

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commenced at Toronto)

THE HONOURABLE) THURSDAY, THE 10th
)
MR. JUSTICE E.M. MORGAN) DAY OF FEBRUARY, 2022

B E T W E E N :

BREWERS RETAIL INC.

Applicant

- and -

WILLIAM CAMPBELL, GEORGINA HIGGS, DIANA HUMPHRYS,
THOMAS MARTIN KRUEGER, and DAVID RAMSAY

Respondents

Proceeding under the *Class Proceedings Act, 1992*

ORDER
- Certification Motion -

THIS MOTION, made by the Applicant Brewers Retail Inc. (“BRI”) for certification of this Application as a class proceeding, was heard, together with a motion by the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (“FSRA”) to be added as a party to this proceeding, and a motion by FSRA for a dismissal or stay of this Application, on November 29, 2021.

UPON READING the moving, responding and reply motion records of FSRA, BRI and the Committee in the three motions heard together, and

UPON READING the moving, responding and reply factums of FSRA, BRI and the Committee in the three motions heard together, and

UPON HEARING the submissions of counsel for BRI, and of counsel for the Committee, and of counsel for FSRA, and for Reasons for Decision for all three motions released this day:

1. **THIS COURT ORDERS** that this Application be and is conditionally certified as a class proceeding, for settlement purposes only, on the following terms:

a. the Class is defined as:

All persons who were eligible to receive indexed pensions in respect of membership in the Plan at any time between January 1, 1974 and December 31, 2009 inclusive, or persons claiming through them.

b. the Respondents are appointed as the Class representatives;

c. the law firms of Koskie Minsky LLP and Kaplan Law are together appointed as Class Counsel;

d. the Applicant asserts a claim for declarations as to interpretations of its Pension Plan, including its compliance with the Pension Benefits Act, as set out in its Amended Notice of Application;

e. the certified common issues are as follows:

1. Is the settlement agreement executed by the parties fair, reasonable, and in the best interests of the Class?
2. Are the 1974 and 1983 Amendments to the Plan implemented by Brewers granting indexing only to eligible Plan members who retired from active service thereafter with an immediate pension valid?
3. Did the 2013 Amendment to the Plan by Brewers, which restricted the scope of indexing, comply with the Pension Benefits Act?
4. Is Brewers released from all claims of any nature arising out of its interpretation, administration and amendment of the Plan's indexing provisions since 1974, as made to date or which could have been made, personally or on behalf of a

class of persons, by any member of the Class who does not opt-out of this proceeding in a valid and timely manner?

2. THIS COURT ORDERS that the issues of notice of certification of this Application as a class proceeding, and of opt-out terms, shall be dealt with by further order of this Court.

3. THIS COURT FURTHER ORDERS that costs of this motion are to be addressed in written submissions by the parties, pursuant to the schedule set out in the Reasons for Decision.

A handwritten signature in blue ink, appearing to be "E. Morgan", is centered on the page. The signature is written in a cursive style with a long horizontal flourish at the end.

Morgan, J.

BREWERS RETAIL INC.
Applicant

- and -

WILLIAM CAMPBELL et al.
Respondents

Court File No.: CV-21-658274-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

ORDER

- Certification Motion -

McCarthy Tétrault LLP

Suite 5300, Toronto Dominion Bank Tower
Toronto ON M5K 1E6

Dana M. Peebles LSO#: 30820V

dpeebles@mccarthy.ca

Tel: 416-601-7839

Randy Bauslaugh LSO#: 22620K

rbauslaugh@mccarthy.ca

Leah Ostler LSO#: 73301C

lostler@mccarthy.ca

Lawyers for the Applicant

MTDOCS 43994798