15, 2026

CITATION: Slatkovsky v. Machado et al, 2026 ONSC ####
COURT FILE NO.: CV-15-00000701-0000
DATE: 2026-05-##

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

KAREN EMMA SLATKOVSKY and ADRIAN LEVYTSKY

Plaintiffs

– and –

YURI MACHADO, KARA MACHADO, GERARD ANTHONY LALL a.k.a. GERRY LALL and SUSAN JANE FORD ARMSTRONG

Defendants

REASONS FOR JUDGMENT

A. Spurgeon, J.

Date Released: June 15, 2026