

Court File Nos. CV-20-00643386-00CP
CV-20-0000981-00CP
CV-20-00001041-00CP
CV-20-00001194-00CP
CV-20-643488-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE E. BELOBABA)
MONDAY, THE 19TH DAY
OF JANUARY, 2021

B E T W E E N:

NORDIK WINDOWS INC.

Plaintiff

- and -

AVIVA INSURANCE COMPANY OF CANADA, AVIVA GENERAL
INSURANCE COMPANY, and AVIVA CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

A N D B E T W E E N:

MATT McCALLUM,
MATT McCALLUM DENTURIST PROFESSIONAL CORPORATION

Plaintiffs

- and -

AVIVA INSURANCE COMPANY OF CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*



AND BETWEEN:

THE ROYAL CANADIAN LEGION, VICTORY BRANCH # 317

Plaintiff

- and -

AVIVA INSURANCE COMPANY OF CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

AND BETWEEN:

ROSHAN HOLDINGS INC.

Plaintiff

- and -

AVIVA INSURANCE COMPANY OF CANADA

Defendant

Proceeding under the *Class Proceedings Act, 1992*

AND BETWEEN:

WORKMAN OPTOMETRY PROFESSIONAL CORPORATION, 1298928
ONTARIO LTD., THE SUIT SHOP CO. LTD., 2328867 ONTARIO INC.
(o/a BOOSTER JUICE 369, BOOSTER JUICE 388, BOOSTER JUICE 375, AND
BOOSTER JUICE 452), 2635774 ONTARIO INC (o/a BOOSTER JUICE 275),
2660364 ONTARIO INC (o/a BOOSTER JUICE 200), IN HARMONY DANCE
STUDIO LTD, RANA TAJI OPTOMETRY PROFESSIONAL CORPORATION

Plaintiffs

- and -

AVIVA INSURANCE COMPANY OF CANADA, AVIVA GENERAL INSURANCE COMPANY, AVIVA CANADA INC., CO-OPERATORS GENERAL INSURANCE COMPANY, CONTINENTAL CASUALTY COMPANY, DESJARDINS GENERAL INSURANCE SERVICES INC., ECONOMICAL MUTUAL INSURANCE COMPANY, FEDERATED INSURANCE COMPANY OF CANADA, GORE MUTUAL INSURANCE COMPANY, INTACT INSURANCE COMPANY, LLOYD'S CANADA INC., MARC LIPMAN AS ATTORNEY-IN-FACT IN CANADA FOR LLOYD'S UNDERWRITERS, LLOYD'S UNDERWRITERS, NORTHBRIDGE GENERAL INSURANCE CORPORATION, NOVEX INSURANCE COMPANY, ROYAL & SUN ALLIANCE INSURANCE COMPANY OF CANADA, SGI CANADA INSURANCE SERVICES LTD., TRAVELERS INSURANCE COMPANY OF CANADA, THE WAWANESA MUTUAL INSURANCE COMPANY, and
WYNWARD INSURANCE GROUP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THESE MOTIONS, made by:

- the Plaintiff in Court File No. CV-20-00643386-00CP, Nordik Windows Inc. (the “Nordik Plaintiff”);
- the Plaintiffs in Court File No. CV-20-0000981-00CP, Matt McCallum and Matt McCallum Dentistry Professional Corporation (the “Denturist Plaintiffs”);
- the Plaintiff in Court File No. CV-20-00001041-00CP, The Royal Canada Legion, Victory Branch #317, (the “Legion Plaintiff”);
- by the Plaintiff in Court File No. CV-20-00001194-00CP, Roshan Holdings Inc. (the “Hotel Plaintiff”); and

- the Plaintiffs in Court File No. CV-20-643488-00CP, Workman Optometry Professional Corporation (the “Workman Plaintiffs”),

for an Order for carriage of a proposed business interruption class action against Aviva Insurance Company of Canada, Aviva General Insurance Company, and Aviva Canada Inc., was heard on Wednesday, January 6, 2021 and Friday January 15, 2021, via videoconferencing, with the decision being made this day with reasons to follow,

ON READING:

- the Motion Record and Supplementary Motion Record filed by the Nordik Plaintiff;
- the Motion Record, Supplementary Affidavit of Peter W. Kryworuk, and Responding Motion Record filed by the Denturist Plaintiffs;
- the Motion Record, Supplementary Affidavit of Peter W. Kryworuk, and Responding Motion Record filed by the Legion Plaintiff;
- the Motion Record, Supplementary Affidavit of Peter W. Kryworuk, and Responding Motion Record filed by the Hotel Plaintiff;
- the Motion Record, Supplemental Motion Record, and Responding Motion Record filed by the Workman Plaintiffs;
- the facts and authorities filed by the Nordik Plaintiff, Denturist Plaintiffs, Legion Plaintiff, Hotel Plaintiff, Workman Plaintiffs, and Aviva Insurance Company of Canada, Aviva General Insurance Company, and Aviva Canada Inc., regarding these motions; and

- o the additional written submissions of counsel for the moving plaintiffs and the defendants Aviva Insurance Company of Canada, Aviva General Insurance Company, Aviva Canada Inc. Gore Mutual Insurance Company and Continental Casualty Company provided to the Court in correspondence with the Court.

