

Court File No. 02-CV-236588 CP

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

SUE McSHEFFREY

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

Court File No. 06-CV-324475PD3

ONTARIO SUPERIOR COURT OF JUSTICE

AND BETWEEN:

DIANNE LECLAIR

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

Proceeding Under the Class Proceedings Act, 1992

AFFIDAVIT OF ANDREA WOBICK

I, **ANDREA WOBICK**, of the City of Toronto, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am an Associate at Ursel Phillips Fellows Hopkinson LLP. I am legal counsel for the Plaintiff, Sue McSheffrey. As such I have knowledge of the matters to which I hereinafter I depose. Where I make statements in this affidavit which are

not within my personal knowledge, I have identified the source of that information and belief.

2. I am swearing this affidavit in support of the Plaintiffs' motion for approval of the Settlement, amendment to the classes and plan for notice and distribution of the settlement monies.

The Parties and Background Information

3. The Plaintiffs are Sue McSheffrey ("McSheffrey") and Dianne Leclair ("Leclair"), both of whom were appointed by the Honourable Justice Cullity as the representative Plaintiffs for each of their respective classes.
4. The Defendant is Her Majesty the Queen in Right of Ontario ("HMQ").

Minutes of Settlement and Process for Notice

5. The Parties have agreed in their Minutes of Settlement to an amount of \$250,000 for Administration Expenses, with reversion of any unused monies to HMQ. (pg. 6 par. d). The Minutes of Settlement are attached as Exhibit "31" to the Affidavit of Susan McSheffrey, sworn November 13, 2012.
6. The process for Notice, Implementation and Distribution of the Settlement is set out in Appendix "A" to the parties' Minutes of Settlement (Exhibit "31" to the Affidavit of Susan McSheffrey, sworn November 13, 2012).
7. Upon further contemplation and discussion of the most effective means of providing notice and implementing the Settlement, the parties wish to vary the process for notice, claims and distribution of the Settlement as outlined in the

document attached as Exhibit "1" to my affidavit (and as outlined in paragraphs 210 to 214 of Ms. McSheffrey's affidavit).

8. Specifically, the parties wish to lengthen the time frame for the Notice, Claims, and Distribution process to ensure that all class members have the opportunity to receive notice and make a claim for a portion of the settlement monies.
9. Further, the parties wish to appoint Michael Eizenga as Referee to hear any appeals of claims that are denied.
10. A copy of Mr. Eizenga's CCAC Class Action Proposal is attached as Exhibit "2" to my affidavit.
11. A copy of Mr. Eizenga's profile is attached as Exhibit "3" to my affidavit.
12. Mr. Eizenga shall be compensated for appeals based on an hourly rate, up to the total amount of \$35,000. Should further funds be required in order to complete any appeals from denied claims, the parties shall seek an Order from the Court.
13. Mr. Eizenga's fees shall be paid from the monies designated for Administration Expenses in the Minutes of Settlement, should any such monies remain after all other expenses relating to the administration of the settlement have been paid;
14. Should no funds remain from the monies designated as Administration Expenses, Mr. Eizenga's fees shall be paid from the interest earned on the Settlement monies.
15. As of October 31, 2012, the amount of interest earned on the settlement monies was approximately eighty five thousand dollars (\$85,000).

Fees and Hours Worked

16. The summary of the class counsel fees, disbursements and taxes incurred by the McSheffrey class to date is contained at paragraph 193 of Ms. McSheffrey's Affidavit.
17. In 2005, as outlined in paragraph 83 of Ms. McSheffrey's affidavit, and Justice Cullity's Order attached as Exhibit "25" to Ms. McSheffrey's affidavit, Justice Cullity awarded costs to the Plaintiff for the motion in the amount of \$45,000 plus disbursements (for a total of \$55,487.75).
18. The billed fees since this matter was certified by Justice Cullity as an action under the *Class Proceedings Act, 1992* (in 2005) represent a total of 1453 hours of work, broken down as follows:
 - (a) Susan Ursel (Partner, Year of Call – 1986) – 370.6 hours
 - (b) Andrea Wobick (Associate, Year of Call – 2005) – 865 hours
 - (c) Other Associates (varying years of call) – 186.5 hours
 - (d) Articling Student – 31.5 hours
19. Ms. Ursel's typical hourly rate for litigation is four hundred and fifty dollars (\$450).
20. Up until 2011, Ms. Ursel billed OPSEU at a rate of \$200 per hour for her work. As of 2011, Ms. Ursel's rate increased to \$300 per hour for this action.
21. My typical hourly rate for litigation is three hundred and thirty five dollars (\$335) per hour.

22. My billing rate throughout the course of this matter has been \$200 per hour.

Administration Expenses incurred by Class Counsel

23. The Minutes of Settlement (Exhibit "31" to the Affidavit of Ms. McSheffrey) define "administration expenses" as follows:

"...all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by Class Counsel, the Administrator, or otherwise for the implementation and operation of these Minutes of Settlement, including the costs of distributing any notices required by these Minutes or the Court, and the costs of distributing the Settlement Amount to Class Members, but excluding Class Counsel Fees."

24. To date, the amount of \$65,554.07 has been billed by Ricepoint for the amount of disbursements arising from the Notice of the Approval Hearing. RicePoint's invoice is attached as Exhibit "4" to my affidavit.

25. Ursel Phillips Fellows Hopkinson LLP has reimbursed RicePoint for disbursements in the amount of \$32,777.04 (inclusive of \$3,770.81 HST) representing one-half of the invoice.

