

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE

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THURSDAY, THE 8<sup>TH</sup>

JUSTICE PERELL

DAY OF JULY, 2021

B E T W E E N :

**CONREY FRANCIS**

Plaintiff

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO**

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION**, made by Koskie Minsky LLP, Class Counsel, for an order approving the legal fees payable to Class Counsel with respect to the common issues phase of this proceeding, an honorarium to the Plaintiff and former Plaintiff, and for payments to the Class Proceedings Fund of the Law Foundation of Ontario (the "Class Proceedings Fund"), was heard on July 8, 2021 via videoconference.

**WHEREAS** the judgment on the common issues was rendered on April 4, 2020 ("Judgment") and the Judgment is now final;

**WHEREAS** the Judgment provided for an aggregate damages award of \$30,000,000 (the "Aggregate Damages Award"), with individual compensation to be determined at later individual issues trials, with counsel fees and disbursements for the common issues state to be paid out of the Aggregate Damages Award;

**AND UPON HEARING** the submissions of Class Counsel and upon reading the materials filed, the motion record of Class Counsel and the factum of Class Counsel,

1. **THIS COURT ORDERS** that the fee payable to Koskie Minsky LLP is hereby set at \$7,500,000 in respect of legal fees plus \$975,000 in respect of HST.

2. **THIS COURT ORDERS** that the fee payable to Koskie Minsky LLP out of the Aggregate Damages Award, shall be reduced by the amounts of costs payable to the Plaintiff by the Defendant pursuant to the \$720,000 costs award of Perell J, dated June 29, 2020 and the \$50,000 costs award of the Court of Appeal for Ontario, dated March 31, 2021, plus applicable interest. The remaining fee amount of \$7,690,229.58 shall be payable by the Defendant to Koskie Minsky LLP in trust out of the Aggregate Damages Award.

3. **THIS COURT ORDERS** that the Class Proceedings Fund is entitled to a levy in the amount of 10% of the net monetary award or settlement amount, if any, to which one or more persons in the class is entitled plus the amount of any outstanding disbursements awarded to the plaintiff which have not yet been repaid to the Class Proceedings Fund, in accordance with section 10(3) of O. Reg. 771/92.

4. **THIS COURT ORDERS** that the total amount payable out of the Aggregate Damages Award in respect of disbursements, in addition to the amounts payable in paragraph 2, above, is hereby set at \$317,024.70 (inclusive of all applicable taxes), to be distributed as follows:

- (a) Past disbursements payable to Koskie Minsky LLP: \$ 12,588.13;
- (b) future disbursement reserve payable to Koskie Minsky LLP: \$ 100,000.00; and,
- (c) disbursements payable to the Class Proceedings Fund: \$ 204,447.57.

5. **THIS COURT ORDERS** that the Plaintiff, Conrey Francis, shall receive the sum of \$15,000 as an honorarium to be paid out of the Aggregate Damages Award. This sum shall be paid to Koskie Minsky LLP in trust.

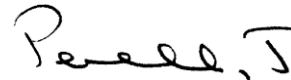
6. **THIS COURT ORDERS** that the levy on the Aggregate Damages Award payable to the Law Foundation of Ontario pursuant to section 10 of Regulation 771/92 of the *Law Society Act* shall be calculated and paid as follows:

- (a) Aggregate Damages Award \$30,000,000;

(b)	less amounts payable to Koskie Minsky LLP on account of fees, disbursements and taxes (as set out in paragraphs 1 and 2 above):	\$7,690,229.58;
(c)	less disbursements payable to Koskie Minsky LLP	\$12,588.13;
(d)	less future disbursement reserve payable to Koskie Minsky	\$100,000;
(e)	less disbursements payable to the Law Foundation of Ontario (as set out above)	\$204,447.57;
(f)	less honorarium payable to Conrey Francis (as set out above)	\$ 15,000; and,
	Subtotal:	\$21,977,734.72
(g)	10% levy payable to the Class Proceedings Fund on remaining Aggregate Damages Award:	<b>\$2,197,773.47</b>

7. **THIS COURT ORDERS** that, should any amount of the future disbursement reserve referenced in paragraph 4(c) become an amount payable to one or more persons in the class, then a levy in the amount of 10% of that amount shall be calculated and paid by Koskie Minsky LLP to the Class Proceedings Fund.

8. **THIS COURT ORDERS** that, with the exception of paragraph 7, the Defendant shall pay the amounts as directed in this order within 40 days.



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PERELL J.

CONREY FRANCIS  
Plaintiff

and

HER MAJESTY the QUEEN in RIGHT of ONTARIO  
Defendant

Court File No. CV-18-591719-00CP

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

Proceeding under the *Class Proceedings Act, 1992*

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**ORDER  
(Fee Approval)**

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