

This is the 3rd Affidavit
of Leonard Bleier in this case
and was made on 13/Jul/2015

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, wherever they reside

Plaintiffs

and

TECK METALS LTD. and TOWERS PERRIN INC.

Defendants

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

AFFIDAVIT #3 OF L. BLEIER

I, Leonard Bleier, retiree, of 1265 McPhee Road, in the City of Castlegar, in the Province of British Columbia, SWEAR THAT:

1. I am a representative plaintiff in this matter. I was a proposed representative plaintiff in a parallel action VLC-S-S-116968 pursuant to the Class Proceedings Act commenced October 17, 2011 (the "Bleier Action"). That action and this one were later consolidated and I became a co-plaintiff with James Weldon in this action. As a result, I

have personal knowledge of the facts to which I depose in this affidavit, except where I state them to be on information and belief, and where so stated I verily believe them to be true.

My Background

2. I am in the class because I am one of those who elected to transfer from Teck Metal's defined benefit pension plan (the DB "Plan") to the defined contribution pension plan (the "DC Plan") effective January 1, 1993.

3. Following graduation from high school I became a steam engineer, eventually obtaining a second-class steam ticket. After one year of unskilled labour I obtained work as a labourer in a steam plant in Saskatchewan. Through my employment and study I became a steam engineer.

4. In 1972 and 1973, I worked in the steam plant at Cominco's Pine Point mine in the Northwest Territories. I worked for another company in Kitimat between 1973 and 1976. In 1976 I became employed as a steam engineer at Cominco, Kimberley Operations. My Cominco employment until 1978 was in union jobs.

5. In 1978, I transferred to Cominco, Trail Operations, as a non-union shift superintendent in the Roaster/Acid /Steam Plant. I continued my employment there until my retirement in September 2006. Soon after my retirement I returned to Cominco Trail Operations on a casual basis as a project coordinator and did that work intermittently until 2012.

My Participation in the Action

6. In 2010, Terry Kryczka, a fellow staff employee, and one of the leaders of the group of staff employees supporting the class action advised me that because of limitation concerns, Class Counsel (Camp Fiorante Matthews Mogerman, or "CFM" and Victory Square Law Office, or "VSLO") considered it necessary to find a representative plaintiff who had retired after 2003. To that point I had attended one or two of the group's meetings but had not otherwise been active with it. I agreed to consider being a representative plaintiff and therefore became active in that group.

7. I met with VSLO in the spring of 2011 to discuss what would be required of me as representative plaintiff. I agreed to become the representative plaintiff in the Bleier Action. Although VSLO and CFM provided an indemnity as to costs in the action I was aware of Teck's letter to VSLO sent soon after the commencement of the Weldon action saying it would seek costs against the representative plaintiff. This risk was a continuing concern to me until the action was certified.

8. It was also clear to me that being a representative plaintiff could turn out to be a significant responsibility that could last a long time.

9. I reviewed the draft Notice of Civil Claim to be filed on my behalf in the Bleier Action.

10. In November 2011, I received an inquiry from Richard Chu, a journalist with the magazine "Business in Vancouver", about discussing the actions against Teck. I discussed with Class Counsel if and how I should respond to media inquiries about the class action. I then spent several hours in discussion with Mr. Chu explaining my part in the action. This resulted in the publication of an article in Business in Vancouver about plan conversions, which included descriptions of my situation, on or about November 28, 2011.

11. At this time I continued to work with Class Counsel suggesting factual changes to the proposed Amended Notice of Civil Claim then being revised and consolidated with the Weldon action.

12. Class Counsel was seeking information about the losses suffered by those who had transferred. I am one of those who provided data on my age, service, income and DC balance for that purpose.

13. Between December 2011 and February 2012, I met and worked with Class Counsel to prepare my three-page affidavit in support of the application for certification filed February 10, 2012, which included, at paragraph 12, my statement that I understood my duties as a representative plaintiff.

