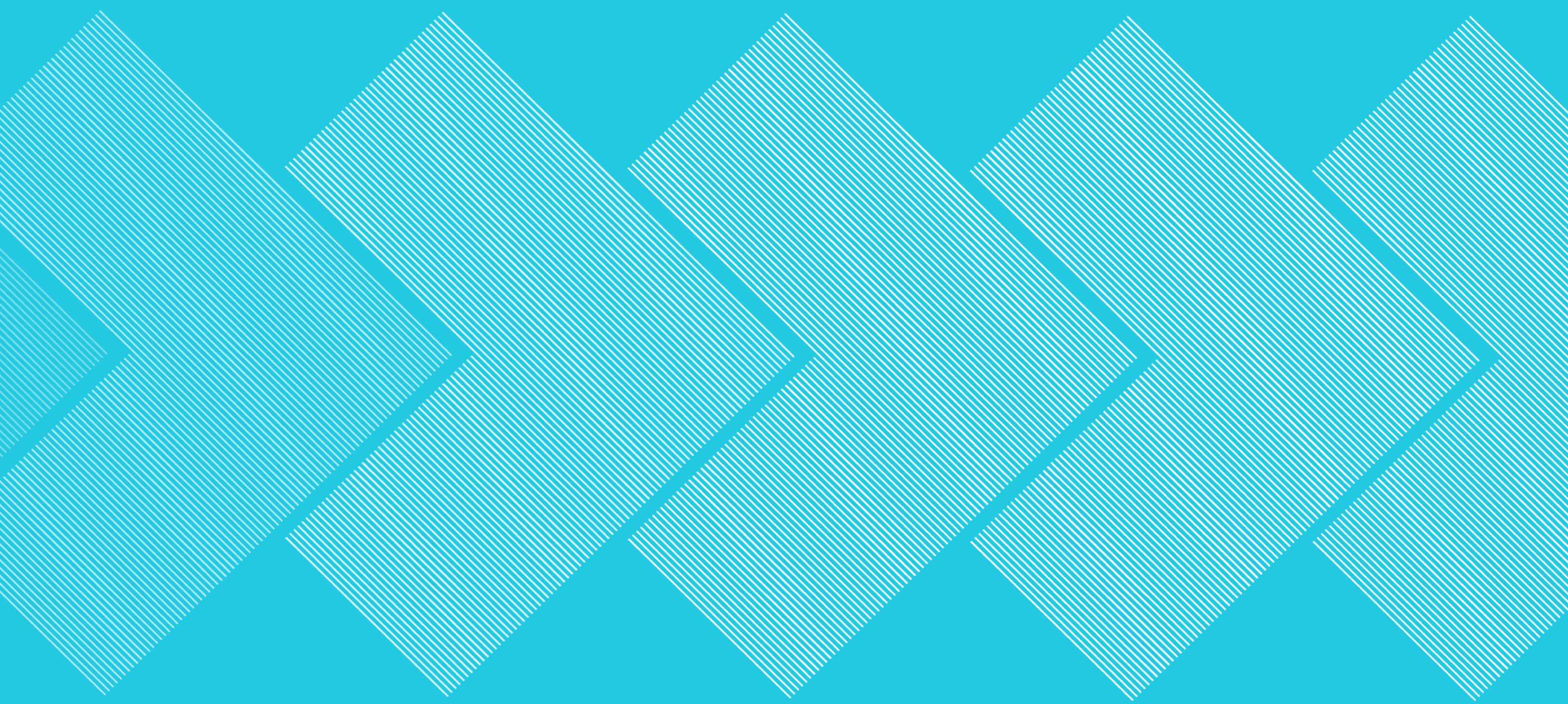
Class Actions in Canada 2024



Lenczner Slaght

Contents

MAIN

- What is a Class Action?
- Class Actions Across Canada
- The Certification Motion
- After Certification
- Settling Class Actions
- Costs and Funding of Class Actions
- Differences in Class Actions between Canada and the United States
- New Developments in Class Actions Procedure
- Securities
- Competition
- Product Liability
- Privacy and Cybersecurity
- Employment
- Consumer Protection
- Professional and Institutional Negligence

LENCZNER SLAGHT

- Our Class Action Practice
- Our Class Action Litigation Areas
- Our Expert Strategy
- Lead Author
- Contributing Authors
- Our Other Class Action Litigators

What is a Class Action?

A class action is a procedural tool for a representative plaintiff to seek relief on behalf of a whole class of individuals, without those individuals having to advance their own claims. Class actions allow representative plaintiffs and their lawyers to advance claims that would not be economically viable individually. The Supreme Court of Canada has held that the three goals of class proceedings are judicial economy, access to justice, and behaviour modification. Canadian courts typically construe class actions legislation with these three goals in mind.

In general, class actions in Canada have three stages:

1. **The certification motion** – at this initial stage, the plaintiff must persuade the court that the case can effectively and efficiently proceed as a class proceeding.
2. **The common issues trial** – if certified, the case then moves towards a trial on the common issues that were certified. Following that trial, the court grants judgment on the common issues that were certified.
3. **Individual issues trials** – if the plaintiff is successful at the common issues trial but there remain individual issues to be determined, a series of individual trials or hearings may be held to determine the entitlement of individual class members to relief.

Because class actions can affect the substantive rights of a whole class of persons, they are subject to greater procedural protections and more stringent court oversight than are individual cases. For example, class members must typically be provided with notice of important steps in the proceeding, such as the certification of a case as a class action or the proposed settlement of a class proceeding. In addition, court approval must be obtained for any settlement reached.

Importantly, there is no Canadian analog to the American multidistrict litigation system, which allows US Federal Courts to coordinate and case manage a variety of proceedings from across the country relating to the same subject matter. In addition to allowing for coordination of class actions, the American multidistrict litigation system can also allow for case management of large numbers of individual cases in parallel. By allowing plaintiff's counsel to advance large numbers of similar cases in parallel, challenging or complex cases that would not be cost effective in isolation, particularly mass torts cases, become economically feasible. In Canada, because there is no equivalent to the multidistrict litigation system, it is much rarer for plaintiff's counsel to bring large numbers of individual cases in mass torts situations. Rather, such cases are typically brought as class actions; a failure to obtain certification often results in the end of the proceeding.

> "There is no doubt that access to justice is an important goal of class proceedings. But what is access to justice in this context? It has two dimensions, which are interconnected. One focuses on process and is concerned with whether the claimants have access to a fair process to resolve their claims. The other focuses on substance — the results to be obtained — and is concerned with whether the claimants will receive a just and effective remedy for their claims if established. They are interconnected because in many cases defects of process will raise doubts as to the substantive outcome and defects of substance may point to concerns with the process."

AIC Limited v Fischer, 2013 SCC 69 at para 24

Class Actions Across Canada

While certain provinces including Ontario have a disproportionate share of class actions in Canada, class actions legislation exists across the country. National classes that include residents from across Canada are common and are often advanced. However, it is also common for plaintiff's counsel to advance parallel claims in different courts across the country. This can give rise to coordination problems.

Most class actions in Canada are started before provincial Superior Courts. While the Federal Court also has the ability to hear class actions, the Federal Court's jurisdiction is limited to certain categories of claims. Consequently, only a limited number of class actions are heard before the Federal Court, primarily competition claims and claims against the Federal government.

