

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

BETWEEN:

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

Plaintiff

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**

Defendant

BETWEEN:

**FRANK PAUL FASANO**

Plaintiff

- and -

**THE PROVINCIAL GOVERNMENT OF ONTARIO**

Defendant

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

April 16, 2007

**FINDLAY McCARTHY LLP**  
66 James Street North  
Hamilton, Ontario  
L8R 2K5

John W. Findlay  
LSUC: 19502C

Tel: (905) 526-8943  
Fax: (905) 526-8696

TO: **ATTORNEY GENERAL OF ONTARIO**  
Crown Law Office – Civil  
720 Bay Street – 8<sup>th</sup> Floor  
Toronto, Ontario  
M5G 2K1  
Fax: (416) 326-4181

**Dennis W. Brown, Q.C.**  
LSUC: 104680

Tel: (416) 326-4156

**Orlando V. Da Silva**  
LSUC: 36673T

Tel: (416) 326-4093

AND TO: **STEIBER BERLACH LLP**  
900-130 Adelaide Street West  
Toronto, Ontario  
M5H 3P5

Steven Steiber  
Tel: (416) 366-1400  
Fax: (416) 366-1466

AND TO: **ARRELL, BROWN, OSIER, MURRAY  
AND ROSEWELL, LLP**  
Main Level, 41 Caithness Street West  
Caledonia, Ontario  
L3W 2J2

Paul J. Osier  
Tel: (905) 765-5414  
Fax: (905) 765-5144

AND TO: **MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
Toronto, Ontario  
M5H 3S1

Kenneth R. Peel  
Tel: (416) 595-8578  
Fax: (416) 595-8695

AND TO: **FRANK PAUL FASANO**  
232 Kinross Street  
Caledonia, Ontario  
N3W 2K5

Tel: (905) 765-8775  
Fax: (905) 765-5018

Self-Represented

**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**

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

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

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

**FINDLAY MCCARTHY LLP**  
Barristers and Solicitors  
66 James Street North  
Hamilton, Ontario  
L8R 2K5

**John W. Findlay**  
Tel: (905) 526-8943  
Fax: (905) 526-8696

Solicitors for the Plaintiffs