

CITATION: *Dugal v. Manulife Financial Corporation*, 2011 ONSC 3147
COURT FILE NO.: CV-09-383998-00CP
DATE: 20110524

SUPERIOR COURT OF JUSTICE – ONTARIO

RE: **MARK DUGAL, IRONWORKERS ONTARIO PENSION FUND, et al.,**
Plaintiffs/Moving Party

AND:

MANULIFE FINANCIAL CORPORATION, et al, Defendants/Respondents,

BEFORE: **G.R. Strathy J.**

COUNSEL: *Charles M. Wright, Michael D. Wright, Daniel Bach and Stephanie Dickson,* for
the Plaintiffs/Moving Party

Patricia D.S. Jackson and Andrew Gray, for the Defendant/Respondent, Manulife
Financial Corporation

R. Paul Steep and E.S. Block, for the Defendant, Peter Rubenovitch

Linda L. Fuerst, for the Defendant, Domenic D'Allessandro

Alexa Abiscott, for the Defendants, Gail Cook-Bennett and Arthur Sawchuk

HEARD: By written submissions

SUPPLEMENTARY REASONS

(Litigation Funding Agreement)


[1] I released interim reasons conditionally approving a third party funding agreement on March 21, 2011: *Dugal v. Manulife Financial Corp.*, [2011] O.J. No. 1239, 2011 ONSC 1785. I indicated that I had residual concerns regarding:

- (a) security to be provided by the funder, which has no assets in Canada; and
- (b) reasonable controls on the provision of information to the funder.

[2] The parties have advised me that, subject to the approval of the court, they have resolved these issues. Their resolution is, of course, binding only between the parties to this action and the funder and should not be regarded as a precedent in other proceedings.

[3] The proposed provision with respect to security provides that CFI shall pay into court, as security for the defendants' costs in this proceeding, the following amounts:

- (a) \$500,000.00 on or before June 30, 2011;
 - (b) an additional \$1,000,000.00 no later than 30 days after any order certifying this action as a class proceeding; and
 - (c) an additional \$2,500,000.00, no later than 90 days prior to the scheduled trial date.
- [4] As to the provision of information, the agreement provides:
- (a) subject to further court order, no evidence obtained from a defendant may be provided to CFI without the written consent of the defendant from whom the evidence was obtained. To the extent any evidence obtained from the defendants is provided to CFI, then CFI shall be bound by rule 30.1.01 of the *Rules of Civil Procedure* and shall be deemed to be a party for the purposes of that rule; and
 - (b) the plaintiffs may communicate to CFI any formal settlement offers made by the defendants, and those communications and their contents shall be kept confidential pursuant to the Funding Agreement.
- [5] I am satisfied that these provisions give reasonable protection to all parties and, on that basis, I have approved the Funding Agreement.



G.R. Strathy J.

Date: May 24, 2011

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PENSION FUND, et al.,**

Plaintiffs

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MANULIFE FINANCIAL CORPORATION

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SUPPLEMENTARY REASONS

G.R. Strathy J.

Released: 20110524