

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

**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

Proceeding under the *Class Proceedings Act, 1992*

NOTICE OF MOTION

THE PLAINTIFF, will make a motion to the court on Thursday, September 7, 2006
or as soon after as the motion can be heard, before Mr. Justice Cullity at the Court House,
361 University Avenue, Toronto, Ontario, M5G 1T3.

PROPOSED METHOD OF HEARING: This Motion is to be heard

- in writing under subrule 37.12(1);
- in writing as an opposed motion under subrule 37.12.1(4);
- orally

THE MOTION IS FOR:

1. An Order approving the retainer agreement entered into with the Representative Plaintiff, Barbara Kranjcec, pursuant to Section 32(2) of the *Class Proceedings Act*, 1992;
2. An Order approving Class Counsel legal fees, inclusive of disbursements and applicable taxes, in the amount of \$3,050,000.00;
3. An Order that Class Counsel legal fees, inclusive of disbursements and applicable taxes, be paid from the Settlement Amount; and
4. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

1. The *Class Proceedings Act*, 1992 S.O. 1992, sections 6, 32, and 33;
2. Barbara Kranjcec retained Siskinds LLP and Cavalluzzo, Hayes, Shilton, McIntyre & Cornish LLP (collectively "Class Counsel") to commence an action alleging that the defendant unilaterally reduced retirees' health and dental benefits effective June 1, 2002 which was contrary to a binding promise made to class members and in breach of its fiduciary duty to class members;
3. A Settlement Agreement in the amount of \$20,000,000 plus accrued interest was reached;
4. Class Counsel invested significant resources in the litigation over a period of approximately four years;

5. Class Counsel undertook a significant risk in pursuing the litigation. The litigation was undertaken on a contingency basis and all of the disbursements were funded by Class Counsel; and
6. Such further and other grounds as counsel may advise.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

1. The Affidavit of Barbara Kranjcec, sworn August 28, 2006;
2. The Affidavit of Michael Wright, sworn August 30, 2006; and
3. Such further and other material as counsel may advise and the Honourable Court may permit.

August 30, 2006

**CAVALLUZZO HAYES SHILTON
McINTYRE & CORNISH LLP**
Barristers & Solicitors
474 Bathurst Street
Suite 300
Toronto, Ontario
M5T 2S6

Shaun O'Brien - LSUC #43547F
Tel: (416) 964-1115
Fax: (416) 964-5895

SISKIND, CROMARTY, IVEY & DOWLER LLP

Barristers & Solicitors
680 Waterloo Street
PO Box 2520, Stn. B.
London, Ontario
N6A 3V8

Angela DeKay - LSUC # 43818M

Tel: (519) 672-2121

Fax: (519) 672-3093

Solicitors for the Plaintiffs

TO: **HICKS MORLEY HAMILTON STEWART STORIE LLP**

Barristers & Solicitors
Toronto-Dominion Tower
30th Floor
P.O. Box 371, T-D Centre
Toronto, Ontario
M5K 1K8

John C. Field

Tel: (416) 864-7301

Fax: (416) 362-9680

Solicitors for the Defendant