

Ontario court concedes jurisdiction to LAT in proposed class action

November 16, 2020

In [Dorman v. Economical Mutual Insurance Company](#), Justice Belobaba determined that the Ontario Superior Court of Justice lacked jurisdiction over proposed class actions arising in the context of statutory accident benefits (SABS), deferring such claims to the License Appeal Tribunal (LAT).

Background and decision

The plaintiffs filed proposed class actions against 15 auto insurers and the insurers' government regulator, the Financial Services Commission of Ontario (FSCO), alleging the insurers were improperly deducting HST from their SABS.

Following the initial filings, two of the insurers entered into pre-certification settlement agreements. The remaining insurers and FSCO (the Defendants), brought the within motion pursuant to Rule 21 of Ontario's [Rules of Civil Procedure](#), for a legal determination that the LAT has exclusive jurisdiction over all SABS disputes.

In support of their motion, the Defendants argued that s. 280 of the Insurance Act, in conjunction with the recent Ontario Court of Appeal decision in [Stegenga v. Economical](#), made it clear that the proposed class actions ought to be stayed or dismissed.

Although Justice Belobaba recognized the general nature of the proposed claims made them ideal to proceed as class actions, the Court must defer to the governing legislation for the SABS.

In coming to this conclusion, His Honour provided a brief summary of the recent **amendments to Ontario's [Insurance Act](#)** and creation of the LAT, following the release of the Cunningham Report. Justice Belobaba noted that amendments to s. 280 of the Insurance Act **made it 'plain and obvious' that SABS disputes fall under LAT jurisdiction.** Justice Belobaba dismissed all but one of the proposed class actions and did not approve the proposed settlements, all due to a lack of jurisdiction.

The remaining class action against FSCO and its current and former superintendents was allowed to proceed. The allegations in the remaining action dealt with whether FSCO failed to investigate various insurers after receiving written complaints.

His Honour found that the allegations of regulatory negligence, bad faith and misfeasance of public office fell outside the scope of s. 280 of the Insurance Act. As such, the claims were allowed to proceed as a class action.

Takeaways

This case represents a cautionary tale about the scope of class actions. While it may seem suitable, on its face, to bring a class action, plaintiffs must first look at whether any governing legislation speaks to jurisdiction. In situations where such legislation creates another avenue for disputes, as the Insurance Act did in this case, the Courts will defer its jurisdiction in such matters.

By

[Jonathan Thoburn](#)

Expertise

[Disputes, Class Action Defence](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.