

Schedule A

Court File No.: 08-CV-346438-CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

BRIAN CHAPMAN

Plaintiff

and

BENEFIT PLAN ADMINISTRATORS LIMITED, DAVID N. HARVEY, ANTHONY F. COOPER, BBC ACTUARIAL SERVICES LIMITED, WELTON BEAUCHAMP ATLANTIC INC., PLENUS CONSULTANTS, DOUGLAS TAYLOR, TOM BALDWIN, MICHAEL EDWARDS, DAVID FLETT, JOHN JANSEN, ROBERT MUNRO, PATRICK MURDOCK, DAVID PHILP, BRIAN TAYLOR, MICHAEL ASHBY and FRANK BTFKX

Defendants

In the matter of a Proceeding Instituted Pursuant to *The Class Proceedings Act, 1992*, S.O. 1992, c.6

NOTICE OF PENDING MOTION FOR PARTIAL SETTLEMENT APPROVAL

TO: All active members, terminated, fully and partly vested members, retired members and beneficiaries or annuitants in receipt of monthly benefits of the Eastern Canada Car Carriers Pension Plan ("ECCCPP") except all such persons serving as trustees of the ECCCPP at any time from January 1, 2000 to March 13, 2006.

RE: The Eastern Canada Car Carriers Pension Plan

**PLEASE READ THIS NOTICE CAREFULLY.
IT MAY AFFECT YOUR LEGAL RIGHTS.**

This Notice

This Notice is sent to you pursuant to an Order made by the Ontario Superior Court of Justice on August 10, 2016.

The purpose of this Notice is to advise you of a settlement approval hearing to be conducted in the Ontario Superior Court of Justice. The court will be asked to approve:

- (i) A settlement of the within action with Tom Baldwin, Michael Edwards, David Flett, John Jansen, Robert Munro, Patrick Murdock, David Philp, Brian Taylor, Michael Ashby and Frank Biekx.
- (ii) A settlement of the within action with the defendants Welton Beauchamp Atlantic Inc., Plenus Consultants and Douglas Taylor.
- (iii) The distribution to class members of settlement proceeds net of legal costs of approximately \$1.6 million
- (iv) Class Counsel's fees, taxes and disbursements as set out herein.

This Notice is intended to advise you of certain rights you have in respect of the proposed final resolution of the above lawsuit. This Notice addresses the following matters:

1. The status of the action to date and in particular the prior partial settlement of the action with the defendants Benefit Plan Administrators Limited ("BPA") and David N. Harvey ("Harvey").
2. The terms of the proposed settlement of the lawsuit against all other defendants.
3. How will the lawyers be paid?
4. Do you as a Class Member have a right to object to the terms of the settlements and/or the lawyers' claims for fees, taxes and disbursements?
5. How will the settlement funds be distributed to class members?

Prior Partial Settlement with BPA and Harvey

On January 2, 2008, the Representative Plaintiff Brian Chapman commenced a class proceeding against certain administrators, Trustees, and actuaries of the "ECCCPP" in the Ontario Superior Court of Justice (the "Court"). The class action arises out of alleged negligence and/or breach of trust of the defendants, which is said to have caused or contributed to the extent of the reduction in benefits and service credits required to address the financial position of the ECCCPP. The defendants deny the allegations against them which have not been proven in court. On June 27, 2013, the Court certified this proceeding as a class action. Certification is not a decision on the merits of the class action.

Brian Chapman and the defendants Benefit Plan Administrators Limited ("BPA") and David N. Harvey ("Harvey") entered into a partial settlement agreement on February 14, 2014 (the "BPA/Harvey Settlement Agreement"). The BPA/Harvey Settlement Agreement provided for the payment of CAD\$1,100,000.00 (the "BPA/Harvey Settlement Amount") in consideration for full and final settlement of the claims of the Class Members as against BPA and Harvey only. The BPA/Harvey Settlement Amount included all legal fees, disbursements, taxes and administration expenses. In return for the BPA/Harvey Settlement Amount, BPA and Harvey received releases and a dismissal of the class action against them.

The Court approved the BPA/Harvey Settlement Agreement on September 9, 2014, and declared that it was fair, reasonable and in the best interests of the Class Members.

The prosecution of the action against the remaining defendants continued on thereafter.

Partial Settlements with Additional Defendants

Brian Chapman and the defendant Trustees of the plan Tom Baldwin, Michael Edwards, David Flett, John Jansen, Robert Munro, Patrick Murdock, David Philp, Brian Taylor, Michael Ashby and Frank Biekx (the "Trustee Defendants"), entered into a partial settlement agreement on or about November 30, 2015 (the "Trustee Settlement"). The Trustee Settlement provides for the payment of CAD\$950,000.00 in consideration for full and final settlement of the claims of the Class Members as against the Trustee Defendants only.

Brian Chapman and the defendants Douglas Taylor, Plenus Consultants and Welton Beauchamp Atlantic Inc. (the "Taylor Defendants") entered into a partial settlement agreement on or about January 11, 2016 (the "Taylor Settlement"). The Taylor Settlement provides for the payment of CAD\$100,000.00 in consideration for full and final settlement of the claims of the Class Members as against the Taylor Defendants only.

