

Darlene Alexander v. Her Majesty The Queen in Right of Ontario

Court File No. CV-13-477703

**AMENDED NOTICE OF SETTLEMENT APPROVAL HEARING
(adjourned from June 24, 2016 to November 14, 2016)**

To:

- a. employees and former employees of municipalities or service providers associated with municipalities (hereinafter referred to as "municipal providers") whose employment was transferred from the municipal providers to newly-established Community Care Access Centres ("CCACs") and who were members of CUPE at the time of the transfer and who did not subsequently become members of the Ontario Nurses Association ("ONA") or the Ontario Public Service Employees Union ("OPSEU") and for greater certainty, those who became enrolled in the Healthcare of Ontario Pension Plan, formerly known as the Hospitals of Ontario Pension Plan, ("HOOP") and were previously enrolled in the Ontario Municipal Employees Retirement System or the VON Canada Pension Plan ("Former Plans"); and
- b. employees of the municipal providers whose employment was transferred from the municipal providers to CCACs who subsequently became members of CUPE and who were not members of CUPE, ONA, or OPSEU at the time of the transfer.

(collectively referred to as the "Class Members" or the "Class")

Please read this notice carefully as it may affect your rights

Background

A class action was certified in 2014 against the Government of Ontario. The action was commenced in 2013 by Darlene Alexander on behalf of unionized CUPE employees working for municipal or other employers who, prior to 1997 were providing home care programs and placement coordination services for municipal and/or private providers and had their employment transferred to a Community Care Access Centre ("CCAC").

In the class action, Ms. Alexander alleged that the Government represented that the employees would suffer no losses to their pensions with this transfer. Alexander alleged that these employees did and will suffer losses as a result of receiving two pensions and that the Government was responsible for any such losses.

The parties have reached a settlement through which the Government will pay monies into a fund that will be used to pay settlement benefits of \$2,500.00 to each Class Member, and administration fees. The Government may also pay legal fees, including taxes and disbursements but in no event will any Class Member pay legal fees nor will the payment of \$2,500.00 per Class Member be reduced by any legal fees. The settlement is subject to court approval.

The original June 24, 2016 hearing date was adjourned to allow for further discussions between the parties.

Class Counsel became aware after the settlement had been negotiated that certain members of CUPE Local 8916 would not be entitled to participate in the settlement, according to the current definition of a class member because they had been enrolled in the VON Canada Pension Plan, and not OMERS, prior to the transfer.

Class Counsel and counsel for the Defendant have agreed that the definition of the Class would be amended to include those additional CUPE members.

The addition of these Class Members (ie. those who had been enrolled in the VON Canada Pension Plan, and not OMERS, prior to the transfer) in the definition of the Class, will not affect the settlement amount to be received by other Class Members.

Hearing to Approve Proposed Settlement

On Monday, November 14, 2016, the settlement approval motion, that was adjourned from June 24, 2016 will proceed at 10:00AM at Osgoode Hall, 130 Queen St. W. Toronto, Ontario, M5H 2N5. The Court will consider whether to approve the proposed settlement, and will determine whether its terms are fair, reasonable, and in the best interests of Class Members (the "Approval Hearing").

How to Participate in Approval Hearing

All Class Members who have not opted out are entitled to participate in the settlement. You are not required to make submissions to the Court if you wish to participate in the settlement.

If you were a member of the Class prior to the proposed definition amendment and you have not opted out of the action, you are entitled to appear and make submissions at the Approval Hearing. If you will become a member of the Class as a result of the amendment to the definition of the Class, you are entitled to appear and make submissions at the Approval Hearing.

If you wish to comment on or make an objection to the settlement, a written submission must be delivered to Class Counsel no later than November 1, 2016. Class Counsel will forward all such submissions to the Court. If you do not file a written submission, you will not be entitled to participate in the Approval Hearing. If you submit a written objection, you are also entitled (but not required) to appear before the Court at the Approval Hearing and explain your objection to the settlement. Written submissions may be sent to:

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Legal Fees

At the Approval Hearing, Class Counsel may seek approval of their fees and expenses. Ms. Alexander entered into an agreement with Class Counsel and CUPE whereby CUPE paid the hourly legal fees of Class Counsel as well as disbursements and applicable taxes. As part of the settlement, the Government has agreed to reimburse a maximum of \$75,000.00 towards the legal fees and disbursements under certain conditions. The payment of \$2,500.00 per Class Member is not affected in any way by this Agreement between Alexander and the Government regarding the possible reimbursement of legal fees. The Class Members will not pay anything at all towards the legal fees incurred on their behalf. Any fees and disbursements charged by Class Counsel must be approved by the Court.

Further Information

The materials that will be used to support the settlement can be found at: <http://goldblattpartners.com/experience/class-action-cases/post/alexander-v-ontario/>

These materials include the Proposed Settlement Agreement, and the affidavit material provided to the Court in support of the settlement.

If you require further information or if you have any questions concerning this notice, please contact Tanya Atherfold-Desilva at 416.979.4233 or tatherfold@goldblattpartners.com.