A Prompt Response And Fair Compensation Package Help To Defeat Class Action Certification

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On October 16, 2018, the Ontario Superior Court of Justice released a decision in *Richardson v. Samsung*, denying certification of a proposed national class action.

The case is about cell phones that were alleged to overheat, creating a risk of fire or explosion. The manufacturer and Health Canada issued a recall of the phones. In her decision, Justice Rady, wrote "this being a product liability case, one might think it is ideal for certification (para. 2)" but found that some prerequisites to certification were not met in the case.

The plaintiff's complaint was that the manufacturer's compensation package following its recall of the devices was inadequate, because it did not properly reimburse consumers for their losses. The Court disagreed.

While the Court questioned whether the action met several of the requirements for certification, Rady J.'s comments in the preferable procedure analysis are most noteworthy.

The Court found that manufacturer's compensation program was indeed the preferable procedure for addressing any damages incurred by the proposed class. Further, it found that the existence of the compensation program directly addressed the concerns of access to justice and behaviour modification (considered principal advantages of class actions). It also found that Samsung's prompt response to the issues with its product was behaviour that ought to be encouraged as it "demonstrate(d) the response of a responsible corporate citizen (para. 74)."

Due to the compensation program, which meant that the proposed class had already been reimbursed, the Court found that access to justice was not an issue.

A key takeaway from this case is that a prompt and fair response which compensates consumers following an identified fault or issue with a product may be an important factor in defeating a proposed class action in the future.

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