

Media Release

Elliot Lake Mall Collapse Class Action Certified – Will Proceed as a Class Proceeding

Toronto, Ont. (February 13, 2014) – A class action lawsuit arising from the collapse of the Algo Center Mall in Elliot Lake Ontario on June 23, 2012 has been certified as a class action by Ontario Superior Court Justice Edward Belobaba. The lawsuit will now be allowed to proceed as a class action. John and Elaine Quinte have brought the action on behalf of approximately 300 people and businesses that may have suffered damages as a result of the Collapse. The lawsuit names the Algo Centre Mall's current and former owners, several professional engineers and construction professionals as well as the governments of the City of Elliot Lake and the Province of Ontario as defendants.

The case was launched in July 2012. The hearing to decide whether the action would be certified as a class action was heard on November 12, 2013 at which time the Court reserved its ruling. In a decision released on February 13, 2014, the judge found that this case was a “text-book” example of the type of case ideally suited to being litigated as a class action. According to the Judge's Reasons for Decision:

[7] The plaintiffs say that a class action, and in particular the resolution of the proposed common issues (in essence, who's to blame and in what proportions?) will significantly advance the litigation and expedite the determination of the individual damage claims. They say that the certification of this action as a class proceeding will enhance the class members' access to justice, further judicial economy and achieve some measure of behaviour modification on the part of those defendants that are found liable.

[8] I agree.

[9] In my view, this is precisely the kind of case for which the class action was designed. Compensation is obviously owing to those who were killed, injured or suffered financial losses. The damage amounts that may be recovered will most likely require individual assessments but a common issues class action trial that asks, in essence, “what happened and who's to blame” would definitely advance the overall litigation.

Among other things, the Reasons for Decision address various arguments advanced by the Province of Ontario in opposition to the Plaintiffs' motion. Ontario argued, in part, that it was plain and obvious that it did not owe the class members a duty of care in respect of any inspections of the Mall carried out under the Occupational Health and Safety Act (OHSA). Relying on existing authority from the Supreme Court of Canada in respect of the “recognized category of negligent inspection cases”, Justice Belobaba rejected the Province's argument. His Honour also noted that section 65(2) of OHSA “expressly provides that the Ministry of Labour

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may be held liable for torts committed by 'a Director, Chief Prevention Officer, and *inspector* or an engineer of the Ministry' [emphasis added]."

The claims against Ontario – and against all defendants – may now proceed to trial.

According to Elaine Quinte, one of the Representative Plaintiffs that launched the lawsuit:

"Elliot Lake was devastated by the Mall's collapse. My husband and I are just two of people who lost their life's work in the collapse. We are very pleased with the Judge's decision and hope, for everyone's sake, that we can bring this case to a fair resolution as soon as possible."

Mrs. Quinte was injured in the Collapse and her restaurant, "Hungry Jack's", was destroyed and has yet to reopen.

The law firms of Roy O'Connor LLP, Feifel Broadbent Gualazzi and Aubé Law Office act for the Plaintiffs.

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