

IN THE SUPREME COURT OF BRITISH COLUMBIA



BETWEEN:

PETER GREGG

PLAINTIFF

FREIGHTLINER LTD., doing business as WESTERN
STAR TRUCKS

DEFENDANT

Brought Pursuant to the *Class Proceedings Act*

CERTIFICATION ORDER

BEFORE THE HONOURABLE) THURSDAY, THE 19TH DAY
MADAM JUSTICE BENNETT) OF JUNE, 2003

THE APPLICATION of the Plaintiff for certification under the *Class Proceedings Act*, RSBC 1996, c. 50, coming on for hearing before me at Vancouver, British Columbia on October 15th through 17th, 2002, and June 19, 2003, and upon hearing Murray Tevlin, and Dan Gleadle, and Dagmar Dlab, counsel for the Plaintiff, AND Allan P. Seckel, QC, Mark Andrews, Andrew Borrell, and Gavin Marshall, counsel for the Defendant, Freightliner Ltd., doing business as Western Star Trucks;

AND UPON READING the pleadings and proceeding as well as the following affidavits sworn and filed herein:

1. Affidavit of Peter Gregg, sworn July 22, 2002;

2. Affidavit of Dagmar Dlab, sworn July 23, 2002;
3. Affidavit of Trudy Houghton sworn September 12, 2002;
4. Affidavit of Ross Edwards (Ted) Wormworth #1 sworn September 13, 2002;
5. Affidavit of Jan Whyte, sworn September 24, 2002.

THIS COURT ORDERS THAT:

1. the action be and the same is hereby certified as a class proceeding.

2. the class is defined as:

All persons employed by the Defendant Freightliner Ltd. in British Columbia under an oral or written contract of employment of indefinite duration who received notice of termination of their employment at any time on or after December 3, 2001 until September 30, 2002. This class does not include employees

- a) who executed a full and final release in favour of the Defendant;
- b) who were dismissed for just cause;
- c) who were unionized employees in a bargaining unit; and
- d) who resigned prior to September 30, 2002.

The said class shall be divided into two sub-classes, one for residents of British Columbia, and one for non-residents of British Columbia.

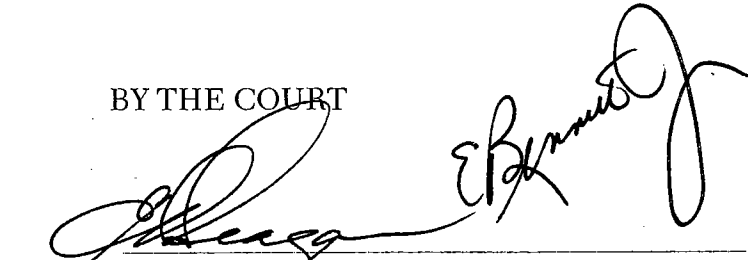
3. Peter Gregg is hereby appointed as representative plaintiff of both sub-classes in the class proceeding.
4. the nature of the claims asserted by the class as against the Defendants are wrongful dismissal, breach of contract, including wage rollbacks, failure to pay overtime and bonuses and benefits.
5. the relief sought by the class is for recovery of:

- a. general and special damages;
 - b. costs pursuant to section 37 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50;
 - c. interest pursuant to the Court Order Interest Act, R.S.B.C. 1996, c. 79; and
 - d. such further and other relief as this Honourable court may consider just.
6. the following questions be certified as common issues for the class:
- a. Was the employment of each of the class members subject to a contract of employment of indefinite duration, terminable only upon notice and/or pay in lieu of notice if dismissed without cause?
 - b. Did Freightliner provide effective notice of the termination of the contracts of employment, prior to September 30, 2002 ?
 - c. Did Freightliner roll-back wages for class members by 5 per cent, and if so, was that a breach of the employment contract, and has Freightliner now paid such wages as part of severance packages?
 - d. Was it a contractual term that members of the class be paid overtime?
 - e. Did Freightliner stop paying overtime to the members of the class, and if so, was that a breach of contract?
 - f. Was it a term of the employment contract that a bonus would be paid dependent upon the performance of the employee and the performance of the company?
7. notice of certification be given to the class members by the following means:
- a. The Defendant mail or deliver copies of Appendix "A" to this Order (the "Notice") to all class members at the address where their 2002 T-4 was sent, or a more recent address available to the Defendant;