Parallel Class Proceedings

Because most class actions are heard before provincial Superior Courts, it is common for plaintiff's counsel to start different class actions in different provinces regarding the same subject matter. Initially, there can be disputes between different groups of plaintiff's counsel for carriage of a class action — that is, the right to advance the proceeding on behalf of the class. However, even once carriage disputes are resolved, it is not unusual for a single consortium of class counsel to advance multiple class actions across the country in respect of the same issue. In some cases, a single national class action might be asserted in one province. But in other cases, for example, different members of a consortium might bring a class action in British Columbia (on behalf of BC residents only), a class action in Québec (on behalf of Québec residents only), and a class action in Ontario (on behalf of everyone else in Canada).

> "... the legislatures intended courts in Ontario and British Columbia to have wide powers to make orders respecting the conduct of class proceedings... The broad powers appear on their face to authorize the sort of extraterritorial hearing which class counsel sought in these cases."

Endean v British Columbia, 2016 SCC 42 at para 39

Coordinating Class Actions in Different Provinces

The existence of parallel proceedings in different provinces increases the complexity of the case as a whole. For example, it may mean multiple certification motions and, if a case is settled, multiple settlement approval hearings. Often the parties attempt to streamline the litigation by agreeing that the focus of the litigation will be in one particular province. However, the courts in each province where litigation is started retain supervision over the particular proceeding in that province.

As noted above, there is no Canadian analog to the American multidistrict litigation system. Consequently, where there are multiple class proceedings on the same issue in different provinces, each province's courts have jurisdiction to decide the same issues. In general, they decide issues in parallel, and there are some mechanisms for coordination. In some circumstances, courts of one province have sat outside their home provinces in order for multiple different courts to hear argument on issues in a pan-Canadian settlement simultaneously. However, there is no requirement or even default for such formal coordination, and this means that occasionally different courts can reach different conclusions.

A dramatic example of this occurred in 2018 in connection with a series of class actions against Purdue Pharma. In that case, plaintiff's counsel had brought cases against Purdue in Ontario, Nova Scotia, Québec, and Saskatchewan, alleging that Purdue failed to warn consumers of the addictive properties of certain painkillers. In 2017, a settlement agreement was reached that covered all of the different Canadian proceedings, and the parties began the process of seeking court approval for that settlement. While courts in Ontario, Nova Scotia and Québec conditionally approved the settlements, the Saskatchewan Court of Queen's Bench declined to do so. While such a situation is unusual, it does highlight the risks for parties of parallel litigation in multiple forums across Canada.

The Certification Motion

In order for a proceeding to proceed as a class action, it must be "certified" as a class action. In Québec, this approval is called "authorization", and a distinct system applies there. However, in common law provinces, the test for certification is broadly similar. The purpose of the certification requirement is to ensure that the case is appropriate to proceed as a class action.

The Requirements for Certification

In order for a proceeding to be certified as a class action, a plaintiff must show that:

1. The pleadings disclose a cause of action;
2. There is an identifiable class of two or more persons that would be represented by the representative plaintiff;
3. The claims of the class members raise common issues;
4. A class proceeding would be the preferable procedure for the resolution of the common issues; and
5. There is a representative plaintiff who fairly and adequately represents the interests of the class, has a plan for the proceeding that sets out a workable method of advancing the proceeding, and does not have, on the common issues, an interest in conflict with other class members.

The Standard for Certification

While the moving party bears the burden of proof for each of these elements, the standard of proof is low. For the requirement that the pleadings disclose a cause of action, a defendant can only resist certification where it is "plain and obvious" that the facts pleaded do not disclose a cause of action. For the purpose of this analysis, the factual allegations in the pleadings are taken as true; no evidence is admissible on this issue.

For all of the other requirements, the plaintiff must show "some basis in fact" that the requirements are met. The Supreme Court of Canada has confirmed that this standard is lower than the usual balance of probabilities standard. For each of these elements, evidence is admissible. However, the evidence is not relevant to whether there is basis in fact for the claim, but rather only to whether there is some basis in fact to establish each of the individual certification requirements.

> "Canadian courts have resisted the U.S. approach of engaging in a robust analysis of the merits at the certification stage."

Pro Sys Consultants Ltd v Microsoft Corporation, 2013 SCC 57 at para 105

Procedure on a Certification Motion

In general, the procedure on a certification motion is as follows:

1. The plaintiff delivers a certification record – this generally includes affidavits from the representative plaintiff and potentially other class members. Depending on the type of case, it may also include affidavits from one or more expert witnesses.
2. The defendant delivers a responding certification record – this generally includes affidavits from the defendants, and it may also include affidavits from one or more expert witnesses.
3. The plaintiff typically delivers a reply record – this may contain further affidavits that directly reply to the affidavits in the defendant's responding certification record.
4. The parties conduct cross-examinations on the affidavits delivered – parties then generally have the opportunity to cross-examine some or all of the opposing party's affiants. In some provinces (such as Ontario), there is an automatic right to conduct such cross-examinations. In other provinces (such as British Columbia), leave of the court or consent is required. These cross-examinations occur out of court and the transcripts of those cross-examinations are filed with the judge hearing the certification motion.
5. The parties exchange written legal arguments for and against certification – generally the plaintiff delivers their written argument first, and the defendant has an opportunity to respond.
6. The judge hears oral argument on the certification motion.

Class actions are almost invariably case managed by a Superior Court judge. Such judges have broad discretion to give directions regarding the conduct of a proceeding to ensure the fair and expeditious determination of the issues. The case management judge typically sets the schedule for the steps on the certification motion and typically hears the certification motion themself.

A court's decision on a certification motion can generally be appealed by either side, though in certain circumstances leave may be required.

Authorization Motions in Québec

As set out above, the applicable rules in Québec for authorization are somewhat different. The request for authorization of a proceeding as a class action is generally based solely on an application for authorization, and the facts alleged are assumed to be true. The plaintiff does not have to file any affidavit evidence in support of an application for authorization, and the defendant may only file responding affidavits or cross-examine the plaintiff with leave of the court. In order for a case to be authorized, the plaintiff need only show that they have an arguable case.

> "… the question of scheduling and the order of proceedings must of necessity be decided on a case-by-case basis depending upon the peculiar circumstances of the matter. Indeed, ss 12 and 13 of the CPA specifically confer a broad discretion on the class proceedings judge to determine these procedural questions."

Attis v Canada (Minister of Health) (2005), 75 OR (3d) 302 at para 10

After Certification

In many class actions, the certification motion is the most hotly contested part of the litigation. In many cases, a negotiated settlement follows soon after certification. Yet as time goes on, a growing number of class actions are being contested on the merits, either on a summary judgment motion or at a common issues trial. Even after certification, class actions have unique procedures from start to finish that require special consideration.

Notice to Class Members

After a class action has been certified and all appeals have been exhausted, the usual next step is that notice is given to class members of the fact that the class action has been certified. The form of the notice is in the discretion of the court, but it may include placing an advertisement in one or more national or major regional newspapers, web-based or social media advertising and, depending on the size of the class, some form of direct notification to class members by mail or email. Class members generally have an ability at this point to opt out of the class action.

Discovery

After notice is given, the parties then engage in documentary discovery and examinations for discovery (the equivalent of depositions in the United States). As part of the discovery process, parties are generally obligated to disclose all relevant documents in their power, possession, or control. The disclosure process may involve the disclosure of confidential or commercially sensitive information. Courts will often provide protective orders to protect at least some of that information, though they are not granted as a matter of course in every case.

