

## NOTICE OF CLASS ACTION CERTIFICATION – ALGO CENTRE MALL COLLAPSE CLASS ACTION

**TO: ALL INDIVIDUALS AFFECTED BY THE COLLAPSE OF THE ALGO CENTRE MALL ON JUNE 23, 2012**

### **Summary of Lawsuit & Certification**

On June 23, 2012 the parking deck of the Algo Centre Mall (“Mall”) in Elliot Lake Ontario collapsed. On February 13<sup>th</sup>, 2014, the Ontario Superior Court of Justice allowed a class action lawsuit to proceed in respect of the Collapse.

The lawsuit claims \$120 million in general, special (i.e. out-of-pocket expenses), punitive and *Family Law Act* damages from Eastwood Mall Inc., Bob Nazarian, the Corporation of the City of Elliot Lake, M.R. Wright and Associates, R.G.H. Wood, G.J. Saunders, the Province of Ontario, Algoma Central Properties Inc., Coreslab Structures Inc., John Kadlec, James Keywan, Non-Profit Retirement Residences of Elliot Lake Inc. and 1425164 Ontario Ltd. (carrying on business as NorDev), (collectively referred to as the “**Defendants**”).

This lawsuit alleges that the Defendants were variously negligent in, among other things, the design, construction, maintenance and/or inspection of the Algo Centre Mall and that as result of their actions and/or omissions, the Mall collapsed. The Plaintiffs allege that as a result of the Defendants’ negligence the Class Members suffered losses of life, personal injuries and financial damages.

This class proceeding will generally determine whether the Defendants owed a duty of care to the Class regarding the safety of the Mall, whether they breached that duty of care and if they did, whether they should they be required to compensate the Class Members for their damages arising from the Mall’s collapse. The class action has not yet gone to trial and the Court has not yet made any rulings on the liability of the Defendants or the potential entitlements of the Class Members to financial compensation.

### **Who is Included in the Lawsuit – Class Definition**

Ms. Elaine Quinte, Mr. Jack Quinte and 1358896 Ontario Inc. (Hungry Jack’s Restaurant) have been appointed by the Court to act as the Representative Plaintiffs for all individuals or businesses (except the Defendants) who:

- a. Were occupants in the Mall at the time of the Collapse, or were the occupants’ parents, spouses, children and siblings;
- b. Were tenants in the Mall at the time of the Collapse; or
- c. Were employed in the Mall at the time of the Collapse (even if they were not working on the day of the Collapse).

(collectively referred to as the “**Class Members**” or the “**Class**”)

### **Class Counsel**

The law firms of Roy O'Connor LLP, Feifel Broadbent Gualazzi and Aubé Law Office have been approved by the Ontario Superior Court of Justice to act for the Class Members. For further information about the class proceeding lawsuit you they can be reached at:

#### **ROY O'CONNOR LLP**

Attention: Carolyn  
200 Front Street West, 23rd Floor  
Toronto, ON M5V 3K2  
Tel: (416) 362-1989  
Fax: (416) 362-6204  
Web: [royoconnor.ca](http://royoconnor.ca)  
Email: [info@royoconnor.ca](mailto:info@royoconnor.ca)

#### **FEIFEL BROADBENT GUALAZZI**

Attention: Erika  
629 Queen Street East,  
Sault Ste. Marie, ON P6A 2A6  
Tel: (705) 945-8901  
Fax: (705) 945-9139  
Web: [soolaw.ca](http://soolaw.ca)

#### **AUBÉ LAW OFFICE**

Attention: Jodie  
25 Columbia Walk,  
Elliot Lake, ON P5A 1Y6  
Tel: (705) 848-6993  
Fax: (705) 848-8621

### **How to be part of the Class Action**

**PLEASE NOTE: DO NOTHING IF YOU WISH TO BE A CLASS MEMBER IN THIS ACTION!**

Under Ontario law, if you are a person falling within the Class definition you will automatically be included in the Class unless you choose to be excluded from this proceeding.

### **Financial Consequences for Class Members**

There is no cost to you to participate in the lawsuit.

If the lawsuit is successful at the common issues trial, or any subsequent appeal, the Court may award compensation to the Class as a whole (of which you may receive a portion). Alternatively, the Court may establish a process, including individual hearings, in order to determine the amount of damages, if any, each individual Class Member may be entitled to receive.

If the class action is successful, legal fees and disbursements incurred by the lawyers for the Class will be deducted from the total amounts recovered on behalf of the Class. The amount of such legal fees and disbursements must be approved by the Court.

In this case, the Plaintiff has received financial support from the Class Proceedings Fund (the "Fund"), which is a body created by statute and designed to allow access to the courts through class actions in Ontario. The Fund has agreed to reimburse the Plaintiff for some disbursements incurred in pursuing this action. The Fund will also be responsible for costs that may be awarded against the Plaintiff in this case. In exchange, the Fund will be entitled to recover from any court award or settlement in favour of the class the amount of its funded disbursements (except amounts repaid by the Plaintiff or ordered paid by the Defendants). The Fund is also entitled to 10% of any amounts that may be payable to class members.

If the class action is unsuccessful, Class Members will not be awarded damages and you will not receive any compensation from this lawsuit. If the class action is unsuccessful, you and other Class Members will not have any financial obligations in respect of the lawsuit.

Whether or not the class action lawsuit is successful, all Class Members who do not exclude themselves from the class action will be bound by the final judgment of the Court.

**How to be excluded from the Class Action**

To exclude yourself from this proceeding you must contact Roy O'Connor LLP by telephone, fax, email or regular mail at the address above and provide them with your full legal name and mailing address. Roy O'Connor LLP will confirm your decision to exclude yourself from this action in writing. The deadline for excluding yourself from this class action is Monday June 23, 2014.

If you decide to exclude yourself from this class action, you will be excluded from any settlement or award of damages awarded by the Court. Once you exclude yourself from this class action, you will receive no further communications regarding this action from Class Counsel.

**Other matters**

If you wish to participate personally in the lawsuit (that is, other than being a member of the Class), you may apply to the Court for permission to do so.

The Court papers in this lawsuit are available for inspection at the office of the Superior Court of Justice, Courthouse, 393 University Ave., Toronto, Ontario, Court file no. CV-12-458218-00CP. The Court's certification decision is available on the website [www.royoconnor.ca](http://www.royoconnor.ca).

**PLEASE DO NOT CALL THE DEFENDANTS OR THE COURT ABOUT THIS ACTION. THEY WILL NOT BE ABLE TO ANSWER YOUR QUESTIONS ABOUT THE LAWSUIT.**

This notice is published pursuant to the section 17 of the Ontario Class Proceedings Act and was approved by the Court.

April 23, 2014