

PRACTICE

CLASS PROCEEDINGS

Joint motion pursuant to *Federal Courts Rules*, SOR/98-106 (Rules), r. 334.29 seeking approval of settlement agreement in underlying class action — Plaintiff, others, contributors to Employment Insurance (EI) program, giving birth, receiving parental benefits — Some EI recipients becoming ill while in receipt of parental benefits, seeking to convert parental benefits to sickness benefits — Those recipients denied sickness benefits — *Employment Insurance Act*, S.C. 1996, c. 23, s. 18(1)(b) requiring at that time that claimant for sickness benefits be otherwise available for work — Claimants already on parental leave considered not to be available for work — 2002 amendments allowing for extensions of benefit period to allow “stacking” of maternity, parental, sickness benefits, but not including specific amendment to Act, s. 18 to remove requirement that person seeking sickness benefits must be otherwise available for work — 2013 amendments ensuring that claimants after March 24, 2013 not denied sickness benefits due to unavailability for work — Those amendments not retroactive, not benefitting plaintiff, class members — Action claiming several causes of action, including negligence, against defendant with respect to how Employment Insurance Commission implemented 2002 amendments to Act — Court granting plaintiff’s motion for certification in part — Proposed settlement agreement reached in 2018 — Whether settlement agreement as a whole fair, reasonable, in best interests of class; whether Court should approve honorarium to plaintiff as representative plaintiff, whether Court should approve fee agreement for class counsel — Court concluding that settlement agreement fair, reasonable, in best interests of class members — A few dissatisfied or misinformed class members not derailing otherwise well supported, reasonable agreement when all relevant factors taken into account — Court approving honorarium to plaintiff — Plaintiff’s contribution meeting factors in *Robinson v. Rochester Financial Ltd.*, 2012 ONSC 911, [2012] 5 CTC 24 for compensation as representative plaintiff — Court concluding that fees of class counsel fair, reasonable — Key factors to be considered in assessing reasonableness of class counsel’s fees including results achieved, risks taken — Case law emphasizing that fees reward for taking on litigation, risks entailed, pursuing litigation with skill, diligence — Results achieved demonstrated by settlement agreement — Motion granted.

MCCREA V. CANADA (T-210-12, 2019 FC 122, Kane J., order dated January 29, 2019, 49 pp.)