Examinations for discovery are generally more limited in scope than are depositions in the United States. In general, examinations for discovery are only permitted of parties to the litigation, and it is by default only permissible to examine a single representative of each corporate party to the litigation. These default rules are maintained for class actions, though courts have the ability to allow for additional examinations for discovery.

In order to compensate for the inability to examine multiple witnesses from a single party, it is common for an examining party to request undertakings of the party being examined to make inquiries of others or to produce additional information within that party's possession. Such requests must generally be complied with, provided the information sought is relevant and non-privileged and the scope of the request is proportional.

There is also no right to pretrial examinations for discovery of experts' opinions. In general, the only obligation on a party seeking to tender expert evidence at trial is to deliver a report in advance of trial that sets out the expert's opinion.

Summary Judgment Motions

Either a plaintiff or defendant (or both) can bring a summary judgment motion to dispose of a class proceeding. The timing of summary judgment motions varies significantly. In some cases, they are brought by defendants at the same time as the certification motion. In other cases, they are brought after certification but before discoveries, while in others they are brought once discovery is complete. In all cases, the burden on the party seeking summary judgment is the same: the court must be satisfied that there is no genuine issue requiring a trial in order to grant summary judgment.

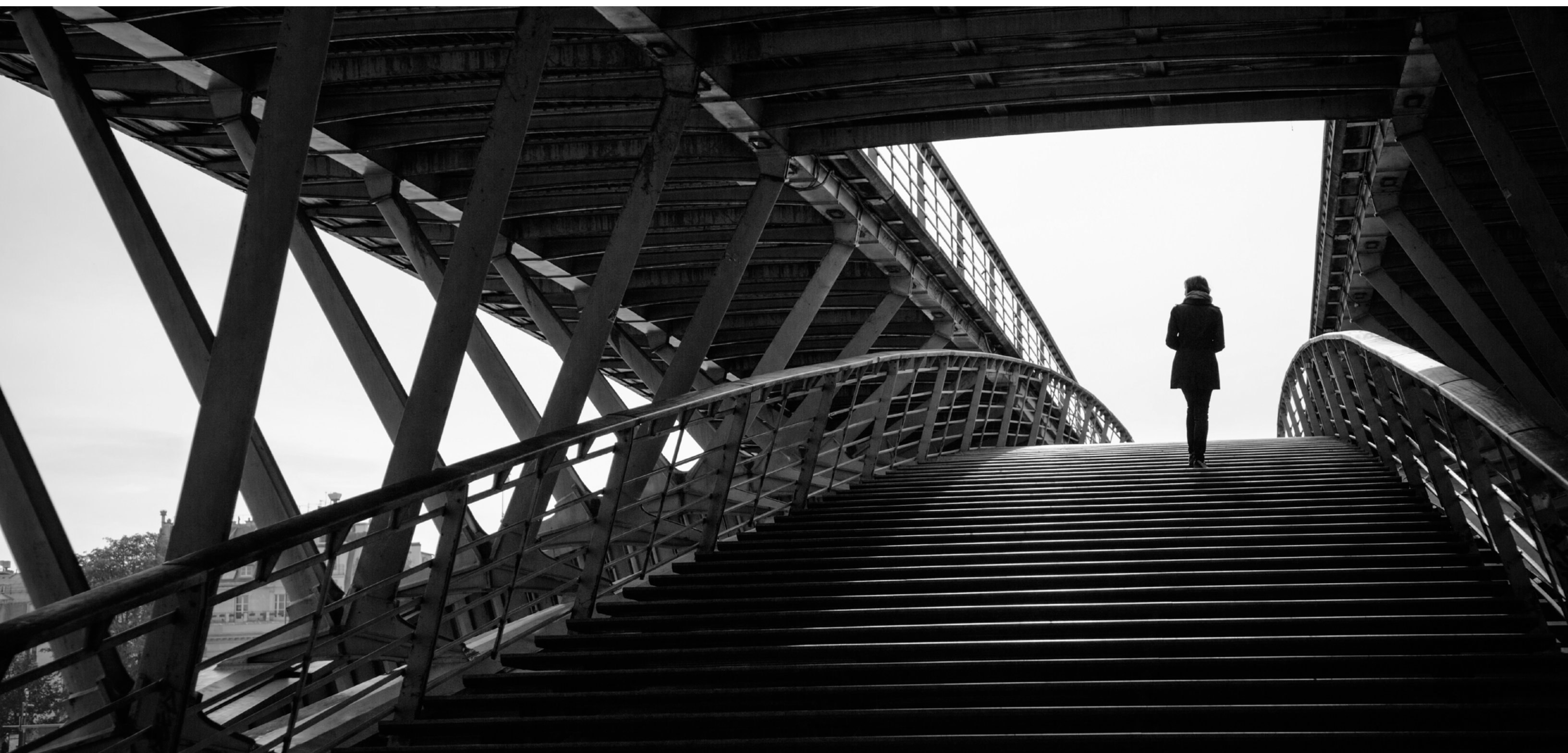
Common Issues Trials

After discovery is complete and expert reports have been exchanged, the parties then proceed to a trial of the common issues that were certified. In some cases, the common issues trial may dispose of the entire proceeding: for example, the plaintiff may be successful on the common issues, and the court may be in a position to award aggregate damages to the class. While Ontario courts in particular have emphasized the importance of aggregate damages as a meaningful part of the class actions scheme, there are important limits to where they can be awarded. Among other things: aggregate damages cannot be used to establish liability where loss is an element of liability; aggregate damages cannot be awarded unless all the elements of liability are made out at a common issues trial; and aggregate damages cannot be awarded where proof of damages is required from individuals.

In many cases, the common issues trial may resolve only certain aspects of class members' claims, and it may be necessary to conduct individual trials of remaining individual issues. Courts have significant discretion to fashion an appropriate system for the adjudication of remaining individual issues.

Settling Class Actions

While common issues trials are becoming more common in Canada, most class actions still settle at some stage of the proceedings. Because the representative plaintiff is advancing claims on behalf of an entire class of persons, the representative plaintiff has no power on his or her own to compromise those claims. Rather, any settlement agreement reached must be approved by the court hearing the proceeding.



Settlements of Multiple Class Actions

In cases where multiple class actions are brought in different provinces, it is common that settlement agreements cover all of the different proceedings. In such cases, the settlement agreements typically provide that they are only binding and effective when approved by the courts of every province where a proceeding is brought.

The Settlement Approval Process

Where a settlement is reached, the typical process in most provinces is that the parties first bring motions in every court the class proceeding was brought to seek approval of a plan to notify class members of the settlement and, where a certification motion has not yet been heard, to certify the class action for settlement purposes only. After court approval is obtained for the notice protocol, notice is given to class members of the proposed settlement. Where the case was certified for settlement purposes and an opt-out period has not yet occurred, class members are provided with a set period of time in which to opt-out of the settlement. The parties then bring a motion in each of the courts for approval of the settlement. Class members generally have a right to participate in the hearings to approve the settlement and to object to the settlement.

In some provinces, this process is modified slightly because of particular rules in those provinces. For example, some provincial class proceedings statutes provide that a case cannot be certified as a class action for settlement purposes until the settlement agreement has been approved.

> "In order for the court to approve a settlement, the court must conclude that the settlement is fair, reasonable, and in the best interests of the class."

