

Court File No.:

W-18-590105
OOCF



**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

LESLIE AUSTIN

Plaintiff

- and -

**BELL CANADA, BELL MEDIA INC.,
EXPERTECH NETWORK INSTALLATION INC., and BELL MOBILITY INC.**
Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO


PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$10,000 for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: January 16, 2018

Issued by


Local registrar

Address of court office 393 University Avenue
10th Floor
Toronto, ON M5G 1E6

TO: **Bell Canada**
1 Carrefour Alexander-Graham-Bell
A-7
Verdun QC H3E 3B3
Canada

Bell Media Inc.
299 Queen Street West
Toronto, ON M5V 2Z5
Canada

Expertech Network Installation Inc.
1 Carrefour Alexander-Graham-Bell
A-7
Verdun QC H3E 3B3
Canada

Bell Mobility Inc.
1 Carrefour Alexander-Graham-Bell
A-7
Verdun QC H3E 3B3
Canada

CLAIM

1. The plaintiff claims:
 - (a) an order certifying this action as a class proceeding and appointing the Plaintiff as representative plaintiff for the Class;
 - (b) a declaration that the Defendants improperly calculated the rate of indexation under the Bell Canada Pension Plan;
 - (c) a declaration that the Defendants breached their fiduciary and trust duties to the Plaintiff and Class Members;
 - (d) a declaration that the Defendants breached the terms of the contract set out in the Bell Canada Pension Plan;
 - (e) a declaration that the Defendants are liable to the plaintiff and Class Members for damages caused by the Defendants' breach of contract and breach of fiduciary and trust duties to the Plaintiff and Class Members;
 - (f) damages payable by the Defendants for breach of fiduciary and trust duties, and breach of contract in the amount of \$150,000,000 or such greater amount as may be determined by the court; or
 - (g) an order that the Defendants adjust the indexation amounts applicable to the class and pay the Class Members the amounts owing to date, plus interest, and an order that all future indexation or other increases be applied to the adjusted pension amounts such that the Class Members are put in the same position as if the 2017 indexation amounts were correctly calculated at first instance;
 - (h) costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;

- (i) prejudgment and postjudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1995, c. C. 43, as amended;
- (j) pursuant to section 26 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, the costs of notice and administering the plan of distribution of the recovery of this action, plus applicable taxes; and
- (k) such further and other relief as this Honourable Court may deem just.

A. OVERVIEW

2. This class proceeding arises out of the incorrect approach used by the Defendants to calculate the cost of living indexation pursuant to the Bell Canada Pension Plan (the “**Plan**”). As a result of the Defendants' incorrect approach, the Class Members have been short-changed their full pension entitlement under the Plan.

3. The Plan is a binding contract between the Defendants and the Class Members. The benefits under the Plan, including proper indexation of the Class Members' pensions, constituted deferred compensation earned by the Class Members in the course of their employment. Assets in the Plan's pension fund are held in trust by the Defendants as trustees and fiduciaries to the Plaintiff and Class in accordance with the Plan terms.

4. Indexation under the Plan provides necessary cost-of-living adjustments for Plan beneficiaries to ensure that their pension payments keep pace with inflation. Retirees are an extremely vulnerable group who are dependent on their pensions and the necessary inflation adjustments.

5. The method of calculation of indexation is set out in the Plan. The Plan provides that the indexation rate is to be based on “the annual percentage increase of the Consumer Price Index, as determined by Statistics Canada, during the period of November 1 to October 31 immediately preceding the date of the pension increase”. Statistics Canada determines annual percentage increases which are published on its website. The Defendants failed to use the published Statistics Canada percentage

increase as required by the Plan. Instead, the Defendants incorrectly took a different approach and calculated a different figure which resulted in a lower annual increase to the detriment of the Class Members.

6. The Defendant's incorrect approach resulted in a difference of 1 percent of indexation for the 2017 year. This error has caused significant loss to the value of the pensions for the class as a whole.

B. THE DEFENDANTS

7. Bell Canada ("**Bell Canada**" or the "**Administrator-Defendant**") is a corporation incorporated pursuant to the laws of Canada that carries on business in communications and media. Bell Canada maintains its headquarters in Verdun, Quebec. Bell Canada is the administrator of the Plan.

