

# IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Denluck v. The Board of Trustees for the  
Boilermakers' Lodge 359 Pension Plan,*  
2018 BCSC 2209

Date: 20181212  
Docket: S167212  
Registry: Vancouver

Between:

**Grant Denluck**

Plaintiff

And

**The Board of Trustees for the Boilermakers'  
Lodge 359 Pension Plan**

Defendant

Before: The Honourable Mr. Justice Mayer

## **Further Supplemental Reasons for Judgment**

Counsel for the Plaintiff:

R. Gage

Counsel for the Defendant:

C. Ferris, Q.C.  
M. Vesely

Date and Place of Hearing:

Vancouver, B.C.  
December 10, 2018

Place and Date of Judgment:

Vancouver, B.C.  
December 12, 2018

**Introduction**

[1] I granted the Plaintiff's application to certify this action as a class action by the Proposed Class on July 4, 2018.

[2] Further to my Supplemental Reasons for Judgment pronounced October 4, 2018 the parties appeared before me on December 10, 2018 to make submissions with respect to the proposed form of litigation plan and list of common issues to be included within the proposed certification order.

[3] These are my reasons on these matters.

**Form of Litigation Plan**

[4] During submissions on December 10th, the Plaintiff provided a revised form of litigation plan which is acceptable to the parties with the exception of the Plaintiff's proposal that written elections to opt-out of the class action are to be postmarked no later than sixty days following publication of the Notice of Certification and written elections to opt-in to be provided within ninety days of such notice.

[5] One of the Defendant's concerns is that providing different periods of time to opt-in and opt-out of the class may result in confusion on the part of recipients of the Notice of Certification and is otherwise unnecessary.

[6] The Plaintiff contends that it is possible that it may be difficult to locate potential class members, some of whom may no longer reside in British Columbia and therefore providing additional time for potential class members to opt-in would be beneficial.

[7] I agree with the Defendants that providing different opt-in and opt-out deadlines may be confusing. Neither party is opposed to a ninety day period being provided in this respect.

[8] I consider that the revised form of litigation plan proposed by the Plaintiff is appropriate, with an amendment to s. 2.7(a) of the plan to provide for a ninety day period for a person to elect to opt-in to this class action.

**List of Common Issues**

[9] The Defendant has provided a proposed list of common issues that it asks this Court to adopt which differ from the list of common issues proposed by the Plaintiff.

[10] The Defendant contends that in some cases some of the common issues proposed by the Plaintiff subsume others and that as a whole the Plaintiff's list lacks coherence. Further, the Defendant contends that some of the Plaintiff's common issues include latent ambiguities or are not neutral and fair to both parties.

[11] Although this Court and the Defendant may have framed the issues slightly differently, I agree with the Plaintiff that it is his right to articulate the claim on behalf of the members of the Proposed Class - so long as this is done in compliance with the *Class Proceedings Act* and in a manner consistent the Court's reasons for certification. In my view, both of these requirements are satisfied.

[12] I do not consider that the list of common issues as framed by the Plaintiff are ambiguous or unfair or lacking in neutrality.

**Conclusion**

[13] The revised Litigation Plan proposed by the Plaintiff, with the revision set out above, and Plaintiff's form of Certification Order including the proposed list of common issues are approved.

"Mayer J."