The Standard for Settlement Approval

In order for the court to approve a settlement, the court must conclude that the settlement is fair, reasonable, and in the best interests of the class. In considering this, courts will consider a variety of factors, including:

a) the likelihood of recovery or likelihood of success;

b) the amount and nature of discovery, evidence or investigation;

c) the proposed settlement terms and conditions;

d) the recommendation and experience of counsel;

e) the future expense and likely duration of the litigation;

f) the number of objectors and nature of objections;

g) the presence of good faith, arm's-length bargaining and the absence of collusion;

h) the information conveying to the court the dynamics of, and the positions taken by, the parties during the negotiations; and

i) the nature of communications by counsel and the representative plaintiff with class members during the litigation.

Courts generally grant approval to settlements that fall within a zone of reasonableness, and it remains the exception for courts to decline to approve settlements. However, it does occur. For example, in May 2021, the Ontario Superior Court of Justice declined to grant approval to a settlement reached in a class action brought by former Crown wards in *Grann et al v HMQ in Right of the Province of Ontario*. Settlement approval is by no means a *pro forma* exercise, and parties need to ensure that the settlement can be thoroughly justified to all reviewing courts in order to ensure that a settlement agreement is approved.

Costs and Funding of Class Actions

Class actions are expensive and risky for all parties. In some provinces, those risks are increased by a loser-pays costs model, where the unsuccessful party typically has to pay at least a portion of the successful party's costs of the case. Third-party litigation funding is becoming increasingly common, as plaintiff's counsel seek to lessen their risks of bringing class actions. However, court approval for third-party funding is generally required, and there are significant unanswered questions as to when approval will be granted.

Costs of Class Actions

In Canada, the default rule in civil litigation is that the losing party pays at least a portion of the winning party's costs. This rule applies both to the proceeding as a whole and to particular procedural steps.

Some provinces have modified their costs rules for class proceedings. For example, British Columbia and Saskatchewan have legislated that parties typically bear their own costs in class actions.

By contrast, in Ontario, the general loser-pays costs rule remains the norm. In granting costs, Ontario courts have discretion to consider whether the class proceeding as a test case, raised a novel point of law, or involved a matter of public interest. However, those costs awards can still be significant.

In *Hughes v Liquor Control Board of Ontario*, the defendants successfully resisted certification of a proceeding that challenged an agreement that restricted how beer could be sold in certain retail channels. The Court ordered payment of costs to the defendants in that case in the aggregate amount of over $2.2 million. Costs remain highly discretionary, and in many cases the costs awarded have been substantially lower.

Contingency Fees

Plaintiffs' counsel almost invariably take on potential class actions in the hopes of receiving a contingency fee if they are successful. Such contingency fees are typically set out in the retainer agreement between class counsel and the representative plaintiff, and they are often expressed as entitling the plaintiff's lawyers to a percentage of recovery in the event of a settlement or judgment. However, fees payable to class counsel are subject to court approval, and courts have made it clear that they will not automatically rubber stamp any contingency fee. Rather, courts will consider a number of factors in deciding what an appropriate fee is, including the complexity of the case and the risks for class counsel in bringing the case.

Third-Party Funding for Class Actions

To defray the costs of potential class actions and avoid the downside risk of adverse costs awards, plaintiffs' counsel routinely look to third-party litigation funders. Litigation funding is becoming increasingly common in Canada, with a number of providers willing to backstop costs awards and provide funding for disbursements.

The amendments to Ontario's *Class Proceedings Act* that came into force in October 2020 formalized the requirement that a third-party funder must obtain court approval for any funding agreement. Under those provisions, an Ontario court must conclude that: (i) the agreement, including indemnity for costs and amounts payable to the funder under the agreement, is fair and reasonable; (ii) the agreement will not diminish the rights of the representative plaintiff to instruct the solicitor or control the litigation or otherwise impair the solicitor-client relationship; and (iii) the funder is financially able to satisfy an adverse costs award in the proceeding, to the extent of the indemnity provided under the agreement.

In some provinces, funding is available through public sources. In Ontario, the Class Proceedings Fund is statutorily mandated to provide funding to plaintiffs in class actions. The terms of funding it provides are fixed by statute: it provides plaintiffs with indemnity for any adverse costs exposure, and it also has the discretion to pay for disbursements incurred by plaintiff's counsel (but not their fees). The statutory *quid pro quo* is that the Fund is entitled to receive a levy in the amount of 10 percent of any award or settlement in favour of the plaintiffs plus a return of any funded disbursements.

> "Third-party litigation funding is a relatively recent and growing phenomenon in Canada. The law has so far recognized that third-party litigation funding can have a positive effect on access to justice. However, aspects of the third-party funding model raise concerns about third parties improperly meddling in litigation that does not involve them."

Houle v St Jude Medical Inc, 2018 ONSC 6352 at para 3

Differences in Class Actions between Canada and the United States

Class actions legislation in Canada came later than American legislation. While Canadian regimes have many similarities to American class actions systems, Canadian jurisdictions have in some respects opted to follow a different approach. Consequently, the dynamics and strategic considerations applicable to class actions in Canada can be very different from those in the United States.

While some class action cases are unique to Canada, many class actions filed in Canada concern similar factual situations and issues to claims already brought in the United States.

Yet while the issues between the two lawsuits may be similar, both substantive law and class action procedure are different in a number of respects between Canada and the United States.

This guide is too brief to highlight all of the salient procedural and substantive legal differences. However, set out below is a summary of some of the main procedural differences in class actions law in Canada compared to the United States.

	UNITED STATES	CANADA (OTHER THAN QUÉBEC)
Standard for certification	Preponderance of the evidence	Some basis in fact (lower than balance of probabilities)
Test for certification	Common issues must predominate over individual issues	No predominance requirement (except for class proceedings started in Ontario from October 2020 onward)
Discovery	Extensive pre-certification and post-certification discovery	No pre-certification discovery; post-certification discovery generally more limited, including strict limits on number of deponents to be examined for discovery and discovery from non-parties
Coordination of multiple class actions or other claims	Multidistrict litigation system allows for coordination of multiple claims	No equivalent to multidistrict litigation system
Juries	Class actions are sometimes tried by juries	Class actions generally tried by judge alone
Costs	Each party generally bears their own legal fees and disbursements	In certain provinces, unsuccessful party generally obligated to pay a portion of successful party's legal fees and disbursements

New Developments in Class Actions Procedure

The Canadian class action landscape continues to be impacted by legislative amendments introduced to Ontario's *Class Proceedings Act*. While many of those amendments received broad support from all sides of the bar, more contentious was a change to the test for certification. A new subsection 5(1.1) of the Act now requires a plaintiff to show, as part of the preferable procedure criterion for certification, that:

a) a class proceeding is superior to all reasonably available means of determining the entitlement of the class members to relief or addressing the impugned conduct of the defendant, including, as applicable, a quasi-judicial or administrative proceeding, the case management of individual claims in a civil proceeding, or any remedial scheme or program outside of a proceeding (the "superiority" requirement); and

b) the questions of fact or law common to the class members predominate over any questions affecting only individual class members (the "predominance" requirement).

While courts of many Canadian provinces routinely considered those factors at the certification stage as a part of a holistic assessment of the preferable procedure criterion, Ontario became the only Canadian jurisdiction to mandate that those requirements be met in order for an action to be certified.

When those amendments were introduced, the magnitude of the change which they would usher in was unclear. At least some plaintiffs' counsel were of the view that they had a significant impact: many defence counsel have observed that plaintiffs' counsel have commenced a greater number of class actions in British Columbia relative to Ontario in recent years, likely as a response to legislative amendments in Ontario. Despite those concerns, however, it remained unclear as to what impact subsection 5(1.1) would have.

