2017 Looking Forward
Canadian Class Actions

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Bennett Jones

Table of Contents

Introduction

As we start 2017, uncertainty abounds. Donald J. Trump's ascension to the Presidency and populist movements in Europe and Britain are set to upend global norms and challenge the status quo. Serious questions are being raised about an array of issues with the potential for widespread impact on business and legal regimes in the U.S. and around the world. Class action litigation is not immune to these changes: in early February, Republicans on the House Judiciary Committee voted to introduce the *Fairness in Class Action Litigation Act of 2017*, which, if passed, may lead to very significant legislative changes to U.S. class actions.

In contrast stands Canada's class action regime. In 2016, significant decisions were rendered in class proceedings that provide clarity on how Canadian courts intend to interact with each other, domestic and foreign litigants, and courts internationally going forward. Recent trends towards the globalization of Canada's class regime have continued. Canadian courts appear primed to accept global classes, apply creative solutions to address complex cross-border class proceedings and take jurisdiction over claims even where a defendant's connections to Canada are limited. Canadian courts have also taken on claims paralleling those originally seen south of the border, including significant decisions addressing unpaid overtime and, with echoes of the high profile Trump University case, deceptive marketing.

Bennett Jones was involved in some of the most important cases of 2016. Our active and expanding class actions practice group maintained its hard-earned reputation as a leader in the Canadian legal market. By leveraging our practical experience, litigation expertise, and unparalleled knowledge of procedure, we helped clients achieve meaningful results that aligned with their business objectives.

With the additional clarity provided by recent decisions, the stage is set for continued Canadian class action activity in 2017. What follows is our discussion of recent Canadian class action trends and our look forward at how we anticipate those trends will impact strategies for defeating class actions or potentially avoiding them altogether.

Asserting Canadian Jurisdiction – Foreign Defendants

- The Supreme Court has expanded how non-Canadian companies may be properly named as defendants in Canadian class actions
- Even a tenuous connection between non-Canadian companies and Canadian class actions may be sufficient
- Further appellate decisions in Ontario and elsewhere in Canada addressing jurisdiction are expected in 2017

Traditionally, courts only take jurisdiction over foreign defendants present in or consenting to the forum. This remains the consensus approach to asserting jurisdiction *simpliciter* around the world. In a sharp break from tradition, in recent years Canadian courts recognized that jurisdiction could also be asserted if there is a "real and substantial connection" between the dispute and the Canadian forum.

What connections qualify as real and substantial? Once an esoteric legal question, the boundaries of the real and substantial connection test have become a pressing concern for companies with even tenuous ties to Canada given the interconnectivity of the global economy and the major business risk posed by Canadian class actions. In 2012, the Supreme Court of Canada established four factors presumptively connecting a dispute to the relevant jurisdiction: (i) the defendant is domiciled or resident in the province; (ii) the defendant carries on business in the province; (iii) a tort was committed in the province; and (iv) a contract connected with the dispute was made in the province.[1]

Since then, much judicial ink has been spilled over when a party carries on business or commits a tort in the jurisdiction. In 2016, the Supreme Court addressed the fourth factor regarding contracts connected to the dispute in the class action context. It rejected the conventional understanding of this factor found in a case stemming from the Canadian government's bailout of General Motors of Canada Ltd. (GM) during the 2008 financial crisis. In *Lapointe Rosenstein Marchand Melanson LLP v Cassels Brock & Blackwell LLP*[2], GM entered into wind-down agreements with over 200 of its dealers. The dealers subsequently sued the law firm Cassels Brock for allegedly failing to properly advise them in connection with the wind-down agreements. Cassels Brock in turn added 150 other law firms across Canada that had provided independent legal advice to dealers in connection with the wind-down agreements.[3]

The Supreme Court agreed the 150 additional law firms could be added as defendants. Writing for a seven-judge majority, Justice Abella held that "all that is required is a connection between the claim and a contract that was made in the province where jurisdiction is sought to be assumed."[4] She did not accept that the third party law firms had to be parties to the contracts. Nor did Justice Abella accept that the alleged liability had to flow from contractual obligations in the case of an alleged tortfeasor. In the Supreme Court's view, such restrictive glosses on the contract factor would unduly narrow the real and substantial connection test and undermine "the flexibility required in private international law."[5]

The flexible approach to jurisdiction expressed by the Supreme Court is likely to compound existing case law expanding how non-Canadian companies can be brought into Canadian class actions. Courts had already indicated an increased willingness to accept jurisdiction over a foreign company carrying on business in Canada through its Internet activities or the activities of a local subsidiary or related company. This has led to potentially surprising assertions of jurisdiction.

