

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**THE HONOURABLE
JUSTICE PERELL**

) **TUESDAY, THE 14th DAY OF**
) **FEBRUARY, 2023**

BETWEEN:

JEFFREY LIPSON

Plaintiff/Moving Party

-and-

CASSELS BROCK & BLACKWELL LLP

Defendant/Responding Party



Entered March 1, 2023

Proceeding under the *Class Proceedings Act, 1992*

ORDER – FEE APPROVAL

THIS MOTION, made by Class Counsel for an order approving their Retainer Agreement with the Plaintiff and approving their counsel fees, disbursements and taxes with respect to the Settlement of this class proceeding was heard on January 20, 2023 at 10:00 a.m. over zoom videoconference.

AND WHEREAS the defined terms in the Settlement Approval Order of the Honourable Justice Perell dated February 14, 2023 and the Retainer Agreement, as defined below, are incorporated herein.

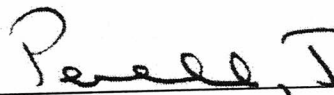
ON READING all materials filed and hearing the submissions of Class Counsel and approving the Settlement,

1. **THIS COURT ORDERS** that the retainer agreement between Class Counsel and the Plaintiff dated September 1, 2009 ("**Retainer Agreement**"), is hereby approved.

2. **THIS COURT ORDERS** that the 25% contingency fee set out in the Retainer Agreement on the \$8,250,000 Settlement Fund (less disbursements and taxes thereon of \$543,860.34) is hereby fixed in the amount of \$2,176,984.46, including taxes, and shall be payable from the Settlement Fund to Class Counsel within seven (7) days following the Effective Date of the Settlement.
3. **THIS COURT ORDERS** that pursuant to section 28.1(8) of the *Solicitors Act*, RSO 1990, c S.15, that the fee component, inclusive of taxes, of the costs awards awarded to the Plaintiff in this action shall not be deducted from the aforesaid Class Counsel contingency fee.
4. **THIS COURT ORDERS** that Class Counsel shall be reimbursed \$64,570.28 for disbursements (inclusive of taxes) from the Settlement Fund that they financed in this action and for which Class Counsel was not reimbursed. The foregoing amount will become payable to Class Counsel within seven (7) days following the Effective Date of the Settlement.
5. **THIS COURT ORDERS** that the Class Proceedings Fund (the “CPF”) shall be reimbursed \$479,290.06 from the Settlement Fund in respect of the disbursement funding provided by the CPF. The foregoing amount will become payable to the CPF within seven (7) days following the Effective Date of the Settlement.
6. **THIS COURT ORDERS** that the Funders (as defined in the Retainer Agreement) shall be reimbursed \$325,011.68 from the Settlement Fund in respect of their respective contributions to Davies Costs, with the identity of the Funders and the amount of their respective contributions according with the information provided by Davies. The foregoing amounts will become payable to the Funders within seven (7) days following the Effective Date of the Settlement.
7. **THIS COURT ORDERS** that the CPF is entitled to a levy in the amount of 10% assessed on the payments available to all Class Members after the payment of the CPF disbursement reimbursement, the payment of administration expenses and Counsel Fees. The levy on the total quantum of the First Stage of the Distribution will become payable within seven (7) days of the end of the First Stage of the Distribution, and the balance of the levy will become payable within seven (7) days of the end of the Second Stage of the Distribution.

8. **THIS COURT ORDERS** that, no amounts shall be distributed to any Class Members until the Class Proceedings Committee has had an opportunity to review and confirm the calculation of the Levy in paragraph 7. If there is any dispute or question as to the calculation of the levy to the Fund, Class Counsel and counsel for the Fund shall arrange an appearance before the class action case management judge to resolve the issues and that, pending any appearance, no amounts shall be distributed to any Class Members.

9. **THIS COURT ORDERS** that there be no costs of this motion.

A handwritten signature in black ink, appearing to read "Perell, J.", is written above a horizontal line.

Justice Perell

JEFFREY LIPSON

Plaintiff/Moving Party

- and -

CASSELS BROCK & BLACKWELL LLP et al

Defendant/Responding Party
Court File No. CV-09-376511

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding under the *Class Proceedings Act, 1992*

Proceeding commenced at Toronto

ORDER – FEE APPROVAL

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