AND ON HEARING the submissions of counsel for the moving parties and counsel for Aviva Insurance Company of Canada, Aviva General Insurance Company, and Aviva Canada Inc.,

1. **THIS COURT ORDERS** that carriage for the proposed business interruption class action against Aviva Insurance Company of Canada, Aviva General Insurance Company, and Aviva Canada Inc., is granted to the Nordik Plaintiff of Court File No. CV-20-00643386-00CP (the “Nordik Action”) subject to paragraphs 2 – 7.

2. **THIS COURT ORDERS** that carriage of the claims brought in Court File No. CV-20-0000981-00CP (the “Denturists Action”) is granted to the Denturist Plaintiffs.

3. **THIS COURT ORDERS** that carriage of the claims brought in No. CV-20-00001041-00CP (the “Legions Action”) is granted to the Legion Plaintiff.

4. **THIS COURT ORDERS** that the Nordik Action is stayed to the extent that it asserts claims of behalf of the proposed class members in the Denturists Action who are owners of insurance policies issued by Aviva pursuant to the Denturists Program (as defined in the Denturists Action).

5. **THIS COURT ORDERS** that the Nordik Action is stayed to the extent that it asserts claims of behalf of the proposed class members in the Legion Action

who are owners of insurance policies issued by Aviva pursuant to the Legions Program (as defined in the Legions Action).

6. **THIS COURT ORDERS** that the action in Court File No. CV-20-00001194-00CP, (the “Hotels Action”) is stayed as a class proceeding, with the result being that the claims brought on behalf of the proposed class members in the Hotels Action will be advanced in the Nordik Action.

7. **THIS COURT ORDERS** that the action in Court File No. CV-20-643488-00CP (the “Workman Action”) is stayed to the extent that it asserts claims against Aviva Insurance Company of Canada, Aviva General Insurance, and Aviva Canada Inc., on behalf of members of the classes in the Nordik Action, the Denturists Action, or the Legions Action.

8. **THIS COURT ORDERS** that Thomson, Rogers, Lax O’Sullivan Lisus Gottlieb LLP, and Miller Thomson LLP (the “Nordik Consortium”) are appointed as Class Counsel in the Nordik Action.

9. **THIS COURT ORDERS** that Lerner’s LLP is appointed as Class Counsel in the Denturists Action and the Legions Action.

10. **THIS COURT ORDERS** that Koskie Minsky LLP and Merchant Law Group LLP are appointed as Class Counsel in the Workman Action.

11. **THIS COURT DECLARES** that no other class proceedings may be commenced on Ontario in relation to the subject matter of the Nordik Action, the Legions Action, the Denturists Action, or the Workman Action without leave of the Court.

12. **THIS COURT DECLARES** that any other class proceedings filed in Ontario in relation to the subject matter of the Nordik Action, the Legions Action, the Denturists Action or the Workman Action are stayed.

Signed: *Justice Edward P. Belobaba*

Notwithstanding Rule 59.05, this Judgment [Order] is effective from the date it is made, and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal Judgment [Order] need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party to this Judgment [Order] may nonetheless submit a formal Judgment [Order] for original signing, entry and filing when the Court returns to regular operations.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at Toronto
under the *Class Proceedings Act, 1992*

ORDER

THOMSON, ROGERS
Barristers and Solicitors

L. CRAIG BROWN (LSO No. 20151Q)
ROBERT BEN (LSO No. 48002Q)
STEPHEN BIRMAN (LSO No. 55164F)
AVA N. WILLIAMS (LSO No. 77865N)
Tel No. 416-868-3100

LAX O'SULLIVAN LISUS GOTTLIEB
Barristers and Solicitors

CRAWFORD SMITH (LSO No. 42131S)
RAHOOL AGARWAL (LSO No. 54528I)
MATTHEW LAW (LSO No. 59856A)
COLE PIZZO (LSO No. 80453U)
Tel.: 416-598-1744

MILLER THOMSON LLP

MARK R. FREDERICK (LSO No. 28418B)
CHRIS T.J. BLOM (LSO No. 27213H)
Tel.: 416-595-8500