14. Also in February 2012, I started to gather the information I had available relating to DC Plan statements and other statements relating to my investments (from my RRSP trustees) going back to 1978.

15. In April 2012, while I was preparing to leave on vacation, I worked with Class Counsel to draft a second affidavit in support of the application for certification in this action, explaining when I had started to become aware of the difficulties with my DC Plan compared to where I would have been under the DB Plan.

16. The final document was emailed to me when I was in Calgary in preparation for the flight to Europe that evening. I had to find a lawyer in Calgary on short notice in order to print the final affidavit emailed to me, commission the affidavit and deliver it to Vancouver.

17. The Consolidated and Amended Notice of Civil Claim was filed July 25, 2012. The action was certified by consent in December 2012.

18. Following the consolidation through to the summer of 2013 I was involved in the following ways:

- (a) receiving questions and information from class members and passing the information and questions I could not answer to Class Counsel;
- (b) in about March 2013:
 - (i) arranging for Class Counsel to attend in Trail on rather short notice;
 - (ii) making a number of phone calls to get possible class members to meet with our committee and other potential class members in March 2013 to provide them with information about the action, to gather statements from them and identify those who might be able to assist with evidence at trial; and
 - (iii) attending the meeting;

- (c) responding to calls from class members for updates about the litigation;
- (d) negotiating and finalizing the contingency agreement for the class action;
- (e) responding to requests from Class Counsel to help in finding about 50 class members (of whom we were able to locate approximately 30%) for whom no contact information had been provided by the defendants, by:
 - (i) distributing, with Mr. Weldon, the list to our committee; and
 - (ii) with the other committee members, carrying out web searches, contacting people we thought could help us locate these individuals;
- (f) obtaining statements from banks and brokers not in my possession about my investments and delivering them to Class Counsel; and
- (g) working with Class Counsel in preparation for my examination for discovery which required learning about how to conduct myself in discovery and the review of hundreds of documents so that I would not be surprised by any document about which I was asked questions on discovery.

19. I attended in Vancouver for a ½ day examination for discovery on June 13, 2014. Following that discovery, I was required to obtain and produce further documents — stockbroker trading records and bank statements for as far back as they could be obtained. Among other things this request required me to travel to Castlegar to retrieve old records from a broker.

20. In early September 2014, I was helping my nephew harvest his crop on his farm in Saskatchewan when settlement discussions began in earnest. Working by telephone from Saskatchewan, literally often leaving the field to do so (and in one instance, telephoning from my tractor), I worked with Mr. Weldon and Class Counsel by conference call and email to make decisions at each step of settlement discussions. Mr. Weldon and I were concerned about the settlement amounts being discussed. I was

apprehensive about whether the amounts under discussion were appropriate and defensible to the class. My sense was that the amounts being proposed were a relatively small proportion of the gross losses suffered by the class and that member expectations of recovery were much higher.

21. I left the farm in mid harvest, missing three days of it, to attend with Mr. Weldon in Vancouver to meet with Class Counsel to discuss what they concluded was the Defendants' final position.

22. Mr. Weldon and I also met with a retired Court of Appeal Justice, Kenneth Smith. Class Counsel were not present at that meeting. We discussed the settlement and Mr. Smith recommended that we agree to it.

23. Although the final settlement amount remained below the gross losses incurred, I made the difficult decision to support the final settlement in light of Class Counsel's explanations of the risks to the class of failing to settle and our meeting with Mr. Smith. In addition to this stress, I was under other stress at the time because I had just been told I required colon surgery and there was a possibility the problem was due to cancer.

24. I received numerous phone calls to answer questions about the state of the action and the settlement. I would converse by telephone frequently and, about once a month, meet with Mr. Weldon and Hans den Biesen (also one of the staff pension committee members) to review our progress so that all of us could communicate consistently with class members.

