

NAVISTAR UPDATES

November 21, 2012 Class Action Lawsuit -Update

As we have previously advised, the court hearing was convened to deal with the defendant Navistar Canada Inc.'s motion to dismiss the proposed class action brought by Cathy Baker and Joe Lucier on behalf of unionized workers of Navistar in Chatham.

Counsel for Navistar began his submissions at ten o'clock on the 14th of November when Court was called into session. He completed his oral argument at 2:45 pm.

Since the Court normally adjourns at about 4:30 pm, counsel for the plaintiffs did not have sufficient time remaining in the day to complete his anticipated argument.

The presiding Justice suggested it might be appropriate to permit counsel for the plaintiffs Cathy Baker and Joe Lucier, to begin his submissions at the start of a new day, and make his argument without the interruption of an adjournment. This was a fair and reasonable suggestion. Counsel for the plaintiffs agreed with the proposition.

Counsel representing the plaintiffs will present their argument in Chatham on either January 21 or January 22, 2013 commencing at 10:00 o'clock at the Superior Court of Justice Courthouse located at 425 Grand Ave West, Chatham.

We will advise of the specific date as soon as it is identified.

Counsel for Navistar argued that the case brought by Cathy Baker and Joe Lucier, on behalf of the unionized workers of Navistar in Chatham, essentially concerned allegations of bad faith bargaining and therefore was in the jurisdiction of the Ontario Labour Relations Board and not the Court. Counsel for the plaintiffs disagrees and will argue that the case is about enforcing the employment rights of the unionized workers at Navistar in Chatham and the recovery of a remedy with respect to a denial of those individual employment rights. Particulars of the plaintiffs' submission will be spelled out in Court in January 2013.