

2009 01T 0732 CP

IN THE SUPREME COURT OF NEWFOUNDLAND & LABRADOR
TRIAL DIVISION

BETWEEN:

THE ESTATE OF SUSAN PIERCEY, as
represented by KEITH PIERCEY

PLAINTIFF

AND:

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

DEFENDANT

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

AFFIDAVIT OF SHERI GEEHAN

SUMMARY OF CURRENT DOCUMENT

Court File Number:	2009 01T 0732 CP
Date of Filing of Document:	December 11, 2009
Name of Filing Party or Person:	Plaintiff
Application to which Document being filed relates:	Application of Plaintiff for certification as a class action.
Statement of purpose in filing:	To support application.

I, Sheri Geehan, legal assistant, of the Town of Conception Bay South, in the Province of
Newfoundland and Labrador, MAKE OATH AND SAY:

1. I am a legal assistant with the firm of Ches Crosbie Barristers, counsel for the Plaintiff in this action. As such I have knowledge of the facts stated herein except where stated to be on information and belief and where so stated, I believe the facts to be true. I believe the facts set out in the Exhibits attached to this affidavit to be true.

Information on the Defendant

2. Now shown to me and marked as Exhibit “A” is a copy of the Defendant’s corporate filings for the year 2007.
3. Now shown to me and marked as Exhibit “B” is the 2007-2008 Financial Update of the Defendant, printed from:
http://www.alc.ca/English/AboutALC/AnnualReport/Images/ALC_2007_08_Report_Eng.pdf.
4. Now shown to me and marked as Exhibit “C” is a list of VLT games offered by the Defendant in this Province as of December of 2009, printed from
<http://www.alc.ca/English/ALCProducts/VideoLottery/>.
5. Now shown to me and marked as Exhibit “D” is a letter to the Editor of the St. John’s Telegram, commenting on issues raised by the financial statements.

Litigation Plan

6. I am informed by Mr. Crosbie that he anticipates that the common issues trial of this action may be document intensive. The Plaintiff’s Litigation Plan, attached as Exhibit “E”, proposes, among other things, to deal with the exchange and production of documents in this case, should voluminous production of documents prove to be necessary. However, the parties may be able to establish specific and limited productions targeted to specific issues. If so, document production may be specific and limited.
7. I am further informed by Mr. Crosbie that he anticipates that the common issues trial of this action will involve mainly expert evidence, that the Plaintiff anticipates calling at least one expert at the common issues trial whose testimony is relevant primarily to liability, and that a further expert may testify to assist with quantification of an aggregate damages award.

8. I am further informed by Mr. Crosbie that the first expert is Kevin Harrigan, Ph.D., an expert in computer science. He will testify as to deceptive design features common to non-video poker, non-keno VLT games. Other expert witnesses may testify if indicated. A Curriculum Vitae for Dr. Harrigan is attached as Exhibit "A" to Kevin Harrigan's affidavit sworn December 9, 2009.
9. I am further informed by Mr. Crosbie that he anticipates that the common issues trial will take one to two weeks for the presentation of the Plaintiff case.

Qualifications of Class Counsel

10. Ches Crosbie Barristers is experienced in complex litigation and class actions. It has been successful in achieving class certification in the first and second class certification applications argued in this province, *Wheadon et al. v. Bayer Inc.*, and *Rideout v. Health Labrador Corporation*, and in the fourth, *Doucette v. Eastern Health*. *Rideout* has settled and judicial approval has been granted. *Doucette* has recently settled, subject to judicial approval of the settlement being obtained.
11. As to relevant trial experience, it is expected that Mr. Crosbie will conduct the common issues trial as lead plaintiff trial counsel in *Knight v. Imperial Tobacco*, a "light and mild" cigarette class action certified in British Columbia and based on a claim of unfair trade practice under the *Trade Practice Act* of British Columbia. This action is similar in complexity.

SWORN TO before me at the City of St. John's, in the Province of Newfoundland and Labrador, this 11th day of December, 2009.

SHERI GEEHAN
