

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL
N° : 500-06-000284-055

(RECOURS COLLECTIF)
COUR SUPÉRIEURE

DONALD BERNÈCHE

Petitioner

c.

PROCUREUR GÉNÉRAL DU CANADA

-et-

MINISTÈRE DE L'AGRICULTURE ET DE
L'AGROALIMENTAIRE DU CANADA,

Defendants

and

Court File No: 05-CV-287428 CP [TORONTO]

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

BILL SAUER

Plaintiff

- and -

THE ATTORNEY GENERAL OF CANADA on behalf of
HER MAJESTY THE QUEEN IN RIGHT OF CANADA as represented by
THE MINISTER OF AGRICULTURE, JOHN DOE, and JANE ROE

Defendants

Proceeding under the *Class Proceedings Act, 1992*

NOTICE

**THE QUÉBEC SUPERIOR COURT HAS SUSPENDED THE QUÉBEC BSE
CLASS ACTION AND THE QUÉBEC CLASS MEMBERS' CLAIM WILL
BE DETERMINED BY THE SUPERIOR COURT IN ONTARIO**

Class action lawsuits were commenced in April, 2005 in Québec, Ontario, Saskatchewan, and Alberta against the government of Canada alleging that it was responsible for allowing the introduction of bovine spongiform encephalopathy (BSE) into the Canadian cattle herd.

The Québec class action was authorized as a class action in June of 2007. The Québec class is defined as follows:

“All physical and moral persons residing in Québec who raise cattle or who sell their cattle and who suffered damages due to the discovery of a case of bovine spongiform encephalopathy (“BSE”) in a cow, confirmed on May 20, 2003, in the province of Alberta, and who were affected by the closure of the border to beef and live cattle exports from Canada.”

The Québec common issues are defined as follows:

1. Was the Minister of Agriculture and Agrifood Canada (MAAC) grossly negligent or did it act in bad faith in its regulation of the production and sale of cattle feed?
2. Did the MAAC have a duty to inform cattle producers in Canada?
3. What is the nature of the injury, if there was an injury, caused to the members of the group by reason of the events which led to the closure of the Canadian borders to the export of Canadian beef?
4. Is there a causal connection between the fault of the defendants and the damages sought?

Notice of the authorization of the Québec class action to the class members was published in September of 2007.

The Ontario action was certified as a class action in September 2008. The Ontario class members included all persons who as at May 20, 2003 were resident in Canada (**except the province of Québec**) and farmed cattle.

The Ontario common issues are defined as follows:

1. Does section 9 of the Crown Liability and Proceedings Act bar the Class Members' claims against the federal Crown?
2. Were the defendants negligent and if so, when and how?
3. Is the Attorney General of Canada liable to the Class Members for misfeasance in public office?
4. Can the amount of compensatory damages, if any, be reasonably determined on an individual basis? If so, how should individual damages be determined?

5. If the answer to question 4 is no, can the amount of compensatory damages, if any, be determined on an aggregate basis? If so, what is the amount of damages and how should they be distributed?

Notice of the certification of the Ontario class action to the class members was published in March, April and May of 2009 with the opt-out period ending on June 12th 2009.

THE QUÉBEC SUPERIOR COURT'S DECISION TO SUSPEND THE QUÉBEC BSE CLASS ACTION UNTIL FINAL JUDGEMENT IN THE ONTARIO BSE CLASS ACTION AND THE ONTARIO COURT'S DECISION TO INCLUDE THE QUÉBEC CLASS MEMBERS IN THE ONTARIO ACTION

The Québec Court has suspended the Québec action until final adjudication on the merits of the Ontario action, including all appeals. The Ontario Court has amended the class definition in Ontario to include the Québec class members in the Ontario action. The Ontario class has now been defined as follows:

« All persons who as at May 20, 2003 were resident in Canada and farmed cattle including, but not limited to, cow-calf, backgrounder, purebred, veal, feedlot and dairy producers.

In this class definition "person" means any individual, partnership, corporation, cooperative, communal organization, trust, band farm or other association who as at May 20, 2003 was farming cattle within the meaning of the Income tax Act. »

This has the following consequences:

1. There will be only one trial of the class action before the Ontario Superior Court of Justice. There will not be a trial of the class action in Québec and your claim against the government of Canada will be determined in the Ontario class action;
2. All class members and the government of Canada will be bound by the final determination of the common issues stated in the Ontario action instead of the ones identified in the Québec action;

A copy of the decisions of the Québec and Ontario Courts can be found at www.bseclassaction.ca

OPTING OUT

Crawford Class Action Services has been appointed by the Québec and Ontario courts as Administrator of the opt out process.

Any class member who as of May 20, 2003 was resident in the province of Québec who does not wish to participate in the Ontario national BSE class action against the government of Canada must opt out of the Ontario national BSE class action.

Given the stay of the Québec BSE class action and the effects thereof, any class member who as of May 20, 2003 was resident in the province of Québec who wishes to opt out of the national class action must also opt out of the Québec BSE class action against the government of Canada.

Therefore, should you decided to opt out, you will be excluded from both the Québec BSE class action and the Ontario national BSE class action. To opt out, you must send a written and signed election to the Administrator as described below.

Please note carefully that any class member who as of May 20, 2003 was resident in the province of Québec who opts out of the Ontario national BSE class action and the Quebec BSE class action will not be eligible for any of the benefits that may result from any successful conclusion of the Ontario national BSE class action against the government of Canada, whether by way of trial or settlement and that there will be no trial held in Québec.

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

Any class member who as of May 20, 2003 was resident in the province of Québec who does not opt out of the Ontario national BSE class action and the Quebec BSE class action will remain in the Ontario national BSE class action and will not be able to bring or maintain any other claim or legal proceeding in connection with any aspect of the BSE crisis against the government of Canada, and any individual action that this class member commences against the government of Canada will be dismissed.

HOW TO OPT OUT

Any class member who wishes to opt out shall send a written and signed election by fax or mail to the Administrator:

BSE Class Action
c/o Crawford Class Action Services
3-505, 133 Weber St. N.
Waterloo Ontario N2J 3G9
Tel. 1-866-800-0075
Fax 519 578 7739
bse@crowco.ca

The written election to opt out must state the person's full name, current address and telephone number, and that the person opts out of the Ontario national BSE class action and the Québec BSE class action. It must be signed by the person opting out, or an authorized representative of the person.

To be effective the written opt out must be sent to the Administrator by fax or by mail postmarked on or before June 3, 2011.

QUESTIONS

Any questions about the substantive matters in this notice should not be directed to the courts as their administrative structures are not designed to address this type of inquiry. Questions for class counsel should be directed by telephone or in writing to one of the following class counsel:

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**This notice is approved by the Superior Court of Québec
and the Ontario Superior Court of Justice**