It has taken some time for Ontario courts to give an answer to that question. Given the transitional provisions applicable to the amendments, subsection 5(1.1) only applied to cases filed from October 2020 onward. That transitional provision, coupled with the shift in cases to British Columbia — and likely a disproportionate shift in cases that would be most impacted by subsection 5(1.1) — has meant that it has taken several years for Ontario courts to render a decision on contested certification motions impacted by these amendments.

However, by late 2023, Ontario courts had started to weigh in. The first case to substantively consider these amendments was *Banman v Ontario*. This was a proposed class action brought against the Government of Ontario relating to the psychiatric treatment of patients who were detained in the forensic psychiatric unit of the St. Thomas Physchiatric Hospital. The claim asserted that patients were improperly treated, including by inappropriate confinements, restraints, humiliation at group therapy, and cruel punishments. The plaintiffs advanced various claims under common law and the Charter.

In a lengthy certification decision, Justice Perell certified the action as a class proceeding. With respect to the new preferable procedure criteria, Justice Perell suggested that the amendments represented a raising of the bar for certification rather than introducing fundamentally new requirements:

> Although it is arguable that its prerequisites of: (a) predominance of common issues over individual issues, and (b) superiority of all reasonably available alternative resolution procedures were already factors in the preferability analysis that developed in the original statute, the emphasis placed by "the only if, at a minimum language" and the debates in the Legislature reveals that the purpose of the amendment was to raise the threshold, heighten the barrier, or make more rigorous the challenge of satisfying the preferable procedure criterion. The factors of predominance of common issues over individual issues and superiority over the alternatives are signals that the proposed class action must be superlative to the alternatives in order to satisfy the preferable procedure criterion.

Banman suggests that the new subsection 5(1.1) requires a shift in emphasis, rather than a fundamental shift in analytical approach. It suggests a need for a more rigorous application of the preferable procedure requirement, without a sea change in the approach. However, the interpretation of subsection 5(1.1) remains at an early stage, and the extent to which the approach to certification in Ontario diverges from the approach across the rest of the country remains to be seen.

Securities Class Actions

Securities law class actions in Canada take a number of forms. Each province and territory's *Securities Act* creates civil causes of action for various forms of misconduct in securities markets. Those statutes create causes of action both for primary market purchasers for misrepresentations in prospectuses and offering memoranda, as well as for secondary market purchasers for misrepresentations or failures to make timely disclosure of material changes. In addition, purchasers can also advance common law claims such as negligent or fraudulent misrepresentation. However, the common law requires individuals to prove reliance by the purchasers on the misrepresentations, while such reliance requirement does not exist under the statutory causes of action. This generally renders the statutory claims preferable from plaintiffs' perspectives.

In addition to the usual certification requirements, plaintiffs seeking to commence a statutory secondary market claim must obtain leave of the court to start such a claim. For leave to be granted, the court must be satisfied that the action is brought in good faith and that there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiffs.

Recent Developments

In *Markowich v Lundin Mining Corporation* and *Peters v SNC-Lavalin*, the Ontario Court of Appeal endorsed a more expansive definition of "change" under the *Securities Act*. When assessing whether an event constitutes a material change, there is a two-part test to be applied:

a) whether there was a "change" in the issuer's "business, operations or capital"; and

b) whether it would reasonably be expected to have a significant effect on the marketplace of the issuer's securities (i.e., whether it was material).

The Court of Appeal found that there is no "bright-line test" for what constitutes a change, so long as the change is internal to the business, operations or capital of the issues (as opposed to a change external to the company).

In *Markowich*, the question was about whether Lundin Mining Corporation ought to have disclosed pit wall instability at its copper mine in Chile, which caused a rockslide, restricted access to a phase of the mine, and ultimately caused a change in scheduling.

The first instance judge held that the pit wall instability and rockslide did not constitute "changes" to Lundin's "business, operations or capital" because Lundin had not "completely changed directions in its line of business, stopped operating the mine, or changed its capital structure." The Court of Appeal disagreed. In the panel's view, a change to a company's business, operations or capital can include any "alteration, amendment, conversion, contraction, development, difference, discovery, detection, disruption, divergence, expansion, innovation, makeover, metamorphosis, modernization, modification, renewal, renovation, reversal, revelation, revolution, transition, or transformation." Since the slope instability and rockslide resulted in a change in scheduling for future production and shut down operations for a period at the mine, the Court found that there was a reasonable possibility that the plaintiff could demonstrate that the pit wall instability and rockslide were material changes that Lundin should have disclosed forthwith.

We have also seen increasing overlap between securities class actions and insolvency proceedings. In *Arrangement relatif à Xebec Adsorption Inc*, two shareholders moved to lift a stay in a CCAA proceeding to seek leave to commence a secondary market misrepresentation class action against the company's underwriters and directors. The Superior Court of Québec refused the motion, finding that a stay should only be lifted in circumstances where to do so is consistent with the goals of the stay and that the "overriding consideration" is whether the proposed legal proceeding would "seriously impair […] the debtor's ability to focus on the business purpose of negotiating the compromise or arrangement." Here, the balance of convenience favoured Xebec focusing on its efforts on its restructuring, to the benefit of its secured and unsecured creditors.

Competition Class Actions

Competition and antitrust law in Canada is largely set out in the federal *Competition Act*. In many ways, competition class actions are more limited in Canada than in the United States. At present, class actions can only be brought in respect of conduct that is governed by the criminal provisions (Part VI) of the *Competition Act*, which includes horizontal price-fixing cartels and fraudulent advertising. No class actions can be brought in respect of unilateral conduct, such as abuse of dominance (the Canadian equivalent of monopolization) or resale price maintenance. Moreover, unlike in the United States, damages under Canada's *Competition Act* are not trebled.

Canadian competition law is more plaintiff-friendly than American antitrust law in other respects. For example, in a 2013 trilogy of cases decided by the Supreme Court of Canada, the Court confirmed that both direct and indirect purchasers can advance claims for the overcharge paid as a result of a price-fixing conspiracy. In its 2019 decision in *Pioneer Corp v Godfrey*, the Court confirmed that umbrella purchasers may have a cause of action, though such other recent case law emphasizes that the harm caused to umbrella purchasers must be provable.

In *Pioneer*, the Supreme Court of Canada also confirmed that the two-year limitation period in the *Competition Act* is subject to the principle of discoverability and that the doctrine of fraudulent concealment can delay the running of that limitation period. This latter aspect means that defendants may be faced with historical claims.

To date, no competition class actions have proceeded through a contested trial in Canada. A claim against Microsoft was set to proceed to trial in British Columbia in 2018 but settled after initial written filings had been made.

Recent Developments

2023 continued a trend of Canadian courts exercising a robust gatekeeping role to screen out unmeritorious competition class actions at an early phase. While historically courts had been ready to certify proposed competition cases without much substantive review, 2023 saw a continued trend of increased scrutiny.

