

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. JUSTICE
CULLITY

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)

FRIDAY, THE 23RD DAY OF
MARCH, 2007

BETWEEN:

DIANNE LECLAIR

Plaintiff

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendant

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiff, Dianne Leclair, for an Order that the within proceeding be certified as a class proceeding, was heard on Friday, March 23, 2007, at the Court House, 361 University Avenue, Toronto, Ontario.

ON READING the materials filed and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant, and upon being advised that the Defendant takes no position on this motion,

1. **THIS COURT ORDERS** that the within proceeding be certified as a class proceeding pursuant to the *Class Proceedings Act, 1992, S.O. 1992, c.6.*

2. **THIS COURT ORDERS** that the class be defined as:

All former employees of municipal and other home-care service providers who subsequently became employees of CCACs and who were members of the Ontario Nurses' Association at the time of such change in their employment.
3. **THIS COURT ORDERS** that Dianne Leclair be appointed as the representative Plaintiff.
4. **THIS COURT ORDERS** that the following issues are common issues for the class:
 - a. Is the Defendant liable to pay damages in respect of any losses in the value of class members' pension benefits that may have been incurred by reason of the termination of their membership in their former pension plan and their enrolment in HOOPP, their new pension plan?;
 - b. If the answer to Question 1 is yes, what actuarial assumptions and methodology are to be employed in determining the existence and amount of such losses and what would be the measure of damages?;
 - c. Can the amount of any such damages be appropriately determined on an aggregate basis?; and
 - d. If the answer to Question 3 is yes, how should such amounts be distributed or otherwise applied for the benefit of class members?
5. **THIS COURT ORDERS** that a class member may opt out of the lawsuit by delivering to the Cavalluzzo Hayes Shilton McIntyre & Cornish LLP law firm the Opt Out Coupon contained in Schedule "A" hereto or some other legible, written, signed request to opt out, containing substantially the same information as the Opt Out

Coupon.

6. **THIS COURT ORDERS** that the members of the class who elect to opt out of this class proceeding must do so on or before the expiry of the 90th day after the last date for mailing of the Notice set out in Schedule "A" hereto.
7. **THIS COURT ORDERS** that the Notice referred to in Schedule "A" hereto shall be sent by regular mail to all members of the class at their last known address in the form appended in Schedule "A" hereto no later than November 30, 2007.
8. **THIS COURT ORDERS** that Notice referred to in Schedule "A" hereto shall be posted on the websites maintained by the Ontario Nurses Association and the firm Cavalluzzo Hayes Shilton McIntyre & Cornish LLP in the form appended in Schedule "A" hereto no later than October 31, 2007.
9. **THIS COURT ORDERS** that Notice referred to in Schedule "B" hereto shall be further published in a newsletter published by the Ontario Nurses Association and known as "Frontlines" in the form appended in Schedule "B" hereto no later than November 30, 2007.
10. **THIS COURT ORDERS** that Notice referred to in Schedule "B" hereto shall be further published in the Toronto Star in the form appended in Schedule "B" hereto no later than November 30, 2007.
11. **THIS COURT ORDERS** that the Cavalluzzo Hayes Shilton McIntyre & Cornish LLP law firm shall serve on the Defendant's solicitors and file with the Court within 30 days after February 27, 2008, an Affidavit exhibiting a list of persons who have opted out of this class proceeding.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

SEP 24 2007



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AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR: *J.M.*

SCHEDULE "A"

NOTICE OF CERTIFICATION

**IN THE MATTER OF
LITIGATION ON BEHALF OF MEMBERS OF THE ONTARIO NURSES
ASSOCIATION WHO WERE ONCE EMPLOYED BY MUNICIPAL OR
OTHER HOME-CARE SERVICE PROVIDERS BUT THEN BECAME
EMPLOYED WITH A COMMUNITY CARE ACCESS CENTRE**

PLEASE READ THIS NOTICE CAREFULLY.
IT MAY AFFECT YOUR LEGAL RIGHTS.

TO:	All former employees of municipal and other home-care service providers who subsequently became employees of CCACs and who were members of the Ontario Nurses' Association at the time of such change in their employment.
1. Summary of Proceeding	<p>Dianne Leclair, ONA's Vice-President, Region 4, on behalf of all former employees of municipal and other home-care service providers who subsequently became employees of CCACs and who were members of the Ontario Nurses' Association at the time of such change in their employment, has started a class action against the Government of Ontario.</p> <p>The claim is that the Government promised to all of these employees who had to switch their pensions to the HOOPP pension plan from the Ontario Municipal Employees Retirement System (OMERS) plan, Victoria Order of Nurses (VON) plan, and Family Services Association (FSA) plan when they changed employers and started working for a CCAC that these employees would suffer no loss in pension benefits as a result. The plaintiffs in this claim ask for damages and declarations concerning their entitlement to greater pension benefits than are available now.</p> <p>The class action was certified by the Ontario Superior Court of Justice on March 23, 2007.</p>

