

BEFORE GILBERT, HORNIGAN & BROWN J.A.

25 Feb-2016 DATE Thursday February 25th, 2016.

DISPOSITION OF MOTION

The motion is granted and on a further order
of granting the appeal.

The appeal was brought to challenge orders
made pursuant to s. 13 of the Class Proceedings Act
1992, those orders related to communications
between the defendants and class members
during the opt-out period in those compensation
class actions.

In my view, the impugned orders are in her-
selves in nature. They do not resolve any
substantive claim or defence. Indeed, the appellants
concede that they erred however that because
the orders contained their right to communicate with
class members they have finally lost ~~that right~~ a
substantive free-standing right in dependence of the
litigation.

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Court File No.: C61672

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444101
C61673

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Windsor

MOTION RECORD

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(C61672/61673)

We disagree.

The defendants' right to communicate has to be understood in the context of this litigation and the motion that was decided. We are firmly of the view that the orders in question are procedural in nature; they are made under s. 12 of the Act and they govern communications during one stage of the litigation process. While the orders have a final effect on the defendants that is not determinative. To be "final" ^{order} the order must resolve a substantive claim or defence of the parties: Waltman v. Thomson Reuters Canada Ltd., 2015 ONCA 53, [2015] O.J. No. 395, at para. 22.

Costs of the motion to the moving party fixed at \$5,000, all inclusive.

J. J. Gillese J.A.