

**TRANSLATION OF A JUDGMENT ORIGINALLY ISSUED IN THE  
FRENCH LANGUAGE**

**SUPERIOR COURT**

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No : 500-06-000114-005

DATE : September 27, 2007

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**PRESIDING : THE HONOURABLE JEAN-FRANÇOIS BUFFONI, J.S.C.**

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**CHARLES K. VAUGHAN**  
PETITIONER

V.

**NEW YORK LIFE INSURANCE COMPANY**  
AND  
**CANADA LIFE ASSURANCE COMPANY**  
RESPONDENTS

AND

**FONDS D'AIDE AUX RECOURS COLLECTIFS**  
MIS EN CAUSE

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**JUDGMENT**

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[1] On September 8, 2006, after hearing the parties in conformity with section 1025 of the *Code of Civil Procedure*, the Court approved the Settlement Agreement entered into in the context of the present class action.

[2] Following the approval of the settlement, the members of the class were duly advised by Notice in the newspapers and by mail at their last known address appearing

in the records of the Respondent The Canada Life Assurance Company ("*Canada Life*").

[3] In conformity with the Settlement Agreement, the members of the class had to file their claims on or before February 8, 2007 in conformity with the claim form attached to the Settlement Agreement as Schedule B;

[4] At the end of the claim period, the Court was informed by counsel for the parties that:

(a) Included in the claims received by Canada Life, in its role as administrator of the settlement, are 496 claims which were denied whose policyholders have indicated their intention to appeal the denial within the delay provided for at paragraph 4 of Schedule C;

(b) 58 of these appeals were withdrawn and 19 were resolved in favor of the class members, leaving 419 pending appeals;

[5] The Court must now determine the modalities in connection with the hearing of the appeals in conformity with paragraphs 22 of the Settlement Agreement and paragraph 4 of the Schedule C attached to the Settlement Agreement;

[6] Counsel for the parties, during a hearing held before this Court on September 13, 2007, suggested certain modalities to be followed by Appellants in connection with the hearing of their appeals in conformity with the Settlement Agreement;

[7] The parties suggest that each Appellant complete a written form in which the Appellant will specify the grounds of his/her appeal, as well as sign the form;

[8] This appeal form shall be forwarded to each Appellant by mail by the latest October 5<sup>th</sup>, 2007 and said form must be received by Canada Life duly completed and signed by the latest November 5<sup>th</sup>, 2007;

[9] The Court, at the invitation of counsel for the parties, wishes to remind all of the Appellants of the following conditions which apply to each claim:

(a) You must have purchased a policy from New York Life Insurance Company in Quebec after January 1, 1979 whereby participation in dividends provided the option of premium offset and/or purchase of paid-up insurance with their dividends, and which policy was assigned to Canada Life Assurance Company on April 1st, 1994;

(b) Your claim must have been received by February 8, 2007 unless a later date was agreed to by Canada Life;

(c) You must have provided an illustration or other document with New York Life insignia or letterhead showing that you had the option of only paying premiums out of pocket for a limited number of years;

(d) The illustration or other documentation must be specific to the policy on which the claim was made;

(e) The illustration or other documentation must have been provided before the policy was issued;

[10] After consultation with counsel for the parties, the Court is available to hear the appeals on December 18, 19 and 20, 2007;

[11] The Court is advised by the attorneys for Petitioner and members of the class that they do not support any of the 419 outstanding appeals on the grounds that certain Appellants are not members of the class or on the grounds that the claims filed do not meet the conditions provided for in the Settlement Agreement;

[12] Consequently, the Appellants who wish to make representations will have to do so personally or by retaining counsel.

[13] In conformity with paragraph 22 of the Settlement Agreement, the Court issues the following Order approving the various modalities applicable to the hearing of outstanding appeals;

[14] **THEREFORE, THE COURT HEREBY**

[15] **APPROVES** the appeal form proposed, which is attached to the present Order and forms part thereof;

[16] **ORDERS** Respondent Canada Life to forward to each of the Appellants a copy of the present Order and the appeal form by mail by October 5<sup>th</sup>, 2007 at the latest;

[17] **ORDERS** each Appellant who wishes to pursue his/her appeal to forward to Canada Life the appeal form duly completed and signed to be received by Canada Life at the latest November 5<sup>th</sup>, 2007;

[18] **FIXES** the hearing of the appeals for December 18, 19 and 20, 2007 at the Courthouse of Montreal situated at 1 Notre-Dame St. East, Montreal, in a room and at a time to be determined;

[19] **ORDERS** Canada Life to convene each of the Appellants as part of the mailing approved hereby on one of the three dates which Canada Life will determine for each Appellant so as to ensure a proportional allocation of the Courts' time, taking into account the number of Appellants and the questions at issue;

[20] **THE WHOLE** without costs.

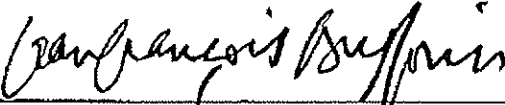
(s) Jean-François Buffoni, J.S.C.  
Jean-François Buffoni, J.S.C.

*M<sup>re</sup>. Yves Lauzon*  
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Counsel for Borden Ladner Gervais

THE UNDERSIGNED CERTIFIES THAT THE  
ABOVE TRANSLATION IS TRUE AND CORRECT.

  
Jean-François Buffoni, J.S.C.

**ANNEX**

**NEW YORK LIFE APPEAL FORM**

**COMPLETE THIS FORM ONLY IF YOU WISH TO PURSUE YOUR APPEAL IN RELATION TO THE NEW YORK LIFE SETTLEMENT PROCESS**

**PART 1: CLAIMANT'S NAME AND CONTACT INFORMATION**

**Name of Claimant:** \_\_\_\_\_

**Name of Parent or Guardian:** \_\_\_\_\_

(If Claim Form is being completed on behalf of a minor or a person under a disability)

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_  
(If you change your address, please advise.)

**Phone Number: Business:** \_\_\_\_\_

**Home:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail address (if any):** \_\_\_\_\_

**Please indicate the Canada Life Policy Numbers for all policies purchased from New York Life Insurance Company and for which you are advancing an appeal:**

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**PART 2: GROUND'S FOR APPEAL**

Please state the reasons why you believe that your claim was not properly determined:

**PART 3: PROCESSING OF APPEAL**

Do you intend to attend your appeal in person? Yes \_\_\_\_\_ No \_\_\_\_\_

Do you plan to make oral submissions to the judge? Yes \_\_\_\_\_ No \_\_\_\_\_

Do you plan to have a lawyer acting on your behalf? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, who is that lawyer? \_\_\_\_\_

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**Signature of Claimant**

**Once the Appeal Form is completed and signed, send it by mail to:**

Canada Life Assurance Company  
(New York Life Settlement)  
1901 Scarth Street  
Regina, Saskatchewan S4P 4L4  
Call (toll free): 1-888-252-1847

**THE APPEAL FORM MUST BE RECEIVED BEFORE 5 P.M. EASTERN STANDARD TIME  
ON NOVEMBER 5, 2007.**