

FEDERAL COURT

BETWEEN:

PARADIS HONEY LTD., HONEYBEE ENTERPRISES LTD.,  
and ROCKLAKE APIARIES LTD.

Plaintiffs

and

HER MAJESTY THE QUEEN, THE MINISTER OF AGRICULTURE AND  
AGRI-FOOD and THE CANADIAN FOOD INSPECTION AGENCY

Defendants

**NOTICE OF MOTION FOR CERTIFICATION**

**TAKE NOTICE THAT** the plaintiffs will make a motion to the Court in Edmonton, Alberta, on a date and at a time to be determined by the Case Management Judge at the first Case Management Conference. The estimated duration of the hearing of the motion is two (2) days.

**THE MOTION IS FOR AN ORDER:**

- a) certifying this action as a class proceeding;
- b) defining the class ("Class") as:

all persons in Canada who keep or have kept more than 50 bee colonies at a time for commercial purposes since December 31, 2006 and who have been denied the opportunity to import live honeybee packages into Canada from the continental United

States after December 31, 2006, as a result of the Defendants' maintenance or enforcement of a *de facto* blanket prohibition on the importation of such packages;

- c) appointing the plaintiffs Paradis Honey Ltd., Honeybee Enterprises Ltd. and Rocklake Apiaries Ltd. as the representative plaintiffs of the proposed Class;
- d) stating that the nature of the claim asserted on behalf of the proposed Class against the Defendants is for negligence arising out of any or all of the Defendants' acts or omissions in preventing the importation of live honeybee packages from the continental United States after December 31, 2006, including by the maintenance or enforcement of a *de facto* blanket prohibition on such imports ("the *de facto* Prohibition");
- e) stating that the relief claimed by the proposed Class is damages for negligence;
- f) stating that the common issues to be determined in the class proceeding are:
  - 1. whether any or all of the Defendants owed the proposed Class a duty of care to not be negligent in the maintenance or enforcement of the *de facto* Prohibition;
  - 2. whether any or all of the Defendants breached the requisite standard of care;
  - 3. whether or not recoverable loss or damages ensued as a result;
  - 4. what is the proper measure of damages, including:

- i. whether or not aggregate damages are available and, if so, on what basis and in what amount;
  - ii. what are the appropriate criteria for the distribution of the aggregate damages among the members of the proposed Class;
  - iii. alternatively, if individual damages are to be awarded, what is the framework or formula for the calculation of such damages;
5. whether or not the cause of action arises “otherwise than within a province” pursuant to s. 39(2) of the *Federal Courts Act*, RSC 1985, c F-7, such that the applicable limitation period is 6 years from the time the cause of action arose;
6. whether ss. 3, 8 or 10 of the *Crown Liability and Proceedings Act* grant any or all of the Defendants statutory immunity or otherwise limit the Defendants’ liability;
7. whether the Defendants’ acts or omissions as alleged in the action fall within Crown sovereignty or the Crown prerogative such that no liability may attach to the Defendants;
- g) directing the manner by which notice of certification and progress in the proceedings may be provided to the proposed Class, and who shall bear the cost of such notice;
- h) directing the time and manner for class members to opt out of the class proceeding;
- i) approving the Plaintiffs’ proposed litigation plan with any modifications, additions or deletions as required by this Honourable Court;

- j) directing the parties to attend before Case Management Judge Andre F.J. Scott or Prothonotary Roger R. Lafreniere, as the case may be, for scheduling of next steps to be taken in the class proceeding; and
- k) such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

- a) Rules 334.12(2) and (3), 334.16(1) and (2), 334.17(1), 334.21 and 334.39 of the *Federal Courts Rules*, SOR/98-106 (“*FCR*”);
- b) The pleadings disclose a cause of action in negligence against any or all of the Defendants pursuant to Rule 334.16(1)(a);
- c) There is an identifiable class of two or more persons as disclosed in the pleadings pursuant to Rule 334.16(1)(b);
- d) The claims of the proposed Class raise common issues of law and fact as disclosed in the pleadings pursuant to Rule 334.16(1)(c);
- e) A class proceeding is the preferable procedure for the just and efficient resolution of the common questions of law and fact pursuant to Rule 334.16(1)(d);
- f) There are 3 plaintiffs, Paradis Honey Ltd., Honeybee Enterprises Ltd. and Rocklake Apiaries Ltd., who are proposed as representative plaintiffs (“the Plaintiffs”). The pleadings disclose that:
  - 1. the Plaintiffs are capable of fairly and adequately representing the interests of the proposed Class pursuant to Rule 334.16(1)(e)(i);
  - 2. the Plaintiffs have prepared a litigation plan that sets out a workable method of advancing the proceeding on behalf of the proposed class and notifying proposed class members pursuant to Rule 334.16(1)(e)(ii);

3. none of the Plaintiffs have, on the common questions of law or fact, an interest that is in conflict with other members of the proposed class pursuant to Rule 334.16(1)(e)(iii); and
4. the Plaintiffs have provided a summary of any agreements respecting fees and disbursements between the Plaintiffs and the solicitor of record pursuant to Rule 334.16(1)(e)(iv).

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- a) The affidavit of Jean Paradis, corporate representative of Paradis Honey Ltd., to be filed;
- b) The affidavit of John Gibeau, corporate representative of Honeybee Enterprises Ltd., to be filed;
- c) The affidavit of William Lockhart, corporate representative of Rocklake Apiaries Ltd., to be filed;
- d) A summary of any agreements respecting fees and disbursements between the representative plaintiffs and Field LLP in the manner and form directed by the Case Management Judge;
- e) Such further and other documentary evidence as counsel may advise and this honourable Court may permit.

**DATED: SEPTEMBER 12, 2013**

**FIELD LLP**

Per: 

Dan Carroll, LL.M, QC, counsel for the Plaintiffs

Per: 

Jon Faulds, LL.M, QC, counsel for the Plaintiffs

**FIELD LLP**

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**TO:**

Jaxine Oltean and Marlon Miller  
Counsel and agents for the Deputy Attorney General of Canada  
Counsel for the Defendants

**DEPARTMENT OF JUSTICE CANADA**

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Rule 146

**Solicitor's Certificate of Service**

I, DAN CARROLL, Solicitor, certify that I caused the Defendants to be duly served with this document by faxing this document to Jaxine Oltean and Marlon Miller, Counsel for the Defendants, on September 12, 2013.

**FIELD LLP**

  
Dan Carroll, LLM, QC  
Counsel for the Plaintiffs

FEDERAL COURT

BETWEEN:

PARADIS HONEY LTD., HONEYBEE ENTERPRISES LTD.,  
and ROCKLAKE APIARIES LTD.

Plaintiffs

and

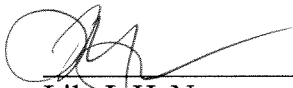
HER MAJESTY THE QUEEN, THE MINISTER OF AGRICULTURE AND  
AGRI-FOOD and THE CANADIAN FOOD INSPECTION AGENCY

Defendants

**SOLICITOR'S CERTIFICATE OF SERVICE**

I, Lily Nguyen, Solicitor, certify that I caused the Defendants to be duly served with the Notice of Motion for Certification of this action by faxing this document to Jaxine Oltean and Marlon Miller, Counsel for the Defendants, on September 12, 2013.

FIELD LLP



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Lily L.H. Nguyen  
Counsel for the Plaintiffs