# SUPREME COURT OF CANADA

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## Case in Brief: *Pioneer Corp. v. Godfrey*

**Judgment of September 20, 2019 | On appeal from the Court of Appeal for British Columbia**
**Neutral citation: 2019 SCC 42**

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***When companies fix prices, even people who bought from* other *companies can sue them, the Supreme Court has ruled.***

"Optical disc drives" include CD, DVD, and Blu-ray drives. Pioneer, Toshiba, and other companies made and sold these drives. They also made other products that contained them.

Mr. Godfrey said these companies agreed to sell these drives and products at higher prices. This is called "price fixing." It is illegal under the federal *Competition Act*. He said that between 2004 and 2010, consumers paid higher prices because of this. He said the real market price would have been lower.

Mr. Godfrey launched a "class action" in British Columbia. A class action is a special kind of lawsuit when a group of people with the same kind of problem get together to sue. In the phrase "class action," the "class" is the group and the "action" is the lawsuit. Class actions can affect many people and their legal rights. People can be affected even if they don't actively take part in the lawsuit. A judge has to give permission for a class action to go ahead. A "representative plaintiff" stands in for the group. Mr. Godfrey was the representative plaintiff in this case.

Mr. Godfrey said the "class" should include everyone in B.C. who bought Pioneer and Toshiba drives. He also said it should include people who bought drives made and sold by other companies. He said those companies charged higher prices because Pioneer and Toshiba did.

The federal Competition Act said a lawsuit like Mr. Godfrey's had to be launched within two years. Pioneer said the claim against it was too late. This was because the period Mr. Godfrey was suing for ended in 2010 and the class action against Pioneer was launched in 2013. Pioneer and Toshiba also said they weren't responsible for what other companies did. They said the class couldn't include people who bought products made and sold by others.

The certification judge gave Mr. Godfrey permission to go ahead with the class action. The Court of Appeal agreed.

The majority at the Supreme Court of Canada also said the class action could go ahead. It said consumers who bought from other companies besides Pioneer and Toshiba could be part of the class. That's because Mr. Godfrey planned to show that Pioneer's and Toshiba's actions affected the entire market. Since Pioneer's and Toshiba's prices were higher, other companies also charged higher prices. People were harmed because they paid more than they should have. Pioneer and Toshiba made more money as a result. To get any kind of compensation, though, people who bought from other companies would have to specifically show that they were harmed.

The majority also said the two-year deadline to file a lawsuit could be extended if the person couldn't really have known about the problem before. It didn't actually decide whether Mr. Godfrey was too late to sue Pioneer. It said the trial judge would have to decide this later. The majority said these kinds of deadlines have three purposes. The first is to give people certainty, so they won't be surprised by lawsuits for things they did long ago. The second is to make sure the evidence is still available and usable. The third is to encourage people to take action quickly when they are harmed. In this case, Mr. Godfrey said Pioneer and Toshiba hid what they were doing so he and the other consumers couldn't find out. The majority said it wouldn't make sense that people could lose the right to sue before they had any way of even finding out they were harmed.

The majority also said Mr. Godfrey and the class could sue Pioneer and Toshiba for two legal reasons. First, they could sue based on the *Competition Act*, because it said price-fixing was illegal. Second, they could sue based on rules in the common law (law based on court cases, made by judges). Different rules applied to each one, and they didn't exclude each other.

This case didn't decide whether Pioneer and Toshiba did anything wrong. It only decided that the class action could go forward and both sides could present their case. The Supreme Court of Canada recently dealt with class actions in *TELUS Communications Inc. v. Wellman* and *L'Oratoire Saint Joseph du Mont Royal v. J.J.*

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**Breakdown of the decision:** ***Majority:*** Justice Russell Brown dismissed the appeals (Chief Justice Wagner and Justices Abella, Moldaver, Karakatsanis, Gascon, Rowe, and Martin agreed) | ***Dissenting in part***: Justice Suzanne Côté said, among other things, that people who bought from other companies shouldn't be part of the class action, and for this and other reasons—including the commonality of issues in class actions—would have allowed the appeals in part.

**More information (case # 37809 & 37810):** Decision | Case information (37809, 37810) | Webcast of hearing

**Lower court rulings**: application to certify class action (Supreme Court of British Columbia) | appeal (Court of Appeal for British Columbia)