

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE  
MADAM JUSTICE LAX

) *Friday*, THE *24<sup>th</sup>*  
) DAY OF OCTOBER, 2008

B E T W E E N :

LEE VALLEY TOOLS LTD.

Plaintiff

- and -

CANADA POST CORPORATION

Defendant

**ORDER**

THIS MOTION, made by the defendant on consent of the plaintiff, was heard this day at 361 University Avenue, Toronto.

ON READING the order of the Honourable Madam Justice Lax dated December 18, 2007 (the "Certification Order") and the consent of the parties, filed,

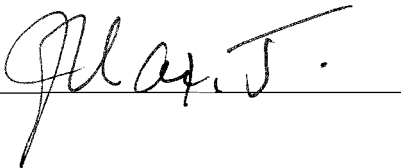
1. THIS COURT ORDERS that the Certification Order is amended by:
  - (a) adding "on or before June 23, 2008" after "plaintiff" and deleting "on or before June 2, 2008" after "Court" in paragraph 4(a);
  - (b) substituting "June 23, 2008" for "June 2, 2008" in paragraph 4(d) and paragraph 4(e);
  - (c) substituting "no earlier than the date on which notice is posted in accordance with paragraph 4(d)" for "on or before June 2, 2008" in paragraph 4(c);
  - (d) adding "no earlier than the date on which notice is posted in accordance with paragraph 4(d)" after "provide" in paragraph 4(f); and

- (e) substituting the Notice of Opting Out attached as Schedule "C" to the Certification Order with the Notice of Opting Out attached to this Order as Schedule "A".
2. THIS COURT ORDERS that the Plan for Proceeding attached to this Order as Schedule "B" is approved.
3. THIS COURT ORDERS that the Class Member identified as the House of Commons be deemed to have opted out of this proceeding.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

OCT 24 2008

AS DOCUMENT NO.:  
À TITRE DE DOCUMENT NO.:  
PER / PAR: *A. Vainulinas*



**Schedule "A"**

**NOTICE OF OPTING OUT**

The individual or company named below **does not** wish to participate in the *Lee Valley Tools Ltd. v. Canada Post Corporation* Class Action. The individual or company named below understands that by opting out, he/she/it will not be eligible for the payment of any amounts awarded in the Class Action.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Name of Individual or Company*

\_\_\_\_\_  
*Address (Including City, Province and  
Postal Code) of Individual or Company*

\_\_\_\_\_  
*Telephone No. of Individual or Company*

\_\_\_\_\_  
*Canada Post Customer Number*

This Notice of Opting Out is to be delivered by mail or fax to the following:

**BLANEY McMURTRY LLP**

Barristers and Solicitors  
Attention: Julia Anagnostakis  
1500 - 2 Queen Street East  
Toronto, ON M5C 3G5

Fax: (416) 593-5437

This Notice of Opting Out must, if sent by mail, be postmarked by August 29, 2008, or, if sent by fax, be received by August 29, 2008, to be effective.

**Schedule "B"**

Court File No. 06-CV-320840 CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

LEE VALLEY TOOLS LTD.

Plaintiff

- and -

CANADA POST CORPORATION

Defendant

PROCEEDING UNDER THE *CLASS PROCEEDINGS ACT, 1992*

**PLAN FOR PROCEEDING**

THE PLAINTIFF'S PLAN FOR PROCEEDING is as follows:

1. This proceeding will proceed as follows.

**CLASS COUNSEL**

2. Blaney, McMurtry LLP will act as counsel for the Class.

**NOTICE AND OPTING OUT**

3. Notice to the Class shall be provided to Class members as set out in the order of the Honourable Madam Justice Lax dated December 18, 2007 and entered May 27, 2008 (the "Certification Order").
4. A member of the Class shall be permitted to opt out of this proceeding in the manner set out in the Certification Order.

**COMMUNICATIONS WITH CLASS MEMBERS**

5. Canada Post's communications with members of the Class who have not opted out of

this proceeding shall be conducted in accordance with the agreement attached as Schedule "A" to this Plan.

