

2021 04G 0129 CP
IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION

BETWEEN:
RUTH HIGDON
FIRST PLAINTIFF

AND:
CLYDE COMPTON
SECOND PLAINTIFF

AND:
HERBERT BRAY
THIRD PLAINTIFF

AND:
HILLY ACRES FARM LIMITED
DEFENDANT

BROUGHT UNDER THE CLASS ACTIONS ACT

SUMMARY OF CURRENT DOCUMENTS	
Court File No.:	2021 04G 0129 CP
Date of Filing of Document:	_____, 2024
Name of Filing Party or Person:	Stephen Barnes, Counsel for Plaintiffs
Application to which Document being filed relates:	Application for an Order certifying the within proceeding as a class proceeding
Statement of purpose in filing:	Order certifying the within proceeding as a class proceeding

ORDER FOR CERTIFICATION

BEFORE the Honourable Justice Murphy

THIS APPLICATION was made by the Plaintiffs for an order certifying this proposed class action as a class action pursuant to the *Class Actions Act*, S.N.L. 2001, c. C-18.1 (the "Act");

UPON READING the Application for Certification, the evidence filed by the parties, and the submissions of counsel;

AND ON BEING ADVISED that the parties consent to this Order;



IT IS HEREBY ORDERED:

1. That the action is hereby certified as a class action pursuant to the Act.
2. That the certified class (the "Class") is defined as:
 - All natural persons, residing in Newfoundland and Labrador, who:
 - i. consumed eggs or products containing eggs which were subject of a Food Recall and Notification issued by the Canadian Food Inspection Agency on October 8th, 2020, updated on October 9th, 2020, and December 12th, 2020 related to its food safety investigation of the possible contamination of salmonella present in eggs produced at the Defendant's premises; and
 - ii. claim to have suffered physical illness or injury as a result of consuming the eggs or products containing eggs described in (i).
3. That Ruth Higdon, Clyde Compton and Herbert Bray (c/o Bob Buckingham Law, 81 Bond Street, St. John's, NL A1C 1T2) be appointed as the representative plaintiffs ("Representative Plaintiffs") of the Class.
4. That Bob Buckingham Law be and are appointed as class counsel ("Class Counsel").
5. That the nature of the claims asserted on behalf of the Class are claims in negligence arising from the Defendant's production of eggs or products containing eggs which were subject of a Food Recall and Notification issued by the Canadian Food Inspection Agency on October 8th, 2020, updated on October 9th, 2020, and December 12th, 2020 related to its food safety investigation of the contamination of Salmonella present in eggs produced at the Defendant's premises.
6. That the relief sought by the Class includes general damages, including damages for pain and suffering; special damages; aggravated damages; pre-judgment interest; costs; and such further and other relief as may be Ordered.
7. That the following questions are certified as common issues:



1. Negligence:

- a. Did the Defendant owe a duty of care to members of the Class?
- b. If so, what is the standard of care required of the Defendant?
- c. If so, did the Defendant breach the standard of care as pleaded by the members of the Class in the Statement of Claim?

2. Aggregate Damages:

- a. In the event that the Plaintiffs succeed on the certified cause of action, is the remedy of aggregate damages available in the circumstances of this case?
- b. If the remedy of aggregate damages is available, then should that remedy be awarded in the circumstances of this case?

3. Punitive and Exemplary Damages:

- a. In the event that the Plaintiffs succeed on the certified cause of action, are the remedies of punitive and exemplary damages available in the circumstances of this case?

8. That notice of certification, the opt-in and opt-out deadline, and means of opting in or out will be provided via notice of certification in the form set out in Schedule "A" to this Order (the "Notice of Certification"). The Notice of Certification will be distributed to the Class by the following means, as also set out in the Plaintiff's litigation plan attached as Schedule "B" to this Order (the "Litigation Plan"), which will constitute the notice plan (the "Notice Plan").

Direct notice:

- i. Within 30 days of Class Counsel receiving the issued order certifying this action as a class proceeding, Class Counsel will send Notice of Certification directly to known members of the Class by regular mail and/or electronic mail (electronic mail will be the primary method, where it is available).




Indirect notice:

- i. Within 30 days of Class Counsel receiving the issued Order certifying this action as a class proceeding, Class Counsel will give notice to members of the Class as follows:
 - a. post the Notice of Certification and the opt-in and opt-out forms on its website (www.buckinghamlaw.ca);
 - b. issue a press release describing the contents of the Notice of Certification;
 - c. publish the Notice of Certification in Saltwire Network newspapers and community papers distributed within the island portion of Province of Newfoundland and Labrador and in Cape Breton, Nova Scotia;
 - d. place a banner advertisement on VOXM.com until the end of the opt-in and opt-out deadline;
 - e. provide the Notice of Certification upon request.
9. That half the costs of distributing the Notice of Certification shall be borne by the Defendant. The Plaintiffs shall pay the other half.
10. That the Plaintiffs' Litigation Plan, attached hereto as Schedule "B", is approved as a workable method of advancing the action on behalf of the Class, subject to clarification and amendment if required now or as the action progresses.
11. That a member of the Class may opt out of the class action by completing and sending an opt-out form, attached hereto as Schedule "C", to Bob Buckingham Law on or before the opt-out deadline stipulated in the form, which shall be ninety (90) calendar days after the date of the first publication of the Notice of Certification in Saltwire Network publications as outlined above in paragraph 8(i)(c).
12. That any natural person, not residing in Newfoundland and Labrador, but who otherwise meets the criteria of the Class in paragraph 2, may become a member of the Class by opting in to the action by completing and sending an opt-in form, attached hereto as Schedule "C", to Bob Buckingham Law on or before the opt-in deadline stipulated in the form, which shall be ninety (90) calendar days after the date of the first publication of the Notice of Certification in Saltwire Network publications as outlined above in paragraph 8(i)(c).



13. That within thirty (30) days of the close of the opt-in or opt-out periods which are defined in paragraphs 11 and 12 above, Class Counsel will provide to the Defendant via letter the names and addresses of all those who elected to opt out or opt in to the within action.
14. That the Defendant shall deliver its Statement of Defence no later than ninety (90) days following the issuance of this Order.
15. That no costs are awarded in this Application.

DATED at the City of Corner Brook, this 18 day of APRIL,
2024.



**COURT
OFFICER**

