

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

GASTON J. PERREAULT AND ODETTE DI MURO

Plaintiffs

- and -

BELL CANADA (ALSO KNOWN AS THE BELL TELEPHONE COMPANY OF CANADA),
BELL CANADA INC., BELL MEDIA INC., EXPERTECH NETWORK INSTALLATION
INC., BELL MOBILITY INC., AND BELL TV INC.

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**MOTION RECORD
(Motion Re: Certification)**

August 17, 2023

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Tab 1

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

GASTON J. PERREAULT AND ODETTE DI MURO

Plaintiffs

- and -

BELL CANADA (ALSO KNOWN AS THE BELL TELEPHONE COMPANY OF CANADA),
BELL CANADA INC., BELL MEDIA INC., EXPERTECH NETWORK INSTALLATION
INC., BELL MOBILITY INC., and BELL TV INC.

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**NOTICE OF MOTION
(Motion for certification)**

The Plaintiffs will make a motion to the court on a date to be set by the class proceedings case management judge, or as soon after that time as the motion can be heard.

PROPOSED METHOD OF HEARING: The motion is to be heard:

- In writing under subrule 37.12.1(1) because it is on consent or unopposed or made without notice;
- In writing as an opposed motion under subrule 37.12.1(4);
- In person;
- By telephone conference;
- By video conference.

at

Osgoode Hall, 130 Queen Street West, Toronto, Ontario, or such other venue as directed by the case management judge.

THE MOTION IS FOR:

1. An Order certifying this action as a class proceeding pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, (the "*CPA*");

2. An Order appointing Odette Di Muro as the representative plaintiff for the class;

3. An Order defining the class as:

All persons who are or were members under the Bell Canada Pension Plan (the "**Bell Plan**"), or otherwise entitled to benefits under the Bell Plan, and who were entitled to receive indexed pension payments pursuant to section 8.7 of the Bell Plan, or a predecessor section, as of January 1, 1998, together with the spouses, estates, heirs, beneficiaries, and representatives of any of the above who has died.

4. An Order that the within proceeding is certified on the basis of the following common issues:

Breach of Contract

(a) Did the defendants owe a contractual obligation to provide cost of living allowance ("**COLA**") increases to the pension benefits of retirees under the Bell Plan? If so, what amount of COLA ought to have been applied and provided in respect of the year 1998?

(b) Did the defendants breach their contractual obligations?

Breach of Trust and Breach of Fiduciary Duty

(c) Does Bell Canada, as the Administrator of the Bell Plan, owe a duty as a trustee to the class?

(d) If so, did Bell Canada breach its duty as a trustee?

- (e) Did Bell Canada, as the Administrator of the Bell Plan, owe a fiduciary duty to the class members?
- (f) If so, did Bell Canada breach its fiduciary duty?

Unjust Enrichment

- (g) Was Bell Canada unjustly enriched by failing to apply and provide the correct amount of COLA increase to the pension benefits of retirees in respect of the year 1998?

Damages

- (h) If one or more of the above common issues are answered affirmatively, can the amount of damages payable by the defendants be determined on an aggregate basis? If so, in what amount?
5. An Order approving the proposed litigation plan;
 6. An Order staying any other proceeding based on the facts giving rise to this proposed class proceeding;
 7. An Order declaring that no other proceeding based upon the facts giving rise to this proceeding may be commenced without leave of the court;
 8. An Order that the defendants shall pay to the plaintiffs their costs of this motion plus applicable taxes; and
 9. Such other relief that counsel may advise that this Honourable Court may permit.

THE GROUNDS FOR THE MOTION ARE:

Austin v. Bell Canada, 2020 ONCA 142

10. This case is based on the same type of COLA calculation error that the Ontario Court of Appeal held that Bell Canada made for the year 2017 in its decision in *Austin v. Bell Canada* [2020 ONCA 142](#) ("**2017 COLA Error**").

11. The Ontario Court of Appeal released its decision in *Austin* on February 21, 2020.

12. In *Austin*, the Ontario Court of Appeal held that under the terms of the Bell Plan, for the 2017 COLA increase, Bell Canada incorrectly used its own calculation of the Consumer Price Index ("**CPI**") to arrive at 1.49%, which Bell Canada then rounded *down* to 1%, when Bell Canada should have used Statistics Canada's published CPI number of 1.5%, and then rounded that figure to the next whole number, which is *up* to 2%. The Court of Appeal decision required Bell Canada to correct its 2017 COLA Error and make compensation to the retirees, who were underpaid in their pension benefits by approximately \$168 million.

The 1998 COLA Error

13. Bell Canada documentation shows that Bell Canada made the same error in its calculation of the COLA increase for 1998. The Bell Pension Information Committee ("**PIC**") Report for 1998 dated December 1998 states:

Over the 12-month period ending October 1997, the CPI increased by 1.47%. Therefore, based on the indexation formula, pensioners who retired before 1997 received a 1% cost-of-living adjustment on their January 1998 pension cheque (equivalent to the CPI increase of 1.47% rounded to the nearest percent).

14. In respect of the 1998 COLA Error in this proposed class proceeding, there are approximately 23,000 retiree class members who are owed compensation for underpaid pension benefits, of which 11,000 are living retirees or their surviving spouses, and 12,000 are the estates of deceased retirees.

15. The amount owing to the class members is approximately \$80 million, plus interest.

16. The living class members are all very elderly.

Retirees request Bell Canada to correct its 1998 COLA Error, and Bell refuses

17. Following the release of the *Austin v. Bell Canada*, retirees made numerous requests to Bell Canada to correct the 1998 COLA Error, but Bell Canada refused:

- On October 31, 2021, Denis Marquis, the President of the Bell Pensioners' Group ("**BPG**"), sent an email to Eleanor Marshall, Vice-President Pension & Benefits, Assistant Treasurer at Bell Canada regarding the 1998 COLA Error.
- On November 5, 2021, Ms. Marshall responded, refusing to correct the error saying: "Bell Canada, as administrator of the Plan, has no plans to take any action today regarding the 1998 calculation."
- On May 17, 2022, counsel to BPG wrote to Ms. Marshall and Robert Marchessault, Director, Pension and Actuarial Services at Bell Canada again requesting that Bell correct the 1998 COLA Error.
- On June 24, 2022, counsel to BPG wrote to Ms. Marshall and Mr. Marchessault, following up for a response to their letter dated May 17, 2022.
- On July 21, 2022, counsel to BPG received a response from counsel to Bell Canada refusing to correct the 1998 COLA Error.
- On August 12, 2022, counsel to BPG again wrote to counsel to Bell Canada to address the 1998 COLA Error. Counsel to BPG did not receive a response to that letter.

18. Bell Canada's refusals to correct the 1998 COLA Error necessitated bringing this proposed class proceeding, which was filed on August 19, 2022, pursuant to the *CPA*.

19. This proposed class proceeding alleges that the defendants breached their contractual obligations and breached trust and fiduciary duties by incorrectly calculating the COLA amount to be applied to increase the retirees' pension benefits under the Bell Plan for the year 1998 by implementing a 1% COLA instead of 2%, (the "**1998 COLA Error**"), and which error has compounded each subsequent year resulting in underpaid pension benefits for the class members.

20. The pleadings disclose causes of action in breach of contract, and breach of trust and fiduciary duty.

This proposed class action is readily certifiable under the CPA

21. In certifying *Austin v. Bell Canada* as a class proceeding, Justice Edward M. Morgan held in his decision of August 12, 2019 that the action was "an easy claim to certify" and "[t]here is no reason not to certify this action as a class proceeding": *Austin v. Bell Canada*, [2019 ONSC 4757 at paras. 10 & 30](#).

22. Given the class of retirees impacted by the 1998 COLA Error in this case and the identical nature of Bell Canada's COLA calculation error, this proposed class proceeding is also "an easy claim to certify" under section 5(1) of the *CPA*.

23. This action pertains to a large class that is objectively defined consisting of all individuals who are or were members under the Bell Plan, or otherwise entitled to benefits under the Bell Plan, and who were entitled to receive indexed pension benefits pursuant to section 8.7 of the Plan, or a predecessor section, as of January 1, 1998, together with the spouses, estates, heirs, beneficiaries, and representatives of any of the above who have died.

24. There is a rational relationship between the class and the common issues, and the class is not unnecessarily broad.
25. The claims alleged in the Statement of Claim raise common issues, the determination of which will substantially move the litigation forward.
26. In light of the importance of access to justice and with regard to achieving judicial economy, a class proceeding is the preferable procedure for resolving these claims.
27. A class proceeding in this case would constitute the fairest, most efficient and most manageable means of adjudication of the common issues.
28. The proposed representative plaintiff, Odette Di Muro, can fairly and adequately represent the interests of the class, with whom she has no conflict on the common issues.
29. The proposed representative plaintiff has a workable litigation plan for advancing the claims on behalf of the class up to the common issues trial and afterwards.
30. *Class Proceedings Act, 1992*, S.O. 1992, c. 6;
31. *Rules of Civil Procedure*, R.R.O. 1990, Reg 194;
32. *Pension Benefits Standards Act, 1985*, RSC 1985, c 32 (2nd Supp);
33. *Pension Benefits Standards Regulations, 1985*, SOR/87-19; and
34. Such other grounds as counsel may advise and that this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Odette Di Muro, sworn August 11, 2023 and exhibits hereto; and
2. Such further and other evidence as counsel may advise and this Court may permit.

August 17, 2023

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Plaintiffs

and

Bell Canada (also known as the Bell
Telephone Company of Canada), Bell
Canada Inc., et al.
Defendant

Court File No.: CV-22-00685817-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**NOTICE OF MOTION
(Motion for certification)**

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Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

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Plaintiffs

- and -

BELL CANADA (also known as **THE BELL TELEPHONE COMPANY OF CANADA**),
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INSTALLATION INC., BELL MOBILITY INC., and BELL TV INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**AFFIDAVIT OF ODETTE DI MURO
(Sworn August 11, 2023)**

I, **ODETTE DI MURO**, of the City of Montreal, in the Province of Québec, **MAKE OATH AND SAY:**

1. I am one of the two representative plaintiffs in the within action. I am a retired member of the Bell Canada Pension Plan (the "**Bell Plan**"). As such, I have knowledge of the matters hereinafter deposed, except where stated to be based on information and belief, in which case I disclose the source of my information and believe such information to be true.

2. I began employment with Bell Canada in 1960 as a Clerk in the Printing Department. I was based in Montreal, Québec.

3. For the next 33 years, I worked in various roles with Bell Canada's Québec offices, including the graphic design, service bureau, university recruitment, and human resources departments. In 1970, I was promoted to Manager, Service Bureau.

4. As part of my employment compensation with Bell Canada, I earned pension benefits that are paid to me on my retirement. My pension benefits are payable to me from the Bell Plan. Bell Canada is the administrator of the Bell Plan. Attached hereto as **Exhibit "A"** is a copy of the Bell Canada Pension Plan text dated May 1, 2013.

5. In 1993, when I reached 50 years old and had 33 years of employment service, I retired from Bell Canada and began to receive the monthly pension benefits that I earned. I am currently 80 years old.

6. I am a member of the Bell Pensioners Group ("**BPG**"). BPG is an organization of Bell retirees that advocates on behalf of the more than 30,000 retirees and their beneficiaries, approximately one third of whom are BPG members. BPG's mandate is to protect the retirees' pension and benefits through initiatives such as dialogue with Bell Canada, advocacy to government and within the pension and benefit stakeholder community, and supporting retiree representatives on the Bell Pension Information Committee ("**PIC**"), which is a committee comprised of Bell Canada and BPG representatives.

7. One of the terms of the Bell Plan is that retirees are entitled to receive an annual cost-of-living allowance ("**COLA**") increase to our monthly pension benefits to compensate for the impact of inflation. COLA is extremely important to me and the other retirees, as without it, our purchasing power would significantly deteriorate during our retirement years.

8. The percentage amount of the annual COLA increase is calculated by Bell Canada pursuant to a formula in the Bell Plan that depends on the annual Consumer Price Index ("CPI") published by Statistics Canada. As such, the amount of the COLA increase that Bell Canada calculates varies from year to year.

The 2017 COLA Error and the Ontario Court of Appeal decision in Austin v. Bell Canada

9. On April 24, 2020, BPG posted on its website the Ontario Court of Appeal's decision in the *Austin v. Bell Canada* case that was released by the court on February 21, 2020. Attached and marked as **Exhibit "B"** is a copy of this web post. The case involved a Bell Canada retiree named Leslie Austin who retired from Bell Canada on September 30, 2012. Mr. Austin sued Bell Canada saying that Bell Canada had made an error in its COLA calculation for the year 2017 by calculating a 1% COLA increase instead of 2%. The Ontario Court of Appeal held that Bell Canada had made an error.

10. I am advised by our lawyers and believe that to calculate the annual COLA increase for pension benefits, the Bell Plan stipulates that the pension plan administrator (i.e., Bell Canada) use the annual percentage increase of the CPI as determined by Statistics Canada, which is then to be rounded to the nearest whole number, to a maximum of 2%. I am further advised by our lawyers that the Ontario Court of Appeal held that in 2017, Bell Canada incorrectly used its own calculation of the CPI to arrive at 1.49%, which it then rounded *down* to 1%. The Court of Appeal held that Bell Canada's calculation was incorrect, and that Bell should have used Statistics Canada's published CPI number of 1.5%, and then rounded it *up* to 2%.

11. In the *Austin* case, the difference of 1% COLA instead of 2% COLA is significant, and resulted in a loss of pension benefits in the approximate total amount of \$168 million (on a present value basis) to the class of Bell Canada retirees.

12. As a result of the Court of Appeal's decision, Bell was required to correct the 2017 COLA Error and Bell Canada arranged for compensation payments to the affected retirees who should have received 2% and not 1% COLA. Bell Canada arranged for lump sum payments to compensate for the underpaid pension payments that had previously been made with the incorrect COLA amount, and then increased the amount of the retirees' monthly pension benefits going forward so the benefit payments reflect the 2% COLA.

The 1998 COLA Error

13. I am advised by our lawyers and believe that in the course of the *Austin v. Bell Canada* case, it emerged that Bell Canada made the same calculation error when it calculated the COLA increase for 1998 ("**1998 COLA Error**"). In both the 1998 PIC Report and in its court materials in *Austin v. Bell Canada*, Bell Canada acknowledged it calculated the 1998 COLA increase in the manner that the Ontario Court of Appeal had found to be incorrect.

14. Attached hereto as **Exhibit "C"** is a copy of Bell Canada's PIC Report from December 1998. On page 12 of the Report, Bell Canada states: "[o]ver the 12-month period ending October 1997, the CPI increased 1.47%. Therefore, based on the indexation formula, pensioners who retired before 1997 received a 1% cost-of-living adjustment on their January 1998 pension cheque (equivalent to the CPI increase of 1.47% rounded to the nearest percent)." By implementing a 1% COLA in 1998, it shows that Bell rounded the 1.47% number that they had calculated and then rounded *down* to 1%, instead of taking the published CPI number of 1.5% and rounding it up to

the next whole number to 2%. As in the *Austin v. Bell Canada* case, the COLA for 1998 should have been 2%, not 1%.

Based on the Austin v. Bell Canada case, BPG requests Bell Canada to correct the 1998 COLA Error, but Bell Canada refuses

15. I am further advised by our lawyers and believe that:

- (a) On October 31, 2021, BPG wrote to Bell Canada and requested it to apply a 2% COLA increase to 1998 pension payments, instead of the 1% COLA increase. Bell Canada responded on November 5, 2021, refusing to correct the 1998 COLA Error. Attached and marked as **Exhibit "D"** is a copy of the emails between Denis Marquis, the President of BPG, and Eleanor Marshall, Vice-President Pension & Benefits, Assistant Treasurer at Bell Canada.
- (b) On May 17, 2022, our lawyers wrote to Ms. Marshall and Robert Marchessault, Director, Pension and Actuarial Services at Bell Canada again requesting that Bell Canada correct the 1998 COLA Error. Attached and marked as **Exhibit "E"** is a copy of this letter from Koskie Minsky LLP dated May 17, 2022.
- (c) On June 24, 2022, our lawyers again wrote to Ms. Marshall and Mr. Marchessault, requesting a response to their May 17 letter. Attached and marked as **Exhibit "F"** is a copy of this letter from Koskie Minsky LLP dated June 24, 2022.
- (d) On July 21, 2022, Bell Canada lawyers responded saying that Bell Canada will not correct the 1998 COLA Error. Attached and marked as **Exhibit "G"** is a copy of this letter from McCarthy Tétrault LLP dated July 21, 2022.

- (e) On August 12, 2022, our lawyers again wrote to Bell Canada lawyers about correcting the 1998 COLA Error. Attached and marked as **Exhibit "H"** is a copy of this letter from Koskie Minsky LLP. I am advised by our lawyers and believe that the Bell Canada lawyers did not respond to this letter.

16. Given Bell Canada's refusal to correct the 1998 COLA Error despite numerous efforts, I instructed our counsel to commence this class action against Bell Canada. Attached and marked as **Exhibit "I"** is a copy of the Notice of Action dated August 19, 2022. Attached hereto and marked as **Exhibit "J"** is a copy of the Statement of Claim dated September 19, 2022.

The Nature of this Class Action

17. This action is brought on behalf of:

All persons 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, 1998, together with the spouses, estates, heirs, beneficiaries, and representatives of any of the above who have died.

There are 23,000 class members and the liability to them is estimated at \$80 million (plus interest)

18. I am advised by our lawyers and believe that there are approximately 23,000 Bell Canada pensioners who are impacted by pension benefit losses due to the 1998 COLA Error, of which 11,000 are living retirees or their surviving spouses, and 12,000 are estates of deceased retirees.

19. I am advised by our lawyers and believe that the actuaries they retained over a year ago to assist with this case (the actuarial firm The Segal Group, Inc.) has estimated the liability to the 23,000 class members for the 1998 COLA Error is approximately \$80M without including interest,

and once interest is included it would increase the total present value liability, subject to change once the actuaries are provided with more data about the class members' pension entitlements.

20. The Statement of Claim alleges that the defendants breached their contractual obligations, breached their trust and fiduciary duties, and were unjustly enriched through Bell Canada's incorrect approach to the COLA calculation under the Bell Plan.

21. This proposed class action is very similar to the class action decided by the Ontario Court of Appeal in the above-mentioned *Austin v. Bell Canada* case which held that Bell Canada made an error in the calculation of the 2017 COLA. That case was certified by the court as a class proceeding.

22. I am willing to act as a representative plaintiff in this proposed class action to correct the 1998 COLA Error and to compensate the class members for the losses they have incurred since 1998 and each year thereafter, and to ensure these important issues are determined by the court, to promote access to justice for the class members, and to bring about behaviour modification.

23. Our lawyers have advised me and I believe that litigating a lawsuit of this nature against the defendants can be expensive. I understand that the cost of legal fees and disbursements to litigate this case through to trial will likely exceed the amount of any one retiree's claim.

24. I understand that as a representative plaintiff, I would be obliged to direct this litigation along with the other plaintiff, Mr. Gaston Perreault, give instructions to our lawyers, and to act in the best interests of the class members. I understand that any settlement discussions with the defendants cannot relate only to my own legal issues but must relate to the claims of the class members as a whole.

25. I understand the major steps of a class action to include:
- (a) Preparing and serving a statement of claim (which has been done);
 - (b) A motion for certification, which I understand involves the court's consideration of whether this action is appropriate to proceed as a class action. I also understand there may be cross-examinations for this motion and that my ability to fairly and adequately represent the class may be an issue;
 - (c) If the action is certified, there would be notice to the class of the certification and the right to opt out (i.e., a chance for class members not to participate in the class action);
 - (d) The disclosure and exchange of relevant documents;
 - (e) Examinations for discovery, where the defendants can examine me about my claim and those of the class, and our lawyers can examine the defendants' representatives;
 - (f) A pre-trial conference where a judge can help the parties try to reach a settlement of the case;
 - (g) A trial of the common issues (i.e., a trial that only deals with the certified common issues as opposed to the issues of the plaintiffs and other class members);
 - (h) Notice to the class if individual hearings or participation is required;
 - (i) The determination of individual issues, if required;
 - (j) The distribution of proceeds (if any) of a money award by judgment or settlement;
 - (k) Appeals, which might include appeals from the certification motion, other motions, or the trial of the common issues; and

- (l) Settlement discussions, which could happen at any time.

26. I understand that as a representative plaintiff, I would have, among others, the following responsibilities:

- (a) Review and keep myself informed of the steps in this litigation;
- (b) Familiarize myself with the issues to be decided at the common issues stage and other issues in the action;
- (c) Help prepare the affidavits and other materials in support of certification, other motions and the materials that would be used at a common issues trial;
- (d) Attend any cross-examination on my affidavit or otherwise;
- (e) Attend the examinations for discovery;
- (f) Assist in preparing and executing an affidavit of documents, which will list the relevant documents that I have in my possession, power or control;
- (g) Attend at the common issues trial, providing any direction or assistance to class counsel, and give evidence regarding the case;
- (h) Express my views on any settlement offers that I receive or that I make on behalf of class members; and
- (i) Assist in preparing materials in support of a court approving any settlement.

27. I am committed to directing the class action and maximizing the recovery for the class.

28. I have been advised by our lawyers and accept that I owe a duty to all members of the proposed class to provide fair and adequate representation. I intend to work with our lawyers to obtain the best recovery for the entire class, consistent with good faith and meritorious advocacy.

29. I believe that I can fairly and adequately represent the interests of class members and I am committed to fulfilling my obligations as their representative.

A class action is the preferable procedure

30. I am advised by our lawyers that Leslie Austin, the plaintiff in the above-noted *Austin v. Bell Canada* case, sent an email to the Office of the Superintendent of Financial Institutions (OSFI) on February 16, 2022 after the release of the Ontario Court of Appeal decision in *Austin v. Bell Canada* inquiring what OSFI would be doing to have Bell Canada also correct the 1998 COLA Error. Mr. Austin retired on September 30, 2012 and as such he would not be part of the class in this proposed class proceeding.

31. I am advised by our lawyers and believe that Mr. Austin did not hear anything meaningful from OSFI about Bell Canada correcting the error for the next year and a half. I am also advised by our lawyers that upon learning of Mr. Austin's email to OSFI, BPG also sent an email to OSFI on March 1, 2022 specifically asking OSFI that BPG be kept "apprised of all developments and correspondence regarding OSFI's involvement in this matter". Attached and marked as **Exhibit "K"** is a copy of the email from Denis Marquis, President of BPG dated March 1, 2022. I am advised and believe that BPG did not hear anything meaningful from OSFI about Bell Canada correcting the error for the next year and a half.

32. I am advised and believe that Mr. Austin also contacted BPG and requested that BPG assist with getting Bell Canada to correct the 1998 COLA Error.

33. As I have explained above, starting on October 31, 2021, BPG and our lawyers made several requests to Bell Canada to correct the 1998 COLA Error and Bell Canada refused.

34. Because of Bell Canada's refusals, as well as not hearing from OSFI about Bell Canada correcting the 1998 COLA Error, and with the limitation period to sue continuing to run, I instructed our lawyers to bring this class action, which they filed on August 19, 2022.

35. I am advised and believe that very recently on July 31, 2023, over 18 months after Leslie Austin and BPG sent their emails to OSFI, and almost a year after this class action was filed with the Court, BPG and Leslie Austin received separate emails from OSFI stating that Bell Canada would correct the 1998 COLA Error. The July 31, 2023 email from OSFI simply states: "[w]e understand that Bell Canada will be correcting the 1998 indexation calculation and communicating with pensioners and beneficiaries in due course." There are no details whatsoever in the OSFI email of how an arrangement is to work, how much will be paid as compensation to the class members, nor the logistics and timing for making payments. Attached and marked as **Exhibit "L"** is a copy of the email sent by OSFI to BPG dated July 31, 2023.

36. I am advised by our lawyers and believe that despite BPG requesting in its email to OSFI dated March 1, 2022 that OSFI keep BPG informed of all developments and correspondence regarding OSFI's involvement in this matter, neither BPG nor our lawyers were informed of discussions taking place between Bell Canada and OSFI about Bell Canada correcting the 1998 COLA Error, nor were they invited by Bell Canada lawyers or OSFI to participate in discussions.

37. Given Bell Canada's past refusals to correct the 1998 COLA Error as I explain above, I believe the reason Bell Canada is now willing to address correcting the 1998 COLA Error is due to the class action that we filed against Bell Canada on August 19, 2022.

38. Our lawyers advise me and I believe that any settlement or arrangement by Bell Canada to compensate the class members for the 1998 COLA Error needs to be reviewed and assessed by the actuary our lawyers retained to ensure the actuarial methodology, calculations, and payment logistics are fair and reasonable for the class members. In addition, the notice program for class members should be reasonable, especially given that there are 13,000 estates of retirees who are entitled to compensation for the pension losses due to the 1998 COLA Error.

39. Once those and other details are settled, a settlement agreement should be brought before the court for the court to review whether it is a fair and reasonable settlement of this class action.

