



Friends of the Earth  
Les Ami(e)s de la Terre

**MEDIA RELEASE**  
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# **Canada's top court upholds right to launch environmental class action lawsuits**

OTTAWA (November 20, 2008) - Environmental advocates are hailing a precedent-setting ruling from the Supreme Court of Canada today in the case of *St. Lawrence Cement Inc. v. Barrette*, which upheld the right for citizens to launch environmental class action lawsuits.

Represented by pro bono lawyers from Ecojustice (formerly Sierra Legal Defence Fund) and the firm of Lauzon Bélanger, the Quebec Environmental Law Centre and Friends of the Earth Canada intervened in the dispute to defend the rights of Canadians to use class action procedures in environmental nuisance cases. The groups also sought to challenge a controversial Quebec Court of Appeal decision that would have prevented class action lawsuits over environmental harm.

"This is a massive victory for everyday citizens and the environmental community," said Will Amos, a lawyer from the uOttawa-Ecojustice Environmental Law Clinic who co-argued the case. "In terms of access to justice, in terms of enhanced environmental protection through nuisance claims, and in terms of the entrenchment of the polluter pays principle, we are very pleased with this decision."

The Supreme Court also settled a longstanding debate under Quebec's civil law system by ruling that nuisance claims only require proof of "abnormal inconvenience", and do not require proof of wrongdoing or "fault". "The result is that future environmental nuisance claims will be more easily proven under a no-fault regime, and polluters will have even more incentive to clean up their act to avoid being sued by their neighbours," stated Amos.

"The Court not only confirmed that citizens play an important role in bringing environmental nuisance claims, it upheld one of the most important principles in environmental law - that polluters must pay." said Jean-Francois Girard, Director of the Quebec Centre for Environmental Law.

The lawsuit began when a class action brought by neighbours of a controversial Quebec City cement factory sought compensation for damage caused by the factory's operation, including noise, odour, and dust problems. Although the Quebec Superior Court upheld

their claim and ordered St. Lawrence Cement to pay \$15 million in damages, the Quebec Court of Appeal reversed this decision, concluding that nuisance claims could not be brought as a class action proceeding and that only landowners could participate. Today's decision upheld the Superior Court decision.

"This decision of the Supreme Court reinstates the possibility of implementing class action procedures in environmental cases, a possibility that had been, for all practical purposes, shut out by the Quebec Appeal Court," stated Michel Bélanger, counsel at Lauzon Bélanger in Montreal.

"Through our intervention in the citizens' case, we were seeking to uphold citizens' rights to launch environmental class action lawsuits so that Canadians can do what is needed when the government cannot or will not take adequate action to protect the environment," stated Beatrice Olivastri, CEO of Friends of the Earth Canada. "We congratulate Madame Barrette, Monsieur Cochrane and their colleagues on their success and thank them on behalf of all Canadians. Because of their fortitude in pursuing their case, the court has protected access to environmental justice both in Québec and in the rest of Canada."

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