

2009 01T 0732CP

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION

BETWEEN:

GREG RICE **PLAINTIFF**

AND:

**ATLANTIC LOTTERY CORPORATION INC. –
SOCIÉTÉ DES LOTERIES DE L'ATLANTIQUE** **DEFENDANT**

AND:

VLC, INC. **FIRST THIRD PARTY**

AND:

SPIELO MANUFACTURING ULC **SECOND THIRD PARTY**

AND:

HI-TECH GAMING.COM LTD. **THIRD THIRD PARTY**

AND:

IGT-CANADA INC. **FOURTH THIRD PARTY**

AND:

INTERNATIONAL GAME TECHNOLOGY **FIFTH THIRD PARTY**

AND:

**TECH LINK INTERNATIONAL
ENTERTAINMENT LIMITED** **SIXTH THIRD PARTY**

AND:

GTECH CORPORATION **SEVENTH THIRD PARTY**

BROUGHT PURSUANT TO THE *CLASS ACTIONS ACT*
BEFORE THE HONOURABLE MR. JUSTICE WAYNE
DYMOND, CASE MANAGEMENT JUDGE

BRIEF OF THE PLAINTIFF

SUMMARY OF CURRENT DOCUMENT

Court File Number:	2009 01T 0732CP
Date of Filing of Document:	December 28, 2011
Name of Filing Party or Person:	Plaintiff
Application to which Document being filed relates:	Application of Plaintiff for an order to substitute the Representative Plaintiff and amend the Further Amended Statement of Claim
Statement of purpose in filing:	Brief of the Plaintiff.

1. Procedural highlights of the present proceeding may be summarized as follows:

December 11, 2009 – Plaintiff filed application for certification of class action.

January 26, 2010 – Defendant filed interlocutory application claiming that the plaintiff estate and certain causes of action and claims including causes of action under the Competition Act and the Statute of Anne (Gaming Act), 1710 should be struck from the claim and the Defendant asked that this application be heard before certification.

February 10, 2010 – correspondence from counsel to the Defendant to counsel for the Plaintiff requesting that Plaintiff take steps to preserve complete health records of Ms. Piercey, as these would be relevant to matters decided at certification.

March 8, 2010 – email correspondence from counsel for Plaintiff to counsel for Defendant confirming records would be preserved. Email stated Plaintiff's position that these medical records are not relevant to certification and referred to *Pardy v. Bayer*, 2003 CarswellNfld 218; *Anderson v. Wilson*, 1996 CarswellOnt 4635; *Pearson v. Inco*, 2002 CarswellOnt 1572; *Bellefontaine v. Purdue Pharma*, 2009 Nova Scotia [Unreported].

March 30, 2010 – Hearing of Defendant's application to strike claims.

April 23, 2010 – decision from Justice Dymond declining to hear Defendant's application before the certification hearing.

May 28, 2010 – Defendant issued third party notices.

April 28, 2011 – decision from Justice Dymond dismissing Plaintiff's application to stay third party actions.

July 29, 2011 – Plaintiff's final affidavit filed.

September 8, 2011 – case management meeting to schedule cross-examinations. It was decided that Kevin Harrigan would be cross-examined on his affidavits before the defendant and third parties filed any affidavits.

October 21, 2011 – conference call between all counsel. It was agreed Mr. Harrigan would be cross-examined after all remaining affidavits were filed. A schedule for the filing of all further affidavit materials, cross-examinations of deponents, briefs and the certification hearing were agreed to.

October 27, 2011 – counsel for the defendant advised of schedule parties had agreed to which set hearing of certification application for April 11 to 17, 2012 and cross examinations for February 6 to 17, 2012.

November 25, 2011 – correspondence from counsel for defendant requesting medical information pertaining to the plaintiff.

December 5, 2011 – letter from counsel for the plaintiff refusing to provide medical records.

December 15, 2011 – application from defendant to compel production of certain medical record.

2. Section 13 of the *Class Actions Act* states:

13. Notwithstanding section 12, the court may make an order it considers appropriate respecting the conduct of a class action to ensure a fair and expeditious determination and, for that purpose, may impose on one or more of the parties the terms it considers appropriate.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 28th day of December, 2011.

CHES CROSBIE BARRISTERS

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AND TO: CURTIS, DAWE
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AND TO: COX & PALMER
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Attention: Thomas O'Reilly, Q.C.