

Endorsement of Associate Chief Justice Hoy:

September 23, 2013

Justice Perell declined to approve an amended settlement in this class action concerning entitlement to pension surplus, in the face of objections by a significant number of class members. The defendant, The Canada Life Assurance Company, appeals Justice Perell's decision and Class counsel supports the appeal.

Mr. Anderson, a class member who objected to the approval sought by class counsel, seeks leave to intervene in the appeal. While Canada Life consented to the intervention of other objectors, represented by Mr. Mazurek, it does not consent to Mr. Anderson's involvement. Class counsel does not oppose his involvement, but says it should be limited to written submissions not exceeding 15 pages.

In this unusual circumstance, there would be no respondent on the appeal if objectors were not permitted to intervene. Like the objectors represented by Mr. Mazurek, Mr. Anderson has interests that will be substantially affected by the outcome of this appeal. Mr. Anderson proposes to make arguments that Mr. Mazurek will not advance. In my view, he should be permitted to intervene on the following terms:

1. His factum shall not exceed 30 pages, double space, 12 point font and shall be filed with the court and served no later than September 27, 2013. This is the same limit applicable to Mr. Mazurek.
2. His oral submissions shall not exceed 15 minutes. (This leaves 1.25 hours for Mr. Mazurek).
3. Mr. Anderson shall not be entitled to seek costs, and no costs shall be awarded against him.

In the course of his attendance on this motion, I reminded Mr. Anderson again that on the appeal he will not be permitted to give evidence as a person versed in actuarial matters in arguing that Justice Perell did not err, and will be restricted to the record that was before Justice Perell over the course of his management of this class action. I also reminded Mr. Anderson that his communication with this court shall be through his factum and permitted oral submissions and not through emails.

Canada Life's reply factum shall be filed and served by October 2, 2013.

Mr. Anderson shall also file with the Court and serve the parties with his compendium by September 27, 2013.