

Transnational Class Actions: The Canadian Experience and the Improvement of Access to Justice in Latin America

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This paper analyses how the Canadian experience of class actions could contribute to the improvement of access to justice in Latin American, in a scene that damages are no longer restricted to state borders. For that, the text clarifies the concept of transnational class actions and how they could improve the prevention and reparation of damages that are no longer restricted to state borders. Then, based on the Canadian experience, that are different models of class actions, proposals are made for the admissibility and enforcement of transnational class actions in Latin American context.

Keywords: *Transnational class actions; Latin America; Canada.*

Introduction

Class actions are not a recent issue, but globalisation and the consequent hasty dissemination of information and also of harm has been calling attention to the fact that injuries are not always restricted to a single territory. Therefore, access to justice must be rethought for the prevention and damage repair, regardless of borders.

The present survey articulates a reflection limited to the Latin American scenario on the topic of class actions as a procedural mechanism, especially for its significance to access to justice and substantive law effectiveness.

The paper proceeds as follows: from the bibliographic and documentary research, a qualitative management is provided to the data obtained, beginning with a regard to how Latin America, despite hardly pointed out, is a region that also subsists with harming reality in one or several areas of its countries. Afterward, the study elucidates what transnational class actions would be and its relevance. Finally, it seeks to approach the Canadian experience and, based on this outlook, formulate alternatives to improve access to justice in Latin America concerning transnational class actions.

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Transnational Damage in the Latin American Context

In the present scenery, in the public as well as in the private sphere, mass affairs are continually expanding, as a consequence of urban concentration, globalisation, production and consumption in scale, the standardisation of agreements, the uncontrolled elaboration of State norms, allied to technological innovations and the fast diffusion of information, with an intense flow of data, goods and people, with multiplus harms due to factual circumstances¹ or legal relationships² in everyday life, capable of generating mass injuries³, which affect a plurality of individuals⁴.

From this viewpoint, two distinct panoramas emerge, and in a concomitant way: i) on one hand, it reveals procedural system insufficiency in what comes to resolve conflicts at a strictly individual level⁵, which allows many other countries to think of either the implementation, or improvement of collective procedural laws⁶; ii) on the other hand, it is understood damage would not be limited to the geographic borders of the States.

Although both approaches are relevant to access to justice⁷⁻⁸, the research focused on the second issue⁹, a subject-matter that gradually acquires international significance, particularly in a globalised economy¹⁰⁻¹¹.

Following this line of reasoning, it should be illuminated that transnational injury does not concern a problem restricted to Latin America¹² not even limited to just one continent¹³. What happens is that in Latin America, besides cases

¹Galanter (2011) at 105.

²Mendes & de Silva (2018) at 35.

³Hensler, Pace, Dombey-Moore, Giddens, Gross & Moller (2000) at 99.

⁴Nagareda (2007) at viii.

⁵Mendes & Wambier (2013) at 48.

⁶Hensler (2016a) at 240.

⁷Gibbons (2012) at 118.

⁸Verbic (2017) at 239.

⁹In relation to the first scenario, we refer to Mendes, Moreira & Marinoni (2014); Campos, Barreiro & Labat (2012); Gómez (2022); Instituto Iberoamericano de Derecho Procesal. *Procesos Colectivos: I Conferencia Internacional y XXIII Jornadas Iberoamericanas de Derecho Procesal*. Buenos Aires: 6-9 junio 2012; Karlsgodt (2012); and Hensler, Hodges & Tulibacka (2009).

¹⁰Cloption (2015) at 388.

¹¹Basset (2003) at 43.

¹²The issue of transnational damage began to be analysed by the author together with her advisor at Mendes & Silva (2018). The European Union (EU) can be used as an example, once one of the most publicised cases of damage across borders concerns Apple. The lawsuit started in March 2012, when inspections were made in order to check if the company website in each member country of the bloc was respecting EU community consumerist rules. It was discovered the website did not provide clear information about the guarantee of products in the United Kingdom, Italy, Spain, Belgium, Luxembourg, Portugal, France, Denmark, Germany, the Netherlands, Poland, in Slovenia, Greece and Romania, a violation of European rules on the duty to inform consumers. Although the damage involved several countries, the solution ended up being left to the scope of each nation.

