

**SUPERIOR COURT OF JUSTICE**

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Date: **March 17, 2015**

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**RE: 1250264 ONTARIO INC. v. PET VALU CANADA INC.  
COURT FILE NO.: CV-09-392962-CP**

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Please contact Gladys Gabbidon at (416) 327-5052 if you do not receive all pages. Thank you.

**March 17, 2015**

[Endorsement attached to Motion Record]

**1250264 Ontario Inc. v Pet Valu Canada Inc.**

- *Geoffrey Shaw and Derek Ronde* for Defendant / Moving Party
- *Louis Sokolov* for Plaintiff / Responding Party

*Motion by defendant to adjourn the hearing of Common Issue 7 (re damages) pending the Court of Appeal's disposition of the defendant's appeal re Common Issue 6 and the plaintiff's cross-appeal re New Common Issue 8.*

Normally I would not adjourn or delay any part of a class proceeding simply because one side has appealed. Here, however, both sides have filed appeals. If D prevails on its appeal re Common Issue 6, then there will be no need to address Common Issue 7. If P prevails on its cross-appeal re adding a new Common Issue 8, there will be no need to address Common Issue 7. Only if both appeals are dismissed will there be a need to proceed with Common Issue 7. It therefore makes sense to await the outcome of the appeal and cross-appeal before proceeding with the damages inquiry under Common Issue 7.

**Order to go adjourning the determination of Common Issue 7 pending the resolution of the appeal and cross-appeal.**

**Costs:** An adjournment normally attracts a costs award if the "losing party" can show wasted preparation costs. Here, however, there are no wasted preparation costs. Therefore, no costs award.

*Ed Sokolov J.*