

2025 01G **3413**  
SUPREME COURT OF NEWFOUNDLAND AND LABRADOR  
GENERAL DIVISION

BETWEEN:

BARBARA LYNN RANDELL

FIRST PLAINTIFF

AND:

ROWENA SHORT

SECOND PLAINTIFF

AND:

BUILDING PRODUCTS OF CANADA CORP.

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*, SNL 2001, c C-18.1

STATEMENT OF CLAIM

**Overview**

1. This is a proposed national class action against Building Products of Canada Corp. (BP Canada) for damages arising from the negligent manufacturing of Mystique brand roofing shingles.
2. The Plaintiffs seek damages for negligence, negligent misrepresentation, breach of contract, and general damages for conduct that is contrary to provincial Consumer Protection and Business Practices legislation.

**The Proposed Class**

3. The proposed representative Plaintiffs bring this action on their own behalf and on a class consisting of:

all individuals and entities, that own or owned homes, residences, buildings, or other structures located in Canada who had BP Mystique shingles installed on the roof of their properties.

**Proposed Representative Plaintiffs**

- i. The First Plaintiff - Barbara Randell
4. Barbara Randell is a resident of the Town of Clarendville, in the Province of Newfoundland and Labrador. She is a joint tenant of a residential property owned with her common law

husband. Her address for service is c/o Bob Buckingham Law, 81 Bond Street, St. John's, NL, A1C 1T2.

5. In or about September, 2022, the First Plaintiff purchased BP Mystique shingles from Cabot Timber Mart, in Clarendville, Newfoundland and Labrador. The shingles were installed by a qualified roofer in September, 2022.
6. In or about December, 2023, the First Plaintiff discovered that her roof was leaking. Shortly thereafter, she learned that the BP Mystique shingles which were installed on her roof were filled with pinholes, allowing water to infiltrate the roof and eventually into her house.
7. The First Plaintiff had repairs done to her roof. However, in February, 2025, she discovered additional leaks.
8. The First Plaintiff contacted the Defendant to make a claim under her warranty. She complied with all terms and conditions of the warranty, including shipping a sample of shingles to the Defendant for quality testing. The First Plaintiff took photographic and video evidence of the shingles which she sent for testing. The photographs and videos showed pinholes throughout the shingles.
9. On April 1, 2025, the Defendant notified the First Plaintiff that the shingles were evaluated by the Defendant and that the shingles "do not exhibit any problems that would be caused by manufacturing deficiencies that would account for the water infiltrations" she had reported.
10. The First Plaintiff has learned through social media that there are dozens of other affected homeowners who purchased BP Mystique shingles from various stores and who have all discovered identical defects, namely, pinholes throughout a significant portion of their shingles.
11. In addition to having to purchase new shingles and pay a qualified roofing company to install them, the First Plaintiff has suffered other expenses associated with repairing the damage done to the interior of her home. She has also suffered significant stress and anxiety from having to deal with leaks in her roof, damage to her home, and the lack of good faith by the Defendant to remedy the problem.
12. The First Plaintiff states she paid to replace the BP Mystique shingles on her roof using a line of credit subject to monthly interest payments. The cost of labour has also increased since she had the Defendant's defective shingles installed in 2022. The First Plaintiff states that these additional expenses, namely, the interest payments on her line of credit, and the increase in the cost of labour, are directly caused by the Defendant's defective BP Mystique shingles, and its subsequent refusal to honour the terms of its warranty.