Further appellate decisions in Ontario and elsewhere in Canada are expected in 2017, including addressing whether and when Canadian courts may hear cases involving absent foreign plaintiffs. The *Cassels Brock* decision indicates we may see Canadian courts asserting jurisdiction and expanding the circumstances in which non-Canadian companies may be brought into Canadian class actions.

Asserting Canadian Jurisdiction – The Availability of Global Classes

- Global classes will be accepted in appropriate circumstances
- Door appears to be opened to claims by non-Canadians against Canadian-based defendants in certain circumstances

The Ontario Court of Appeal recently considered how the presence of potential foreign class members should affect whether Canadian courts will assert jurisdiction over class proceedings. The result was a strong endorsement of Canadian courts accepting global classes.

In *Excalibur Special Opportunities LP v Schwartz Levitsky Feldman*,[6] 98% of the proposed class members were non-residents of Ontario. The Court of Appeal nonetheless found a real and substantial connection to Ontario and held that Ontario courts had jurisdiction to decide the action.

In granting the appeal, the majority of the Court of Appeal held that the expectations of foreign class members regarding where their rights will be determined should not be considered when deciding jurisdiction. The majority also held that Ontario courts need not exercise restraint when deciding to take jurisdiction over global class actions. The majority concluded that Ontario courts can have jurisdiction over claims against Ontario-based defendants that have allegedly harmed a class consisting primarily of non-Ontarian class members.[7]

This *Excalibur* decision appears to represent a strong endorsement of the ability of Canadian courts to take jurisdiction over and decide class actions with significant global ramifications. We are closely monitoring another case regarding foreign class members, *Airia Brands v Air Canada*,[8] to understand the full impact of *Excalibur*. The Court of Appeal's decision in *Airia Brands* is under reserve but should be released in the coming months and will provide further clarity on when global class claims can appropriately proceed in Canadian courts.

Interprovincial Litigation – Judges Sitting Out-of-Province

- Supreme Court of Canada holds that provincial superior court judges may hear motions outside their home provinces
- The decision shows the importance of flexibility in class proceedings to achieve fair and expeditious access to justice
- The decision may have a significant impact on management of multi-jurisdictional class proceedings—and may open the door to other types of inter-jurisdictional motions

In October 2016, the Supreme Court released its anticipated decision in *Endean v British Columbia*.[9] In *Endean*, the Supreme Court held that provincial superior court judges may hear motions outside of their home provinces. The Endean decision further emphasizes the importance of flexibility in class proceedings to achieve fair and expeditious access to justice.

At issue in *Endean* was whether superior court judges can hear and decide motions outside of their home provinces. The issue resulted from the suggestion by class counsel that the three judges assigned to supervise the settlement agreement between the parties (one from each of the superior courts of British Columbia, Quebec, and Ontario) hear a motion with the settlement agreement, while sitting together in one location.[10]

The Supreme Court held that judges could sit outside their home provinces and that the authority to do so was grounded in provisions of the British Columbia and Ontario Class Proceedings Acts (the Acts).[11] The court found that the language of the Acts demonstrated legislatures' intent for judges in class proceedings to exercise broad, discretionary power in managing class proceedings. In jurisdictions where there are no provisions similar to those under the Acts, the Supreme Court held that the inherent jurisdiction of the superior courts extends to permit the court to hold extra-provincial hearings. However, it left open the possibility that common law, constitutional, or statutory barriers may arise that could restrict the ability for judges to sit outside their territorial boundaries.[12]

Importantly, the Supreme Court set out a framework to guide the exercise of a judge's discretion when determining whether to sit extra-provincially. If a judge has subject-matter and personal jurisdiction over the matter, before deciding to exercise their discretion, judges should: (i) consider the effects of sitting extra-provincially on the sovereignty of the foreign province; (ii) weigh the benefits and costs of the proposed extra-provincial proceeding, including the nature of the proceeding, fairness to the parties, media coverage, and interests of justice; and (iii) consider whether to impose any terms, including conditions on the payment of costs incurred for having the hearing in the proposed location, and whether the interests of justice are best served by requiring a video link to the judge's home jurisdiction.[13]

The extent to which the *Endean* decision will affect future multi-jurisdictional class actions has yet to be determined. The decision further substantiates the role of class proceedings in providing a fair and expeditious resolution of plaintiffs' claims by allowing class action judges broad and flexible procedural powers. *Endean* will likely have a significant impact on the management of multi-jurisdictional class proceedings, and may open the door to other types of inter-jurisdictional motions going forward.

