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“VIA EMAIL TO fightwcb@gmail.com”

Paul Taylor
[REDACTED]
[REDACTED]

Dear Mr. Taylor:

Re: Ontario Superior Court of Justice
Statement of Charter Class Claim
Court File No. CV-21-00076781-00CP
Our Matter No. 0186799 GAM/SRP

We represent WorkSafeBC, the Workers' Compensation Appeal Tribunal (BC), the Alberta Workers' Compensation Board, the Appeals Commission for Alberta Workers' Compensation, the Saskatchewan Workers' Compensation Board, the Saskatchewan Board Appeal Tribunal, the Workers Compensation Board of Manitoba, the Manitoba Appeal Commission, the Commission des Normes, de L'équité, de la Santé et de la Sécurité du Travail, WorkSafeNB, the New Brunswick Workers' Compensation Appeals Tribunal, the Workers Compensation Board of Prince Edward Island, the Workers Compensation Appeal Tribunal of PEI, the Workers' Compensation Board of Nova Scotia, WorkPlaceNL, the Workplace Health, Safety & Compensation Review Division (NL), the Yukon Workers' Compensation Health & Safety Board (YWCHSB), the Yukon Workers' Compensation Appeal Tribunal, the Workers' Safety and Compensation Commission of the Northwest Territories and Nunavut, and the Northwest Territories & Nunavut Workers' Compensation Appeals Tribunal.

Mr. Jack Townsend, who is copied with this letter, represents the Nova Scotia Workers' Compensation Appeals Tribunal (incorrectly referred to in the Statement of Claim as the Workers' Compensation Appeal Tribunal of Nova Scotia).

We are writing to you in anticipation of the First Class Action Case Management Conference which is scheduled for August 5, 2022, at 2:30 pm, before Justice David Broad.

In his Notice of First Class Action Case Management Conference, Justice Broad has asked us whether we intend to file any motions in advance of certification and, if so, whether sequencing of the motions can be agreed upon.

On December 22, 2021, you provided us with a draft motion seeking, among other things:

1. an order under Rule 17.03 of the Rules to allow service outside of Ontario, and
2. an order granting the Lead Plaintiff's the ability to serve the defendants that reside outside of Ontario other than by personal service.

We are intending to file a motion for an order dismissing the action against the extraterritorial defendants on the basis that the Ontario Superior Court does not have jurisdiction to hear the claim against the extraterritorial defendants and, therefore, the action should be dismissed against them pursuant to rule 21.01(3)(a).

It seems to us that your motion for an order under Rule 17.03 of the Rules and our motion for an order dismissing the action against the extraterritorial defendants deal with the same issue and could logically be heard together.

Section 4.1 of the Ontario Class Proceedings Act states:

Early resolution of issues

4.1 If, before the hearing of the motion for certification, a motion is made under the rules of court that may dispose of the proceeding in whole or in part, or narrow the issues to be determined or the evidence to be adduced in the proceeding, that motion shall be heard and disposed of before the motion for certification, unless the court orders that the two motions be heard together.

If your motion for an order under Rule 17.03 of the Rules to allow service outside of Ontario is refused, or if our motion for an order dismissing the action against the extraterritorial defendants on the basis of jurisdiction is granted, this would dispose of a significant part of the claim.

Accordingly, we are seeking your agreement that these issues should be heard first, before the motion for certification.

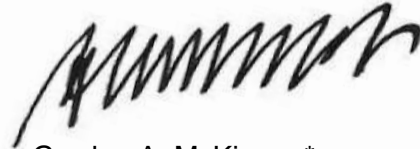
If your motion under Rule 17.03 is granted, and our motion dismissing the action against the extraterritorial defendants is dismissed, we would be prepared to consent to an order allowing the lead plaintiffs to serve the defendants outside of Ontario other than by personal service.

We look forward to your response.

Yours truly,

THOMPSON DORFMAN SWEATMAN LLP

Per:



Gordon A. McKinnon*

GAM/gd

cc. Jack Townsend

*Services provided through Gordon A. McKinnon Law Corporation