25. I separated all the emails received and sent by me in connection with this class action. I have 840 in all.

26. In January 2015, Mr. Weldon and I worked with Class Counsel in drafting the communication to class members about the settlement.

27. In June 2015, Mr. Weldon and I worked with Class Counsel in drafting the distribution protocol and the FAQ or "frequently asked questions" page for Class Counsel's websites.

28. My own recovery is approximately \$5200. I am advised by Class Counsel that is, of course, much higher than those who are allocated nothing or \$500 but only about one quarter of the highest allocations. On retirement I converted my DC Plan balance to a Life Income Fund and draw from it in monthly payments the maximum amount permitted. I continue to be responsible for managing the fund. I have continued to work on a casual basis at Teck from my retirement in 2006 through 2012 because of the low value of my DC Plan account.

Settlement Approval

29. We have now settled the Proceedings with the defendants. Reidar Mogerman, a partner with CFM, and David Blair, a partner with VSLO, have briefed me on the core terms of the Settlement Agreement and I understand them. I also received the benefit of the a second opinion on the fairness of the settlement and the it being in the best interest of the class from Mr. Smith, a retired judge of the Court of Appeal, as discussed above.

30. The settlement provides for payment of \$4,000,000 plus up to \$300,000 for disbursements, in exchange for a release from class members.

31. I understand that the Settlement Agreement must be approved by the Court in order to take effect.

32. Under the terms of the Settlement Agreement, the defendants will pay the settlement amount after the Settlement Agreement is approved and takes effect.

33. I have reviewed the facts as they relate to liability and damages with Mr. Mogerman and Mr. Blair, and with Mr. Smith, as well as the applicable legal principles. I appreciate that the BC Action raises complex factual and legal issues and there would be significant expenses incurred if it were to proceed to trial. Given these circumstances, I believe that the Settlement Agreement is a fair and reasonable compromise of the litigation against the defendants. Consequently, I have instructed Class Counsel to seek approval of the Settlement Agreement on my behalf, and on behalf of the settlement class.

34. I support the application to approve the Settlement Agreement.

Distribution of Settlement Funds

35. I have reviewed and approve the proposed Distribution Protocol for the settlement with all the defendants in this action.

36. Mr. Mogerman and Mr. Blair have explained to me the process of how the proposed distribution protocol was developed, which included the preparation of independent expert reports by Allan Brown , a retired Fellow of the Canadian Institute of Actuaries (1975) and a retired Fellow of the Institute of Actuaries, England (1975) and by Stephen Cheng, FCIA, FSA, Managing Director & Senior Consulting Actuary at West Coast Actuaries. I consider that process to be reasonable.

37. I understand that eligible settlement class members' losses will be calculated and the settlement funds that each class member will get a share that is based on:

(a) the difference between:

(i) the value of the defined benefits (as estimated by class counsel and the actuary experts) the class member would have if they had stayed in the defined benefit pension plan, as of the date that their employment ended (or on September 30, 2014, for class members who were still employed on that date)

and

(ii) the projected balance in their defined contribution pension plan accounts on the same date, as estimated by class counsel;

(b) class counsel's assessment of how the risks set out above impact various class members differently;

and

- (c) the necessary pro-rating of the amount of the settlement available for distribution as a proportion of the total estimated losses of class members.

38. I support Class Counsel's application for approval of the proposed distribution protocol.

Class Counsel Fees and Disbursements

39. I understand from Mr. Blair and Mr. Mogerman that both law firms have worked together to advance this case and I support this pooling of resources.

40. I understand that this litigation was undertaken on a contingency basis and that Class Counsel would not be paid for fees or disbursements unless they were successful in recovering settlements or damages at the trial of any action.

41. The agreement which I entered into with VSLO and CFM provides that the firms collectively are entitled to recover 33 1/3 % on any settlement or partial settlement plus disbursements and applicable taxes. Attached as **Exhibit "A"** to this affidavit is a copy of the retainer agreement between myself, Mr. Weldon, VSLO and CFM.

