

JOYCE et al.
Plaintiff

vs. MTGOX INC. et al.
Defendants

Court File No. CV -14-500253-00CP

Sept 23/14

T. Charney, for AB
S. D'Souza, for Mizuko Bank, not
attorning + taking no position
on the motion.

This is a motion for partial certification of this
action against J. McCabe or G. Gay - Bouchury <sup>(the "Settling
Depts")</sup> for
purpose of settlement. The matter has been partially
certified against them for settlement purposes in the US.

I am satisfied that all parties have been
adequately served & that this motion can proceed.
No one is opposing the motion. The Settling Depts
have counsel in the US but have not appointed an
attorney - they are not opposing & did not have anyone
attend on their behalf.

The test for certification for settlement purposes
must be met & all criteria satisfied, but their
application need not be as strictly applied in
the settlement context: Corleus v KPMG LLP, 2008 Cars 11
39784, at para 30; Gariepy vs Shell Oil Co. (2002), 26 CPC (5th)

I am satisfied that all of the criteria for partial
certification have been met, as required by s. 5 of the CPA:
there is a cause of action in negligence; an identifiable
class ^{of or these persons} with explicit parameters; a common issue with the
existence & breach of duty to class members. There is no
question that a class action is the preferable procedure.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDINGS COMMENCED AT TORONTO

PLAINTIFF'S MOTION RECORD
ON PRELIMINARY CERTIFICATION AND
SETTLEMENT APPROVAL
(Volume 1 of 2)

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358, ON PAGE 27
Lawyers for the plaintiffs

The 4 reps provide a good cross-section across Canada to represent the class. The Settlement and ASI constitutes the litigation plan.

I am prepared to partially certify this action against the Settling Defs. Class counsel is to revise the proposed order in accordance with my comments in court today & send it to me for signature. It is premature to approve notices to the class or set a settlement hearing date at this point as class counsel is still awaiting information on class members. Those matters can be addressed at a subsequent case conference to be arranged by counsel.

This partial cert order is w/o prejudice to any rights of the non-settling defts to contest certification of this action (& jurisdiction of this court over them) against them at a later date.

Conway J