

Quick Facts About Class Actions in Ontario

Class Action Lawsuits – Generally

A **class action** is a type of lawsuit where one or more persons collectively launch a lawsuit on behalf of themselves and other people in the same “class.” Class actions are most common where a large number of people believe they have suffered the same or similar injuries. By acting together, the class action is intended to allow the claims of all class members to be resolved in a single lawsuit rather than many individual lawsuits.

Class actions are intended to make it more efficient for people who have suffered the same harm to seek justice by spreading the cost of litigation over a large number of people. Class actions are also intended to promote access to justice by encouraging people who may have small claims – or who might not choose to start a lawsuit by themselves – to join together in this manner.

Class Action Lawsuits – in Ontario

Class actions in Ontario are conducted in accordance with the *Class Proceedings Act, 1992* (the “CPA”). Under the CPA, class members are represented by one person called the **representative plaintiff**. The representative plaintiff deals with the lawyers on behalf of the class. The representative plaintiff also has responsibilities to all class members.

To start a class action in Ontario, a person who has suffered harm can apply to the Superior Court of Justice to be the representative plaintiff in a lawsuit on behalf of other persons who have experienced the same injury. As well, the representative plaintiff applies to the Court to **certify** the lawsuit as a class action. When deciding whether to certify the class action, the Judge considers whether requirements set out in the CPA are met.

If the Judge agrees to certify the class action, s/he appoints a **class counsel** – the lawyer for the representative plaintiff and class members. If the class action lawsuit is *not* certified, individual members of the class can still initiate lawsuits on their own.

Where the class action is certified, the representative plaintiff provides a **notice** to the class members according to directions provided by the Judge. The usual methods of providing notice include posting an ad in a newspaper or magazine or mailing a letter if the class members are known. Any member of the class may decide not to participate in

the class action – a process called opting-out. Members who do not opt out of the class action are bound by its final outcome. In all aspects of the class action, the Judge looks out for what is in the best interests of all members of the class.

Once litigation proceeds past the certification stage, it often results in a settlement. The Judge has the responsibility to ensure the settlement is in the best interests of the class as a whole and is fair and reasonable. Depending on the specific circumstances of different class members, however, the amount of compensation paid to class members may vary.

The CPA protects most class members from the responsibility to pay lawyers' fees in a class action. This protection does not extend to the representative plaintiff or in the situation where plaintiffs opt out of the class action and start individual lawsuits. Similarly, class members as a whole are not responsible to pay the fees of the class counsel. Those fees are the subject of an agreement made between the representative plaintiff and class counsel. Such agreements must be approved by the Judge.