8. Expertech Network Installation Inc. is a corporation incorporated pursuant to the laws of Canada. Expertech Network Installation Inc. maintains its headquarters in Verdun, Quebec at the same corporate address as Bell Canada.

9. Bell Mobility Inc. is a corporation incorporated pursuant to the laws of Canada. Bell Mobility Inc. maintains its headquarters in Verdun, Quebec at the same corporate address as Bell Canada.

10. Bell Media Inc. is a corporation incorporated pursuant to the laws of Canada. Bell Media Inc. maintains its offices in Toronto, Ontario.

11. Bell TV Inc. is a dissolved corporation which was incorporated pursuant to the laws of Canada. It maintained its headquarters in Montreal, Quebec and previously employed some of the Class Members. Upon dissolution in 2006 its pension obligations to the Class Members were assumed by Bell Canada which continues to contribute to the Plan on behalf of the former employees of Bell TV Inc.

12. Bell Canada, Bell Media Inc., Expertech Network Installation Inc., and Bell Mobility Inc. and Bell TV Inc. (collectively, the "**Employer-Defendants**"), are participating and contributing employer companies under the Plan.

C. THE PLAINTIFF

13. The plaintiff, Leslie Austin (“**Austin**” or the “**Plaintiff**”) resides in London, Ontario. In 1976, Mr. Austin commenced employment with Newfoundland Telephone Co., located in St. John's, Newfoundland. In 1980, Mr. Austin was transferred to Bell Canada at the 100 Elgin Street, Ottawa location.

14. Mr. Austin was transferred to the Bell Canada 100 Dundas St., London location in 1981. He was then transferred again to the Bell Canada training centre at Eglinton Avenue, Toronto in 1985.

15. Mr. Austin retired in September, 2012 and began to receive monthly defined benefit pension payments under the Plan.

D. THE CLASS

16. The Plaintiff brings this action under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 on behalf of:

all persons, wherever resident, who are or were members under the Bell Canada Pension Plan, or otherwise entitled to benefits under the Plan, and who were entitled to receive indexed pension payments pursuant to section 8.7 of the Plan as of January 1, 2017, together with the spouses, estates, heirs, beneficiaries, and representatives of any of the above who has died.

(“**Class Members**” or the “**Class**”)

E. THE PENSION PLAN

i. General

17. Bell Canada and its related entities make up one of the largest Canadian communications organizations which has thousands of current and former Canadian employees.

18. The Plan constitutes a binding contract between the Class Members and the Defendants. In exchange for labour, the Class Members were compensated in part with the commitment to provide a guaranteed stream of income upon retirement (or other event triggering entitlement under the Plan) in the form of a monthly pension. The pension constituted deferred compensation for the Class Members' employment. The pension was to be provided in accordance with the terms of the Plan, administered by Bell Canada.

19. The Plan consists of a defined benefit component and a defined contribution component. The defined contribution component was introduced on January 1, 2005 and since that time new employees have been covered by the defined contribution component.

20. The Employer-Defendants participate in and make contributions to the Plan.

21. The pension fund of the Plan is a trust held by the Defendants for the benefit of Plan members.

22. The Plan is governed by the *Pension Benefits Standards Act, 1985* and its regulations. The Plan is subject to federal oversight and regulated by the Office of the Superintendent of Financial Institutions.

(1) Plan Membership Makeup

23. As of December 31, 2016, the Plan has 77,273 members that live throughout Canada and abroad.

24. Of the 77,273 Plan members:

- (a) 30,717 are active (i.e. accruing benefits) members;
- (b) 32,041 are retired members;
- (c) 3,004 are receiving a survivor pensions;

- (d) 6,436 are terminated employees entitled to a deferred pension;
- (e) 678 are members transferred out of the Plan for future benefit accrual with past service and liabilities remaining in the Plan; and
- (f) 4,397 were former employees with defined contribution entitlements not yet transferred out of the Plan.