The Trustee and Taylor Settlement amounts totaling \$1,050,000.00 include all legal fees, disbursements, taxes and administration expenses. In return for the Trustee and Taylor Settlement amounts, the Trustee and Taylor Defendants will receive releases and a dismissal of the class action. The Crossclaims between the Trustee and the Taylor defendants shall be dismissed without costs.

The Trustee and Taylor Settlements are subject to the approval of a judge of the Ontario Superior Court of Justice. The Representative Plaintiff Brian Chapman will be bringing a motion for court approval of the settlements in the Ontario Superior Court of Justice on Thursday, November 10, 2016 at the Courthouse in City of Toronto.

You have the right to attend on and participate in that motion and object to the proposed settlements if you so desire.

What Happens to the Remainder of the Action?

The Representative Plaintiff does not intend to continue to prosecute the action against the remaining defendants being BBC Actuarial Services Limited and Anthony Cooper. It appears that BBC Actuarial Services Limited and Cooper are impecunious and without the benefit of any liability insurance. Brian Chapman will accordingly seek an Order allowing the discontinuance of the action against BBC Actuarial Services Limited and Anthony Cooper without costs.

Again, you have the right on the return of the motion for partial settlement approval to attend and object to any discontinuance of the action against Cooper and BBC Actuarial Services if you wish to do so.

Legal Costs

Class Counsel (Adair Banisters LLP) entered into a Contingency Fee Retainer Agreement with Brian Chapman on or about August 28, 2014. This Contingency Fee Retainer Agreement entitles Adair Banisters LLP to a fee for services rendered in an amount equal to 25% of the first \$3 million recovered in this class action plus applicable taxes and disbursements incurred in the usual and ordinary course of prosecuting the within class action.

On Tuesday, September 9, 2014 the Honourable Justice Conway approved the Contingency Fee Retainer Agreement and approved an interim payment of \$275,000 inclusive of taxes and disbursements to be paid to Class Counsel.

Class Counsel claims an entitlement to legal costs pursuant to the said Contingency Fee Retainer Agreement, calculated as follows:

BPA/Harvey settlement amount	\$1.1 million
Trustee settlement amount	\$950,000.00
Taylor defendants amount	<u>\$100,000.00</u>
Subtotal	<u>\$2,150,000.00</u>
Fee 25%	\$537,500.00
H.S.T.	\$ 69,875.00
Disbursements (inclusive of H.S.T.)	\$ 84,307.94
TOTAL	\$624,450.30
Less amount received to date	(\$275,000.00)

You have the right to attend on the motion to approve the Trustee and Taylor Settlements on Thursday, November 10, 2016 at 10:00 a.m. at the Courthouse in the City of Toronto and to object to part or all of the payment of legal fees, disbursements and applicable taxes to counsel.

When and How to Object

If you intend to object to the Trustee Settlement and/or the Taylor Settlement and/or Class Counsel's request for payment of legal fees, disbursements and applicable taxes, you must do so in writing by ordinary mail or email sent to Class Counsel at the address below by on or before October 21, 2016:

Adair Banisters LLP
Commerce Court North
25 King Street West, Suite 1101
P.O. Box 127, Commerce Court Postal Station
Toronto, ON M5L 1E2
Attention: Geoffrey D. E. Adair

OR

gadair@adairbarristers.com

The Court will be advised of your objection. You may also attend the hearing of the motion for approval of the settlements and Class Counsel fees and advise the Court orally of your objection provided you have given notice in writing of same as stated.

Distribution to Class Members

The sum of approximately \$ 1.5 million will be available for distribution to class members if approval of the Trustee Settlement, the Taylor Settlement and Class Counsel's fees , disbursements and applicable taxes are approved by the Court.

Class Counsel will request an Order of the Court providing that the settlement funds be paid in the first instance to Adair Barristers LLP in trust whereupon Class Counsel upon receipt of the settlement funds, will be required to prepare and deliver forthwith to each Class member a cheque representing that Class members share of the settlement funds available for distribution as calculated by PBI Actuarial Consultants, consulting actuaries to the Eastern Canada Pension Plan. A calculation of the percentage share of each Class Members entitlement will be provided to the Court on the return of the motion on November 10, 2016.

Location of Court Proceeding

You may ascertain the exact location of the court house in Toronto where the motions will be heard for approval of the settlement and the approval of counsel fees by calling Adair Banisters LLP at 416-499-9940 prior to the hearing date.

Date: August 9, 2016

ADAIR BARRISTERS LLP
Commerce Court North
25 King Street West, Suite 1101
P.O. Box 127, Commerce Court Postal Station
Toronto ON M5L 1E2

Geoffrey D. E. Adair, Q.C. (11419F)
Jennifer L. King (54325R)
Tel: 416.499.9940
Fax: 647.689.2059

Lawyers for the Plaintiff

BRIAN CHAPMAN
Plaintiff

-and- BENEFIT PLAN ADMINISTRATORS LIMITED et al.
Defendants

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