### PLEADINGS

6. Any further pleadings shall be delivered in accordance with the Rules of Civil Procedure, with any Reply by the Plaintiff to be delivered within 15 days of the Court's approval of this Plan.

### DISCOVERY ON AND TRIAL OF COMMON ISSUES

7. Discovery relating to, and the trial of, the following common issues shall be divided from and proceed before the remaining common issues:
  - a) were the practices of Canada Post with respect to the calculation and collection of shipping charges based on "volumetric weight" or the retention by Canada Post of inadvertent overpayments paid to it by the members of the Class after January 1, 2000 contrary to the *Weights and Measures Act*, R.S.C. 1985, c. W-6?
  - b) if so, are members of the Class entitled to restitution of some or all of the amounts charged by Canada Post in violation of the *Weights and Measures Act*?
  - c) is Canada Post liable to pay exemplary or punitive damages?
8. Discovery relating to, and the trial of, the remaining common issues shall proceed together, to the extent necessary, after the final determination of the common issues set out above in paragraph 7. The remaining common issues are:
  - (a) if members of the Class are entitled to restitution, can the amounts be determined on an aggregate basis and, if so, in what amount and how should this be distributed?
  - (b) if Canada Post is liable to pay exemplary or punitive damages, should these damages be assessed on an aggregate basis? If so, in what amount and how should this be distributed?
  - (c) is Canada Post liable to pay prejudgment interest with respect to such shipping charges and damages? If so, in what amount?
9. Discovery relating to the common issues set out above in paragraph 7 shall include, at a minimum, the parties' documents, knowledge, information and belief regarding:
  - (a) Canada Post's decision to introduce, and the introduction and implementation of, shipping charges based upon "volumetric weight";
  - (b) the method by which volumetric weight is calculated, including the particular "cubing factor" that is used;

- (c) Canada Post's decision to implement, and use of, cubing equipment to mechanize the cubing process;
  - (d) the specific cubing equipment used by Canada Post, including whether or not it has been approved and/or certified by Measurement Canada;
  - (e) Canada Post's relationship with Lee Valley Tools ("Lee Valley"), including its communications with Lee Valley regarding Lee Valley's complaints about cubing and the use of volumetric weight as a unit of measurement; and
  - (f) Canada Post's policy with respect to retaining overpayments by customers that paid shipping charges and the implementation of that policy with respect to Class members.
10. For greater certainty, discovery relating to the common issues set out above in paragraph 7 shall not include the parties' documents, knowledge, information and belief relating to the shipping transactions of any individual class member, including Lee Valley, unless a party asserts that such documents, knowledge, information and belief are necessary to properly address the common issues set out above at paragraph 7, in which case such party may seek an order of the Court to determine the appropriateness of seeking such documents, knowledge, information and belief.
11. Affidavits of documents are to be delivered in accordance with the Rules of Civil Procedure subject to the following:
- (a) the timing for delivery of affidavits of documents will be as agreed between the parties or, if the parties cannot agree, as determined by the Court;
  - (b) the parties will deliver the list of documents in chronological order with such list to be provided both on paper and in electronic format. The parties are to consult and co-operate in trying to agree on an appropriate format which will allow them to search the information in a convenient manner; and
  - (c) copies of any productions are, in the first instance, to be provided at the cost of the party requesting them, to the opposing party in volumes which are bound, tabbed and indexed in a logical manner so as to facilitate review and location of such productions.
12. Recognizing that the defendant's productions may include confidential and commercially sensitive information, including customer lists and pricing, the plaintiff and its counsel will expressly undertake on terms to be agreed by the parties or determined by the Court to keep all such information strictly confidential and not to use the information for any purposes other than the proceeding to which this Plan relates.
13. Examinations for discovery on the common issues set out above at paragraph 7 will proceed on dates agreeable to counsel with such dates to be within eight months of the date of approval of this Plan. Should counsel be unable to agree to such dates, then

the parties shall be free to request an order of this Court fixing such dates.

