



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

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**NOTICE OF APPLICATION**

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**Name of Applicants:** the Plaintiffs

**TO:** the Defendants, Teck Metals Ltd. and Towers Perrin Inc.

TAKE NOTICE that an application by consent will be made by the applicants to the Honourable Mr. Justice N. Smith at the courthouse at 800 Smithe Street, Vancouver, B.C. V6Z 2E1 on 26/Nov/2014 for the order(s) set out in Part 1 below.

**PART 1: ORDERS SOUGHT**

1. An Order approving the Notice to Class Members in substantially the form attached as Schedule "A" to this Notice of Application.

**PART 2: FACTUAL BASIS**

2. The parties have reached a settlement in this class proceedings and notice of the settlement is required.

**PART 3: LEGAL BASIS**

3. A court approved notice of the settlement is required by ss. 20-22 and 35 of the *Class Proceedings Act*, RSBC 1996, c. 50.

**PART 4: MATERIAL TO BE RELIED ON**

4. Affidavit of Reidar Mogerman sworn November 21, 2014.
5. *Class Proceedings Act*, RSBC 1996, c 50, ss. 20-22 and 35.

The applicant estimates that the application will take 15 minutes.

- This matter is within the jurisdiction of a master.
- This matter is not within the jurisdiction of a master.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and

- (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed application response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9)

Date: 21/Nov/2014



Signature of lawyer  
for applicant

J.J. Camp, Q.C.

*To be completed by the court only:*

**Order made**

in the terms requested in paragraphs ..... of Part 1 of this notice of application

with the following variations and additional terms:

.....

.....

.....

Date: .....

Signature of  Judge  Master

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**APPENDIX**

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**THIS APPLICATION INVOLVES THE FOLLOWING:**

- discovery: comply with demand for documents
- discovery: production of additional documents
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- service
- mediation
- adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other
- experts

## SCHEDULE "A"

NOVEMBER ◆, 2014

VIA MAIL OR EMAIL



Attention: ◆

Dear ◆:

**Re: Class action lawsuit regarding the 1992 conversion from a defined benefits pension plan to a defined contribution pension plan for employees at Cominco/Teck/Agrium *Weldon v. Teck Metals Ltd., Vancouver Registry, SCBC Action No. S-095159***

Camp Fiorante Matthews Mogerma, along with Victory Square Law Office, are class counsel in this class action and you are getting this notice/letter because you are a member of the class. Please read this notice/letter carefully as it affects your rights. Mr. Justice Smith of the BC Supreme Court supervises this class action and has reviewed and approved this notice/letter.

We are writing to update you and ask for information.

### ***Update #1: Settlement of Lawsuit***

We have reached an agreement to settle the class-action lawsuit with Cominco/Teck and Towers who have agreed to pay \$4 million to the class members for their losses, plus up to an additional \$300,000 to cover the expenses incurred on behalf of the class members in the course of the litigation.

To become effective, the BC Supreme Court must approve the settlement. You will be getting another notice/letter informing you of the date of the court hearing to approve the settlement and explaining your rights to object to the settlement.

Class counsel will be seeking fees and expenses along with administration costs to be deducted from the settlement funds. The BC Supreme Court must also approve the payment of these fees, expenses and costs. You will getting another notice/letter informing you of the date of the court hearing to approve the payment of these fees, expenses and costs and explaining your rights to object to the payment of these fees, expenses and costs.

### ***Information Needed from You***

If you want to file a claim to receive funds from the settlement, you must fill out the attached form identifying yourself as a settlement class member. If you are the personal representative of a deceased class member and wish to all file a claim to receive funds from the settlement, you must identify the estate of the deceased class member as indicated on the attached form. **You must send the completed form to us by mail, e-mail or fax no later than January 31, 2015.**

***Update #2: How the Settlement Funds Will be Divided Among Class Members***

Class counsel are working on a plan to distribute the settlement funds amongst the class members. To determine the portion of the settlement funds to be allocated to each settlement class member, Cominco/Teck and Agrium have agreed to make reasonable efforts to provide us with the following information:

- year of birth;
- years of service as of December 31, 1992;
- year of employment termination, if not still employed;
- cause of employment termination;
- annual salary in 1992, to be inferred from a 1992 pension adjustment file; and
- initial account value at December 31, 1992.

Teck/Cominco will also provide the initial account values of class members who became employees of Agrium in 1993, if they are able to determine that from their records. If we do not obtain all of the necessary information pertaining to each settlement class member, we will contact each of those settlement class members further to address this matter.

To become effective, the distribution plan must also be approved by the BC Supreme Court. Once we have designed the distribution plan, you will be getting a copy of the distribution plan and another notice/letter informing you of the date of the court hearing to approve the distribution plan and explaining your rights to object to the distribution plan.

If approved by the BC Supreme Court, the distribution plan will indicate the allocation for each settlement class member and will spell out the right of each individual class member to object to their proposed allocation by following the appeal procedure described in the distribution plan.

***Reminder: Please Send Us Information If You Want Settlement Funds***

As noted above, if you want to share in the settlement funds you must identify yourself to us by completing the enclosed form and sending it to us by mail, e-mail or fax no later than January 31, 2015.

**Camp Fiorante Matthews Mogeran**  
400-856 Homer Street  
Vancouver BC V6B 2W5  
email: [cominco@cfmlawyers.ca](mailto:cominco@cfmlawyers.ca)  
facsimile: 604-689-7555

**Victory Square Law Office LLP**  
#500-128 West Pender Street  
Vancouver, BC V6B 1R8  
email: ♦  
604-684-8427

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We will be pleased to answer any questions or address any concerns you have. Please contact [Natalie Fulton or ♦ ] at 1-800-689-2322 or [cominco@cfmlawyers.ca](mailto:cominco@cfmlawyers.ca).

Yours truly,

Camp Fiorante Matthews Mogerman

J.J. Camp, Q.C.

JJC/NMF