The most notable decision of the last year was the Federal Court of Appeal's decision in *Jensen v Samsung Electronics*. In that case, the plaintiffs made the rare allegation of conspiracy to restrict supply — in particular, the supply of dynamic random access memory chips. The certification motion was dismissed in 2021 on the basis that the plaintiffs failed to adequately plead the existence of an unlawful agreement and failed to provide even the minimal evidentiary basis required to pass the certification test. The Court found there was "not a scintilla of evidence on the record" to support bald allegations of direct communications between the defendants during which the plaintiffs alleged the conspiracy was established. While the decision had attracted attention for seemingly including a preliminary merits threshold as part of the analysis, the Federal Court of Appeal ultimately dismissed the appeal, confirming the appropriateness of requiring the plaintiffs to plead some particulars and establish some basis in fact for their allegations at certification.

The Federal Court's decision in *Difederico v Amazon.com* is another noteworthy example of a robust screening approach to competition class actions. In that case, the plaintiffs alleged that Amazon entered into anti-competitive agreements with third-party sellers who used Amazon's website. In long and detailed reasons, the Court dismissed the plaintiffs' certification motion, finding that the Statement of Claim did not properly plead a claim. The Court's detailed reasons show a willingness to grapple with complex legal arguments at an early stage of proceedings, highlighting that certification is no longer a formality in competition law cases.

"2023 continued a trend of Canadian courts exercising a robust gatekeeping role to screen out unmeritorious competition class actions at an early phase."

Product Liability Class Actions

Courts have also been dealing with a plethora of product liability class actions. Such claims can be framed as a claim that products were inherently negligently designed or manufactured (as is often the case for electronic or mechanical products that have a risk of explosion), as a claim that the manufacturer failed to warn the consumer of the risks (as is often the case for pharmaceutical products or other medical devices), or both.

Recent Developments

A significant battleground in this area has been the increased focus that courts have paid to whether product liability claims actually seek legally compensable harm. In cases where they do not, courts have shown an increasing willingness to refuse to certify those cases.

A recent example of this approach is the Ontario Superior Court's decision in *Palmer v Teva Canada Ltd*. In that case, manufacturers of valsartan recalled certain lots of valsartan due to contamination. The plaintiffs, individuals who were prescribed valsartan by their physicians, were not seeking compensation after having become ill due to ingesting contaminated drugs. Instead, the plaintiffs were seeking, among other things, reimbursement for the costs of medical services related to the recalls, including medical monitoring, refunds for the amounts paid for the drug between 2012 and 2018, and psychological harm damages. At the certification motion, the defendants argued that none of the certification criteria were satisfied.

Justice Perell dismissed the certification motion, finding that without making a claim that the contaminated valsartan was in fact dangerous and injurious to health (such as by causing cancer), the plaintiffs' claims were for pure economic loss for "a shoddy in quality but not a proven to be imminently dangerous product." Justice Perell emphasized that the law of negligence does not recognize a risk of injury or harm or an increase of any such risk as compensable type of damages.

Justice Perell's reasoning in *Palmer* was recently followed by the British Columbia Supreme Court in *Dussiaume v Sandoz Canada*. The class action was brought by plaintiffs who purchased or ingested a heartburn medication which the plaintiffs alleged contained a possible carcinogen.

> "A significant battleground in this area recently has been the increased focus that courts have paid to whether product liability claims actually seek legally compensable harm."

Like the plaintiffs in *Palmer*, they sought compensation for things such as medical monitoring. Like in *Palmer*, the Court found that the class had not suffered compensable harm.

These decisions can be contrasted with the Ontario Superior Court's recent decision in *DeBlock v Monsanto Canada ULC*, in which a class proceeding was certified. In *DeBlock*, the plaintiffs alleged that the defendants produced and sold herbicide products containing a cancer-causing compound. Unlike in *Palmer* and *Sandoz*, the plaintiffs were not seeking compensation for a risk of harm. The representative plaintiff suffered from non-Hodgkin's lymphoma, which he attributed to his exposure to the herbicide.

These decisions have significant implications for product liability class actions involving exposure to harmful or potentially harmful substances. Courts will carefully scrutinize how these claims are framed. Exposure, without more, will be insufficient to ground any claim capable of certification.

Privacy and Cybersecurity Class Actions

The revelation of a corporate data breach is now routinely followed by the filing of a proposed class action. Privacy breaches are governed in part by statute, including the federal *Personal Information Protection and Electronic Documents Act (PIPEDA)*, as well as provincial legislation, which varies from province to province. Of increasing importance in the Ontario privacy class action space is the provincial *Personal Health Information Protection Act (PHIPA)*, which governs the collection, access, use, and disclosure of personal health information in Ontario. Some provincial privacy statutes explicitly provide civil causes of action or ability to recover civil damages for privacy breaches (like *PHIPA*), while others do not.

Layered on top of such statutory remedies is the developing common law in relation to privacy. In 2012, the Ontario Court of Appeal affirmed the existence of the tort of intrusion upon seclusion, while in 2016 the Ontario Superior Court of Justice recognized the tort of public disclosure of embarrassing private facts. Claims for negligence are also routinely advanced against organizations that fail to take appropriate steps to maintain the security of personal information.

Recent Developments

Privacy law continues to develop across the country. The scope of the tort of intrusion upon seclusion — an attractive tort to plaintiffs, because of the availability of general damages without any compensable loss — has in particular been a significant battleground. In 2023, the Supreme Court of Canada dismissed applications for leave to appeal in a series of Ontario Court of Appeal decisions that held that businesses cannot be held liable for intrusion upon seclusion because their databases have been hacked. The final disposition of that issue will no doubt reassure virtually all businesses that maintain data regarding their customers.

With respect to health data, the Divisional Court released its decision in *Broutzas v Rouge Valley Health*. That case arose from allegations that former employees of Rouge Valley Health System used and disclosed information of new mothers who had given birth at the hospital (including name, gender, phone number, address, date of hospital admission, and health card number) in order to sell RESP products. Justice Perell denied certification in 2018.

This appeal focused primarily on the plaintiffs' intrusion upon seclusion claim. The Divisional Court ultimately dismissed the appeal, holding that intrusion upon seclusion could not be made out.

Broutzas shows that whether intrusion upon seclusion will be made out will be determined on the facts of the particular case. The Divisional Court acknowledged that in some contexts, disclosure of a hospitalization itself could divulge personal health information that was clearly private (such as a psychiatric admission), giving rise to intrusion upon seclusion. However, in this case, each of the representative plaintiffs had widely announced the news of their pregnancies and birth, some on social media. The panel agreed with the motion judge's distinction that what had been accessed here was personal information, but not necessarily private information.

The Divisional Court also held that the plaintiffs failed to establish facts that could characterize the intrusion as so "highly offensive" as to cause distress, humiliation, or anguish. *Broutzas* is a good reminder that mere intrusion into private affairs is not sufficient to meet the tort's elements, and that failing to proffer some basis in fact that the impugned conduct is "highly offensive" will prevent certification of privacy class proceedings. *Broutzas* also affirms the principle that the elements of breach of privacy statutes, like *PIPEDA* and *PHIPA*, are entirely distinct from the elements of privacy torts like intrusion upon seclusion. Whether an intrusion is highly offensive must be demonstrated independently from conclusions reached by privacy commissioners during regulatory proceedings.

While intrusion upon seclusion has generally been associated with informational privacy, Justice Glustein in *Farrell v Attorney General of Canada* left open the possibility of a broader interpretation. In *Farrell*, the plaintiffs sought certification of a class proceeding relating to statutorily permitted strip searches conducted in federal penitentiaries. The plaintiffs alleged that these searches breached the Charter and engage various torts, including intrusion upon seclusion. Justice Glustein disagreed with Canada's argument that there was no reasonable cause of action in intrusion upon seclusion because it is limited to breaches of health and financial information. What matters is that there be an intentional intrusion, physically or otherwise, into a person's seclusion.