25. As of December 31, 2016, the makeup of Plan members was as follows:

- (a) Active Plan members accounted for 40 percent of the total membership, and retirees and survivor members receiving pension payments make by 45 percent of the total membership;
- (b) The average age of Plan members was 43.9 years. The average age was 50.7 for the defined benefit component Plan members years and 40.2 years for the defined contribution component Plan members;
- (c) The average length of service of plan members was 14.7 years. The average length of service for defined benefit Plan members was 24.6 years and 9.3 years for defined contribution Plan members;
- (d) The average age of retiree Plan members was 70.7 and the average age of survivor Plan members is 77.5; and,
- (e) There were 32,041 retired members receiving a pension and 3004 survivors receiving a survivor pension.
- (f) Of the 32,041 retired members receiving a pension;
 - (i) 30,705 members were previously employed by Bell Canada;
 - (ii) 1026 members were previously employed by Expertech Installation Inc.;
 - (iii) 306 members were previously employed by Bell Mobility Inc.;

- (iv) 3 members were previously employed by Bell TV Inc; and
- (v) 1 member was previously employed by Bell Media Inc.
- (g) Of the 3004 survivors receiving a survivors pension;
 - (i) 2947 surviving members' spouses were previously employed by Bell Canada;
 - (ii) 46 surviving members' spouses were previously employed by Expertech Installation Inc.; and
 - (iii) 11 surviving members' spouses were previously employed by Bell Mobility Inc.

ii. Indexation under the Plan

26. Indexation is the amount that a monthly pension payment may be increased from one year to the next to provide a degree of inflation protection. Indexation is often referred to as a cost-of-living adjustment to reflect the amount that the pension payments must increase to keep pace with inflation in order to maintain retirees' standard of living.

27. Under the Plan, yearly indexation is calculated during the period of November 1 to October 31 of the year prior to the increase. Indexation is reflected in pension payments beginning on January 1 of each year.

28. The rate of indexation is governed by the Plan. The Plan provides for indexation as follows:

8.7 On every first day of January, the retirement benefits payable to a Member, the surviving Spouse or Beneficiary under the DB Provisions shall be augmented by a percentage determined as follows:

- (i) If, on the date of the increase, the Member has not reached 65 years of age, or would not have reached 65 years of age in the case of a surviving Spouse or Beneficiary, the Pension Index, limited to a maximum of 2% and calculated on a compounded basis.

(ii) If, on the date of the increase, the Member has reached 65 years of age, or would have reached 65 years of age in the case of a surviving Spouse or Beneficiary, the percentage shall be the greater of:

(a) 60% of the Pension Index, limited to a maximum of 4% and calculated on a compounded basis; or

(b) the percentage determined under paragraph (i) above.

(iii) For the purpose of any increase applicable to a Member, the surviving Spouse or the Beneficiary within the first year of retirement, the applicable percentage shall be prorated, taking into account the number of full calendar months of retirement in the calendar year preceding the date of the increase.

(iv) All percentage increases shall be rounded to the nearest 2 decimal points, except for the percentage increase under paragraph (i) above which shall be rounded to the nearest whole number.

29. The term "Pension Index" is defined in Section 1.29 of the Plan as follows:

"Pension Index" means the annual percentage increase of the Consumer Price Index, as determined by Statistics Canada, during the period of November 1 to October 31 immediately preceding the date of the pension increase.

iii. Improper Method of Indexation Calculation

30. As provided by section 1.29 of the Plan, the yearly indexation amount is "the annual percentage increase of the Consumer Price Index, as determined by Statistics Canada".

31. The Consumer Price Index ("CPI") is an indicator of changes in consumer prices experienced by Canadians. It is obtained by comparing, over time, the cost of a fixed basket of goods and services purchased by consumers. Statistics Canada publishes the annual percentage increase of the CPI on its website.

32. From January 1, 2017 to the end of 2017, the rate of indexation of the Plan is based upon the published Statistics Canada annual percentage increase of the CPI for the period of November 1, 2015 to October 31, 2016.

33. On November 18, 2016, Statistics Canada determined and published the annual percentage increase for the 12-month period of November 1, 2015 to October 31, 2016, which was 1.5 percent.

34. Under section 8.7 of the Plan, the percentage increase for 2017 was to be rounded to the nearest whole number. Any indexation percentage increase of 1.5 percent and above is rounded up to 2 percent. Any indexation percentage increase between 1.4 percent and 1.1 percent was to be rounded down to 1 percent.

35. Had the Administrator-Defendant used the annual percentage increase of the CPI, as determined and published by Statistics Canada, which it was required to do, the published increase of 1.5 percent should have been rounded up to a 2 percent rate of indexation for 2017, pursuant to the Plan.

