

Developments in the Recognition of Foreign Class Action Judgments

With the courts of Canadian provinces willing to take jurisdiction over a “national” class claim, involving a plaintiff class which includes members located in other provinces, and with American courts willing to take jurisdiction over “international” classes, involving a plaintiff class which includes members located in Canada, Canadian courts are increasingly having to confront the issue of whether to recognize a foreign class action decision. If a defendant settles a class claim brought in the United States which purports to bind class members in Canada, that defendant then will raise that settlement, as approved by judicial order, in response to subsequent class claims in Canada. Given the value of class claims, the decision whether or not to recognize the foreign decision has significant economic repercussions.

Two relatively recent Canadian decisions on whether to recognize such judgments are *Parsons v. McDonald’s Restaurants of Canada Ltd.* (available [here](#)) and *Currie v. McDonald’s Restaurants of Canada Ltd.* (available [here](#)). These decisions generally support recognition of such judgments, but they impose particular conditions relating to the process followed in the foreign court and the notice given to the people affected in Canada. More recently, two Quebec decisions have addressed the recognition of foreign class action judgments. See *Lépine v. Société Canadienne des postes* (available [here](#); affirmed on appeal) and *HSBC Bank Canada c. Hocking* (lower court decision available [here](#); appellate decision will be available on CanLII). The latter decision has just been released, and the former decision has been appealed to the Supreme Court of Canada, so further guidance on these issues is likely forthcoming.

Some of these issues are addressed in Janet Walker, “Crossborder Class Actions: A View from Across the Border” (2003) Mich. St. L. Rev. 755; Debra Lyn Bassett, “U.S. Class Actions Go Global: Transnational Class Actions and Personal Jurisdiction” (2003) 72 Fordham L. Rev. 41; Ellen Snow, “Protecting Canadian Plaintiffs in International Class Actions: The Need for A Principled Approach in Light of *Currie v. McDonald’s Restaurants of Canada Ltd.*” (2005) 2 Can. Class Action Rev. 217; and Craig Jones & Angela Baxter, “Fumbling Toward Efficacy: Interjurisdictional Class Actions After *Currie v. McDonald’s*” (2006) 3 Can. Class

Action Rev. 405.