Interprovincial Litigation – Quebec Code Rule 577 – An Impediment to Staying Quebec Class Claims

- New Quebec Code provision requires Quebec courts to protect rights and interests of Quebec residents in multi-jurisdictional class actions when stays of proceedings are requested in Quebec
- Three decisions provide first guidance on judicial interpretation of new Quebec Code provision
- Judicial treatment indicates that stays of proceedings remain available in Quebec

It has now been a year since article 577 of Quebec's new Code of Civil Procedure[14] came into force. The new provision requires Quebec courts to protect the rights and interests of Quebec residents in multi-jurisdictional class actions when stays of proceedings are requested in Quebec, a step commonly taken by plaintiffs seeking to litigate a national class action based out of one Canadian jurisdiction.

Three decisions released in September 2016 provided the first guidance on the judicial interpretation of the new provision: *Conseil pour la protection des maladies c Biomet Canada inc, Dessis c Cash Store Financial Services Inc*[16] and *Boehmer v Bard Canada Inc.*[17] In each case, a stay of proceedings was granted.

"Bennett Jones was involved in some of the most important cases of 2016"

As was the case prior to the introduction of article 577, the court in *Boehmer* and *Biomet* looked at whether there was *lis pendens* between the Quebec Action and the non-Quebec action. This involved consideration of whether the actions involve the same parties, the same cause and the same object. In *Boehmer*, a case in which Bennett Jones acted for the defendants, the court was also satisfied that a final decision in the Ontario action would be capable of recognition and enforcement in Quebec. The parties undertook to discontinue the Quebec action if the Ontario Superior Court of Justice granted certification nationally in the Ontario action. The defendants also undertook not to oppose a national class or the recognition and enforcement of an Ontario decision in Quebec.[18]

The court in each of the three cases was satisfied that the rights and interests of the Quebec class members were protected under article 577. In making this finding in each of the three cases, the court appeared to rely on four considerations for determining whether a temporary stay was consistent with the principles of article 577. First, the court looked at the causes of action to determine whether they are equivalent enough to result in "similar treatment" for the Quebec and non-Quebec class members. Second, the court advised that judicial resources should be conserved where possible, and class members and their counsel should not invest time and incur expenses simultaneously in two jurisdictions. Third, there should be no prejudice to Quebec class members because of the stay. Fourth, the court should maintain its ability to refuse discontinuance if sought by the applicant if doing so is necessary to protect the rights and interests of the Quebec class members.[19]

Recent judicial treatment of article 577 indicates that stays of proceedings remain available in Quebec, provided that the proceedings outside Quebec contain adequate measures to protect the rights and interests of Quebec residents.

Evidence in Class Proceedings – Foreign Investigative Powers

- The Ontario court's decision in *Mancinelli* is one of few decisions (and a cautionary tale) that provide guidance on how and when class action litigants can compel discovery of U.S. non-parties
- A forceful and sweeping decision with far-ranging impacts
- Parties to Canadian class actions must now tread carefully when seeking to obtain evidence in the U.S. or other jurisdictions for use in Canadian class actions

The Ontario Superior Court of Justice's early 2017 decision in *Mancinelli v Royal Bank of Canada*[20] provides guidance regarding how and when class action litigants can rely on Rule 1782[21] to compel discovery of American non-parties. Rule 1782 is a U.S. statute that permits U.S. courts to compel documents or testimony from persons, not party to a proceedings, in the U.S. to support a foreign proceeding.

Prior to the *Mancinelli* decision, Canadian litigants had successfully employed Rule 1782 to gather evidence extra-territorially without first seeking leave of Canadian courts. Canadian courts were historically reluctant to restrain such examinations and preferred instead to involve themselves only with whether compelled evidence would be ultimately admissible in the Canadian proceeding. However, in *Mancinelli*, after the plaintiffs successfully applied in the U.S. under Rule 1782 to compel information to use in their proposed Canadian class action, the defendants successfully moved before the Ontario Superior Court of Justice for an order preventing the plaintiffs from using the Rule 1782 order in any manner.