#### **INDIVIDUAL ISSUES**

14. If there are any issues requiring individual assessment then the means of determining such individual issues will be determined by the Court following the trial of the common issues to reflect the determination of such common issues and the evidence obtained through the process outlined above.

#### **FUNDS**

15. Payment of any amounts found owing to members of the class will be as determined by the Court following the trial of the common issues.

#### **GENERAL PROVISIONS**

16. All documents prepared by counsel to be filed with the Court are to be provided to other counsel in an electronic format that is agreeable to counsel for the parties, unless such documents include documents not created by Counsel which exist only in paper form.
17. Blaney, McMurtry LLP will provide notice of the progress of the class proceeding on their website on a timely basis but without disclosing information with respect to individual Class members other than the representative plaintiff without such Class member's consent.
18. The parties will be free to seek further orders of this Court varying or adding to the above Plan.

BLANEY McMURTRY  
LLP Barristers and Solicitors

1500 - 2 Queen Street East  
Toronto, ON MSC 3G5

Fax: (416) 593-5437

Roderick S.W. Winsor (LSUC #15464Q)  
Tel: (416) 593-3971

Robert C. Taylor (LSUC #17977Q)  
Tel: (416) 593-2957

Julia Anagnostakis (LSUC # 51215A)  
Tel: (416) 593-2894

Solicitors for the Plaintiff

TO: TORYS LLP  
Barristers and Solicitors  
79 Wellington Street West  
Box 270, TD Centre  
Toronto, ON M5K 1N2

Fax: (416) 865-7380

John B. Laskin (LSUC #19381B)  
Tel: (416) 865-7317

Sandra Perri (LSUC #50856Q)  
Tel: (416) 865-8144

Solicitors for the Defendant

**SCHEDULE 'A'**

June 4, 2008

**VIA FACSIMILE**

Mr. John Laskin and  
Ms. Sandra Perri  
TORYS LLP  
79 Wellington Street West, Suite 3000  
Box 270, TD Centre  
Toronto, ON M5K 1N2

Dear Counsel:

**Re: *Lee Valley Tools v. Canada Post Corporation*, Court File No. 06-CV-320840 CP**

We have received instructions in response to your inquiry with respect to communicating with class members.

We propose that Canada Post communicate with class members who have not opted out of the class by the expiration of the opt-out period set out at paragraph 4 of the Plan for Proceeding and the Notice of Opting Out appended to the Notice Published Under the *Ontario Class Proceedings Act* ("Class Members"), in accordance with the following:

1. Canada Post may communicate with its shipping customers, including those who are Class Members, in the ordinary course of Canada Post's business about matters that are unrelated to the specific conduct complained of in Lee Valley's Statement of Claim, as referred to below in paragraph 2. Matters arising in the ordinary course of Canada Post's business are understood to include, but not be limited to, responses to inquiries or complaints related to shipping charges and any adjustments to customer invoices that may or may not be made as a result.
2. Communications dealing with the conduct complained of in Lee Valley's Statement of Claim, specifically:
  - (a) the appropriateness of using volumetric weight;
  - (b) the appropriateness of using equipment to measure volumetric weight, including the appropriateness of the particular equipment used; or
  - (c) the retention of those overpayments which are the subject of the claimshall be dealt with as set out in paragraphs 3 to 6 below.
3. Canada Post will continue to respond to communications from its shipping customers, including communications from Class Members, in the ordinary course of its business, but will retain all records relating to such communications to the extent that they relate to the matters set out above at paragraph 2, whether sent to or received from the Class

Member, and such records will be subject to any applicable obligation of production in the proceeding.

