

Court Refuses to Certify Investor Class Action

July 08, 2019

BLG was successful on behalf of an investment dealer in the recent case [Fisher v. Richardson GMP and Woodward](#) wherein the Alberta Court of Queen's Bench refused to certify an investor class action.

The claim asserted that an investment advisor made unsuitable recommendations (largely in energy securities, some of which were private companies) and that the dealer failed to adequately supervise him. The court found that there was insufficient commonality among the class members to warrant a class proceeding and that the certification criteria in the Class Proceedings Act were not satisfied. The decision affirms the principle that while every client must receive suitable advice, suitability is an individual issue dependent on each client's particular circumstances and usually cannot be determined on a class-wide basis. The court found that there were in fact several "common issues", but that those issues were all "elementary" and their resolution at a common issues trial would not materially advance the Action. Individual assessments would still have been necessary even after a trial in order to determine whether any particular client had a compensable claim. The court concluded that a class action was not the preferable procedure to resolve these matters and that individual actions, test cases or multi-party proceedings would be better alternatives.

The decision provides valuable guidance for industry participants when assessing whether investment losses can form the basis of a class action.

By

[John Blair](#)

Expertise

[Securities Disputes, Class Action Defence](#)

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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

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