

Class Proceedings Fund

MESSAGE FROM THE CHAIR

In June 2015, Valerie Edwards, the Chair of the Class Proceedings Committee (CPC) stepped down after 15 years of service and I became the new Chair.

It has been a profound honour to have worked with Valerie. Her leadership was thoughtful, proactive, and expertly balanced the public interest and fiscal responsibility. I hope very much to continue the same excellent stewardship which Valerie and all past Chairs of the Committee have shown.

The number of applications received by the Class Proceedings Fund (CPF) in 2015 was slightly lower than in 2014 but, in general, consistent with the trend of more and more applications being made to the CPC over the past decade. Funding awards in 2015 were much higher than in past years, largely as a result of significant expenditure on expert reports in funded cases. Cases certified and settled were also lower than in the past several years; however, this is likely due to timing and the usual ebb and flow of how the cases proceed. Costs paid to defendants in 2015 (\$676,520) were moderately higher than in 2014, (\$258,750) but still much lower than in 2012 when the CPC paid a record \$2,916,515 in costs to defendants.

We continue to monitor the implications of growing numbers of applications, the levels of disbursement funding required for these cases, as well as projected successful versus unsuccessful outcomes to ensure the sustainability of the CPF.

In the summer of 2016 we will be holding a retreat with a specific focus on risk management. Our goal is to further improve our processes and procedures so that we can ensure that the important work of the CPC will continue.

As the new Chair of the CPC, I am pleased and honoured to work with the members of the Committee — Paul Evraire, Jasminka Kalajdzic, Kim Twohig, and Scott Hutchison — and our Counsel, Gina Papageorgiou and Legal Assistant Linda Patki. I could not wish to work with a more hardworking, experienced, and capable team who are so deeply committed to the work of the CPC and its goals. I also wish to make a special mention of the Committee's Secretary, Judy Mark, who ensures that the Committee is always up-to-date with the CPF's most current financial information. Her work is and has always been critical to the CPC's success and is greatly appreciated.



Wendy Earle
Chair, Class Proceedings Committee

Class Proceedings Fund financial highlights

NEW APPLICATIONS HEARD AND APPROVED – 2006-2015

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Hearings Held	8	3	12	13	9	22	12	13	20	17
New Applications Approved	5	2	9	12	7	15	7	7	11	12

2015 RESULTS

Statement of Financial Position

	<u>For the period from Jan. 1, 2015 to Dec. 31, 2015</u>	<u>For the period from 1994 to Dec. 31, 2015</u>
Opening balance	\$ 19,313,255	\$ 500,000
Total funding awarded	(3,589,906)	(17,448,955)
Funding repaid/cancelled	610,065	5,432,075
Administration costs/expenses	(360,932)	(3,548,392)
Interest received	339,932	2,622,794
10% levies received	1,114,211	38,604,094
Cost awards in favour of defendants	(676,520)	(9,411,511)
Balance as at Dec. 31, 2015	\$ 16,750,105	\$ 16,750,105

AS REQUIRED BY O.REG.771/92, S.13, WE REPORT AS FOLLOWS:

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

<u>Stage in the Proceeding</u>	<u>Number of New Applications</u>	
	<u>2015</u>	<u>2014</u>
Pre-certification	16	20
Appeal re: Certification		
Discovery		
Determination of Common Issues	1	
Appeal re: Common Issues		
Post Common Issue Stage		
Total	17	20

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
2014				
Pre-certification	11	3	6	20
Discovery				
Other (Common Issues)				
Total	11	3	6	20
2015				
Pre-certification	11	4	1	16
Discovery				
Other (Common issues)	1			1
Total	12	4	1	17

*Carried forward to the next year.

3. In 2015, financial support was awarded for twelve (12) new cases under section 59.3(1) of the Act¹ and further financial support was awarded for seventeen (17) cases which had previously been approved, as a result of supplementary funding applications under section 59.3(5) of the Act. In 2014 financial support was awarded for eleven (11) new cases under section 59.3(1) of the Act and further financial support was awarded for nine (9) 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 \$3,589,906.

