

Court File No.: 114/2006-CP
Court File No.: 172/2006
Court File No. 07-CV-328469PD1
Small Claims Court File No. 39/2007

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**KRP ENTERPRISES INC. and
1643078 ONTARIO INC.**

Plaintiffs

- and -

**THE CORPORATION OF HALDIMAND COUNTY,
ONTARIO PROVINCIAL POLICE COMMISSIONER GWEN M. BONIFACE,
and ONTARIO PROVINCIAL POLICE INSPECTOR BRIAN HAGGITH**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

BETWEEN:

DAVID BROWN AND DANA CHATWELL

Plaintiff

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE
OF ONTARIO and ONTARIO PROVINCIAL POLICE, A CROWN
CORPORATION**

Defendants

B E T W E E N:

**RAILINK CANADA LTD., carrying on business as
THE SOUTHERN ONTARIO RAILWAY**

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

B E T W E E N:

FRANK PAUL FASANO

Plaintiff

- and -

THE PROVINCIAL GOVERNMENT OF ONTARIO

Defendant

**FACTUM OF RESPONDING PARTY
KRP ENTERPRISES INC. ET AL.**

April 16, 2007

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1. FACTS


2. The *KRP Enterprise Inc. v. Haldimand County* action (the “Class Action”) is a proceeding under the *Class Proceedings Act, 1992*. None of the other actions are proceedings commenced under that Act.
3. In the Class Action the plaintiffs have brought a motion on November 24, 2006, seeking certification. A date has been set for hearing of the certification motion and 3 days have been set aside (June 18, 19 and 20, 2007).
4. The plaintiffs in the *Brown v. Her Majesty* action would be members of the Property Owners Class as defined in the Class Action.
5. The plaintiff in *Fasano v. The Provincial Government of Ontario* would be a member of the Caledonia Business Class and the Property Owners Class as defined in the Class Action.
6. The plaintiff in the *Railink Canada Ltd. v. Her Majesty* action does not fall into any of the classes defined in the Class Action.
7. The Defendants have expressed an intention to bring motions under Rule 21 with respect to the causes of action raised in the Class Action as well as the other actions.
8. There are no Rule 21 motions before the court with respect to any of the actions.
9. The Plaintiffs in the Class Action are not opposed to Justice Crane being appointed as a case management judge, provided that the consequences of such appointment do not impede the hearing of the motion for certification in the Class Action.

10. ORDER REQUESTED

11. If an order is made to have all of the actions case managed by the same judge, the Plaintiffs in the Class Action request the following terms:
- (a) that the Defendants in the Class Action be required to put a notice, in a form acceptable to the parties in the Class Action and to the case management judge, in the *Hamilton Spectator* and local papers in Caledonia for the purpose of advising potential class members who may be considering commencing an action of the pending motion for certification;
 - (b) that a deadline be established for the filing of any Rule 21 motions by the Defendants;
 - (c) that any Rule 21 motion that does not relate to causes of action raised in the Class Action be scheduled for a separate hearing date from that which was been scheduled for the Class Action.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

April 16, 2007



John W. Findlay

**KRP ENTERPRISES INC. et al. v. THE CORPORATION OF HALDIMAND COUNTY et al
DAVID BROWN et al v. HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO et al
RAILINK CANADA LTD. v. HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
FASANO v. THE PROVINCIAL GOVERNMENT OF ONTARIO**

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

**FACTUM OF RESPONDING PARTY
KRP ENTERPRISES INC. ET AL**
[Motion returnable April 18, 2007]

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