
SETTLEMENT AGREEMENT

THIS AGREEMENT effective as of the 21st day of February, 2020.

No. S167212
Vancouver Registry

In the Supreme Court of British Columbia

Between

GRANT DENLUCK

Plaintiff

and

**THE BOARD OF TRUSTEES for the BOILERMAKERS'
LODGE 359 PENSION PLAN**

Defendants

Recitals

WHEREAS:

A. On June 18, 2015, the Plaintiff commenced an action in the Supreme Court of British Columbia, in the Victoria Registry under action number VLC-S-S-152298. On August 9, 2016, the action was transferred to the Vancouver Registry and was assigned the following action number S167212 (the "Proceeding");

B. on July 4, 2018, the Proceeding was certified as a class proceeding on behalf of the class;

C. the Defendant does not admit, through the execution of this Settlement Agreement or otherwise, any allegation of wrongful conduct alleged in the Proceeding;

D. Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiffs' claims, and having regard to the burdens and expense in prosecuting the Proceeding, including the risks and uncertainties associated with trials and appeals, Class Counsel

have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiffs and the Class;

E. the Plaintiff, Class Counsel and the Defendant agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Defendant or evidence of the truth of any of the Plaintiff's allegations against the Defendant, which allegations the Defendant expressly deny; and

F. the Parties wish to, and hereby do, finally resolve, without admission of liability, the Proceeding as against the Defendant;

G. NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Proceeding be settled and dismissed on the merits and with prejudice, without costs as to the Plaintiff, the Settlement Class Members or the Defendant, subject to the approval of the Court, on the following terms and conditions:

Section 1 - DEFINITIONS

For the purpose of this Settlement Agreement only, including the Recitals hereto:

1. **Administrator** means the Defendant.
2. **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Administrator for the implementation and operation of this Settlement Agreement, including the costs of notices and claims administration.
3. **Class** means the class of persons represented by the Plaintiff pursuant to the certification order entered March 05, 2019, in the Proceeding.
4. **Class Counsel** means Camp Fiorante Matthews Mogeran, Arvay Finlay LLP and Nathanson Schachter & Thompson LLP.

5. **Class Counsel Fees** include the fees, disbursements, costs, interest, GST and other applicable taxes or charges of Class Counsel.
6. **Court** means the Supreme Court of British Columbia.
7. **Date of Execution** means the date on the cover page as of which the Parties have executed this Settlement Agreement.
8. **Defendant** means The Board of Trustees for the Boilermakers' Lodge 359 Pension Plan named in the style of cause of the Proceeding.
9. **Distribution Plan** means the plan for distributing the Settlement Amount and accrued interest, in whole or part, as approved by the Court.
10. **Effective Date** means the date on which the time to appeal the Final Order has expired without any appeal being taken or, if an appeal is taken, once it has been dismissed.
11. **Final Order** means the final judgment entered by the Court approving this Settlement Agreement.
12. **Fund** means the Settlement Amount that has been invested in a money market fund.
13. **Mediator** means Ari Kaplan of Kaplan Law.
14. **Mediation Costs** means the reasonable expenses and disbursements of the Mediator for services incurred from September 16 to October 29, 2019.
15. **Mediator's Report** means a document prepared by the Mediator that will report on and recommend approval of this Settlement Agreement.
16. **Mediator's Report Costs** means the cost of preparation of the Mediator's Report.

17. **Other Actions** means any and all actions or proceedings, other than the Proceeding, relating to Released Claims commenced by a Settlement Class Member either before or after the Effective Date.
18. **Parties** means the Plaintiff, the Settlement Class Members and the Defendant.
19. **Plaintiff** means the representative plaintiff, Grant Denluck.
20. **Proceeding** means *Grant Denluck v. The Board of Trustees for the Boilermakers' Lodge 359 Pension Plan*, Vancouver Registry S167212.
21. **Released Claims** means the claims that are the subject of the release contained in s. 5.1 of this Settlement Agreement and include all the Settlement Class Members' claims against the Defendant set out or which could have been raised in the Proceeding.
22. **Settlement Agreement** means this agreement, including the recitals.
23. **Settlement Amount** means \$1,200,000.00.
24. **Settlement Benefits** means the Settlement Amount, the Mediation Costs and one third of the Mediator's Report Costs.
25. **Settlement Class Members** means all Class members who did not opt-out of the Proceeding and **Settlement Class Member** means any one of them.

