

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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THURSDAY, THE 30TH

JUSTICE PIERCE

DAY OF MARCH, 2017

B E T W E E N :

HOLLY PAPASSAY, TONI GRANN, ROBERT MITCHELL, DALE GYSELINCK
and LORRAINE EVANS

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(CERTIFICATION)

THIS MOTION, made by the Plaintiffs for an order certifying this action as a class proceeding was heard on January 23 & 24, 2017, at 125 Brodie Street North, Thunder Bay, Ontario.

ON READING the pleadings in this action, the motion records of the parties, the transcripts of cross-examinations of the parties' affiants, the exhibits marked on those cross-examinations, the facts of the parties, all as filed, and on hearing the submissions of counsel for the parties, and for Reasons released this day,

1. **THIS COURT ORDERS** that this action be and hereby is certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, subject to the

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parties returning for directions with respect to the litigation plan if required, as the case proceeds.

2. **THIS COURT ORDERS** that the class is defined as:

All persons who were alive as of January 22, 2012, who were Crown wards ^{at any time from the period} on or after January 1, 1966, until March 30, 2017. — *hl*

3. **THIS COURT ORDERS** that Toni Grann, Robert Mitchell, Dale Gyselinck, and Lorraine Evans be and hereby are appointed as the representative plaintiffs for the class.

4. **THIS COURT ORDERS** that Koskie Minsky LLP and Watkins Law Professional Corporation be and hereby are appointed as counsel to the class.

5. **THIS COURT ORDERS** that the claims and rights of action asserted on behalf of the class against Her Majesty the Queen in right of the Province of Ontario are negligence and breach of fiduciary duty.

6. **THIS COURT ORDERS** that the common issues be and hereby are certified as:

- 1) Does the defendant owe a duty of care to the class?
- 2) If so, what is the standard of care applicable to the defendant?
- 3) Did the defendant breach that standard of care? If so, when and how?
- 4) Does the defendant owe a fiduciary duty to the class?
- 5) If so, what is the content of that fiduciary duty?
- 6) Did the defendant breach its fiduciary duty? If so, when and how?

7) Can the amount of damages for negligence and/or breach of fiduciary duty, or some portion thereof, be determined on an aggregate basis? If so, in what amount and who should pay it to the class?

8) Should the defendant pay punitive damages?

7. **THIS COURT ORDERS** that if the parties cannot agree on the form of notice to the class or other matters specified in the litigation timetable, they may return to court for directions.

8. **THIS COURT ORDERS** that any other proceeding commenced in Ontario in respect of the subject matter of this action (which does not include a proceeding commenced before the Criminal Injuries Compensation Board) be and hereby is stayed.

1. **THIS COURT ORDERS** that no other proceeding (which does not include a proceeding commenced before the Criminal Injuries Compensation Board) may be commenced in Ontario in respect of the subject matter of this action without leave of this Court.

2. **THIS COURT ORDERS** that the title of proceedings is amended as follows:

**TONI GRANN, ROBERT MITCHELL, DALE GYSELINCK and
LORRAINE EVANS**

Plaintiffs

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
ONTARIO**

Defendant

3. **THIS COURT ORDERS** that the form and manner of notice, and the manner in which class members may opt out will be dealt with by separate order. If the parties are

unable to agree on costs, either party may apply to the trial coordinator within thirty days of the release of these reasons for an appointment to argue costs by teleconference or videoconference if so advised.

Pierce J.

ENTRE	<u>0</u>	BOOK	_____
INSUIT	_____	REGISTRAR	_____
DATE	<u>SEP 14 2017</u>		_____
No.	<u>4587</u>	PER	_____
No.	_____	POUR	_____

PAPASSAY ET AL. v. HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF
ONTARIO

Court File No.: CV-14-0018

FILED
ONTARIO
INSCRIBED SUPERIOR COURT OF JUSTICE
Proceeding commenced at Thunder Bay.
SEP 15 2017

Proceeding under the *Class Proceedings Act, 1992*

LOCAL REGISTRAR/GENERAL LOCAL
ONTARIO SUPERIOR COURT OF JUSTICE
COUR SUPÉRIEURE DE JUSTICE DE L'ONTARIO
THUNDER BAY, ON

ORDER
(CERTIFICATION)

FILED
INSCRIT

KOSKIE MINSKY LLP

20 Queen Street West
Suite 900, Box 52

Toronto ON M5H 3R3

LOCAL REGISTRAR/GENERAL LOCAL

Jonathan Ptak LSUC# 309420 SUPERIOR COURT OF JUSTICE

COUR SUPÉRIEURE DE JUSTICE DE L'ONTARIO

Tel: (416) 595-2149 / Fax: (416) 204-2903 THUNDER BAY, ON

Garth Myers LSUC#: 62307G

Tel: (416) 595-2102 / Fax: (416) 204-4924

WATKINS LAW PROFESSIONAL CORPORATION

910 East Victoria Avenue

Thunder Bay, ON P7C 1B4

Christopher Watkins LSUC#: 36961D

Tel: (807) 345-4455 / Fax: (807) 345-7337

Lawyers for the Plaintiffs