Employment Class Actions

Employment class actions in Canada primarily revolve around claims for payment of amounts due under employment standards legislation. We continue to see actions involving employees' claims for unpaid vacation and holiday pay, and actions in which workers claim that they were misclassified as independent contractors when they were instead employees, and are therefore owed amounts under employment standards legislation.

Recent Developments

The limitation period applicable to employee classification class actions continues to be a challenging issue in these kinds of class actions. While most common law Canadian provinces have a two-year limitation from the date the claim was or reasonably ought to have been discovered, the Ontario Superior Court has held that discoverability of a worker's claim may be delayed until the worker can reasonably know that they have a claim. The worker can rely on representations in written policies that the plans comply with employment standards legislation, or the general unwritten term in an employment contract that it complies with employment standards legislation.

In *Singh v RBC Insurance Agency Ltd*, the Ontario Superior Court conditionally certified a class action regarding an alleged failure to pay vacation and public holiday pay, as it found that the representative plaintiff's claim was statute barred. The Court permitted the class to substitute a new representative plaintiff, but it was not prepared to order the employer to provide employment records for class counsel to contact a representative plaintiff, given the privacy issues in play regarding employee information.

The Court found that the representative plaintiff's claim was statute barred on the basis that he was presumed to have discovered his claim when he received his last commission payment, and there was no pleading regarding reliance on any policy or unwritten term to address a limitation defence. While the representative plaintiff sought to amend his pleading to address the limitation period, the Court denied the pleading amendment because the proposed representative plaintiff had already admitted on cross examination that he did not rely on any representation of the employer.

"The limitation period applicable to employee classification class actions continues to be a challenging issue. The Ontario Superior Court has held that discoverability of a worker's claim may be delayed until the worker can reasonably know that they have a claim."

Interestingly, the Court declined to restrict the start date of the class definition to two years before the date of the Statement of Claim of the class action, as it held that other class members could rely on discoverability.

An Ontario employment class action this year also offered a glimpse into the decertification of class actions. In *Navartnarajah v FSB Group Ltd*, a class action was certified on behalf of a class of workers who alleged they were misclassified as independent contractors when they were employees. Following the opt-out period, it became clear that the only class member who wanted to participate in the class action was the representative plaintiff. In this case, 66 out of 69 of the independent contractors had opted out of the class action, given the liability for back taxes if they were found to be employees. One class member was deceased and the other wanted to sell his portfolio back to the defendant, which he was unable to do as the class action was ongoing. The Court held that judicial economy was not enhanced by the action remaining a class proceeding, and given that the vast majority of the class members wanted to stay with the current arrangement, there was no need for behaviour modification.

Consumer Protection Class Actions

Consumer protection class actions continued to be an active source of litigation across Canada in 2023. While consumer claims continue to be advanced as part of broader product liability actions, including in automotive class actions, there were also a number of standalone consumer protection class actions commenced in 2023. These consumer protection claims include claims against social media companies on behalf of users under the age of majority, technology companies in respect of personal data breaches, and against food delivery companies in respect of service fees.

We anticipate that 2024 will see continued litigation in this area, particularly given the new consumer protection legislation in Ontario anticipated in 2024. Ontario's *Consumer Protection Act* includes an expansion of the unfair practices provisions which may increase consumer class action claims in Ontario.

Recent Developments

A recent significant decision in this area is the British Columbia Court of Appeals' decision in *Williams v Audible Inc*, in which the Court considers the ability of the plaintiff to pivot its theory of the claim at certification and the evidentiary issues that flow when that occurs.

The claim in this case related to an allegation that a contractual exclusivity clause between Apple, Inc. and Audible Inc. which concurrently prohibited Audible from integrating audiobook content with any non-Apple distribution service and prohibited Apple from sourcing audiobooks from anyone other than Audible, was a violation of the *Competition Act* and the *Business Practices and Consumer Protection Act*.

The plaintiff sought to certify, among other claims, a claim for aggregate damages restricted to a portion of the proposed class period in response to the defendant's limitations claim. The evidence before the chambers judge included an expert report from an economist providing a methodology to calculate aggregate damages premised on a prior theory of the claim. It became clear during the hearing of the certification motion itself that the report could not ground a credible methodology sufficient to certify a claim for aggregate damages on the theory of the case presented on the motion. Faced with this evidentiary hurdle, the plaintiff sought an adjournment to adduce further expert evidence to support the revised aggregate damages claim. The chambers judge declined the adjournment request and dismissed the plaintiff's certification application.

On appeal, the Court of Appeal for British Columbia considered whether the chambers judge erred in denying the plaintiff's request for an adjournment to remedy the evidentiary deficiency exposed on the motion. The Court found no error and dismissed the appeal. In its reasons, the Court considered specifically where adjournments may be appropriate to allow the plaintiff to adduce further evidence in support of its claim. In particular, the Court considered circumstances where evidence was not before the Court but there was an evidentiary basis to conclude that further evidence would be available.

The Court upheld the chambers judge's decision, holding specifically that adjournment requests to "rectify technical deficiencies, and to obtain evidence known to exist, occasion less prejudice to defendants than last-minute adjournment proposals to allow a party to seek out new expert evidence to substantiate a fundamentally revised theory of the case."

While the circumstances of this case may be somewhat unique, given the significant change to the plaintiff's theory at the motion hearing itself, adjournment requests to obtain better evidence are not novel. The decision indicates that courts may take a longer, harder look at those requests where a plaintiff fails to sufficiently think through its case in enough time to marshal the necessary evidence to meet the test for certification, particularly when it relates to the tricky issue of advancing an aggregate damages methodology.

Evidentiary issues also came to the fore in the recent Superior Court of Québec case of *Duguay c General Motors du Canada ltée*, an automotive class action where the claim related to claims brought under the *Consumer Protection Act* in respect of advertising of the electric battery range of the vehicles. In considering the evidence put forward on the merits, the Court found that the plaintiff class did not actually identify the representations it said were false or misleading. The Court held that the plaintiff did not provide an evidentiary basis to get to the next step – a conclusion that class members were aware of the alleged misrepresentation.

Professional and Institutional Negligence Class Actions

2023 saw a greater tendency for courts to adopt a pragmatic and nuanced approach to relationship-based claims involving large groups of plaintiffs alleging professional or institutional wrongdoing. Claims of professional or institutional wrongdoing raise particularly sensitive concerns in a class proceeding context, since they evoke a typical concern of courts — the certification of a class proceeding that is unwieldy and unmanageable given the particularity inherent in such claims, which very often involve personal relationships and personal harm.

Recent Developments

Traditionally, professional relationships have been understood as personal. Being personal, these relationships present challenges to the class proceedings context, since the personal aspect of the relationship may make any action by a group of clients difficult to certify. However, the decision of the Ontario Court of Appeal in *Boal v International Capital Management Inc* found that some professional relationships can scale in a way that makes them more amenable to certification. In *Boal*, the Court of Appeal allowed an appeal from a decision denying certification of a claim alleging breach of fiduciary duty against two mutual fund dealers and their firm.

The claim alleged that the advisors and their firm steered clients into promissory note investments in a firm in which the advisors had a financial interest. The certification judge declined to certify the action, finding that the statement of claim did not disclose a class-wide fiduciary duty to each of the clients. A majority of the Divisional Court evaluated the claim on the basis that the fiduciary relationship underpinning it depended on the terms of professional codes of conduct. The Court found that such codes are not by themselves sufficient to underpin a class-wide fiduciary duty.