Section 2 - NOTICE TO THE SETTLEMENT CLASS

2.1 Application for Approval of Notice

1. As soon as practicable after the Settlement Agreement is executed, the Plaintiff will bring a motion before the Court for an order approving a notice of the hearing (the "Notice") and plan for dissemination of the Notice (the "Notice Plan") to approve the following:
 - (a) Settlement Agreement;

- (b) Distribution Plan;
 - (c) appointment of the Administrator;
 - (d) Class Counsel Fees; and
 - (e) payment to the Plaintiff of a fee to compensate him for his service to the Class.
2. The Notice shall be in a form to be agreed by the Parties and approved by the Court, or failing agreement by the Parties, in a form ordered by the Court.
 3. The Defendant and Class Counsel will implement the Notice Plan, as approved by the Court, as follows:
 - a. the Defendant will implement the following elements of the Notice Plan:
 - i. email and regular mail to Class Members where such an email or regular mail address is available, and
 - ii. postings on any relevant website maintained by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Lodge 359 (the "Union");
 - b. Class Counsel will post the Notice on any relevant websites maintained by Class Counsel; and
 - c. the Plaintiff and Class Counsel will take reasonable steps to assist the Defendant in communications with Class Members.
 4. The Defendant shall pay the costs of implementation of the Notice Plan, other than paragraph 2.1(3(b)).

Section 3 - SETTLEMENT APPROVAL, ADMINISTRATION, DISTRIBUTION AND FEES

3.1 Final Court Approval Required

1. This Settlement Agreement shall only become final and binding on the Effective Date.

3.2 Distribution Plan

1. Subject to any amendments ordered by the Court, the Settlement Class Members shall be compensated pursuant to the Distribution Plan to be approved by the Court.
2. The Distribution Plan will allow for a single lump sum payment to each Settlement Class Member, to be allocated and distributed according to a formula to be determined by Class Counsel in consultation with the Defendant and with reference to the Mediator's Report.
3. The Plaintiff will apply for approval of the Distribution Plan contemporaneously with seeking approval of the Settlement Agreement.
4. The Distribution Plan will provide Settlement Class Members with the option to elect to receive payment from the Administrator in the following forms:
 - a. Cash minus such withholdings and deductions as may be required by the Administrator or the CRA; or
 - b. A transfer of all or part of their payment into the Class Members' RRSP, provided all documentation required by the Administrator to administer that option is provided by the Settlement Class Member.
5. The Notice will provide that any Settlement Class Member that intends to elect the option set out in paragraph 3.2(4)(b) obtain independent professional advice and that the Administrator is not responsible and has no liability with respect to the tax consequences of such an election.

6. The Distribution Plan will provide that:
 - a. if a Settlement Class Member is deceased, their payment from the Administrator will be paid to that Settlement Class Members' spouse, beneficiary or estate; and
 - b. if a Settlement Class Member does not submit a claim to the Administrator as required by the Distribution Plan, any payment nominally allocated to that Settlement Class Member will be used to supplement payments to other Settlement Class Members, in a manner to be agreed on by the Parties, and will not revert to the Defendant.

3.3 Appointment of Administrator

1. The Plaintiff will apply for the appointment of the Administrator contemporaneously with seeking approval of the Settlement Agreement.

3.4 Payment to Representative Plaintiff

1. The Plaintiff will seek the Court's approval to pay the Plaintiff a fee to compensate him for his service to the Class contemporaneously with seeking approval of the Settlement Agreement. Any award under this Section approved by the Court shall be paid by the Defendant out of the Fund upon the Effective Date and shall not be in addition to the Settlement Amount.

3.5 Class Counsel Fees

1. Class Counsel may seek the Court's approval of Class Counsel Fees contemporaneously with seeking approval of the Settlement Agreement.
2. Following both the Court's approval of Class Counsel Fees and the Effective Date, the Defendant shall transfer the amount of Class Counsel Fees approved by the Court to Class Counsel from the Fund by wire transfer. Class Counsel will provide, in writing, the information necessary to complete the wire transfer.

3.6 Mediator's Report

1. On consent of all Parties, the Mediator's Report may be filed in support of the Settlement Approval Application.
2. On the Date of Execution, the Defendant shall pay the Mediation Costs. If for any reason the Court does not approve this Settlement Agreement, Class Counsel shall reimburse the Defendant for one half of the Mediation Costs.
3. On the Effective Date, the Defendant shall pay one third of the Mediator's Report Costs directly to the Mediator.
4. On the Effective Date, Class Counsel shall pay two thirds of the Mediator's Report Costs directly to the Mediator.