40. Our lawyers advise me and I believe that the process for an OSFI complaint differs considerably from proceeding with an class action in the courts, or even a complaint to other regulatory bodies like the Financial Services Regulatory Authority of Ontario (the Ontario pension regulator) which has a separate tribunal to hear complaints. I understand that with OSFI, there will not be a trial or oral hearing, and there is no separate tribunal to determine the issue. I understand I may not receive the submissions of the other parties, and may not have an opportunity to respond, or for my lawyers to cross-examine. In addition, I understand that although OSFI has not made any decision with Bell Canada and the 1998 COLA Error, a decision of OSFI is discretionary and cannot be enforced by affected retirees, and if OSFI were to decide to take action, then there is no right of appeal. This causes me serious concern as I want to ensure that I will have the right to

participate and have the procedural protections available from the court process and ensure that all 23,000 class members are protected.

41. I believe that the class members and I will have better access to justice and protection of our legal rights by way of class action than through OSFI.

Litigation Plan

42. I have reviewed a copy of the litigation plan. I understand that it provides for notice to the class members if the action is certified. Although I do not have the expertise to evaluate the legal aspects of the plan, my lawyers have formulated this plan and I understand from them that it is designed to provide a workable method of determining the issues in this action. Attached hereto and marked as **Exhibit "M"** is a copy of the litigation plan prepared by our lawyers.

43. I do not have a conflict of interest with the proposed class members with respect to any of the common issues in this case.

44. I make this Affidavit in support of a motion for certification, and for no improper purpose.

SWORN REMOTELY by Odette Di Muro of the City of Montreal, in the Province of Québec, before me in the City of Toronto, in the Province of Ontario, on August 11, 2023, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Abir Shamim
LSO# 88251V

A Commissioner for Taking Affidavits, etc.



ODETTE DI MURO

This is **Exhibit "A"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read "Avin J. J. J.", written in a cursive style.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

BELL CANADA

PENSION PLAN

**Effective January 1, 2005
including amendments up to July 1, 2012**

Restated May 1, 2013

**BELL CANADA
PENSION PLAN
Effective January 1, 2005**

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INTRODUCTION

UNDERTAKING

Effective January 1, 2005, the Plan was amended as reflected herein to provide for defined contribution (“DC”) provisions. The purpose of the DC provisions of the Plan is to help DC Members to accumulate retirement savings on a tax-assisted basis. Any benefits provided under the DC provisions of the Plan shall be in addition to the benefits provided under the defined benefit (“DB”) provisions of the Plan, as the case may be, which provide for the payment of definite amounts upon the Employees’ termination of employment, retirement or death.

Employees shall cease to accrue Pensionable Employment under the DB provisions at the date the Employees start participating in the DC Provisions of the Plan.

An Employee eligible for benefits under the Plan shall not be allowed to renounce any of the benefits provided by the Plan, except as provided in sections 3, 8.5 and 13.2.

Any benefit payable under the Plan shall be calculated in accordance with the provisions of the Plan on the date of termination of employment, retirement or death of the Member, whichever date comes first.

All Employees who terminated employment, retired or died prior to January 1, 2005 or who elected to terminate under Bell Canada’s Voluntary Early Retirement Program (2004) shall be entitled to the benefits calculated in accordance with the provisions of the pension plan in effect on December 31, 2004, except for the provision in the last paragraph of section 6.4 which applies to all Retired Members.

Effective January 1, 2005, the Plan was amended as reflected herein to provide for defined contribution (“DC”) provisions. Any benefits provided under the DC provisions of the Plan shall be in addition to the benefits provided under the defined benefit (“DB”) provisions of the Plan, as the case may be. Employees shall cease to accrue Pensionable Employment at the date the Employees start participating in the DC Provisions of the Plan.

Employees of the Company whose employment was transferred to Bell Aliant Regional Communications between July 7, 2006 and October 31, 2006 pursuant to the Property Exchange and Arrangement Agreement between BCE Inc. and Bell Canada and Aliant Inc. dated March 6, 2006, cease to participate in and accrue benefits under the Plan as of their date of transfer. Subject to regulatory approval under applicable legislation, the benefits accrued by such employees under the Plan are transferred to and assumed by the Bell Aliant Pension Plan (Ontario and Quebec) and assets determined in accordance with the Property Exchange and Arrangement Agreement referred to above shall be transferred from the Plan to the Bell Aliant Pension Plan (Ontario and Quebec).

PROTECTION OF PENSION RIGHTS

All Employees hired on or after January 1, 1987, except as otherwise provided in section 3 of appendix B, shall be entitled to the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan for their Pensionable Employment on or after January 1, 1987 and, for their Pensionable Employment prior to January 1, 1987, to the benefits calculated in accordance with the provisions of appendix A.

All Employees on December 31, 1986, except as otherwise provided in section 3 of appendix B and provided that they maintain Continuous Employment, shall be entitled, for their Pensionable Employment on or after January 1, 1987, to the larger of the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan or the benefits calculated in accordance with the provisions of appendix A and, for their Pensionable Employment prior to January 1, 1987, to the benefits calculated in accordance with the provisions of appendix A. These benefits shall be at least equivalent to those provided by the Plan in effect on December 31, 1986.

SECTION 1 - DEFINITIONS

In this text, unless the context requires a different meaning:

- 1.1 "Actuarial Equivalent" means a benefit of equal value calculated in the Prescribed Manner using a unisex actuarial basis as may be authorized from time to time by the Employees' Benefit Committee in the administration of the Plan, such basis being subject to the requirements of the Applicable Legislation;
- 1.2 "Applicable Legislation" means the Pension Benefits Standards Act, 1985 and Regulations thereunder or any other similar legislation applicable to a Member, and/or the Income Tax Act (Canada) and Regulations thereunder or any other similar provincial legislation;
- 1.3 "Average Annual Pensionable Earnings" means the annual average of DB Compensation determined for the Member for the 60 consecutive months for which DB Compensation is included that produce the highest average. If there are less than 60 months of DB Compensation determined for the Member, the average shall be calculated on the total DB Compensation determined;
- 1.4 "Beneficiary" means a person designated by the Member, by giving written notice of such designation to the Employees' Benefit Committee, to receive the benefits payable under the Plan upon the Member's death. Subject to the restrictions which may be provided under Applicable Legislation, a Member may subsequently change such designation by giving written notice of such change to the Employees' Benefit Committee. In the absence of an effective designation, the Member's estate shall be deemed to be the Beneficiary for purposes of the Plan;
- 1.5 "Company" means Bell Canada and/or its successors;
- 1.6 "Continuous Employment" means employment without regard to periods of temporary interruption of employment as determined under the applicable rules of the Company or the relevant Participating Company;
- 1.7 "DB Compensation" means, for each month, the highest basic pay and such other forms of remuneration actually received for the month as are considered to be earnings for pension purposes under the applicable rules of the Company or the relevant Participating Company, including annualized remuneration for periods not worked when Continuous Employment is maintained but excluding all payments related to overtime and any lump sum paid at termination of employment or retirement in lieu of vacation or other considerations; when a lump sum is paid as remuneration in respect of a period of more than one month, it is assumed that it is paid uniformly over such period. In addition, for part-time Employees, DB Compensation in a calendar month shall include annualized remuneration for the period not worked;

- 1.8 “DB Provisions” means the defined benefit-specific provisions of the Plan;
- 1.9 “DC Compensation” means, for each month, the basic pay and such other forms of remuneration actually received during the month as are considered to be earnings for pension purposes under the applicable rules of the Company or the relevant Participating Company, including annualized remuneration for periods not worked when Continuous Employment is maintained but excluding all payments related to overtime and any lump sum paid at termination of employment or retirement in lieu of vacation or other considerations;
- 1.10 “DC Employer Contributions” means the contributions made in accordance with section 4.3 of the Plan and which are deposited in the DC Member Account in respect of a DC Member;
- 1.11 “DC Member” means a Member who is entitled to benefits calculated in accordance with the DC Provisions of the Plan;
- 1.12 “DC Member Account” means the aggregate of any DC Member Contributions and of DC Employer Contributions plus Investment Earnings thereon, in respect of a DC Member;
- 1.13 “DC Member Additional Account” means the aggregate of any DC Member Additional Contributions plus Investment Earnings thereon;
- 1.14 “DC Member Additional Contributions” means the contributions which a DC Member makes in accordance with section 4.2 of the Plan and which are deposited in his DC Member Additional Account;
- 1.15 “DC Member Contributions” means the contributions which a DC Member makes in accordance with section 4.1 of the Plan and which are deposited in his DC Member Account;
- 1.16 “DC Provisions” means the defined contribution-specific provisions under sections 1 to 15 of the Plan;
- 1.17 "Directors" means the Board of Directors of the Company;
- 1.18 "Employee" means a person who receives a regular and stated Compensation from the Company or one of the Participating Companies, other than a pension or retainer;
- 1.19 "Employees' Benefit Committee" means the Employees' Benefit Committee described in section 2;
- 1.20 "Fund" means the Fund referred to in section 12;

- 1.21 "Funding Agent" means the trust company or the insurance company designated by the Company and named in the trust agreement or insurance company contract, as applicable;
- 1.22 "Investment Earnings" means the investment gains and losses made by each DC Member Account and each DC Member Additional Account. The method used for calculating and allocating Investment Earnings shall be determined by the Employees' Benefit Committee;
- 1.23 "Latest Permissible Retirement Date" means the end of the calendar year in which the Member attains 71 years of age, or such other time as is acceptable under the Applicable Legislation;
- 1.24 "Maximum Pensionable Earnings" means the maximum pensionable earnings under the Canada Pension Plan or the Quebec Pension Plan, as applicable, for the year in which the Member terminates employment, retires or dies, whichever comes first;
- 1.25 "Member" means an Employee to whom the Plan applies, or a Retired Member, or a former Employee who is entitled to a deferred pension from the Plan;
- 1.26 "Participating Company" means any affiliated company federally regulated for pension purposes and designated as participating company by one of the applicable officers of the Company as authorized by the Directors for this purpose;
- 1.27 "Pensionable Age" means the last day of the month during which a Member attains the age of 65;
- 1.28 "Pensionable Employment" means, for full-time Employees, the aggregate of the periods of employment recognized under the applicable rules of the Company or the relevant Participating Company, subject to Applicable Legislation. For part-time Employees, Pensionable Employment in a year shall be calculated as the equivalent portion of full-time employment. An Employee shall not accrue or shall cease to accrue Pensionable Employment during the period the Employee is a DC Member under the Plan;
- 1.29 "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;
- 1.30 "Plan" means this revised and restated pension plan, which restatement shall have an effective date of January 1, 2005, and as may be further amended from time to time; this Plan continues the pension plan in effect on December 31, 2004;
- 1.31 "Prescribed Manner" means as prescribed under the Applicable Legislation;
- 1.32 "Provincial Property Law" means the law of a province relating to the distribution, pursuant to court order or agreement between the spouses, of the property of the spouses on divorce,

annulment or separation;

- 1.33 "Reciprocal Agreement" means an agreement for the interchange of credit for employment and the allocation of related obligations between the Company and/or the relevant Participating Companies and other affiliated or associated entities as referred to in section 13;
- 1.34 "Retired Member" means a former Employee who receives a pension from the Plan;
- 1.35 "Spouse" means a person who is cohabiting with the Member in a conjugal relationship at the relevant time, having so cohabited with the Member for at least one year or if there is no such person, a person who is married to the Member or who is party to a void marriage with the Member;
- 1.36 "Term of Employment" means period of employment with the Company, any Participating Company or any entities with which Reciprocal Agreements have been entered into with the Company or Participating Companies, as determined under the applicable rules of the Company or the relevant Participating Company.

The singular includes the plural and vice-versa and reference to the male gender shall include the female gender and vice-versa.

SECTION 2 - ADMINISTRATION

- 2.1 The Company shall be the administrator of the Plan.
- 2.2 The Directors shall use ordinary care and diligence in the performance of their duties, but no director shall be personally liable by virtue of any agreement or other instrument made by or on behalf of a director, nor for any loss unless resulting from the gross negligence or willful misconduct of a director, and no director shall be liable for the omissions or wrongdoings of any other director.
- 2.3 A committee called Employees' Benefit Committee shall be charged with the administration of the Plan. This committee shall consist of individuals as the Directors may appoint from time to time.
- 2.4 The Employees' Benefit Committee shall have the specific powers granted to it by the Directors and such other powers as may be necessary in order to enable it to administer the Plan, including the power to delegate all or a portion of its powers to individuals appointed by, or similar committees established by the Participating Companies.
- 2.5 The Employees' Benefit Committee shall determine conclusively for all parties all questions arising out of the administration of the Plan.
- 2.6 The Employees' Benefit Committee shall be empowered to authorize disbursements according to the provisions of the Plan.
- 2.7 The Employees' Benefit Committee shall adopt such by-laws and rules of procedure as it may find necessary.
- 2.8 The Employees' Benefit Committee shall be empowered to appoint a secretary and such other assistants as may be required in the administration of the Plan.
- 2.9 The DB Compensation, DC Compensation and the continuity and length of a Member's Pensionable Employment and Term of Employment shall be as shown on the records of the Company or of the relevant Participating Companies.
- 2.10 A committee called Pension Information Committee shall be established in the Prescribed Manner. The role of this committee shall be to promote awareness and understanding of the Plan among Members, and review, for information purposes, the financial, actuarial and administrative aspects of the Plan.
- 2.11 The expenses incurred in administering the Plan shall be paid by the Company and the Participating Companies unless paid by the Fund.

SECTION 3 - ELIGIBILITY

- 3.1 All Employees shall become Members of the Plan after they have completed a Term of Employment of 24 months, except for Employees who, because of their religious beliefs, object to becoming Members of the Plan.
- 3.2 Notwithstanding section 3.1, Employees hired on or after October 1, 2004 shall become DC Members of the Plan after they have completed a Term of Employment of 3 months, unless otherwise provided under the applicable collective agreement provisions or rules of the Company or the relevant Participating Company and except for Employees who, because of their religious beliefs, object to becoming Members of the Plan. An Employee who becomes a DC Member in accordance with this section 3.2 shall not accrue Pensionable Employment under the DB Provisions.
- 3.3 Notwithstanding section 3.1, an Employee who was hired before October 1, 2004 may elect to become a DC Member as of January 1, 2005, or as of the date on which the Employee becomes eligible to participate in the DC Provisions of the Plan under the applicable collective agreement provisions or rules of the Company or the relevant Participating Company. The election must be provided in writing to the Employees' Benefit Committee within 90 days preceding the date on which the Employee becomes eligible to participate in the DC Provisions of the Plan.

An Employee who elects to become a DC Member in accordance with this section 3.3 shall cease to accrue Pensionable Employment from the date the Employee starts participating in the DC Provisions of the Plan.

SECTION 4 – CONTRIBUTIONS**DC Provisions**

- 4.1 In each calendar year or portion thereof, a DC Member may elect to make DC Member Contributions, subject to section 4.6. Such DC Member Contributions shall be equal to 0%, 1% or 2% of the DC Compensation, as elected by the DC Member. The DC Member may elect to change the contribution rate as permitted under the applicable rules of the Company or the relevant Participating Company.
- 4.2 In each calendar year or portion thereof, a DC Member who makes DC Member Contributions equal to 2% of the DC Compensation may elect to make DC Member Additional Contributions, subject to section 4.6. Such DC Member Additional Contributions shall be equal to 0%, 1% or 2% of the DC Compensation, as elected by the DC Member. The DC Member may elect to change the contribution rate as permitted under the applicable rules of the Company or the relevant Participating Company.
- 4.3 In each calendar year or portion thereof, DC Employer Contributions shall be deposited in the DC Member Account of the DC Member, subject to sections 4.6 and 4.9. Such DC Employer Contributions shall be equal to 4% of the DC Compensation, plus an amount equal to any DC Member Contributions made by the DC Member.
- 4.4 All DC Member Contributions and DC Employer Contributions become vested immediately upon allocation to the DC Member Account. All DC Member Additional Contributions become vested immediately upon allocation to the DC Member Additional Account.
- 4.5 The contributions under sections 4.1, 4.2 and 4.3 in respect of a DC Member shall cease upon the earliest of the DC Member's termination of employment, retirement or death.
- 4.6 The total of the DC Member Contributions, the DC Member Additional Contributions and the DC Employer Contributions in any calendar year in respect of a DC Member shall not exceed the amount of contributions permissible under the Income Tax Act (Canada), after appropriate recognition of any applicable pension credit accrued by the DC Member in respect of such calendar year under the DB Provisions.

Notwithstanding the above, to avoid the revocation of the registration of the Plan, a portion of the contributions made under the Plan by a Member, the Company or a Participating Company may be returned to such Member, the Company or such Participating Company.

DB Provisions

- 4.7 Members are neither required nor permitted to make contributions under the DB Provisions of the Plan.
- 4.8 Subject to section 4.9, contributions that are eligible contributions under Applicable Legislation shall be paid by the Corporation and the Participating Companies into the Fund within such periods of time and in at least such amounts as are prescribed by Applicable Legislation and as recommended by a Fellow of the Canadian Institute of Actuaries in accordance with accepted actuarial practice.

However, notwithstanding the above, to avoid the revocation of the registration of the Plan, a portion of the contributions made under the Plan by the Company or a Participating Company may be returned to the Company or such Participating Company.

Contributions - General

- 4.9 If at anytime while the Plan continues in existence a Fellow of the Canadian Institute of Actuaries certifies that the assets of the Fund exceed the actuarial and other liabilities of the Plan in respect of benefits set forth in the Plan:
- (a) The Company's or any Participating Company's contribution obligation under section 4.8 shall be reduced by an equal amount or by a lesser amount, all as determined by the Company on the advice of the Fellow of the Canadian Institute of Actuaries, subject to any limits prescribed by Applicable Legislation; and
 - (b) For greater certainty, the Company may, subject to applicable law, on the advice of the Fellow of the Canadian Institute of Actuaries, direct the Funding Agent to apply assets of the Fund held in relation to the DB Provisions to the DC Member Accounts to satisfy the Company's or a Participating Company's contribution requirements under section 4.3 of the Plan.

SECTION 5 – RETIREMENT BENEFITS

DC Provisions

5.1 After having attained age 55, a DC Member shall retire, or is deemed to have retired, on the earliest date between his termination of employment date and the Latest Permissible Retirement Date if he remains employed by a Participating Company beyond that last date, and shall receive

- (i) the balance of the DC Member Account in the form of a lump sum transfer to another registered pension plan (if that other plan permits), to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation; plus
- (ii) a lump sum payment equal to the balance of the DC Member Additional Account.

The transfer under this paragraph shall be subject to any limitation prescribed by the Applicable Legislation related thereto. The request for transfer must be provided in writing to the Employees' Benefit Committee within 90 days of the date of termination of employment.

DB Provisions

5.2 An Employee who retires on the date Pensionable Age is reached shall be granted an annual pension of an amount equal to the sum of:

- (i) 1% of that part of the Member's Average Annual Pensionable Earnings which does not exceed the Maximum Pensionable Earnings; and
- (ii) 1.7% of that part of the Member's Average Annual Pensionable Earnings in excess of the Maximum Pensionable Earnings;

for each year of Pensionable Employment on or after January 1, 1987.

An Employee who has elected to become a DC Member in accordance with section 3.3 and who retires on the date Pensionable Age is reached shall be granted an additional annual pension, equal to 0.2% of that part of the Member's Average Annual Pensionable Earnings which does not exceed the Maximum Pensionable Earnings, multiplied by the number of years of Pensionable Employment between January 1, 1987 and December 31, 2004.

Any period of less than 12 months of Pensionable Employment shall be included on a proportionate basis.

- 5.3 An Employee who terminates employment after having attained age 55 may elect to retire on the last day of any month thereafter but no later than the Latest Permissible Retirement Date, and shall be granted an annual pension calculated in accordance with section 5.2, using the Member's Pensionable Employment at the date of termination of employment and, if the date of retirement is prior to the date Pensionable Age is reached, reduced by $\frac{1}{4}$ of 1% for each month by which the date of retirement precedes the date Pensionable Age is reached.

Notwithstanding the above, if an Employee remains employed by a Participating Company beyond the Latest Permissible Retirement Date, he is deemed to have retired on the Latest Permissible Retirement Date and shall be granted an annual pension, calculated in accordance with section 5.2, using the Member's Pensionable Employment at the Latest Permissible Retirement Date.

- 5.4 Any pension under the DB Provisions of the Plan is payable during the lifetime of the Retired Member.
- 5.5 Notwithstanding anything to the contrary in the Plan with the exception of the actuarial adjustment provided in section 10, the annual rate of pension that may be granted from all registered pension plans of the Company or a Participating Company (but ignoring the benefits provided under the DC provisions of the Plan) upon death, retirement, termination of employment of the Member or termination of the Plan shall not exceed the lesser of:
- (i) \$2,000.00 or such other limit determined under the Income Tax Act (Canada) for the year of pension calculation times the number of years of Pensionable Employment; or
 - (ii) 2% of the Member's Average Annual Pensionable Earnings times the number of years of Pensionable Employment.

The number of years of Pensionable Employment must not exceed 35 with respect to the period before January 1, 1992.

The maximum pension specified above (i.e., the lesser of (i) or (ii) above) shall be reduced by $\frac{1}{4}$ of 1% for each completed month by which the date of retirement precedes the earliest of age 60, 30 years of Term of Employment or the date on which the Member's age plus Term of Employment is equal to 80, assuming employment continues to such date.

The restrictions of this section 5.5 shall apply to all lifetime pension benefits payable in respect of the Member, excluding any benefit payable under the DC provisions of the Plan, including benefits payable to an ex-Spouse of a Member upon marriage breakdown, whether payable upon death, retirement, termination of employment, or termination of the Plan.

SECTION 6 – DEATH BENEFITS**DC Provisions**

- 6.1 Subject to section 6.2, if a DC Member dies before having received benefits in accordance with the DC Provisions under section 5 or section 7, the Spouse or, if there is no Spouse, the Beneficiary, shall receive, in a lump sum, the benefit that the DC Member would have been eligible to receive in accordance with the DC Provisions under section 5 or section 7, as applicable, had the DC Member retired or terminated employment on the date of death.
- 6.2 The balance of the DC Member Account payable to the Spouse under section 6.1 shall be paid in the form of a lump sum transfer to another registered pension plan (if that other plan permits), to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity. The transfer under this paragraph shall be subject to any limitation prescribed by the Applicable Legislation related thereto.

The request for transfer must be provided in writing to the Employees' Benefit Committee within 90 days of the date of death.

DB Provisions

- 6.3 On the death of a Member prior to retirement, the surviving Spouse or, if there is no Spouse, the Beneficiary, shall receive the lump sum Actuarial Equivalent of the deferred pension calculated in accordance with section 5.2, that relates to the Pensionable Employment subsequent to December 31, 1986 and to which the Member is entitled or would have been entitled if the Member had terminated employment on the date of death.

The benefit payable to the Spouse under this section 6.3 shall be paid in the form of a lump sum transfer in Prescribed Manner, in accordance with section 9.

Notwithstanding the above and subject to section 9.2, on the death prior to retirement of a Member who has attained age 55, the surviving Spouse entitled to a lump sum in accordance with the preceding paragraphs, if any, may instead elect to receive a survivor pension that is the Actuarial Equivalent of this lump sum.

- 6.4 If a Member has a Spouse on the date of retirement, the pension payable shall automatically be reduced on an Actuarial Equivalent basis so that such surviving Spouse shall be paid for life a pension equal to 60% of such reduced pension payable to the Member. If the Member has waived the life insurance coverage under the benefits program at retirement, if applicable, then the Actuarial Equivalent reduction shall be made on the basis that the Fund will subsidize one-third of the pension to the surviving Spouse.

Subject to the Spouse's written agreement in Prescribed Manner being deposited with the Employees' Benefit Committee prior to the date of retirement, the Member may elect to receive instead an unreduced pension payable for life.

In the event of divorce, annulment or separation, given that no part of the Retired Member benefits is required to be distributed pursuant to subsection 8.5, and subject to the Spouse's written agreement in Prescribed Manner being deposited with the Employees' Benefit Committee, the amount of pension payable to the Retired Member shall be reinstated to the full amount from the first day of the month following the date the Spouse's agreement is provided to the Employees' Benefit Committee.

- 6.5 If a Member has no Spouse on the date of retirement or the Spouse's written agreement in Prescribed Manner has been deposited with the Employees' Benefit Committee prior to the date of retirement, the Member may elect to receive a pension reduced on an Actuarial Equivalent basis so that it is guaranteed to be payable for a minimum of 120 monthly payments.

The benefit payable to a Member's Beneficiary under a guarantee option may, if so requested by the Beneficiary, be paid in a lump sum Actuarial Equivalent of the remaining payments under the guarantee option.

In the event of the death of a designated Beneficiary who is in receipt of guaranteed payments under the Plan prior to the end of such guaranteed period, the balance of such payments shall be paid to the estate of the deceased Member in a lump sum Actuarial Equivalent of the remaining payments under the guarantee option.

SECTION 7 – TERMINATION BENEFITS

DC Provisions

- 7.1 A DC Member whose employment terminates for any reason other than death or retirement shall receive
- (i) the balance of the DC Member Account in the form of a lump sum transfer to another registered pension plan (if that other plan permits), to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation; plus
 - (ii) a lump sum payment equal to the balance of the DC Member Additional Account.

