

## Representative Work

Osler currently provides counsel to or has represented these clients in class actions:

### COMPETITION

- › **Cadbury Adams Canada Inc.** in 14 class actions across Canada arising from a regulatory investigation into the pricing and sale of chocolate confectionary products in Canada.
- › **Elpida Memory Inc.** in an indirect purchaser class action related to alleged price fixing regarding DRAM.
- › **E.I. Dupont Canada Company** in a class action involving pricing and distribution arrangements with independent distributors.

### CONSUMER BANKING

- › **Amex Bank of Canada** in six class actions alleging various breaches of the Quebec Consumer Protection Act and constitutional challenges.
- › **Toronto-Dominion Bank** in certification appeals and settlement of a class action seeking damages for fees applied to foreign exchange transactions on TD Visa credit cards.

### ENVIRONMENTAL

- › **Vale Inco Limited** in a class action on behalf of residents of the City of Port Colborne, alleging property damages related to historic emissions from Inco's nickel refining activities.
- › **Vale Inco Limited** in a class action arising from an accidental gas emission from one of the company's facilities.

### PENSIONS AND EMPLOYEE BENEFITS

- › **Canada Mortgage and Housing Corporation** in a class action relating to pension surplus.
- › **General Motors** in several class actions commenced by current employees and retirees claiming pension benefits and post-retirement and other benefits and damages.
- › **Hudson Bay Company** in a class action claim on the sale of the Northern Stores Division. The Supreme Court of Canada recently upheld the Court of Appeal decision in favour of the Hudson Bay Company.

Osler's Class Actions Practice Group has successfully defended clients in many of the leading and complex class action cases in Canada. We have an excellent track record in opposing and defeating class certification and winning early dismissals in every major jurisdiction in Canada. Our class action team has broad and deep experience guiding clients through the most complex business-critical challenges. We offer:

- › **Risk Mitigation** – We work proactively with clients to develop risk management strategies to avoid claims whenever possible and to be “litigation ready” when claims are commenced. Osler will rapidly mobilize the right team to assist in minimizing the impact of a class action through immediate management of processes and documents, aggressive early assessment and planning, probable risk assessment, budget controls and crisis communications.
- › **National Coordinating Trial Counsel** – Our lawyers serve in the role of national counsel across Canada and are able to respond to cases simultaneously across the country including in the Province of Québec, where civil rules apply. We have ongoing experience in leading and coordinating multi-jurisdictional and U.S./international cases.
- › **Unmatched Research Capabilities** – The research requirements for effective defence of a class action can be complex and detailed. Osler's Research Department provides sophisticated support leading to precedent-setting results.
- › **Thought Leadership** – Our work has been instrumental in establishing leading principles of class action law including: the right of a defendant to defer the filing of a defence until after certification; the right to conduct examinations of representative plaintiffs in aid of certification and the scope of such examinations; the nature of evidence to be filed on certification; the rules regarding solicitation of class members by plaintiff's solicitors; and the necessity of considering the merits of the claim as part of the certification process.

- › **Hydro-Québec** where a class action by retirees claiming pension surplus was dismissed.
- › **Imperial Oil Limited** in Alberta, in a representative action brought by retirees/pensioners challenging a pension plan amendment that may reduce future benefits.
- › **Michelin North America (Canada) Inc.** in successfully resisting an appeal relating to contribution holidays and plan administration.

#### **PRODUCT LIABILITY/CONSUMER CONTRACTS**

- › **Dell Canada Inc.** in the Supreme Court of Canada on the ability of companies to oust the provincial class actions regime in favour of a commercial arbitration.
- › **Eli Lilly Canada Inc.** and **Eli Lilly & Company** in defence of four proposed class actions in Ontario, Quebec, British Columbia and Alberta on claims relating to alleged side effects of an antipsychotic drug.
- › **Imperial Tobacco** in the successful defence of the largest proposed class action in Canada brought on behalf of all current and former smokers in Ontario.
- › **Microsoft Corporation** in a class action regarding billing practices for internet access services provided by the Microsoft Network. The court upheld an exclusive jurisdiction clause in the “click wrap” licence agreement that each individual must accept before using the service.
- › **Proctor and Gamble**, whose branded pet food products were manufactured by Menu Foods Limited and distributed in Canada.
- › **State Farm Mutual Automobile Insurance Company** in two separate proposed class actions relating to: 1) the use of non-original equipment manufactured parts in insured repairs; and 2) the applicability of an insured’s deductible when a vehicle is written off and salvaged.

#### **RANKINGS**

According to a survey by the *2010 Canadian Legal Expert Directory*, Osler is “most frequently recommended” for class actions expertise.

#### **SECURITIES**

- › **Atlas Cold Storage Holdings Inc.** in a proposed class proceeding brought by unit holders relating to allegations that the financial statements of Atlas Cold Storage Income Trust contained misrepresentations.
- › Two senior executives of **SunOptra Inc.** in a class proceeding brought by shareholders relating to allegations that the company’s financial statements contained misrepresentations.
- › A senior executive of **Southwestern Resources** in a class proceeding brought by shareholders relating to allegations that its public disclosure documents contained misrepresentations concerning assay results.
- › **The China National Oil & Gas Exploration & Development Corporation** in a proposed securities class action relating to alleged insider trading.
- › **International Comfort Products** in a \$100 million shareholder “strike suit” in the form of a derivative action.
- › **Lehman Brothers Inc.** in claims by shareholders of Bre-X Minerals Ltd. and Bresea Resources Ltd.
- › **Ontario Ministry of Finance** in a class action brought by thousands of investors in syndicated mortgages claiming damages in excess of \$1.4 billion.
- › **Royal Bank Asset Management** as one of the respondents to a proposed class action on the alleged claim for damages resulting from market timing practices in open ended mutual funds.

#### **CONTACT US**

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