Section 4 - Settlement Benefits

4.1 Payment of Settlement Amount

1. Within seven (7) days of the Date of Execution, the Defendant shall invest the Settlement Amount in a money market fund to create the Fund.
2. The Settlement Benefits will be paid in full satisfaction of the Released Claims of the Settlement Class Members against the Defendant.
3. The monies in the Fund shall be held by the Defendant for the benefit of the Settlement Class Members and shall be paid in accordance with the Distribution Plan.
4. The Defendant shall maintain the Fund as provided in this Settlement Agreement and shall not pay out all or part of the monies in the Fund except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Plaintiff.

4.2 Taxes and Interest

1. Except as hereinafter provided, all interest earned on the funds in the Fund shall accrue to the benefit of the Settlement Class Members and shall become and remain part of the Fund.
2. All taxes payable on any interest which accrues on the funds in the Fund or otherwise in relation to the Settlement Amount shall be the responsibility of the Defendant. The Defendant shall be solely responsible to fulfill all tax reporting and payment requirements arising from the funds in the Fund, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned on the funds in the Fund shall be paid from the Fund.

4.3 Information for Distribution

1. The Defendant will make reasonable efforts to provide the Plaintiff with accurate information required for the preparation of the Distribution Plan, provided that it shall not be liable for negligent errors or omissions and/or any use of such information in connection with the Distribution Plan, and this limit on its liability will be a term of the Final Order.

Section 5 - RELEASES AND DISMISSALS

5.1 Release and Dismissal

1. In consideration of payment by the Defendant of the Settlement Benefits and the other valuable consideration set forth in this Settlement Agreement, the Plaintiff on his own behalf and on behalf of the Settlement Class Members:
 - (a) does hereby remise, release and forever discharge the Defendant and their respective predecessors, successors, assigns, servants, agents, officers, directors and employees (herein referred to as the "Releasees"), of and from any and all actions, causes of action, claims and demands whatsoever or where so ever, whether at law or in equity, and whether known or unknown, suspected or unsuspected, which the Settlement Class

Members, their successors and assigns or any of them, can, shall, or may have by reason of the events and actions giving rise to the claims advanced in the Proceeding; and

- (b) covenants not to make any claim or take any proceeding against any other legal or natural person who might claim contribution from the Releasees in respect of allegations that are or could have been advanced in the Proceeding.

5.2 Dismissal of the Proceeding

1. The Proceeding shall be dismissed with prejudice and without costs as against the Defendant.

5.3 Dismissal of Other Actions

1. All Other Actions commenced by any Settlement Class Member shall be dismissed against the Defendant, without costs and with prejudice.
2. Class Counsel will provide specific notice of this provision to any Class Member known to have commenced another action relating to the Released Claims.

Section 6 - OTHER CLAIMS

6.1 Claims for Contribution or Indemnity

1. If notwithstanding section 5.1(b), a Settlement Class Member makes any claim or takes any proceedings against any other legal or natural person who might claim contribution or indemnity from any Releasee which a court or other tribunal may attribute to the fault of such Releasee and that person or corporation claims contribution or indemnity from such Releasee, then, at the first opportunity, the Settlement Class Member will advise the court or other tribunal in which proceedings are brought, and so amend his or her pleadings to make clear, that he or she expressly waives any right to recover from any such person, any portion of the losses claimed that the court or other tribunal may attribute to the fault of such Releasee.

6.2 No Admission of Liability

1. Whether or not this Settlement Agreement is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Defendant, or of the truth of any of the claims or allegations contained in the Proceeding or any other pleading filed by any Settlement Class Member.

6.3 Agreement Not Evidence

1. The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, or as otherwise required by law.

Section 7 - ADMINISTRATION AND IMPLEMENTATION

7.1 Mechanics of Administration

1. Except to the extent provided for in this Settlement Agreement, the mechanics of the implementation and administration of this Settlement Agreement and the Distribution Plan shall be subject to the supervisory jurisdiction of the Court, which may be exercised on the Court's own application or on applications brought by the Administrator, the Defendant, Class Counsel, or a Class Member.

7.2 Notice of Applications

1. All applications contemplated by this Settlement Agreement shall be on notice to the Parties in accordance with the Supreme Court Civil Rules.

Section 8 - TERMINATION OF SETTLEMENT AGREEMENT

8.1 Right of Termination

1. Subject to section 8.2, in the event that:
 - (a) the Court declines to approve this Settlement Agreement or any material part hereof, or
 - (b) the order approving this Settlement Agreement by the Court is set aside or overturned on appeal;

this Settlement Agreement shall be terminated.

