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Solar Brokers Misclassification Class Action - Claim for Unpaid Employee Wages and Benefits Certified as a Class Action

A claim launched by Monkhouse Law on behalf of sales staff of Solar Brokers Canada Ltd. ("**Solar Brokers**") has been [certified](#) as a class action. The action is brought on behalf of all present and former non-managerial sales staff.

Certification is only the first step in this process. The facts have yet to be proven in court. Corporate directors themselves could end up having to shell out personally on substantial back-pay to employees if the company itself lacks funds. In certifying the class action, Justice Edward Morgan of the Ontario Superior Court included two directors of the corporation as defendants.

The sales staff worked on commission, selling rooftop solar panels to homeowners. The company, Solar Brokers, required its sales staff to agree that they were independent contractors rather than employees.

The class action alleges that the company deliberately misclassified the sales staff as independent contractors, but in reality they were employees.

Solar Brokers closely controlled its sales staff, as if they were employees. They had to follow work schedules, wear company badges, work exclusively for the company, attend training sessions and meetings for which they received no compensation, follow company guidelines and, on telephone calls, identify themselves as working for the company.

Many of the sales staff ended up making an hourly income that was below Ontario's minimum wage. Many of them worked uncompensated overtime. They also lost out on employer contributions for Employment Insurance and Canada Pension Plan.

Misclassification in Canada

Independent contractors are not entitled to legal protections such as the minimum wage, overtime, holiday pay and vacation pay. Employers who exploit vulnerable workers and attempt to get out of compensating them by having them sign on as independent contractors, when in fact they are not, are violating the *Employment Standards Act*. In Canadian law, such contracts are unenforceable if they do not reflect the facts of the working relationship.

Misclassification of employees is a worldwide problem in the growing gig economy. A class action is a way for such workers to gain access to justice. It enables their claims to be pooled, where they would be unable to afford legal representation individually.

In Ontario, employee class actions alleging misclassification of employees are on the rise. To date, there have been five such lawsuits filed in Ontario, seeking damages

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ranging from \$30 to \$200 million. This is the second employee misclassification case successfully certified as a class action by Monkhouse Law.

All present and former non-managerial sales staff are included as members of the class. If you want to be a member of the class, you do not need to do anything. If you prefer not to be a member of the class, you may opt out. Instructions for doing so may be found at in the [Notice to the Class](#).

For more information visit the [webpage](#) dedicated to this class action.

Toronto-based [Monkhouse Law](#) is an employment law firm that specializes in: wrongful dismissal, human rights law, labour law, employment insurance claims, and denied long-term disability claims. Monkhouse Law has a strong history of representing employees in class actions, including having started the first Canadian contractor misclassification case of [Sondhi v. Deloitte](#) in 2015.