36. Contrary to the terms of the Plan, the Administrator-Defendant did not rely on the published Statistics Canada CPI percentage increase. Instead, the Administrator-Defendant incorrectly calculated its own annual increase of CPI based on year-end figures for the period of November 1, 2015 to October 31, 2016. This approach favoured the Administrator-Defendant and Employer-Defendants at the expense of the Class Members and yielded a figure of 1.49 percent, which is less than the annual percentage increase of the CPI as determined and published by Statistics Canada.

37. The Administrator-Defendant used a CPI value of 129.1 for October 2016 and 127.2 for October 2015 and calculated the average increase to two decimal points, equaling 1.49 percent.

38. Relying on the 1.49 percent figure, the Administrator-Defendant then rounded the indexation rate down to a 1 percent figure to be used for indexation for the year 2017, which benefits the Defendants and was to the detriment of the Class.

39. The Administrator-Defendant's approach is contrary to the terms of the Plan.

40. Furthermore, the Administrator-Defendant's incorrect approach in respect to 2017 indexation is also inconsistent with some of its past practice where it has used a CPI increase figure which was rounded to one decimal point instead of two decimal points.

iv. Communication to the Class

41. The Administrator-Defendant described its indexation calculation in the Pension Information Committee Report dated December 31, 2016 as follows:

Cost-of-Living adjustments

The Plan provides for pension indexing each January 1 to partially compensate for cost-of-living increases. This formula takes into account the retiree's age on January 1 and the increase in the Consumer Price Index (CPI) over a 12-month period running from November 1 of one year to October 31 of the next. Here's how it works:

- Under age 65 – The increase in the CPI (rounded to the nearest whole number), up to a maximum of 2%
- Age 65 and over – The greater of:
 - 100% of the increase in the CPI (rounded to the nearest whole number), up to a maximum of 2% or
 - 60% of the increase in the CPI (rounded to the nearest 2 decimal points), up to a maximum of 4%

In the year of retirement, the applicable indexation rate is prorated based on the number of months since the retirement date.

Over the 12-month period ending in October 2016, the CPI increased by 1.49%. Therefore, the January 2017 adjustment applicable to all Bell retirees was 1%.

F. BREACH OF CONTRACT

42. The Class Members were employed by the Employer-Defendants for years. It was a common term of the employment contracts of all Class Members that they (and their survivors) would be entitled to an indexed pension, pursuant to the Plan. The Class Members' labour and employment was the consideration for an indexed pension that would be payable upon their retirement, or other event triggering entitlement.

43. The Plan was partially funded through contributions made by the Employer-Defendants in lieu of salary or wages throughout the Class Members' working lives. The receipt of the correct benefits under the Plan constitutes deferred compensation earned by the Class Members in the course of their employment.

44. The Employer-Defendants, as the prior employers of the Class Members, have a contractual obligation to Class Members to ensure that the terms of the Plan are met, and that the Class Members receive the correct pension benefits with applicable indexation.

45. As the administrator of the Plan, the Administrator-Defendant has a contractual obligation owed to the Class Members to calculate the appropriate rate of indexation under the Plan and ensure that Class Members receive the correct pension benefits with applicable indexation in accordance with the terms of the Plan.

46. By improperly calculating the indexation rate and failing to pay the Class Members the correct pension benefits, the Defendants have not honoured their contractual obligations to Class Members under the Plan.

47. The Defendants breached the terms of the contract. The particulars of the breach include:

- (a) failing to appropriately calculate the indexation rate and failing to pay the correct pension benefits owed to the Class Members, pursuant to the Plan;
- (b) failing to provide Class Members with accurate and timely administration information regarding their entitlement to an increased indexation rate;
- (c) by the Employer-Defendants in failing to ensure that indexation rate was correctly calculated by the Administrator-Defendant and ensure the correct amount of pension benefits were paid to the Class Members pursuant to the Plan; and
- (d) failing to act in accordance with the spirit, purpose and terms of the Plan.

48. The Defendants failed to correctly interpret and apply the provisions of the Plan by incorrectly calculating the indexation. By failing to use the published Statistics Canada CPI percentage increase, the Defendants favoured their own interests and acted contrary to the terms of the Plan. The Defendants interpretation and application of the indexation provisions is inconsistent with a practical and purposive interpretation of the Plan and is incorrect on its face.

