

Eron investor clears first court hurdle toward certification of class-action suit

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A North Vancouver woman who lost \$94,500 in the Eron Mortgage Corp. fiasco has overcome the first obstacle in obtaining court certification of a class-action suit against the British Columbia registrar of mortgage brokers and the B.C. government.

B.C. Supreme Court judge David Tysoe has ruled that the pleadings in a statement of claim filed by Mary Francis Cooper do disclose a cause of action.

"The cause of action alleged in the statement of claim is negligence, which requires, among other things, that a duty of care be owed by the registrar to the plaintiff," Tysoe said in his 22-page decision Friday.

"The issue is whether it is plain and obvious that the registrar did not owe a duty of care to the plaintiff."

After hearing arguments by Cooper's lawyer, David Church, and the defendants' lawyer, Clifton Prowse, Tysoe found in Cooper's favour:

"I conclude that it is not plain and obvious that the registrar did not owe a duty of care to the plaintiff."

Tysoe will now hear arguments to determine whether there are sufficient common issues among Eron victims to make a class action preferable to a series of individual actions.

A hearing date has not been set. Church said he hopes it will be held in early May.

In a related matter, B.C. Court of Appeal last week rejected an attempt by the B.C. government to keep confidential dozens of documents that Church had requested on behalf of his client.

The government had claimed solicitor-client privilege and public interest immunity over the documents, but Tysoe ruled in February that it must produce them.

The government asked Court of Appeal for permission to appeal the order, but Justice George Cumming denied the government's application March 22.

Eron raised \$222 million from several thousand investors before registrar Robert Hobart suspended the firm's licence on Oct. 3, 1997. The expected recovery is only \$40 million.

In a concurrent action, the B.C. Securities Commission has alleged that Eron's principals,

president Brian Slobogian and vice-president Frank Biller, sold mortgage investments that were actually securities but did not comply with securities laws.

A hearing before a commission panel will be held at the Century Plaza Hotel starting at 10 a.m. April 12.

RCMP are also investigating to determine whether criminal charges should be laid against Slobogian and Biller.