¹³To illustrate the statement, we bring up the Royal Dutch/Shell Transport Securities case, which involved an agreement between American and Dutch shareholders at the Amsterdam Court of Appeal. In this motion, it was discovered that after a decline in its oil and gas reserves, between 2001 and 2003, the Royal Dutch Shell Company set in its oil and gas reserves volume predicts an increase of 20% (twenty percent) in relation to the factual estimate, which would engender a

informed are less frequent, the treatment given to residents and non-residents is often not homogeneous.

One of the first cases of transnational damage portrayed in the doctrine involved consumer rights on Firestone tires¹⁴: Firestone Tire and Rubber Company provided tires for Ford automobile manufacturers, and one of the vehicles that were manufactured by Ford with these Firestone tires, the Ford Explorer, became a car with a high number of sales in several countries.

In the 1990s, however, the triumph was interrupted since numerous Ford Explorer drivers from different countries such as Saudi Arabia, Colombia, Venezuela, Panama and Ecuador had accidents. Subsequent investigations in all those countries clearly revealed the cause of the accidents was a defect in the Firestone tires.

Single and collective lawsuits were filed in the United States, trying to benefit petitioners of different nationalities. Nevertheless, the class action certification order only covered North American parties. As a result, the defendants only proposed to enter into agreements with US claimants, without considering injuries caused to the other victims, despite the fact the defective product manufactured in one country was exported to various States. Latin American litigants ended up not having an immediate proposal for compensation, and not all of them received reparations in their countries and, those who did it, received much lower values than the North American suitors.

That case is not the only one in point when it comes to consumer law; similar circumstances can also be illustrated with many injuries that may happen once a defective foreign good is acquired by diverse Latin American people. From this perspective, a case related to environmental law will be scrutinised concerning the fact that foreigner companies have been concentrating their operations in Latin America¹⁵, mainly, but not only, because of lower production costs, which sometimes finishes up causing environmental damage and climate change.

For example, Repsol S.A., a Spanish multinational energy and petrochemical company, has been accused by Native Peruvians of destroying the Amazon Forest as well as occasioning climate change that, despite being more concentrated in Peru, would impact all Amazonian area that includes nine countries: Brazil, Venezuela, Colombia, Bolivia, Ecuador, Suriname, Guyana, French Guiana and, obviously, Peru. There is no information about a lawsuit against the company, not even an agreement for a possible negotiation, although it is not difficult to come across a report on the probable damage resulting from the destruction of the

reduction of 67.5 billion dollars in the future recipe forecast causing its own shares values decrease in the real estate market. As a result, individual actions and a class action were filed in the United States which, after being consolidated before a US court, a Dutch fund apprehensive about US decision concerning foreign investors and, aware of consummation risk of prescription valid reimbursement claim in accordance with European directives, filed an action based on the Collective Agreements Act at the Amsterdam Court of Appeal. After the Amsterdam Court admitted the claim, the company decided to settle an agreement contemplating both national and foreign investors, which was only signed at the end of 2006. Since all victims received compensation, the actions processed in the United States were extinguished. For the case study see Hensler (2016).

¹⁴Gómez (2005) at 283.

¹⁵Organisation for Economic Co-Operation and Development.

Amazon Forest, climate change and the risk to native peoples in Peruvian territory.¹⁶

Another pertinent case on transnational damage implicates Real Estate Values in Brazil, a country which has one of the oldest and most advanced act if compared with other countries around¹⁷. That is the case concerning Petrobras, a Brazilian company with shareholders of different nationalities. Due to embezzlement caused by corruption scandals, company shareholders' financial losses were verified. Whereas, several individual and collective actions were filed, being the most prominent the class actions' lawsuit in the United States¹⁸, Brazil¹⁹ and the Netherlands²⁰, along with collective arbitration²¹. There was a deal concerning US class action suit²², which covered only the reparation of shareholders living in that country, the others are still awaiting, without any further information about how and if they, who also suffered the damage, will be repaired.

At last, the study cases previously delineated were not presented with the purpose of fully exhausting the matter about transnational collective damage in the region, but only to highlight how ordinary they are and why they need more attention.

Transnational Class Actions Contribution in Cross-border Damage Context

Latin America has experienced²³ and has been watching²⁴ Judicial reforms designed to improve efficiency of Civil Justice. Among the various reforms experienced, the concern with strengthening the collective process cannot be limited to the borders of each country. The appreciation of a collective process restricted to geographic limits would be in dissonance with the contemporary damage reality that can be widespread across different territories. It is necessary to work on collective actions more broadly, from the perspective of demands in which the interests in matter involve residents and non-residents in a certain State.