26. I make this Affidavit for no improper purpose.

SWORN before me at the City of
Toronto, in the Province of Ontario, this
21st day of November, 2012.

A Commissioner for taking affidavits

KAREN ENSSLEN



ANDREA WOBICK

This is Exhibit "1" referred to
in the Affidavit of Andrea Wobick
Sworn this 21st day of November, 2012.



A COMMISSIONER FOR TAKING AFFIDAVITS

Dispositions Regarding the Notice, Implementation and Administration of the Settlement

Notice of Settlement to all Class Members

1. On approval of the Minutes of Settlement, the expansion of the class to include New Class Members, and the Approval Order, Class Members will receive a Notice of the Settlement as described below.
2. Notice of the Settlement shall be provided in a form to be determined by the Administrator and the Parties or in such form as the Court may order in the Approval Order (the "Notice of Settlement").
3. A Notice of Settlement shall be advertised in the Globe & Mail newspaper no later than 60 days after the date of the Approval Order, or such further period of time as the Court may order in the Approval Order.
4. The Notice of Settlement and claims form shall also be posted on the OPSEU and ONA union websites, and published in the respective unions' newsletters and email systems (where such are available) no later than 60 days after the date of the Approval Order, or such further period of time as the Court may order in the Approval Order.
5. The Notice of Settlement and claims form shall also be mailed by OPSEU and ONA to the last known address within their respective records of Identified Class Members no later than 60 days after the date of the Approval Order, or such further period of time as the Court may order in the Approval Order.
6. The Notice of Settlement and claims form shall be posted physically and electronically in each CCAC work site in Ontario no later than 60 days after the date of the Approval Order, or such further period of time as the Court may order in the Approval Order.

Provision of Other Information to Class Members

7. Within 30 days of the Approval Order, the Administrator shall set up a toll free telephone number to address inquiries regarding the Settlement.
8. Within 30 days of the Approval Order, the Administrator shall create an email account for the purpose of accepting and responding to inquiries regarding the Settlement.
9. Within 30 days of the Approval Order, the Administrator shall post the following information to the website www.CCACpensionclassaction.com:
 - (a) The Notice of Settlement;
 - (b) A description of the Class Members, including the New Class Members;
 - (c) A Claims Form and instructions on how to submit the claim form;

- (d) The deadline for making claims and the consequences of failing to make a claim, which shall be that a failure to make a claim within the time stipulated shall result in the claimant being barred from receipt of any payments out of the Final Settlement Amount;
- (e) The process for addressing deficiencies in the claim, including that the Administrator may require additional information to be submitted by a claimant, that such deficiencies must be rectified within 30 days from the date of the Administrator's letter requesting additional information and that failure to respond within the 30 days shall result in the Class Member being barred from receipt of any payments out of the Final Settlement Amount;
- (f) The process for appealing a denial of a claim by the Administrator and the ground upon which a claim may be denied;
- (g) The toll free telephone number for inquiries;
- (h) The mailing address of the Administrator for the purpose of filing claims and all related correspondence;
- (i) The email address of the Administrator for the purpose of accepting and responding to inquiries regarding the Settlement;
- (j) Such further and other information as the Court may require, and/or the Administrator advise.

Claims Submission Process

- 10. Claims shall be submitted to the Administrator in the form that is approved by the Court.
- 11. Claim Forms, including instructions on how to complete the Claim Form, may be obtained from the Administrator or from the website.
- 12. Claimants shall have 90 days from the date of publication of the Notice of Settlement in the Globe & Mail to file their claims with the Administrator.
- 13. The Administrator may request additional information within 45 days of the receipt of all claims (within the specified time frame) to request additional documentation to verify a claim.
- 14. Claimants will have 30 days from the date of the Administrator's letter requesting further information to rectify the deficiency(cies). Failure to respond within the 30 days shall result in the Class Member being barred from receipt of any payments out of the Final Settlement Amount.

15. If a claimant submits additional information upon request of the Administrator, the Administrator shall make a decision about the validity of the claim within 30 days of being provided such information.
16. In the event that a claimant disputes a decision by the Administrator, the claimant may appeal the decision, in writing, to a third party Referee approved by the Court within 15 days of the date of the Administrator's decision.
17. Claimants may appeal a denial of a claim when that denial is based on a lack of sufficient proof only.
18. All appeals shall take place by way of written submissions to the third party Referee.
19. Claimants must set out the basis for the disagreement with the Administrator's decision, and provide copies of all documents relevant to the claim, along with a fee of fifty dollars (\$50), payable to the Administrator.
20. All appeals shall be heard within 90 days of the date of the receipt of the request for an appeal.
21. The Referee shall release a written disposition of the appeal within 60 days of the completion of the time frame for appeals to the Claimant and the Administrator.
22. If the Referee varies the Administrator's decision relating to the claim, the Administrator shall return the fifty dollar (\$50) fee for the appeal to the Claimant. If the Referee does not vary the Administrator's decision, the fee shall not be refunded.
23. The determination of the Referee shall be final.

