

Court of Appeal File Nos. CA040713; CA040729
Supreme Court File No. S-095159
Supreme Court Registry Vancouver

COURT OF APPEAL

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 those defined benefit pension plans commencing on or about January 1, 1993, wherever they reside

Respondents
(Plaintiffs)

AND:

TECK METALS LTD.

Appellant
(Defendant)

AND:

TOWERS PERRIN INC.

Appellant
(Defendant)

BROUGHT UNDER THE *CLASS PROCEEDINGS ACT* RSBC 1996, c 50

ORDER

BEFORE:

The Honourable Madam Justice Saunders
The Honourable Mr. Justice Groberman
The Honourable Mr. Justice Hinkson

Vancouver, British Columbia, Tuesday, the 6th day of August, 2013.

A handwritten signature in black ink, appearing to be "M.A.", is located in the bottom right corner of the page.

THE APPEALS AND CROSS-APPEAL from the judgment of the Honourable Mr. Justice Nathan Smith of the Supreme Court of British Columbia at Vancouver, British Columbia, dated the 4th day of March, 2013, coming on for hearing on the 5th day of June, 2013, AND ON HEARING Geoffrey B. Gomery, Q.C., counsel for the appellant, Teck Metals Ltd., and Hein Poulus, Q.C. and Michael L. Bromm, counsel for the appellant, Towers Perrin, Inc., and Reidar Mogerman and Jen D. Winstanley, counsel for the respondent; AND ON READING the materials filed herein; AND ON JUDGMENT BEING RESERVED TO THIS DATE;

THIS COURT ORDERS that the appeals are allowed in part and the cross-appeal is dismissed;

AND THIS COURT FURTHER ORDERS that paragraph 1 of the order of the Honourable Mr Justice Smith be varied to state that the Answer to question 2 in the special case is:

The Plaintiffs' claims giving rise to common issues as set out in the certification order are subject to postponement pursuant to s 6(4) of the *Limitation Act* as follows:

- The claim for deceit (addressed in common issues 5(c), 5(d) and 5(f)) is subject to postponement;
- The statutory claim against Teck for breach of trust (addressed in common issue 4) is subject to postponement;
- It is not yet decided whether the claims for breach of fiduciary duty (addressed in common issue 4) are subject to postponement;
- The claim against Towers for professional negligence (addressed in common issues 5(a) to 5(c), 5(e) and 5(h)) is subject to postponement;
- The claim against Teck that it is vicariously liable for the professional negligence of Towers (addressed in common issue 5(i)) is subject to postponement; and
- The Plaintiffs' other claims (addressed in common issues 3(a) and 5(g)) are not subject to postponement.



AND THIS COURT FURTHER ORDERS that paragraph 2 of the order of the Honourable Mr Justice Smith be varied to state that common issue 2(a) is decided as follows:

The Plaintiffs' claims giving rise to common issues as set out in the certification order are subject to postponement pursuant to s 6(4) of the Limitation Act as follows:

- *The claim for deceit (addressed in common issues 5(c), 5(d) and 5(f)) is subject to postponement;*
- *The statutory claim against Teck for breach of trust (addressed in common issue 4) is subject to postponement;*
- *It is not yet decided whether the claims for breach of fiduciary duty (addressed in common issue 4) are subject to postponement;*
- *The claim against Towers for professional negligence (addressed in common issues 5(a) to 5(c), 5(e) and 5(h)) is subject to postponement;*
- *The claim against Teck that it is vicariously liable for the professional negligence of Towers (addressed in common issue 5(i)) is subject to postponement; and*
- *The Plaintiffs' other claims (addressed in common issues 3(a) and 5(g)) are not subject to postponement.*

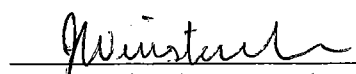
BY THE COURT

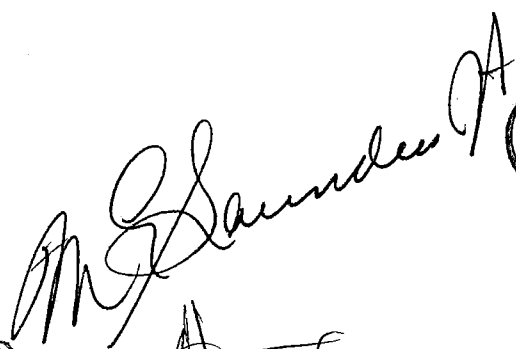
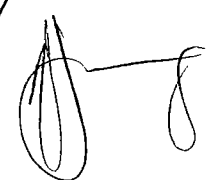

DEPUTY REGISTRAR

APPROVED AS TO FORM:


Counsel for Teck Metals Ltd.


Counsel for Towers Perrin Inc.


Counsel for the respondents

ENTERED

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VANCOUVER
AUG 28 2013
COURT OF APPEAL
REGISTRY

No. CA040729
Vancouver Registry

BETWEEN:

James Melton and

Plaintiff?
APPPELLANT Respondents

AND:

Teck Metals Ltd.

Defendant/
Respondent Appellee

and

Mathewson, Schachter and
Thompson

750-990 Howe St. Vancouver BC

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