

FOR IMMEDIATE RELEASE

**REGULATORY BODY FOR ONTARIO OPTICIANS APPLAUDS COURT OF APPEAL
DECISION IN "GREAT GLASSES" CASE**

(Toronto, January 15, 2009): In a decision released Tuesday, the Ontario Court of Appeal dismissed an appeal by Bruce and Joanne Marie Bergez of Hamilton, Ontario and their companies carrying on business under the name "Great Glasses". The Court upheld the decision of Justice Fedak of the Ontario Superior Court of Justice that the Bergez' and Great Glasses have continued to operate their business in violation of the *Regulated Health Professions Act* (the "RHPA") by allowing staff members working in the stores to dispense prescription eyewear to customers without valid prescriptions and without being opticians, optometrists or physicians. The Court of Appeal also upheld a fine of \$50,000 for each and every day that the Bergez' and Great Glasses continued to dispense prescription eyewear in violation of the RHPA. That fine now has a cumulative total of \$16 million in addition to a \$1 million fine previously ordered by Justice Crane of the Ontario Superior Court of Justice, which was upheld by the Court of Appeal in October 2008. The Court of Appeal also ordered costs against the Bergez' and their companies of \$42,000 relating to this appeal. A brief summary of the history of the Court cases is attached to this Media Release.

In their judgment, Justices Doherty, Weiler and MacFarland found that there was no merit to the Bergez'/Great Glasses claim that they were denied a fair opportunity to address the allegations that they were not complying with the previous court orders or present evidence to show that they were complying or attempting to comply with Justice Crane's order. Nor did the Appeal Court find any procedural or constitutional errors that would warrant setting aside the previous judgments. On the matter of the fines, the Justices stated:

"Obviously, this fine imposed is a very significant one. However, the brazen nature of the appellants' contempt, its lengthy and ongoing nature and the risk to the public health and safety posed by the appellants' conduct demanded a substantial fine that would act as a strong disincentive to the continuation of this kind of conduct."

And

"The fact that the appellants, having been fined \$1,000,000, carried on their operation in violation of an order knowing that they faced potentially huge penalties, speaks loudly to the need for a very significant penalty".

The College of Opticians, which regulates the Opticianry profession in Ontario, was an Intervenor in the case. In 2006, the College suspended Bruce Bergez' licence to practise as an optician because of his role in the illegal prescribing and dispensing practices at Great Glasses.



Caroline Maclsaac-Power, Registrar of the College of Opticians said: "The College applauds the Court of Appeal Decision and hopes it brings this long and difficult saga finally to a close. The College's only objective throughout this process has been to ensure that Mr. Bergez --- like all Opticians ----- practise their profession in full compliance with the law."

"The College has repeatedly made it clear to Opticians and the public alike that each practitioner must fully comply with the law and this College's requirements in dispensing prescription eyewear," stated Jeff Fernandes, College President and a practising Optician. "The College will continue to communicate this message to the public and to the profession, but the public should not patronize companies such as Great Classes unless and until they comply, no matter how attractive their prices for eyewear might be."

The College of Opticians is the professional, self-governing body for Ontario's registered Opticians under the RHPA and the *Opticianry Act, 1991*. There are currently 2,131 Opticians registered to practise in Ontario by the College.

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BRIEF CHRONOLOGY OF EVENTS

September 16, 2002: College of Optometrists initiates Court application against Bergez/"Great Glasses" to stop "Great Glasses" from dispensing prescription eyewear without valid prescriptions.

December 5, 2002: College of Opticians granted intervener status in the Court application against Bergez/"Great Glasses".

June 24, 2003: Justice Harris of the Ontario Superior Court of Justice finds Bergez/"Great Glasses" in violation of the *Regulated Health Professions Act* for dispensing prescription eyewear without valid prescriptions and orders them to stop.

November 24, 2006: Justice Crane of the Ontario Superior Court of Justice finds Bergez/"Great Glasses" in contempt of the order of Justice Harris and fines them \$1,000,000. The Court also ordered a fine of \$50,000 for each and every day that they continue to not comply with the previous court orders.

December 14, 2007: Justice Fedak of the Ontario Superior Court of Justice finds that Bergez/"Great Glasses" failed to comply with the previous court orders and orders them to pay total cumulative fines of \$16,000,000.

October 10, 2008: The Ontario Court of Appeal dismisses Bergez/"Great Glasses" appeal from the judgment of Justice Crane and orders them to pay costs of \$40,000.

January 13, 2009: The Ontario Court of Appeal dismisses Bergez/"Great Glasses" appeal against the previous decisions and orders them to pay costs of \$42,000, in addition to payment of the fines already levied by the Courts.