The transfer under this paragraph shall be subject to any limitation prescribed by the Applicable Legislation related thereto. The request for transfer must be provided in writing to the Employees' Benefit Committee within 90 days of the date of termination of employment.

DB Provisions

- 7.2 An Employee whose employment terminates for any reason other than death or retirement shall be entitled to a deferred pension payable from Pensionable Age that relates to the Pensionable Employment subsequent to December 31, 1986 and is calculated in accordance with section 5.2.
- 7.3 A Member entitled to a deferred pension under section 7.2 may elect to retire on the last day of any month after attainment of age 55 and before Pensionable Age is reached. The Member shall then be granted an annual pension that is the Actuarial Equivalent of the deferred pension.

The annual pension payable under this section 7.3 shall not exceed the amount of deferred pension payable under section 7.2 reduced by $\frac{1}{4}$ of 1% for each completed month by which the date of retirement precedes the earliest of age 60, 30 years of Term of Employment or the date on which the Member's age plus Term of Employment is equal to 80 assuming employment continues to such date.

SECTION 8 - PAYMENT OF BENEFITS

- 8.1 All pensions shall be paid monthly and the first payment thereof shall become due at the end of the month following the month during which retirement takes place or death occurs. Further payments shall be made at the end of each month up to and including the last day of the month during which the Retired Member or the surviving Spouse dies.
- 8.2 Any benefit payable under the Plan shall be paid in Canadian currency.
- 8.3 Except as provided for in section 9, no pension benefit is capable of being surrendered or commuted during the lifetime of the Member, the Member's Spouse or the Member's Beneficiary or confers upon any Member or personal representative, dependent or other person, any right or interest therein that is capable of being surrendered or commuted during the lifetime of the Member or the Member's Spouse.
- 8.4 No pension, survivor or other benefit payable under the Plan shall be capable of being assigned, charged, anticipated or given as security and they shall not confer upon any Member, personal representative, dependent or other person, any right or interest therein that is capable of being assigned, charged, anticipated or given as security except as required by law.
- 8.5 In this section 8.5, "spouse" has, in relation to a court order, the same meaning that it has in the applicable Provincial Property Law and, in relation to an assignment or agreement referred to in this section, the same meaning as in section 1.34 of the Plan.

In the event of divorce, annulment or separation, the benefits of the Member under the Plan shall be subject to the applicable Provincial Property Law.

Notwithstanding Provincial Property Law, the Member may assign all or part of the benefits under the Plan to the Spouse effective as of divorce, annulment or separation. In the event of such an assignment, the Spouse shall, in respect of the assigned portion of the benefits, be deemed to have been a Member of the Plan and to have ceased to be a Member as of the effective date of the assignment, but a subsequent spouse of that assignee Spouse is not entitled to any benefit whatsoever in respect of that assigned portion.

In this section 8.5, where all or part of the benefits of the Member are to be distributed to the Spouse,

- (i) the Actuarial Equivalent of the benefits payable to the Member after the distribution, plus
- (ii) the Actuarial Equivalent of the benefits payable to the Spouse of the Member on account of the distribution, shall equal
- (iii) the Actuarial Equivalent of the benefits payable to the Member had the divorce, annulment or separation not occurred.

- 8.6 Every person eligible for benefits under the Plan shall, on request, furnish such information, including but not limited to proof of age, satisfactory to the Employees' Benefit Committee as it shall require to determine the entitlement to and the amount of such benefit.
- 8.7 On every first day of January, the retirement benefits payable to a Member, the surviving Spouse or the 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.
- 8.8 The termination benefits payable after retirement under the DB Provisions to a Member, or the surviving Spouse, as applicable, shall be augmented based on the provisions of section 8.7.
- 8.9 In the event a person entitled to benefits under the Plan is physically, mentally or otherwise incompetent to receive such benefits and to give a valid release therefore, the Employees' Benefit Committee may authorize the payment of such benefits in trust to such other person as it may consider appropriate. Such payment of benefits shall be a valid and complete discharge to the Plan in respect of that payment.

SECTION 9 - PORTABILITY

9.1 Where an Employee, before becoming eligible to retire pursuant to section 5, terminates employment or dies, the Member or the surviving Spouse, as the case may be, is entitled to transfer in Prescribed Manner the lump sum Actuarial Equivalent of the benefits payable under the DB Provisions:

- (i) to another registered pension plan (if that other plan permits), or
- (ii) to a retirement savings plan of the prescribed kind , or
- (iii) to purchase an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation.

The request for transfer must be provided in writing to the Employees' Benefit Committee within 90 days of the date of termination of employment or death, as the case may be. Following the expiration of the 90-days period, the Member or the surviving Spouse, as the case may be, is deemed to have elected to receive a deferred pension until a subsequent request for transfer is provided in writing to the Employees' Benefit Committee.

9.2 Notwithstanding section 9.1, where the sum of the DC Member Account and the lump sum Actuarial Equivalent of the benefits payable under the DB Provisions is less than 20% of the Maximum Pensionable Earnings for the year the Member terminates employment, retires or dies, or such other limit as may be prescribed under the Applicable Legislation, the aggregate value of the DC Member Account and the lump sum Actuarial Equivalent of the benefits payable under the DB Provisions will be paid in cash to the Member or the surviving Spouse.

SECTION 10- INTEGRATED PENSION

- 10.1 A Member may, prior to the date of retirement, elect in writing to receive an integrated pension in lieu of the pension payable under the DB Provisions of the Plan.
- 10.2 The integrated pension shall be computed so that it is the Actuarial Equivalent of the pension payable under the DB Provisions of the Plan and it shall begin from the date the pension would otherwise have started to be paid.
- 10.3 The integrated pension shall consist of a pension payable initially at a rate higher than the rate of the pension payable and subject from Pensionable Age to a reduction, such reduction not exceeding the maximum amount permitted under Paragraph 8503(2)(b) of the Income Tax Act (Canada).
- 10.4 An election made by a Member pursuant to this section shall not affect in any way the rights which the surviving Spouse or the Beneficiary would have had if the Member had not made such election.

SECTION 11 – INVESTMENT

- 11.1 The individual DC Member Account of a DC Member shall be credited with DC Member Contributions and DC Employer Contributions.
- 11.2 The individual DC Member Additional Account of a DC Member shall be credited with DC Member Additional Contributions.
- 11.3 Each DC Member shall instruct the Funding Agent to invest his or her DC Member Account and his or her DC Member Additional Account, in such portions as the DC Member directs, in one or more of the investment funds as may be made available to DC Members from time to time by the Company. The Funding Agent shall invest each DC Member Account and each DC Member Additional Account as so instructed or, in the absence of such instruction from the DC Member, in any default investment fund selected by the Company for that purpose.
- DC Members may make or change their instructions to the Funding Agent at such times and conditions as determined under the applicable rules of the Company or the relevant Participating Company.
- 11.4 DC Member Accounts and DC Member Additional Accounts shall be valued at least annually, at which time interest, dividend and other investment gains and losses, net of management fees and expenses, shall be allocated to each account, all as defined in the applicable rules of the Company or the relevant Participating Company.

SECTION 12 - FUND

- 12.1 The Company undertakes to maintain a Fund to meet all liabilities under the Plan. The Fund shall at all times be held by a Funding Agent and shall be invested in accordance with Applicable Legislation.
- 12.2 The Company and the Participating Companies shall have no obligation to make any payments to the Fund except as expressly provided in the Plan and Applicable Legislation. Each Member, the heirs, executors, administrators or other personal representatives of the Member expressly release the Company, the Participating Companies, its respective officers and Directors from any liability for any loss or damage in connection with the Plan, except for willful misconduct.
- 12.3 Except as provided in section 14, the Fund shall be used exclusively for the payment of benefits provided under the Plan and for the payment of expenses of the Plan and of the Fund.
- 12.4 The fiscal year of the Fund and of the Plan shall end on December 31.

SECTION 13 - RECIPROCAL AGREEMENTS

- 13.1 The Company and the Participating Companies may from time to time enter into Reciprocal Agreements with other corporations or entities whether or not they are affiliated or associated.
- 13.2 A Member who may be eligible for benefits under a Reciprocal Agreement may elect to use the provisions of such agreement in lieu of receiving any benefit to which the Member may be entitled under the Plan.

SECTION 14 - AMENDMENT OR TERMINATION OF THE PLAN

- 14.1 The Company reserves the right to amend or terminate the Plan at any time as well as to reduce or discontinue contributions at any time or, subject to Applicable Legislation, withdraw from the Fund any part of the funding excess as determined by an actuarial valuation. No amendment to the Plan shall have the effect of diminishing the benefits accrued to or in respect of any Member, surviving Spouse or Beneficiary to the date of such amendment.
- 14.2 Should the Company decide to terminate the Plan, the Fund, after provision for expenses of termination and liquidation, shall be applied in an equitable manner determined by the Company to provide for benefits accrued to Members, surviving Spouses or Beneficiaries, all in accordance with Applicable Legislation. As and when all liabilities of the Plan have been legally discharged, any balance of the Fund then remaining shall be paid to the Company.

SECTION 15 - INFORMATION RELATIVE TO THE PLAN

- 15.1 The Company and the Participating Companies shall provide, in Prescribed Manner, Employees and their Spouses with a written explanation of the Plan and of any amendments thereto and an explanation of their rights and duties, with reference to the benefits available.
- 15.2 The Company and the Participating Companies shall provide active Members and their Spouses each year a written statement in Prescribed Manner showing
- (i) the pension to which the Member is entitled at the end of the year;
 - (ii) the funded ratio of the Plan, and
 - (iii) any other information prescribed by Applicable Legislation.
- 15.3 Once each year a Member, the Member's Spouse or, if authorized in writing, their agent, may examine documents pertaining to the Plan in Prescribed Manner.
- 15.4 The Company and the Participating Companies shall provide in Prescribed Manner the Member, the surviving Spouse or the Beneficiary a written statement of the Member's benefits after the Member's date of retirement, death or termination of employment, as the case may be.

APPENDIX A

**APPLICABLE PROVISIONS FROM THE
PENSION PLAN IN EFFECT ON DECEMBER 31, 1986**

PREAMBLE TO APPENDIX A

The provisions of appendix A shall be read in conjunction with the provisions of sections 1 to 15 of the Plan and shall apply only to Employees who have service with the Company prior to January 1, 1987.

Notwithstanding anything to the contrary, the provisions of appendix A shall not apply to Employees who were members of the BCE Mobile Communications Inc. Pension Plan as of December 31, 2000, except as otherwise provided in section B3.

SECTION A1 - DEFINITIONS

A1.1 In appendix A, all the terms defined in section 1 of the Plan have the meaning contained in section 1, except that prior to January 1, 1992:

"DB Compensation" had the same meaning as in section 1.7 except that for part-time Employees, DB Compensation in a calendar month excluded annualized remuneration for the period not worked;

"Pensionable Employment" meant the aggregate of the periods of employment recognized under the applicable rules of the Company or the relevant Participating Company for full-time Employees and for part-time Employees.

SECTION A2- RETIREMENT BENEFITS

A2.1 A Member who terminates employment and

- (a) has attained age 65 and whose Term of Employment is 15 or more years, or
- (b) has attained age 60 and whose completed years of age plus completed years of Term of Employment equal or exceed 80, or
- (c) has attained age 55 and whose age plus Term of Employment equal or exceed 85

may elect to retire on the last day of any month thereafter but no later than the Latest Permissible Retirement Date, and shall be granted an annual pension payable for life.

A2.2 A Member who terminates employment, has attained age 60 and does not qualify under section A2.1 may elect to retire on the last day of any month thereafter but no later than the Latest Permissible Retirement Date, and shall be granted an annual pension payable for life.

Notwithstanding the above, if an Employee remains employed by a Participating Company beyond the Latest Permissible Retirement Date, he is deemed to have retired on the Latest Permissible Retirement Date and shall be granted an annual pension payable for life, calculated using the Member's Pensionable Employment at the Latest Permissible Retirement Date.

A2.3 A Member who terminates employment, has attained age 55 but not age 60 and does not qualify under section A2.1 may elect to retire on the last day of any month thereafter, and shall be granted an annual pension payable for life that is the Actuarial Equivalent of the deferred pension becoming due at the end of the month following the month during which the Member's 60th birthday is attained.

A2.4 (a) The annual pension payable prior to reaching Pensionable Age shall be equal to the sum of:

- (i) 1.3% plus .01% for each three full months by which the Member's age at the date of retirement exceeds age 55 (subject to a maximum of 1.5%) of the Member's Average Annual Pensionable Earnings, and

- (ii) 0.5% of the lesser of \$10,000 or the Member's Average Annual Pensionable Earnings

for each year of Pensionable Employment, subject to the bridging benefit limit specified under Applicable Legislation.

- (b) The annual pension payable from the date Pensionable Age is reached shall be equal to the sum of
- (i) for each year of the Member's Pensionable Employment prior to January 1, 1966, an amount determined in accordance with paragraphs (a)(i) and (a)(ii) above, and
 - (ii) for each year of the Member's Pensionable Employment from January 1, 1966,
 - 0.85% of that part of the Member's Average Annual Pensionable Earnings which does not exceed the Maximum Pensionable Earnings, and
 - 1.3% plus .01% for each three full months by which the Member's age at the date of retirement exceeds age 55 (subject to a maximum of 1.5%) of the Member's Average Annual Pensionable Earnings in excess of the Maximum Pensionable Earnings.
- (c) An Employee who has elected to become a DC Member in accordance with section 3.3 shall be granted an additional annual pension equal to 0.2% of that part of the Member's Average Annual Pensionable Earnings which does not exceed the Maximum Pensionable Earnings, multiplied by the number of years of Pensionable Employment before December 31, 2004 and reduced by $\frac{1}{4}$ of 1% for each month by which the date of retirement precedes the date Pensionable Age is reached.

The pension under this section A2.4 shall be converted into a pension level throughout retirement and computed on an Actuarial Equivalent basis. The resulting level pension of a Member, and its payment, shall be subject to Applicable Legislation, including any limitations on the lifetime amount payable as specified in section 5.5.

Any period of less than 12 months of Pensionable Employment shall be included on a proportionate basis.

- A2.5 All pensions shall be paid in accordance with section 8.1. In addition, for Members who retire in accordance with section A2.1 and have maintained Continuous Employment since December 31, 1986, a partial pension amount shall be paid for the period from the date of termination of employment to the date of retirement if the two dates are in the same month. This section A2.5 shall also apply to the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan.

SECTION A3 - DEATH BENEFITS

- A3.1 On the death of a Member prior to retirement, the surviving Spouse or, if there is no Spouse, the Beneficiary, shall receive the lump sum Actuarial Equivalent of the deferred pension calculated in accordance with section A2.4 to which the Member is entitled or would have been entitled if the Member had terminated employment on the date of death.

The benefit payable to the Spouse under this section A3.1 shall be paid in the form of a lump sum transfer to another registered pension plan (if that other plan permits), to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation. The transfer under this paragraph shall be subject to any limitation prescribed by the Applicable Legislation related thereto.

The request for transfer must be provided in writing to the Employees' Benefit Committee within 90 days of the date of death.

Notwithstanding the above and subject to section 9.2, on the death prior to retirement of a Member who has attained age 55, the surviving Spouse entitled to a lump sum in accordance with the preceding paragraphs, if any, may instead elect to receive a survivor pension that is the Actuarial Equivalent of this lump sum.

- A3.2 On the death prior to retirement of a Member who was entitled to retire under section A2.1 and who has maintained Continuous Employment since December 31, 1986, the Actuarial Equivalent reduction shall be made on the basis that the Fund will subsidize one-third of the pension to the surviving Spouse. This subsidy shall also apply to the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan.

- A3.3 Notwithstanding section A3.1, on the death of an Employee who has not attained age 55 but who has completed a Term of Employment of 30 or more years, who has maintained Continuous Employment since December 31, 1986 and who has a Spouse on the date of death, a survivor pension equal to 60% of the pension reduced in accordance with section A3.2 that the Member would have received if the Member had retired on the last day of the month during which death occurs shall be paid to the surviving Spouse for life. For this purpose, the pension shall be calculated as if the Member was age 55 and in accordance with section A2.4, with the exclusion of paragraph A2.4(a)(ii). The benefit provided under this section A3.3 shall be at least equivalent to the benefit provided under section A3.1.

- A3.4 If a Member has a Spouse on the date of retirement, the pension payable shall automatically be reduced on an Actuarial Equivalent basis so that such surviving Spouse shall be paid for life a pension equal to 60% of such reduced pension payable to the Member. If the Member retires in accordance with section A2.2 or A2.3 and has waived the life insurance coverage under the benefits program at retirement, if applicable, then the Actuarial Equivalent reduction shall be made on the basis that the Fund will subsidize one-third of the pension to the surviving Spouse.

Subject to the Spouse's written agreement in Prescribed Manner being deposited with the Employees' Benefit Committee prior to the date of retirement, the Member may elect to receive instead an unreduced pension payable for life.

In the event of divorce, annulment or separation, subject to the Spouse's written agreement in Prescribed Manner being deposited with the Employees' Benefit Committee, the amount of pension payable to the Retired Member shall be reinstated to the full amount from the first day of the month following the date the Spouse's agreement is provided to the Employees' Benefit Committee.

- A3.5 If the Member retires in accordance with section A2.1 and has maintained Continuous Employment since December 31, 1986,
- (a) and has no Spouse on the date of retirement or the Spouse has waived the right to the survivor pension, the Member may elect to receive a reduced pension that will continue for life in an amount equal to 60% of the reduced pension to a surviving father or mother named as beneficiary; this election shall be made in writing to the Employees' Benefit Committee prior to the date of retirement;
 - (b) and the eligible Spouse or parent beneficiary dies prior to the Retired Member, the amount of pension payable to the Retired Member shall be reinstated to the full amount from the first day of the month following the date of death of the eligible Spouse or parent beneficiary;
 - (c) the Actuarial Equivalent reduction shall be made on the basis that the Fund will subsidize one-third of the pension to the surviving Spouse or parent beneficiary. If the Member has waived the life insurance coverage under the benefits program at retirement, if applicable, the Actuarial Equivalent reduction shall be made on the basis that the Fund will subsidize two-thirds of the pension to the surviving Spouse or the parent beneficiary.

This section A3.5 shall also apply to the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan.

- A3.6 If a Member has no Spouse on the date of retirement or the Spouse's written agreement in Prescribed Manner has been deposited with the Employees' Benefit Committee prior to the date of retirement, the Member may elect to receive a pension reduced on an Actuarial Equivalent basis so that it is guaranteed to be payable for a minimum of 120 monthly payments.

The benefit payable to a Member's Beneficiary under a guarantee option may, if so requested by the Beneficiary, be paid in a lump sum Actuarial Equivalent of the remaining payments under the guarantee option.

In the event of the death of a designated Beneficiary who is in receipt of guaranteed payments under the Plan prior to the end of such guaranteed period, the balance of such payments shall be paid to the estate of the deceased Member in a lump sum Actuarial Equivalent of the remaining payments under the guarantee option.

SECTION A4 - TERMINATION BENEFITS

- A4.1 A Member whose employment terminates for any reason other than death or retirement shall be eligible for a deferred pension calculated in accordance with section A2.4. This deferred pension shall be payable for life and shall become due at the end of the month following the month during which the Member's 60th birthday is attained. If the Member has a spouse on the date the pension is due, this deferred pension shall be payable in accordance with section A3.4.
- A4.2 A Member entitled to a deferred pension under section A4.1 may elect to retire on the last day of any month after attainment of age 55 but not later than the last day of the month during which the Member's 60th birthday is attained. The Member shall then be granted an annual pension that is the Actuarial Equivalent of the deferred pension.

The annual pension payable under this section A4.2 shall not exceed the amount of deferred pension payable under section A4.1, and reduced by $\frac{1}{4}$ of 1% for each completed month by which the date of retirement precedes the earliest of age 60, 30 years of Term of Employment or the date on which the Member's age plus Term of Employment is equal to 80 assuming employment continues to such date.

APPENDIX B

**SPECIAL PROVISIONS FOR
EMPLOYEES TRANSFERRED FROM OTHER PLANS
PURSUANT TO BUSINESS TRANSACTIONS**

PREAMBLE TO APPENDIX B

The provisions of appendix B shall be read in conjunction with the provisions of sections 1 to 15 of the Plan and shall apply only to specific Employees whose pension rights were transferred from other plans pursuant to business transactions and not treated under Reciprocal Agreement.

The provisions of this appendix shall be read in conjunction with the other provisions of the Plan; however, in case of any inconsistency, the provisions of this appendix shall prevail.

**SECTION B1 - PROTECTION OF PENSION RIGHTS FOR FORMER EMPLOYEES OF
BELL COMMUNICATIONS SYSTEMS INC. (BCSI)**

- B1.1 Former employees of BCSI who became Employees of the Company as of January 1, 1987, provided that they maintain Continuous Employment, shall be entitled to the following:
- for their Pensionable Employment with BCSI and the Company prior to January 1, 1987: the benefits calculated in accordance with the provisions of appendix A.
 - for their Pensionable Employment on or after January 1, 1987: the larger of the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan or the benefits calculated in accordance with the provisions of appendix A.

**SECTION B2 - PROTECTION OF PENSION RIGHTS FOR FORMER EMPLOYEES OF
BELL TECHNICAL SERVICES INC.(BTS)**

- B2.1 Former employees of BTS who became Employees of the Company on April 1, 1987, provided they were on the payroll of BTS on December 31, 1986, have previous service with Bell Canada and maintain Continuous Employment, shall be entitled to the following:
- for their Pensionable Employment with BTS and the Company prior to January 1, 1987: the benefits calculated in accordance with the provisions of appendix A.
 - for their Pensionable Employment on or after January 1, 1987: the larger of the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan or the benefits calculated in accordance with the provisions of appendix A.
- B2.2 In case of termination of employment, the Employee shall be entitled to benefits in respect of the employment with BTS in an amount at least equal to the Actuarial Equivalent of the deferred pension as defined under the rules of the Bell Data Systems pension plan in effect on March 31, 1987, based on the Employee's highest average compensation as of March 31, 1987.

**SECTION B3 - SPECIAL PROVISIONS FOR EMPLOYEES WHO WERE MEMBERS OF THE
BCE MOBILE COMMUNICATIONS INC. PENSION PLAN AS OF DECEMBER 31, 2000**

The provisions of this section shall apply only to Employees who were members of the BCE Mobile Communications Inc. Pension Plan as of December 31, 2000.

- B3.1 Employees who were members of the BCE Mobile Communications Inc. Pension Plan as of December 31, 2000 shall be entitled to the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan for their entire period of Pensionable Employment.

Notwithstanding the above, Employees who were Qualified Members as defined under the rules of the BCE Mobile Communications Inc. Pension Plan in effect on December 31, 2000, shall be entitled, for their Pensionable Employment on or after January 1, 1987, to the larger of the benefits calculated in accordance with the provisions of sections 1 to 15 of the Plan or the benefits calculated in accordance with the provision of appendix A and, for their Pensionable Employment prior to January 1, 1987, to the benefits calculated in accordance with the provisions of appendix A.

In no event will the benefits payable to an Employee who was a member of the BCE Mobile Communications Inc. Pension Plan prior to January 1, 2001 be less than the benefits accrued under such plan prior to such date.

- B3.2 For Employees who were members of the BCE Mobile Communications Inc. Pension Plan as of December 31, 2000, who were Members of the Plan at any time prior to January 1, 1987 and who were transferred to National Mobile Radio Communications Inc. at Bell Canada's request before August 1, 1987, the reduction in pension under section 5.3 of the Plan cannot exceed 10%. In any event, such reduction shall not be less than the minimum reduction prescribed under the Applicable Legislation.

**SECTION B4 - SPECIAL PROVISIONS FOR UNIONIZED EMPLOYEES OF
NORTEL NETWORKS CORPORATION TRANSFERRED TO
EXPERTECH NETWORK INSTALLATIONS INC. AS OF MAY 26, 2000**

The provisions of this section shall apply only to Employees who were unionized employees of Nortel Networks Corporation (“Nortel”) and who were transferred to Expertech Networks Installations Inc. (“Expertech”) effective May 26, 2000 (the “Nortel Transferees”), pursuant to the Asset Purchase Agreement dated April 28, 2000 (the “Asset Purchase Agreement”). As a result of the foregoing transfers, and subject to regulatory approval of the pension asset transfer provided under the Asset Purchase Agreement, the rights and benefits of the Nortel Transferees under the Plan shall be determined as follows:

- B4.1 The benefits payable under the Plan to Nortel Transferees shall be determined and calculated in accordance with the provisions of the Plan. The years of employment of such Employees with Nortel prior to May 26, 2000 shall
- (i) constitute years of Continuous Employment under the Plan and will be considered for purposes of eligibility to the benefits,
 - (ii) be recognized in their Term of Employment, and
 - (iii) be considered as years of Pensionable Employment under the Plan.

Notwithstanding the preceding paragraph, the benefits payable under the Plan to Nortel Transferees, with respect to their years of employment with Nortel prior to May 26, 2000, shall not be less than the benefits they would have been entitled to if their benefits for such years of employment had been determined and calculated in accordance with the provisions of the Nortel Networks Negotiated Pension Plan in effect on May 26, 2000.

