

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**BARBARA KRANJCEC, on her own behalf and on behalf
of all retired former employees of the Ontario Government
receiving coverage under the Supplementary Health and
Hospital Insurance, Dental and Life Insurance Plan as of
June 1, 2002**

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

SUPPLEMENTARY AFFIDAVIT OF CHARLES M. WRIGHT

I, **CHARLES M. WRIGHT**, of the City of London, in the County of Middlesex, **MAKE
OATH AND SAY:**

1. I am a partner with the law firm of Siskind, Cromarty, Ivey & Dowler^{LLP}, one of the firms acting as Class Counsel in this matter, and as such have knowledge of the matters to which I hereinafter depose. Where I make statements in this affidavit which are not within my personal knowledge, I have identified the source of that information and belief. All of the information I have deposed to I verily believe.

Notice to Class Members and Response

2. The Notice of Certification and Settlement Approval was mailed by the OPSEU Pension Trust, the Ontario Pension Board, and the Ontario Teachers Pension Plan Board on July 4, 2006. Attached hereto and marked as **Exhibit "A"** is a true copy of the Notice.

3. In conjunction with the mailing of the Notice, Class Counsel developed a website which included access to key documents and provided answers to questions which we anticipated Class Members might have. Attached hereto and marked as **Exhibit "B"** is a true copy of the Table of Contents for the website and the "Frequently Asked Questions".

4. In our efforts to determine the exact number of Class Members, we determined that the Ontario Pension Board did not mail out the Notice to estates of persons who were deceased and did not have a surviving spouse who was receiving pension benefits. This involves the estates of 3,785 Class Members. The OPSEU Pension Trust, however, did mail out the Notice to such estates.

5. I am advised by Michael Morris, Information and Technology Coordinator at Cavalluzzo Hayes McIntyre & Cornish LLP, that as of August 11, 2006, the website had received 979 visits. I am further advised that depending on the software employed by an individual, this figure could modestly understate the total number of visits.

6. Class Counsel trained staff members at each law firm to respond to inquiries in anticipation of a substantial volume of questions concerning the Notice and the Settlement.

7. Class Counsel received in excess of 850 telephone calls and 125 e-mails and regular mail inquiries. From my own experience and information collected by others at the law firms, I can advise that the most common issues were:

- (a) General information inquiries including whether any forms needed to be returned;
- (b) Questions concerning benefits, their treatment in the future, and the drug card;
- (c) Estate information; and
- (d) Change of address information.

Objections

8. Thirteen Class Members objected to the approval of the Settlement in writing. Attached hereto and marked as Exhibit "C" is a true copy of correspondence from each of the Class Members, with six of the Class Members being signatories to the same written objection and two Class Members being signatories to another objection.

Out-of-Country Coverage

9. The major concern of the majority of objectors is the failure to reinstate out-of-country coverage. Class Counsel carefully considered the nature of the out-of-country coverage provided by the Government. The following information was ascertained on the examination of John Goodman, conducted November 4, 2004:

- (a) The coverage that was provided was "emergency" out-of-country coverage. Medical costs relating to pre-existing medical conditions were not covered.

- (b) The government specifically advised various groups, including the Quarter Century Club, that the out-of-country coverage was limited and should not be relied upon.
- (c) The Quarter Century Club negotiated further coverage, called the MEDOC plan, that provided for further coverage which enhanced the basic emergency coverage.

Attached and marked as **Exhibit "D"** to this affidavit are true copies of pages 67-70 of the transcript of the examination for discovery of John Goodman.

10. The Quarter Century Club continues to offer its members out-of-country coverage. I am advised by Jackie Szymanski, General Manager of the Quarter Century Club, that while the cost for each member has increased the increase depends on the usual insurance factors (age, sex, previous health history). In general, I am advised that costs of insurance have risen about one-third for those who qualify for optimum rates. I am advised that those with pre-existing conditions are paying 45 to 57 per cent more.

11. Based on evidence obtained through the discovery process related to projected cost savings, the elimination of out-of-country coverage amounted to less than 13 percent of the reductions imposed by the Government.

12. It was and continues to be Class Counsel's view that the reductions in benefits which were of greatest concern to the Class Members were the deductibles on prescription drugs and dental care. These alterations in "core" benefits affected virtually the entire class and made up the majority of the government's cost savings.

13. A claims process which compensated for losses suffered by those Class Members most affected by losses of out-of-country coverage would have been extremely difficult.

First, the benefit provider, Great West Life, has no record of expenditures made by Class Members. Second, any process would have to include the filing of claims. Third, in order to consider filed claims, a determination would have to be made whether to compensate based only on insurance purchased by the Class Member or whether to compensate fully for expenses incurred by those persons who did not mitigate by buying insurance. Fourth, in the event that full compensation was to be provided, a determination would have to be made as to whether the expenses being claimed would in fact have been covered by the insurance policy. Fifth, if only the cost of insurance was to be compensated, an additional evaluation of claims would have to be made because there is no comparable insurance product on the market. In that instance, a Class Member's claim for damages would effectively be the increased cost of insurance as a result of the loss of the coverage.

Calculation of Settlement Amounts

14. I am advised by counsel for the defendant that \$305,779.79 of interest had been earned on the settlement fund up to and including July 31, 2006. Interest is currently accruing at an annual rate of 4.15% and may vary with changes in interest rates. If interest rates remain constant, the total interest earned to October 15, 2006, will be an additional \$175,560.

15. I am advised by the OPSEU Pension Trust and the Ontario Pension Board that a total of 774 Class Members receive their pension payments by mail rather than direct deposit.

16. Class Counsel have received a quotation for the production and mailing of cheques to the Class Members who do not receive their settlements by direct deposit as well as to the estatee. The total cost of this aspect of the administration of the settlement is \$8,143.24. This figure could become slightly greater (and the direct deposit cost below would become slightly smaller) if Class Members pass away and estates must be paid by

cheque rather than direct deposit. This cost (which would be a net increase) will be borne by Class Counsel from their legal fees. Attached hereto and marked as **Exhibit "E"** is a true copy of the pricing information relative to the direct mailing.

17. Class Counsel have contacted the Ontario Pension Board and OPSEU Pension Trust, as well as their regular banking facilities, to determine the total cost of providing Class Members with direct deposits. The cost of providing direct deposit settlement funds to those who receive their pensions through the Ontario Pension Board is \$1,728.30. This cost is calculated based on 28,805 Class Members at a cost of six cents per Class Member. The cost of providing direct deposit settlement funds to those who receive their pensions through the OPSEU Pension Trust is \$1,832.50. This cost is calculated based on 15,325 Class Members at a cost of ten cents per Class Member plus a \$300 set-up cost at the Royal Bank of Canada.

18. Eighteen Class Members receive their pension cheques through the Ontario Teachers Pension Plan Board. These Class Members are included in the cost of the mailing referenced above.

19. Class Counsel have received advice with respect to the tax which will be payable on the interest earned on the settlement funds. We have been advised that although the total interest to be earned is impossible to determine as Class Members will cash their cheques on different days, \$221,649.00 ought to be withheld for the payment of taxes. Class Counsel have also received a quote for the filing of the trust's tax return. Attached hereto and marked as **Exhibit "F"** is a true copy of the quote from Neal Pallett and Townsend.

20. Class Counsel was advised by the OPSEU Pension Trust, the Ontario Pension Board, and the Ontario Teachers Pension Plan Board that the total number of Class Members who have not opted out are 48,789. The figures provided by these three pension

