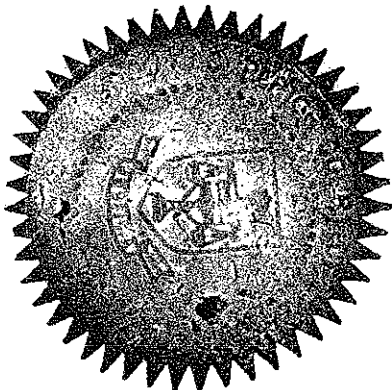


**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR.) MONDAY, THIS 24th DAY
JUSTICE MAURICE CULLITY) OF APRIL, 2006

B E T W E E N :



ELHAM BADALI

Plaintiff

-and-

686234 ONTARIO LIMITED and
PIPELINE MECHANICAL SERVICES LTD

Defendants

Proceeding under the Class Proceedings Act, 1992

ORDER

THIS MOTION made by the Plaintiff, Elham Badali, for an Order that the within action be certified as a class proceeding and other relief as set out in the Notice of Motion on behalf of the Class Members;

AND THIS MOTION made by the Plaintiff and by the Defendants for approval of a settlement agreement made between the Parties to this action executed on March 2, 2006, amended by way of Addendum Agreement executed on April 27, 2006, attached hereto respectively as Schedules "A" and "B" (the "Settlement Agreement");

AND THIS MOTION made by counsel for the Plaintiff for approval of Class Counsel fees;

WERE HEARD on the 13th day of April, 2006, at 361 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Elham Badali, sworn April 6, 2006 (and the exhibit thereto), the Affidavit of Vincent Genova, sworn April 6, 2006 (and the exhibits thereto), and other materials filed;

AND ON BEING ADVISED THAT:

1. The Plaintiff has commenced an action in the Ontario Superior Court of Justice as Action No.: 01-CV-210000 CM under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 (the "CPA") against the Defendants;

2. The Plaintiff has brought a motion to have the action certified as a class proceeding under the CPA and to be appointed as the representative for a class of claimants defined as:

Class 1: All persons who were residents or who were on the premises of 125 Parkway Forest Drive, Toronto, Ontario, on or about December 11 and/or 12, 1998, when there was a leak of carbon monoxide and subsequent evacuation of all those on the said premises; and

Class 2: All living parents, grandparent, children, grandchildren, siblings and spouses (within the meaning of section 61 of the *Family Law Act*) of persons who were on the said premises on or about December 11 and/or 12, 1998.

3. The Plaintiff and the Defendants have agreed to enter into a settlement in accordance with the terms of the Settlement Agreement, subject to the approval of the Ontario Superior Court of Justice.

4. Notwithstanding that the Defendants have entered into the Settlement Agreement, the Defendants continue to deny wrongful or unlawful conduct or any legal liability arising out of any claims alleged against them in the within action.

5. Neither the Settlement Agreement, nor any step taken to carry out the Settlement Agreement, nor any document relating to it is, may be construed as, or may be used as, an admission by or against the Defendants of the truth of any allegations

made against them in the within action or of liability to any person or persons or of the certifiability of the within action as a class action or as a waiver of any applicable legal right or benefit other than as expressly stated in the Settlement Agreement.

6. The Defendants are willing to make payments for general damages and special damages to Class Members in accordance with the terms of the Settlement Agreement and the Exhibits thereto, notwithstanding that the Defendants deny any legal liability to make such payments.
7. Class Counsel has concluded that the Settlement Agreement provides substantial and appropriate benefits to Class Members and that the Settlement Agreement is fair, reasonable and in the best interests of the Class Members.