Transnational class action lawsuits are able to ensure that victims, regardless of economic situation and of where they are living, could have the damage repaired. In a transnational collective action, all victims may benefit from injury reparation, no matter where the domicile is, without the need for any initiative to file a class action seeking compensation in their national state²⁵.

¹⁶https://www.business-humanrights.org/sites/default/files/documents/corporate_conquistadors_en-web-0912_0.pdf

¹⁷Gómez (2022).

¹⁸In re Petrobras Securities Litigation (No. 14-CV-09662 (JSR)). <http://www.petrobrassecuritieslitigation.com>

¹⁹It concerns court case number 1106499-89.2017.8.26.0100, class action filed by the Minority Shareholders Association (Aidmin) against Petrobrás at Court of Justice of São Paulo State.

²⁰<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBROT:2018:7852>.

²¹<https://www.lexisnexis.com.br/lexis360/noticias/684/cinco-maiores-bancos-aderem-a-arbitragem-coletiva->.

²²<http://www.petrobrassecuritieslitigation.com/>

²³Vargas (2007) at 35-50.

²⁴In respect of current legal reforms: Castro & Ballesteros (2018).

²⁵Nuyts & Hatzimihail (2014) at 67.

The context can be of fundamental importance if we consider there are Latin American countries without any collective procedural law such as Venezuela and Cuba, or with a modest development and insufficient provision for collective rights protection, in a broad sense, for example as Costa Rica and El Salvador²⁶. Rights guardianship cannot be left to the advent of national act discretion or in the case law already exists, that a class action will be effectively filed in each country in order to repair transnational damage. Transnational class actions would guarantee injury compensation, determining the right protection as a priority, despite domicile or nationality.

This way, the situation in which victims residing in a specific locality are compensated while others facing the same damage are not just because they live in another country is avoided.

Furthermore, letting victims residing in different territories benefit from a unique class action could mean a reasonable duration of process as well as costs reduction, so that the class action could progress in a single court, a place where the evidence production could be easier to achieve²⁷.

It is also remarkable that the existence of a single collective action meant to repair the damage to all victims would ensure a relevant procedural economy and would also prevent contradictory decisions, arising from distinct jurisdictions, concerning the same harmful event. This would prevent that, depending on the jurisdiction, each victim could have a different judgment when it came to the same damage.

From this standpoint, the Canadian experience may be pertinent, since the country has a significant familiarity within the American continent regarding transnational class actions.

Class Actions in Canada

In Canada each province also has a statewide rule for collective procedure. The first state legislation for class actions was in 1978 in the province of Quebec, driven by court rulings that admitted class actions, even without a regulation, by pressure from consumer groups and environmental defenders. After Quebec, the Ontario Act, the Class Action Proceeding Act, was created in 1992 but only came into force in 1993; followed by British Columbia, with the Class Proceeding Act (1995).

In 2001, the Canadian Supreme Court judgment represented a major incentive for class actions in the country, in the case of *Western Canadian Shopping Centers Inc. v Dutton*²⁸. It was a case of allegation of mismanagement of funds from the province of Alberta, where the requirements for class actions were laid down in

²⁶The assumption was made from the general report and national reports provided to XI Brazilian Conference on Procedural Law and XXV Ibero-American Conference on Procedural Law Journeys published in Lucon, Aprigliano, Silva, Vasconcelos, Orthmann & Grinover (2016) at 1013-1372.

²⁷This understanding was stated by the Superior Court of Justice, in Brazil, in the Conflict Competence judgment n. 97.351/SP, decided by the First Section of the court on May 27th, 2019.

²⁸[2001] 2 SCR 534.

the state court's own rule, but allowed the judge to assess, in the particular case, the admission of a claim as a class action considering the benefits of balance of procedural relation and access to justice that class action can bring.

From that judgment, other provinces developed their own laws for class actions, such as Saskatchewan and Newfoundland, Class Action Statute (2002), and the legislation of Manitoba and Alberta, introducing class actions in 2003 and 2004, respectively. Provincial legislations, however, drew inspiration from the legislation of three (3) provinces: from Québec, dated 1978, from Ontario, dated 1993, and from British Columbia, dated 1995 .

