

SCHEDULE "A"

Court File No. 02-CV-226280 CM 3

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ROBERT EDMONDS

Plaintiff

- and -

PHYLLIS LAPLANTE, SCOTT LAPLANTE,
861039 ONTARIO LIMITED operating as COBY VARIETY
and ONTARIO LOTTERY & GAMING CORPORATION

Defendants

AMENDED AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date:

Issued by: _____

Local Registrar

Address of court office:

393 University Avenue
10th Floor
Toronto, Ontario
M5G 1E6

TO: PHYLLIS LAPLANTE
Coboconk, Ontario
K0M 1K0

AND TO: SCOTT LAPLANTE
Coboconk, Ontario
K0M 1K0

AND TO: ONTARIO LOTTERY AND
GAMING CORPORATION
4120 Yonge Street
Suite 420
Toronto, Ontario
M2P 2B8

AND TO: 861039 ONTARIO LIMITED
operating as COBY VARIETY
R. R. #1
Coboconk, Ontario
K0M 1K0

CLAIM

1. The plaintiff claims:
 - (a) Damages in the sum of \$250,000.00;
 - (b) As against the defendants LaPlante, punitive damages in the sum of \$500,000.00;
 - (c) Interest on the amounts awarded;
 - (d) The costs of this action on a substantial indemnity scale;
 - (e) Such further and other relief as the nature of the case may require.

2. The plaintiff resides at Coboconk in the County of Victoria.

3. The defendant Ontario Lottery & Gaming Corporation is a corporation without share capital established pursuant to the Ontario Lottery & Gaming Corporation Act, 1999, S. O. 1999, c. 12, Schedule L, ("the lottery corporation") and at all material times operated the Lotto Super 7 and Encore lotteries in Ontario.

4. The defendant 861039 Ontario Limited carrying on business as Coby Variety (hereinafter referred to as "Coby Variety") is an incorporated company which at all material times operated a variety store in Coboconk in the County of Victoria. At all material times Coby Variety was an Ontario Lottery and Gaming Corporation Retail Outlet.

5. The defendants Phyllis LaPlante and Scott LaPlante reside at the said Coboconk and at all material times were employed by or owned or operated Coby Variety.

6. On or about July 5, 2001, the plaintiff attended at the Coby Variety and purchased a Lotto Super 7 ticket, with Encore. That ticket won a free ticket for the defendant lottery corporation's July 13, 2001 draw ("the Lottery Ticket").

7. On or about July 27, 2001 the plaintiff took the Lottery Ticket to Coby Variety to determine if it contained any winning numbers and there gave it and another ticket to the defendant Phyllis LaPlante, who entered them into equipment in order to check them.

8. The defendant Phyllis LaPlante then advised the plaintiff that he had won a free ticket and gave the free ticket to the plaintiff. The said defendant did not advise the plaintiff that the Lottery Ticket had won any other prizes.

9. A few days later, the plaintiff received an anonymous telephone call advising him that he had left a second prize ticket at Coby Variety.

10. A few days later, the plaintiff received a telephone call from the defendant Phyllis LaPlante, who advised him that he had left one of his winning

tickets at the store. The said defendant asked the plaintiff to attend at the store to pick up the second winning ticket.

11. On or about August 1, 2001, the plaintiff received a telephone call from the defendant Scott LaPlante, who asked the plaintiff to attend at Coby Variety immediately for an urgent meeting. The plaintiff accordingly attended that day at Coby Variety and was then informed by the defendants Scott and Phyllis LaPlante that they had misplaced the second winning ticket and that they required the free ticket that the defendant Phyllis LaPlante had given to the plaintiff on July 27, 2001 in order to be able to trace the Lottery Ticket and locate the second prize ticket.

12. The plaintiff gave the said free ticket to the defendant Scott LaPlante. The plaintiff was suspicious of irregularities following that meeting with the defendants LaPlante, and on or about August 1, 2001 placed a telephone call to the defendant lottery corporation and reported his concerns.

13. On or about August 26, 2001, the plaintiff learned that the Lottery Ticket had in fact won the \$250,000.00 prize in the July 13, 2001 draw, and that the defendants LaPlante had claimed the prize, representing that they had purchased the ticket.

14. Between August 1 and August 26, 2001, the plaintiff had several telephone conversations with employees of the defendant Ontario Lottery & Gaming Corporation wherein the plaintiff enquired as to the status of its investigation into his concerns about irregularities in the defendants LaPlantes' handling of the Lottery Ticket.

15. The defendants LaPlante fraudulently conspired to convert the Lottery Ticket to their own use and benefit and have failed to give to the plaintiff the winnings from the Lottery Ticket.

16. The conversion by the defendants LaPlante of the Lottery Ticket and their failure to deliver up the proceeds of the Lottery Ticket to the plaintiff has been malicious, callous and oppressive.

17. The said defendants owed a duty of the utmost good faith to the plaintiff and others when checking lottery tickets on their behalves to determine if any of the said tickets had won prizes. The defendants breached their duty of good faith to the plaintiff. The defendant Coby Variety is vicariously liable for the actions of the defendants LaPlante.

18. The defendant Ontario Lottery & Gaming Corporation knew or ought to have known that there were alleged irregularities with respect to the redemption of

the Lottery Ticket and it negligently paid the ticket winnings to the defendants LaPlante before investigating properly or at all the allegations of impropriety.

19. At all material times the defendants LaPlante represented to the plaintiff that they were acting in their capacity as agent for the defendant Ontario Lottery and Gaming Corporation, and the said defendant is therefore liable for their actions.

20. The plaintiff proposes that this action be tried at Toronto.

Date of Issue:

RACHLIN & WOLFSON LLP
Suite 1500
390 Bay Street
Toronto, Ontario
M5H 2Y2

Alan L. Rachlin
Tel: (416) 367-0202
Fax: (416) 367-1820

Solicitors for the plaintiff