

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) FRIDAY, THE 29TH
MR. JUSTICE PATTERSON) DAY OF JANUARY, 2016

B E T W E E N :

AMYOTROPHIC LATERAL SCLEROSIS SOCIETY OF ESSEX COUNTY

Plaintiff

- and -

THE CORPORATION OF THE CITY OF WINDSOR

Defendant

O R D E R

THIS MOTION, made by the plaintiff for an Order seeking the relief set out below was heard via teleconference on January 19, 2016 and in person on January 25, 2016, at Windsor, Ontario:


- (i) An Order abridging the time for service and filing;
- (ii) An Order requiring the defendant to immediately cease and desist all communications intended to persuade class members to opt-out of these class proceedings (the "Opt-Out Campaign"), whether direct or indirect, including but not limited to all media interviews, all advertisements, all social media and internet postings and all press releases;
- (iii) An Order requiring the defendant to provide the plaintiff and the Court with complete disclosure of all actions and communications they took and plan to take with respect to their Opt-Out Campaign in the form of a sworn affidavit, sworn by a duly authorized municipal official for each defendant, by January 21, 2016;
- (iv) An Order declaring:
 - a) that the defendant's conduct is inappropriate and counter to the principles of the *Class Proceedings Act, 1992*;

- b) that the defendant's conduct constitutes an unlawful interference with the class members' rights to freely exercise to participate in or abstain from the class actions on an informed, voluntary basis free from undue influence;
 - c) that the defendant's conduct constitutes an unlawful interference with the opt-out procedures ordered and approved by this Court;
 - d) that the defendant's conduct constitutes an unlawful communication and contains misinformation, a threat, is intimidating, coercive or is made for some other improper purpose aimed at undermining the Notice of Certification and Opt-Out process approved and ordered by this Court.
- (v) An Order requiring the defendant to permanently cease and desist the Opt-Out Campaign;
 - (vi) An Order prohibiting the defendant from communicating with class members, directly or indirectly, regarding the within class actions without prior approval of the Court, including but is not limited to providing media interviews, press releases, internet or social media postings and advertisements;
 - (vii) An Order requiring the defendant to immediately publish a statement in a form to be determined by the Court via press release to the same distribution list used in the Opt-Out Campaign and post it on their home pages, Twitter accounts and Facebook pages;
 - (viii) An Order establishing a process to determine the validity of any opt-outs received in advance of the final determination of this motion
- (b) Such further and other remedial relief as this Court finds necessary;
 - (c) Costs of this motion and costs of all necessary remedial steps as determined necessary by this Court on a full indemnity basis.

ON READING the Notice of Motion, the Amended Notice of Motion, the Notice of Return of Motion, the Affidavit of Tony DeJong sworn January 19, 2016, the Supplemental Affidavit of Tony DeJong sworn January 21, 2016, the Affidavit of Yola Ventresca sworn January 21, 2016, the Joint Factum of the Moving Parties dated January 21, 2016, the Submissions on Plaintiffs' Motion Respecting Opt Out Communications dated December 19,

2016, the Respondents' Joint Factum Plaintiffs' Motion Respecting Opt Out Communications dated January 23, 2016; and, on hearing the oral submissions of counsel for the plaintiff, the Amyotrophic Lateral Sclerosis Society of Essex County, and for the defendant, the Corporation of the City of Windsor ("City of Windsor"),

1. **THIS COURT ORDERS** that the time for service and filing of the present motion is abridged.
2. **THIS COURT ORDERS** that any potential claimants who opted out shall have an opportunity to reconsider their position at the end of the opt-out period and directs counsel to contact the Case Management Justice in this regard.
3. **THIS COURT ORDERS** that there be no further information from the City of Windsor concerning the Opt-Out Campaign
4. **THIS COURT ORDERS** that information and communications about the opt-out campaign that already exists may remain in place.
5. **THIS COURT ORDERS** that the website of the defendant, helpwindsortecumseh.com, shall contain live hyperlinks to the class action website, www.windsorbingoclassaction.ca, where such references appear on the website.
6. **THIS COURT ORDERS** that the City of Windsor's website shall contain a hyperlink to the class action website www.windsorbingoclassaction.ca.
7. **THIS COURT ORDERS** that the plaintiff shall make costs submissions within 30 days and the defendant shall deliver responding costs submissions within 15 days thereafter.



Justice Terrence Patterson

ENTERED AT WINDSOR
In Book No. <u>27</u>
re Document No. <u>188</u>
on: <u>Feb 11</u> 20 <u>16</u>
by <u>CL</u>

AMYOTROPHIC LATERAL SCLEROSIS
SOCIETY OF ESSEX COUNTY
Plaintiff and
THE CORPORATION OF THE CITY OF
WINDSOR
Defendant

Court File No: CV-08-12004

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Proceeding commenced at WINDSOR

ORDER RE OPT-OUT CAMPAIGN

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