

**THE CLASS PROCEEDINGS COMMITTEE
NOTICE TO APPLICANTS
FUNDING REQUESTS FOR EXPERT REPORTS, DOCUMENT MANAGEMENT
SERVICES, ON-LINE RESEARCH AND SCHEDULING OF HEARINGS AND THE
FORM OF APPLICATION MATERIALS**

EFFECTIVE: OCTOBER 19, 2016

Expert Fees

The Class Proceedings Committee Funded Disbursement Policy dated April 8, 2010 sets out categories of funded disbursements which the Committee may grant. The Policy indicates that:

‘Reasonable expert fees may be reimbursable as part of a funding award’.

The Committee has been receiving requests for funding of experts without sufficient particulars to allow the Committee to consider whether funding should be granted. This leads to delays as further information is requested and then submitted.

The Committee wishes to remind class counsel that pursuant to section 4 of Regulation 771/92:

4. The Committee shall not award financial support in respect of a particular expert unless the Committee approves the use of the expert and the amount of the disbursements relating to the expert. O. Reg. 771/92, s. 4.

Accordingly, for clarity, the Committee requests that class counsel provide the following information when any request for expert funding is made:

1. The complete name of the proposed expert;
2. The expert’s curriculum vitae
3. The expert’s hourly rate and/or other method of billing
4. A summary of the type of expert assistance the expert will provide, why this expert was chosen and details as to other experts considered
5. An estimate of the number of hours required
6. An estimate of the total fees and disbursements
7. A scope of work which sets out the work which the expert will be doing. We expect that there should be such communication between the expert and class counsel.

Finally, we expect that class counsel will attempt to negotiate the best possible rate with experts, which takes into account economies of scale when the same expert is used in multiple cases.

The Committee reminds counsel that funding awarded is staged and in awarding funding the Committee takes into account numerous factors including the Fund balance and any amounts which might be required to pay costs orders. As such, full funding for all disbursements, including experts, is not guaranteed.

Document Management Services

There has been a growth of document management services utilized by class counsel as a result of the growing size of productions in class actions. The Fund receives many requests for funding of this nature.

The Fund reminds counsel that section 59.3(1) of the Law Society Act provides as follows:

59.3(2) An application under subsection (1) shall not include a claim in respect of the fees of a person practicing law or providing legal services.

Where the document management service utilized by counsel employs or uses lawyers, class counsel must advise the Committee and then exclude from any request for funding any services provided by the document management firm which can reasonably be considered legal services or the practice of law as opposed to hosting or other services. The Committee will not award or pay any disbursements which relate to legal services or the practice of law.

On-line research

Where a request for funding for on-line research is made, the Committee requests counsel to provide the details of its arrangement with the on-line research provider and actual costs incurred with respect to the funded matter. The Class Proceedings Fund will award funding for actual out of pocket expenses related to on-line research only.

Scheduling of hearings

There has been a dramatic growth in the number of applications for funding made to the Class Proceedings Fund. Although hearing dates may be tentatively scheduled after the submission of a Statement of Claim, the Class Proceedings Fund reserves the right to reschedule the any matter where the completed application has not been received or where the Class Proceedings Fund receives urgent applications.

The form of application materials

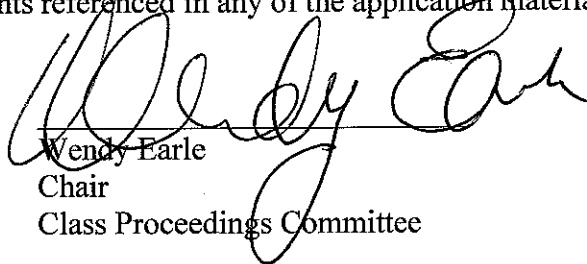
The completed application must be in the form proscribed on our LFO website:
<http://www.lawfoundation.on.ca/class-proceedings-fund/how-to-apply/>

In addition, only 1 electronic copy should be submitted. A PDF submission **MUST** be bookmarked for ease of the CPC's review.

Further counsel are reminded that in order to reduce delays which sometimes result from follow-up questions, they should submit with their completed application:

1. Any Orders or decisions already made in the case;
2. The defendant's statement of defence if available;

3. Copies of any certification materials and facts;
4. Copies of all cases and/or documents referenced in any of the application materials.



Wendy Earle
Chair
Class Proceedings Committee