

---

# FINDLAY McCARTHY LLP

---

Barristers & Solicitors

## NEWS RELEASE

### FOR IMMEDIATE RELEASE

January 2, 2008

**HAMILTON** - The Province of Ontario has failed to stop the class action brought on behalf of businesses and residents damaged by the occupation in Caledonia.

In a decision issued on December 21, 2007, Justice David Crane, of the Ontario Superior Court of Justice, dismissed a motion brought by the Crown to strike the class action claim commenced by 4 businesses and 14 residents of Caledonia against former OPP Commissioner, Gwen Boniface, the former OPP Detachment Commander and the Ontario Government.

Justice Crane rejected the Crown's submission that the exercise of police discretion by the former Commissioner of the OPP, Gwen Boniface, was beyond the court's review.

In the decision, Justice Crane quoted Lord Slynn of England's High Court of Justice, who said in the case of *Phoenix Aviation v. Coventry Airport*:

“... One thread runs consistently throughout all the case law: the recognition that public authorities must beware of surrendering to the dictates of unlawful pressure groups.”

Justice Crane also found that the Statement of Claim filed by the class action plaintiffs sufficiently pleaded a claim in malfeasance in a public office against various ministers of the Crown, including the Minister Responsible for Aboriginal Affairs, the Minister of Community Safety and Correctional Services and the Attorney General.

This decision now clears the way for the plaintiffs to proceed with a motion for certification under the Ontario *Class Proceedings Act*.

66 James Street North, Hamilton, Ontario L8R 2K5

---

Tel: (905) 526-8943 Fax: (905) 526-8696  
Email: [findlay@findlaymccarthy.com](mailto:findlay@findlaymccarthy.com)

Attached is the copy of Justice Crane's decision dated December 21, 2007.

A website ([www.caledoniaclassaction.com](http://www.caledoniaclassaction.com)) has been established to keep the public and potential class members informed of the progress of the action.

- 30 -

**For Media inquiries contact:**

John W. Findlay, Findlay McCarthy LLP (905) 526-8943

**For Other inquiries or for a copy of the claim:**

Access the Web site at [www.caledoniaclassaction.com](http://www.caledoniaclassaction.com)