

## **Class Proceedings Committee**

### **Funded Disbursement Policy**

**Dated: April 8, 2010**

#### **I. PURPOSE**

1. The Class Proceedings Committee provides financial support to class actions plaintiffs for disbursements incurred in respect of class actions in accordance with the provisions of the *Law Society Act*, R.S.O. 1990, c. L.8, as amended (the “*Act*”) and its regulations. Funding may be granted for the following types of disbursements:
  - (a) administrative expenses, inclusive of taxes.;
  - (b) travel expenses, inclusive of taxes;
  - (c) examiner charges, inclusive of taxes;
  - (d) expert fees, inclusive of taxes;
  - (e) notice to class costs, inclusive of taxes; and
  - (f) such other types of disbursements requested by class actions plaintiffs which may be approved by the Class Proceedings Committee in their absolute discretion, inclusive of taxes
2. The purpose of this Policy is to set out:
  - (a) guidelines applicable to awards made by the Class Proceedings Committee;
  - (b) limitations applicable to awards made by the Class Proceedings Committee; and
  - (c) the process applicable to claims made by class counsel and/or the representative plaintiff for payment of funded awards.

#### **II. ALLOWABLE DISBURSEMENTS**

3. *Allowable administrative expenses.*
  - (a) The following administrative expenses may be reimbursable as part of a funding award:

- (1) binding costs;
- (2) in-house copying costs at the rate of 10 cents per page;
- (3) the cost of serving and filing court documents;
- (4) courier or other delivery costs;
- (5) in-house fax costs at 25 cents per page;
- (6) telephone charges;
- (7) other costs of communication related to funded actions such as long distance charges;
- (8) on-line computer research costs; and
- (9) any other administrative costs incurred by the representative plaintiff and/or class counsel and approved by the Class Proceedings Committee or their representative in their absolute discretion.

4. Allowable travel, meal and accommodation expenses:

- (a) The following travel expenses incurred by class counsel, the representative plaintiff, experts or other witnesses may be reimbursable as part of a funding award:
  - (1) economy class airfares on commercial flights;
  - (2) train or bus tickets to the city of destination, including VIA One if travel time is more than four hours;
  - (3) taxi fares or limousine to and from destinations within a city and associated tips or, if class counsel wishes and the estimated costs are expected to be less, a rental car in the destination city. However, the size of the rental car must be the most economical and practical required for the task and number of occupants; and
  - (4) parking and gasoline charges when a rental vehicle is appropriate.

Class counsel are expected to make advance bookings and to obtain the least expensive fares, having regard to all the circumstances.

- (b) The following accommodation expenses incurred by class counsel, the representative plaintiff, experts or other witnesses may be reimbursable as part of a funding award:
  - (1) standard room accommodation. No reimbursement will be made for suites, executive floors or concierge levels;
  - (2) within Toronto, reimbursement will be limited to accommodation expenses at Law Society pre-approved hotels at the negotiated rates, in particular, the Toronto Hilton or the Toronto Sheraton, or equivalent;
  - (3) outside of Toronto, reimbursement will be limited to rates at hotels which are reasonably comparable to the Toronto Hilton or the Toronto Sheraton.
- (c) Reasonable meal expenses (not including alcoholic beverages) incurred by class counsel, the representative plaintiff, experts or other witnesses may be reimbursable as part of a funding award, at the following rates inclusive of taxes and gratuities:
  - (1) \$15 per day per person for food and drink for breakfast;
  - (2) \$25 per day per person for food and drink for the secondary meal/lunch of the day; and
  - (3) \$50 per person for food and drink for the main meal/dinner of the day.

5. *Allowable examiner charges*

- (a) Examiner charges at standard rates may be reimbursable as part of a funding award.

6. *Allowable expert fees*

- (a) Reasonable expert fees may be reimbursable as part of a funding award.

7. *Allowable notice to class costs*

- (a) Notice to Class costs incurred in accordance with the direction of the Superior Court of Justice of Ontario may be reimbursable as part of a funding award.

**III. PROCESS APPLICABLE TO APPLICATIONS FOR FUNDING**

- 8. Applications for funding shall break-down the funding requested into categories as set out in Appendix "A" hereto.

#### **IV. PROCESS APPLICABLE TO PAYMENT OF FUNDED DISBURSEMENTS**

9. Where the representative plaintiff and/or class counsel seeks payment of funding awarded, he or she is required to furnish to the Class Proceedings Committee the following:
  - (a) an itemized list setting out the nature and the amount of claimed disbursements in the form set out in Appendix "A" hereto;
  - (b) a statement signed by class counsel certifying that the above list is complete and accurate and that the claimed disbursements have actually been paid, in the form attached to this policy as Appendix "B" hereto; and
  - (c) copies of all receipts related to claimed disbursement (such receipts indicating the nature of the disbursement, the date, the amount, the purpose and the location) or other proof that such disbursements have been made. These receipts should be organized in such a manner that they correspond to the itemized listing forwarded pursuant to paragraph 9(a) above and should be bound to the itemized listing with Tabs which correspond to the itemized listing.
10. Where there is more than one law firm representing the plaintiff, such law firms are required to designate one of those firms as the firm who will prepare and submit claims for payments of funded disbursements, and advise the Committee of this designation.
11. Where the representative plaintiff and/or class counsel seeks payment of an award in circumstances where the claimed disbursement has not actually been paid, it is their responsibility to show that there are special circumstances warranting payment of the award without furnishing the above-noted materials, and that the plaintiff would otherwise suffer undue hardship.
12. The representative plaintiff and/or class counsel are responsible for following this policy, responding to inquiries from the Class Proceedings Committee or its representative about the disbursements submitted, and must act reasonably in any matter which is not specifically referred to in this policy and in respect of which payment is requested.
13. Where the representative plaintiff and/or class counsel do not follow this policy, funded disbursements may not be approved or paid and/or may be reduced and paid in accordance with any limitations set out in this policy. Further, the Class Proceedings Committee and/or its representative retain the discretion to reject or reduce any submitted expenses which are not reasonable or supportable in the circumstances.

**APPENDIX A—STANDARD FORMAT FOR DISBURSEMENT FUNDING REQUEST**

Category	Amount Requested (Inclusive of Taxes)	
<b>I. Administrative Expenses</b>	<b>Item</b>	<b>Amount</b>
	1. Binding & Copying	
	2. Service & Filing of Court Documents	
	3. Courier/Deliveries	
	4. Fax & Phone Charges	
	5. On-line Research	
	6. Other (please specify)	
	<b>Total:</b>	
<b>II. Travel</b>	<b>Item</b>	<b>Amount</b>
	1. Travel	
	2. Meals	
	3. Accommodation	
	<b>Total</b>	
<b>III. Examiner Charges</b>		
<b>IV. Expert Fees</b>		
<b>V. Notice to Class</b>		
<b>VI. Other—Please specify</b>		
<b>Total</b>		

**APPENDIX B: LETTER FROM COUNSEL CERTIFYING DISBURSEMENTS MADE**

Enclosed, please find our request for payment of disbursements in the total amount of *[insert amount]* as more particularly set out in the attached disbursement summary. In accordance with section 6(1) (b) of regulation 771/92 made under the *Law Society Act*, we certify that the attached list is complete and accurate, in accordance with the Class Proceedings Committee's Disbursement Policy, and that such disbursements have been made.