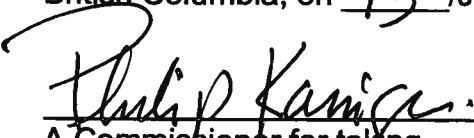
42. Mr. Mogerman, Mr. Blair, and other lawyers and paralegals on the Class Counsel team have kept me fully informed of the progress of this action. VSLO and CFM have remained resolute in prosecuting this action to a successful conclusion on behalf of myself and all other class members. I have the utmost confidence that Class Counsel have done the best job possible.


43. I understand that the time and disbursements incurred by Class Counsel are substantial. Mr. Mogerman and Mr. Blair have informed me that given the very significant risks associated with litigation, the time expended and expenses incurred, along with a host of other factors, Class Counsel will be seeking a contingency fee of 1/3 of the settlement funds.

44. Mr. Mogerman and Mr. Blair have further informed me that Class Counsel will be seeking the payment of disbursements. I understand that, as of the date of this affidavit, the amount of the disbursements has not yet been calculated.

45. Mr. Mogerman and Mr. Blair have further informed me that Class Counsel will be seeking to have any award of fees and disbursements plus applicable taxes paid out of the settlement monies noted above. I support and approve the payment of Class Counsel fees of 1/3 of all settlement monies as well as Class Counsel disbursements and applicable taxes all to be paid from the settlement monies.

SWORN BEFORE ME at CASTLEGAR)
British Columbia, on 13 /Jul/ 2015)


A Commissioner for taking
Affidavits for British Columbia


Leonard Bleier

PHILIP KANIGAN
Notary Public
2009 Columbia Avenue
Castlegar, B.C. V1N 2W9
Ph 250-365-2289 Fax 250-365-2275

WITNESSED AS TO EXECUTION ONLY
NO LEGAL ADVICE SOUGHT OR GIVEN

CONTINGENCY FEE AGREEMENT

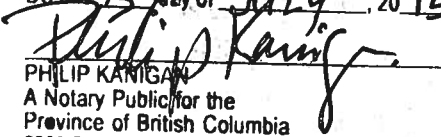
THIS AGREEMENT effective as of the 22nd day of April, 2013.

Between

James Weldon
352 Binns Street
Trail, BC V1R 3L1

Leonard Bleier
1265 McPhee Road
Castlegar, BC V1N 4L8

(the "Clients")

This is Exhibit "A" to the
Affidavit/Declaration of LEONARD BLEIER
Sworn/Declared before me at CASTLEGAR
BC this 13 day of JULY, 2015

PHILIP KARIGAN
A Notary Public for the
Province of British Columbia
2009 Columbia Avenue, Castlegar, B.C. V1N 2W9
Ph: (250)365-2289 Fax: (250)365-2275

And

Camp Fiorante Matthews Mogeran
#400 - 856 Homer Street
Vancouver, BC V6B 2W5

Victory Square Law Office LLP
500 - 128 West Pender Street
Vancouver, BC V6B 1R8

(the "Firms")

The parties agree as follows:

1. The Firms shall represent the Clients in litigation against Teck Metals Ltd. and Towers Perrin Inc. relating to the conversion of the Cominco Ltd. Basic Retirement Income Plan, a defined benefit pension plan, to the Cominco Defined Contribution Pension Plan (the "Case"). The determination of the fault of the defendants in the Case shall be part of a proceeding brought under the *Class Proceedings Act*, RSBC 1996, c. 50 in the Vancouver Registry of the Supreme Court of British Columbia, Action No.095159.

