

## Prospective Self represented Representative Plaintiff Put Out Of Commission

17 avril 2019

In *Biley v Sherwood Ford Sales Limited*, the Court of Queen's Bench of Alberta recently dismissed multiple proceedings brought by the self-represented plaintiff against his former employer. In 2015, the plaintiff, Mr. Jonathan Biley, began working at Sherwood Ford Sales Limited. Six weeks later, Mr. Biley quit and began a campaign against his former employer through multiple lawsuits, including a proposed class action. The decision dealt with a variety of issues relating to self-represented litigants and abusive litigation, but is particularly interesting for its discussion of a class action commenced by **a self-represented litigant**.

Each of the actions commenced by Mr. Biley alleged that Sherwood did not pay him commissions that he should have received, due to various forms of misconduct by Sherwood and its staff. Mr. Biley commenced one of the actions under Alberta's Class Proceedings Act. Mr. Biley sought to represent a proposed class of sales persons who obtained commissions from Sherwood and claimed damages of approximately \$11 million.

Sherwood brought a vexatious litigant application to have the actions disposed of. In response, Mr. Biley sought to join his various actions and opposed the vexatious litigant application. Mr. Biley attempted to persuade the court that it ought to be lenient in applying procedural rules and allow him to act as a self-represented representative plaintiff. Mr. Biley relied on the recent Supreme Court of Canada decision in *Pintea v Johns*, which endorsed the Canadian Judicial Council's Statement of Principles on Self-Represented Litigants, and argued that "self-represented class actions may prove in the future to be one of the most effective means of achieving mass justice..."

The court disagreed with Mr. Biley's characterization of himself and the proposed class members as "vulnerable people" and described him as a self-represented litigant who demanded special unwarranted rights or treatment simply because he did not have legal representation. The court further held that Alberta's Legal Professions Act, did not authorize Mr. Biley to act for anyone other than himself. The court adopted the reasoning in its previous decision in *Champagne v Sidorsky*, which concluded that a

self-represented litigant cannot act as a representative for a class action.

Mr. Biley also argued that the class action constituted 'public interest litigation', as defined by the Supreme Court of Canada in *Canada (Attorney General) v. Downtown Eastside Sex Workers United Against Violence Society*. The court noted that such a claim for public interest standing was "clearly spurious" for three reasons. First, the action was in tort and breach of contract and not founded in a constitutional challenge. Second, Mr. Biley had no legitimate interest in the proposed class action as he already had an individual lawsuit on the exact same subject. Third, characterizing a proceeding as public interest litigation is only appropriate where that is the only reasonable and effective means to advance an action. In this case, the proposed class members could file their own lawsuits if they believed that Sherwood caused them injury.

After laying out the lengthy chronology of Mr. Biley's various claims, the court struck out the class action (along with the other claims) as an abuse of process. As part of the decision, the court provided various examples of Mr. Biley's abusive and unprofessional litigation conduct, including in his handling of the class action. The court acknowledged that the *Pintea v Johns* decision instructed judges to be mindful of the disadvantages faced by litigants who appear without counsel. However, the Statement of Principles on Self-Represented Litigants imposes upon self-represented litigants certain obligations, including "to familiarize themselves with the relevant legal practices and procedures pertaining to their case," whether in the context of an individual proceeding or a class action.

**Par**

[Jonathan Thoburn, David Elman](#)

**Services**

[Litiges, Action collective](#)

## BLG | Vos avocats au Canada

Borden Ladner Gervais S.E.N.C.R.L., S.R.L. (BLG) est le plus grand cabinet d'avocats canadien véritablement multiservices. À ce titre, il offre des conseils juridiques pratiques à des clients d'ici et d'ailleurs dans plus de domaines et de secteurs que tout autre cabinet canadien. Comptant plus de 800 avocats, agents de propriété intellectuelle et autres professionnels, BLG répond aux besoins juridiques d'entreprises et d'institutions au pays comme à l'étranger pour ce qui touche les fusions et acquisitions, les marchés financiers, les différends et le financement ou encore l'enregistrement de brevets et de marques de commerce.

[blg.com](http://blg.com)

### Bureaux BLG

#### 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, rue De La Gauchetière Ouest  
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

Les présents renseignements sont de nature générale et ne sauraient constituer un avis juridique, ni un énoncé complet de la législation pertinente, ni un avis sur un quelconque sujet. Personne ne devrait agir ou s'abstenir d'agir sur la foi de ceux-ci sans procéder à un examen approfondi du droit après avoir soupesé les faits d'une situation précise. Nous vous recommandons de consulter votre conseiller juridique si vous avez des questions ou des préoccupations particulières. BLG ne garantit aucunement que la teneur de cette publication est exacte, à jour ou complète. Aucune partie de cette publication ne peut être reproduite sans l'autorisation écrite de Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Si BLG vous a envoyé cette publication et que vous ne souhaitez plus la recevoir, vous pouvez demander à faire supprimer vos coordonnées de nos listes d'envoi en communiquant avec nous par courriel à [desabonnement@blg.com](mailto:desabonnement@blg.com) ou en modifiant vos préférences d'abonnement dans [blg.com/fr/about-us/subscribe](http://blg.com/fr/about-us/subscribe). Si vous pensez avoir reçu le présent message par erreur, veuillez nous écrire à [communications@blg.com](mailto:communications@blg.com). Pour consulter la politique de confidentialité de BLG relativement aux publications, rendez-vous sur [blg.com/fr/ProtectionDesRenseignementsPersonnels](http://blg.com/fr/ProtectionDesRenseignementsPersonnels).

© 2026 Borden Ladner Gervais S.E.N.C.R.L., S.R.L. Borden Ladner Gervais est une société à responsabilité limitée de l'Ontario.