

Comparative Class Action Law

Researchers from Oxford Pro Bono Publico (OPBP) have informed decisions on class action litigation in South Africa



In 2012, the Legal Resources Centre in South Africa, a public interest law firm, commissioned a report looking at comparative class action law. A class action is when a group of people act together to sue another party. The Legal Resources Centre requested this report to assist in drafting heads of argument in a case of class action litigation. The case involved concerned consumers of bread who had suffered damages as a result of anti-competitive behaviour through price fixing by bread manufacturers in the Western Cape. In South Africa, class actions are recognised in the constitution but the requirements to institute an action and the procedures for doing so had not yet been decided at the time of this case, in November 2012.

OPBP compiled a report looking at class action legislation in a number of jurisdictions in Europe and the US. This

project was supervised by Professor Sandra Fredman and a number of OPBP researchers, all graduate students at the University of Oxford Faculty of Law, contributed to this work: Tiziana Scaramuzza, Shaun Star, Sarah Smith, Laura Hilly and Hugh Atkin. The research for this report was coordinated by Emma Dunlop.

The report was used by the Legal Resources Centre to draft their heads of argument. In their decision, the court established procedures for class actions, which marked a real change in South African law. In making a decision about this case, the court relied heavily on comparative law as brought to their attention by the Legal Resources Centre, who were informed by the OPBP report. The Legal Resources Centre acknowledged OPBP's input in a footnote to their heads of argument. Some of the cases and sources referenced in the court's judgment were used by OPBP in their report. The decision made by the court in this case means that litigants can litigate on behalf of a class and the status of a class must be confirmed by the court.

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