13. The First Plaintiff states the existence of moisture in her home has increased the likelihood of mould and mildew, and unnecessarily exposed her to adverse health consequences and fire hazards.
14. The First Plaintiff pleads that not only was the interior of her house damaged by the Defendant's defective shingles, but that the subsequent denial of her claim under the warranty directly exacerbated the damage to her home by extending the time period during which her roof remained unrepaired.
15. The First Plaintiff states that she took all reasonable steps to mitigate her losses however the damage suffered was beyond her control and entirely caused by the Defendant.
- ii. The Second Plaintiff - Rowena Short
16. Rowena Short owns and resides in her home located at 27 Harbour Drive, Adeytown, Newfoundland and Labrador. Her address for service is c/o Bob Buckingham Law, 81 Bond Street, St. John's, NL, A1C 1T2.
17. In October, 2022, she purchased BP Mystique shingles and had them installed on her roof by a qualified roofer. By November, 2024, she became aware that her shingles were allowing water to infiltrate the interior of her home.
18. The Second Plaintiff was advised by her contractor that the cause of the leaking was small pinholes present in the majority of her shingles. She retained an independent home inspector who confirmed that the shingles were the cause of water infiltration.
19. The Second Plaintiff had to place a tarp over her roof to prevent additional leaking. The interior of her home has suffered extensive water damage. She had to move out of her bedroom and into a spare room due to the state of disrepair in her primary bedroom. The Second Plaintiff states that the existing moisture levels in her home, and the prospect of additional leaking may pose health risks and fire hazards if left unrepaired. As such, she has had to spend retirement savings to repair her roof and the interior of her home, including drywall and insulation.
20. The Second Plaintiff states that she has suffered extreme stress and anxiety as a result of the Defendant's defective shingles. Since experiencing the leaks in her home, the Second Plaintiff has sought treatment for mental health issues from her family doctor and has been prescribed medication for anxiety and depression.
21. The Second Plaintiff states she contacted the Defendant to make a claim under her warranty. She abided by all terms and conditions of the warranty, and sent a sample of shingles to the Defendant for testing. The Defendant has advised the Second Plaintiff that

in its view the shingles are not defective and therefore it would not be honouring the terms of its warranty.

### **The Defendants**

22. The Defendant is an extra-provincial corporation duly incorporated under the laws of Nova Scotia. Its registered office in Newfoundland and Labrador for service is c/o McInnes Cooper, 5<sup>th</sup> Floor, 10 Fort William Place, P.O. Box 5939, St. John's, NL A1C 5X4. At all times material hereto, the Defendant manufactured and sold various types of roofing shingles, including BP Mystique shingles.

### **The Defective Nature of the Defendant's Mystique Shingles**

23. The Defendant's Mystique shingles are prone to premature failure and are not suitable for use as exterior roofing products for the length of time advertised, marketed and warranted.
24. Mystique shingles are prone to premature failure as a result of moisture infiltration. The shingles were defective in that most or all of the shingles have numerous pinholes throughout, resulting in water infiltration.
25. The water infiltration can cause a number of problems including, but not limited to: loss of surfacing and top coating; weathering of the underlying felt after surfacing and top coat loss; cupping of shingle tabs, curling or clawing of shingle tabs; cracking of shingle tabs; and blistering of the coating.
26. Once the shingles begin to develop the above-listed problems or otherwise prematurely deteriorate, they lose their primary function – preventing water infiltration into the home. If left un-remedied, water will penetrate into the home, causing damage to the interior of the home, including damage to the underlying felt, damage to structural roof components, damage to plaster and sheetrock, and damage to walls, ceilings, and structural components. Water penetration into the home can create hazards to residents, including structural rotting, water seepage into electrical fixtures (creating a fire hazard) and proliferation of mould and mildew.
27. As a result of the defective nature of Defendant's Mystique shingles, it is inevitable that homeowners and other property owners will be required to repair and eventually replace the Mystique Shingles installed on their homes or other building structures at a substantial cost to the property owner. In many circumstances, homeowners and other property owners will have to remove and replace all Mystique Shingles on their roofs.
28. The Plaintiffs allege that BP Canada knew or ought to have known before and during the time it sold the BP Mystique shingles that they did not meet the required standards, namely, Canadian Standard CSA A123.1 and were defective, not fit for use as exterior roofing

products for the length of time advertised, marketed and warranted and were prone to premature or immediate failure and were not merchantable.

29. The Defendant has received complaints and warranty claims from class members relating to premature failure of its Mystique shingles. The Defendant has honoured its obligations under some class members warranties and denied other class members coverage, despite there being no discernible difference between the warranty claims.
30. The Defendant's response to warranty claims is woefully inadequate and negligent under the circumstances, which said response constitutes a negligent misrepresentation.

