

# Class Action Database

## BACKGROUND

- All Canadian jurisdictions, save PEI and the territories, have legislation permitting class actions. The most recent legislation was passed by Nova Scotia in 2007. Jurisdictions without class action legislation have permitted class actions to proceed in their jurisdiction under rules of court.
- The CBA National Class Action Database began as a two-year pilot project established in 2007. It was initiated by the Civil Litigation Section, following a recommendation by a Uniform Law Conference of Canada's Working Group on Multi-jurisdictional Class Actions. The CBA established a working group of volunteers and staff to launch the Database, monitor its administration and develop improvements.
- The Database is at <http://www.cba.org/classactions>. It lists class actions filed in Canada that are sent to the CBA by class action counsel. A posted proceeding remains on the database until dismissed as a class action by the court.
- The Database addresses challenges for the administration of justice and management of judicial resources that arise from multi-jurisdictional class actions. These include uncertainty for members of the public who may be presumptively included in more than one class action and subject to conflicting court judgments, uncertainty for counsel as to the size and composition of class membership in a class action, and uncertainty for the judiciary as to the class members bound by their decisions.
- The Database is a repository for information about the existence and status of class actions across Canada so that the public, counsel, and courts need look to one source for information, without cost.

## CURRENT STATUS

- Counsel who wish to have proceedings posted on the database must complete the Database Registration Form located on the Database webpage and send it, along with the pleadings and certification motion, to [classaction@cba.org](mailto:classaction@cba.org). For new class actions, the CBA undertakes to post the information provided within five working days from receipt of the documents and fully-completed registration form. It posts information on pre-January 2007 class actions as soon as time permits.
- Counsel who submit the registration form are asked to verify the accuracy of the information posted on the web and inform the CBA if it needs to be modified, so that information is current. The CBA working group also monitors the actions posted on the Database.
- Database users can browse class action proceedings, obtain useful information and download relevant documents. All class actions will be listed annually in chronological order beginning with the most recent. The jurisdiction where each proceeding is filed will be indicated. The Database also includes brief descriptors of the class action proceedings,

namely, the filing date, style of cause, description of the class, subject-matter of the action, and status of the case.

- A search engine on the webpage allows users to identify quickly any class action proceedings with overlapping class members or subject matter.
- Practice directions have been issued in British Columbia, Alberta, Ontario, Quebec, Saskatchewan, Yukon, Newfoundland and the Federal Court, requiring plaintiff class action counsel to submit documents and complete the registration form to permit their proposed class action to be posted on the website. Nova Scotia Rules also require registration with the database.
- Saskatchewan has passed *Class Action Act* amendments requiring plaintiffs applying for certification of a class action to give notice to representative plaintiffs in multi-jurisdictional class actions with the same or similar subject matter. This legislation is based on a ULCC recommendation, and makes clear that the value of a national class action database will become more significant as jurisdictions grapple with problems of multi-jurisdictional class actions.
- The Database has posted hundreds of new class actions since January 2007, as well as numerous existing class actions. It grows on a weekly basis.
- The CBA established a Task Force to consider permanent solutions to the problems posed by multi-jurisdictional class actions ([see separate note](#))

## **NEXT STEPS**

- The working group will monitor the operation of the Database and consider improvements to the search capabilities and other improvements suggested by users.
- The database working group is reviewing the functioning of the database and will propose recommendations to CBA on potential upgrades.