Currently, almost all provinces, except for Prince Edward Island, have a collective procedural law. There are some distinctions between provincial legislations, such as the certification procedure and opt-in and opt-out mechanisms.

These differences are not relevant when dealing with damage bound to a province. However, when the damage is not restricted to a province, the scenario becomes particularly important, even because the collective action of one province may be able to protect all victims, regardless of the province in which they are located. Collective procedural laws allow admission to cover nonresidents in the province, as long as they have some relation with the matter debated in court.

When it is a question of effecting the judgment of one province in another, although the predictions are different, the criteria adopted for its effectiveness are: 1) the primacy of the collective actions, assuming that a favourable collective judgment could not cease to be effected by the victim ; 2) in case of divergence between the laws of the province in which the class action and the province in which the enforcement of the judgment is sought, it is only applicable if the collective judgment does not offend the general provisions of the law if there is no offense to federal legislation , in order to ensure the effectiveness of the collective process.

In this perspective, the Canadian scenario has been a true lesson in relation to transnational class actions.

The theme is the year of 1990, when the Canadian Supreme Court ruled in *Morguard Investments Ltd. v De Savoye*²⁹ that, to benefit non-residents or to recognise a foreign judgment that would benefit non-residents, the principles of reciprocity and justice, considering that foreign judgment should not offend the Canadian Constitution. The Canadian scenario has demonstrated to be a real lesson on transnational class action. The theme is set in 1990, when the Supreme Court of Canada decided, in the case of *Morguard Investments Ltd. v De Savoye*³⁰ that, in order to benefit non-residents or to recognise a foreign judgment that would benefit non-residents, the principles of reciprocity and justice, considering that the foreign judgment must not offend the Canadian Constitution³¹.

*Silver v IMAX*³² and *Kaynes v BP PLC*³³ . are other two cases that deserve to be traced. The first one concerned securities, more specifically the fact Canadian

²⁹[1990] 3 SCR 1077.

³⁰[1990] 3.SCR 1077.

³¹Walker (2004) at 765-766.

³²[2013] ONSC 1667.

³³[2016] ONCA 601.

company *IMAX* would have presented a report with a stock exchange value that did not correspond to the real one. There was a class action filed in Ontario and another in the United States by stock exchange shareholders, but in the American class action, it was recognised that it concerned a global class, and an agreement that would benefit all shareholders was reached. Nevertheless, *IMAX* requested in the Ontario Court that shareholders who had filed the class action in Canadian territory could not benefit from the US collective agreement. The Ontario Superior Court partially upheld the claim, only to exclude from the Canadian class action those who did not wish or could not benefit from the collective agreement concluded in the United States, so that recognizing the transnational collective agreement.

In the second case, *Kaynes* applied for an order in the Ontario Court to stop the Court itself from prosecuting and adjudicating a class action, referring to securities on the New York Stock Exchange (NYSE), since there was a pending class action in the United States. The order was not granted by Ontario Court when the US Court was already trying the matter, but, once again, Ontario Court ruled that if the issue was not previously being decided in the United States, an order for compensation could be awarded by Ontario Court to the shareholders who invested in the New York Stock Exchange.

By Way of Conclusion: Final Reflections and Proposals on how the Canadian Experience could contribute to Improve Access to Justice in Latin America

Throughout This Work, The Research Sought, By Means Of Concrete Situations, To Spotlight Previous Damage Propagated Injuries All Over Latin American Countries. Consecutively, It Also Portrayed How Transnational Class Actions Could Contribute To Improving Access To Justice In The Region.

An Attempt Was Made To Demonstrate The Need To Rethink Procedural Law Beyond State Borders. Specifically About Collective Procedural Law, A Proposal For A Model Of Transnational Collective Demand Would Also Improve Access To Justice Without Restriction To The Limits Of Each State, As Well As Substantive Law Effectiveness, Ensuring That, Even In The Face Of Insufficiency Or Nonexistence Of National Models, The Damage Will Not Be Left Unrepaired.

Regarding Transnational Class Actions, Two Problems Urge To Be Confronted: The Processing Of These Claims In National Territories And The Execution Of Judgments Handed Down In Other Countries In The National Territory.

So, It'S Time To Make Research Proposals.

Concerning The First Aspect, Above And Beyond Residents In Its Territory, It Is Necessary That, in the case of transnational damage, class actions can benefit all injured parties who have not sought reparation yet. Access to justice and the effectiveness of substantive rights are not fully achieved if the reparation embraces only part of the victims. Class actions in process must contemplate all class members who are not covered by any other form of compensation, allowing everyone to benefit from the trial, no matter the country it takes place.