- i. The Defendant will attach a copy of Appendix “B”(described in paragraph 8, below), to the notice sent to class members showing addresses in British Columbia;
 - ii. The Defendant will attach a copy of Appendix “C” (described in paragraph 9, below), to the notice sent to class members showing addresses not in British Columbia;
 - b. The Defendant will cause the Notices to be delivered pursuant to paragraphs 7 a. above by July 30, 2003;
 - c. Within two weeks after July 30, 2003, the Defendant will deliver to class counsel a letter summarizing notice efforts including the number of copies of the Notice that the Defendant sent, to whom, at what address, and over what period;
 - d. The Notice will be published on the TevlinGleadle Employment Law Strategies (“TevlinGleadle”) website.
 - e. The defendant will pay any costs associated with methods in paragraphs 7 a above, and the Plaintiff will pay any costs associated with the method in paragraph 7 d. above;
8. Class members who are residents of British Columbia may opt out of this proceeding by notifying TevlinGleadle, class counsel, in writing by email, fax, or mail no later than September 15, 2003, and shall use for that purpose the Opt Out form attached as Appendix “B” to this Certification Order (“Opting Out of the Class Action”).
9. Class members who are not residents of British Columbia may opt in to this proceeding by notifying TevlinGleadle, solicitors for the plaintiff, in writing by email, fax, or mail no later than September 15, 2003 and shall use for that purpose the Opt In form attached as Appendix “C” to this Certification Order (“Opting In to the Class Action”).

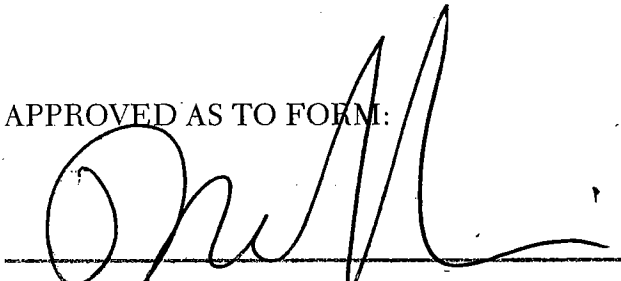
10. The Opt Out form for BC Residents , and the Opt In form for Non-BC Residents will be posted on the TevlinGleadle website in printable form and will be provided by class counsel to class members upon request.

BY THE COURT

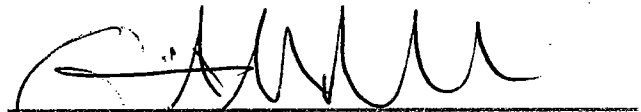


DISTRICT REGISTRAR

APPROVED AS TO FORM:



Counsel for the Plaintiff



Counsel for the Defendant,
FREIGHTLINER LTD., DOING BUSINESS AS
WESTERN STAR TRUCKS

ENTERED
JUL 08 2003
VANCOUVER REGISTRY
VOL. 5131 FOL. 150

[Employment Class Notice]

**NOTICE OF WRONGFUL DISMISSAL CLASS ACTION ON BEHALF OF
SALARIED EMPLOYEES RECENTLY TERMINATED BY FREIGHTLINER
Ltd. in Kelowna, B.C.**

*Peter Gregg v. Freightliner Ltd, doing business as Western Star Trucks,
(Supreme Court of British Columbia)*

This class action is different from the action claiming additional monies from the Freightliner/Western Star pension plan. You may receive a separate notice about the Pension Class Action.

INTRODUCTION

Peter Gregg of 315 Peck Road, Kelowna, British Columbia, has sued Freightliner Ltd. ("Freightliner"), doing business as Western Star Trucks, in the Supreme Court of British Columbia.

The Court has ordered that this action proceed as a class action, and that this notice be mailed to all class members. You are receiving this notice because records show that you are a member of the class.

The Court has ordered that the class consists of the following:

All persons employed by the defendant Freightliner Ltd. in British Columbia under an oral or written contract of employment of indefinite duration who received notice of termination of their employment at any time on or after December 3, 2001 until final closure of the Kelowna truck plant.

This class does not include employees

- a) Who executed a full and final release in favour of the defendant;
- b) Who were dismissed for just cause;
- c) Who were unionized employees in a bargaining unit; and
- d) Who resigned prior to September 30, 2002

WHAT IS THE CASE ABOUT?

The claim is being made for damages caused by Freightliner's termination of each class member's employment. Mr. Gregg claims that members are entitled to damages beyond what was received in severance packages provided by Freightliner. He also seeks compensation for failure to pay overtime since February 21, 2001 and for the 5% rollback of wages since January 6, 2002.

Freightliner denies that the severance packages were inadequate and all other claims made.

The court has not yet determined whether the Plaintiff's claims have merit.

WHAT DO I NEED TO DO?

You have a right to choose whether or not to be part of the case.

- **If you are not a resident of British Columbia:**

If you are not a resident of British Columbia, and if you want to be part of the case, you must complete a form titled "Opting In To the Class Action" and mail it, fax it or e-mail it to TevlinGleadle Employment Law Strategies, so that it is received by no later than September 15, 2003.

If you are resident outside British Columbia, a copy of the form should be enclosed with this Notice.

If you do not return the form, you will not share in any money that may be awarded in the class action, and you won't be bound by the result if the case fails. If you do return the form then you will be entitled to share in any award and you will be bound by the result if the case fails.