In a forceful decision with far-ranging impacts, the Ontario court condemned the plaintiffs' attempts to compel pre-certification discovery in a foreign jurisdiction without leave from the Ontario court and based on incomplete disclosure

to the U.S. court. The Ontario court held that any Ontario litigant must strictly adhere at all times to Ontario law, which has no direct equivalent to Rule 1782. The use of Rule 1782 is severely restricted and, as noted by the Ontario court, particularly in class actions, which have their own rules regarding the acquisition and use of evidence.[22] The *Mancinelli* decision also included broader comments on the relationship between Canadian and American legal systems, which may prove relevant in the age of President Trump and in the face of increasing cross-border litigation:

> I am not offended by the American court having made its Order, and I would thank it for making its assistance available; but the case at bar is a thanks-but-no-thanks situation until after this court has had an opportunity to consider whether it wishes to seek the American court's assistance, which it may yet do.[23]

The *Mancinelli* plaintiffs have sought to appeal the decision. Until the issue is finally decided, parties to Canadian class actions should tread carefully when seeking to obtain evidence in the U.S. or other jurisdictions for use in Canadian class actions. If the *Mancinelli* decision stands, doing so may be viewed by Canadian courts as diluting or circumventing the powers of the domestic case management judge.

"Courts had already indicated an increased willingness to accept jurisdiction over a foreign company carrying on business in Canada"

Unpaid Overtime Class Actions

- The first overtime misclassification settlement in Canada
- Marks a turning point in the trend of misclassification overtime lawsuits facing significant scrutiny by Canadian courts
- Canadian employers should take pause and stay appraised of this trend in 2017

On a more domestic note, Canadian courts have seen a wave of high-profile class action suits brought by aggrieved employees improperly compensated for their overtime hours. Last year, approximately 1,600 Scotiabank employees settled their class action lawsuit against the bank for $20.6 million in *Fulawka v Bank of Nova Scotia*.[24] The settlement put an end to a nine-year legal battle over unpaid overtime launched by a personal banking representative at Scotiabank in Saskatchewan. This settlement stands in addition to a 2014 settlement approved by the Ontario court in the amount of approximately $95 million for unpaid overtime.[25] The $20.6 million settlement was paid to the class members whose claims made under the 2014 settlement were either rejected in whole or in part by the bank.[26]

Similarly, in July 2016, the Ontario Superior Court of Justice approved a settlement of $12 million to be paid by BMO Nesbitt Burns Inc. to employees who were misclassified as exempt workers that did not receive overtime compensation.[27] This was the first overtime misclassification settlement in Canada. However, in the U.S. there have been numerous class action settlements for misclassified financial services employees.

These suits mark a turning point in the trend of misclassification overtime lawsuits facing increased scrutiny in Canadian courts, thought to be inspired by the success of employees in similar cases in the U.S. There, big companies have been forced to pay large settlements to employees denied overtime cheques, or otherwise improperly compensated for all hours worked. These landmark decisions have emboldened Canadian employees and class action lawyers.

More recently, in October, 2016, a former GoodLife personal trainer filed a class action lawsuit for $50 million in damages, owing due to issues compensating employees for their overtime hours. Of note, the plaintiff also sought $10 million in punitive, aggravated and exemplary damages due to GoodLife's conduct. This action has not been certified.[28]

Canadian employers should take pause before expecting employees to skip lunch or stay past quitting time. These recent decisions consider the realities of litigation in the workplace, and that individual employees may be reticent to make claims against their employers for fear of the repercussions. The outcome of this class action against GoodLife will be instructive for similar lawsuits in the coming year.

