

Federal Court



Cour fédérale

Date: 20251218

Docket: T-1712-24

Citation: 2025 FC 2000

Ottawa, Ontario, December 18, 2025

PRESENT: The Honourable Mr. Justice Zinn

BETWEEN:

ANDRÈ JOSEPH SERGE ST-JEAN

Plaintiff

and

HIS MAJESTY THE KING

Defendant

ORDER AND REASONS

[1] The action before the Court is a proposed class action. The Plaintiff seeks to represent a class of individuals who received financial benefits – the Earnings Loss Benefit, the Retirement Income Security Benefit and/or the Income Replacement Benefit – affected by the practice of pro-rating certain indexation adjustments. It is claimed that the pro-rating was improper and not authorized by any legislative provision.

[2] The motion to certify the proposed class action was scheduled, on consent, to be heard in Toronto on December 16-17, 2025. On December 3, 2025, the Defendant served and filed a motion for an adjournment of the certification motion based on provisions included in the Budget tabled on November 4, 2025.

[3] The Budget included proposed legislative measures to specify that Veterans Affairs Canada had authority to pro-rate the indexation adjustments of the Earnings Loss Benefit [ELB] and others at issue in this proposed class action in the calculation in previous versions of the relevant legislation.

[4] On November 18, 2025, after passage of the Budget, the federal government tabled Bill C-15. Under Part 5, Division 20, Bill C-15 proposes to amend, with retroactive effect, provisions of the *Veterans Well-being Regulations*, SOR/2006-50 to specify that the first annual indexation adjustments to certain amounts used in the calculation of the ELB are to be pro-rated.

[5] The Defendant submits that given the potential impact of Bill C-15 on the Certification Motion, it is in the interests of justice that the Certification Motion be adjourned until the outcome of Bill C-15 is known. It says that should Bill C-15 be enacted, the proposed legislative amendments may have a determinative effect on the certification criteria, particularly as to whether the Claim discloses a reasonable cause of action.

[6] There is no serious dispute that Bill C-15, if passed, will have a serious impact on the proposed class action and whether certification is appropriate or possible.

[7] The Defendant submits that the length of the requested adjournment will be relatively short, as the outcome of Bill C-15 should become clear by April 2026, and there is a risk that judicial resources will be wasted if the matter is adjudicated based on a legal framework that may be superseded in the event the proposed amendments are enacted. It says that an adjournment is in keeping with the Court's goal of securing the just, most expeditious and least expensive determination of the proceeding on its merits, and there is no prejudice to either party.

[8] The motion to adjourn is opposed.

[9] The Plaintiff notes that the present schedule that the Certification Motion be heard at this time is the subject of a Case Management Order to which the Defendant expressly consented over a year ago. The Plaintiff argues that an adjournment and the consequential delay are uniquely harmful in this case to the putative class, which is comprised of veterans of the Canadian Armed Forces who became mentally and/or physically disabled while serving Canada. It is submitted that much can be accomplished in advancing the litigation by determining certification now.

[10] Contrary to the position of the Defendant, the Plaintiff submits that adjourning the motion will serve neither the interests of justice nor judicial economy.

[11] The Plaintiff observes that this last-minute adjournment is sought based on events of the Defendant's own creation. It is argued that the Defendant's conduct in advancing C-15 is aimed

at thwarting the Plaintiff and the proposed class from exercising their existing rights, and providing *ex post facto* legislative authority for the practice of pro-rating the benefits.

[12] The Plaintiff further notes that it is not known which of the proposed retroactive legislative amendments will ultimately be enacted given experience and the minority status of the current government.

[13] Lastly, the Plaintiff asserts that if the proposed retroactive legislation becomes law, he intends to mount a challenge to the constitutionality of the amendments under the Canadian Charter of Rights and Freedoms.

[14] The Court has discretion to adjourn its own proceedings. Rule 36(1) of the *Federal Courts Rules*, SOR/98-106 provides that a hearing may be adjourned by the Court “on such terms as the Court considers just.” The granting of an adjournment is not a trivial matter, and the Court’s *Amended Consolidated General Practice Guidelines* indicates that a scheduled hearing may be set aside only if exceptional or unforeseen circumstances are shown by the party seeking the adjournment.

[15] This Court’s jurisprudence is that while several factors may be considered and weighed, it is really a question of the interest of justice that governs the Court’s consideration. In *Dr Reddy’s Laboratories Ltd v Janssen Inc*, 2023 FC 448, the Court at paragraphs 15-16 stated:

In considering whether to stay its own proceeding or adjourn a hearing, the test under paragraph 50(1)(b) of the Act and Rule 36(1) is the same. The Court will assess whether, in all the

circumstances, the interests of justice support the stay or the hearing being delayed.

Applicable jurisprudence has identified a number of factors as among those that the Court can consider in assessing the relevant circumstances:

- A. The public interest in having proceedings move fairly and with due dispatch;
- B. The general principle of applying the Rules to secure a just, expeditious and cost-effective determination of a proceeding;
- C. The length of the stay being sought;
- D. The reasons for seeking the stay;
- E. The potential for wasting resources; and
- F. The prejudice or inconvenience to the parties should the stay be granted or refused.

[authorities omitted]

[16] I have given careful consideration to the parties' submissions and have concluded that the interests of justice are better served by granting the requested adjournment than pressing on with the certification motion.

[17] I have reached this conclusion primarily on the basis that justice is better served in proceeding when it is known whether the provisions of Bill C-15 have received assent.

[18] If it does receive assent, then the certification request appears to be dependent on the validity of the amendments and that will require a unique finding of the Court based on materials not presently before it.

[19] If the proposed amendments do not receive assent or are amended such that they have no impact on the action, then the certification motion will have suffered only a slight delay, with little to no prejudice to either party.

ORDER in T-1712-24

THIS COURT'S ORDER is that the Defendant's motion to adjourn the certification motion herein is granted on the following terms:

1. The parties jointly shall provide written updates to the Court on or before January 31, 2026, and every 30 days thereafter as to the status of Bill C-15;
2. If the amendments set out in Part 5, Division 20 of Bill C-15, are deleted or otherwise amended to have no effect on this litigation, the Plaintiff is at liberty to ask the Court to reschedule the certification motion to be heard over two days, in Toronto, at the earliest convenient dates;
3. If the amendments set out in Part 5, Division 20 of Bill C-15, as currently drafted or as may be amended, affect this litigation then, should the Plaintiff be so instructed, he is granted leave to amend his Amended Statement of Claim to allege that the amendments are not valid or are not to be given force and effect; and
4. This action shall remain under case management, and I do not remain seized of it.

"Russel W. Zinn"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1712-24

STYLE OF CAUSE: ANDRÈ JOSEPH SERGE ST-JEAN v HIS MAJESTY
THE KING

PLACE OF HEARING: TORONTO, ONTARIO

DATES OF HEARING: DECEMBER 16, 2025

ORDER AND REASONS: ZINN J.

DATED: DECEMBER 18, 2025

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