

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MADAM) TUESDAY, THE 25TH
JUSTICE CONWAY) DAY OF FEBRUARY, 2014

BETWEEN:

**DAVID MCKILLOP BY HIS LITIGATION GUARDIAN CHRISTINE VICTORIA
GRACE CLARKE**

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant



Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by Class Counsel for an order approving the legal fees payable to Koskie Minsky LLP, Class Counsel, with respect to these proceedings, was heard on Tuesday, February 25, 2014 at 330 University Avenue, Toronto, Ontario.

WHEREAS the settlement agreement in this action was executed on December 23, 2013 and was approved this court on February 24, 2014 (the "Settlement");

WHEREAS the motion to approve the legal fees recoverable with respect to this proceeding was heard concurrently with the motions to approve the legal fees recoverable with respect to the following proceedings:

- (a) *Dolmage v. Ontario* (Court File. No. CV-09-376927CP00); and
- (b) *Bechard v. Ontario* (Court File No. CV-10-417343-00CP);

WHEREAS the settlement fund established pursuant to the Settlement in this action is \$20,619,000 (the "Settlement Fund").

AND UPON HEARING the submissions of counsel for the Plaintiff and Defendant, and upon reading the materials filed, the motion record of Class Counsel and the factum of Class Counsel,

1. **THIS COURT ORDERS** that the fee payable to Koskie Minsky LLP by the Defendant out of the Settlement Fund is hereby set at \$4,270,000.00 in respect of legal fees, plus \$551,953.20 in respect of GST and HST, calculated as follows:

(a)	legal fees to June 30, 2010:	\$39,335.02;
(b)	GST on subparagraph (a) above at the applicable rate:	\$1,966.75;
(c)	legal fees from July 1, 2010:	\$4,230,664.98; and
(d)	HST on subparagraph (c) above at 13%:	\$549,986.45;
	<u>TOTAL:</u>	<u>\$4,821,953.20</u>

2. **THIS COURT ORDERS** that the total amount payable by the Defendant out of the Settlement Fund in respect of disbursements, in addition to the fees payable in paragraph 1, above, is hereby set at \$500,040.18 (inclusive of all applicable taxes), to be distributed as follows:

(a)	disbursements payable to Koskie Minsky LLP:	\$303,923.92; and
(b)	disbursements payable to the Law Foundation of Ontario:	\$210,157.59;
	<u>TOTAL:</u>	<u>\$514,081.51</u>

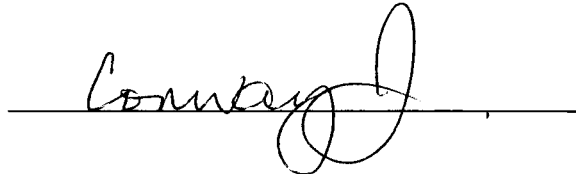
3. **THIS COURT ORDERS** that the levy payable to the Law Foundation of Ontario pursuant to Regulation 771/92 of the *Law Society Act* by the Defendant out of the Settlement shall be fixed at \$1,628,296.53, calculated as follows:

(a)	total Settlement Fund:	\$20,619,000;
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- (b) less amounts payable to Koskie Minsky LLP on account of fees, disbursements and taxes (as set out above): \$5,125,877.12;
- (c) less disbursements payable to the Law Foundation of Ontario (as set out above): \$210,157.59; and
- (d) 10% levy on remaining settlement amount: \$1,628,296.53

4. **THIS COURT ORDERS** that the Defendant shall pay the amounts set out in paragraphs 1, 2, and 3 within 5 days of the Court Approval Date as defined in the order approving the Settlement in this action.


5. **THIS COURT ORDERS** that Class Counsel shall hold \$305,000 of the amounts set out in paragraph 1 above in Koskie Minsky LLP's trust account until the claims process pursuant to the Settlement is completed and court approval has been obtained for payment of such holdback amount.



CONWAY J.

**ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:**

FEB 28 2014

PER / PAR: 

DAVID MCKILLOP, et al.
PLAINTIFFS

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO
AND
DEFENDANT

Court File No: CV-09-376927CP00

ONTARIO

SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*,
1992

ORDER

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