

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE
MR. JUSTICE PERELL

) TUESDAY, THE 12TH DAY
) OF DECEMBER, 2023
)

BETWEEN:

JOSEPH FANTL

Plaintiff

-and-

ivari

Defendant



Proceeding under the *Class Proceedings Act, 1992*

ORDER – FEE APPROVAL

THIS MOTION, made by Class Counsel for an order approving their Retainer Agreement with the Plaintiff and approving their counsel fees, disbursements and taxes with respect to the Settlement of this class proceeding was heard on December 11, 2023 at 10:00 a.m. over zoom videoconference.

AND WHEREAS the defined terms in the Settlement Approval Order of the Honourable Justice Perell dated December 11, 2023 and the Retainer Agreement, as defined below, are incorporated herein.

ON READING all materials filed and hearing the submissions of Class Counsel and approving the Settlement,

1. **THIS COURT ORDERS** that the retainer agreement between Class Counsel and the Plaintiff dated May 16, 2006 and July 15, 2009 (“**Retainer Agreement**”), is hereby approved.

2. **THIS COURT ORDERS** that the 30% contingency fee set out in the Retainer Agreement on the \$7,000,000.00 Settlement Fund (less disbursements and taxes thereon of \$182,893.64) is hereby fixed in the amount of \$2,045,131.91, including taxes, and shall be payable from the Settlement Fund to Class Counsel within seven (7) days following the Effective Date of the Settlement.

3. **THIS COURT ORDERS** that pursuant to section 28.1(8) of the *Solicitors Act*, RSO 1990, c S.15, that the fee component, inclusive of taxes, of the costs awards awarded to the Plaintiff in this action shall not be deducted from the aforesaid Class Counsel contingency fee.

4. **THIS COURT ORDERS** that Class Counsel shall be reimbursed \$182,893.64 for disbursements (inclusive of taxes) from the Settlement Fund that they financed in this action and for which Class Counsel was not reimbursed. The foregoing amount will become payable to Class Counsel within seven (7) days following the Effective Date of the Settlement.

5. **THIS COURT ORDERS** that the Class Proceedings Fund (the "CPF") shall be reimbursed \$349,877.10 from the Settlement Fund in respect of the disbursement funding provided by the CPF. The foregoing amount will become payable to the CPF within seven (7) days following the Effective Date of the Settlement.

6. **THIS COURT ORDERS** that the CPF is entitled to a levy in the amount of 10% assessed on the payments available to all Class Members after the payment of the CPF disbursement reimbursement, the payment of administration expenses and Counsel Fees. The levy on the total quantum of the First Stage of the Distribution will become payable within seven (7) days of the end of the First Stage of the Distribution, and the balance of the levy will become payable within seven (7) days of the end of the Second Stage of the Distribution.

7. **THIS COURT ORDERS** that, no amounts shall be distributed to any Class Members until the Class Proceedings Committee has had an opportunity to review and confirm the calculation of the Levy in paragraph 6. If there is any dispute or question as to the calculation of the levy to the Fund, Class Counsel and counsel for the Fund shall arrange an appearance before the class action case management judge to resolve the issues and that, pending any appearance, no amounts shall be distributed to any Class Members.

8. **THIS COURT ORDERS** that there be no costs of this motion.

Perell, J

JOSEPH FANTL
Plaintiff

- and -

Ivori
Defendant

Court File No.: 06-CV-306061-CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act 1992*

ORDER – FEE APPROVAL

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