

# SUMMARY OF CLASS ACTION TRIAL ACTIVITY ACROSS CANADA

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# Our Research

- Summary only includes class action trials under class action legislation (including test cases) or in the form of representative actions under the Rules.
- Summary does not include other merits determinations such as applications or summary judgment motions.
  - To the best of the writer's knowledge, there have been well over 100 merits determinations which were made outside of the context of a common issues trial.
  - This fact stands to reason as many common issues by their very nature lend themselves to a summary determination.

# Methodology

- Searched case reporting services across Canada
- Consulted academic texts (Ward Branch, *Class Actions in Canada*, loose-leaf (Aurora, Ont.: Canada Law Book, 2010, see c. 22 – *Statistics*)
- Consulted historical cross-country check-ups and other sources from this conference in the past<sup>1</sup>
- Surveyed plaintiff and defence class action practitioners across Canada.
  - Special thanks to Sylvie Rodrigue and Randy Sutton of Ogilvy Renault in respect of historical class action trial activity in Quebec.
- Surveyed court services staff in centres across Canada.
- Monitored informal resources such as Ward Branch's blog, <http://www.branchmacmaster.com/class-actions-blog/> and reports in the general media.
- Consulted staff with the Fonds D'Aide Aux Recours Collectifs in Quebec.
- We cannot guarantee that every class action trial has been identified—please let us know if we have missed any common issues trials.
- <sup>1</sup>In respect of Ontario actions, this list builds upon and modifies a list of cases compiled and presented by a panel at the 6<sup>th</sup> Annual Symposium on Class Actions, Osgoode Professional Development/CLE, April 2-3, 2009. The panelists were Master Calum MacLeod, Superior Court of Justice, Mr. Joel Rochon, Rochon Genova LLP and Paul J. Evraire, Q.C., Special Counsel, Department of Justice. The panel was moderated by The Honourable Chief Justice Warren K. Winkler.

# Statistics

	AB	BC	MB	NB	NL	NS	NWT	NU	ON	QB	SK	PEI	YK	TOTAL
<b># of Trials</b>	1	8	1	0	0	0	0	0	17	63	1	0	0	92
<b># of Trial Decisions Released</b>	1	8	1	N/A	N/A	N/A	N/A	N/A	13 (2 settled mid trial, 2 under reserve)	58 (2 decisions unlocatable, 1 settled mid trial, 1 ongoing, 1 under reserve)	1	N/A	N/A	83
<b>Success rate – Plaintiffs vs. Defendants</b>	1-0	3-5	1-0	N/A	N/A	N/A	N/A	N/A	9-6 (including 2 settlements)	42-17 (including 1 settlement)	0-1	N/A	N/A	55-30

A full list of cases and a short summary of each is attached at Schedule A.

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