Public Correction in Securities Cases

- The "public correction" element of the statutory cause of action for secondary market misrepresentations is poised to take on greater significance
- Plaintiffs' theory in Drywall Acoustic is a novel argument to follow to see if it gains any traction

The "public correction" element of the statutory cause of action for secondary market misrepresentations is poised to take on greater significance following the Ontario court's decision on competing summary judgment motions in *Drywall Acoustic Lathing and Insulation, Local 675 Pension Fund (Trustees of) v SNC-Lavalin Group Inc*.[29]

Part XXIII.1 of the Ontario *Securities Act*,[30] creates a statutory cause of action for investors who suffer losses because of misrepresentations in public issuers' publicly filed disclosure documents. This allows investors to recover the lost market value of the public issuer's securities once the misrepresentation is publicly corrected. Previous case law, in particular *Swisscanto Fondsleitung AG v BlackBerry Ltd*,[31] suggested that the public correction element of the claim was merely a time-post for defining the class period and assessing damages. In *Drywall Acoustic*, however, the Ontario court went further, and suggested that public correction may itself be dispositive of a statutory misrepresentation claim, but that the adjudication of this issue will often require a full trial.

"These suits mark a turning point in the trend of misclassification overtime lawsuits facing increased scrutiny in Canadian courts."

Drywall Acoustic confirms that "corrective disclosure...is a constituent element and a necessary pre-requisite for a cause of action under s 183.3 of the Ontario *Securities Act*".[33] This signals that plaintiffs who fail to prove that corrective disclosure occurred cannot ultimately succeed on their statutory misrepresentation claim. However, determining whether a disclosure is "corrective" is more complicated than comparing the words constituting the alleged misrepresentation with the words constituting the alleged "public correction" to see whether the latter illustrate the falsity of the former. Rather, plaintiffs must demonstrate that the corrective disclosure materially affected the market value of the public issuer's securities. This requires more than just comparing the share prices on the day before and the day after the alleged corrective disclosure. Determining what is material may involve complex statistical and economic analyses, and non-mathematical judgments about the information that influences investors.[34] According to the Ontario court, these important—and potentially dispositive—questions do not readily lend themselves to summary determination.

Also noteworthy, the Ontario court stated in Drywall Acoustic that the nature of the corrective disclosure is a "fundamental ingredient" in the calculation of damages. Not only does the fact of the corrective disclosure establish the relative timeline for assessing damages under the statutory misrepresentation claim, but the court was also presented with, and seemed receptive to, expert statistical evidence that purported to isolate and measure the impact of multiple alleged corrective statements over time, relative to other information not connected to the alleged misrepresentations that could also have been expected to affect the market value of the public issuer's securities. [35]

The plaintiffs' theory that it could rely on multiple alleged corrections of the same misrepresentation is itself a novel argument to follow to see if it gains any traction. Regardless, the suggestion that the public correction is itself a fundamental ingredient in the calculation of damages signals that courts will consider statistical evidence about the extent to which an alleged misrepresentation can be shown to impact the market price of securities relative to other influential factors.

Deceptive Marketing

- 2016 was a high profile year for deceptive marketing class actions, including certified class proceedings involving "Trump University"
- Misrepresentation class proceedings may become more common in Canada in the wake of attention drawn by Trump University class actions
- Critical aspect of the Trump University and *Ramdath* claims was the allegation that class members were universally exposed to the exact same alleged misrepresentations

2016 was a high profile year for deceptive marketing class actions, owing to the international notoriety of a pair of certified and settled class proceedings involving "Trump University".[36] The plaintiffs in each case alleged that Trump University had over-promised and under-delivered on real estate investment education programs and seminars, and that now-President Donald J. Trump had a personal hand in making the misrepresentations.[37] Although the class proceedings were American (commenced in a U.S. District Court in the Southern District of California), they were also closely watched in Canada, where similar deceptive marketing class actions are increasingly common.

The plaintiffs' claims revolved mainly around three alleged misrepresentations: (i) that Trump University was an accredited "university"; (ii) that students would be taught by real estate experts, professors and mentors hand-selected by Mr. Trump; and (iii) that students would receive one year of expert support and mentoring. Several causes of action were pleaded, including common law misrepresentation claims and statutory claims based on state consumer protection legislation (both of which have Canadian analogues).[38] Less than two weeks before a common issues trial was set to begin in one of the proceedings, a $25 million global settlement was announced, which resolved both class proceedings, and a third proceeding commenced by the New York State Attorney General.[39]