4. Either party may seek direction from the Court with respect to any communication Canada Post may receive from Class Members that relates to the matters referred to above at paragraph 2, including direction as to whether either party is entitled to rely on any particular communication in the proceeding.
5. Canada Post will retain all information and documents with respect to such communications and the underlying transactions to which they relate until the conclusion of the proceeding.
6. When first responding to any communication from a Class Member referred to above in paragraph 2, Canada Post will advise the Class Member:
  - (a) that a Class Proceeding against Canada Post is pending in the Ontario Superior Court with respect to the use of volumetric weight based shipping charges, the method and equipment being used to measure volumetric weight or the retention of overpayments by Canada Post, as may be material to the communication;
  - (b) of the name of class counsel and their contact information;
  - (c) that particulars of the claim and proceeding can be found on the website of Blaney McMurtry LLP, at [www.blaney.com](http://www.blaney.com); and
  - (d) that Canada Post is not at liberty to discuss any aspect of the Class Proceeding with Class Members without the consent of Blaney McMurtry LLP or the authorization of the Court.
7. Any changes in Canada Post's policies with respect to the matters addressed above in paragraph 2 will be communicated to Blaney McMurtry LLP 30 days before they are communicated to Class Members to allow Blaney McMurtry LLP time to assess the proposed changes and to allow the plaintiff to seek an order of the Court should there be any dispute with respect to such communication.
8. This agreement may be amended at any time on consent of the parties, or order of the Court.

The signature of Canada Post's counsel below confirms Canada Post's agreement with the above.

Yours truly,

**Blaney McMurtry LLP**



Roderick S.W. Winsor  
RSWW/am

[Original signed by counsel for Canada Post]

---

Canada Post, through its counsel

ONTARIO  
SUPERIOR COURT OF JUSTICE

THE HONOURABLE

) TUESDAY, THE 18<sup>TH</sup> DAY

)

MADAM JUSTICE LAX

) OF DECEMBER, 2007

BETWEEN

LEE VALLEY TOOLS LTD.

Plaintiff

- and -

CANADA POST CORPORATION

Defendant

*PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992*

**ORDER**

**THIS MOTION**, made by the Plaintiff, for an order, among other things, certifying this proceeding as a class proceeding was heard on October 30, 2007, at 393 University Avenue, Toronto, Ontario, with Written Submissions on November 27, 28 and 30, 2007.

**ON READING** the parties' Motion Records, Supplementary Motion Records, Factums, Briefs of Authorities, and Written Submissions, filed, and hearing the submissions of counsel for the parties, judgment having been reserved until this day.

1. **THIS COURT ORDERS** that the plaintiff be granted leave pursuant to section 2 (3) of the *Class Proceedings Act* to bring this motion.
2. **THIS COURT ORDERS** that this proceeding is hereby certified as a class proceeding.
3. **THIS COURT ORDERS** that:

- (a) the members of the class (the "Class") are defined as the customers of Canada Post who:
  - (i) entered into agreements with Canada Post covering periods of one or more years and that set out the terms of the parcel shipping services provided by Canada Post for such customers; and
  - (ii) were charged shipping charges after January 1, 2000 for parcels shipped within Canada on a basis other than actual weight.
- (b) Lee Valley Tools Ltd. is appointed as representative plaintiff; and
- (c) the nature of the claim, the relief sought by the class and the common issues are as is set out in Schedule "A" of this Order.

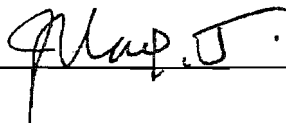
4. **THIS COURT ORDERS** that notice to the Class will be provided as follows:

- (a) The defendant will provide a list of all members of the Class known to the defendant together with complete contact information for such members based on the information and records available to the defendant, with such list and information to be provided to Blaney McMurtry LLP in an affidavit to be sworn by a representative of the defendant to be served on the plaintiff and filed with this Court on or before June 2, 2008.
- (b) The defendant will send on or before June 30, 2008 to each member of the class by ordinary mail a form of notice in the form attached as Schedule "B" to this Order, to the last known address of each class member as provided in the affidavit referred to in paragraph 4(a) of this Order, with the cost of such mailing to be borne by the defendant in the first instance, subject to the ultimate disposition of the trial of the common issues.
- (c) Blaney McMurtry LLP will reproduce on its website on or before June 2, 2008 a copy of the Statement of Claim in this action together with notice in the form attached as Schedule "B" to this Order.
- (d) Canada Post will post on the English version of its website, [www.canadapost.ca](http://www.canadapost.ca), on or before June 2, 2008, and until the expiry of the period for opting out of this proceeding as set out below at paragraph 5 of this Order, notice of this class proceeding, as follows:
  - (i) The first item under the heading "Important Updates" on the English-language homepage will read: "Notice to customers with shipping agreements with Canada Post: A lawsuit has been commenced which may make it possible for you to obtain repayment of shipping charges paid under agreements with Canada Post. For further information, click here".
  - (ii) Clicking where noted will take the reader to a page that reproduces the notice in the form attached to this Order as Schedule "B".

