

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. JUSTICE ) WEDNESDAY, THE 9<sup>TH</sup> DAY  
)  
WARREN K. WINKLER, SRJ ) OF NOVEMBER, 2005

B E T W E E N

PEGGY JANE DAVIS

Plaintiff

and

CLIVE METCALF, TIMOTHY VOISIN, GEORGE VOISIN, ELAINE VOISIN, CLAYTON METCALF, SNC INSURANCE COMPANY (BARBADOS) INC., 1394174 ONTARIO INC. (d.b.a. STOP 'N' CASH 1230), STOP 'N' CASH 1010 INC. (d.b.a. STOP 'N' CASH 1010), STOP 'N' CASH 1020 INC. (d.b.a. STOP 'N' CASH 1020), NEW MANOR DEVELOPMENTS LIMITED (d.b.a. STOP 'N' CASH 1030), 1543570 ONTARIO INC. (d.b.a. STOP 'N' CASH 1040), 1388200 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1100), THE REFERRAL GROUP LTD. (d.b.a. STOP 'N' CASH 1110 and as STOP 'N' CASH 1580)), 1361864 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1120), STOP 'N' CASH 1130, 1404867 ONTARIO INC. (d.b.a. STOP 'N' CASH 1140), 1396502 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1150), 1517380 ONTARIO INC. (d.b.a. STOP 'N' CASH 1160), 1410160 ONTARIO INC. (d.b.a. STOP 'N' CASH 1170), 1035507 ONTARIO INC. (d.b.a. STOP 'N' CASH 1180), DINAH J. HOGG (c.b.a. STOP 'N' CASH 1190), 1553618 ONTARIO INC. (d.b.a. STOP 'N' CASH 1201), 1389584 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1210), 1432615 ONTARIO INC. (d.b.a. STOP 'N' CASH 1220), 1568560 ONTARIO INC. (d.b.a. STOP 'N' CASH 1241), 1410176 ONTARIO INC. (d.b.a. STOP 'N' CASH 1250), 1423043 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1260), KRT ONE INC. (d.b.a. STOP 'N' CASH 1270), 1325681 ONTARIO INC. (d.b.a. STOP 'N' CASH 1290), 1410616 ONTARIO INC. (d.b.a. STOP 'N' CASH 1300), 1484838 ONTARIO INC. (d.b.a. STOP 'N' CASH 1320), 1432694 ONTARIO INC. (d.b.a. STOP 'N' CASH 1330), 1399227 ONTARIO INC. (d.b.a. STOP 'N' CASH 1350), 1438158 ONTARIO INC. (d.b.a. STOP 'N' CASH 1360), 1445130 ONTARIO INC. (d.b.a. STOP 'N' CASH 1370), 1457210 ONTARIO INC. (d.b.a. STOP 'N' CASH 1380), 1465009 ONTARIO INC. (d.b.a. STOP 'N' CASH 1390), 1445175 ONTARIO INC. (d.b.a. STOP 'N' CASH 1400), FRANCHISE INVESTMENT GROUP INC. (d.b.a. STOP 'N' CASH 1410), 2002415 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1420), 1473451 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1430), 1476550 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1440), DYNAMIC DEVELOPMENTS INC. (d.b.a. STOP 'N' CASH 1450), KRISWAY INC. (d.b.a. STOP 'N' CASH 1470), STOP 'N' CASH 1480, BEST SALES INC. (d.b.a. STOP 'N' CASH 1490), 2025579 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1500), BARUKCIC HOLDING COMPANY INC. (d.b.a. STOP 'N' CASH 1520), 1561593 ONTARIO INC. (d.b.a. STOP 'N' CASH 1530), 1543441 ONTARIO INC. (d.b.a. STOP 'N' CASH 1540), 1543541 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1550), 1553785 ONTARIO LTD. (d.b.a. STOP 'N' CASH 1560), 2025871 ONTARIO INC. (d.b.a. STOP 'N' CASH 1590), 2028022 ONTARIO INC. (d.b.a. STOP 'N' CASH 1600), 1573780 ONTARIO INC. (d.b.a. STOP 'N' CASH 1610), 1561469 ONTARIO INC. (d.b.a. STOP 'N' CASH 1620), 1587428 ONTARIO INC. (d.b.a. STOP 'N' CASH 1630), 2036998 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1640), 2024670 ONTARIO LIMITED (d.b.a. STOP 'N' CASH 1650), STOP 'N' CASH 1660, 1445174 ONTARIO INC. (d.b.a. STOP 'N' CASH 5010), 1449150 ONTARIO INC. (d.b.a. STOP 'N' CASH 5020), 1484809 ONTARIO INC. (d.b.a. STOP 'N' CASH 5040) and STOP 'N' CASH 1000 INC. (d.b.a. STOP 'N' CASH 5050)

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

**ORDER**

THIS MOTION, made by the plaintiff for an Order for certification of the action as a class proceeding was heard this day at Toronto, Ontario.