> "2023 saw a greater tendency for courts to adopt a pragmatic and nuanced approach to relationship-based claims."

The Court of Appeal reversed this decision, holding that it was at least possible for a fiduciary relationship to be established on a class-wide basis. The Court determined that the fiduciary relationship claimed rested on a broader foundation than simply codes of conduct binding the advisors. A finding of a class-wide duty was possible based on the common incidents of the relationships as well as the professional codes that would justify a class-wide trust and confidence reposed by the clients in the firm and its advisors. The decision in *Boal* illustrates that the increasingly scaled aspect of certain types of professional services can facilitate class proceedings by some client groups.

A similar trend is evident in institutional negligence claims. The decision of Justice Perell of the Ontario Superior Court of Justice in *Banman v Ontario* was another important development in institutional class proceedings, particularly after the introduction of the new subsection 5(1.1), which altered the test for establishing that a class action is a preferable procedure. *Banman* was an intended class proceeding concerning the psychiatric treatment of the class members when they were patients detained in the forensic psychiatric unit of the St. Thomas Psychiatric Hospital.

Justice Perell certified aspects of the claim — allowing it to proceed on the issues of negligence, breach of fiduciary and (interestingly) on vicarious liability allegations attributing to the Ontario government liability for patient-on-patient assaults. However, causation and damages (including a punitive damages claim) were not certified.

Access to justice concerns drove the preferability analysis in *Banman*, for the claims that were certified in spite of the higher bar for certification contained in the new subsection 5(1.1) of the *Class Proceedings Act*.

It is said that class proceedings legislation is procedural and does not create substantive rights. While this remains true, it is not, however, easy to distinguish between procedure and substance. The practical demands of pleading certifiable claims will increasingly drive plaintiffs to frame substantive allegations in pleadings in ways that facilitate certification. As these claims progress, they can be expected to drive more substantive law jurisprudence addressing duties that are framed in increasingly systemic and categorical terms.

Lenczner Slaght's Class Action Practice

A Canadian leader in class actions, Lenczner Slaght is one of the only firms in the country to have repeatedly litigated on behalf of defendants at the trial level. Our lawyers' class actions expertise has been sharpened through hands-on experience in a wide range of complex and technically demanding proceedings.

Our firm has defended many of Canada's most closely watched class action lawsuits over the past two decades.

It's that experience that has led to our lawyers being repeatedly recognized by various organizations as leaders in the class action bar.

Class Action Litigation Areas

Our nationally ranked litigators have represented Canadian and international clients across virtually every industry and across the spectrum of class action proceedings, including: antitrust and *Competition Act* matters; consumer claims; deceptive and unfair trade practices; employment disputes; environmental issues; financial services; health and medical malpractice; insurance matters; mass torts; misleading advertising; negligence claims; pensions and employee benefits; product liability; and securities and shareholder rights.

40

Expert litigators with a class actions practice.

30+

Years representing our clients in class actions.

2024

Recognized in Chambers Canada - Dispute Resolution: Class Action (Defence).

We represent accounting firms, financial institutions, manufacturers, pharmaceutical companies, retailers, and more in class actions.

Litigate.com

"[Our class actions lawyers] are superb litigation tacticians who are able to stickhandle difficult issues, facts and witnesses in litigation. They also have enormous respect from sitting judges."

Chambers Canada

"They are extremely able to advise on other provincial jurisdictions."

Chambers Canada

Expert Strategy

At Lenczner Slaght, we help clients respond to the daunting challenges of class actions with rigorous legal groundwork, innovative thinking and carefully planned litigation strategy. Our lawyers are accomplished courtroom litigators, admired by their peers for the knowledge and skills they bring to complex commercial cases.

Class action litigation can be expensive and time-consuming for all parties — particularly the companies and individuals against whom actions are brought. To reduce the burden of litigation and minimize long-term costs, we focus our efforts on defeating an action at an early stage, primarily by challenging attempts to certify it as a class proceeding. At this key certification stage, there are many opportunities to narrow the parties and issues raised in the litigation and, in some cases, bring it to a conclusion. Lenczner Slaght's reputation and courtroom skills enable us to make the most of these opportunities — to the benefit of our clients.

If a class action is certified, we have the experience to skillfully guide clients through the next steps. Our lawyers have litigated some of the leading common issues trials and appeals. Whatever path the litigation takes, our team has the experience and judgment to find the best solutions for our clients.

Lead Author

Paul-Erik
Veel
416-865-2842
pveel@litigate.com

Paul-Erik is a co-leader of Lenczner Slaght's class actions practice. Paul-Erik's litigation practice focuses on class actions, competition law, intellectual property matters, complex commercial disputes, and professional liability. His clients include major technology companies, financial institutions, professional services firms, pharmaceutical companies, retailers, and franchisors. Paul-Erik has extensive trial experience, having acted as counsel in trials involving a number of industries and subject-matters, and appearing repeatedly before both the Supreme Court of Canada and the Ontario Court of Appeal.

Paul-Erik leads Lenczner Slaght's Data-Driven Decisions program. In 2022, he was recognized as one of the Top 25 Most Influential Lawyers for his innovation in and advocacy of using data analytics to advance the practice of law and achieve exceptional outcomes for clients.

Contributing Authors

Katrina Dods

416-865-3728
kdods@litigate.com

Katrina's practice includes a broad range of commercial litigation, professional liability, and class action matters.

Sarah Bittman

416-865-9673
sbittman@litigate.com

Sarah's practice encompasses complex commercial litigation, arbitration, regulatory proceedings, class actions, and professional liability.

Caroline H. Humphrey

416-438-8801
chumphrey@litigate.com

Caroline's practice encompasses a broad range of areas, including class actions, competition law, contract disputes, and professional negligence.

Aoife Quinn

416-865-9907
aquinn@litigate.com

Aoife's practice encompasses a broad range of civil litigation, with particular experience in employment disputes, class actions, and complex real estate litigation.

Margaret Robbins

416-865-2893
mrobbins@litigate.com

Margaret maintains a broad commercial litigation practice, with a particular focus on professional liability, class actions, and public law.

Scott Rollwagen

416-865-2896
srollwagen@litigate.com

Scott provides our clients with strategic advice and analysis to solve complex legal problems quickly and effectively. He also leads our firm's research team.

Our Other Class Action Litigators

Meghan Bridges
416-749-3974
mbridges@litigate.com

Jonathan Chen
416-865-3553
jchen@litigate.com

Monique Jilesen
416-865-2926
mjilesen@litigate.com

Rebecca Jones
416-865-3055
rjones@litigate.com

Brian Kolenda
416-865-2897
bkolenda@litigate.com

Eli S. Lederman
416-865-3555
elederman@litigate.com

Jonathan McDaniel
416-865-9555
jmcdaniel@litigate.com

William C. McDowell
416-865-2949
wmcdowell@litigate.com

Brendan F. Morrison
416-865-3559
bmorrison@litigate.com

Andrew Parley
416-865-3093
aparley@litigate.com

Madison Robins
416-865-3736
mrobins@litigate.com

Matthew Sammon
416-865-3057
msammon@litigate.com

Lawrence E. Thacker
416-865-3097
lthacker@litigate.com

Mark Veneziano
416-865-3051
mveneziano@litigate.com