



No. S-095159  
Vancouver Registry

*In the Supreme Court of British Columbia*

Between

JAMES WELDON and LEONARD BLEIER, suing on their own behalf and in a representative capacity on behalf of all former members of defined benefit pension plans sponsored, directed, administered or advised by the Defendants and their predecessors who were caused by the Defendants and their predecessors to cease to participate in those defined benefit pension plans and to participate only in defined contribution pension plans commencing on or about January 1, 1993.

Plaintiff

and

TECK METALS LTD., COMINCO PENSION FUND  
COORDINATING SOCIETY and TOWERS PERRIN  
INC.

Defendants

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT*, R.S.B.C. 1996, c. 50

**CONSOLIDATED AND AMENDED REPLY**

**Filed by:** The Plaintiffs, James Weldon and Leonard Bleier

**In reply to:** The Defendants, Teck Metals Ltd., and Cominco Pension Fund Coordinating Society's (the "Cominco Defendants") Response to Consolidated and Amended Civil Claim

1 In reply to the Response to Consolidated and Amended Civil Claim of the Cominco Defendants, the plaintiffs ~~denies deny~~ each and every allegation in the Response to Consolidated and Amended Civil Claim except as expressly admitted herein.

2 The facts alleged in paragraphs 7, 10, 11, 12, 13, and 19 of the Response to Consolidated and Amended Civil Claim are admitted.

3 The facts alleged in paragraphs 18, 20, and 21 of the Response to Consolidated and Amended Civil Claim are admitted, but the plaintiffs ~~has~~ have no knowledge of the content of the one-on-one meetings that are alleged to have occurred.

4 The facts and legal basis alleged in paragraphs 14, 15, 16, 22, 23, 25, 26, 27, 29, 30, 31, 32, ~~33~~, 34, ~~35~~, 41, 42, 43, 44, 45, 45A, 46, 47, 48 and 49 of the Response to Consolidated and Amended Civil Claim are denied.

5 The facts alleged in paragraphs 8, 9, 17, 18, 20, 21, 24, 37, and 38, ~~and 39~~ are outside the knowledge of the plaintiffs.

6 In answer to the allegation in paragraph 46 that the plaintiffs' cause of action is statute barred through the application of the *Limitation Act*, R.S.B.C 1996, c. 266, the plaintiffs ~~denies~~ deny that the claims are statute barred.

7 The plaintiffs and other class members rely on s. 6 of the *Limitation Act*, R.S.B.C. 1996 c.266. This is an action falls under s. 6(3)(b)(c)(d)(e) and (h) of the *Limitation Act* and is therefore governed by s. 6(4) of the *Limitation Act*. The plaintiffs and other class members say that the facts within their means of knowledge were not such that a reasonable person who had taken the appropriate advice in light of those facts would have concluded that they could bring an action until after July 13, 2009.

8 In answer to the allegation at paragraph 47 that the plaintiffs ~~has~~ have not suffered the loss alleged because ~~he was~~ they were entitled to purchase a deferred annuity provision the same pension as ~~he~~ they would have received under BRIP, the plaintiffs admits that ~~he was~~ they were entitled to purchase a deferred annuity, but ~~denies~~ deny that the deferred annuity would have allowed ~~him~~ them to obtain the same pension benefit that ~~he~~ they would have obtained had ~~he~~ they remained in BRIP.


9 In answer to the allegation in paragraph 48, the plaintiffs ~~denies~~ deny that ~~he~~ has ~~they~~ have failed to mitigate ~~his~~ their loss by failing to purchase a deferred annuity.

10 In further answer to paragraphs 47 and 48, the plaintiffs says:

- a. that it was not possible to buy a deferred annuity that would provide the same pension benefits as ~~he~~they would have received in BRIP;
- b. that the Information Material provided by the Cominco Defendants would lead a reasonable person to conclude that the purchase of a deferred annuity was not logical or necessary; and
- c. that information directly contradicting the Information Material would have been required in order to lead a reasonable person to conclude that it would be prudent to purchase a deferred annuity.

11 In answer to the allegation in paragraph 49, if the plaintiff 's James Weldon's, cause of action will only be complete upon his retirement, the plaintiff s says that he is still entitled to seek declaratory relief on his own behalf and the remaining relief on behalf of the class.

Date: 04/Jan13/Jan/2012

*for*   
\_\_\_\_\_  
Signature of Reidar Mogerman  
 filing party  lawyer for filing party



Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
  - (a) prepare a list of documents in Form 22 that lists
    - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
    - (i) all other documents to which the party intends to refer at trial, and
  - (b) serve the list on all parties of record.