### **Negligence**

31. The Plaintiffs plead that the Defendant owed them and Class Members duties of care including duties:
  - a. to ensure that its BP Mystique shingles were designed and manufactured properly and consistent with applicable Canadian standards;
  - b. to research the proper design of BP Mystique shingles;
  - c. to engage in adequate pre-market testing of BP Mystique shingles, in order to ensure compliance with applicable Canadian standards;
  - d. to promptly remove its defective BP Mystique shingles from the marketplace and take other appropriate remedial action upon discovering its shingles were defective;
  - e. to warn all owners of BP Mystique shingles that they were defective and to take immediate action to remedy the problem; and
  - f. other duties of care as may be established by the evidence.
32. The Plaintiffs plead that the Defendant is in breach of its duties of care in that:
  - a. The Defendant's defective BP Mystique shingles were negligently designed and manufactured in a manner in which, under normal conditions, usage and applications would cause them to fail prematurely;
  - b. The Defendant failed to properly research the design of its defective BP Mystique shingles;
  - c. The Defendant failed to engage in adequate pre-market testing of its defective BP Mystique shingles;

- d. The Defendant failed to institute an effective products recall upon discovering the defects or the potential for the defects to occur;
- e. The Defendant failed to remedy and/or repair the defects upon discovering them; and
- f. The Defendant acted recklessly in that it knew or ought to have known that its BP Mystique shingles were defective and would prematurely fail when it marketed and sold its shingles to consumers, including the Plaintiffs;
- g. The Defendant took no steps to warn the purchasers, and in particular the Plaintiffs herein and the proposed class members, that its BP Mystique shingles were not suitable for their intended use and remedial action would need to be taken by homeowners to mitigate damages.

#### **Breach of Contract/ Breach of Warranty**

- 33. The Defendant expressly warranted to the original and subsequent registered owner of properties on which BP Mystique shingles were installed that the shingles were free from manufacturing defects that result in water leakage during the limited warranty period.
- 34. BP Mystique shingles failed well before the applicable warranty period.
- 35. The Plaintiffs plead that to the extent that the warranty provided by BP Canada purports to limit the obligations of the Defendant, it is invalid in that:
  - a. The terms of the expressed warranty are unreasonable, unconscionable and were not agreed to by the Plaintiffs or class members at the time the shingles were purchased; and
  - b. The Defendant knew that its BP Mystique shingles would fail before the expiry of the warranty period as a result of the defects, or in the alternative, acted recklessly and/or negligently in failing to ascertain this fact.
- 36. The Plaintiffs state that by denying their claims made pursuant to their warranty, the Defendant has breached their contract and as a result, the Plaintiffs have suffered damages.

## **Consumer Protection Legislation**

37. The Plaintiffs plead and rely upon provincial Consumer Protection and Business Practices legislation generally, and in their case, the ***Consumer Protection and Business Practices Act***, SNL 2009, c C-31.1 as amended and plead that the Defendant has engaged in unfair consumer practices set out in section 7 of the Act by making representations that:
- a. its shingles had benefits that they do not have;
  - b. its shingles are of a particular standard quality or grade which they are not; and
  - c. its shingles come with a warranty offering certain protections and guarantees which are false.
38. The Plaintiffs plead that pursuant to section 10 of the ***Consumer Protection and Business Practices Act***, they are permitted to commence this action against the Defendant and seek an award of damages for the Defendant's misrepresentations.

## **Damages**

39. As a result of the breaches as pleaded above, the Plaintiff and class members have suffered loss and damages, the particulars of which include:
- a. damages equivalent to the costs of repairing and/or removing and replacing the Defendant's defective BP Mystique shingles installed on homes, offices and other buildings. In many circumstances, this will require the removal and replacement of all shingles on their roofs. This will result in substantial damage and expense to the property owner;
  - b. damages for future costs of repairing and/or removing and replacing defective BP Canada Mystique shingles;
  - c. damages equivalent to the progressive property damage caused by the premature failure of defective BP Mystique Shingles, including damage to the underlying felt, structural roof components, plaster, sheetrock, walls and ceilings;
  - d. damages equivalent to the diminution in the value of the property owner's property;
  - e. damages for overpayment for BP Canada shingles, which contained a latent defect;
  - f. damages for the full cost of any investigation in connection with this action; and
  - g. damages as calculated pursuant to ***Consumer Protection and Business Practices Act***, SNL 2009, c C-31.1 as amended