Plan of Distribution

24. Upon 30 days from the date of the completion of the time from for the Referee to issue a decision, the Administrator shall calculate the total number of Class Members who have submitted valid Claim Forms ("the Valid Class Members") and shall divide the Final Settlement Amount by the total number of Valid Class Members, in order to ascertain the payment to be made to each Valid Class Member ("the Individual Payments").
25. The Administrator shall distribute the Individual Payments by cheque made out to the Valid Class Member or his or her estate, as the case may be. The cheques shall be mailed by regular mail to the address provided by the Valid Class Member, or his or her estate, on the Claim Form received by the Administrator. It shall be the responsibility of the Valid Class Member or his or her estate to advise the Administrator of any address change and the Administrator shall be entitled to act upon the most recent address in its possession in the distribution of the Individual Payments.

26. The Administrator shall commence to distribute all the Individual Payments within 90 days of the time period set out in paragraph 23 above.
27. The Administrator may, in its discretion, having regard to the existence of disputes or appeals as described in paragraphs 19-23 above, hold such reserves from the Settlement Amount or Final Settlement Amount as it may deem necessary for the purpose of satisfying any disputed or appealed claims which are ultimately determined to be Valid Claims, and in order to enable the timely distribution pursuant to this Appendix of Individual Payments to Valid Class Members.
28. In the event that all monies from the Settlement Amount or Final Settlement Amount are not distributed as contemplated by the Approval Order, the Administrator, McSheffrey, and Leclair may apply to the Ontario Superior Court of Justice for a further order as to distribution of any remaining monies, excluding the reversion of any unused monies for Administration Expenses to HMQ, and may propose any plan of further distribution which to them, either jointly or severally, seems reasonable and consistent with the original purpose of the Minutes of Settlement. No such application to Court shall be made before 180 days have elapsed from the date of the first distribution pursuant to paragraph 27 above.
29. It shall be the responsibility of the Valid Class Member to pay any tax(es) owing on Settlement Monies or interest thereon received as a result of this distribution and the Administrator shall so advise each Valid Class Member of such before making payment to him or her.

Records and Other Matters

30. The Administrator shall maintain its records of this Settlement and Distribution for two (2) years from the date of the final distribution of monies. Thereafter, counsel for OPSEU and ONA shall assume responsibility for the secure and confidential storage of these records as they pertain to the respective unions' members for a period of 15 years.

This is Exhibit "2" referred to
in the Affidavit of Andrea Wobick
Sworn this 21st day of November, 2012.



A COMMISSIONER FOR TAKING AFFIDAVITS



Bennett Jones LLP

3400 One First Canadian Place, PO Box 130

Toronto, Ontario, Canada M5X 1A4

Tel: 416.863.1200 Fax: 416.863.1716

Michael A. Eizenga
 Partner
 Direct Line: 416.777.4879
 e-mail: eizengam@bennettjones.com
 Our File No.: 850.1629

November 20, 2012

Via Email

Stephen J. Moreau
 Cavalluzzo Shilton McIntyre & Cornish LLP
 Barristers & Solicitors
 474 Bathurst Street
 Suite 300
 Toronto, Ontario
 M5T 2S6

Andrea Wobick
 Ursel Phillips Fellows Hopkinson LLP
 Barristers & Solicitors
 30 St. Clair Avenue West
 10th Floor
 Toronto, Ontario
 M4V 3A1

Dear Mr. Moreau and Ms. Wobick:

Re: CCAC Class Action Proposal

This will confirm our discussions in which we have agreed that I be retained as Referee to hear appeals by potential class members in the McSheffrey and Leclair classes from certain decisions being made by the Administrator charged with administering the settlement.

General Terms

1. I will agree to act as a Referee and to manage the appeals process ordered by the Superior Court of Justice (the "Court").
2. I will be paid a fee of \$720 per hour, plus HST on all fees, plus disbursements for the time spent acting as Referee.
3. The total fees, plus tax, plus disbursements payable to me will be capped at \$35,000.00.
4. Thus, subject to #5 below, I will bill the lesser of: (a) the sum in paragraph 2; and, (b) \$35,000.00.
5. However, we will agree that, at my request, we will return to Court on motion or by other means to amend any orders or judgments in the event that the appeals process or the terms of my retainer must be modified in light of changing circumstances. In particular, we will

return to the Court if the cap referenced above is demonstrated to be unreasonable in light of the responsibilities of the Referee.

Jurisdiction

6. Potential class members will file claims with an Administrator appointed by the Court.
7. Potential class members will, as part of the settlement and the judgment of the Court, be required to file their claims within specified time limits. They will also be required to comply with other time requirements. In the event such time requirements are not met, the claim will not be processed.
8. Further, we anticipate that the Court will provide that the failure to comply with time limits will not give rise to a right of appeal to me. In other words, if the claimant wishes to appeal a decision not to accept their claim due to a late filing, such appeal cannot proceed before me.
9. Pursuant to the settlement and judgment, the Administrator will review timely claims and, as part of its review process, will gather documentation from the potential class member, two (2) unions, and possibly other third parties.
10. The Administrator will then adjudicate the claims and either accept or reject them.
11. In the event that the claim is rejected by reason of a finding that the documentation or information provided does not support the claim, the claimant will have a right to appeal such rejection to me within a specified time frame. The Referee's jurisdiction will be limited to appeals raising this insufficiency ground of appeal.

Process of Appeal

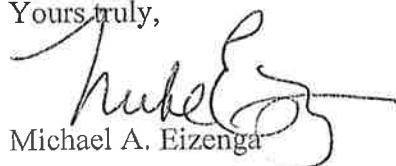
12. The appeal before me will be entirely in writing.
13. The parties to the appeal will be the appealing claimant and the Administrator.
14. I will be provided by the Administrator with a copy of all documents considered by the Administrator in making its decision to reject the claim.
15. The claimant appellant will likewise be provided with these documents.
16. I will review the documentation provided and any written submissions made by a claimant appellant and I will render a brief written decision allowing or dismissing the appeal.
17. At all times, I will comply with the timeframes set out in the Judgment of the Court for rendering my decision, and I will otherwise adjudicate the appeals with a view to ensuring the least expensive, most efficient process possible.