<u>Type of Disbursement</u>	<u>Total Amount Awarded 2015</u>
Administrative Expenses	\$ 516,446
Travel	152,683
Examiners' Charges	102,811
Experts' Fees	2,347,668
Notice to Class	186,683
Other	283,615
Total	\$3,589,906

Under regulation 771/92, this section includes only amounts awarded during 2015. Total amounts paid out by the CPF during 2015 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.

1. References are to the *Law Society Act*.

5. The total amount of money paid from the CPF to applicants under section 59.3 of the Act: 2015, \$2,079,284; 2014, \$1,329,046. At December 31, 2015, the balance of all awards outstanding which had not yet been paid to applicants was \$2,855,599.

6. In 2015, 2 funded proceedings were certified². In 2014, 5 funded proceedings were certified.

7. In 2015, 1 applicant who had received financial support settled their proceedings such that the classes involved in these proceedings would receive or will receive a monetary payment.³ In 2014, 5 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.

8. In 2015, 7 defendants made applications to the CPF for payment of costs awards made in their favour pursuant to section 59.4 of the Act; four applications were received in 2014. This results from the indemnification of plaintiffs against cost awards.

9. In 2015, \$676,520 was paid from the CPF to defendants under section 59.4 of the Act. In 2014, \$258,750 was paid from the CPF to defendants under section 59.4 of the Act. This results from the indemnification of plaintiffs against cost awards.

2. *Hodge v Neinstein* [2015] O.J. No. 6466 and *Dine v Biomet Inc et al*, 2015 ONSC 7050

3. *Dennis Caponi v The Canada Life Assurance Company, A.P. Symons, D Allen Loney and James R. Grant*. Approved by order dated May 1, 2015.

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 2015).

	Administrative Expenses	Travel Expenses	Examiners' Charges	Experts' Fees	Notice to Class	Other	Total
2015	\$	\$	\$	\$	\$	\$	\$
Crown liability – Charter infringement	59,000	10,000	20,000				89,000
Crown liability – general breach of duty	8,052	7,197		84,250	36,753		136,252
Crown liability – prisoners' rights	46,000	29,000	5,000	175,000	20,000	25,000	300,000
Investments / Securities	80,126	17,371	12,638	821,931	1,189		933,255
Product liability – medical products	12,220	22,433	4,976	12,119		148,097	199,845
Product liability – drugs						40,433	40,433
Employment	38,000	7,000	5,000	185,000		30,000	265,000
Solicitors' negligence	61,995	133		75,000	741		137,869
Consumer protection – interpretation of contracts	40,000	2,000	25,000	33,000			100,000
Consumer protection – breach of privacy	20,151	2,034	3,955	39,040		5,085	70,265
Competition	27,327	10,360	5,500				43,187
Franchise	5,820		5,640	114,980			126,440
Insurance	15,755	11,655	102	93,906			121,418
Residential schools	102,000	33,500	15,000	713,442	128,000	35,000	1,026,942
Total	516,446	152,683	102,811	2,347,668	186,683	283,615	3,589,906
2014							
All Cases	269,459	24,013	28,592	1,344,275	120,000	66,256	1,852,595

Class Proceedings Committee

The Class Proceedings Committee has five members, one appointed by each of The Law Foundation of Ontario and the Attorney General of Ontario, and three appointed jointly.



Wendy Earle

Chair
Advocate and Arbitrator



Valerie A. Edwards

Chair (until June 2015)
Partner, Torkin Manes LLP



Paul J. Evraire, Q.C.

Special Counsel (Retired), Department of Justice



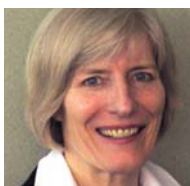
Scott C. Hutchison

Senior Partner, Henein, Hutchison LLP (from June 2015)



Jasminka Kalajdzic

Professor, Faculty of Law, University of Windsor



Kim Twohig

General Counsel (Retired), Ministry of the Attorney General