**SECTION B5 - SPECIAL PROVISIONS FOR EMPLOYEES TRANSFERRED FROM CERTEN INC.
PURSUANT TO THE TRANSITION AGREEMENT DATED MAY 28, 2003**

The provisions of this section shall apply only to Employees who were employees of Certen Inc. and who were transferred to Bell Canada (the "Certen Transferees") pursuant to the Transition Agreement dated May 28, 2003 (the "Transition Agreement"). As a result of the foregoing transfers, and subject to regulatory approval of the pension asset transfer provided under the Transition Agreement, the rights and benefits under the Plan of the Certen Transferees who started employment with Bell Canada as of July 1, 2003 or thereafter (the "Transfer Date") shall be determined as follows:

- B5.1 Employees who were members of the Certen Inc. Pension Plan prior to their Transfer Date are eligible to participate in the Plan as of their Transfer Date. Employees who were hired by Certen Inc. on or after April 1, 2001 and who were not members of the Certen Inc. Pension Plan prior to their Transfer Date are eligible to participate in the Plan on the date they satisfy the eligibility requirements provided under the Plan, their years of employment with Certen Inc. being recognized in their Term of Employment.
- B5.2 The years of employment with Certen Inc. and the years of prior employment with Bell Canada, as applicable, shall
- (i) constitute years of Continuous Employment under the Plan and will be considered for purposes of eligibility to the benefits,
 - (ii) be recognized in the Term of Employment, and
 - (iii) be considered as years of Pensionable Employment under the Plan.
- B5.3 For greater certainty, all benefits accrued under the Certen Inc. Pension Plan by an Employee who was employed in Quebec prior to his or her Transfer Date, in respect of his or her years of employment with Certen Inc., are fully vested under the Plan as of the Transfer Date.

APPENDIX C

**SPECIAL PROVISIONS
FOR ELIGIBLE EMPLOYEES UNDER
THE PAY EQUITY SETTLEMENT AGREEMENTS**

PREAMBLE TO APPENDIX C

The provisions of appendix C shall apply only to Eligible Employees under the terms of the Settlement Agreement entered into between the Canadian Telecommunications Employees' Association and Bell Canada on August 30, 2002 and to employees of Bell Canada who held excluded non-management positions and who were awarded the same treatment, and to Eligible Employees under the terms of the Settlement Agreement entered into between Communications, Energy and Paperworkers Union of Canada and Femmes Action and Bell Canada on December 5, 2005 and ratified on June 19, 2006.

The provisions of this appendix shall be read in conjunction with the other provisions of the Plan; however, in case of any inconsistency, the provisions of this appendix shall prevail.

SECTION C1 - DEFINITIONS

Unless the context or the definitions under the following paragraphs of this section clearly indicate otherwise, the terms shall have the meanings as specified in section 1 of the Plan.

“2002 Settlement Agreement” means the Settlement Agreement entered into between the Canadian Telecommunications Employees’ Association and Bell Canada on August 30, 2002.

“2006 Settlement Agreement” means the Settlement Agreement entered into between Communications, Energy and Paperworkers Union of Canada and Femmes Action and Bell Canada on December 5, 2005 and ratified on June 19, 2006.

“Average Annual Pensionable Earnings” means the Average Annual Pensionable Earnings defined in section 1.3, and:

- i) in the case of a former Employee of the Company at the time of the Pay Equity Settlement Payment, adjusted to include the Pay Equity Pensionable Settlement Payment for the month immediately preceding termination of employment from the Company;
- ii) in the case of an active Eligible Employee other than a Pay Equity DC Member, adjusted to include the Pay Equity Settlement Payment for the month in which the Pay Equity Settlement Payment is received; or
- iii) in the case of a Pay Equity DC Member, not including the Pay Equity Settlement Payment.

“Eligible Employee” means a current or former employee of the Company who is entitled to a Pay Equity Settlement Payment.

“Pay Equity DC Account” means the aggregate of the Pay Equity DC Contributions plus Investment Earnings thereon, in respect of a Pay Equity DC Member.

“Pay Equity DC Contributions” means the contributions deposited in the Pay Equity DC Account in respect of a Pay Equity DC Member.

“Pay Equity DC Member” means an active Eligible Employee currently participating in the DB Provisions who has elected to participate in the Pay Equity DC Portion of the Plan in relation with the Pay Equity Pensionable Settlement Payment or an active Eligible Employee currently participating in the DC Provisions.

“Pay Equity DC Portion” means the DC portion of the Plan set forth in this appendix.

“Investment Earnings” means the Pension Fund’s rate of return, as published monthly. The method used for calculating and allocating Investment Earnings shall be determined by the Employees’ Benefit Committee.

“Pay Equity Settlement Payment” means the amount or amounts received under the Settlement Agreements.

“Pay Equity Pensionable Settlement Payment” means:

- i) 100% of the Pay Equity Settlement Payment under the 2002 Settlement Agreement, or
- ii) 82% of the Pay Equity Settlement Payment under the 2006 Settlement Agreement excluding:
 - pain and suffering damages, and
 - lump sum of \$1,000 for Employees with less than one year of service covered by the settlement.

SECTION C2 - ADDITIONAL PENSIONS

The pension payable to a former Employee of the Company who is a Retired Member or a deferred pensioner and who is entitled to a Pay Equity Pensionable Settlement Payment, or the pension payable to the surviving Spouse of such former Employee, shall be recalculated as of the Member's retirement date using the Average Annual Pensionable Earnings as defined in this appendix. The resulting increase in pension, if any, including any adjustments made pursuant to the provisions of section 8 of the Plan, shall become payable from the last day of the month following the month during which the Pay Equity Settlement Payment is made or from the Member's retirement date for deferred pensioner.

In addition, the cumulative amount of retroactive monthly pension adjustments shall be paid as a lump sum to a Retired Member, a surviving Spouse or the legal heirs of a deceased Retired Member or surviving Spouse.

For greater certainty, no pension adjustment is made with respect to an Eligible Employee who has not retired and who has no rights under the Plan at the time of the Pay Equity Pensionable Settlement Payment.

SECTION C3 – PAY EQUITY DEFINED CONTRIBUTION PORTION

The benefits provided under the Pay Equity DC Portion shall be in addition to any benefits provided under the defined benefit provisions of the Plan. Furthermore, the transfers under this section C3 shall be subject to any limitations prescribed by the Applicable Legislation in respect of the transfer of monies from the Fund.

a) Contributions

On the first day of the month following the Pay Equity Settlement Payment to an active Eligible Employee who has elected to participate under the Pay Equity DC Portion of the Plan, a Pay Equity DC Contribution shall be deposited in the Pay Equity DC Account of the Pay Equity DC Member.

Under the 2002 Settlement Agreement, the Pay Equity DC Contribution shall be determined in accordance with schedule C.

Under the 2006 Settlement Agreement, the Pay Equity DC Contribution shall be determined as the Actuarial Equivalent value of the additional pension benefits that would have been payable upon termination as of December 31, 2005 with the Average Annual Pensionable Earnings under the DB Provisions adjusted to include the Pay Equity Pensionable Settlement Payment.

The Pay Equity DC Contribution in any calendar year in respect of a Pay Equity DC Member shall not exceed the amount of contributions permissible under the Income Tax Act (Canada), after appropriate recognition of any pension credit accrued by the Pay Equity DC Member in respect of such calendar year under the provisions of the Plan. The balance of any Pay Equity DC Contribution that cannot be credited in a given year shall be credited on January 1st of the following year, subject to the applicable limitations.

b) Valuation of Pay Equity DC Account

The Pay Equity DC Account of a Pay Equity DC Member shall be valued at the end of each month, at which time Investment Earnings shall be allocated to the account.

c) Retirement Benefits

A Pay Equity DC Member who retires after having attained age 55 shall receive the balance of the Pay Equity DC Account in the form of a lump sum transfer to another registered pension plan, to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation.

d) Death Benefits

If a Pay Equity DC Member dies prior to the payment or transfer of the Pay Equity DC Account in accordance with this appendix, the Member's Spouse, if any, shall receive the balance of the Pay Equity DC Account in the form of a lump sum transfer to another registered pension plan, to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation.

e) Termination Benefits

Subject to the following paragraph, a Pay Equity DC Member whose employment terminates for any reason other than death or retirement shall receive the balance of the Pay Equity DC Account in the form of a lump sum transfer to another registered pension plan, to a retirement savings plan of the prescribed kind, or to an insurance company for the purchase of an immediate or deferred life annuity, payable no later than as permitted under Applicable Legislation.

A Pay Equity DC Member who is entitled to a transfer in accordance with the preceding paragraph, and who does not elect the portability of defined benefits as per section 9 of the Plan shall leave the Pay Equity DC Account in the Plan in lieu of the immediate transfer. In this case, the Pay Equity DC Member shall receive, at retirement date, the balance of the Pay Equity DC Account in the form of the lump sum transfer specified above.

f) Transfer of Employment

If a Pay Equity DC Member is transferred under a Reciprocal Agreement to another legal entity, the Pay Equity DC Member shall leave the Pay Equity DC Account in the Plan; in such case, the entitlement of the Pay Equity DC Member to the subsequent transfer of the Pay Equity DC Account shall be determined in accordance with section 3(e) of this appendix on the date the Pay Equity DC Member is no longer employed with the Company, any Participating Company or any legal entity which is associated with the Company or a Participating Company.

SCHEDULE C

PAY EQUITY DC CONTRIBUTION

(UNDER APPENDIX C)

DEFINED CONTRIBUTION PERCENTAGE (Applicable to Pay Equity Settlement Amount)

Age	Completed Years of Pensionable Employment															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
18	1%	1%	1%													
19	1%	1%	1%	1%												
20	1%	1%	1%	1%	2%											
21	1%	1%	1%	1%	2%	2%										
22	1%	1%	1%	1%	2%	2%	3%									
23	1%	1%	1%	1%	2%	2%	3%	3%								
24	1%	1%	1%	2%	2%	3%	3%	4%	4%							
25	1%	1%	1%	2%	2%	3%	3%	4%	4%	5%						
26	1%	1%	1%	2%	2%	3%	4%	4%	5%	5%	6%					
27	1%	1%	1%	2%	2%	3%	4%	4%	5%	6%	6%	7%				
28	1%	1%	1%	2%	3%	3%	4%	5%	5%	6%	7%	7%	8%			
29	1%	1%	1%	2%	3%	3%	4%	5%	6%	6%	7%	8%	8%	9%		
30	1%	1%	1%	2%	3%	4%	4%	5%	6%	7%	7%	8%	9%	10%	10%	
31	1%	1%	2%	2%	3%	4%	5%	5%	6%	7%	8%	9%	9%	10%	11%	12%
32	1%	1%	2%	2%	3%	4%	5%	6%	7%	7%	8%	9%	10%	11%	12%	12%
33	1%	1%	2%	3%	4%	4%	5%	6%	7%	8%	9%	10%	11%	11%	12%	13%
34	1%	1%	2%	3%	4%	5%	6%	7%	7%	8%	9%	10%	11%	12%	13%	14%
35	1%	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%
36	1%	1%	2%	3%	4%	5%	6%	7%	8%	9%	10%	12%	13%	14%	15%	16%
37	1%	1%	2%	3%	4%	6%	7%	8%	9%	10%	11%	12%	13%	14%	16%	17%
38	1%	1%	2%	4%	5%	6%	7%	8%	9%	11%	12%	13%	14%	15%	16%	18%
39	1%	1%	2%	4%	5%	6%	7%	9%	10%	11%	12%	14%	15%	16%	17%	19%
40	1%	1%	3%	4%	5%	7%	8%	9%	11%	12%	13%	15%	16%	17%	19%	20%
41	1%	1%	3%	4%	6%	7%	8%	10%	11%	13%	14%	15%	17%	18%	20%	21%
42	1%	1%	3%	4%	6%	7%	9%	10%	12%	13%	15%	16%	18%	19%	21%	22%
43	1%	2%	3%	5%	6%	8%	9%	11%	13%	14%	16%	17%	19%	20%	22%	24%
44	1%	2%	3%	5%	7%	8%	10%	12%	13%	15%	17%	18%	20%	22%	23%	25%
45	1%	2%	4%	5%	7%	9%	11%	12%	14%	16%	18%	19%	21%	23%	25%	27%
46	1%	2%	4%	6%	7%	9%	11%	13%	15%	17%	19%	21%	22%	24%	26%	28%
47	1%	2%	4%	6%	8%	10%	12%	14%	16%	18%	20%	22%	24%	26%	28%	30%
48	1%	2%	4%	6%	8%	11%	13%	15%	17%	19%	21%	23%	25%	27%	30%	32%
49	1%	2%	4%	7%	9%	11%	13%	16%	18%	20%	22%	25%	27%	29%	31%	34%
50	1%	2%	5%	7%	9%	12%	14%	17%	19%	21%	24%	26%	28%	31%	33%	36%
51	1%	3%	5%	8%	10%	13%	15%	18%	20%	23%	25%	28%	30%	33%	35%	38%
52	1%	3%	5%	8%	11%	13%	16%	19%	21%	24%	27%	29%	32%	35%	37%	40%
53	1%	3%	6%	8%	11%	14%	17%	20%	23%	25%	28%	31%	34%	37%	40%	42%
54	1%	3%	6%	9%	12%	15%	18%	21%	24%	27%	30%	33%	36%	39%	42%	45%
55	1%	3%	6%	10%	13%	16%	19%	22%	26%	29%	32%	35%	38%	41%	45%	48%
56	1%	3%	7%	10%	14%	17%	20%	24%	27%	30%	34%	37%	41%	44%	47%	51%
57	1%	4%	7%	11%	14%	18%	22%	25%	29%	32%	36%	40%	43%	47%	50%	54%
58	1%	4%	8%	11%	15%	19%	23%	27%	31%	34%	38%	42%	46%	50%	53%	57%
59	1%	4%	8%	12%	16%	20%	24%	28%	32%	36%	40%	45%	49%	53%	57%	61%
60	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%
61	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%
62	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%
63	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%
64	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%
65	1%	4%	9%	13%	17%	21%	26%	30%	34%	39%	43%	47%	52%	56%	60%	64%

DEFINED CONTRIBUTION PERCENTAGE (Applicable to Pay Equity Settlement Amount)

Age	Completed Years of Pensionable Employment														
	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
18															
19															
20															
21															
22															
23															
24															
25															
26															
27															
28															
29															
30															
31															
32	13%														
33	14%	15%													
34	15%	16%	17%												
35	16%	17%	18%	19%											
36	17%	18%	19%	20%	21%										
37	18%	19%	20%	21%	22%	23%									
38	19%	20%	21%	22%	24%	25%	26%								
39	20%	21%	22%	24%	25%	26%	27%	29%							
40	21%	22%	24%	25%	26%	28%	29%	30%	32%						
41	22%	24%	25%	27%	28%	29%	31%	32%	34%	35%					
42	24%	25%	27%	28%	30%	31%	33%	34%	36%	37%	39%				
43	25%	27%	28%	30%	31%	33%	35%	36%	38%	39%	41%	42%			
44	27%	28%	30%	32%	33%	35%	37%	38%	40%	42%	43%	45%	47%		
45	28%	30%	32%	34%	35%	37%	39%	41%	42%	44%	46%	48%	50%	51%	
46	30%	32%	34%	36%	37%	39%	41%	43%	45%	47%	49%	51%	52%	54%	56%
47	32%	34%	36%	38%	40%	42%	44%	46%	48%	50%	52%	54%	56%	58%	60%
48	34%	36%	38%	40%	42%	44%	46%	48%	51%	53%	55%	57%	59%	61%	63%
49	36%	38%	40%	42%	45%	47%	49%	51%	54%	56%	58%	60%	63%	65%	67%
50	38%	40%	43%	45%	47%	50%	52%	55%	57%	59%	62%	64%	66%	69%	71%
51	40%	43%	45%	48%	50%	53%	55%	58%	60%	63%	65%	68%	70%	73%	75%
52	43%	45%	48%	51%	53%	56%	59%	61%	64%	67%	69%	72%	75%	77%	80%
53	45%	48%	51%	54%	57%	59%	62%	65%	68%	71%	74%	76%	79%	82%	85%
54	48%	51%	54%	57%	60%	63%	66%	69%	72%	75%	78%	81%	84%	87%	90%
55	51%	54%	57%	61%	64%	67%	70%	73%	77%	80%	83%	86%	89%	92%	96%
56	54%	58%	61%	64%	68%	71%	74%	78%	81%	85%	88%	91%	95%	98%	102%
57	57%	61%	65%	68%	72%	75%	79%	83%	86%	90%	93%	97%	101%	104%	108%
58	61%	65%	69%	72%	76%	80%	84%	88%	92%	95%	99%	103%	107%	111%	114%
59	65%	69%	73%	77%	81%	85%	89%	93%	97%	101%	105%	109%	113%	117%	121%
60	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%
61	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%
62	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%
63	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%
64	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%
65	69%	73%	77%	82%	86%	90%	95%	99%	103%	107%	112%	116%	120%	125%	129%

DEFINED CONTRIBUTION PERCENTAGE (Applicable to Pay Equity Settlement Amount)

Age	Completed Years of Pensionable Employment														
	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45
18															
19															
20															
21															
22															
23															
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26															
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32															
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37															
38															
39															
40															
41															
42															
43															
44															
45															
46															
47	62%														
48	65%	67%													
49	69%	72%	74%												
50	73%	76%	78%	81%											
51	78%	80%	83%	86%	88%										
52	83%	85%	88%	91%	93%	96%									
53	88%	91%	93%	96%	99%	102%	105%								
54	93%	96%	99%	102%	105%	108%	111%	114%							
55	99%	102%	105%	108%	112%	115%	118%	121%	124%						
56	105%	108%	112%	115%	118%	122%	125%	129%	132%	135%					
57	111%	115%	119%	122%	126%	129%	133%	137%	140%	144%	147%				
58	118%	122%	126%	130%	133%	137%	141%	145%	149%	153%	156%	160%			
59	126%	130%	134%	138%	142%	146%	150%	154%	158%	162%	166%	170%	174%		
60	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	
61	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	
62	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	
63	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	
64	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	
65	133%	138%	142%	146%	150%	155%	159%	163%	168%	172%	176%	181%	185%	189%	

This is **Exhibit "B"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.



Archives

Members may recall that some time ago, a pensioner had commenced a class action against Bell arguing that the annual indexation for the year 2017 should have been 2% rather than the 1% calculated and implemented by Bell. We provided some background on this on the BPG website in January 2018: <http://bellpensionersgroup.ca/index3news.php?lang=en&id=8568&chapt=corporate>. We updated this in July 2018 once the court action had been scheduled: <http://bellpensionersgroup.ca/index3news.php?lang=en&id=8707&chapt=corporate>. We further updated this matter in August 2019 when the Ontario Superior Court rendered its decision upholding Bell's interpretation and dismissing the class action <http://bellpensionersgroup.ca/index3news.php?lang=en&id=9155&chapt=corporate>.

Subsequent to that judicial decision, the class action plaintiff launched an appeal to the Ontario Court of Appeal. On February 21, 2020, the appeal court rendered its decision which allowed the appeal and awarded judgment to the class action plaintiffs on behalf of all members of the class. Effectively, the decision requires Bell to implement a 2% indexation increase for the 2017 year rather than the 1% previously implemented and refers development of the implementation details back to the lower court.

Bell had 60 days from the date of the Ontario Court of Appeal's decision to apply for leave to appeal to the Supreme Court of Canada. We understand that Bell has sought an extension to this deadline of an additional 60 days. Should the appeal court's decision stand, it is expected that persons who are or were entitled to benefits under the Bell Canada Pension Plan, and who were entitled to receive indexed pension payments as of January 1, 2017, together with representatives of any of the above who has died, will be entitled to benefit from the decision.

We will continue to monitor this matter closely and keep you advised of further developments, including whether there is any action required on members' part to participate in this should the decision stand.

National Site

Other Chapters



Become a member

BILL C-228 APPROVED - A VICTORY FOR BELL PENSIONERS

April 19th, 2023

Bill C-228 has been passed by the Senate

Read more

BCE reports 2022 Q4 and full-year results, announces 2023 financial targets

February 7th, 2023

5.2% annual dividend increase to \$3.87 per share

Read more



Virtual AGM held September 15th.

September 16th, [2020](#)

See the minutes, all the presentations along with the new Board of Directors. Click on "Read more" below.

[+ Read more](#)



Cost of Living Adjustment for 2020

November 20th, 2019

The Cost of Living Adjustment on Bell Canada's pensions should be 2% in 2020.

[+ Read more](#)



Update on class action instituted against Bell

April 24th, 2020

On February 21, 2020, the appeal court rendered its decision which allowed the appeal and awarded judgment to the class action plaintiffs on behalf of all members of the class.

Bell had 60 days from the date of the Ontario Court of Appeal's decision to apply for leave to appeal to the Supreme Court of Canada. We understand that Bell has sought an extension to this deadline of an additional 60 days.

[+ Read more](#)



Bell connecting Canadians at home for the holidays with free TV programming and no extra usage fees on residential Internet

December 19th, 2020

The company announced today it will be waiving residential Internet overage fees until January 4

[+ Read more](#)



January 29th, 2021



Now more than ever! Bell Let's Talk Day sets new records.

[+ Read more](#)

This is **Exhibit "C"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read 'Abir Shamim', written in a cursive style.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Pension Information Committee Report

Important
information
about your
pension plan ...

December 1998



Introduction

The Pension Information Committee (PIC) is pleased to provide you with its most recent pension plan report.

This report is also intended for employees of Expertech Network Installation Inc., who are members of the Bell Canada Pension Plan since April 1996.

This report gives you information on the plan's membership, its financial situation and the 1998 Separation Program. It also provides pensioner news.

In addition, the *What's new?* section covers the latest regulations governing pension adjustment reversals (PARs), and tells you how active members can access the on-line version of the PIC report on the Human Resources site of Bell Canada's Intranet.

This year, we have also included information on changes made to government plans late in 1997.

Please note that the report addresses only certain provisions of the Bell Canada Pension Plan. If you are an active member, please refer to the Human Resources site of Bell Canada's Intranet for a description of the Bell Canada Pension Plan.

While every effort has been made to give accurate information, the pension plan text will govern in all cases should any questions arise.

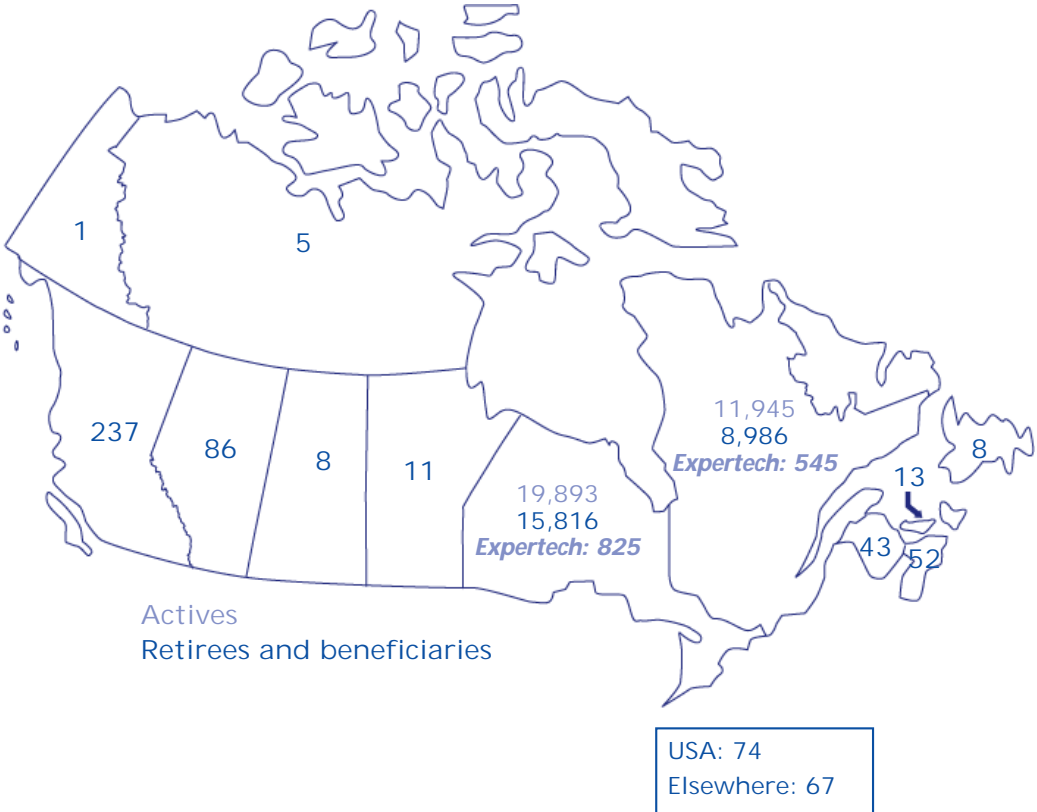
What you'll find inside

A profile of plan membership	1
The plan's financial picture	4
1998 Separation Program	9
What's new?	10
About retirees	11
The Pension Information Committee: Working in the plan's best interest	13
Other things you may want to know	15

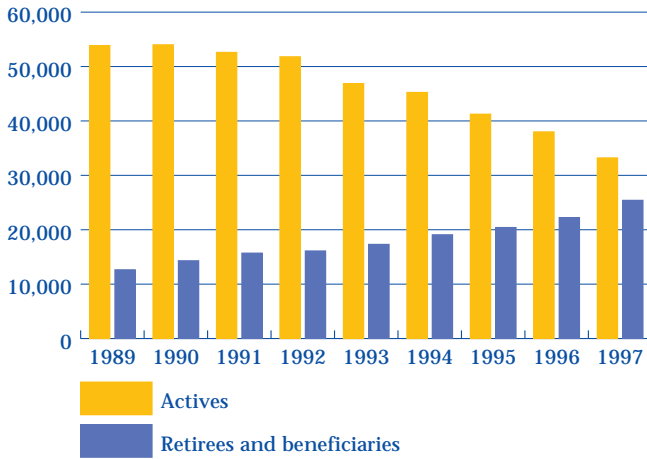
A profile of plan membership

Number of members

Of the 58,615 members at the end of 1997, 33,208 were active members, 24,606 were retired members, and 801 were beneficiaries receiving survivor pensions. While active members are located in Ontario and Québec, retirees and other beneficiaries are spread across the country and abroad.

