

SYDNEY CLASS ACTION UPDATE

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Introduction

Welcome to the first issue of Sydney Class Action Update, a Newsletter prepared by legal counsel for the Plaintiffs in a class action lawsuit seeking compensation for Sydney residents and former residents near the steel plant, former coke ovens and Tar Ponds.

Background

This Newsletter is being sent to everyone who has sent us an Intake Form indicating that they want to participate in a lawsuit seeking compensation for residents and former residents of the area of Sydney near the steel plant, former coke ovens and the Tar Ponds. The purpose of this letter is to give you an update on the status of the Sydney class action.

Since we last reported to you in May 2003, we have done much work in a number of areas. The number of claimants has grown. We now have a list of over 300 people who have expressed an interest in making a claim. We have continued our research into this matter which involves both complex factual issues and complex legal issues.

Legal Terms

Statement of Claim - is the document that starts a legal action.

Plaintiff - is the person making a claim in a legal action.

Defendant - is the person against whom the plaintiff makes a claim in a legal action.

Mass Tort Claim - involves multiple individual actions.

A Class Action - is not an ordinary lawsuit. It is a single legal action in which one or more persons must step forward as representatives for all other people who are affected by similar legal issues.

Class Action Legislation- Nova Scotia is one of the few remaining Canadian provinces that does not have specific legislation permitting class actions. However in 2001, the Supreme Court of Canada in a case called *Dutton v. Western Canadian Shopping Centers* recognized that class actions could proceed in provinces without class action legislation like Nova Scotia. To succeed a class action in provinces like Nova Scotia must meet specific qualifications laid down by the Supreme Court of Canada.

Legal Action Filed on March 24, 2004 with Supreme Court of Nova Scotia

We have considered two different ways of proceeding with this matter either on the basis of a mass tort claim or as a class action.

After a detailed analysis of the legal issues, we decided that a class action is a better way to proceed. A number of individuals have agreed to act as

representatives for the entire group of claimants.

On March 24, 2004 a Statement of Claim was filed with the Supreme Court of Nova Scotia on behalf of a class of people who live or have lived in the neighbourhoods immediately surrounding the site of the Sydney steel plant, former coke ovens operations, and Tar Ponds. The class is represented by four representative plaintiffs: Neila Catherine MacQueen, Joseph M. Petitpas, Ann Marie Ross, and Kathleen Iris Crawford – all life-long residents of the Whitney Pier, Ashby or North End areas. The following defendants have been named in the action: The Attorney General of Canada (representing Her Majesty the Queen in right of Canada); the Attorney General of Nova Scotia (representing Her Majesty the Queen in right of the Province of Nova Scotia); the Sydney Steel Corporation; Ispat Sidbec Inc.; Hawker Siddeley Canada Inc.; Domtar Inc.; and the Canadian National Railway Company.

On behalf of themselves and the class, the Plaintiffs are seeking compensatory, aggravated and punitive damages for injuries to their personal health and properties. In addition, and in recognition of the serious health risks created by exposure to the defendants' toxic emissions, the Plaintiffs are seeking funds to establish a Medical Monitoring mechanism. The availability of these medical resources is long overdue and will ensure that class members have access to much-needed medical and health expertise in the area of toxic exposure.

The Plaintiffs have alleged that the defendants are liable in battery, negligence, trespass, nuisance and strict liability. Among other allegations, the Plaintiffs state that the defendants knowingly released materials that they knew would pose a serious risk of adverse human health consequences over the people living in the neighbourhoods immediately proximate to their operations. This exposure constitutes an unlawful interference with the bodily security of the class members.

While the Plaintiffs are also seeking an Order that the defendants finally and effectively clean-up the contamination remaining on the steel plant, coke ovens, and Tar Ponds sites, the primary focus of this claim is on responding to the injuries suffered, and risks faced, by the people of Sydney. For too long, any processes undertaken with a view to planning the toxic remediation of the Tar Ponds watershed area have largely ignored the class members' health and property rights.

Class Definition

As yet we have not finalized our description of the proposed class. A simplified and preliminary description of the proposed class is as follows:

People who ordinarily resided in the following geographic area of Sydney, the boundaries of which are:

(a) To the north: The northern limit of that area known as 'Whitney Pier', extending as far north as Egan Avenue.

(b) To the west: the westerly limit of 'Whitney Pier' or the lands of the former

steel plant operations, the South Arm of Sydney Harbour and Sydney River.

(c) To the east: the westerly limit of 'Whitney Pier' or that area known as 'Ashby'; extending as far east as Bristol Drive and Reeves Street.

(d) To the south: the southerly limit of 'Ashby', extending as far south as Crescent Street and Cottage Road.

The above geographic area matches the geographic boundaries for the Band/Camus 2003 study.

Claims for injuries to people's health to be limited to people who ordinarily resided within the boundaries of the above geographic area for all or part of the period from 1928 to 1988.

Claims for property damage to include those property owners who currently own or owned property in the above geographic area from 1928 to the present time.

It should be noted that the final form of the class definition requires Court approval.

Sydney Class Action Website

A new website is currently being developed to keep people informed about the progress of the class action and to provide a simple method of registering a claim. To access this website please go to **www.wagnerandassociates.com** and click on **<https://www.classactionservices.ca/sydney/index.htm>** the link to the Sydney class action website.

A copy of the Statement of Claim and this Newsletter will be located on this website, as will other relevant information relating to the case.

We will continue to provide you with periodic updates as this matter progresses.

If any of you have questions or require additional information, please call us Toll Free at 1-800-465- 8794.

Community Meeting- May 12, 2004

A Community Meeting will be held on Wednesday, May 12th, 2004 at 7:00 pm at the Steel Workers' Hall at the corner of Prince and Disco Streets in Sydney.

This meeting is open to everyone who has already indicated that they wish to participate in this class action and any other Sydney residents or former Sydney residents who are interested in participating or in learning more about this class action. There will be an opportunity to have your questions answered.

Legal Counsel for the Plaintiffs

Raymond F. Wagner, of the law firm of Wagner & Associates located in Halifax, Nova Scotia, is lead counsel for the Plaintiffs and class members. The entire legal team represents a collaborative effort as between Wagner & Associates and the London, Ontario law of Siskind, Cromarty, Ivey & Dowler (a firm with expertise in class actions). For additional information on the Siskinds firm see their website at **www.siskinds.com**

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