November 20, 2012
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Immunity

18. The Judgment the Court will issue will provide that I and Bennett Jones are immune from suit or claim due to my actions as Referee.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael A. Eizenga", with a long horizontal flourish extending to the right.

Michael A. Eizenga

MAE/gvd

This is Exhibit "3" referred to
in the Affidavit of Andrea Wobick
Sworn this 21st day of November, 2012.



A COMMISSIONER FOR TAKING AFFIDAVITS



Michael A. Eizenga

Partner

Tel: 416.777.4879 | **Email:** eizengam@bennettjones.com

Office: Toronto | **Bar Call:** Ontario, 1991

Education:

University of Western Ontario, BA, 1979 | Dallas Theological Seminary, ThM, 1984 | University of Western Ontario, MA, 1986 | University of Western Ontario, LLB, 1989

Profile

A fellow of the American College of Trial Lawyers and co-chair of the firm's class actions practice, Michael Eizenga is recognized as one of Canada's leading class action litigators. Michael advises and represents clients on all issues relating to class proceedings, including securities, product liability, competition and other commercial matters.

Since its inaugural 2006 edition, Michael has been named annually in Best Lawyers in Canada. He is also named annually in The Canadian Legal Lexpert Directory, and in 2011 was ranked as Most Frequently Recommended in the areas of Litigation – Class Actions and Product Liability. Michael is also named annually in the Lexpert/American Guide to the Leading Lawyers in Canada as a leading class action litigation and product liability lawyer, and is ranked by Chambers and Partners for his expertise in Dispute Resolution: Class Actions.

Michael is an adjunct professor at the University of Toronto, Faculty of Law, and previously taught in the Faculty of Law and Departments of Philosophy and Political Science at the University of Western Ontario. He has also taught at Osgoode Hall's Intensive Trial Advocacy Workshop; and the Law Society's Bar Admission Course.

A frequent lecturer and author regarding class action litigation, Michael has presented domestically and internationally to organizations such as the International Bar Association, the Canadian Bar Association, the Canadian Institute and the Advocates' Society. Michael is co-author of Class Actions Law and Practice and co-editor of Readings in the Philosophy of Constitutional Law.

He is a member of the Board of Directors of the Toronto Rehabilitation Institute Foundation, and has been a member of numerous other community, professional and academic organizations. He is a past member of the Board of Directors of Pro Bono Law Ontario (2008-2011). He is also a past president of The Advocates' Society (2007-2008), a former member of its Board of Directors (1999-2008), and founding co-chair and member of its Advisory Board, Institute for Civility and Professionalism (2008-present). Michael is a former president of the Liberal Party of Canada (2003-2006).

Michael A. Eizenga

Partner

Teaching Experience

University of Toronto, Faculty of Law

Course: Class Actions: 2012-2013

University of Western Ontario, Faculty of Law

Courses: Class Actions: 2010-2011, 2009-2010 and 1999-2001

Jurisprudence and Legal Theory: 1995-1997

University of Western Ontario, Department of Political Science

Course: Law, Politics and the Judicial Process: 2000-2002

University of Western Ontario, Department of Philosophy

Courses: Philosophy of Law: 1988-1996

History of Philosophy: 1987-1988

Other teaching experiences include: Occasional Guest Instructor at Osgoode Hall Law School Intensive Trial Advocacy Workshop and Law Society Bar Admission Course; Part time Instructor, Ontario Seminary, 1986-1988; Full time Faculty, Dallas Seminary, 1983-1985

Professional and Community Activities

- **Toronto Rehabilitation Institute Foundation**, Board of Directors, 2010-current
- **Pro Bono Law Ontario**, Board of Directors, 2008-2011
- **The Advocates' Society**
 - President, 2007-2008
 - Board of Directors, 1999-2008
 - Founding Co-Chair and member of Advisory Board
 - Institute for Civility and Professionalism, 2008-current
- **Liberal Party of Canada**, President, 2003-2006
- **The John P. Robarts Research Institute**, Council Member, 2004-2005; Board of Directors, 2001-2004
- **Thames Valley Education Foundation**, Board of Directors, 2001-2003
- **Member of Attorney General's Joint Committee on Contingency Fees**, 2000 (report submitted to The Honourable James M. Flaherty, Attorney General for Ontario)
- **Other activities have included:** Huron College, Board of Governors, 1994-2000; London Community Players, Fundraising Chairman, 1999; Scotia McLeod/Huron College Foundation Golf and Tennis Classic, Chair, 1994-1996; Ontario Liberal Party, President, 1995-1997; London Community Foundation, Board of Directors, 1991-1994; Raoul Wallenberg Centres Inc. (a residential facility for released offenders), Board of Directors (including term as Chair), 1989-1993; Head Injury Association of London & District, Board of Directors (including term as Chair), 1991-1993

