

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE JUSTICE ROULEAU )  
THE HONOURABLE JUSTICE ROBERTS )  
THE HONOURABLE JUSTICE FAIRBURN )

FRIDAY, THE 12<sup>TH</sup>  
DAY OF OCTOBER, 2018

B E T W E E N :

KHURRAM SHAH and ALPINA HOLDINGS INC.

Plaintiffs  
(Appellants)

and

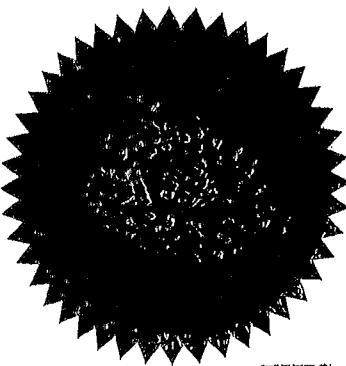
LG CHEM, LTD., LG CHEM AMERICA, INC., PANASONIC CORPORATION,  
PANASONIC CORPORATION OF NORTH AMERICA, PANASONIC CANADA, INC.,  
SANYO ELECTRIC CO., LTD., SANYO NORTH AMERICA CORPORATION, SANYO  
ENERGY (U.S.A.) CORPORATION, SONY CORPORATION, SONY ENERGY  
DEVICES CORPORATION, SONY ELECTRONICS, INC., SONY OF CANADA LTD.,  
SAMSUNG SDI CO., LTD., SAMSUNG SDI AMERICA, INC., SAMSUNG  
ELECTRONICS CANADA INC., HITACHI LTD., HITACHI MAXELL, LTD., MAXELL  
CORPORATION OF AMERICA, MAXELL CANADA, GS YUASA CORPORATION,  
NEC CORPORATION, NEC TOKIN CORPORATION, NEC CANADA, TOSHIBA  
CORPORATION, TOSHIBA AMERICA ELECTRONIC COMPONENTS, INC. and  
TOSHIBA OF CANADA LIMITED

Defendants  
(Respondents)

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS APPEAL, made by the Plaintiffs/Appellants from paragraph 2 of the Order of the Divisional Court dated April 26, 2017 in Divisional Court File No. 556/15, dismissing the appeal on the Plaintiffs' "Umbrella Purchaser Claim", was heard on May 7, 2018 at the Court of Appeal for Ontario, Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N5, with reasons having been reserved until this day.



ON READING the Appeal Book and Compendium, Exhibit Books, Factum and Brief of Authorities of the Plaintiffs/Appellants and the Compendia, Facta and Briefs of Authorities of the Respondents, and on hearing the submissions of counsel for the parties,

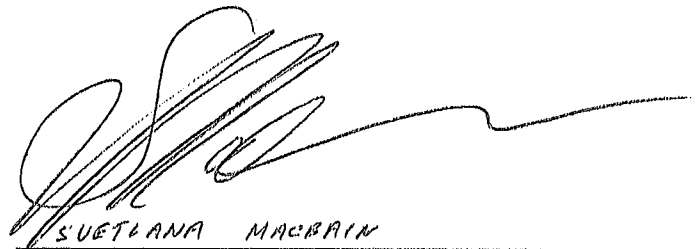
1. **THIS COURT ORDERS** that the appeal is allowed.
2. **THIS COURT ORDERS** that the order of The Honourable Justice Perell of the Ontario Superior Court of Justice dated October 5, 2015 (the "Certification Order") shall be amended as follows:
  - (a) paragraphs 2, 3, 7 and 8 shall include umbrella purchasers in the class definition and a sub-class of non-umbrella purchasers shall be created;
  - (b) paragraph 8(b) shall provide that the aggregate damages issue is certified as common only with respect to the non-umbrella purchaser subclass.
3. **THIS COURT ORDERS** that any issues that arise with respect to the terms of the Certification Order as a result of this decision are to be addressed before the certification judge.
4. **THIS COURT ORDERS** that as agreed by the parties, there is no order as to costs.

ENTERED AT / INSCRIPT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 29 2019

PER / PAR:

SM



SUETLANA MACBAIN

REGISTRAR  
COURT OF APPEAL FOR ONTARIO

KHURRAM SHAH and others  
Plaintiffs (Appellants)

-and-

LG CHEM, LTD. and others  
Defendants  
Court File No. C64559 (Respondents)

**COURT OF APPEAL FOR ONTARIO**

PROCEEDING COMMENCED AT  
TORONTO

**ORDER**

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Sanyo North America Corporation and Sanyo Energy  
(U.S.A.) Corporation