- (e) Canada Post will make an equivalent posting in French on the French version of its website, [www.postescanada.ca](http://www.postescanada.ca), on or before June 2, 2008, and until the expiry of the period for opting out of this proceeding as set out at paragraph 5 of this Order. This posting will consist of French translations of the material posted in English agreed by the parties or approved by the Court.
- (f) Blaney McMurtry LLP will provide a press release to Canadian News Wire Service containing the form of notice attached as Schedule "B" to this Order.

5. **THIS COURT ORDERS** that any member of the Class is permitted to opt out of this proceeding by mailing or faxing to Blaney McMurtry LLP a signed and dated Notice of Opting Out, in the form attached as Schedule "C" to this Order, which must be postmarked if sent by mail or received if sent by fax by no later than August 29, 2008, and that Blaney McMurtry LLP shall serve an affidavit on the defendant and file a copy with this Court no later than October 13, 2008, identifying all persons who have opted out of this proceeding.

6. **THIS COURT ORDERS** that the parties shall make submissions on costs to the Court in writing by dates to be agreed between the parties or fixed by the Court.

  
\_\_\_\_\_

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAY 27 2008

AS DOCUMENT NO.:  
À TITRE DE DOCUMENT NO.:  
PER / PAR:



**SCHEDULE "A": NATURE OF THE CLAIM,  
RELIEF SOUGHT BY THE CLASS AND COMMON ISSUES**

**NATURE OF THE CLAIM**

1. In this proceeding the nature of the claim is as follows:
  - (a) The Plaintiff alleges that Canada Post has violated the *Weights and Measures Act* to increase parcel shipping charges payable by the Class to Canada Post by:
    - (i) charging on the basis of overstated weights;
    - (ii) charging on the basis of overstated volumes;
    - (iii) using units of measure which are not approved;
    - (iv) using unapproved devices to measure parcels.

**RELIEF SOUGHT BY THE CLASS**

2. In this proceeding the relief sought by the Class includes:
  - (a) a declaration that the shipping charges paid to the defendant (hereinafter referred to as "Canada Post") by the Class during the Class Period are contrary to the *Weights and Measures Act*, R.S.C. 1985, c. W-6 as amended, and its regulations (hereinafter referred to as the "*Weights and Measures Act*") and are, therefore, illegal and void.
  - (b) full restitution of Shipping Charges which are contrary to the *Weights and Measures Act*;
  - (c) in the alternative, restitution of the excess shipping charges;
  - (d) aggravated, exemplary and punitive damages in the amount of \$20,000,000.00;
  - (e) pre-judgment interest compounded annually, or, in the alternative, pursuant to the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended;

- (f) post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (g) costs on a substantial indemnity basis and Goods and Services Tax pursuant to the *Excise Tax Act*, R.S.C. 1985, c. E-15, as amended, applicable to any costs; and
- (h) such further and other relief as this Honourable Court may deem just and appropriate in the circumstances.

### COMMON ISSUES

3. The common issues in this proceeding are:
- (a) Were the practices of Canada Post with respect to the calculation and collection of shipping charges based on “volumetric weight” or the retention of inadvertent over-payment paid to the defendant by the class after January 1, 2000 contrary to the *Weights and Measures Act*, R.S.C. 1985, c. W-6?
  - (b) If so, are members of the class entitled to restitution of some or all of the amounts charged by Canada Post in violation of the *Weights and Measures Act*. Can the amount of restitution, if any, be determined on an aggregate basis? If so, in what amount and how should this be distributed?
  - (c) Is Canada Post liable to pay exemplary or punitive damages? If so, should these damages be assessed on an aggregate basis? If so, in what amount and how should this be distributed?
  - (d) Is Canada Post liable to pay pre-judgment interest with respect to such shipping charges and damages? If so, in what amount?