Michael A. Eizenga

Partner

Selected Recent Experience

- *Pearson v Inco* in defence of claims made in class action against local school board in connection with emissions of nickel from former Inco refinery in Port Colborne, Ontario.
- *MacQueen v Sydney Steel Corporation* as class counsel in class action relating to the discharge of pollutants from the steel plant and coke ovens operated in Sydney, Nova Scotia.
- *Walmboldt v Northstar Aerospace (Canada) Inc.* as class counsel in class action relating to the discharge of TCE into groundwater.
- *Smith v Brockton (Municipality)* as class counsel in class action relating to outbreak of *E. Coli* in the water supply of Walkerton, Ontario.
- Sino-Forest Corporation in defence of a national primary and secondary market securities class action.
- SMART Technologies Inc. in defence of a national primary market securities class action.
- Benefit Plan Administrators Limited in defence of a pension related class action.
- The former Chief Financial Officer of an Issuer in defence of a secondary market securities class action.
- Bank of America in defence of a competition/anti-trust related class action.
- A U.S. based manufacturer and its Canadian affiliate in defence of a major medical device class action.
- The distributors of aftermarket insulation products in defence of a class action brought for alleged violations of the *Hazardous Products Act*

Publications:

- M.A. Eizenga, M.J. Peerless and C.M. Wright, *Class Actions Law and Practice* (Butterworths, Looseleaf Service 1999 - current).
- M.A. Eizenga and E. Davis, *A History of Class Actions: Modern Lessons from Deep Roots* (The Canadian Class Action Review, Vol. 7, No. 1, October 2011)
- M.A. Eizenga, D.H. Assaf and E. Davis, *Antitrust Class Actions: A Tale of Two Countries* (American Bar Association Publication *Antitrust*, Vol.25, No.2, Spring 2011)
- M.A. Eizenga and D.M. Sullivan, "Introduction to Class Proceedings", *Personal Injury Practice Manual*, looseleaf, (LexisNexis Canada, 2002) c. 15.
- R.N. Bronaugh, M.A. Eizenga and S.P. Scharzer, eds., *Readings in the Philosophy of Constitutional Law* (Kendall/Hunt, 3^d ed. 1990, 4th ed. 1992).
- R.N. Bronaugh and M.A. Eizenga, eds., *Criminal Law: An Essay with Cases*, (CXL Publishing, 1993). Materials for classroom use.

Michael A. Eizenga

Partner

- R.N. Bronaugh and M.A. Eizenga, eds., *Private Law: Tort and Contract*, (CXL Publishing, 1992). Materials for classroom use.

Papers and Presentations

- "Introduction to the New Canada Consumer Product Safety Act", **The Law Society of Upper Canada, The Six-Minute Business Lawyer 2011**, June 13, 2011, Toronto
- "Tips from the Trenches in Managing a Recall", **The Canadian Institute Forum on Consumer Product Safety, Liability & Recalls – Ensuring Compliance with the New Federal Provisions**, May 3, 2011, Toronto
- "Getting to Yes on the Certification Question", **Osgoode Hall Law School, 8th National Symposium on Class Actions**, April 28, 2011, Toronto
- "Expert Evidence: Strategies for Navigating the New Waters", **The Advocates' Society, Brown Bag Series**, March 30, 2011, Toronto
- "Advancing Access to Justice Through Cy Prés Distributions", **The Advocates' Society, E-Brief**, Vol.21, No.2, Winter 2010
- "Determining Evidentiary Requirements for the Certification Hearing", **The Canadian Institute Class Actions Conference**, September 28, 2010, Toronto
- "Contingency Fees – How to Use them Effectively", **Law Society of Upper Canada, The Twelve-Minute Civil Litigator 2010**, September 21, 2010, Toronto
- "Comity and Restraint: Opportunities for Cross Border Evidence Gathering", **Osgoode Hall Law School, Litigating Commercial Disputes**, July 16, 2010, Toronto
- "Litigation Marketing – The how and why and is it worth the trouble", **The Advocates' Society, Spring Symposium**, May 28, 2010, Toronto
- "Settlement Structures and Processes", **Osgoode Hall Law School, Seventh National Symposium on Class Actions**, April 1, 2010, Toronto
- "Know Your Client: Practice Tips for the Modern Litigator", **Law Society of Upper Canada, The Twelve-Minute Civil Litigator**, September 2009
- "Product Liability, Causation and Waiver of Tort: The Ongoing Debate", **Osgoode Hall Law School, Sixth National Symposium on Class Actions**, April 2009, Toronto
- "Regulatory Negligence: Update", **The Canadian Institute, Fundamentals of Administrative Law & Practice Conference**, April 2008, Toronto
- "Issues in Solicitor-Client Privilege", **County of Carleton Law Association, 27th Civil Litigation Conference**, November 2007, Montebello, Quebec
- "Solutions to Parallel and Overlapping Class Actions across Provinces" and "International Aspects", **Osgoode Hall Law School, Third National Symposium on Class Actions: Class Actions Without Borders**, April 2006, Toronto
- "Securities Class Actions in Canada: Misrepresentation in the Secondary Market – A Statutory and Common Law Comparative", **The Advocates Society, Fall Convention**, November 2005, Exuma, Bahamas
- "ADR in Class Actions", **ADR Institute of Canada, Fall Conference**, November 2005, Toronto