2. **The Clients shall cooperate with the Firms in the prosecution of the Case.**

3. **The Clients shall pay the Firms, as fees for professional legal services, a percentage of the value of any settlement, or compensation from any source, pertaining to the Case, or any judgment obtained prior to trial or at trial. The fee shall be payable on all amounts, including prejudgment interest and post judgment interest (amounts awarded by the Court for interest on the judgment before trial and after trial), calculated as follows:**
 - (a) **25% of the value of any settlement or compensation from any source obtained up to 60 days prior to the certification hearing; and**
 - (b) **33 1/3% of the value of any settlement or compensation from any source or judgment obtained thereafter.**

(the "Contingency Fee").

The amount of the Contingency Fee payable shall be calculated after all case expenses incurred by the Firms have first been deducted. For the sake of clarity, if no money is recovered by way of settlement, or compensation from any source or judgment pertaining to the Case, no Contingency Fee or case expenses are payable.

4. **The representation provided by this Contingency Fee Agreement shall extend to all appeals including appeals up to the Supreme Court of Canada.**

5. **Case expenses are those costs incurred by the Firm to prosecute the Case.**

6. **The Clients authorize the Firms to pay case expenses to prosecute the Case as the Firms consider necessary in accordance with Schedule "A" to this Agreement.**

7. **In the event of settlement, or compensation from any source, or judgment being obtained, the Clients shall pay the Contingency Fee and any outstanding case expenses from the settlement, or compensation from any source, or judgment proceeds.**

8. The Clients authorize the Firms to receive in a trust account on the Client's behalf, any monies to which the Clients may become entitled pursuant to a settlement, or compensation from any source, or judgment, including partial or interim settlements or payments, and the Clients agree that the Firms may apply any such monies to pay the case expenses and the Contingency Fee.

9. The Clients agree to pay all applicable taxes on the Contingency Fee and case expenses.

10. The Clients shall not negotiate or accept settlement or payment of any compensation from any source pertaining to the Case without the express consent of the Firms.

11. The Clients acknowledge that the Firms have recommended that the Clients receive independent legal advice on the fairness of this Agreement and to review the Agreement with another lawyer prior to signing.

12. The Clients acknowledge that the Clients have been advised that pursuant to section 37 of the *Class Proceedings Act*, R.S.B.C. 1996, c.50, this agreement is not enforceable unless approved by the Court.

13. In accordance with section 38 of the *Class Proceedings Act*, the Firm has provided the Clients with the following estimates of fees which will be payable pursuant to this agreement:

- (a) if the case settles more than 60 days prior to the certification hearing the fee which the Firm will recover will be 25% of the settlement amount. If the settlement was for \$1,000,000 the Class Counsel fee would be \$250,000; and
- (b) if the case is resolved by settlement or judgment within 60 days of the certification hearing or anytime thereafter the fee which the Firm will recover will be 33 1/3% of the amount of settlement or judgment. If the

settlement or judgment was for \$1,000,000 the Class Counsel fee would be \$333,333.33.

14. The Clients acknowledge and confirm that the Clients have been advised of the following provisions of the *Legal Profession Act* and the Rules of the Law Society of British Columbia:

- (a) the Clients may apply to a district registrar of the Supreme Court of British Columbia within three months after the agreement is made or the retainer between the solicitor and the Clients is terminated by either party, to have the fairness and reasonableness of this agreement reviewed by a Registrar of the Supreme Court of British Columbia whether or not payment of fees or case expenses has been made; and
- (b) upon delivery of a bill for fees, charges or case expenses by the Firm, the Clients may apply to a Registrar of the Supreme Court of British Columbia for a review of the bill.

IN WITNESS WHEREOF the parties have signed this Agreement.

SIGNED in the presence of:)
)
Hans den Biesen)
 Signature)
HANS DEN BIESEN)
 Name)
1007 REGAN CR.)
 Address)
Groupheader)
 Occupation)

J. Weldon
 James Weldon

SIGNED in the presence of:

Signature Hans den Biessen)

Name HANS DEN BIESEN)

Address 1007 REGAN CR.)