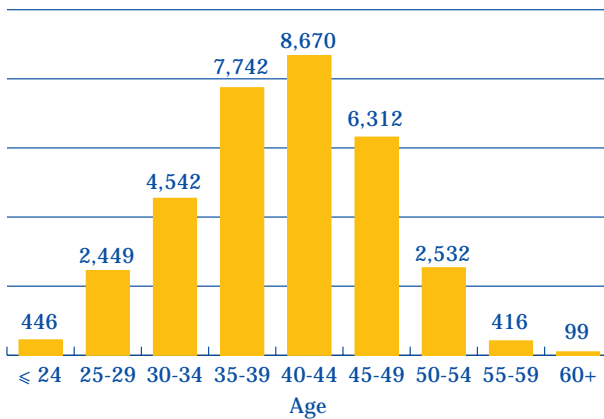


Evolution of membership



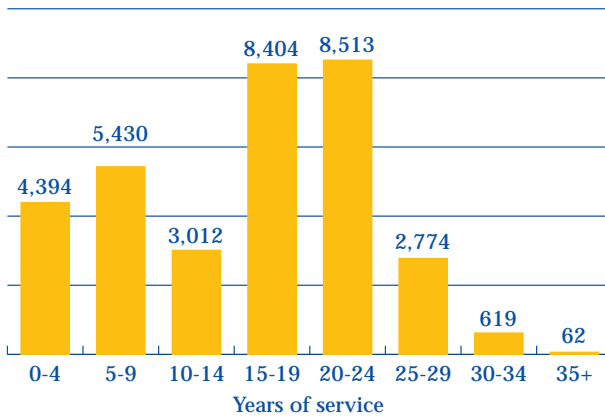
From December 31, 1989, to December 31, 1997, the plan membership experienced a constant decrease in the number of active members and a continuous increase in the number of retirees and beneficiaries. At the end of 1997, retirees and beneficiaries represented 43% of the total membership.

Age distribution of active members



At the end of 1997, almost half of the active members were between ages 35 and 45, and the average age of the members was 40.6 years.

Service distribution of active members



At the end of 1997, slightly more than half of the active members had between 15 and 25 years of service with Bell, and the average length of service was 15.9 years.

The plan's financial picture

Under the Bell Canada Pension Plan, you accumulate pension benefits without having to contribute to the plan. Your benefits are entirely funded by the company.

Financial status of the plan

At least once every three years, an actuary must, in accordance with legislation, calculate the assets that are required to cover the value of accrued benefits and assess how much additional contributions are needed to fund future benefits.

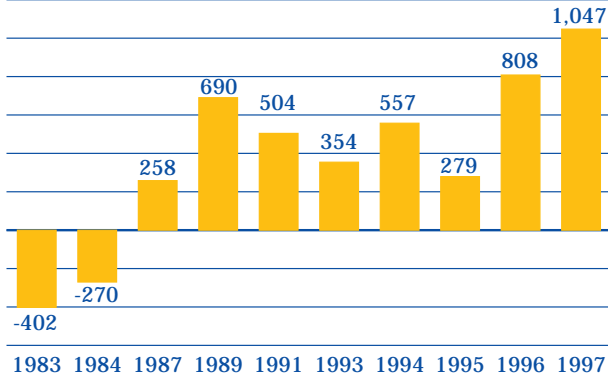
The latest actuarial valuation, which was conducted as of December 31, 1997, indicates a surplus of \$1,047 million in the pension fund.

	Value as of December 31, 1997 (in millions)
Actuarial value of assets	\$8,592
Liabilities (value of accrued benefits)	\$7,545
Surplus	\$1,047

Assets are the value of the pension fund's investments. The market value of the assets at the end of 1997 was \$9,419 million. For actuarial purposes, the value of the pension fund is not its market value but rather a figure reflecting the amortization of market-value fluctuations. Since December 31, 1996, market-value fluctuations are amortized over a four-year period. The actuarial value may not deviate from the market value by more than 10%.

Evolution of the plan's financial situation (surplus or deficit) from 1983 to 1997

(in millions of dollars)



The increase in surplus from 1996 to 1997 can be explained mainly by the fact that the investment return was higher than anticipated.

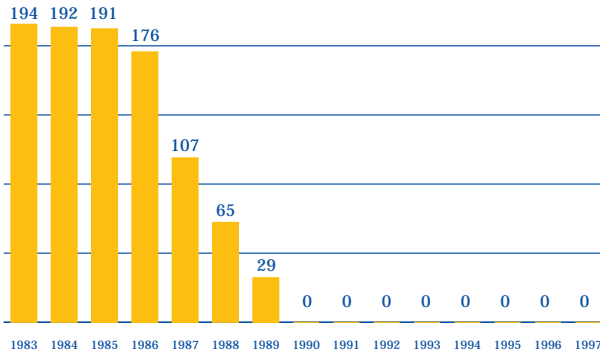
Company contributions

Bell's yearly contributions depend on the plan's financial situation. When the plan is in deficit, such as in the early 1980s, the company is required to make additional contributions to eliminate the deficit over a reasonable period of time.

Since 1983, the company has contributed close to \$1 billion to the pension plan. For the past eight years, however, Bell has not been required to contribute because of the plan's healthy situation. In accordance with the Income Tax Act, when the surplus exceeds 10% of the actuarial liabilities, the company is not allowed to contribute to the fund. This is currently the case.

Company contributions to the pension fund from 1983 to 1997

(in millions of dollars)



Please note that your benefits are not affected in any way when the company does not contribute to the fund.

Investments

investment policy

The pension plan's assets are invested under the terms of an investment policy established by the Pension Fund Policy Committee, a subcommittee of the Board of Directors. This policy provides for investments with a balanced approach. In particular, the goal of the policy is to achieve an overall balance between financial risk and return.

investment guidelines

To put this policy into practice, investment guidelines are established. These guidelines define the acceptable level of risk by establishing the minimum and maximum percentages of assets that may be invested in each of the various asset classes. The guidelines also set out specific investment conditions for each of the asset classes.

At its discretion, the fund's investment manager, Bimcor Inc., determines the asset mix within these guidelines.

The minimum and maximum limits as well as the actual investment levels as of December 31, 1997, are as follows:

Asset class	Minimum	Actual	Maximum	As of December 31, 1997
Fixed income (excluding mortgage)	25%	37.2%	60%	37.2
Cash	0%	3.3%	20%	3.3
Real estate	0%	2.1%	4%	2.1
Non-Canadian equities (including U.S. equities)	0%	18.5%	20%	18.5
Mortgage	0%	0%	1%	0.1
Canadian equities	25%	38.9%	50%	38.9

The pension plan's investments are well-diversified. The plan assets are currently invested in several hundred different securities, which ensures a broad diversification of risk.

Investment in BCE shares

The Pension Fund Policy Committee recently authorized the BCE Master Trust to invest in equity securities of BCE, Northern Telecom Limited and affiliates (also known as the "BCE Group"), subject to certain rules and limitations.

Effective in 1999, the BCE Master Trust will be allowed to hold from 50% to 80% of the market weight of each security in the TSE 300 composite index. As of October 1998, the BCE Group represented about 12% of the TSE 300. As a result, given that the Canadian equities portfolio totals about 40% of the BCE Master Trust, between 2% and 4% of the Trust could be invested in securities of the BCE Group. Many operational constraints are put in place to provide adequate safeguards.

During 1997, the Bell Canada Pension Fund had a 15.3% rate of return. In the 10-year period ending on December 31, 1997, the fund as a whole earned an average rate of return of 12%.

Effective January 1, 1997, the BCE Master Trust Fund holds the majority of the assets of the Bell Canada Pension Plan as well as assets of other pension plans in the BCE family, such as the BCE Umbrella Pension Plan—in which many Bell subsidiaries participate—as well as the Télébec pension plans.

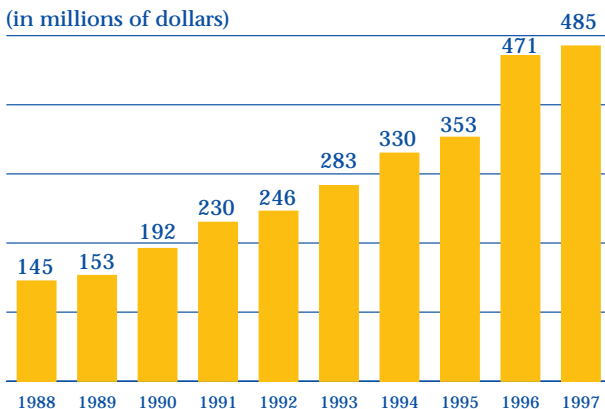
The BCE Master Trust Fund is governed by investment policies and guidelines similar to those of the Bell Canada Pension Fund. Only investments in real estate and mortgages are kept outside the BCE Master Trust Fund.

Bimcor Inc. is responsible for the management of all assets in the BCE Master Trust Fund. Although assets are invested in a common vehicle, each pension plan is a separate legal entity.

Disbursements

The total benefits paid in 1997 amounted to \$485 million. This amount includes benefits payable for retirement, death, and termination of employment, as well as payments made as a result of a member's marriage breakdown.

Benefits paid

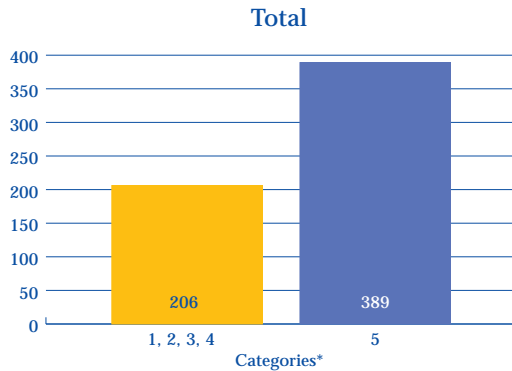
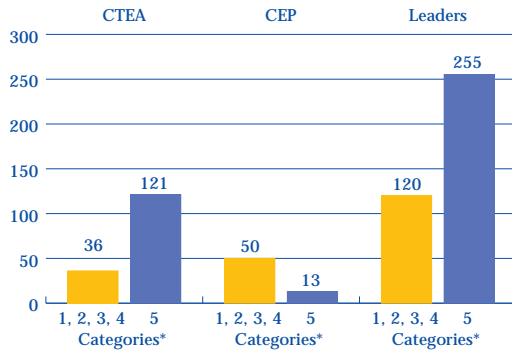


1998 Separation Program

The severance conditions of the 1995-1997 Voluntary Separation Program (VSP) were extended in 1998 to address specific business needs and to continue to build a stronger, more competitive company.

For leaders, the severance measures were involuntary. Unionized employees were subject to the same workforce transition provisions as those applicable since 1995.

As of the end of October 1998, the 1998 Separation Program covered 595 employees, divided as follows:



* As per the 1995-1997 VSP.

Note: The termination allowance for categories 4 and 5 is not paid by the pension fund.

What's new?

Pension adjustment reversal

Pension adjustment reversals (PARs) are calculated for members whose membership in the pension plan was terminated on or after January 1, 1997.

The employee's membership must cease for reasons other than death or retirement, and the employee must choose to transfer the commuted value of his or her pension to a locked-in vehicle.

The purpose of the PAR is to restore lost RRSP contribution room. Generally, the PAR will be equal to the excess, if any, of the sum of the pension adjustments (PAs) reported since 1990 over the lump-sum amounts actually paid to the member from the plan for post-1989 service.

The reporting deadline for PARs arising from termination of membership in 1997 or 1998 is March 31, 1999 (reported via a T10 form). Taxpayers who have PARs that arose in 1997 or 1998 will be granted an extension of the deadline for making RRSP contributions that can be deducted in the 1998 tax year. The extended deadline is April 30, 1999. PARs can also be carried forward into future years along with other unused RRSP contribution room.

On-line pension information for active employees

Important information about your pension plan is now only a mouse click away. This year's Pension Information Committee Report is currently available in full on the Human Resources site of Bell Canada's Intranet.

About retirees

Here's a brief rundown of the latest pensioner statistics and an update on indexation.

Retiree statistics at Bell

	New retirees in 1997		Total population of retirees as of December 31, 1997	
	Female	Male	Female	Male
Average retirement age	53	53	56	56
Average total years of service	28	29	29	33
Age of our youngest retiree	44	46	45	46
Age of our oldest retiree	65	65	101	99

Bell's cost-of-living adjustments

The Bell Canada Pension Plan provides for the indexation of pensions to partially compensate for increases in the cost of living. All pensions in payment are adjusted each January 1 according to an indexation formula, which takes into account 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.

Cost-of-living
adjustment as of
January 1, 1998

Over the 12-month period ending October 1997, the CPI increased by 1.47%. Therefore, based on the indexation formula, **pensioners who retired before 1997** received a 1% cost-of-living adjustment on their January 1998 pension cheque (equivalent to the CPI increase of 1.47% rounded to the nearest percent).

Pensioners who retired during 1997 received a cost-of-living adjustment calculated on a pro rata basis.

Cost-of-living
adjustment as of
January 1, 1999

Over the 12-month period ending October 1998, the CPI increased by 1.01%. Therefore, based on the indexation formula, **pensioners who retired before 1998** will receive a 1% cost-of-living adjustment on their January 1999 pension cheque.

Pensioners who retired during 1998 will receive a cost-of-living adjustment calculated on a pro rata basis.

Note that, over the last 10 years, cost-of-living adjustments for pensioners under age 65 total 17.2%, representing close to 65% of inflation. For the same period, cost-of-living adjustments for pensioners age 65 and over total 20.2%, representing more than 75% of inflation.

Active employees can refer to the Human Resources site of Bell Canada's Intranet for more information on the cost-of-living adjustment. Retirees can refer to the *Pensioner's Guide* for more information.

The Pension Information Committee: Working in the plan's best interest

Pension plans can be complex and difficult to understand. In addition, with the changes in pension legislation, it is sometimes a challenge to keep up with what's happening to your pension plan. That's why the Pension Information Committee (PIC) was created in 1989.

The PIC's mandate, as defined by the Pension Benefits Standards Act, 1985, also includes reviewing the financial, actuarial, and administrative aspects of the plan. **Please note, however, that the PIC does not have the power to change or modify any provisions of the plan, or to make representations with this purpose in mind.** In addition, policies with respect to benefit plans other than the pension plan are not discussed with the PIC.

The PIC achieves its tasks through various efforts, such as this report in collaboration with the company and a yearly meeting to review various issues related to the pension plan. The latest meeting was held on November 16, 1998.

Meet the PIC members

The PIC consists of eight members representing various groups to ensure that everyone remains adequately informed on the plan.

The current PIC members are as follows:

Representing ...	Ontario	Québec
Pensioners	Jack M. Fitzgerald (end of term: Dec. 1998) to be replaced by Daniel A. Braniff (term: Jan. 1999 to Dec. 2000)	Jean-Marc Hébert (end of term: Dec. 2000)
Leaders	John Arakelian (end of term: Dec. 2000)	Richard Beaudin (end of term: Dec. 2000)
CTEA	Gail Karrys	Frédérique Landry
CEP	Bill Burns	Michel Duplessis

All members of the PIC have been named by their peers to serve on the Committee for various periods of time, depending on the group they represent.

Next elections

To facilitate future elections, all terms must end in December 2000. The next elections will be held in the summer of 2000.

Other things you may want to know

Government plans

The government plans are made up of the Canada/Québec Pension Plan and Old Age Security.

Canada/ Québec Pension Plan (C/QPP)

The C/QPP provides lifetime, retirement income based on your retirement age and the Year's Maximum Pensionable Earnings (YMPE). The YMPE refers to the maximum annual amount on which employers and employees contribute to the C/QPP. This amount is revised every year by the government, according to the increase in the Average Industrial Wage Index in Canada. In 1998, the YMPE is \$36,900.

You normally begin receiving benefits at 65, but you could choose to receive reduced benefits as early as age 60. Regardless of when payments begin, however, they are adjusted every year, based on the Consumer Price Index, to keep up with inflation. In 1998, the maximum monthly C/QPP pension payable from age 65 is \$750.69.

In December 1997, legislation relating to changes to the Canada Pension Plan (CPP) and Québec Pension Plan (QPP) was adopted. These changes were intended to strengthen the financial position of both the CPP and QPP.

Many of the changes to both plans are identical:

- increase in the contribution rate (employer/employee rates combined) from 6% in 1997 to 9.9% starting in 2003;
- basic exemption frozen at \$3,500;
- averaging period for calculating pensionable earnings set at five years instead of three years.

The main changes specific to each plan are summarized below:

CPP	QPP
Accelerated current funding to ensure the projected combined employer/employee contribution rate remains below 10%	Uniform lump-sum benefit payable in the event of death
Improved rate of return on the CPP fund by investment in a diversified portfolio of securities and not solely in government bonds	Changes to the retirement pension of recipients of a disability pension
Tightened benefit administration	QPP contribution requirement for every retired person who works

Old Age Security (OAS)

The OAS benefit is a lifetime, flat-rate pension payable at age 65, provided you meet certain residence and other requirements. The OAS pension is adjusted every three months according to the Consumer Price Index. As of January 1, 1998, the OAS pension was \$407.15.

However, if your net income after age 65 exceeds a certain level (\$53,215 in 1998), the excess is taxed at 15% up to your full OAS amount. For individuals with a net income exceeding approximately \$86,000, the OAS pension becomes non-existent, since the full OAS amount is clawed back. Since July 1, 1996, OAS benefits are reduced at the time of payment to reflect this clawback.

In the event of divorce or separation

Increasingly, people want to know what happens to their benefits under the pension plan in the event of a marriage breakdown, that is, if they were to divorce or separate from their spouse. It is a good question with a complex answer.

Subject to the terms of the Pension Benefits Standards Act (PBSA), 1985, which governs the Bell Canada Pension Plan, the company will divide the pension benefits according to the court order or the agreement between you and your spouse. However, the PBSA does not require the company to perform the actuarial calculations to determine the pension benefits to be divided among the spouses; the respective spouses are responsible for those calculations.

Because the laws regarding marriage breakdown are complex and vary among the provinces, you should consult a legal advisor for specific details.

RRSP contribution limit

Registered Retirement Savings Plans (RRSPs) are one of the best ways to save for retirement because you can deduct every dollar you invest from your taxable income, up to your contribution limit set by the federal government.

The 1998 maximum contribution to an RRSP is determined as follows:

18% of your earned income in the previous year, to a maximum of \$13,500,
minus
your pension adjustment (PA)
plus
your unused contribution room since 1990

Your earned income includes your earnings plus other income such as alimony payments received and business or rental income. It does not include investment income. It is reduced by alimony payments made and business or rental losses.

Your exact contribution limit is shown on your *Notice of Assessment*, which you receive from the government after you have filed your income tax return for the previous year.

Pension adjustment

If you participate in a company pension plan, such as the Bell Canada Pension Plan, a key factor in determining the amount you may contribute to your RRSP is the deemed value of your company pension benefits earned in the previous year. This value is called a pension adjustment (PA).

The PA is used to reduce the RRSP contribution limit so that retirement savings in all types of plans receive the same tax assistance. Each year, Bell Canada calculates your PA, according to a government formula, and prints it on your T4 slip, which you receive in February.

Employees become members of the Bell Canada Pension Plan after two years of service. At the completion of two years of plan membership, the first two years of employment are recognized retroactively in the pension entitlement. Therefore, although an employee is not a member of the plan in the initial two-year waiting period, Bell reports a pension adjustment on the employee's T4 slip since that period will be recognized eventually.

This is **Exhibit "D"**

referred to in the Affidavit of Abir Shamim
sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read "Anir Jhari". The signature is written in a cursive style with a large, stylized initial 'A'.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

From: "Marshall, Eleanor" <eleanor.marshall@bell.ca>
Date: November 5, 2021 at 12:13:01 PM EDT
To: Denis Marquis <denisa.marquis@sympatico.ca>
Cc: "Marchessault, Robert" <r.marchessault@bell.ca>, Denis Henry <denis.henry1@sympatico.ca>
Subject: **RE: 1998 indexation on Bell Pension Plan**

Hi Denis,

Thank you for your enquiry on October 31 regarding the calculation of the 1998 Pension Index for the Bell Canada Pension Plan.

That 1998 calculation result was clearly described to the members in the 1998 PIC Report, well over 20 years ago. Further, after the 2017 proposed class action was commenced, the Bell Defendants described that calculation in their responding affidavit, served on the Plaintiff in that action, and his counsel. The Bell Defendants noted that the calculation was similar in nature to the 2017 calculation, that it was publicized, and that there was no record of any concern or complaint about that calculation then, or since.

Any concern about the good faith administration of the Plan so many years ago is now subject to the applicable limitations period. Such rules are in place to protect against the very real complications and obstacles to re-visiting or remedying very old issues. In answer to your question, Bell Canada, as Administrator of the Plan, has no plans to take any action today regarding the 1998 calculation.

Kind regards,

Eleanor



Eleanor Marshall
Vice-President Pension & Benefits, Assistant Treasurer
T : 506-694-2930 M : 506-333-2580

From: Denis Marquis <denisa.marquis@sympatico.ca>
Sent: October-31-21 3:11 PM
To: Marshall, Eleanor <eleanor.marshall@bell.ca>
Cc: Marchessault, Robert <r.marchessault@bell.ca>; Denis Henry <denis.henry1@sympatico.ca>
Subject: [EXT]1998 indexation on Bell Pension Plan

Dear Eleanor,

We are writing further to the Ontario Court of Appeal's judgment of February 21, 2020 which determined that the pension indexation increase made by Bell for the 2017 was in error, in that Bell only increased pensions to retirees by 1% instead of 2%. We have received retiree inquiries asking how Bell intends to deal with the same error situation that was implemented for the 1998 indexation increase. As you are aware, the change in CPI in the relevant period in 1997 was calculated by Bell based on underlying data to be 1.47%, which Bell rounded down to 1% for purposes of indexing pensions in 1998. We understand that Statistics Canada reported the CPI change for the relevant period to be 1.5% (see Tables at this link: <https://www150.statcan.gc.ca/n1/pub/62-010-x/62-010-x1997004-eng.pdf>). Of course, based on the Court of Appeal's judgment, it is now evident that pensioners were entitled to a 2% increase in 1998 rather than the 1% implemented by Bell. The relevant Bell Canada pension plan provisions were substantively the same in 1997 as they were in 2017.

In light of this, we would appreciate it if you could confirm to us what Bell's plans are to fulfill its fiduciary duty to those pensioners (or their estates) who are entitled to a 2% adjustment to their pensions in 1998, rather than the 1% they received.

We look forward to your response.

Best regards,

Denis Marquis

President - Bell Pensioners' Group

External Email: Please use caution when opening links and attachments / Courriel externe: Soyez prudent avec les liens et documents joints

This is **Exhibit "E"**

referred to in the Affidavit of Abir Shamim
sworn before me this 11th day of August, 2023.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.



May 17, 2022

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2872
ahatnay@kmlaw.ca

Via Email

Eleanor Marshall
Vice-President Pension & Benefits, Assistant Treasurer
Bell Canada and BCE
1 Germaine St, 8th Floor
St. Johns, NB E2L 4V1

Robert Marchessault
Director, Pension and Actuarial Services
1 Carrefour Alexander-Graham-Bell
Bldg A, 4th Floor,
Verdun, Quebec, H3E 3B3

Dear Ms. Marshall and Mr. Marchessault:

**Re: Bell Pensioners Group
Bell Canada Pension Plan (the "Bell Canada Plan")
Pension Benefit Indexation Error for 1997
BCE Inc. Pension Plan (the "BCE Plan")
Our File No. 3600-211754**

We represent the Bell Pensioners Group, an organization of pensioners of Bell Canada ("**BPG**").

As we believe you are aware, the primary mandate of BPG is to protect the Bell Canada defined benefit pension and benefits that were earned by their members. BPG also has pensioners of BCE Inc. as members.

1. 1998 COLA Error for the Bell Canada Plan

We are writing with respect to the email exchange between BPG and Bell Canada dated November 5, 2021 (copy enclosed) wherein BPG contacted Bell Canada to correct the error that has been made to the rate of the cost-of-living increase ("**COLA**") applicable to the pension benefits for eligible pension plan members in 1997 (the "**1997 COLA Error**"), that was implemented at a lower rate of 1% instead of 2% and contrary to the terms of the Bell Canada Plan.

