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FOR FURTHER INFORMATION CONTACT:

CHES CROSBIE, 579-4000

Email: ccb@chescrosbie.nf.net

www.ChesCrosbie.com

ATLANTIC LOTTO IMMUNE FROM CONSUMER PROTECTION LAWS

On December 12, 2008 Justice Dymond of the Supreme Court of Newfoundland and Labrador, Trial Division, released his decision on an application by Atlantic Lotto Corporation that the *Trade Practices Act* of Newfoundland and Labrador does not apply to a Crown agent (http://www.chescrosbie.com/library/Dymond_decision.pdf). The Court agreed, and decided that the *Trade Practices Act* does not apply to ALC as a Crown agent.

“Consumer protection laws that apply to everyone else, don’t apply to ALC”, stated Ches Crosbie, class counsel for VLT players who have banded together in a class action. “ALC has again benefited from rules that give the house an unfair advantage.”

Mr. Crosbie said the decision is not unexpected, and leaves the door open for the plaintiff to seek to include causes of action other than breach of consumer legislation. Mr. Crosbie pointed to the daughter of representative plaintiff Keith Piercey, who committed suicide, as an example of the harm caused. The Statement of Claim alleges that Susan Piercey lost her life due to the deceptions designed into VLT games, which led to addiction and suicide.

The *Charter of Rights* section 7 guarantees the right to life, liberty and security of the person. “VLTs are unlike any other form of gaming in their concealment of the rules of the

game, their manipulation of the player and in their potential for addiction”, said Mr. Crosbie. “For an agent of the government to expose players to breach of their *Charter* rights is a constitutional tort.”

Mr. Crosbie added that the law of *Charter* breach “is one area where ALC can’t rig the game.”

Mr. Crosbie stated that the claim will be amended to also allege breaches of the *Criminal Code of Canada*, the *Competition Act*, and the *Statute of Anne*, an early 16th century anti-gambling statute which is still on the books.

CHES CROSBIE BARRISTERS
169 Water Street, 4th Floor
St. John’s, NL A1C 1B1
Telephone: 579-4000 or 888-579-3262
Facsimile: 579-9671
Email: ccb@chescrosbie.nf.net

QUESTIONS AND ANSWERS

Q. What is the case against ALC on VLTs?

- A. Dr. Kevin Harrigan described how VLT line games work to cheat the player in his Affidavit available in the Class Actions section of www.chescrosbie.com. His summaries are contained at paragraphs 36 and 63. At paragraph 36 he deposes:

VLT line games are displayed on the VLT screen. The first level of deception is that the VLT screen conceals how the line games actually work. Line games are controlled by the computer inside the VLT which uses a random number generator and various tables and algorithms to determine the result. What the player sees on the VLT screen is not the game itself. How the randomness is generated and the probabilities of each winning combination are concealed from the player. The second level of decision is that the games are intentionally designed so that the 3x5 matrix on the VLT screen misrepresents the game to the player. Observing these intentional misrepresentations will lead the player to create incorrect perceptions of how the games work including incorrect perceptions of the nature of the randomness and true probabilities of the game.

Q. What remedy does the class action lawsuit seek?

- A. The lawsuit seeks a monetary remedy and an injunction. The aim is to force ALC to eliminate the deceptive features of the games.