Michael A. Eizenga

Partner

- "Punitive Damages and Class Proceedings", **Osgoode Hall Law School, Second Annual National Symposium on Class Actions**, September 2002, Toronto
- "Conflict of Laws and National Class Actions", M.A. Eizenga, **The Canadian Institute, The 2nd Annual National Forum on Litigating Class Actions**, September 2001, Toronto
- "Products Liability - Medical and Pharmaceutical", **The Litigator, Journal of the Ontario Trial Lawyers Association**, Vol. 9, Issue 1, Spring 2001
- "Class Actions: Where are We at and Where are We Going?", **Osgoode Hall Law School, First Annual National Symposium on Class Actions**, April 2001, Toronto
- "High Risk Donors - Legal Aspects Pre and Post Transplant", **Canadian Society of Transplantation and the Canadian Association of Transplantation**, March 2001, Lake Louise, Alberta
- "More than a Nuisance - Environmental Class Actions", **Canadian Bar Association, Ontario, Municipal and Environmental Law**, February 2001, Toronto
- "Settlement of the Class Proceeding", **The Advocates' Society, Introduction to Class Actions**, January 2001, Toronto
- "Managing Class Actions", **The Canadian Institute, Class Actions Conference**, December 2000
- "Citizenship in the Legal Profession: Civility as an Instrumental Value in Self-Governance", **The Advocates' Society, Civility in the Legal Profession - a Policy Forum**, October 2000, Toronto
- "Cross Border Issues: American - Canadian Class Action Litigation", **The Canadian Institute, Class Actions Conference**, September 2000, Toronto
- "A Brief Introduction to Class Proceedings in Ontario", **International Bar Association, Class Actions - Lessons from the Land of Litigation Fever**, September 2000, Amsterdam
- "Class Actions", **The Education Safety Association of Ontario, Health and Safety Conference**, May 2000
- "Settlement of the Class Proceeding", **The Advocates' Society, Class Actions Conference**, May 2000, Toronto
- "Class Actions - Getting Started", **Canadian Bar Association of Ontario**, May 2000, Toronto
- "Certification of Misrepresentation Cases", **The Continuing Legal Education Society of British Columbia**, May 2000, Vancouver
- "The Latest Developments in Product Liability - Has the Snail Slid Any Further Out of the Bottle?", **Canadian Bar Association of Ontario**, Meeting, November 1996
- "Class Actions: Contingency Fees, Other Fees and Costs", **The Canadian Institute**, October 1996
- "Class Actions", **The Canadian Institute**, October 1994
- "The Class Action Lawsuit", **The Canadian Institute**, May 1994
- "Actuarial Evidence in the 1990's", **North American Society of Actuaries, Annual Meeting**, April 1994, Orlando
- "Social Host Liability", **The Advocates Society, Fall Convention**, October 1993

Michael A. Eizenga

Partner

- "The Mechanics of Class Certification", **The Canadian Institute**, May 1993
- "Ontario's No-Fault Legislation - An Invitation to Bad Faith Claims", **The Advocates' Society, Spring Convention**, June 1990

Conferences Chaired/Moderated/Panel Member (Selected)

- **The Advocates' Society**, "Putting Theory into Practice: Exercising Professionalism and Civility", December 2011, Toronto
- **Northwind Class Actions Invitational Forum**, "How to Defeat Certification Now?"; "Client Perspective – What Can We Do Better?"; and "Historical Perspective", June 2011, Cambridge
- **The Advocates' Society, Mentoring Dinner Series**, "Getting the Right Start", March 2011, Toronto
- **U.S. Chamber of Commerce, Canada - U.S.: Strengthening the Partnership**, "The Legal Environment for Business", October 2010, Washington D.C.
- **Ontario Bar Association, Class Action Colloquium**, "Recent Developments in Securities Class Actions, 2009", December 2009
- **Canadian Study of Parliament Group**, "Political Parties and Parliament", May 2009
- **Superior Court of Justice (Ontario), Spring Education Seminar**, "The Judiciary at the E-Gate", April 2009
- **Superior Court of Justice (Ontario), Spring Education Seminar**, "Debate: Expert Evidence Submissions", April 2009
- **2nd National Pro Bono Conference**, "Civil Justice Reform – Change for the Public Good", September 2008, Vancouver
- **Justice Summit (Ministry of Attorney General)**, "Civil Justice Reform", April 2008, Toronto
- **The Advocates' Society International Conference**, April 2006, Dublin, Ireland
- **The Advocates' Society Court House Series**, 2001, 2002, and 2005, London
- **The Advocates Society Fall Convention**, November 2003, Cancun, Mexico
- **Canadian Pension & Benefits Institute, Ontario Regional Conference**, "Class Actions: When Plan Members Sue the Plan Sponsor", October 2002, London
- **The Canadian Institute, 2nd Annual National Forum on Litigating Class Actions**, September 2001, Toronto
- **Canadian Bar Association, Annual Conference**, "Social Institutions in Crisis: Mass Litigation and its Aftermath", August 2001, Saskatoon
- **The Law Society of Upper Canada, Practice Essentials 2001**, "Professionalism and the New Rules of Professional Conduct", May and June 2001, London, Kingston, Thunder Bay and Toronto
- **The Canadian Institute, Class Actions Conference**, September 2000, Toronto
- **Canadian Corporate Counsel Meeting**, "Class Actions: The Emerging Frontier of Products Liability", March 1997

Michael A. Eizenga

Partner

Recent Recognitions

2012, Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada

Michael A. Eizenga, recognized as a leading Class Actions and Product Liability Litigation lawyer

2011, Canadian Legal Lexpert Directory

Michael A. Eizenga, most frequently recommended, Litigation – Class Actions

2011, Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada

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Michael A. Eizenga, recognized as one of Canada's leading Class Action Litigation lawyers

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Michael A. Eizenga, recognized as one of Canada's leading Personal Injury Litigation lawyers