As you are aware, the decision of the Ontario Court of Appeal in the class action *Austin v. Bell Canada*, 2020 ONCA 142 was released on February 21, 2020 and the Court ruled that the correct interpretation of the applicable COLA provisions in the Bell Canada Plan – which are substantively identical for both 2017 and 1998 – mandated a 2% increase instead of the lower 1% that Bell had implemented.

As part of its decision, the Court of Appeal held that Bell's position would require an untenable "strained interpretation" of the Bell Canada Plan text:

[21] In our view, having regard to the grammatical meaning of s. 1.29 and the evidence regarding accepted statistical conventions for rounding, a *strained interpretation* of s. 1.29 would be required to make it mean that Statistics Canada determines only the increase in the Consumer Price Index and leaves it to Bell to adopt a different rounding policy to determine the Pension Index.

As a result of the Court of Appeal's decision, Bell was required to correct the COLA error made in 2017, and has since implemented the 2% COLA increase for eligible Bell pensioners going forward, and also issued make-up payments to all the affected pensioners. The implementation arrangement was approved by the court and included a payment of court costs by Bell to the plaintiff.

As has been acknowledged by Bell, the same COLA error exists for the 1997 increase, which Bell has not yet corrected. Like the 2017 COLA Error, the 1997 COLA Error is also contrary to the Bell Canada Plan text terms. Bell is required to correct this error both under its duty to administer the pension plan correctly in accordance with its terms, as well as Bell's fiduciary duty as the plan administrator to act in the best interests of the pension plan members, which includes issuing make-up payments to the impacted pensioners, as Bell did for the 2017 COLA Error.

We note a reference in Bell's November 2021 email to BPG to a limitation argument that Bell uses to avoid correcting the 1998 COLA Error. First, the Court of Appeal ruled on February 21, 2020 that the Bell Canada Plan was administered incorrectly for the 2017 COLA increase to the detriment of the plan members, and that Bell has acknowledged that the same error exists for the 1997 COLA increase. It would be a breach of Bell's fiduciary duty as the pension plan administrator to the pension plan members to seek to rely on a limitation period argument to evade its responsibility to correct the error and deprive Bell retirees of the full amount of their earned pension benefits, particularly in a pension plan that has significant surplus assets.¹

Second, under the *Limitations Act*, 2002, S.O. 2002, c. 24, Sched. B, a limitation period would only start to run from the date of the Court of Appeal's decision which was released on February 22, 2020. As limitation periods were extended by Ontario Regulation 73/20 by six months due to COVID, the time to commence a class action against Bell would not expire until August 22, 2022.

¹ The 2021 Bell Canada Pension Information Committee Report at page 11 indicates that as of December 31, 2020, the Bell Pension Plan has surplus assets of \$2,557.8 million on going-concern basis, and surplus assets of \$599.8 million on a solvency basis.

Accordingly, Bell is obligated to take steps to correct the 1997 COLA Error as well.

We also understand that the plaintiff in the *Austin v. Bell* case has contacted the federal pension regulator, the Office of Superintendent of Financial Institutions, requesting their assistance to have Bell take steps to correct the 1997 COLA Error.

2. The BCE Plan and COLA Errors

As noted above, BPG also has BCE pensioners as members. We understand that BCE was affiliated with Bell Canada in the past and that Bell was the administrator of the BCE Plan in the period around 1995/1996.

We also understand that the CPI increase in 1995/96 for the relevant period under the BCE Plan (August to August) was 1.5% as reported by Statistics Canada, while the increase calculated to two decimal places was 1.48%, and that Bell may have only implemented a 1% COLA increase. If so, that could be contrary to the interpretation required to be applied to the COLA provisions in the plan text, as held by the Ontario Court of Appeal.

We are therefore requesting that Bell advise whether there was a substantively similar COLA error(s) made for the BCE Plan members' pension benefits for the 1995/96 period, or any other period, and in what year(s) and if so, that Bell will correct any COLA errors with a make-up payment(s) for the affected BCE pensioners.

We look forward to hearing from you to address the issues raised in this letter.

Thank you for your attention to this matter.

Yours truly,

KOSKIE MINSKY LLP



Andrew J. Hatnay
AJH/vdl: encl

cc. Client

From: "Marshall, Eleanor" <eleanor.marshall@bell.ca>
Date: November 5, 2021 at 12:13:01 PM EDT
To: Denis Marquis <denisa.marquis@sympatico.ca>
Cc: "Marchessault, Robert" <r.marchessault@bell.ca>, Denis Henry <denis.henry1@sympatico.ca>
Subject: RE: 1998 indexation on Bell Pension Plan

Hi Denis,

Thank you for your enquiry on October 31 regarding the calculation of the 1998 Pension Index for the Bell Canada Pension Plan.

That 1998 calculation result was clearly described to the members in the 1998 PIC Report, well over 20 years ago. Further, after the 2017 proposed class action was commenced, the Bell Defendants described that calculation in their responding affidavit, served on the Plaintiff in that action, and his counsel. The Bell Defendants noted that the calculation was similar in nature to the 2017 calculation, that it was publicized, and that there was no record of any concern or complaint about that calculation then, or since.

Any concern about the good faith administration of the Plan so many years ago is now subject to the applicable limitations period. Such rules are in place to protect against the very real complications and obstacles to re-visiting or remedying very old issues. In answer to your question, Bell Canada, as Administrator of the Plan, has no plans to take any action today regarding the 1998 calculation.

Kind regards,

Eleanor



Eleanor Marshall
Vice-President Pension & Benefits, Assistant Treasurer
T : 506-694-2930 M : 506-333-2580

From: Denis Marquis <denisa.marquis@sympatico.ca>
Sent: October-31-21 3:11 PM
To: Marshall, Eleanor <eleanor.marshall@bell.ca>
Cc: Marchessault, Robert <r.marchessault@bell.ca>; Denis Henry <denis.henry1@sympatico.ca>
Subject: [EXT]1998 indexation on Bell Pension Plan

Dear Eleanor,

111

We are writing further to the Ontario Court of Appeal's judgment of February 21, 2020 which determined that the pension indexation increase made by Bell for the 2017 was in error, in that Bell only increased pensions to retirees by 1% instead of 2%. We have received retiree inquiries asking how Bell intends to deal with the same error situation that was implemented for the 1998 indexation increase. As you are aware, the change in CPI in the relevant period in 1997 was calculated by Bell based on underlying data to be 1.47%, which Bell rounded down to 1% for purposes of indexing pensions in 1998. We understand that Statistics Canada reported the CPI change for the relevant period to be 1.5% (see Tables at this link: <https://www150.statcan.gc.ca/n1/pub/62-010-x/62-010-x1997004-eng.pdf>). Of course, based on the Court of Appeal's judgment, it is now evident that pensioners were entitled to a 2% increase in 1998 rather than the 1% implemented by Bell. The relevant Bell Canada pension plan provisions were substantively the same in 1997 as they were in 2017.

In light of this, we would appreciate it if you could confirm to us what Bell's plans are to fulfill its fiduciary duty to those pensioners (or their estates) who are entitled to a 2% adjustment to their pensions in 1998, rather than the 1% they received.

We look forward to your response.

Best regards,

Denis Marquis

President - Bell Pensioners' Group

External Email: Please use caution when opening links and attachments / Courriel externe: Soyez prudent avec les liens et documents joints

This is **Exhibit "F"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.



June 24, 2022

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2872
ahatnay@kmlaw.ca

Via Email

Eleanor Marshall
Vice-President Pension & Benefits, Assistant Treasurer
Bell Canada and BCE
1 Germaine St, 8th Floor
St. Johns, NB E2L 4V1

Robert Marchessault
Director, Pension and Actuarial Services
1 Carrefour Alexander-Graham-Bell
Bldg A, 4th Floor,
Verdun, Quebec, H3E 3B3

Dear Ms. Marshall and Mr. Marchessault:

**Re: Bell Pensioners Group
Bell Canada Pension Plan (the "Bell Canada Plan")
Pension Benefit Indexation Error for 1997
BCE Inc. Pension Plan (the "BCE Plan")
Our File No. 3600-211754**

We write further to our letter dated May 17, 2022.

May we please have a response to our letter.

Yours truly,

KOSKIE MINSKY LLP

A handwritten signature in black ink, appearing to read "Andrew J. Hatnay". The signature is stylized and includes a long horizontal stroke at the end.

Andrew J. Hatnay
AJH/vdl

cc. Client

This is **Exhibit "G"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

McCarthy Tétrault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto ON M5K 1E6
Canada
Tel: 416-362-1812
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Dana M. Peebles
Direct Line: (416) 601-7839
Email: dpeebles@mccarthy.ca

July 21, 2022

Mr. Andrew J. Hatnay.
Koskie Minsky LLP
20 Queen Street West, Suite 900
Toronto ON M5H 3R3

Via Email: ahatnay@kmlaw.ca

Dear Sir:

Re: Bell Pensioners Group – Bell Canada / BCE Pension Plans

We are counsel to Bell Canada and BCE with respect to the matters raised in your letter of May 17, 2022.

Your letter raises questions, on behalf of the Bell Pensioners Group, about two specific annual pension indexation increases, in the BCE Pension Plan for 1996, and in the Bell Canada Pension Plan for 1997.

In each Plan, a calculation must be made each year, according to its terms, as to the pension indexation increase (if any). The annual calculation is made by comparing the Consumer Price Index (“CPI”) for a selected month (which is generated by Statistics Canada), in successive years. The result of that calculation is, for the Bell Canada Plan (and for the purposes of this letter, also for the BCE Plan), the “Pension Index”.

For many years, in each Plan, the annual Pension Index calculation was made to two decimal points (and then, depending upon the terms of the Plan, in some instances was rounded to the nearest whole number, or otherwise used to implement the indexation increase).

The Ontario Court of Appeal (the ONCA) recently determined that for its 2017 Pension Index calculation, the Bell Canada Plan should have instead adopted the result of the year-over-year CPI increase calculation published by Statistics Canada, which was rounded to one decimal point.

Your letter suggests that the method of calculation determined by the ONCA in January 2020 should have been applied to the two calculations made in the noted Plans.

Before addressing those calculations, it is obvious that concerns raised today about the good faith administration of those Plans over 23 years before the ONCA Judgment was released raises all of the issues and obstacles which limitation period principles are intended to address. Threatening to prosecute alleged concerns over decisions made and publicly announced decades ago raises the defences developed to prevent untimely litigation.

In any event, even if it were possible to proceed in Court on those calculations, the assumptions and analysis contained in your letter are unfounded.

1. The BCE Plan calculation for 1996.

Your letter first references the pension indexation calculation made in the BCE Pension Plan in the Fall of 1996 for the period of August 1995 to August 1996.

For that calculation, the BCE Plan obtained the CPI monthly figures for August 1995 (133.8) and for August 1996 (135.7) from Statistics Canada. To do so, as there was no instant access to those figures (as there is today), the Plan would contact the government agency by telephone, and were provided with those monthly numbers by telephone or telefax.

The BCE Plan then completed the necessary calculation using the referenced data, with the result calculated to two decimal points [1.42%] and then rounded, where necessary under the terms of that Plan, to 1%.

A current statistical record of monthly CPI figures on the Statistics Canada website verifies the August 1995 and August 1996 figures above, and further records, today, the annual increase for that period to be 1.4%. I attach a copy of the relevant page from that website.

Your letter states that Statistics Canada "reported" that the CPI increase "in 1995/1996 for the relevant period was 1.5%". We are not aware of any such report of a 1.5% figure in 1996, which would not accord with that agency's current historical website data. Can you please provide us with the Statistics Canada public report in 1996 to which you are referring?

Otherwise, based on the facts provided to us from BCE, no annual percentage increase figure for the period of August 1995 to August 1996 was provided to BCE by Statistics Canada when that calculation was made for the purposes of the BCE Plan.

As such, the BCE Plan calculation was made according to the Plan's own understanding of its terms, and was appropriate at that time.

2. The Bell Plan calculation for 1997

Your letter then references the pension indexation calculation made in the Bell Pension Plan in late 1997 for the period of October 1996 to October 1997.

For that calculation, the Bell Plan obtained the CPI monthly figures for October 1996 (136.2) and for October 1997 (138.2) from Statistics Canada. Again, the Plan contacted the government agency, which provided the relevant monthly numbers by telephone or telefax.

The Bell Plan then completed the necessary calculation using the referenced data, with the result calculated to two decimal points [1.47%] and then rounded, where necessary under the terms of that Plan, to 1%.

Your letter does not provide a calculation of these figures, but the same attachment of the current record of historical monthly CPI figures on the Statistics Canada website verifies those monthly numbers, and records the annual increase for that period to be 1.5%.

Based on the facts provided to us by Bell Canada, no annual percentage increase figure for the noted period was provided to Bell Canada by Statistics Canada when that calculation was made for the purposes of the Bell Canada Plan.

As such, the Bell Plan calculation was made according to the Plan's own understanding of its terms, and was appropriate at that time.

In our view, no further action is required by either the Bell Plan or the BCE Plan with respect to the decades-old calculations referenced in your correspondence.

Yours truly,

McCarthy Tétrault LLP



Dana M. Peebles

dmp

This is **Exhibit "H"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

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

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.



August 12, 2022

Andrew J. Hatnay
Direct Dial: 416-595-2083
Direct Fax: 416-204-2872
ahatnay@kmlaw.ca

Via Email

Dana M. Peebles
McCarthy Tétrault LLP
PO Box 48, Suite 5300, TD Tower
Toronto ON M5K 1E6

Dear Mr. Peebles:

**Re: Bell Canada Pension Plan
Pension Benefit Indexation Error for 1997
Our File No. 3600-210759**

We write further to your letter dated July 21, 2022.

We will address the BCE Plan issues under separate cover.

With respect to the Bell Canada Pension Plan, as you are aware, the Ontario Court of Appeal in *Austin v. Bell Canada* 2020 ONCA 142 held that under s. 1.29 of the Bell Canada Pension Plan, "both the annual percentage increase and the Consumer Price Index are to be determined by Statistics Canada" (para. 17).

You say that for the 1998 indexation calculation, Bell obtained raw CPI numbers from Statistics Canada (for October 1996 (136.2) and for October 1997 (136.2)) and then proceeded to calculate the change in the CPI to arrive at 1.47%. Bell then rounded that number down to 1%, and implemented a 1% indexation increase, instead of 2%.

That is not the correct way to calculate the indexation increase under the Bell Canada Pension Plan text, as held in *Austin v. Bell Canada*.

As noted, s. 1.29 of the Bell Canada Pension Plan states that "'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."

As you acknowledge in your letter, the CPI annual change determined by Statistics Canada for the relevant period was 1.5%, not 1.47%. Under s.8.7(iv) of the Bell Canada Pension Plan text, 1.5% is then rounded to the nearest whole number which is 2%, not 1%. That required Bell to implement a pension indexation increase of 2% - not 1%.

The Court of Appeal's decision makes clear that s. 1.29 of the plan is to be interpreted by following Statistics Canada's determination of the annual change in the Consumer Price Index, and thus not Bell's own calculation of that change if it differs from Statistics Canada's.

Practically speaking, if Bell's own CPI calculation turned out to be the same as Statistics Canada's determination, then there is no practical problem for the indexation to be applied to the retirees' pension benefits. However, if the CPI calculations done by Bell are different from Statistics Canada's and lead to a lower percentage increase by the rounding down to the next whole number instead of up, then Bell must use the CPI determined by Statistics Canada.

For the 1998 indexation increase, pursuant to the terms of the Bell Canada Pension Plan, it was incumbent on Bell to obtain and use the annual change in CPI determined by Statistics Canada rather than use its own lower calculation of 1.47% which Bell rounded down to 1%. Rather than use the determination by Statistics Canada that the CPI increase was 1.5%, (which rounds to 2% as the "nearest whole number" under s. 8.7(iv)), Bell implemented a 1% increase based on its own CPI calculation of 1.47%, and in so doing Bell either ignored or disregarded Statistics Canada's CPI determination of 1.5%.

We would note that if Bell learned of Statistics Canada's determination of 1.5% after it had implemented its own (incorrect) 1% increase, then Bell as the pension plan administrator should have immediately corrected the 1% increase error to a 2% increase for the retirees' pension benefits, which a pension plan administrator can readily do. Instead, Bell did not correct the indexation error and left the wrong indexation of 1% to remain.

The 1% indexation increase for 1997 has shortchanged the affected Bell pensioners from receiving their correct pension amounts. The 1% indexation error constitutes a failure by Bell to administer the Bell Canada Pension Plan in accordance with its terms, contrary to the pension plan text, *Pension Benefits Standards Act*, and Bell's fiduciary duty to the pension plan members to act in their best interests.

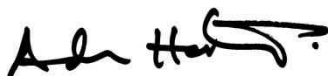
Moreover, Bell's indexation error compounds in each subsequent year as future indexation increases are applied to a constantly incorrect lower pension amount. Conversely, the compounding error advantages Bell by generating lower contribution requirements to the pension plan, thus enriching Bell at the expense of the pensioners.

Next Steps

Our client, the Bell Pensioners Group, is willing to discuss a reasonable settlement and mechanism to compensate the affected pensioners and avoid additional litigation.

Please let the undersigned know if your client is amenable to such a discussion, and we can have a call to discuss

Yours truly,
KOSKIE MINSKY LLP



Andrew J. Hatnay
AJH/vdl

cc. Client

This is **Exhibit "I"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read "Avin J. J. J.", written in a cursive style.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

GASTON J. PERREAULT and ODETTE DI MURO

Plaintiffs

- and -

BELL CANADA (also known as THE BELL TELEPHONE COMPANY OF CANADA), BELL CANADA INC., BELL MEDIA INC., EXPERTECH NETWORK INSTALLATION INC., BELL MOBILITY INC., and BELL TV INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

NOTICE OF ACTION

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. The claim made against you is set out in the statement of claim served with this notice of action.

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 plaintiffs' lawyer or, where the plaintiffs do not have a lawyer,

serve it on the plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this notice of action 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.

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: August 19, 2022

Issued by:

Local Registrar

Address of
court office:

393 University Avenue
Toronto, ON M5G 1E6

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

AND TO: BELL MEDIA INC.
299 Queen St. West
Toronto, ON, M5V 2Z5
Canada

AND TO: EXPERTECH NETWORK INSTALLATION INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3
Canada

3

AND TO: BELL MOBILITY INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3
Canada

BELL TV INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3
Canada

CLAIM

1. The Plaintiffs claim:

- (a) An order certifying this action as a class proceeding and appointing the Plaintiffs as representative plaintiffs for the Class pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
- (b) A declaration that in 1998, the Defendants improperly calculated the rate of indexation of the Class Members pension benefits under the Bell Canada Pension Plan;
- (c) A declaration that the Defendants breached its fiduciary and trust duties to the Plaintiffs 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 were, and continue to be, unjustly enriched by their breach of contract and breach of fiduciary and trust duties to the Plaintiffs and the Class Members;
- (f) A declaration that the Defendants are liable to the Plaintiffs and Class Members for damages caused by the Defendants' breach of contract, breach of fiduciary and trust duties, and unjust enrichment to the Plaintiffs and Class Members;
- (g) Damages payable by the Defendants for breach of fiduciary and trust duties, breach of contract, and unjust enrichment in the amount of approximately \$30 million or such other amount as may be determined by an actuary or by the court; or

- (h) 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 Class Members are put in the same position as if the 1998 indexation amounts were correctly calculated at first instance;
- (i) Costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;
- (j) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1995, c. C.43, as amended;
- (k) 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
- (l) Such further and other relief as this Honourable Court may deem just.

2. Without limiting any claims or allegations that may be set out in the Statement of Claim, the Plaintiffs plead the following:

The Plaintiffs

3. The Plaintiff, Gaston J. Perreault, is a resident of Québec City, Québec. He was hired as an employee of Bell Canada around April, 1955 in Drummondville, Québec in the position of Outside Representative and Clerk in the Commercial department. Over the course of a 35 year employment career, he was promoted to various positions including with the Business Office (or

Commercial) departments across Québec, Sales functions; and to middle management. His final position prior to his retirement was as District Manager-Business Office in Québec City.

4. As part of his employment compensation, Mr. Perreault participated in the Bell Canada Pension Plan (the "**Bell Canada Plan**") and earned pension benefits for his retirement. Mr. Perreault retired from Bell Canada in 1990 and began receiving his monthly pension benefits from the Bell Canada Plan in 1990.

5. The Plaintiff, Odette Di Muro, is a resident of Montreal, Québec. She was hired as an employee of Bell Canada in July 1960 as a clerk in the printing department. Over the course of a 33 year employment career, she was promoted to various positions including: Manager, Graphic Design, Manager, Service Bureau, Manager, University Recruitment, and Manager of Human Resources. Her final position was as Manager, Recruitment.

6. As part of her employment compensation, Ms. Di Muro participated in the Bell Canada Plan and earned pension benefits for her retirement. Ms. Di Muro retired from Bell Canada in 1996 and began receiving her monthly pension benefits from the Bell Canada Plan in 1996.

The Defendants

7. Bell Canada (or, the "**Plan Administrator-Defendant**") is a corporation incorporated pursuant to the laws of Canada. It is a subsidiary of BCE Inc., a publicly-traded corporation that carries on business in communications and media and has its headquarters in Verdun, Québec.

8. Bell Canada is the administrator of the Bell Canada Plan. The Bell Canada Plan has substantial surplus assets.

9. 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.

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

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

12. Bell TV Inc. is a dissolved corporation which was incorporated pursuant to the laws of Canada. It maintained its headquarters in Montreal, Québec, 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 Bell Canada Plan on behalf of the former employees of Bell TV Inc.

13. Bell Canada Inc., Bell Media Inc., Expertech Network Installation Inc., Bell Mobility Inc., and Bell TV Inc. (collectively, the “**Employer-Defendants**”), are participating and contributing employer companies in the Bell Canada Plan.

The Class

14. The Class consists of all persons who are or were members of the Bell Canada Plan, or otherwise entitled to benefits under the Bell Canada Plan, pursuant to section 8.7 of the Bell Canada Plan, or a predecessor section, as of January 1, 1998, together with the spouses, estates, heirs, beneficiaries, and representatives of any of such persons who have died.

Background

15. The Defendants created the Bell Canada Plan as part of the employment contract with its employees to provide a monthly payment to employees and certain other beneficiaries on their retirement. The monthly pension benefit amount varies from individual to individual, and the amount is determined based on various factors, including the retiree's salary history and length of employment.

16. Under the terms of the Bell Canada Plan, the pension benefit paid to retirees is required to be increased annually by Bell Canada as a form of partial inflation protection. This is known as indexation, or a cost-of-living ("**COLA**") adjustment.

17. Under the terms of the Bell Canada Plan, the annual indexation increase to be applied by Bell Canada, as the administrator of the Bell Canada Plan, to retirees' pension benefits is "the annual percentage increase of the Consumer Price Index ("**CPI**")", ***as determined by*** Statistics Canada" (emphasis added), which figure is then to be rounded to the "nearest whole number", to a maximum to 2%.

18. For the annual indexation increase for the year 1998, Bell Canada incorrectly used *its own* calculation of the CPI to arrive at 1.49%, which Bell then rounded *down* to 1%. The applicable CPI as determined by Statistics Canada for that period was 1.5%, which when rounded to the nearest whole number is *up* to 2%.

19. The difference between a 1% indexation increase that Bell incorrectly applied and a 2% indexation increase is significant for the Class Members.

20. In addition, Bell Canada's indexation error for 1998 continues to compound in each subsequent year as future indexation increases are applied to a constantly incorrect lower pension benefit amount for each of the Class Members, thus continually and annually depriving the Class Members from receiving their correct monthly pension benefits that they earned while employees of Bell Canada.

21. Conversely, Bell Canada error advantages itself by generating continually lower contribution requirements to the Bell Canada Plan, thus saving Bell Canada cash, and unjustly enriching Bell Canada at the expense of the retirees.

The Austin v. Bell Canada decision of the Ontario Court of Appeal

22. In 2020, the Court of Appeal for Ontario decided this same issue in *Austin v Bell Canada*, 2020 ONCA 142 ("*Austin*"). In *Austin*, the plaintiff brought a class action against Bell Canada for making the same error described above for the 2017 indexation increase. In its decision released on February 21, 2020, the Ontario Court to Appeal held that under the terms of the Bell Canada Plan, Bell Canada should have used the CPI figure *as determined by* Statistics Canada of 1.5% and then rounded that up to 2%. The Court of Appeal decision required Bell Canada to correct its error, implement the 2% indexation increase for the year 2017, and pay compensation to the affected class members in that case.

Despite the Court of Appeal's decision, Bell Canada refuses to correct the same error it made for the 1998 indexation

23. As noted, in 1998, Bell Canada made the same indexation error they had made in 2017 which the Court of Appeal held was wrong.

24. Following the release of the *Austin* decision, the plaintiffs' pensioner organization, the Bell Pensioners Group, contacted Bell Canada requesting that it correct the same error it made for the 1998 indexation increase.

25. Despite numerous requests by the Bell Pensioners Group, Bell Canada has refused to correct its error for the 1998 indexation increase.