<p>2. Common Issues</p>	<p>The Ontario Superior Court of Justice has ordered a trial on the following four common issues:</p> <p>a. Is the Defendant liable to pay damages in respect of any losses in the value of class members' pension benefits that may have been incurred by reason of the termination of their membership in their former pension plan and their enrolment in HOOPP, their new pension plan?;</p> <p>b. If the answer to Question a. is yes, what actuarial assumptions and methodology are to be employed in determining the existence and amount of such losses and what would be the measure of damages?;</p> <p>c. Can the amount of any such damages be appropriately determined on an aggregate basis?; and</p> <p>d. If the answer to Question c. is yes, how should such amounts be distributed or otherwise applied for the benefit of class members?</p> <p>A judgment rendered by the Ontario Superior Court of Justice on any of these issues, whether favourable or not, will bind all class members who do not take steps to opt out of the proceedings.</p>
<p>3. Individual Issues</p>	<p>If any of these common issues are resolved in favour of class members, you may receive another notice with respect to individual issues that still need to be determined.</p>
<p>4. Financial Consequences</p>	<p>If the Plaintiff is successful on the common issues trial, you may be eligible for compensation. If the Plaintiff is not successful, you will not be personally responsible for the legal fees of either class counsel or the Ontario Government's class counsel.</p>
<p>5. Class Counsel Legal Fees</p>	<p>Class counsel's legal fees are being paid by the Ontario Nurses' Association for your benefit. If successful, class counsel will seek reimbursement for some of its fees and expenses incurred in bringing this action.</p>

<p>6. Opting Out of the Class Action</p>	<p>If you wish to remain as a member of the class, YOU DO NOT NEED TO DO ANYTHING. You will be informed of developments in this proceeding by subsequent Notice.</p> <p>If you want to exclude yourself from the class proceeding, you must OPT OUT. You can opt out by completing the attached Opt Out Coupon and by sending this to the law firm set out in the Opt Out Coupon by <u>February 27, 2008</u>. You can also instead opt out by sending a legible, written, and signed request containing substantially the same information as in the Opt Out Coupon to the firm by <u>February 27, 2008</u>.</p> <p>If you opt out, you will not be bound by any judgment in this class action.</p>
<p>7. Class Counsel</p>	<p>The following law firm represents the Class Members:</p> <p>CAVALLUZZO HAYES SHILTON MCINTYRE & CORNISH LLP Barristers & Solicitors 474 Bathurst Street, Suite 300 Toronto, ON M5T 2S6</p> <p>Attention: Suzanne Takacs, Legal Assistant to Stephen J. Moreau</p>

Use the following Opt Out Coupon form if you wish to opt out of the class action or send a written signed request to opt out, containing substantially the same information as set out in this Opt Out Coupon.

OPT OUT COUPON

To: **CAVALLUZZO HAYES SHILTON
MCINTYRE & CORNISH LLP**
Barristers & Solicitors
474 Bathurst Street, Suite 300
Toronto, ON M5T 2S6

Attention:
Suzanne Takacs, Legal Assistant to Stephen J. Moreau

I wish to opt out of the Leclair v. Her Majesty the Queen in Right of Ontario class action.

Signature

Name:
(please print)
Address:

Postal Code:
Telephone:

NOTE - To opt out, this coupon must be received by the address listed above by no later than **February 27, 2008.**

DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE.

SCHEDULE "B"

NOTICE OF CERTIFICATION

**IN THE MATTER OF
LITIGATION ON BEHALF OF MEMBERS OF THE ONTARIO NURSES
ASSOCIATION WHO WERE ONCE EMPLOYED BY MUNICIPAL OR
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<p>7. Class Counsel</p>	<p>The following law firm represents the Class Members:</p> <p>CAVALLUZZO HAYES SHILTON MCINTYRE & CORNISH LLP Barristers & Solicitors 474 Bathurst Street, Suite 300 Toronto, ON M5T 2S6</p> <p>Attention: Suzanne Takacs, Legal Assistant to Stephen J. Moreau</p>

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DIANNE LECLAIR

Plaintiff

- and -

Defendant

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Court File No.: 06-CV-324475PD3

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceedings commenced at Toronto

ORDER

**CAVALLUZZO HAYES SHILTON
MCINTYRE & CORNISH LLP**
Barristers & Solicitors
474 Bathurst Street, Suite 300
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**Elizabeth J. McIntyre, LSUC #32522T
Stephen J. Moreau, LSUC #48750Q**

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Solicitors for the Plaintiff,
Moving Party