2011, Best Lawyers in Canada

Michael A. Eizenga, recognized as one of Canada's leading Product Liability lawyers

2010, The Canadian Legal Lexpert Directory

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2010, Best Lawyers in Canada

Michael A. Eizenga, recognized as one of Canada's leading Class Action Litigation lawyers

2010, The Canadian Legal Lexpert Directory

Michael A. Eizenga, most frequently recommended, Litigation – Product Liability

2010, Lexpert Guide to the Leading US/Canada Cross-border Litigation Lawyers in Canada

Michael A. Eizenga, recognized as one of Canada's leading Cross-Border litigators

Michael A. Eizenga

Partner

2010, Who's Who Legal: Canada

Michael A. Eizenga, recognized as one of Canada's leading Commercial Litigation lawyers

2009, Canadian Legal Lexpert Directory

Michael A. Eizenga, recognized as most frequently recommended, Class Actions

2009, Lexpert/American Lawyer Guide to the Leading 500 Lawyers in Canada

Michael A. Eizenga, recognized as a leading Class Action Litigation lawyer

2009, Best Lawyers in Canada

Michael A. Eizenga, recognized as one of Canada's leading Class Action Litigation lawyers

2009, The Canadian Legal Lexpert Directory

Michael A. Eizenga, consistently recommended, Litigation – Product Liability

2009, American College of Trial Lawyers

Michael A. Eizenga, inducted as a Fellow of the College

Counsel on the following reported cases (selected)

Bendall v. McGhan Medical Corporation

1993 CarswellOnt 394, 16 C.P.C. (3d) 156, 106 D.L.R. (4th) 339, 14 O.R. (3d) 734 (Gen. Div.).

Hernandez v. Palmer

1992 CarswellOnt 65, 46 M.V.R. (2d) 26, [1993] I.L.R. 1-2905, 15 C.C.L.I. (2d) 187, [1992] O.J. No. 2648 (Gen. Div.).

Burke v. American Heyer-Schulte

(1994), 21 C.P.C. (3d) 137, O.J. No. 141 (Gen. Div.).

Sutherland v. Canadian Red Cross Society

(1994), 21 C.P.C. (3d) 137, 17 O.R. (3d) 645 (Gen. Div.), 112 D.L.R. (4th) 504 (Gen. Div.).

Serwaczek v. Medical Engineering Corporation and Bristol-Myers Squibb Company

1996 CarswellOnt 3182, 13 O.T.C. 63, 3 C.P.C. (4th) 386, O.J. No. 3038 (Gen. Div.).

Tordoff v. Ontario (Criminal Injuries Compensation Board)

1997 CarswellOnt 4942 (Gen. Div.).

Michael A. Eizenga

Partner

Dabbs v. Sun Life Assurance Co. of Canada

(1997), 35 O.R. (3d) 269 (Gen. Div.), 44 O.T.C. 357, 48 C.C.L.I. (2d) 142, O.J. No. 3528 (Gen. Div.).

(1997), 35 O.R. (3d) 708, 38 O.T.C. 98, 48 C.C.L.I. (2d) 146, 14 C.P.C. (4th) 122, O.J. No. 3850, [1998] I.L.R. I-3494 (Gen. Div.), leave to appeal to Div. Ct. refused, (1998), 36 O.R. (3d) 770, 48 O.T.C. 391, 1 C.C.L.I. (3d) 42, 20 C.P.C. (4th) 87, O.J. No. 195 (Gen. Div.).

[1998] O.J. No. 1598 (Gen. Div.).

(1998), 40 O.R. (3d) 429, 5 C.C.L.I. (3d) 18, 22 C.P.C. (4th) 381, I.L.R. I-3575, O.J. No. 2811 (Gen. Div.) (1998), 41 O.R. (3d) 97, 165 D.L.R. (4th) 482, 113 O.A.C. 307, 7 C.C.L.I. (3d) 38, 27 C.P.C. (4th) 243, [1999] I.L.R. I-3629, O.J. No. 3622 (C.A.), leave to appeal to S.C.C. refused, [1998] S.C.C.A. No. 372.

McKrow v. Manufacturers Life Insurance Co.

1998 CarswellOnt 4360, 28 C.P.C. (4th) 104, 9 C.C.L.I. (3d) 161, [1998] O.J. No. 4692 (Gen. Div.).

Pelletier v. Baxter Healthcare Corporation

1999 CarswellQue 243, [1999] Q.J. No. 102, REJB 1999-10573 (C.S. Que.).

Ontario New Home Warranty Program v. Chevron Chemical Co.

(1999), 46 O.R. (3d) 130 (S.C.J.).

Bisignano v. Corporation Instrumentarium Inc.

1999 CarswellOnt 3834 (S.C.J.).

McDonald v. Dufferin-Peel Catholic District School Board

[2000] O.J. No. 5014, 20 C.P.C. (5th) 345 (S.C.J.).

Gariepy v. Shell Oil Company

(2000), 51 O.R. (3d) 181 (S.C.J.).

2003 CarswellOnt 9113, [2003] O.J. No. 5820 (S.C.J.).

Lewis v. Shell Canada Ltd

(2000), 48 O.R. (3d) 612 (S.C.J.), O.J. No. 1825 (S.C.J.).

McNaughton Automotive Ltd. v. Co-operators General Insurance Co.

(2000), 50 O.R. (3d) 300 (S.C.J.), rev'd (2001), 54 O.R. (3d) 704 (C.A.).

(2001), 54 O.R. (3d) 704 (C.A.).

Michael A. Eizenga

Partner

(2003), 66 O.R. (3d) 112 (S.C.J.).

[2006] O.J. No. 5234 (Div. Ct.).

[2007] O.J. No. 1453 (Div. Ct.).

Schweyer v. Laidlaw Carriers Inc.

(2000), 49 C.C.E.L. (2d) 308, O.J. No. 575 (S.C.J.).

Williams v. Mutual Life Assurance Co. of Canada

[2001] O.J. No. 445 (S.C.J.).

Knowles v. Wyeth-Ayerst Canada Inc.; Wilson v. Servier Canada Inc.

2001 CarswellOnt 2550, 16 C.P.C. (5th) 343, [2001] O.J. No. 2880 (S.C.J.).

Vitapharm Canada Ltd. v. F. Hoffman La-Roche Ltd.

(2001), 6 C.P.C. (5th) 245, aff'd [2002] O.J. No. 1400 (Div. Ct.).

[2002] O.J. No. 298 (S.C.J.), 20 C.P.C. (5th) 351, 111 A.C.W.S. (3d) 471.

Ross v. Coseco Insurance Company Gross v. The Guarantee Company of North America

[Indexed as: *Ross v. Coseco Insurance Co.*], (2003) 67 O.R. (3d) 463 (S.C.J.).

Pearson v. Inco Ltd.

[2002] O.J. No. 2764, 33 C.P.C. (5th) 264

Heward v. Eli Lilly & Co.

(2007) 47 C.C.L.T. (3d) 114 (S.C.J.), [2007] O.J. No. 404 (S.C.J.), leave to appeal to the Div. Ct. granted in part, [2007] O.J. No. 2709 (S.C.J.), (2008) 91 O.R. (3d) 691 (Div.Ct.), appeal dismissed.

Samuels v. Co-operators General Insurance Company

2007 CarswellOnt 9139, 61 C.C.L.I. (4th) 84, 61 C.C.L.I. (4th) 84.

Tiboni v. Merck Frosst Canada Ltd.

[2008] O.J. No. 2996 (S.C.J.).

Mignacca v. Merck Frosst Canada Ltd.

[2008] O.J. No. 4731 (S.C.J.).

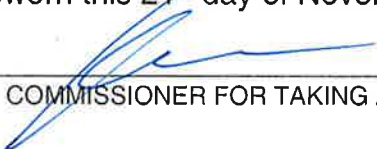
Hassum v. Conestoga College Institute of Technology and Advanced Learning

2008 CarswellOnt 1677, [2008] O.J. No. 1141 (S.C.J.).

Wright v. United Parcel Service Canada Ltd.,

2011 ONSC 5044.

This is Exhibit "4" referred to
in the Affidavit of Andrea Wobick
Sworn this 21st day of November, 2012.



A COMMISSIONER FOR TAKING AFFIDAVITS

Invoice

McSheffrey and Leclair Class Action
c/o Ursel Phillips Fellows Hopkinson LLP
30 St. Clair Avenue West, 10th Floor
Toronto, Ontario M4V 3A1

Date: 25-Jul-11
Invoice No. 20120725
Terms: Due on receipt
Our HST No. R828891150

Attn: Andrea Wobick

Case Number: RICEY00014

Re: Notice of Settlement Approval Hearing
Publication Date: May 23, 2012

MCSHEFFRY AND LECLAIR CLASS ACTION

Unit Cost				Unit Cost		Notes
MEDIA SELECTION				CAD	Total Cost (CAD)	
Direct Mail				Quantity		
Mailing of Notice Packet				Unit		
Process initial and subsequent mailing lists,						4 pg notice, 2 opt out coupons, 1 pg letter, envelope, printing, inserting, sealing, postage of \$1.05 (>30g)
Total Direct Mail:				Packet	6,556	2.95
						\$ 19,340.20
						\$ 19,340.20
Newspaper Publications				Quantity		
Canada:						
Globe and Mail (National)	1/4 page - weekday	1	\$	16,996.00	\$	"A" Section
Toronto Star	1/4 page - weekday	1	\$	10,233.00	\$	"A" Section
Ottawa Citizen	1/4 page - weekday	1	\$	3,458.00	\$	"A" Section
Hamilton Spectator	1/4 page - weekday	1	\$	2,480.00	\$	"A" Section
London Free Press	1/4 page - weekday	1	\$	2,964.50	\$	"A" Section
Thunder Bay Chronicle Journal	1/4 page - weekday	1	\$	978.75	\$	"A" Section
Sudbury Star	1/4 page - weekday	1	\$	1,562.00	\$	"A" Section
Total Newspapers					\$	38,672.25
Total Before Tax					\$	58,012.45
Tax					\$	7,541.62
Total Due					\$	65,554.07

McSHEFFREY
Plaintiff

and HER MAJESTY THE QUEEN IN RIGHT OF
ONTARIO
Defendant

Court File No. 02-CV-236588 CP
Court File No. 06-CV-324475PD3

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

**AFFIDAVIT OF ANDREA WOBICK
SWORN NOVEMBER 21, 2012**

Ursel Phillips Fellows Hopkinson LLP
30 St. Clair Avenue West, 10th Floor
Toronto, Ontario M4V 3A1

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Andrea Wobick LSUC No. 50928Q
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Fax: (416) 968-0325

Lawyers for the Plaintiff, Sue McSheffrey