AND ON HEARING the submissions of counsel for the Parties;

THIS COURT ORDERS AND DECLARES THAT:

1. Terms having a definition in the Settlement Agreement and which are used in this Order shall have the same meaning as the meaning given to such terms in the Settlement Agreement.
2. The within proceeding be and is hereby certified as a class proceeding pursuant to the *CPA*.
3. The Class shall be defined as follows:

Class 1: All persons who were residents or who were on the premises of 125 Parkway Forest Drive, Toronto, Ontario, on or about December 11 and/or 12, 1998, when there was a leak of carbon monoxide and subsequent evacuation of all those on the said premises; and


Class 2: All living parents, grandparent, children, grandchildren, siblings and spouses (within the meaning of section 61 of the *Family Law Act*) of persons who were on the said premises on or about December 11 and/or 12, 1998.

4. Elham Badali be appointed as the representative for the Class.
5. The Settlement Agreement is fair and reasonable and in the best interests of the Class Members.
6. The Settlement Agreement is approved pursuant to section 29 of the *CPA*.
7. The Settlement Agreement in its entirety (including its preambles, exhibits and the Addendum Agreement) forms part of this Order and is binding on the Plaintiff, Defendants and Class Members, including persons under disability as defined in the *Rules of Civil Procedure* (“*Rules*”).
8. The Representative Plaintiff, the Class Members and the Defendants shall comply with the terms of the Settlement Agreement.
9. Class Counsel is hereby appointed to receive and process Claim Packages submitted by Claimants;
10. Stan Raphael is hereby appointed as Arbitrator for the settlement.
11. If, for any reason, Stan Raphael is unable to fulfill any of the duties set out in the Settlement Agreement, the Parties may propose and the Court may appoint a replacement Arbitrator;
12. Any Party may bring a motion to the Honourable Mr. Justice Cullity of the Ontario Superior Court of Justice at any time for directions with respect to the implementation or interpretation of the Settlement Agreement, such motion to be on notice to the other Party and the Arbitrator, if appropriate;
13. Class 1 Members, or the executor, administrator or personal representative of a deceased person who, had he or she not died, would have been a Class 1 Member, may Opt-Out of this class proceeding by sending an Opt-Out Form by ordinary

mail or fax to Class Counsel at 121 Richmond Street West, Suite 903, Toronto, Ontario, M5H 2K1, fax number (416) 363-0263 on or before the Opt-Out Deadline.

14. If any Class 1 Member, or the executor, administrator or personal representative of a deceased person who, had he or she not died, would have been a Class 1 Member, elects to Opt-Out of this class proceeding, each and every Class 2 Member related to the Class 1 Member who has Opted-Out is deemed to also have Opted-Out of this class proceeding.
15. All Class Members who do not Opt-Out in the manner prescribed, shall be deemed to have elected to participate in the Settlement Agreement and shall be bound by the Settlement Agreement and all related court orders and such Class Members shall be forever barred from commencing any new proceeding and/or maintaining any existing proceeding against the Defendants.
16. The Notice of Court Approval be published in accordance with Exhibit D to the Settlement Agreement and that the Defendants shall be responsible for the costs of such Notice, subject to a limit of \$27,307.80 for the costs of items 2 and 5 in the Notice Plan for Court Approval.
17. The need for further service on the Office of the Children's Lawyer or the Public Guardian and Trustee, as well as other requirements in Rule 7 of the *Rules*, except as may expressly be stated herein, are dispensed with.
18. Subject to a further Order of the Court, any amounts payable to a minor Claimant pursuant to the terms of the Settlement Agreement for claims other than Level II claims shall be paid to the Accountant of the Ontario Superior Court of Justice in accordance with Rule 7.09 of the *Rules* to be held to the credit of that minor until he or she attains the age of majority.

19. Class Counsel fees in the amount of \$225,000.00 plus G.S.T., inclusive of disbursements are approved.
20. The within action is hereby dismissed in its entirety, including any cross-claims.


Mr. Justice Maurice Cullity
Ontario Superior Court of Justice

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAY 09 2006

AS DOCUMENT NO.:
À TITRE DE DOCUMENT NO.:
PER / PAR:

