

CLASS PROCEEDINGS FUND

SUPPORTING CLASS ACTIONS TO LEVEL THE PLAYING FIELD

The Class Proceedings Fund (CPF) provides financial support for cases in which representative plaintiffs make a common claim on behalf of a larger group. These class actions have resulted in many more claims being heard than would otherwise be likely.

However, class actions can be expensive to pursue and the benefit for each plaintiff can be small. Support from the CPF and indemnification of plaintiffs against potential cost awards can help address these barriers. Applications for support are assessed based on a number of criteria including the strength of the case, the public interest, and the availability of funds in the CPF.

The CPF is administered by LFO. The Class Proceedings Committee, an independent body appointed by LFO and the Attorney General of Ontario, determines which cases to fund.

When an award or settlement is received in a case it has funded, the CPF receives a 10 per cent levy and the return of any disbursements paid, which in turn help fund new cases.

MESSAGE FROM THE CHAIR OF THE CLASS PROCEEDINGS COMMITTEE

In 2013, the Class Proceedings Committee (CPC) successfully helped more Ontarians realize the benefit of class proceedings as an access to justice tool. Financial support, through the carefully managed Class Proceedings Fund (CPF), is a major component of the help we provided.

It was gratifying that the plaintiff Bar continued to use the CPF, even as we saw the rise of third party funders. We were also pleased to see many of the cases we funded certified – seven to be precise – and many cases settled with significant benefits accruing to class members.

The CPC congratulates class counsel for their commitment and tenacity in advocating for their clients over what is often a great many years before positive results are achieved.

The CPF balance increased to \$9,495,618 at the end of 2013 from \$7,820,241 the previous year. This increased fund balance resulted from four major factors.

1. Applications for payment of costs by defendants decreased from \$2,916,515 in 2012 to \$977,397 in 2013. To some extent, 2012 was an anomalous year because the CPF paid over \$1.7 million in one case which was initially successful at trial, but subsequently overturned by the Court of Appeal.
2. Levies in successful cases rose from \$1,911,337 in 2012 to \$2,897,976 in 2013.
3. Disbursements decreased from \$1,466,868 in 2012 to \$464,491 in 2013.
4. We reduced administration costs.

While the overall fund balance has increased, so has the CPF's portfolio of active cases. Because we have more active cases we have a higher overall exposure to rising cost awards. The CPC is mindful of the fact that as its portfolio of cases increases it needs to maintain higher reserves to ensure sustainability.

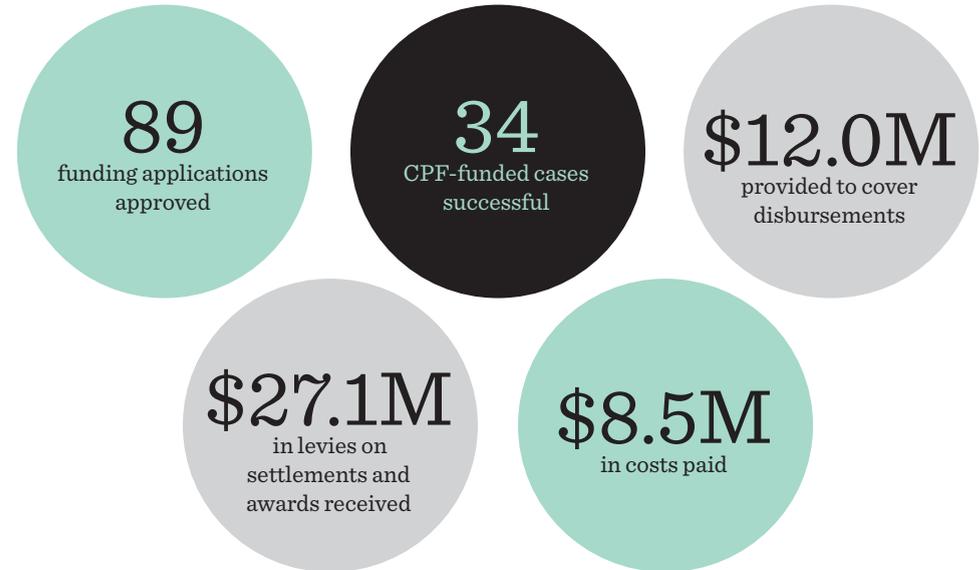
This year, the CPC was pleased to welcome Kim Twohig as a new member who will no doubt bring additional sound judgment to our work. At the same time, we were all very sad to say good-bye to Paul Morrison, a long-standing member of the CPC. Paul's commitment to access to justice and to our work was remarkable and much appreciated.

Finally, I'm proud to share that by the end of 2013 the CPF had provided a cumulative total of more than \$12 million in funding to help Ontarians access justice through class proceedings. We look forward to continuing this important work.



Valerie A. Edwards
Chair, Class Proceedings Committee

THE CLASS PROCEEDINGS FUND 1992 - 2013



Funded Cases Where Class Members Would or Did Receive a Benefit

Case	Nature of Case (Allegations)	Recovery (Before fees and other costs)	Approximate Number of Class Members	Years to Recovery
405341 Ontario Limited v. Midas Canada Inc.	Franchise dispute	\$8,500,000	Unknown	6
Williamson v. Sheila Morrison Schools	Residential schools	\$4,000,000	118	4
Roveredo v. Bard Canada	Defective hernia repair appliance	\$1,375,000	23	2
Cannon v. Funds for Canada Foundation, et al.	Solicitors' negligence and breach of duty	\$28,053,493	7,800	5
Dolmage v. HMQ	Residential schools	\$35,000,000	Unknown	4

New Applications Heard and Approved – 2004-2013

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Hearings Held	11	2	8	3	12	13	9	22	12	13
New Applications Approved	7	1	5	2	9	12	7	15	7	7

To discuss a potential application please contact:

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2013 RESULTS
Statement of Financial Position

	For the period from Jan. 1, 2013 to Dec. 31, 2013	For the period from 1993 to Dec. 31, 2013
Opening balance	\$7,820,241	\$500,000
Total funding awarded	(464,491)	(12,008,049)
Funding repaid/cancelled	476,482	3,128,011
Administration costs/expenses	(424,055)	(2,808,874)
Interest received	166,862	2,022,876
10% levies received	2,897,976	27,138,894
Cost awards in favour of defendants	(977,397)	(8,477,240)
Balance as at Dec. 31, 2013	9,495,618	9,495,618

As required by O.Reg.771/92, s.13, we report as follows:

1. Number of new applications, by stage in proceeding, at the time of application.

Stage in the Proceeding	Number of New Applications	
	2013	2012
Pre-certification	11	11
Appeal re: Certification	-	-
Discovery	1	1
Determination of Common Issues	1	-
Appeal re: Common Issues	-	-
Post Common Issue Stage	-	-
Total	13	12

2. New applications granted and refused or pending/withdrawn, by stage in the proceeding, at the time of application.

Stage in the Proceeding	Granted	Refused	Deferred/ Pending*/ Stayed, etc.	Total
2012				
Pre-certification	6	3	2	11
Discovery	1	-	-	1
Other	-	-	-	-
Total	7	3	2	12
2013				
Pre-certification	7	2	2	11
Discovery	-	-	-	-
Other (Common Issues)	-	2	-	2
Total	7	4	2	13

*Carried forward to the next year.

3. In 2013 financial support was awarded for seven (7) new cases under section 59.3(1) of the *Law Society Act* and further financial support was awarded for seven (7) cases which had previously been approved, as a result of supplementary funding applications under section 59.3(5) of the *Act*. In 2012 financial support was awarded for seven (7) new cases under section 59.3(1) of the *Act* and further financial support was awarded for seven (7) cases which had previously been approved, as a result of supplementary funding applications under section 59.3(5) of the *Act*.

4. Total awards, by disbursement type is \$464,491.

Type of Disbursement	Total Amount Awarded 2013
Administrative Expenses	\$ 34,300
Travel	6,000
Examiners' Charges	15,000
Experts' Fees	354,454
Notice to Class	54,737
Other	-
Total	\$464,491

Under regulation 771/92, this section includes only amounts awarded during 2013. Total amounts paid out by the CPF during 2013 may vary as amounts awarded are reimbursed to applicants on an ongoing basis after funded disbursements have been duly incurred and paid by the applicant.

10. Proceedings for which plaintiff was awarded financial support under section 59.3 of the *Act* (these included both newly approved cases and previously approved cases for which supplementary funding was awarded during 2013).

	Administrative Expenses	Travel Expenses	Examiners' Charges	Experts' Fees	Notice to Class	Other	Total
2013							
Product liability	-	-	-	20,564	48,737	-	69,301
Pension funds	-	-	-	30,000	-	-	30,000
Residential schools	-	-	-	140,000	-	-	140,000
Product liability	15,000	-	-	-	-	-	15,000
Insurance	1,000	6,000	-	-	-	-	7,000
Pension funds	-	-	-	3,890	-	-	3,890
Medical negligence	-	-	-	30,000	-	-	30,000
Environmental	-	-	-	125,000	-	-	125,000
Price Fixing	100	-	-	-	-	-	100
Product Liability	5,000	-	-	-	-	-	5,000
Securities	1,000	-	-	-	-	-	1,000
Consumer Protection	5,000	-	-	-	-	-	5,000
Solicitors' Negligence	7,200	-	15,000	5,000	6,000	-	33,200
All Cases	34,300	6,000	15,000	354,454	54,737	-	464,491
2012							
All Cases	188,342	227,921	35,055	994,228	11,570	9,752	1,466,868

5. The total amount of money paid from the CPF to applicants under section 59.3 of the *Act*: 2013, \$879,756; 2012, \$404,596; 2011, \$1,914,374. At December 31, 2013, the balance of all awards outstanding which had not yet been paid to applicants was \$1,313,452.

6. In 2013, seven funded proceedings were certified. In 2012, 4 funded proceedings were certified.

7. In 2013, seven applicants who had received financial support settled their proceedings such that the classes involved in these proceedings would receive or will receive a monetary payment.* In 2012, 8 applicants who had received financial support settled their proceedings such that the classes involved in these proceedings would receive or will receive a monetary payment.

* Note that previously, settlements were reported based on the date of the settlement agreement. Beginning with these notes, we will be reporting settlements as of the date of the court's approval as this more accurately reflects the timing of payment to class members. Settlement approvals in 2013 were: 405341 Ontario Limited v. Midas Canada Inc., 2013 ONSC 5714; Williamson v. Sheila Morrison Schools, 2013 ONSC 1528; Roveredo v. Bard Canada, 2013 ONSC 6979; Cannon v. Funds For Canada Foundation, et al., Written Endorsement and Order dated October 18, 2013; Dolmage v. HMQ, 2013 ONSC 6686

8. In 2013, six defendants made applications to the CPF for payment of costs awards made in their favour pursuant to section 59.4 of the *Act*; five applications were received in 2012. This results from the indemnification of plaintiffs against cost awards.

9. In 2013, \$977,397 was paid from the Fund to defendants under section 59.4 of the *Act*. In 2012, \$2,916,515 was paid from the Fund to defendants under section 59.4 of the *Act*. This results from the indemnification of plaintiffs against cost awards.