# Key negligence cases against public authorities/regulators alleging a private duty of care

RED: No duty of care BLUE: Permitted to proceed to trial GREEN: Duty of care recognized at trial

#### 1. Eliopoulos Estate v. Ontario (2006 ONCA) [Alberta, Tab 20]

- Sued government health authority for failing to prevent the outbreak of West Nile Virus
- P unknown to D
- No direct interaction/contact between P and D
- No representations by D to P

# 5. Nette v. Stiles (2010 ABQB) [Alberta, Tab 25]

- · Sued Alberta College and Association of Chiropractors
- P unknown to D
- No direct interaction/contact between P and D
- No representations by D to P
- Class action

### 9. Fullowka v Pinkerton's of Canada Ltd, 2010 SCC 5 [Ernst, Tab 12; Alberta, Tab 22]

- Sued for failing to order the cessation of mining when unsafe
- P miners were known to D
- No direct interaction/ contact between P and D
- Direct visits by inspectors to the mine

## 13. Ingles v Tutkaluk Construction Ltd, (2000 SCC) [Fullowka, describing *Ingles,* Ernst, Tab 12, para 50]

- Sued a municipality for negligence of building inspector
- P known to D
- Direct interaction/contact between P and D
- Direct visit by inspector to building site

#### 3. Edwards v. Law Society of Upper Canada, (2001 SCC) [Alberta, Tab 19]

- a lawyer's trust account
- P unknown to D
- No representations by D to P
- Class action

# • Sued law society for failing to properly monitor

- No direct interaction/contact between P and D

**LEAST PROXIMATE** 

# 7. Adams v Borell, (2008 NBCA) [Ernst, Tab 1]

- Sued government agency for failure to engage in a timely investigation of the cause of a potato virus
- P unknown to D
- No direct interaction/contact between P and D
- Specifically engaged in an investigation of a particular potato virus that impacted farmers

#### 11. River Valley Poultry Farm Ltd. v Canada (2009 ONCA) [Alberta, Tab 24]

- Sued Health Canada and Canadian Food Inspection Agency regarding inspection of chicken flock during outbreak of salmonella
- Direct interaction/contact between P and D
- Direct visit to farm and testing of flock
- Overriding concern government agencies is was protection and promotion of human and animal health

#### 15. Hill v Hamilton- Wentworth Regional Police Services Board, (2007 SCC) [Ernst, Tab 15]

- Sued for negligent investigation of the suspect P (para 19)
- P known to D
- Direct interaction/contact between P and D
- Important personal interests of P

#### **♦ MOST PROXIMATE**

#### 2. Cooper v. Hobart, (2001 SCC) [Alberta, Tab 18]

- Sued a statutory regulator for failing to oversee the conduct of an investment company
- P unknown to D
- No direct interaction/contact between P and D
- No representations by D to P
- Class action (over 3,000 claimants)

# 6. Taylor v Canada (Attorney General) (2012 ONCA) [Ernst, Tab 24]

- Sued Health Canada for failing to protect plaintiff from unsafe medical devices
- P unknown to D
- No direct interaction/contact between P and D
- General representations made by D regarding safety of medical devices

# 10. Kamloops (City of) v Nielsen (1984 SCC) [Fullowka, describing Kamloops, Ernst, Tab 12, paras 46-48]

- · Sued a municipality for negligence of building inspector
- Direct visit by inspector to building site
- No direct interaction/contact between P and D (P was subsequent purchaser)

### 14. Ernst v Her Majesty the Queen in Right of Alberta

- Sued Alberta Environment for conducting a negligent investigation into water well contamination
- P known to D
- Direct interaction/contact between P and D
- Specific representations made by D to P
- Direct visit to home to conduct inspection
- Specific investigation directed exclusively at determining cause of contamination of the particular water well

### 4. Holtslag v. Alberta (2006 ABCA) [Alberta, **Tab 211**

- Sued Director of Building Standards for negligent approval of building product
- P unknown to D
- No direct interaction/contact between P and D
- No representations by D to P
- Class action (2,600 claimants)

# 8. Finney v. Barreau du Québec (2004 SCC) [Ernst, Tab 11]

- Sued Law Society for handling of a complaint against a specific lawyer
- P known to D (specifically identified complainant)
- Limited interaction/contact between P and D
- D had knowledge of past problems with specific lawyer

#### 12. Rothfield v Manolakos, (1989 SCC) [Fullowka, describing Rothfield, Ernst, Tab 12, para 49]

- Sued a municipality for negligence of building
- Direct visit by inspector to building site
- Direct interaction/contact between P and D