An Ontario class proceeding with parallels to the Trump University case also settled this year. The plaintiffs in *Ramdath v George Brown College*[40] alleged that the defendant educational institution made representations about one of its programs that proved to be false, and claimed negligent misrepresentation, breach of contract and a breach of Ontario's *Consumer Protection Act*.[41] The alleged misrepresentation related to the industry designations graduates would earn by completing the program, which were advertised in a course calendar. *Ramdath* was certified as a class proceeding in 2010, then proceeded to a common issues trial, and then to a trial for the calculation of damages on a common, aggregate basis. The parties agreed to a $2.725 million settlement as a motion for leave to appeal to the Supreme Court of Canada was pending.[42]

Misrepresentation class proceedings may become more common in Canada in the wake of the media attention drawn by the Trump University class actions. A key hurdle for misrepresentation class proceedings is defining common issues. Defendants may make a variety of representations, which are communicated to potential class members in many ways and at different times, and that may be understood and acted upon differently by different class members. However, a critical aspect of the Trump University and *Ramdath* claims was the allegation that the class members were universally exposed to the exact same alleged misrepresentations. In addition, if a common representation can be established then there are causes of action available under Canadian consumer protection statutes, including Ontario's *Consumer Protection Act*, that can eliminate the common law requirement to prove actual reliance or damages as a prerequisite of proving liability.

Conclusion

In 2016, we saw significant decisions rendered by Canadian courts that provide clarity on Canada's class action regime. Canadian courts will assert jurisdiction over increasingly global cases and are open to flexible solutions to cross-border issues. Canadian defendants may also see the ripple effects of U.S. class actions continue with more overtime class actions and deceptive marketing class actions in 2017.

These recent lessons will form key components of Bennett Jones' legal and business advice to our array of clients in 2017 and beyond.

1 *Club Resorts Ltd v Van Breda*, 2012 SCC 17 at para 90.
2 2016 SCC 30.
3 *Ibid* at paras 4-8.
4 *Ibid* at para 32.
5 *Ibid*.
6 2016 ONCA 916.
7 *Ibid* at paras 26 & 46.
8 2015 ONSC 5332.
9 2016 SCC 42.
10 *Ibid* at paras 2-3.
11 *Class Proceedings Act*, RSBC 1996, c 50, s 12; *Class Proceedings Act*, 1992, SO 1992, c 6, s 12 (collectively, the "*Acts*"). Only the British Columbia and Ontario cases were appealed, and as such, the court did not address the law of Quebec specifically.
12 *Endean v British Columbia, supra* note 9 at paras 39-40.
13 *Ibid* at paras 72-76.
14 RLRQ, c C-25.01
15 2016 QCCS 4574.
16 2016 QCCS 4545.
17 2016 QCCS 4702.
18 *Ibid* at paras 25 & 28.
19 *Ibid* at paras 23, 25, & 34-36.
20 2017 ONSC 87, (*sub nom Labourers' Pension Fund of Central and Eastern Canada (Trustees of) v Royal Bank of Canada)*.
21 28 USC §1782.
22 *Mancinelli v Royal Bank of Canada, supra* note 20 at para 102.
23 *Ibid* at para 60
24 2016 ONSC 1576.
25 2014 ONSC 4743 at para 23.
26 *Fulawka v Bank of Nova Scotia, supra* note 24 at para 6.
27 *Rosen v BMO Nesbitt Burns Inc,* 2016 ONSC 4752.
28 *Eklund v GoodLife Fitness Centre Inc,* (12 October 2016), Toronto CV-16-562080 00CP (Sup Ct) (Fresh as Amended Statement of Claim).
29 2016 ONSC 5784.
30 RSO 1990, c S.5.
31 2015 ONSC 6436.
32 *Drywall Acoustic Lathing and Insulation, Local 675 Pension Fund (Trustees of) v SNC-Lavalin Group Inc, supra* note 29 at para 154.
33 *Ibid* at para 145.
34 *Ibid* at paras 156-157.
35 *Ibid* at paras 62-63, 148 & 157.
36 *Low v Trump University*, No. 3:10-cv-00940-GPC-WVG (S.D. Cal. Dec. 20, 2016), *Cohen v Trump University*, 3:13-cv-02519-GPC-WVG (S.D. Cal. Dec. 20, 2016).
37 *Cohen v Trump University, Ibid.*
38 *Ibid*.
39 *Ibid, Low v Trump University, supra* note 36.
40 2013 ONCA 468.
41 RSO 1990, c C.31.
42 *Ramdath v George Brown College*, 2016 ONSC 3536.

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