

## **Ontario Judge Certifies Class Action against Dell Canada Inc.**

**TORONTO, February 3, 2009** – In a judgment released today, Justice Joan Lax of the Ontario Superior Court of Justice certified a national class action on behalf of Canadians who own the following Dell Inspiron notebooks: 1100, 1150, 5100, 5150 or 5160. The Court also denied a motion brought by Dell to dismiss the class action and require individuals with these Dell notebooks to arbitrate any dispute they have with Dell about defective performance of these models. The case was commenced by the law firm of Rochon Genova LLP in Toronto.

The class action seeks compensation from Dell Canada Inc. arising from alleged defects in these Dell notebooks affecting some 120,000 Canadian consumers.

In the judgment, Justice Lax decided that an earlier Supreme Court of Canada decision which arose in Quebec and involved Dell Canada did not change the law in Ontario or British Columbia. Consumers may still proceed with defective product class proceedings even if the contract with the manufacturer contains an arbitration clause. In so deciding, Justice Lax considered whether individual arbitrations would be preferable to a single class proceeding and decided in favour of a class proceeding.

This decision is significant as it delineates the scope of the previous decision of the Supreme Court of Canada outside Quebec. Joel P. Rochon, counsel for the class stated: "This decision protects the rights of Canadians to seek compensation through a class action for defective goods even in the face of an arbitration clause". The decision builds on other recent decisions in Ontario and British Columbia regarding the enforceability of arbitration clauses. "This is a significant development for class actions", he said.

The allegations raised in the claim have not yet been proven in court. The plaintiff and the class members are represented by the firm of *Rochon Genova LLP*. For more information, please contact:

Rochon Genova LLP  
121 Richmond St. W, Suite 900  
Toronto, Ontario M5H 2K1

Telephone: (416) 363-1867 or toll-free: 1-866-881-2292  
Website address: [www.rochongenova.com](http://www.rochongenova.com)