49. Alternatively, the doctrine of *contra proferentem* applies to the interpretation of the Plan. The doctrine provides that where a contractual provision is sufficiently ambiguous, it will be construed against the party responsible for drafting and tendering the contract. The Defendants drafted the terms of the Plan. To the extent that there is any ambiguity in the relevant provisions in the Plan, the ambiguity should be resolved in favour of the Class.

G. BREACH OF TRUST

50. At all material times, the pension funds were to be held in trust by the Administrator-Defendant in favour of the Class Members. The pension funds are held exclusively on behalf of the Plan Members.

51. Pursuant to the Plan, the declaration of trust and the *Pension Benefits Standards Act*, 1985, R.S.C. 1985, c. 32 (2nd Supp.), the Administrator-Defendant administers the pension funds as a trustee :

Administration of pension plan and fund

8 (3) The administrator shall administer the pension plan and pension fund as a trustee for the employer, the members of the pension plan, former members, and any other persons entitled to pension benefits under the plan.

52. It is a term of the trust that the pension be indexed according to the Plan terms. Failure to comply with the Plan terms constitutes a breach of trust. The Administrator-Defendant's improper indexation, as set out above, is contrary to the Plan terms and constitutes a breach of trust.

H. BREACH OF FIDUCIARY DUTY

53. At all material times, the Administrator-Defendant acted, and continues to act, as the administrator of the Plan. The correct calculation of the indexation rate is crucial to the well-being of the Class Members.

54. The *Pension Benefits Standards Act*, 1985, R.S.C. 1985, c. 32 (2nd Supp.) sets out statutory duties that the Administrator-Defendant owes the Class Members, including:

Administration of pension plan and fund

8 (3) The administrator shall administer the pension plan and pension fund as a trustee for the employer, the members of the pension plan, former members, and any other persons entitled to pension benefits under the plan.

Standard of care

8 (4) In the administration of the pension plan and pension fund, the administrator shall exercise the degree of care that a person of ordinary prudence would exercise in dealing with the property of another person.

Manner of investing assets

8 (4.1) The administrator shall invest the assets of a pension fund in accordance with the regulations and in a manner that a reasonable and prudent person would apply in respect of a portfolio of investments of a pension fund.

Investment choices

8 (4.2) A pension plan may permit a member, former member, survivor or former spouse or former common law partner of a member or former member to make investment choices with respect to their account maintained in respect of a defined contribution provision or with respect to their account maintained for additional voluntary contributions.

Administrator's duty

8 (4.3) If a pension plan permits a member, former member, survivor or former spouse or former common law partner of a member or former member to make investment choices, the administrator must offer investment options of varying degrees of risk and expected return that would allow a reasonable and prudent person to create a portfolio of investments that is well adapted to their retirement needs.

Deemed compliance with subsection (4.1)

8 (4.4) With respect to the account for which an investment choice is made by a member, former member, survivor or former spouse or former common law partner of a member or former member, if an administrator offers investment options in accordance with subsection (4.3) and the regulations, that administrator is deemed to comply with subsection (4.1).

Special knowledge or skill

8 (5) Without limiting the generality of subsection (4), an administrator who in fact possesses, or by reason of profession or business ought to possess, a particular level of knowledge or skill relevant to the administration of a pension plan or pension fund shall employ that particular level of knowledge or skill in the administration of the pension plan or pension fund.

55. The statutory duties inform the common law duty of care owed by the Defendant Administrator as fiduciary and trustee.

56. The Administrator-Defendant has sole discretion and power over the Class Members' financial interests in administering and paying pension entitlements under the Plan. The Administrator-Defendant can unilaterally exercise such discretion over the interests of the Class Members by virtue of their position as administrator of the Plan. As administrator of the Plan, the Administrator-Defendant was bound to act in the utmost good faith in the administration of the Plan.

