Information About Class Action Against Canada Post by Lee Valley Tools

Date: May 01, 2012

Status of Class Action:
The litigation of the common issues is proceeding. The parties have exchanged affidavits of documents listing their relevant documents and have provided copies of these documents to the other party.

The examinations for discovery (examinations under oath of the parties' representatives) have been completed and additional documents and information have been provided. A pre-trial conference of the parties with a judge took place on April 5, 2012.

The trial of the common issues is currently scheduled to proceed on May 21, 2013.

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.
Fax no: (416) 593-5437.

The court papers in this lawsuit are available for inspection at 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.