SCHEDULE "B": NOTICE TO CLASS MEMBERS

*ONTARIO*  
SUPERIOR COURT OF JUSTICE

**Notice Published Under the *Ontario Class Proceedings Act*:**

TO ALL CUSTOMERS OF CANADA POST who were charged shipping charges on a basis other than actual weight after January 1, 2000, for parcels shipped within Canada.

IF YOU ARE: a customer of Canada Post who had or has an agreement with Canada Post covering periods of one or more years and setting out the terms of parcel shipping services provided by Canada Post to you (which agreements are referred to by Canada Post as any of a "Canada Post Account", "Commercial Account" or "Small Business Account" or similar term) and who was charged shipping charges on a basis other than actual weight after January 1, 2000, for parcels shipped within Canada;

then this notice will be important to you.

A lawsuit has been commenced which may make it possible for you to obtain repayment of shipping charges paid by you to Canada Post for parcels shipped by you within Canada for which you were charged on a basis other than actual weight after January 1, 2000.

THIS NOTICE is published by Order of the Honourable Madam Justice Lax of the Ontario Superior Court of Justice and explains:

- the lawsuit;
- who might benefit from the lawsuit;
- your right to choose not to be part of the lawsuit and how to be included in the Class;
- the manner by which and time within which Class members may opt out of this proceeding;
- the possible financial consequences of the proceeding to Class members;
- the names and addresses of the representative party and the class lawyers, and the relief sought; and
- other matters.

**1. THE LAWSUIT**

Lee Valley Tools Ltd. has sued Canada Post seeking the return of amounts paid as shipping charges to Canada Post for shipping parcels within Canada after January 1, 2000.

The claim is based on allegations that Canada Post's practices related to the charging of shipping charges violated the *Weights and Measures Act* of Canada resulting in substantially increased shipping charges.

The plaintiff claims payment of shipping charges in an amount to be determined to compensate those persons who paid such shipping charges to Canada Post. The plaintiff is also claiming payment of punitive and aggravated damages and costs.

The Court has not yet determined whether the lawsuit will be successful. Further court proceedings will be required to determine whether the defendant is liable and, if so, the amounts the defendant may be required to pay and how such amounts are to be distributed.

## **2. WHO MIGHT BENEFIT FROM THE LAWSUIT**

On December 18, 2007, the Ontario Superior Court of Justice appointed Lee Valley Tools Ltd. to represent the following class of persons (the "**Class**") in what is commonly known as a Class Action lawsuit:

Customers of Canada Post who had an agreement with Canada Post covering periods of one or more years and setting out the terms of the parcel shipping services provided by Canada Post for such customers and who were charged shipping charges after January 1, 2000, on a basis other than actual weight for parcels shipped within Canada.

## **3. YOUR RIGHT TO CHOOSE NOT TO BE PART OF THE LAWSUIT**

If you are a person falling within the Class described above and do not wish to be included in the Class and to be bound by any Order made in this proceeding, then you must send written notice in the form appearing below ("Opt Out Notice") to Blaney, McMurtry LLP, Barristers, counsel for the Class, indicating that you do not wish to participate in the Class.

If your written request to be excluded from the Class is not received by August 29, 2008, you will be a member of the Class.

## **4. HOW TO BE INCLUDED IN THE CLASS**

If you are a member of the Class described above, you will automatically be included in the proceeding unless you provide the notice to Blaney, McMurtry LLP, in the manner and within the time frame set out above, indicating that you wish not to be a member of the Class.

## **5. FINANCIAL CONSEQUENCES FOR YOU**

If the class action is successful in showing that Canada Post is liable to pay the Class members any of the amounts being claimed, the Court will proceed to determine the amounts to which the Class members may be entitled and how such amounts should be distributed to or for the benefit of the people affected.