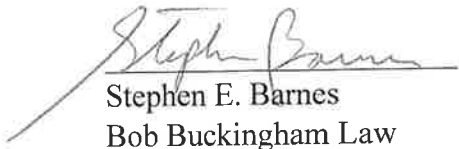
40. The Plaintiffs assert that the Defendant's conduct was high-handed, outrageous, reckless, wanton, entirely without care, deliberate, callous, disgraceful, willful, in contumelious disregard of the rights of the Plaintiffs and class members, and as such renders the Defendant liable to pay aggravated, exemplary and punitive damages.
41. The Plaintiffs' damages have been suffered in the Province of Newfoundland and Labrador.

### **Relief Sought**

42. The Plaintiffs repeat the foregoing and seek the following relief on their own behalf and on behalf of the proposed Class:
- a. an order pursuant to the Class Actions Act certifying this action as a class action and naming the Plaintiffs as Representative Plaintiffs for the Class;
  - b. costs of providing appropriate notice to Class Members and administering this proposed class action for their benefit;
  - c. an order for an aggregate monetary award pursuant to section 29 of the Class Actions Act, assuming the Court finds it appropriate to award an aggregate award;
  - d. special damages;
  - e. general damages;
  - f. aggravated damages;
  - g. punitive damages;
  - h. interest under the Judgment Interest Act;
  - i. costs as may be awarded; and
  - j. such further and other relief as Counsel for the Plaintiffs may seek and this Honourable Court deems just.

43. The Plaintiffs seek to have the action in this matter tried before the Supreme Court of Newfoundland and Labrador, General Division, sitting at St. John's, Newfoundland and Labrador.

**DATED AT** the City of St. John's, in the Province of Newfoundland and Labrador, this 10th day of June, 2025.

  
Stephen E. Barnes  
Bob Buckingham Law  
Solicitor for the Plaintiff  
Whose address for service is:  
81 Bond Street  
St. John's, NL A1C 1T2

TO:  
**The Defendant**  
**Building Products of Canada Corp.**  
**McInnes Cooper**  
5<sup>th</sup> Floor, 10 Fort William Place  
PO Box 5939  
St. John's, NL A1C 5X4

ISSUED at the City of St. John's, in the Province of Newfoundland and Labrador this 10  
day of June, 2025.

  
COURT  
OFFICER

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**NOTICE TO DEFENDANTS**

You are hereby notified that the plaintiff may enter judgment in accordance with the statement of claim or such order as, according to the practice of the Court, the plaintiff is entitled to, without any further notice to you unless within ten days, after service hereof upon you, you cause to be filed in the Registry of the Supreme Court of Newfoundland and Labrador at 309 Duckworth Street, St. John's, Newfoundland and Labrador, a defence and unless within the same time a copy of your defence is served upon the plaintiff or the plaintiff's solicitors' stated address for service.

Provided that if the claim is for a debt or other liquidated demand and you pay the amount claimed in the statement of claim and the sum of \$\_\_\_\_\_ (such sum as may be allowed on taxation) for costs to the plaintiff or the plaintiff's solicitors within ten days from the service of this notice upon you, then this proceeding will be stayed.

TO

**The Defendant**

**Building Products of Canada Corp.**

**McInnes Cooper**

5<sup>th</sup> Floor, 10 Fort William Place

PO Box 5939

St. John's, NL A1C 5X4

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AFFIDAVIT OF SERVICE

I, \_\_\_\_\_ of \_\_\_\_\_, in the Province of Newfoundland and Labrador, make oath and say as follows:

1. On \_\_\_\_\_ at \_\_\_\_\_ A.M/P.M., I served \_\_\_\_\_ with the Statement of Claim by leaving a copy with \_\_\_\_\_ at \_\_\_\_\_.

2. I was able to identify the person by means of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

SWORN TO at the City of St. John's, in the  
Province of Newfoundland and Labrador,  
this \_\_\_\_ day of \_\_\_\_\_, 2025,  
in the presence of:

\_\_\_\_\_