

200701T0751 CP

IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION

BETWEEN:

GEORGE LEE

PLAINTIFF

AND:

MEMORIAL UNIVERSITY OF
NEWFOUNDLAND

DEFENDANT

BROUGHT UNDER THE *CLASS ACTIONS ACT*

BEFORE THE HONOURABLE CHIEF JUSTICE DAVID B. ORSBORN

ORDER

UPON IT APPEARING that the Representative Plaintiff has made application to the Court for approval of the settlement of the class action; **AND UPON** hearing Gregory Smith, solicitors for the Representative Plaintiff and Class Counsel, and Daniel Boone, solicitors for the Defendant;

IT IS ORDERED that

1. The settlement of the class action reached between the Representative Plaintiff, George Lee, and the Defendant, Memorial University of Newfoundland, on June 18, 2013 is approved by the Court.

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2. The approved terms of the settlement are:

- (a) Memorial University of Newfoundland shall continue the post-retirement group insurance Health coverage for the Class for life on a 70%/30% cost shared basis: the University to pay 70% of the Health insurance premium and the Class to pay the remaining 30%.
- (b) Memorial University of Newfoundland shall continue the primary (other than Health) post-retirement group insurance coverage for the Class for life on the current 50%/50% cost shared basis: the University to pay 50% of such other insurance premiums and the Class to pay the remaining 50%.
- (c) Memorial University of Newfoundland shall pay a lump sum of \$500,000.00.
- (d) The settlement is in full and final settlement of the class action claim against the University, and George Lee, as Representative Plaintiff for the Class, shall release the University from the class action claim.
- (e) Memorial University of Newfoundland shall cooperate with the Representative Plaintiff in identifying the individual amounts of damage suffered by each individual class member.

3. The settlement of the class action binds every member of the class who has not opted out of the class action.

4. The following plan for the *pro rata* distribution of the remaining settlement funds (after deduction of legal fees and litigation expenses, including HST, in the total amount of \$300,000.0) is approved:
- (a) For calculation purposes, the \$200,000.00 remaining settlement funds will first be apportioned *pro rata* among each individual class member in the proportion which their individual past loss claim for health and travel insurance premium costs bears to the total past loss claim for health and travel insurance premium costs.
 - (b) Second, there will be a negative adjustment in the *pro rata* share of each individual living class member and a positive adjustment in the *pro rata* share of each individual deceased class member. An amount equal to 16% of the *pro rata* share of each living class member will be deducted and the accumulated total will then be distributed *pro rata* among each individual deceased class member in the proportion which their individual past loss claim for health and travel insurance premium costs bears to the total past loss claim for health and travel insurance premium costs of all deceased class members.
 - (c) The above adjustments in the *pro rata* share of individual class members take in account that a portion of the \$300,000.00 legal fee deducted from the \$500,000 lump sum settlement payment applies to the value of the future loss settlement enjoyed only by living class members. The 16% decrease in each living class member's *pro rata* share of the \$200,000.00 represents roughly half the percentage that the total proposed legal fee bears to the total settlement value. This allows for a more equitable distribution of the \$200,000.00 among class members.

(d) Individual class members are required to submit a Claim Form to Class Counsel in order to claim their share of the \$200,000.00. If a class member does not submit a Claim Form within 2 months of publication and mail out of the Notice of Settlement, that class members share of the \$200,000.00 shall be deemed to be unclaimed funds and such share shall then be redistributed using the above method to those class members who did submit a Claim Form.

5. Notice of the settlement shall be given under section 20 of the *Class Actions Act* and mail out of the Notice shall include a copy of this Order and the Claim Form.

DATED at St. John's, Newfoundland and Labrador, this 6th day of September, 2013.


Senior Deputy **REGISTRAR**