26. Bell Canada's failure to correct its error for the the 1998 indexation, despite the decision of the Ontario Court of Appeal, is a breach of trust, breach of contract, and breach of fiduciary duty under both the common law and the *Pension Benefits Standards Act, 1985*, R.S.C., 1985, c. 32 (2nd Supp.). As a result of this error, the Plaintiffs and the Class members have suffered damages and are continually suffering damages.

27. The Plaintiffs propose that this action be tried in the City of Toronto.

August 19, 2022

KOSKIE MINSKY LLP
20 Queen Street West, Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LSO #31885W
Tel: 416-595-2083 / Fax: 416-204-2872
Email: ahatnay@kmlaw.ca

Lawyers for Plaintiffs

Court File No.

132

GASTON J. PERREAULT and ODETTE DI MURO v. **BELL CANADA et. al.**

Plaintiffs

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

NOTICE OF ACTION

KOSKIE MINSKY LLP
20 Queen Street West
Suite 900, Box 52
Toronto, ON M5H 3R3

Andrew J. Hatnay - LS# 31885W
Tel: 416-595-2083 / Fax: 416-204-2872
Email: ahatnay@kmlaw.ca

Lawyers for the Plaintiffs

This is **Exhibit "J"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

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

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

Court File No. CV-22-00685817-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

GASTON J. PERREAULT and ODETTE DI MURO

Plaintiffs

- and -

BELL CANADA (also known as **THE BELL TELEPHONE COMPANY OF CANADA**), **BELL CANADA INC.**, **BELL MEDIA INC.**, **EXPERTECH NETWORK INSTALLATION INC.**, **BELL MOBILITY INC.**, and **BELL TV INC.**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

TO THE DEFENDANT(S):

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiffs. 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 plaintiffs' lawyer or, where the plaintiffs do not have a lawyer, serve it on the plaintiffs, 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 PLAINTIFFS' 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 plaintiffs' claim and \$400 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: September 19, 2022

Issued by:

Local Registrar

Address of
court office:

393 University Avenue
Toronto, ON M5G 1E6

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

AND TO: BELL MEDIA INC.
299 Queen St. West
Toronto, ON, M5V 2Z5
Canada

AND TO: EXPERTECH NETWORK INSTALLATION INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3
Canada

AND TO: BELL MOBILITY INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3

AND TO: BELL TV INC.
1 Carrefour Alexander-Graham-Bell A-7
Verdun, QC, H3E 3B3
Canada

CLAIM

1. The Plaintiffs claim:
 - (a) An order certifying this action as a class proceeding and appointing the Plaintiffs as representative plaintiffs for the Class pursuant to the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
 - (b) A declaration that for 1998, the Defendants improperly calculated the annual rate of indexation of the Class Members pension benefits under the Bell Canada Pension Plan;
 - (c) A declaration that the Defendants breached their fiduciary and trust duties to the Plaintiffs 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 were, and continue to be, unjustly enriched by their breach of contract and breach of fiduciary and trust duties to the Plaintiffs and the Class Members;
 - (f) A declaration that the Defendants are liable to the Plaintiffs and Class Members for damages caused by the Defendants' breach of contract, breach of fiduciary and trust duties, and unjust enrichment to the Plaintiffs and Class Members;

- (g) Damages payable by the Defendants for breach of fiduciary and trust duties, breach of contract, and unjust enrichment in the amount of approximately \$30 million or such other amount as may be determined by an actuary or by the court; or
- (h) 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 Class Members are put in the same position as if the 1998 indexation amounts were correctly calculated at first instance;
- (i) Costs of this action on a substantial indemnity basis or in an amount that provides full indemnity;
- (j) Pre-judgment and post-judgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1995, c. C.43, as amended;
- (k) 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
- (l) Such further and other relief as this Honourable Court may deem just.

2. The Plaintiffs plead the following:

The Plaintiffs

3. The Plaintiff, Gaston J. Perreault, is a resident of Québec City, Québec. He was hired as an employee of Bell Canada around April, 1955 in Drummondville, Québec in the position of Outside Representative and Clerk in the Commercial department. Over the course of a 35-year employment career, he was promoted to various positions including with the Business Office (or Commercial) departments across Québec, Sales functions; and to middle management. His final position prior to his retirement was as District Manager-Business Office in Québec City.

4. As part of his employment compensation, Mr. Perreault participated in the Bell Canada Pension Plan (the "**Bell Canada Plan**") and earned pension benefits for his retirement. Mr. Perreault retired from Bell Canada in 1990 and began receiving his monthly pension benefits from the Bell Canada Plan in 1990.

5. The Plaintiff, Odette Di Muro, is a resident of Montreal, Québec. She was hired as an employee of Bell Canada in July 1960 as a clerk in the printing department. Over the course of a 33-year employment career, she was promoted to various positions including: Manager, Graphic Design; Manager, Service Bureau; Manager, University Recruitment; and Manager of Human Resources. Her final position was as Manager, Recruitment.

6. As part of her employment compensation, Ms. Di Muro participated in the Bell Canada Plan and earned pension benefits for her retirement. Ms. Di Muro retired from Bell Canada in 1996 and began receiving her monthly pension benefits from the Bell Canada Plan in 1996.

The Defendants

7. Bell Canada (or, the “**Plan Administrator-Defendant**”) is a corporation incorporated pursuant to the laws of Canada. It is a subsidiary of BCE Inc., a publicly-traded corporation that carries on business in communications and media and has its headquarters in Verdun, Québec.

8. Bell Canada is the administrator of the Bell Canada Plan. The Bell Canada Plan has substantial surplus assets.

9. 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.

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

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

12. Bell TV Inc. is a dissolved corporation which was incorporated pursuant to the laws of Canada. It maintained its headquarters in Montreal, Québec, 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 Bell Canada Plan on behalf of the former employees of Bell TV Inc.

13. Bell Canada Inc., Bell Media Inc., Expertech Network Installation Inc., Bell Mobility Inc., and Bell TV Inc. (collectively, the “**Employer-Defendants**”), are participating and contributing employer companies in the Bell Canada Plan.

The Class

14. The Class consists of all persons who are or were members of the Bell Canada Plan, or otherwise entitled to benefits under the Bell Canada Plan, pursuant to section 8.7 of the Bell Canada Plan, or a predecessor section, as of January 1, 1998, together with the spouses, estates, heirs, beneficiaries, and representatives of any of such persons who have died.

Background

15. The Defendants created the Bell Canada Plan as part of the employment contract with their employees to provide a monthly payment to employees upon their retirement, as well as to certain other beneficiaries. The monthly pension benefit amount varies from individual to individual, and the amount is determined based on various factors, including the retiree's salary history and length of employment.

16. Under the terms of the Bell Canada Plan, the pension benefit paid to retirees is required to be increased annually by Bell Canada as a form of partial inflation protection. This is known as indexation, or a cost-of-living (“**COLA**”) adjustment.

17. Under the terms of the Bell Canada Plan, the annual COLA increase to be applied by Bell Canada, as the administrator of the Bell Canada Plan, to retirees' pension benefits is “the annual percentage increase of the Consumer Price Index (“**CPI**”), *as determined by*

Statistics Canada" (emphasis added), which figure is then to be rounded to the "nearest whole number", to a maximum of 2%.

18. The applicable CPI as determined by Statistics Canada for the annual indexation increase to be applied by Bell for the year 1998 was 1.5%, which, under the terms of the Bell Canada Plan, should then be rounded to the nearest whole number, or *up* to 2%. Bell Canada incorrectly used *its own* calculation of the CPI to arrive at 1.47%, which Bell then rounded *down* to 1%, thereby depriving the Class members of their correct indexation increase, which error continues and compounds for each subsequent year to the present.

19. The difference between the 1% indexation increase that Bell incorrectly applied and the 2% indexation increase that was owed is significant for the Class Members.

20. Bell Canada's indexation error for 1998 continues to compound in each subsequent year because future indexation increases are applied to a constantly incorrect lower pension benefit amount from the previous year for each of the Class Members. These errors thus continually and annually deprive the Class Members from receiving their correct monthly pension benefits that they earned while employees of Bell Canada.

21. In addition, the 1998 indexation error and its subsequent compounding enable Bell Canada to make lower contributions to the Bell Canada Plan each year. Bell Canada thereby saves significant money, and is continually unjustly enriched at the expense of the Class Members.

The Austin v. Bell Canada decision of the Ontario Court of Appeal confirms Bell's Error

22. On February 21, 2020, the Court of Appeal for Ontario decided same COLA error issue in *Austin v Bell Canada*, 2020 ONCA 142 ("*Austin*"), a copy of which is attached hereto as **Appendix "A"**.

23. In *Austin*, the plaintiff brought a class action against Bell Canada for making the same substantive error described above for the 2017 indexation increase. In its decision released on February 21, 2020, the Ontario Court of Appeal held that under the terms of the Bell Canada Plan, Bell Canada should have used the CPI figure *as determined by* Statistics Canada of 1.5% and then rounded that *up* to 2%. The Court of Appeal required Bell Canada to correct its error, implement the 2% indexation increase for the year 2017, and pay compensation to the affected class members in that case.

24. Excerpts from the *Austin* decision follow:

The Bell Pension Plan

[5] The motion judge's ruling and this appeal turn on two provisions in the plan dealing with the annual indexing of benefits.

[6] The first is the definition of Pension Index in s. 1.29 of the Plan:

1.29 "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;.

[7] The second key provision is s. 8.7, which governs the calculation of the annual indexation increase. The case turns on how s. 1.29 and the determination of the Pension Index works in conjunction with the rounding provision in s. 8.7(iv):

8.7 On every first day of January, the retirement benefits payable to a Member, the surviving Spouse or the 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. [page24]
- (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.

[8] It is common ground that for the relevant period, the Consumer Price Index rose from 127.2 to 129.1 and, as a matter of simple mathematics, that represented a 1.49371 per cent increase. *It is also undisputed that Statistics Canada has a policy of rounding the annual percentage increase to one decimal point. Accordingly, Statistics Canada published the annual percentage increase for the relevant period as 1.5 per cent. Section 8.7(iv) provides that percentage increase for all pensioners other than those who are in their first year of retirement (s. 8.7(iii)), is to be rounded to the nearest whole number. Accordingly, if, as the appellant argues, the Statistics Canada policy governs, the Pension index of 1.5 per cent should be rounded to 2 per cent.* On the other hand, Bell asserts that the words of s. 8.7(iv) apply: "All percentage increases shall be rounded to the nearest 2 decimal points". If s. 8.7(iv) does apply to s. 1.29, the Pension Index is 1.49 per cent which, when rounded to the nearest whole number, becomes 1 per cent.

...

[21] In our view, having regard to the grammatical meaning of s. 1.29 and the evidence regarding accepted statistical conventions for rounding, a strained interpretation of s. 1.29 would be required to make it mean that Statistics Canada determines only the increase in the Consumer Price Index and leaves it to Bell to adopt a different rounding policy to determine the Pension Index.

[22] This brings us to the next stage, namely reading s. 1.29 in the context of the Plan as a whole. We agree with the motion judge that this is an important part of the interpretive exercise. We also agree that when a pension scheme should be interpreted as a whole and that the meaning of a particular clause should be

considered in conjunction with other relevant clauses: *Dinney v. Great-West Life Assurance Co.*, [2009] M.J. No. 116, 2009 MBCA 29, 236 Man. R. 299 (C.A.), at paras. 61-62; Geoff R. Hall, *Canadian Contractual Interpretation Law*, 3rd ed. (Markham: LexisNexis, 2016), at p. 256. There can be no doubt that the crucial point for the motion judge was his conclusion that accepting the Statistics Canada one-decimal rounding policy would render s. 8.7(iv) "meaningless" or "partly meaningless". In our view, that conclusion rests on either (or both) a palpable and overriding error of fact or an extricable error of law.

[23] The palpable and overriding error of fact is that the motion judge's conclusion ignores the uncontradicted evidence that using the Statistics Canada one-decimal rounding policy will frequently produce a three-decimal figure in the calculation of the annual percentage increase for recently retired pensioners under s. 8.7(iii), and that the two-decimal rounding provision on s. 8.7(iv) applies and therefore has meaning.

...

[32] *In our view, the Plan is not ambiguous and, for the reasons above, the appellant's interpretation is the correct one.* [emphasis added]

25. The *Austin* case was not appealed by Bell to the Supreme Court of Canada.

Despite the Ontario Court of Appeal's decision, Bell Canada refuses to correct the same error it made for the 1998 indexation

26. Following the release of the *Austin* decision on February 21, 2020, the plaintiffs' pensioner organization, the Bell Pensioners' Group ("**BPG**"), contacted Bell Canada numerous times requesting that Bell correct the same error it made for the 1998 indexation increase.

27. BPG is a not-for-profit association of pensioners and employees of Bell Canada and its affiliates. It was incorporated in 1995, and has approximately 10,000 members., BPG advocates for all Bell pensioners and their beneficiaries in respect of their pensions and benefits that they earned from Bell.

28. Despite numerous requests by BPG, Bell Canada has refused to correct its error for the 1998 indexation increase.

29. On October 31, 2021, Denis Marquis, the president of BPG, wrote to Eleanor Marshall, Bell's Vice-President Pension & Benefits and Assistant Treasurer. He pointed to the 2020 *Austin* decision from the Court of Appeal for Ontario and, given that the same analysis applies to the CPI figures in 1996-1997 for the indexation calculation to be implemented in 1998, that Bell should have rounded the COLA up to 2%, instead of down to 1%. Mr. Marquis asked about Bell's intention to rectify the 1998 error.

30. Ms. Marshall replied on November 5, 2021 stating that Bell Canada had no plans to take any action regarding to correct its 1998 calculation error.

31. On May 17, 2022, Koskie Minsky LLP, counsel to BPG, wrote to Bell Canada and requested that Bell Canada correct its 1998 indexation error, *inter alia*, in accordance its fiduciary duty as the administrator of the Bell Canada Pension Plan which requires Bell to act in the best interests of the Bell Canada Plan members

32. On July 21, 2022, Koskie Minsky LLP received a response from Bell Canada's external counsel, McCarthy Tétrault LLP. The letter stated that *inter alia* Bell Canada is not required to take any further action regarding the error for the 1998 indexation error.

33. Bell Canada's refusal to correct its error for the 1998 indexation increase, despite the decision of the Ontario Court of Appeal, continually deprives the Class members of the correct amount of the monthly pension benefits that they earned while employees of Bell

Canada and as such, is a breach of trust, breach of contract, and breach of fiduciary duty under both the common law and the *Pension Benefits Standards Act, 1985*, R.S.C., 1985, c. 32 (2nd Supp.). As a result of this error, the Plaintiffs and the Class members have suffered damages and are continually suffering damages.

Compensating the Class members would not imperil the Bell Canada Plan, nor Bell

34. The Bell Canada Plan is in a strong financial position and has significant surplus assets. Compensating the Class Members for the COLA 1998 error in compliance with its fiduciary duty and obligations under trust and contract would not cause the Bell Canada Plan nor Bell Canada financial hardship.

35. In its 2021 Pension Information Committee Report, the Bell Canada Plan reported a funded ratio of 116% on a going-concern basis. This valuation considers the Bell Canada Plan's funded status on the basis that it will operate indefinitely. It also reports that the Bell Canada Plan has a going-concern actuarial surplus of \$2,557.8 million as of December 31, 2020. The Bell Canada Plan also reported a solvency ratio of 103%. This valuation assumes (hypothetically) that the Bell Canada Plan will stop operating on a set date. That is, if the Bell Canada Plan paid out all benefits earned by members as of December 31, 2020, it would *still* have a surplus remaining of \$599.8 million.

36. The Plaintiffs propose that this action be tried in the City of Toronto.

September 19, 2022

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Lawyers for Plaintiffs

Appendix A

Austin v. Bell Canada et al. **[Indexed as: Austin v. Bell Canada]**

Ontario Reports

Court of Appeal for Ontario

MacPherson, Sharpe and Jamal JJ.A.

February 21, 2020

150 O.R. (3d) 21 | 2020 ONCA 142

Case Summary

Contracts — Interpretation — General principles — Ordinary meaning — Consider the entire contract — Appeal by representative plaintiff, on behalf of beneficiaries of respondents' pension plan, from summary judgment dismissing action allowed — Motion judge found respondents were entitled to round up annual percentage increase in Consumer Price Index to two decimal points, to 1.49 per cent, which rounded to 1 per cent increase for 2017 pension — Plan required parties to adopt Statistics Canada one-decimal policy for both annual percentage increase and Consumer Price Index — Summary judgment was granted to appellant based on Consumer Price Index of 1.5 per cent, and resulting two per cent increase for 2017 pension.

Pensions and benefits law — Private pension plans — Pension benefits — Calculation — Appeals and judicial review — Appeal by representative plaintiff, on behalf of beneficiaries of respondents' pension plan, from summary judgment dismissing action allowed — Motion judge found respondents were entitled to round up annual percentage increase in Consumer Price Index to two decimal points, to 1.49 per cent, which rounded to 1 per cent increase for 2017 pension — Plan required parties to adopt Statistics Canada one-decimal policy for both annual percentage increase and Consumer Price Index — Summary judgment was granted to appellant based on Consumer Price Index of 1.5 per cent, and resulting two per cent increase for 2017 pension.

Appeal by the representative plaintiff from the summary judgment dismissing the class action brought on behalf of 35,000 retirees who were beneficiaries of the respondents' pension plan. The plan provided that to determine the annual pension increase, the Pension Index was to be rounded to the nearest whole number. The motion judge found the respondents were entitled to round up the annual percentage increase in the Consumer Price Index to two decimal points, to 1.49 per cent, which rounded to a 1 per cent increase for the 2017 pension. The respondents had used the two-decimal rounding policy, rather than the Statistics Canada one-decimal policy, since 1998.

Held, the appeal should be allowed.

The contract provided that both the annual percentage increase and the Consumer Price Index

were to be determined by Statistics Canada. The words in the plan required the parties to adopt the Statistics Canada policy. The plan did not provide that Statistics Canada determined only the increase in the Consumer Price Index and the respondents could adopt a different rounding policy to determine the Pension Index. The motion judge ignored the uncontradicted evidence that using the Statistics Canada one-decimal rounding policy would frequently produce a three-decimal figure in the calculation of the annual percentage increase for recently retired pensioners, and that the two-decimal rounding provision in the plan would then apply and had meaning. The motion judge's failure to apply the evidence to the interpretation of the plan amounted to a palpable and overriding error of fact. Summary judgment was awarded to [page22] the appellant based on a Consumer Price Index of 1.5 per cent, and the resulting two per cent increase for 2017 pension.

Cases referred to

Dinney v. Great-West Life Assurance Co., [2009] M.J. No. 116, 2009 MBCA 29, [2009] 8 W.W.R. 30, 74 C.C.P.B. 161, 176 A.C.W.S. (3d) 1162, 236 Man. R. (2d) 299 (C.A.); *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, [2002] S.C.J. No. 31, 2002 SCC 33, 211 D.L.R. (4th) 577, 286 N.R. 1, [2002] 7 W.W.R. 1, J.E. 2002-617, 219 Sask. R. 1, 10 C.C.L.T. (3d) 157, 30 M.P.L.R. (3d) 1, 112 A.C.W.S. (3d) 991, 2002 DFQ 10,056; *McClelland & Stewart Ltd. v. Mutual Life Assurance Co. of Canada*, [1981] 2 S.C.R. 6, [1981] S.C.J. No. 60, 125 D.L.R. (3d) 257 at 258, 37 N.R. 190, [1981] I.L.R. 1-1393, 9 A.C.W.S. (2d) 264; *O'Neill v. General Motors of Canada Ltd.*, [2013] O.J. No. 3239, 2013 ONSC 4654, 6 C.C.P.B. (2d) 257, 230 A.C.W.S. (3d) 413 (S.C.J.); *Sattva Capital Corp. v. Creston Moly Corp.*, [2014] 2 S.C.R. 633, [2014] S.C.J. No. 53, 2014 SCC 53, 373 D.L.R. (4th) 393, 461 N.R. 335, [2014] 9 W.W.R. 427, J.E. 2014-1345, 358 B.C.A.C. 1, 59 B.C.L.R. (5th) 1, 25 B.L.R. (5th) 1, 242 A.C.W.S. (3d) 266, 2014EXP-2369; *Scanlon v. Castlepoint Development Corp.* (1992), 11 O.R. (3d) 744, [1992] O.J. No. 2692, 99 D.L.R. (4th) 153, 59 O.A.C. 191, 29 R.P.R. (2d) 60, 37 A.C.W.S. (3d) 563 (C.A.) [Leave to appeal to S.C.C. refused [1993] 2 S.C.R. x, [1993] S.C.C.A. No. 62, 102 D.L.R. (4th) vii, 157 N.R. 400n, 64 O.A.C. 320n, 32 R.P.R. (2d) 160n]; *Waxman v. Waxman*, [2004] O.J. No. 1765, 186 O.A.C. 201, 44 B.L.R. (3d) 165, 132 A.C.W.S. (3d) 1046 (C.A.)

Statutes referred to

Class Proceedings Act, 1992, S.O. 1992, c. 6

Authorities referred to

Hall, Geoff R., *Canadian Contractual Interpretation Law*, 3rd ed. (Markham, Ont.: LexisNexis, 2016)

Sullivan, Ruth, *Sullivan on the Construction of Statutes*, 6th ed. (Markham, Ont.: LexisNexis, 2014)

APPEAL from the judgment of E.M. Morgan J. (2019), 147 O.R. (3d) 198, [2019] O.J. No. 4159, 2019 ONSC 4757 (S.C.J.).

Mark Zigler, Jonathan Ptak, and Garth Myers, for appellant.

Dana Peebles, for respondents.

[1] BY THE COURT: -- The appellant is the representative plaintiff in a class action brought on behalf of retirees who are beneficiaries of the respondents' ("Bell") Pension Plan.

[2] The sole issue for this court to decide is the proper calculation of the cost-of-living adjustment under the Plan for 2017. That turns on the interpretation of the Plan's definition of the "Pension Index" and how that definition works together with the provisions in the plan governing the calculation of the amount of the cost-of-living adjustment. The appellant argues that the motion judge erred by finding that Bell was entitled to round up the annual percentage increase in the Consumer Price Index, mathematically calculated as 1.49371 per cent, to two decimal points, or 1.49 per cent. The appellant says that, properly interpreted, [page23] the Plan requires Bell to follow Statistics Canada's policy of rounding to only one decimal point, or 1.5 per cent. The difference is significant. Another provision in the Plan provides that to determine the annual pension increase for the appellant and most other Bell Pensioners, the Pension Index is to be rounded to the nearest whole number. If the appellant is right, 1.5 per cent is rounded to 2 per cent. If Bell is right, 1.49 per cent is rounded to 1 per cent. The difference to the class members between a 2 per cent and a 1 per cent increase in the 2017 pension is over \$10 million for the first year and, over the long-term, over \$100 million.

Background

[3] The appellant, a longtime Bell Canada employee, brings this class proceeding on behalf of approximately 35,000 pensioners who are all beneficiaries of the common Pension Plan administered by the respondents which are all part of the Bell corporate family.

[4] The motion judge certified the proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6. It was common ground that the matter was suitable for summary judgment. As we explain below, the motion judge concluded that Bell was entitled to round the Pension Index to two decimal points and accordingly granted summary judgment dismissing the action.

The Bell Pension Plan

[5] The motion judge's ruling and this appeal turn on two provisions in the plan dealing with the annual indexing of benefits.

[6] The first is the definition of Pension Index in s. 1.29 of the Plan:

1.29 "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;

[7] The second key provision is s. 8.7, which governs the calculation of the annual indexation increase. The case turns on how s. 1.29 and the determination of the Pension Index works in conjunction with the rounding provision in s. 8.7(iv):

8.7 On every first day of January, the retirement benefits payable to a Member, the surviving Spouse or the 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. [page24]
- (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.

[8] It is common ground that for the relevant period, the Consumer Price Index rose from 127.2 to 129.1 and, as a matter of simple mathematics, that represented a 1.49371 per cent increase. It is also undisputed that Statistics Canada has a policy of rounding the annual percentage increase to one decimal point. Accordingly, Statistics Canada published the annual percentage increase for the relevant period as 1.5 per cent. Section 8.7(iv) provides that percentage increase for all pensioners other than those who are in their first year of retirement (s. 8.7(iii)), is to be rounded to the nearest whole number. Accordingly, if, as the appellant argues, the Statistics Canada policy governs, the Pension index of 1.5 per cent should be rounded to 2 per cent. On the other hand, Bell asserts that the words of s. 8.7(iv) apply: "All percentage increases shall be rounded to the nearest 2 decimal points". If s. 8.7(iv) does apply to s. 1.29, the Pension Index is 1.49 per cent which, when rounded to the nearest whole number, becomes 1 per cent.

The Motion Judge's Reasons

[9] The motion judge turned first to s. 1.29. He held that the proper interpretation of that provision depended upon the importance to be ascribed to the comma after the words "Consumer Price Index". He reviewed in some detail case law and academic writing, both Canadian and American, dealing with the significance to be attached to commas that follow a

sequence of items. Ordinarily, if there is no comma, the "last antecedent rule" states that the phrase at the end of the list will modify only the last item. If there is a comma, the "series qualifying rule" states that the phrase will modify all items on the list: Ruth Sullivan, *Sullivan on the Construction of Statutes*, 6th ed. (Markham: LexisNexis, 2014), at p. 470. Here, there is not a list but there are two items: (1) the "annual percentage increase", and (2) the "Consumer Price [page25] Index". Accordingly, the comma after "Consumer Price Index" suggests that the phrase "as determined by Statistics Canada" modifies both items.