57. Class Members are entirely reliant on the skill and expertise of the Administrator-Defendant in the implementation of the Plan and payment of pension entitlements. The Class Members are in a wholly vulnerable position relative to the Administrator-Defendant by virtue of the complete control held by the Administrator-Defendant in the administration of the Plan. The vulnerability of the Class Members is amplified as a result of their position as seniors, many of whom are not able to re-enter the workforce, or face significant barriers to re-entry. The Plan exists solely for the benefit of Class Members. The Administrator-Defendant breached its fiduciary duties to the Plaintiff and the Class in its administration of the Plan. The particulars of the breach include:

- (a) failing to properly calculate the indexation rate owed to the Class Members pursuant to the Plan;

- (b) failing to provide Class Members with accurate and timely administration information regarding their entitlement to an increased indexation rate;
- (c) failing to take a proper and good faith approach in the administration of the Plan;
- (d) failing to act in accordance with the spirit, purpose and terms of the Plan;
- (e) favouring its own interests over that of Plan members; and
- (f) failing to safeguard the pension benefits of Class Members who rely on the Plan for support as they age;

58. The Administrator-Defendant failed to ensure that the best interests of the Class Members were being protected. In failing to appropriately calculate the rate of indexation under the Plan, the Administrator-Defendant sought to maximize its own interests at the expense of the Class.

59. The Administrator-Defendant has an ongoing financial obligation to fund and administer the Plan. The Administrator-Defendant favoured its interests, and those of the Employer-Defendants, over the interests of the Class Members by paying the Class Members less than their entitlement. The Administrator-Defendant's improper calculation of indexation was specifically designed to reduce the Class Members' entitlements over time and reduce the Employer-Defendants' required contributions to the Plan.

H. DAMAGES SUFFERED BY THE CLASS

60. The Plaintiff and Class Members have suffered damages as a result of the Defendant's actions. As a result of the failure to properly calculate and pay the correct amount of indexation, the value of each of the Class Members' pension entitlement is reduced and Class Members have been deprived of their correct payments under the Plan. The Defendants should compensate the Class for their loss.

61. The Defendants knew, or ought to have known, that as a result of their actions Class Members would suffer significant damages, including the following:

- (a) immediate loss reflected in reduced pension payments for 2017;
- (b) interest from the date Class Members should have received the proper payments; and,
- (c) future loss of reduced pension entitlements on a going forward basis.

62. In particular, Mr. Austin's immediate loss being the difference between a 2 percent indexation rate and a 1 percent indexation rate is approximately \$24.18 per month, amounting to \$290.16 in 2017. The present lump sum value of the loss when considering the lost payments and increases over the course of his life is much greater.

63. The Plaintiff seeks compensation for his loss and the loss of the Class for the amount they ought to have received (and would have received in the future) had the Plan indexation rate for 2017 been calculated properly, and includes the present lump sum value of the loss of pension benefits for the Class as a whole over the course of their lifetimes.

I. RELEVANT STATUTES

64. The Plaintiff pleads and relies upon the following statutes and regulations:

- (a) *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
- (b) *Pension Benefits Standards Act, 1985*, R.S.C. 1985, c. 32 (2nd Supp.);
and
- (c) *Pension Benefits Standards Regulations, 1985*, S.O.R./87-19;

J. PLACE OF TRIAL

65. This action is commenced pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.

66. The Plaintiff requests that this action be tried in the City of Toronto, in the Province of Ontario.

January 16, 2018

Koskie Minsky LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Mark Zigler LSUC#: 19757B
Tel: (416) 595-2090
Fax: (416) 204-2877

Jonathan Ptak LSUC#: 45773F
Tel: (416) 595-2149
Fax: (416) 204-2903

Brittany Tovee LSUC#: 71086L
Tel: (416) 595-2260
Fax: (416) 204-4937

McKenzie Lake Lawyers LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2

Matthew Baer LSUC#: 48227K
Tel: (519) 667-2646
Fax: (519) 672-2674

Lawyers for the Plaintiff

LESLIE AUSTIN
Plaintiff and
BELL CANADA
Defendants

Court File No.:

CV-18-590105
0009

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

KOSKIE MINSKY LLP
900-20 Queen Street West
Toronto ON M5H 3R3

Mark Zigler LSUC#: 19757B
Tel: (416) 595-2090/ Fax: (416) 204-2877
Jonathan Ptak LSUC#: 45773F
Tel: (416) 595-2149/ Fax: (416) 204-2903
Brittany Tovee LSUC#: 71086L
Tel: (416) 595-2260/ Fax: (416) 204-4937

MCKENZIE LAKE LAWYERS LLP
140 Fullarton Street, Suite 1800
London, ON N6A 5P2

Matthew Baer LSUC#: 48227K
Tel: (519) 667-2646/ Fax: (519) 672-2674

Lawyers for the Plaintiff