- **If you are a resident of British Columbia:**

Class members who reside in B.C. are automatically included unless you opt out. If you do not opt out any judgment in the class action, whether favourable or not, will decide the common issues for you. In other words, unless you opt out, you will not be allowed to bring your own lawsuit in relation to the same issues.

If you are resident in British Columbia, a copy of the form should be enclosed with this Notice.

You can also get a printable copy of both forms by visiting the class counsel's web site at www.tevlingleadle.com

If you opt out of the class, you will **not** be entitled to share in any amounts which may be recovered .

If you wish to opt out, you must complete a form titled "Opting Out of the Class Action" and mail it, fax it or e-mail it to TevlinGleadle Employment Law Strategies, so that it is received by no later than September 15, 2003.

HOW WILL THE CASE PROCEED?

Class actions have two stages. The first stage is the resolution of common issues, a list of the common issues is available from TevlinGleadle Employment Law Strategies.

If the class is successful on the common issues, the Court will determine what steps class members need to take in order to determine if each class member is entitled to recover money, and in what amount.

FINANCIAL CONSEQUENCES

As a member of the class you will be entitled to the benefit of any ruling on the common issues of whether Freightliner is liable to the class members. If the action is not successful, you will not be responsible for any of the costs of this action. You may be responsible for the costs of proving your own personal damages however.

AGREEMENT WITH SOLICITORS REGARDING FEES

Mr. Gregg has retained TevlinGleadle Employment Law Strategies ("TevlinGleadle") to act as counsel for the class. The class does not have to pay any legal fees to TevlinGleadle unless the action is successful. If the class action is successful, TevlinGleadle will apply to court to receive from 12% to 24% of the amount each member recovers in excess of Freightliner's letter of Dec, 2001. The percentage will, depend on the stage of the proceedings at which recovery is obtained. The court will decide whether this arrangement is fair.

This percentage will be applied to all amounts recovered, including damages, and interest, but only in excess of what is set out letters from Freightliner dated December 3, 2001.

Disbursements, that is monies actually paid out to advance the action, are the responsibility of class counsel, unless or until the action is resolved. A claim for payment of disbursements by Freightliner will be made in the action. If the action is not successful, the disbursements will be the responsibility of class counsel.

PARTICIPATION BY CLASS MEMBERS

If any class member wishes to participate directly in the action he or she may do so by making an application to the Court.

Class members may be required to participate later, in order to establish their own entitlement to damages.

FURTHER INFORMATION

If you require further information about this action, you may contact Murray Tevlin or Dan Gleadle at TevlinGleadle at the address set out above or through any of the following means:

Phone: 604-648-2966

Fax: 604-648-1967

E-mail: mtevlin@tevlingleadle.com or dgleadle@tevlingleadle.com

By visiting the web site at: www.tevlingleadle.com,

Class members should keep TevlinGleadle Employment Law Strategies advised of any address changes by fax or e-mail.

OPTING IN TO THE CLASS ACTION

(for non-B.C. residents only)

I want to participate as a member of: The Class Action of Peter Gregg v. Freightliner Ltd., doing business as Western Star Trucks, Vancouver Registry No. SO 31838

I understand that if I complete and submit this form, I will share in any compensation recovered in the class action and I will be bound by the result of the action, whether favourable or not.

Name

Address

E-mail

Telephone

Signature

Date

**IF YOU WANT TO BE PART OF THE CLASS ACTION
MAIL, E-MAIL, OR FAX THIS DOCUMENT SO THAT IT IS RECEIVED NO
LATER THAN **SEPTEMBER 15, 2003** TO:**

TevlinGleadle Employment Law Strategies
111 Smithe Street
Vancouver, British Columbia, Canada V6B 4Z8
E-mail: info @TevlinGleadle.com
Phone: (604) 648-2966
Fax: (604) 648-2967
www.TevlinGleadle.com

OPTING OUT OF THE CLASS ACTION

(for B.C. residents only)

I do **not** want to participate as a member of: The Class Action of Peter Gregg v. Freightliner Ltd., doing business as Western Star Trucks, Vancouver Registry No. SO 31838

I understand that if I complete and submit this form, I will **NOT** share in any compensation recovered in the class action and I will **NOT** be bound by the result of the action, whether favourable or not.

Name

Address

E-mail

Telephone

Signature

Date

**IF YOU DO NOT WANT TO BE PART OF THE CLASS ACTION
MAIL, E-MAIL OR FAX THIS DOCUMENT SO THAT IT IS RECEIVED NO
LATER THAN **SEPTEMBER 15**, 2003 TO:**

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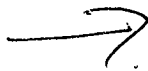
AND:

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STAR TRUCKS

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CERTIFICATION ORDER



**TEVLINGLEADLE
EMPLOYMENT LAW STRATEGIES**
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Vancouver BC V6B 4Z8
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Fax: 604.648.2967
Attention: Dan Gleadle and Murray Tevlin



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2100-1075 W. Georgia Street
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Fax: 604.631.3232
Attention: Mark Andrews and Gavin Marshall