[10] The motion judge appears to have accepted that interpretation but found that it was rebutted by the need to read the Plan as a whole. He focused on the s. 8.7(iv) provision that "[a]ll percentage increases shall be rounded to the nearest 2 decimal points". There was uncontradicted expert evidence that the calculation required under s. 8.7(ii)(a) for pensioners aged 65 or older -- 60 per cent of the Pension Index -- will never yield more than a two-decimal place figure if the Statistics Canada one-decimal place increase is used. The motion judge found, at para. 61, that as using Statistics Canada's one-decimal rounding of the Pension Index "would eliminate the need for any further rounding as set out in s. 8.7(ii)", it would "render meaningless the provision in s. 8.7(iv) that all rounding be to two decimal places". He added that the expert evidence indicated that following Bell's policy of rounding the Pension Index to two decimal places would often yield a three-decimal place figure in the s. 8.7(ii)(a) calculation. The Bell two-decimal point rounding of the Pension Index would therefore give s. 8.7(iv) meaning.

[11] The motion judge concluded that while Statistics Canada uses the one-decimal place approach to rounding for its own purposes, that method did not govern the Plan when read as a whole. The key passage in his reasons is para. 65:

Section 8.7 of the Plan is a precisely drafted, mathematically crafted section that is dependent on rounding being part and parcel of the calculations it prescribes. It is not possible to surmise that the drafters of the Plan went to all of that trouble and detail only to have the entire exercise rendered meaningless by a deferral to Statistics Canada's method of rounding when doing the initial Pension Index calculation under s. 1.29 of the Plan.

[12] At para. 64, the motion judge referred to the *contra proferentem* rule that would favour the pensioners as the non-drafting party, but stated that "there is no rule of interpretation that would implement a version of the Plan that renders it partly meaningless" or "effectively gut" a key aspect of the method of calculation.

Analysis

[13] The appellant accepts that as the issue in this appeal turns upon the interpretation of a contract, the standard of review is that laid down by *Sattva Capital Corp. v. Creston Moly Corp.*, [2014] 2 S.C.R. 633, [2014] S.C.J. No. 53, 2014 SCC 53 and *Housen v. Nikolaisen*, [2002] 2 S.C.R. 235, [2002] S.C.J. No. 31, 2002 SCC 33. [page26] To succeed, the appellant must establish either a palpable and overriding error of fact or an extricable error of law.

[14] The appellant argues that this appeal turns on the plain and ordinary meaning of s. 1.29. The appellant accepts that s. 1.29 must be read in the light of the Plan as a whole. The appellant argues, however, that the definition in s. 1.29 is unaffected by s. 8.7(iv) which deals only with percentage increase in pensions under s. 8.7. The appellant submits that the motion

judge made a "foundational error" by finding that unless s. 8.7(iv) applies to the definition of Pension Index, s. 8.7(iv) would be meaningless. The motion judge failed to take into account the uncontradicted evidence regarding the calculation under s. 8.7(iii) of the annual percentage increase of pensioners who retired during the current year. Those pensioners are not entitled to the full year's cost-of-living increase and their annual percentage increase is prorated according to the number of months of retirement. The expert evidence established that by reason of the prorating, using a Pension Index rounded to one decimal place will often yield an annual percentage increase with three or more decimal places. Therefore, resort must be had to the s. 8.7(iv) two-decimal place rounding rule. That, in turn, means that using the Statistics Canada one-decimal point rounding to determine the Pension Index does not render s. 8.7(iv) "meaningless" and the whole foundation for the motion judge's interpretation collapses.

[15] Bell argues that the motion judge did not err. The evidence regarding the calculations and need to round or not round was uncontradicted and the argument that the motion judge made a palpable and overriding error of fact should be rejected. Bell has used the two-decimal rounding policy since 1998 with no complaint from the pensioners. The motion judge did not err by finding that the Statistics Canada one-decimal policy would render s. 8.7(iv) meaningless in relation to s. 8.7(ii) which governs the annual percentage increase for all but a very small number of pensioners.

[16] For the following reasons, we conclude that the appeal should be allowed.

[17] Our starting point is the language of s. 1.29. We agree with the appellant and the motion judge that, on its face, s. 1.29 states that *both* the annual percentage increase and the Consumer Price Index are to be determined by Statistics Canada. That conclusion is supported by the comma following the phrase "Consumer Price Index" and the "series qualifying rule" referred to by the motion judge.

[18] We add here that the appellant led evidence to explain the reason for the Statistics Canada one-decimal point rounding policy. An expert testified that the Consumer Price Index cannot be [page27] accurately measured to two decimal points and "to publish more than one decimal point would convey a message about the precision and accuracy of the index that would not be justified". The one-decimal point rounding is also the convention among most statistical agencies.

[19] We do not accept Bell's submission that adhering to the one-decimal rounding policy is undermined by the expert's admission on cross-examination that Statistics Canada follows the one-decimal rounding policy "for its own purposes" and "is not in the business of telling people how to use [its] data". As the expert explained, the policy Bell adopts for the Plan is matter for negotiation between Bell and its employees. In our view this simply states the obvious. Statistics Canada determines and publishes the annual percentage increase in the Consumer Price Index using what it regards as sound statistical practices. Statistics Canada has no authority to dictate how pensions are to be adjusted for inflation and parties are free to adopt whatever method they wish. However, the question before the motion judge and before us is whether the words in the Plan require the parties to adopt the Statistics Canada approach.

[20] We agree with the motion judge that the language the parties have adopted in s. 1.29 points in the direction of applying Statistics Canada's calculation of the annual percentage increase of the Consumer Price Index. That interpretation is supported by use of the comma

indicating that the phrase "as determined by Statistics Canada" modifies both the phrases "Consumer Price Index" and "annual percentage increase". It is also supported by the evidence of sound statistical methodology supporting the one-decimal rounding policy.

[21] In our view, having regard to the grammatical meaning of s. 1.29 and the evidence regarding accepted statistical conventions for rounding, a strained interpretation of s. 1.29 would be required to make it mean that Statistics Canada determines only the increase in the Consumer Price Index and leaves it to Bell to adopt a different rounding policy to determine the Pension Index.

[22] This brings us to the next stage, namely reading s. 1.29 in the context of the Plan as a whole. We agree with the motion judge that this is an important part of the interpretive exercise. We also agree that when a pension scheme should be interpreted as a whole and that the meaning of a particular clause should be considered in conjunction with other relevant clauses: *Dinney v. Great-West Life Assurance Co.*, [2009] M.J. No. 116, 2009 MBCA 29, 236 Man. R. 299 (C.A.), at paras. 61-62; Geoff R. Hall, *Canadian Contractual Interpretation Law*, 3rd ed. (Markham: LexisNexis, 2016), at p. 256. There can be no doubt that the crucial [page28] point for the motion judge was his conclusion that accepting the Statistics Canada one-decimal rounding policy would render s. 8.7(iv) "meaningless" or "partly meaningless". In our view, that conclusion rests on either (or both) a palpable and overriding error of fact or an extricable error of law.

[23] The palpable and overriding error of fact is that the motion judge's conclusion ignores the uncontradicted evidence that using the Statistics Canada one-decimal rounding policy will frequently produce a three-decimal figure in the calculation of the annual percentage increase for recently retired pensioners under s. 8.7(iii), and that the two-decimal rounding provision on s. 8.7(iv) applies and therefore has meaning.

[24] Bell argues that as the evidence was uncontradicted, the motion judge could not have misunderstood or mistaken its effect. However, even if the motion judge understood and did not mistake the effect of the evidence, we have no explanation for why he failed to take it into account in reaching the conclusion that s. 8.7(iv) would be rendered "meaningless". In our respectful view, the motions judge's failure to apply the evidence to the interpretation of the Plan amounts to a palpable and overriding error of fact. In the words of *Waxman v. Waxman*, [2004] O.J. No. 1765, 186 O.A.C. 201 (C.A.), at paras. 296-297, his finding was "made in conflict with accepted evidence" and is "plain to see" and therefore "palpable". The error is also "overriding" as it determined the result.

[25] If we were to accept Bell's submission that the motion judge only meant "meaningless" in relation to s. 8.7(ii), we are left with his conclusion that s. 8.7(iv) would be rendered "partly meaningless". In our view, that reflects an extricable error of law.

[26] It is not apparent what "partly meaningless" means. A contractual provision either has a meaning or it does not. Courts will strive to give all provisions in a contract meaning and to avoid an interpretation of one provision that would render another provision meaningless or redundant. The redundancy rule relied upon by the motion judge was explained by this court in *Scanlon v. Castlepoint Development Corp.* (1992), 11 O.R. (3d) 744, [1992] O.J. No. 2692 (C.A.), at para. 89 (leave to appeal to S.C.C. refused [1993] 2 S.C.R. x, [1993] S.C.C.A. No. 62).

To the extent that it is possible to do so, [a contact] should be construed as a whole and effect should be given to all of its provisions. The provisions should be read, not as standing alone, but in light of the agreement as a whole and the other provisions thereof: *Hillis Oil & Sales Ltd. v. Wynn's Canada Ltd.*, [1986] 1 S.C.R. 57 at p. 66, 25 D.L.R. (4th) 649 at p. 655. The court should strive to give meaning to the agreement and "reject an interpretation that would render one of its terms ineffective": *National Trust Co. v. Mead*, [1990] 2 S.C.R. 410 at p. 425, 71 D.L.R. (4th) 488 at p. 499. [page29]

[27] In this case, as we have explained, the rounding provision in s. 8.7(iv) would not be rendered ineffective by giving s. 1.29 its plain grammatical meaning. It will be frequently necessary to round to two decimal points to determine the annual percentage increase for recently retired pensioners.

[28] Bell asks us to ignore that fact as the recently retired pensioners represent only between 4 per cent and 5 per cent of the class. That number amounts to hundreds of pensioners each year. We fail to see why that category of pensioners should be ignored in the interpretation of the Plan.

[29] Adhering to the Statistics Canada one-decimal rounding policy for the purpose of determining the Pension Index pursuant to s. 1.29 does not strip s. 8.7(iv) of meaning. The plain grammatical reading of s. 1.29 is readily reconcilable with the rounding method specified by s. 8.7(iv) with respect to the other provisions of s. 8.7 and it follows that the plain grammatical meaning should be followed.

[30] Alternatively, the motion judge made an extricable error of law by failing to consider the *contra proferentem* rule. The motion judge found the wording of the Plan to be "awkward" (para. 69). He referred briefly to the appellant's *contra proferentem* argument but did not explain why the doctrine should not apply.

[31] The Plan was drafted by Bell without meaningful participation by the pensioners who are a vulnerable group in relation to Bell. The *contra proferentem* rule of interpretation "applies to contracts . . . on the simple theory that any ambiguity . . . must be resolved against the author if the choice is between him and the other party to the contract who did not participate in its drafting": *McClelland & Stewart Ltd. v. Mutual Life Assurance Co. of Canada*, [1981] 2 S.C.R. 6, [1981] S.C.J. No. 60, at p. 15 S.C.R. *Contra proferentem* is regularly applied to resolve ambiguities in pension documents in favour of pensioners: see *O'Neill v. General Motors of Canada Ltd.*, [2013] O.J. No. 3239, 2013 ONSC 4654, 6 C.C.P.B. (2nd) 257 (S.C.J.), at paras. 21-22.

[32] In our view, the Plan is not ambiguous and, for the reasons above, the appellant's interpretation is the correct one. We therefore do not find it necessary to resort to *contra proferentem*. However, it is a very short step to take from the motion judge's observation that the wording of the Plan is "awkward" to finding that the wording is ambiguous. Having found the wording to be "awkward", the motion judge should have taken that step, applied the *contra proferentem* doctrine, and ruled that given the ambiguity, the interpretation favouring the pensioners should prevail. His failure to do so represents an extricable error of law reviewable by this court under the *Sattva* standard of review. [page30] <\$*head1>Disposition

[33] Accordingly, we allow the appeal, set aside the summary judgment dismissing the action and in its place award summary judgment in favour of the appellant. The matter is remitted to the motion judge for any ancillary or consequential matters that may arise from our judgment.

[34] The appellant is entitled to costs fixed in the amount agreed to by the parties, namely \$22,500 inclusive of taxes and disbursements.

Appeal allowed.

End of Document

GASTON J. PERREAULT and ODETTE DI MURO v. **BELL CANADA et. al.**

Plaintiffs

Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

STATEMENT OF CLAIM

KOSKIE MINSKY LLP

20 Queen Street West

Suite 900, Box 52

Toronto, ON M5H 3R3

Andrew J. Hatnay - LS# 31885W

Tel: 416-595-2083 / Fax: 416-204-2872

Email: ahatnay@kmlaw.ca

Lawyers for the Plaintiffs

This is **Exhibit "K"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read "Abir Shamim". The signature is written in a cursive style with a large initial 'A' and 'S'.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

----- Message d'origine -----

De: Information@osfi-bsif.gc.ca

À: denisa.marquis@sympatico.ca

Envoyé: lundi 7 mars 2022 09:05

Objet: RE: Bell Canada pension plan indexation

Dear Denis Marquis,

Thank you for your email of March 1, 2022.

This is to advise you that your enquiry required further investigation and has been forwarded to the Private Pension Plans Division at the Office of the Superintendent of Financial Institutions for input. As soon as we receive a response from the Division, we will get back to you.

Thank you for your patience.

Olivia

Correspondence Officer / Agente de la correspondance

Communications and Engagement / Communications et engagement

Office of the Superintendent of Financial Institutions / Bureau du surintendant des institutions financières

From: Denis Marquis <denisa.marquis@sympatico.ca>

Sent: Tuesday, March 1, 2022 2:38 PM

To: Information <Information@osfi-bsif.gc.ca>

Subject: Bell Canada pension plan indexation

Importance: High

To the attention of: Mr. Peter Routledge, Superintendent of OSFI

Dear Mr. Routledge:

We are writing on behalf of the Bell Pensioners Group (BPG). BPG is a non-profit organization having over 10,000 members advocating for the interests of pensioners of Bell Canada and some of its affiliates.

I am writing regarding a matter we understand has recently been brought to the attention of the Office of the Superintendent of Financial Institutions (OSFI) by Mr. Leslie Austin, a Bell retiree, regarding a pension indexation issue arising under the Bell Canada pension plan.

Specifically, we understand Mr. Austin has requested that the Superintendent issue a direction to the Bell Canada Pension Plan Administrator to correct the 1% 1998 indexation increase that Bell implemented to entitled pensioners under the plan to 2%, which would be consistent with the 2020 Ontario Court of Appeal decision in Austin v. Bell and as Bell did for the same issue that arose for the 2018 indexation increase. BPG has also been investigating the matter raised by Mr. Austin. Given our vital interest in this matter, BPG requests that OSFI keep BPG apprised of all developments and correspondence regarding OSFI's involvement in this matter.

We would be pleased to provide any further information about BPG or its interest in this matter should you wish.

Thank you for your cooperation.

Yours truly,

Denis Marquis

President

Bell Pensioner's Group

This is **Exhibit "L"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.

A handwritten signature in black ink, appearing to read "A. J. J. J.", written in a cursive style.

A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

----- Message d'origine -----

De: Information@osfi-bsif.gc.ca

À: denisa.marquis@sympatico.ca

Envoyé: lundi 31 juillet 2023 15:07

Objet: RE: Bell Canada pension plan indexation

Dear Denis Marquis,

Thank you for your email on March 1, 2022. We apologize for the delay.

We appreciate your raising this issue with us. Since that time, OSFI has been reviewing the matter. We understand that Bell Canada will be correcting the 1998 indexation calculation and communicating with pensioners and beneficiaries in due course.

We hope this information is of assistance.

Sincerely,

Correspondence Unit / Groupe de la correspondance

Public Affairs / Affaires Publiques

OSFI / BSIF

From: Information

Sent: Monday, March 7, 2022 9:05 AM

To: 'Denis Marquis' <denisa.marquis@sympatico.ca>

Subject: RE: Bell Canada pension plan indexation

Dear Denis Marquis,

Thank you for your email of March 1, 2022.

This is to advise you that your enquiry required further investigation and has been forwarded to the Private Pension Plans Division at the Office of the Superintendent of Financial Institutions for input. As soon as we receive a response from the Division, we will get back to you.

Thank you for your patience.

Olivia

Correspondence Officer / Agente de la correspondance

Communications and Engagement / Communications et engagement

Office of the Superintendent of Financial Institutions / Bureau du surintendant des institutions
financières

From: Denis Marquis <denisa.marquis@sympatico.ca>

Sent: Tuesday, March 1, 2022 2:38 PM

To: Information <Information@osfi-bsif.gc.ca>

Subject: Bell Canada pension plan indexation

Importance: High

To the attention of: Mr. Peter Routledge, Superintendent of OSFI

Dear Mr. Routledge:

We are writing on behalf of the Bell Pensioners Group (BPG). BPG is a non-profit organization having over 10,000 members advocating for the interests of pensioners of Bell Canada and some of its affiliates.

I am writing regarding a matter we understand has recently been brought to the attention of the Office of the Superintendent of Financial Institutions (OSFI) by Mr. Leslie Austin, a Bell retiree, regarding a pension indexation issue arising under the Bell Canada pension plan.

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165

matter, BPG requests that OSFI keep BPG apprised of all developments and correspondence regarding OSFI's involvement in this matter.

We would be pleased to provide any further information about BPG or its interest in this matter should you wish.

Thank you for your cooperation.

Yours truly,

Denis Marquis

President

Bell Pensioner's Group

This is **Exhibit "M"**

referred to in the Affidavit of Abir Shamim

sworn before me this 11th day of August, 2023.



A COMMISSIONER FOR TAKING AFFIDAVITS, ETC.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

Gaston J. Perreault and Odette Di Muro

Plaintiffs

- and -

Bell Canada (also known as the Bell Telephone Company of Canada), Bell Canada Inc.,
Bell Media Inc., Expertech Network Installation Inc., Bell Mobility Inc.,
and Bell TV Inc.

Defendants

LITIGATION PLAN

1. At the certification motion, the Plaintiffs will seek certification of some or all of the following common issues ("**Common Issues**"):

Breach of Contract

- a) Did the Defendants owe a contractual obligation to provide pension indexation under the Plan? If so, what amount of pension indexation ought to have been applied and provided in respect of the year 1998?
- b) Did the Defendants breach their contractual obligations?

Breach of Trust and Fiduciary Duty

- c) Does Bell Canada, as administrator of the Plan, owe a duty as a trustee to the class?
- d) If so, did Bell Canada breach its duty as a trustee?
- e) Did Bell Canada, as administrator of the Plan, owe a fiduciary duty to the class?

- f) If so, did Bell Canada breach its fiduciary duty?

Unjust Enrichment

- g) Was Bell Canada unjustly enriched by failing to apply and provide the correct amount of pension indexation in respect of the year 1998?

Damages

- h) If one or more of the above common issues are answered affirmatively, can the amount of damages payable by the Defendants be determined on an aggregate basis? If so, in what amount?

NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE

2. The Plaintiffs request that the Court settle the form and content for notification of the certification of this action (the "**Notice of Certification**"), the timing and manner of providing Notice of Certification ("**Notice Program**"), and set out an opt-out date as being three (3) months following the date of the Certification Order.

3. The Plaintiffs request that the Defendants pay the cost of the Notice Program and the dissemination of the Notice of Certification.

4. The Plaintiffs will seek an order that the Defendants send to Class Counsel and the Administrator, within sixty (60) days of the certification order, or the final determination of any appeals thereof ("**Certification Order**"):

- (a) A list of all known members of the Class, including their last known mailing addresses and contact information, including any e-mail addresses and phone numbers, as available.

5. The Plaintiffs propose that Notice of Certification be disseminated as follows:

- (a) By mailing and emailing notice to all class members identified by the Defendants;

- (b) By an automated phone call notice to all class members identified by the Defendants;
- (c) By placing, within sixty (60) days of the Certification Order, newspaper notice(s) in ¼ of a page size in one newspaper with national circulation;
- (d) By posting a notice on class counsel's and the Administrator's (defined below) websites;
- (e) By posting a notice on the pension section of the Defendants' website(s);
- (f) By forwarding the notice to any class member who requests it;
- (g) By the Administrator establishing a toll-free telephone support line to provide assistance to class members, family, guardians or other persons who make inquiries on their own behalf or on behalf of class members; and
- (h) By such other notice as counsel may request and as the Court directs.

6. The Plaintiffs will ask the Court to approve an opt-out form to be used by class members wishing to opt out of the class action, which will require the class member to provide sufficient information to establish their membership in the Class.

7. The Plaintiffs will ask that the Court appoint an Administrator to organize and receive opt-out forms or other written documentation from any class member option out of the class action. Only written elections to opt out will be accepted and must be delivered to the Administrator within the aforementioned deadline.

8. Within sixty (60) days after the expiration of the opt-out period, the Administrator will deliver to the Court and the parties an affidavit listing the names of all persons who have opted out of the class action.

LITIGATION STEPS PRIOR TO THE DETERMINATION OF THE COMMON ISSUES

Pleadings and Production

9. The Defendants shall serve a statement of defence within thirty (30) days from the date of the Certification Order.
10. The Plaintiffs shall have thirty (30) days from service of the Defendants' statement of defence to serve a reply, if any.
11. All pleadings in the action shall be served and filed within sixty (60) days from the Certification Order.
12. Within sixty (60) days from the Certification Order, the parties shall agree upon a timetable for production of documents and examinations, to be approved by court order.
13. The Plaintiffs shall apply for such further directions as may be required.

Case Management Conferences ("CMC")

14. The Plaintiffs propose that the CMC of this action be fixed for hearing within sixty (60) days of the Certification Order at a place to be fixed by the case management judge, to:
 - (a) Address any issues related to a production and examination timetable between the parties; and
 - (b) Set dates for further CMCs as necessary.

Common Issues Trial

15. The common issues trial will determine the Common Issues at a time and place fixed by the Court, in the City of Toronto.

LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS

Notice of Resolution of Common Issues

16. The Plaintiffs will request that the Court settle the form and content for notification of the resolution of the Common Issues and the claims and individual issues processes ("**Notice of Resolution**"), the timing and manner of providing the Notice of Resolution ("**Resolution Notice Plan**") and requiring class members to file claims ("**Claim Forms**") by a fixed date with a person designated by the Court (the "**Administrator**").

Valuation of Damages

17. Assuming that one or more of Common Issues are resolved in favour of the Plaintiffs, the Plaintiffs propose the following methods for assessing and distributing damages for the class members as follows:

- (a) Aggregate damages to be distributed in a manner to be determined by the Court.

18. The Plaintiffs seek an aggregate assessment of monetary relief as a common issue. If aggregate damages are not awarded, or if the Court concluded that assessments are required in addition to a determination of aggregate damages, it may still be necessary to establish a procedure in accordance with section 25 of the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 ("*CPA*") to determine the individual damages of Class Members, or any other individual issues as directed by the Court.

19. Within ninety (90) days of the issuance of the judgment on the common issues, the parties will convene for argument relating to section 25 of the *CPA* to determine the appropriate process to determine the individual issues, if any.

20. At that hearing, both parties will be at liberty to make submissions regarding the methodology for resolving the remaining individual issues. Given the Defendants have all of the records pertaining to the pension entitlements of each class member, it should be unnecessary to require any testimony or records from the class members.

MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN

Communication with Class Members

21. The Plaintiffs have a toll-free line and communications centre to permit class members to contact class counsel, obtain answers to questions, and to provide information necessary to assist in the advancement of the action.

22. Class counsel has a website page dedicated to this action, and posts updates and important documents for the benefit of class members being kept up to date.

Review of the Plan

23. This Litigation Plan may be reconsidered and revised under the continuing case-management authority of the Court after the determination of the common issues or upon application by the parties.

24. Class Counsel's legal fees are subject to court approval under the *CPA*.

Claims Administration

25. Plaintiffs' counsel will propose that the Administrator provide the claims administration for any settlement achieved, for global damages distribution, and individual damages determinations.

26. If a settlement is achieved and a settlement fund is provided, the Administrator will administer payments of the fund to claimants based on the procedures set out above, with approval and/or modification by the Court.

Gaston J. Perreault and Odette Di Muro
and
Plaintiffs

Bell Canada (also known as the Bell
Telephone Company of Canada), et al.
Defendants

Court File No.: CV-22-00685817-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Place Commenced

LITIGATION PLAN

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Lawyers for the Plaintiffs

GASTON J. PERREAULT et al.
Plaintiffs

and **BELL CANADA** et. al.
Defendants

Court File No. CV-22-00685817-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

AFFIDAVIT OF ODETTE DI MURO
(Sworn August 11, 2023)

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Lawyers for the Plaintiffs

Gaston J. Perreault and Odette Di Muro
Plaintiffs

and Bell Canada (also known as the Bell
Telephone Company of Canada) et al.
Defendants

Court File No.: CV-22-00685817-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act*, 1992

MOTION RECORD

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Lawyers for the Plaintiffs