Occupation GROUP LEADER)

Leonard Bleier
Leonard Bleier

SIGNED in the presence of:

Signature Natalie M. Fulton)

NATALIE M. FULTON
PARALEGAL
Name **886 Homer Street, 4th Floor**
Vancouver, BC, V6B 2W5
Tel: 604-689-7555 Fax: 604-689-7554

Address _____)

Occupation _____)

Camp Fiorante Matthews Mogerman
Camp Fiorante Matthews Mogerman

SIGNED in the presence of:

Signature

Name

Address

Occupation





for Victory Square Law Office, LLP

SCHEDULE "A" - CASE EXPENSES

In addition to our percentage fee or court-ordered costs as our fee, you agree to pay from any source pertaining to the Case, or any judgment obtained prior to or at trial, all case expenses (also known as "Disbursements") including "Other Charges." These expenses vary and will be detailed in bills to you pursuant to this Agreement.

Upon the successful conclusion of the case, we will include in the bills sent as described above, the expenses the Firms have paid or may have to pay on your behalf to advance your case. Some of these expenses may include:

"Disbursements" which are the exact amounts we pay to third parties on a client's behalf in the course of performing the work, and

"Other Charges" which are any charges for amounts relating to the use of firm resources on behalf of the client reasonably and necessarily incurred by the Firms for the conduct of an Action and include, but are not limited to:

- work performed by a non-lawyer, such as a paralegal, legal assistant or other person retained or employed by the Firms to assist in providing services as part of the Firms' work for the Client;
- the Firms' usual charges for computerized legal research, such as case law research using Quicklaw;
- long distance telephone costs (including costs for facsimiles and conference calls);
- imaging costs, including photocopying and/or scanning costs at \$0.25/page;
- costs for binders or other bindings or discs required to prepare materials for court (e.g. books of authorities);
- delivery charges, including courier, taxi and postage to deliver documents to court or the other lawyers and fees of agents to so deliver;
- court filing fees (which the court charges to keep an official record of court documents);
- government fees, including fees for access to information requests or health records; and
- land, personal property, or company registry searches (for example, to find out the proper name of the defendant or his assets) and fees of agents who conduct investigations, searches and registrations.

Experts and other outside Professionals' expenses

We may have to hire other people such as court reporters, expert witnesses, translators/interpreters, accountants, and property appraisers to help us with your claim. In addition, we may require these professionals to produce reports such as medical or engineering reports. If we feel that any of the above or similar expenses are desirable or necessary for the settlement or advancement of your case, we will first discuss the matter with you.

Mediation or other forms of Dispute Resolution

We may advise that it is in the best interests of the case that you proceed to a form of alternative dispute resolution such as mediation or arbitration which can incur different costs from trial, including the costs of a mediator or arbitrator. If we feel that these processes would help the settlement or advancement of your case, we will first discuss the matter with you.

Travel Expenses

Travel expenses include expenses the firm incurs to travel to complete work required on your file. These may include:

- automobile traveling expenses including, where applicable, the rental of a vehicle and associated costs, and/or mileage at a rate of \$0.52 per kilometre;
- parking;
- taxi expenses;
- air travel, booked at the most economical market rate available at the time of booking, with the cost of business class travel only being claimed for flights in excess of three hours unless exceptional circumstances exist;
- hotel accommodations at standard business hotels (Sheraton, Hilton, Marriott) or similarly priced alternatives; and
- reasonable meal expenses while travelling which will be billed at the following per diem rates:

Breakfast	-	\$25.00
Lunch	-	\$25.00
Dinner	-	\$50.00

Receipt of Rewards

Please note that while paying for these case expenses on your behalf, the firm or individual personnel within the firm may receive reward or travel points associated with the use of our credit accounts or frequent travelling. Our regulator, The Law Society of British Columbia, cautions that our clients must be aware of and agree to this. If you have any concerns, please advise. If not, entering into this retainer is your expression of consent.