The purpose was not to create an attempt to build a class action model for transnational damage compensation, but simply to state that the collective process cannot be selective, benefiting only part of the victims when the other portion is unable to seek injury prevention or treatment, or in the case they simply haven't done it yet.

It is also underlined that a broad model for class actions³⁴, has been defended, although the existing model in a country could already be enough to not leave damage unrepaired, being relevant only the coverage of all victims, as admitted by the Court of Ontario, in Canada.

In the Latin American scenario, the nonexistence of legislation on collective proceedings or the absence of provision, in current legislation, on transnational class actions cannot be an obstruction to their admission. The effectiveness of rights cannot end up being conditioned to the development of an act.

In this circumstance, both the access to justice and the due process of law guarantees, which drove³⁵ and still drive³⁶ Latin America civil justice reforms for greater efficiency and the effectiveness of rights, would already demonstrate to be the main scope regarding legal systems with the aim of admitting transnational class actions. This mechanism would ensure that victims of harm would not be left without compensation, as well as they would have the possibility to join, even via representation of their interest in court.

Particularly applicable to judgment effectiveness, it should be emphasised that the lack of a collective process model cannot be a hindrance to the right effectiveness previously recognised in a collective judgment. The reciprocity of the other country and the nonexistence of offense to the Constitution, without any restriction to the model adopted, must prevail over the formal procedure compatibility, since eventual form of Procedural Law must not and cannot stop the Substantive Law effective reparation, as well as Access to Justice accomplishment.

The proposals presented are not restricted to the Latin American scenery, although they are especially relevant there, particularly in the execution sphere, considering there are some countries in which collective procedural legislation is missing, or they need to improve it, and also due to victims who, for that reason, end up without adequate protection of their rights. So those proposals would make it possible that, even if the collective knowledge procedural has not been developed in a country, its residents can be benefited with that.

In this way, its non-residents would not be left without the possibility of preventing or repairing damage, at the discretion of an act that was not even projected up to this time.

³⁴Mendes & Silva (2018). .

³⁵Vargas (2007) at 35-50.

³⁶Castro & Ballesteros (2018); 10 Ideas sobre el modelo de reforma a la Justicia Civil que promueve CEJA.

References

- Basset, D.L. (2003). 'US class action go global: transnational class actions and personal jurisdiction' in *Fordham Law Review* 72(1):41-91.
- Campos, S.P., Barreiro, V. & S. Labat (2012). 'class actions in the americas'. http://www.academia.edu/37995925/class_actions_in_the_americas.
- Castro, M.F. & P.R. Ballesteros (eds.) (2018). *La gestión judicial de los nuevos tribunales civiles*. Santiago: CEJA/JSCA.
- CEJA-JSCA. 10 Ideas sobre el modelo de reforma a la Justicia Civil que promueve CEJA. https://cejamericas.org/Documentos/2018/10_IdeassobreelmodelodereformaalajusticiacivilquepromueveCEJAenAmericaLatinayelCaribe_coninfografias.pdf
- Clopton, Z.D. (2015). 'Transnational Class Actions in the shadow of preclusion' in *Indiana Law Journal* 90:387-428.
- Galanter, M. (2011). 'The Travails of Total Justice' in Gordon, R.W. & M.J. Horwitz *Law, Society, and History: Themes in the Legal Sociology and Legal History of Lawrence M. Friedman*. Cambridge: Cambridge University Press, at pp. 103-117.
- Gibbons, S.M.C. (2012). 'Group litigation, class actions, and collective redress: an anniversary reappraisal of Lord Woolf's three objectives' in Dwyer, D. (ed.) *The civil procedure rules ten years on*. Oxford: Oxford University, at pp. 109-154.
- Gómez, M.A. (2005). 'Like Migratory Birds - Latin American Claims in U.S. Courts and the Ford-Firestone Rollover Litigation' in *Southwestern Journal of Law and Trade in America* 11:281-300.
- Gómez, M.A. (2022). 'Will the Birds Stay South? The Rise of Class Actions and Other Forms of Group Litigation across Latin America' in *SSRN Electronic Journal*; DOI:10.2139/ssrn.1930413
- Hensler, D.R. (2016b). 'A class action 'mash up' in Re Royal Dutch/Shell Transport Securities Litigation, in Hensler, D., Hodges, Ch. & I. Tzankova (eds.) *Class Actions in Context. How Culture, Economics and Politics Shape Collective Litigation*, Cheltenham (UK)/Northampton (MA, USA) 2016, 170–188 (zit.: Hensler, Class action): *Assessing Claims Resolution Facilities: What We Need to Know* in *Law & Contemp. Probs.* 53:175–188.
- Hensler, D. (2016a) 'Can private actions enforce economic regulations?: Do they? Should they?' in Bagg, D., Costello, C. & Davies, A. (ed.). *Research Handbook on EU Labour Law*. Cheltenham: EE Publishing, at pp. 238-272.
- Hensler, D.R., Pace, N.M., Dombey-Moore, B., Giddens, B., Gross, J. & E.K. Moller (2000). *Class Action Dilemmas, Pursuing Public Goals for Private Gain*. Santa Monica.
- Hensler, D., Hodges, Ch. & M. Tulibacka (2009). *The Annals of the American Academy of political and Social Science*. Philadelphia: SAGE.
- Heureux, N. (1992), 'Effective consumer access to justice: class actions' in *Journal of Consumer Policy* 45:445-462.
- Instituto Iberoamericano de Derecho Procesal. *Procesos Colectivos: I Conferencia Internacional y XXIII Jornadas Iberoamericanas de Derecho Procesal*. Buenos Aires: 6-9 junio 2012.
- Kalajdzic, J. (2019). *Class Actions in Canada – The promise and reality of access to justice*. Vancouver: UBC Press.
- Karlsgodt, P. (2012). *World class actions: a guide to group and representative actions around the globe*. Oxford: Oxford University Press.
- Lucon, P.H.d.S., Aprigliano, R.d.C, Silva, J.P.H.d, Vasconcelos, R., Orthmann, A.G. & A.P. Grinover (2016). *Processos em jornadas. XI Jornadas Brasileiras de Direito*