If the lawsuit is successful, legal costs will be deducted from the amounts recovered for the members of the Class. Any legal costs charged to the Class must be approved by a court.

Whether or not the Class Proceeding lawsuit is successful, all members of the Class who have not opted out of the proceeding will be bound by the judgment. This means, for example, that after this lawsuit is over such persons could not start their own proceedings against Canada Post for the same types of claims.

## 6. OTHER MATTERS

Lee Valley Tools Ltd. has retained the law firm of Blaney, McMurtry LLP, Barristers, to represent it and the Class in the lawsuit. The law firm will be paid legal fees only if the lawsuit is successful. If the lawsuit is successful, counsel will be requesting legal fees to be determined as a percentage of the amounts recovered plus some or all of any legal costs awarded against the defendant subject to minimum and maximum limits tied to the value of the time spent in connection with this lawsuit. The legal fees are subject to court approval.

The proceeding will involve a two stage process. The first stage of the proceeding will be a trial of the common issues to determine whether the defendant breached its legal obligations. You will not be responsible for any costs associated with the trial of the common issues.

If the representative plaintiff is successful in proving that the shipping charges were established in breach of the *Weights and Measures Act* and that the Class members are entitled to the return of shipping charges and/ or damages, the next step may be for each Class member to prove it paid excess shipping charges. If you attempt to do so and fail, there is a possibility that a cost award may be made against you. You will have an opportunity to decide whether you wish to proceed to prove loss for this purpose. In this regard, you may wish to seek advice of Class counsel, which will be provided at no additional cost.

If you wish to participate personally in the lawsuit, you may apply to the Court for permission to do so.

For further information about the Class Action lawsuit you may contact Blaney, McMurtry LLP to the attention of Julia Anagnostakis at (416) 596-2894, [janagnostakis@blaney.com](mailto:janagnostakis@blaney.com). Fax no: (416) 593-5437.

The court papers in this lawsuit are available for inspection at [www.blaney.com](http://www.blaney.com) or at the office of the Superior Court of Justice, Court House, 393 University Avenue, 10th Floor, Toronto, Ontario, Court File No. 06-CV-320840 CP.

Please **DO NOT CALL** the Registrar of the Court or the judge. They will not be able to answer your questions about the lawsuit.

DATED at Toronto, this 1st day of May, 2008.

**SCHEDULE "C": NOTICE OF OPTING OUT****NOTICE OF OPTING OUT**

I **do not** wish to participate in the *Lee Valley Tools Ltd. v. Canada Post Corporation* Class Action. I understand that by opting out I will not be eligible for the payment of any amounts awarded in the Class Action.

Dated: \_\_\_\_\_

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, Province, Postal Code*

\_\_\_\_\_  
*Telephone No.*

This Notice of Opting Out is to be delivered by mail or fax to the following:

**BLANEY McMURTRY LLP**

Barristers and Solicitors  
Attention: Julia Anagnostakis  
1500 - 2 Queen Street East  
Toronto, ON M5C 3G5

Fax: (416) 593-5437

This Notice of Opting Out must, if sent by mail, be postmarked by August 29, 2008, or, if sent by fax, be received by August 29, 2008, to be effective.

LEE VALLEY TOOLS LTD.  
Plaintiff

CANADA POST CORPORATION  
and  
Defendant

Court File No: 06-CV-320840 CP

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at **Toronto**

PROCEEDING UNDER THE CLASS  
PROCEEDINGS ACT, 1992

178539

**ORDER**

**BLANEY McMURTRY LLP**  
Barristers and Solicitors  
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Fax: (416) 593-5437

**Robert C. Taylor**  
LSUC #17977Q  
Tel: (416) 593-2957  
Fax: (416) 593-5437

Solicitors for the Plaintiff

LEE VALLEY TOOLS LTD.  
Plaintiff

and  
CANADA POST CORPORATION  
Defendant

Court File No. 06-CV-320840 CP

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**ORDER**

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Suite 3000  
79 Wellington St. W.  
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