

Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**LEONID KAPLAN and CHERYL JANE MIZZI**

Plaintiffs

and

**CASINO RAMA SERVICES INC., CHC CASINOS CANADA LIMITED,  
PENN NATIONAL GAMING, INC., CHIPPEWAS OF RAMA FIRST NATION,  
ONTARIO LOTTERY AND GAMING CORPORATION,  
and ALCOHOL AND GAMING COMMISSION OF ONTARIO**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**NOTICE OF ACTION**

**TO THE DEFENDANTS:**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU** by the plaintiffs. The claim made against you is set out in the statement of claim served with this notice of action.

**IF YOU WISH TO DEFEND THIS PROCEEDING**, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this notice of action is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

**IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date: November 14, 2016

Issued By: \_\_\_\_\_

Address of Court Office:  
393 University Ave. - 10th Fl.  
Toronto, Ontario  
M5G 1E6

**TO: CASINO RAMA SERVICES INC.**  
5899 Rama Road  
Rama, ON L3V 6H6

**AND TO: CHC CASINOS CANADA LIMITED**  
5899 Rama Road  
Rama, ON L3V 6H6

**AND TO: PENN NATIONAL GAMING, INC.**  
825 Berkshire Boulevard, Suite 200  
Wyomissing, PA 19610  
United States

**AND TO: CHIPPEWAS OF RAMA FIRST NATION**  
5884 Rama Road, Suite 200  
Rama, ON L3V 6H6

**AND TO: ONTARIO LOTTERY AND GAMING CORPORATION**  
70 Foster Drive, Suite 800  
Sault Ste. Marie, ON P6A 6V2

**AND TO: ALCOHOL AND GAMING COMMISSION OF ONTARIO**  
90 Sheppard Avenue East, Suite 200-300  
Toronto, ON M2N 0A4

## OVERVIEW

1. On November 10, 2011, Casino Rama announced that, on November 4, 2016, it learned that its internal computer network had been subject to a recent cyberattack by an anonymous hacker (the “Breach”). The anonymous hacker stole private Casino Rama employee information from about 2004 to 2016, including performance reviews, payroll data, terminations, social insurance numbers and dates of birth. The anonymous hacker also stole other private information dating from about 2007 to 2016, including Casino Rama financial reports, security incident reports, emails, customer credit inquiries, collection and debt information, and vendor information and contracts (collectively, the “Private Information”).
2. The plaintiffs bring this action on behalf of all persons residing in Canada whose Private Information was stolen or accessed without authorization in the Breach (the “Class” or “Class Members”).

## RELIEF SOUGHT

3. The plaintiffs, on their own behalf and on behalf of the Class Members, claim:
  - (a) an order pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, certifying this action as a class proceeding and appointing them as representative plaintiffs of the Class;
  - (b) an interim or permanent order requiring that the defendants fund credit monitoring services for the plaintiff and Class Members;
  - (c) a declaration that the defendants owed a duty of care to the plaintiffs and the Class Members, and breached the standard of care owed to them;
  - (d) a declaration that the defendants breached the Contracts (as defined below);
  - (e) a declaration that the defendants breached Part III of the *Consumer Protection Act, 2002*, S.O. 2002, c. 30 (“CPA”);

- (f) a declaration that the defendants breached the confidence of the plaintiffs and the Class Members;
- (g) a declaration that the defendants intruded upon the seclusion of the Class Members;
- (h) a declaration that the defendants were unjustly enriched, to the deprivation of the Class Members;
- (i) damages in the amount of \$50,000,000;
- (j) punitive damages in the amount of \$10 million dollars jointly and severally as against all defendants;
- (k) an order, pursuant to s. 24 of the *Class Proceedings Act, 1992*, directing an aggregate assessment of damages;
- (l) an order directing a reference or giving such other directions as may be necessary to determine any issues not determined at the trial of the common issues;
- (m) pre-judgment and post-judgment interest, compounded, or pursuant to ss. 128 and 129 of the *Courts of Justice Act, R.S.O. 1980, c. 43*;
- (n) costs of this action on a substantial indemnity basis, together with applicable HST or other applicable taxes thereon;
- (o) the costs of administering the plan of distribution of the recovery in this action; and
- (p) such further and other relief as this Honourable Court deems just.

## **THE PARTIES**

### **Plaintiffs**

4. The plaintiff Leonid Kaplan (“Leonid”) is an individual who resides in Barrie, Ontario. Leonid attended at Casino Rama on or about September 25, 2016, in order to gamble at the casino. Leonid provided Casino Rama staff with two forms of personal identification, including a copy of his driver’s license, as well as a copy of his Visa credit card, and with his personal email address. On November 10, 2016, Leonid received an email from John Drake, President & Chief

Executive Officer of Casino Rama, with the subject line “Unauthorized Access to Personal Information”, stating that “Casino Rama has been the victim of a cyberattack that resulted in the theft of past and present patron, employee and vendor information”.

5. The plaintiff Cheryl Jane Mizzi (“Jane”) is an individual who resides in Stouffville, Ontario. In or about 2015, she last attended Casino Rama. Since about 1999, Jane has regularly attended Casino Rama with her husband and has been a member of the Players Passport Club rewards program to qualify for rewards and special offers at Casino Rama. To join the program, she was required to provide particulars of her driver’s license, home address and email address and she has frequently received mailings from Casino Rama by post and email.

#### **Defendants**

6. The defendant Casino Rama Services Inc., operating as Casino Rama Resort (“Casino Rama”), is a casino, hotel and entertainment complex located on the reserve land of Chippewas of Rama First Nation, in the town of Rama, Ontario.

7. The defendant Ontario Lottery and Gaming Corporation (the “OLGC”) is an Ontario corporation with its head office in Sault Ste Marie. The OLGC is the Crown Agency of the government of Ontario which is responsible for conducting and managing lottery games and casinos across Ontario.

8. The defendant Chippewas of Rama First Nation (“RFN”) are an Anishinaabe First Nation who own three separate parcels of land in the province of Ontario, the largest of which is Reserve #06195, where Casino Rama is located.

9. At all material times, Casino Rama was collectively owned by RFN and the OLG.
10. The defendant Penn National Gaming, Inc. ("Penn National") is a corporation based in Wyomissing, Pennsylvania, which is in the business of operating casinos and racetracks across Canada and the United States.
11. The defendant CHC Casinos Canada Limited ("CHC Casinos") is an Ontario corporation with its head office in the town of Rama, Ontario. At all material times, CHC Casinos was a wholly owned subsidiary of Penn National.
12. At all material times, the OLG, RFN, and Penn National were parties to an agreement permitting CHC Casinos and Penn National to operate Casino Rama on behalf of RFN and the OLG. These defendants are therefore collectively vicariously liable for the acts and omissions of their employees, agents and servants, and for the acts and omissions of Casino Rama.
13. The defendant Alcohol and Gaming Commission of Ontario ("AGCO") is an arm's length regulatory agency of the Government of Ontario which is responsible for, *inter alia*, administering the *Gaming Control Act, 1992*, S.O. 1992, c. 24.
14. At all material times, the AGCO, pursuant to the *Gaming Control Act, 1992*, was empowered to access and use Private Information which was provided to Casino Rama by Casino Rama customers, employees, and vendors.

**PLACE OF TRIAL**

15. The plaintiffs propose that this action be tried at the City of Toronto.

Date: November 14, 2016

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