ON READING the motion records, as filed,

ON BEING FURTHER ADVISED that the plaintiff and the defendants except for Stop 'N' Cash 1150, 1160, 1230, 1330, 1410, 1430, 1520 and 1660 ("Objecting Defendants") consent to this order,

ON READING THE WRITTEN SUBMISSIONS of counsel for the plaintiff and counsel for the Objecting Defendants,

1. THIS COURT ORDERS that the action be and is hereby certified as a class proceeding.
2. THIS COURT ORDERS that the Class is defined as:  
*All persons who obtained payday loans in Ontario from a defendant operating under the business name Stop 'N' Cash on or after January 1, 1998 to November 9, 2005.*
3. THIS COURT APPOINTS Peggy Jane Davis as the representative plaintiff of the Class.
4. THIS COURT DECLARES that the common issues in the action are:

- (a) Do the “Payday Loans” constitute agreements or arrangements for the purpose of the advancing of credit within the meaning of s. 347(2) of the *Criminal Code*?
- (b) Are the initial set-up fee, insurance premiums and interest charged by the defendants on each Payday Loan to the Class Members “Interest” for the purpose of s. 347(2)? If so, does the interest exceed an effective annual rate of interest of sixty percent when calculated in accordance with generally accepted actuarial practices and principles and therefore contravenes s. 347?
- (c) Should the court assess an aggregate award for the Class Members or permit individual defendants to dispute damages? If an aggregate award is to be made, what is the aggregate award and against which defendant is it to be made?
- (d) Should one or more of the defendants pay punitive damages to the Class Members? If so, who, why, in what amount and to whom?
- (e) Is prejudgment interest payable? If so, by whom, at what rate, and why?
- (f) Who should pay the cost of administering and distributing amounts to which the Class Members are entitled and how, and when, should such cost be determined?

5. THIS COURT ORDERS that the cause of action pleaded in the statement of claim is conspiracy to charge interest at a criminal rate and declaratory relief.

6. THIS COURT ORDERS that the class members shall be given notice of the certification of this action as a class proceeding, generally in accordance with the form of the notice in the litigation plan, attached as Schedule 1, in the following manner:

- (a) by the plaintiffs, at their expense, posting the Notice on the website [www.stopncashclassaction.com](http://www.stopncashclassaction.com);
- (b) by each defendant, at their expense, posting the Notice in a prominent location in each and every Stop ‘N’ Cash store it controls;
- (c) by the defendants, at their expense, posting the Notice in a prominent location on the Stop ‘N’ Cash website; and

- (d) by Class Counsel, at their expense, providing a copy of the Notice to any person who requests it.

7. THIS COURT DECLARES that the Notice and its distribution satisfy the requirements of s. 17(6) of the *Class Proceedings Act, 1992*.

8. THIS COURT ORDERS that a Class member may opt out of the class action by sending a written election to opt out, signed by the Class member, by prepaid mail, courier or fax to

Howie & Partners, Chartered Accountants  
3036 Walker Road  
Windsor, ON N8W 3R4  
Attention: Stop 'N' Cash Class Action

on or before the 30th day of January, 2006.

9. THIS COURT ORDERS that the litigation plan attached as Schedule 1 is a workable method of advancing the proceedings subject to clarification and amendment if required.

10. THIS COURT ORDERS that the defendants are restrained, until the trial of the common issues, from disposing of, deleting or destroying any business records, documents or information, in written, electronic or other form, related to the Class members' payday loan transactions or to SNC Insurance Company (Barbados) Inc. which documents are in the possession of the defendants or under their direction and control.

11. THIS COURT ORDERS that this court shall first determine common issues 4(a) and (b) before proceeding to determine the balance of the common issues.

12. THIS COURT ORDERS that there shall be documentary production on all common issues.

13. THIS COURT ORDERS that examinations for discovery shall proceed only on common issues 4(a) and 4(b) and that there shall be no examinations for discovery on the balance of the common issues until after the court determines common issues 4(a) and 4(b).

14. THIS COURT ORDERS that the defendants shall deliver their statements of defence or an amended statement of defence within 40 days of this order and may assert cross-claims but not third party claims without leave of the court.

15. THIS COURT ORDERS that the costs of this motion are reserved to the judge at the trial of the common issues 4(a) and (b).

  
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JUSTICE

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