



No. S-140490
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

GEORGE JABLONSKY

PLAINTIFF

AND:

TIMBERWEST FOREST CORP.

DEFENDANT

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

NOTICE OF APPLICATION

Name of applicant: George Jablonsky

To: the Defendant, Timberwest Forest Corp.

TAKE NOTICE that an application will be made by the applicant to Justice Masuhara (seized) by telephone, with counsel appearing in person, on April 22, 2015 at 9:00 am for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An Order approving the Preliminary Notice of the proposed Settlement Agreement in this Action in substantially the form attached as Schedule B to Exhibit "A" of Affidavit #1 of David Blair, made April 10, 2015 (the "Settlement Agreement").
2. An Order directing the Defendant to provide, within 7 days after the date of this order, the information currently in its possession to Class Counsel which discloses the potential class members' names, addresses, telephone numbers, and participation status in the plans.
3. An Order directing the Plaintiff to, within 14 days after Class Counsel receives the information in paragraph 2:
 - (a) send by regular mail or email the Preliminary Notice to all proposed Settlement Class Members whose name and address information is in the possession of Class Counsel;
 - (b) publish an advertisement once, in a size no less than 1/8 of a page, in the *Vancouver Sun* newspaper; and
 - (c) post the Preliminary Notice on Class Counsel's website.
4. An Order that proposed Settlement Class Members will be deemed to have received the Preliminary Notice two business days after the date the Plaintiff completes the tasks described in paragraph 3.
5. An Order that the costs of preparing and distributing the Preliminary Notice will be paid by Class Counsel as a disbursement.
6. An Order fixing the date of the hearing of the application for final approval of the Settlement Agreement.
7. An Order that the Parties will bear their own costs of this Application.
8. An Order that the Parties have liberty to apply to the Court for further directions.

Part 2: FACTUAL BASIS

1. The Plaintiff began this action in his personal capacity and on behalf of a class of persons described in the Notice of Civil Claim.
2. The Plaintiff and Defendant have agreed to terms of settlement as set out in the Settlement Agreement.
3. The Parties will bring an application on a date to be set (the "Approval Application") seeking:

- (a) certification of this action as a class proceeding and approval of the settlement class, for settlement purposes only;
- (b) approval of the Settlement Agreement pursuant to section 35(1) of the *Class Proceedings Act*; and
- (c) approval of Class Counsel's fees pursuant to section 38(2) and 22 of the *Class Proceedings Act*.

4. The parties propose that the proposed Settlement Class Members be given notice of the Settlement Agreement and the Approval Application by way of the Preliminary Notice, pursuant to sections 21(1) and 22 of the *Class Proceedings Act*.

5. The Preliminary Notice and the proposed means of distribution of the Preliminary Notice are reasonably likely to inform Class Members of the Settlement Agreement and the Approval Application, as the proposed Settlement Class is a discrete group comprised of identifiable members known to the Defendant.

6. The Defendant has records of the vast majority of proposed Settlement Class Members, including address information and information regarding their participation status in Timberwest's post-retirement health and welfare benefit plan. For the estates of deceased retirees, the Defendant has a last known address. The Defendant has agreed to provide the requested data to Class Counsel upon Order of the court.

Part 3: LEGAL BASIS

- 1. The Plaintiff relies on the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, including, but not limited to, ss. 21 (1), 22 and 35(1) thereof.
- 2. The parties consent to the orders requested.

Part 4: MATERIAL TO BE RELIED ON

- 1. Affidavit #1 of David Blair, made April 10, 2015;
- 2. the Pleadings filed in this Action; and
- 3. further and other material as counsel may advise and the Court may allow.

The applicant estimates that the application will take 1 hour.

This matter is within the jurisdiction of the 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:

April 10, 2015


Allison Tremblay

Lawyer for the Plaintiff George Jablonsky

This Notice of Application is filed by David Blair and Allison Tremblay of the law firm Victory Square Law Office LLP, whose place of business and address for delivery is 500 - 128 West Pender Street, Vancouver, British Columbia, V6P 1R8.

- adjournments
- proceedings at trial
- case plan orders: amend
- case plan order: other
- experts