- Processual: XXV Jornadas Ibero-americanas de Direito Processual*. Salvador: JusPodivm.
- Mendes, A.G. de C. (2013). 'Resolução coletiva de conflitos' in Mendes, A.G. de C. & Wambier, T.A.A. *O Processo em Perspectiva: Jornadas Brasileiras de Direito Processual*. São Paulo: Thomson Reuters Revista, at pp. 47-70.
- Mendes, A.G. de C., Moreira, J.C.B. & L.G.Marinoni (2014). *Ações coletivas e meios de resolução coletiva de conflitos no direito comparado e nacional*. 4th ed. São Paulo: Thomson Reuters Revista
- Mendes, A.G. de C. & L.C.P. de Silva (2018). 'Ações coletivas transnacionais Transnational' (class actions) in *Revista de Processo Comparado* 8:233-249.
- Nagareda, R. (2007). *Mass Torts in a World of Settlement*. Chicago: University of Chicago Press.
- Nuyts, A. & N.E. Hatzimihail (eds.) (2014). *Cross-Border Class Actions: the European Way*. Munich: Sellier European Law.
- Organisation for Economic Co-Operation and Development. The Emergence of Latin Multinationals. Available at <http://www.oecd.org/dev/40512615.pdf>
- Vargas, J.H. (2007). *Nueva Justicia Civil para Latinoamérica: aportes para la reforma*. Santiago, Chile: CEJA/JSCA.
- Verbic, F. (2017). 'Manual de Introducción a los Procesos Colectivos y las Acciones de Clase' in Fandiño, M. & L. González (eds) *Diálogo Multidisciplinario sobre la Nueva Justicia Civil de Latinoamérica*. Santiago: CEJA/JSCA, at pp. 219- 379.
- Walker, J. (2004). 'Crossborder Class Actions: A View from Across the Border' in *Michigan State University International Law Review*. Michigan: Michigan State University Law Review 2004(3):755-798.

Canadian Cases

- Kaynes v BP, PLC*. [2014] ONCA 580 (Can. Ont. Court of Appeal)
- Morguard Investments Ltd. v De Savoye* [1990] 3 SCR 1077 (Can. Supreme Court)
- Silver v IMAX Corp.* [2013] ONSC 1667 (Can. Ont. Sup. Ct. J.)
- Western Canadian Shopping Centres Inc. v Dutton* [2001] 2 SCR 534 (Can. Supreme Court)