2. In the event that the Defendant does not pay the Settlement Amount to the Settlement Class Members or any other Settlement Benefit, the Plaintiff may elect to terminate the Settlement Agreement or to seek enforcement of the Settlement Agreement.
3. Any order, ruling or determination made by the Court with respect to Class Counsel Fees or with respect to the Distribution Plan shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

8.2 Survival of Provisions After Termination

1. If this Settlement Agreement is terminated, the provisions of sections 6.2, 6.3, 8 and 9.2 – 9.14, and the definitions applicable thereto shall survive the termination and continue in full force and effect. The definitions shall survive only for the limited purpose of the interpretation of sections 6.2, 6.3, 8 and 9.2 – 9.14 within the meaning of this Settlement Agreement, but for no other purposes.
2. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

3. The Parties expressly reserve all of their respective rights if this Settlement Agreement does not become effective or if this Settlement Agreement is terminated.

Section 9 - MISCELLANEOUS

9.1 Best Efforts

1. The Parties shall use their best efforts to effect this settlement and to secure the prompt, complete and final dismissal with prejudice of the Proceeding as against the Defendant.

9.2 Application

1. Class Counsel or the Defendant may apply to the Court for directions in respect of the interpretation and implementation of this Settlement Agreement.

9.3 Headings, etc.

1. In this Settlement Agreement:
 - (a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
 - (b) the terms "this Settlement Agreement", "hereof", "hereunder", "herein", and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement

9.4 Computation of Time

1. In the computation of time in this Settlement Agreement, except where a contrary intention appears,
 - (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and

- (b) only in the case where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

9.5 Governing Law

1. This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

9.6 Entire Agreement

1. This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

9.7 Amendments

1. This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto and any such modification or amendment must be approved by the Court.

9.8 Binding Effect

1. Unless and until it is terminated, this Settlement Agreement shall be binding upon, and enure to the benefit of the Plaintiff, Settlement class Members, the Defendant, any and all of their respective insurers, employees, agents, successors and assigns. Without limiting the generality of the foregoing, unless and until this Settlement Agreement is terminated, each and every covenant and agreement made herein by the Plaintiffs shall be binding upon them and each and every covenant and agreement made herein by the Defendant shall be binding upon them.

9.9 Counterparts

1. This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile signature shall be deemed an original signature for purposes of executing this Settlement Agreement

9.10 Negotiated Agreement

1. This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement

9.11 Recitals

1. The recitals to this Settlement Agreement are true and form part of the Settlement Agreement

9.12 Acknowledgements

1. Each of the Parties hereby affirms and acknowledges that:
 - (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
 - (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
 - (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and

- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party with respect to the first Party's decision to execute this Settlement Agreement.

9.13 Authorized Signatures

1. Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement.

9.14 Notice

1. Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email, fax or delivery to the representatives for the Party to whom notice is being provided, as identified below:

For the Plaintiff, for Class Counsel

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For the Defendant, The Board of Trustees for the Boilermakers' Lodge 359 Pension Plan, and for the Administrator

Craig A.B. Ferris, Q.C.
Marko Vesely and Amy Nathanson
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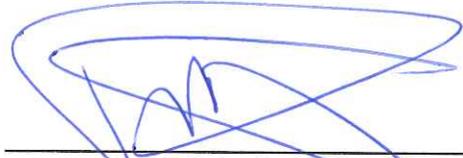
Reidar Mogergerman

SIGNED, SEALED AND DELIVERED by)
~~Michelle L. Segal~~, Counsel for the)
Plaintiff, in the presence of:)

Motamedian)
Signature)

Bahar Motamedian)
Name)

400-856 Homer street, Vancouver)
Address *BC. V6B 2W5*)



~~Michelle L. Segal~~

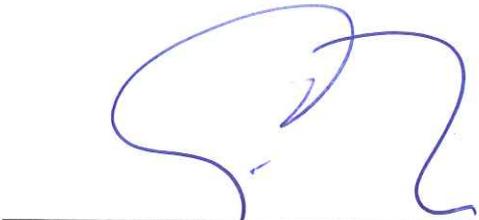
Reidar Mogergerman

SIGNED, SEALED AND DELIVERED by)
Craig A.B. Ferris, Q.C., Counsel for the)
Defendants, in the presence of:)

A. Ferris)
Signature)

Amy Nathanson)
Name)

1600-925 West Georgia St.)
Address *Vancouver, B.C. V6C 3L2*)



Craig A.B. Ferris, Q.C.