

CITATION: Williams v. Enbridge Gas Inc., 2026 ONSC 3321
COURT FILE NO.: CV-21-00658687-00CP
DATE: 20260604

SUPERIOR COURT OF JUSTICE - ONTARIO

BETWEEN: SUSAN WILLIAMS, Plaintiff

AND:

ENBRIDGE GAS INC. and ENBRIDGE INC., Defendants

BEFORE: Justice Glustein

COUNSEL: *Stephen J. Moreau, Cynthia Crysler, and Ramna Safeer*, for the plaintiff

Dana M. Peebles, Kate McNeill-Keller, Amanda Iarusso, and Susan Nickerson, for the defendants

Michael Church, for Unifor Local 975

HEARD: May 28, 2026

REASONS FOR DECISION

NATURE OF THE MOTION AND OVERVIEW

[1] The plaintiff, Susan Williams (“Williams”) brings this motion under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6 (the “CPA”) seeking (i) approval of the Settlement Term Sheet (the “Settlement Agreement”) entered into with the defendants, Enbridge Gas Inc. and Enbridge Inc. (collectively, “Enbridge”); (ii) approval of Class Counsel’s¹ fees, disbursements, and HST; and (iii) an honorarium payment of up to \$5,000 for Williams.

[2] For the reasons that follow, I approve the Settlement Agreement and Class Counsel’s fees, disbursements, and HST. I do not approve the payment of an honorarium to Williams.

¹ Class Counsel is Cavalluzzo LLP.

FACTS

Nature of the action

[3] This class action arises from the allegation that Enbridge failed to properly administer the paperwork for pregnancy, maternity, and/or parental leaves (“Statutory Leave”), resulting in lower pension service being awarded to a limited number of its employees. Under the pension plans, if the Credited Service is lower, the pension payments are lower as well. Consequently, the affected employees’ pension benefits would end up being lower on retirement or on withdrawal from their pension plans.

[4] The claim is based on s. 51(3) of the *Employment Standards Act, 2000*, S.O. 2000, c. 41 (the “ESA”), which provides:

During an employee’s leave under this Part, the employer shall continue to make the employer’s contributions for any plan described in subsection (2) unless the employee gives the employer a written notice that the employee does not intend to pay the employee’s contributions, if any.

[5] The class members are former and current Enbridge employees, whether or not unionized, who (i) took a Statutory Leave during the “Affected Period”²; (ii) are or were members of one or both Enbridge Pension Plans; and (iii) did not accrue Credited Service in the Enbridge Pension Plans during a Statutory Leave in the Affected Period.

[6] The settlement addresses the claims of 223 individuals who meet the class member criteria and arguably have a claim under s. 51(3) of the *ESA* because they allegedly did not give Enbridge written notice that they did not intend to pay their contributions. These individuals are the “Settlement Class Members” who are entitled to compensation under the Settlement Agreement.

[7] By way of example, Williams’ evidence is that:

During my employment with Enbridge, I took two (2) parental leaves, one for each of two of my three children. Nobody from Enbridge ever spoke to me about how my parental leaves might affect my pension benefits. I never signed any documents or received any documents relating to pension issues during my parental leaves as far as I can recall.

² The “Affected Period” is defined in the statement of claim as follows: (i) in relation to the Enbridge Inc. Plan, the period from December 12, 1988 until the date of trial; and, (ii) in relation to the Enbridge Gas Inc. Plan, the period from December 20, 1990 until the date of trial.

[8] The settlement also addresses the claims of 62 current or former Enbridge employees who meet the definition of “Class Members”, but who do not appear to have a tenable claim against Enbridge under s. 51(3) of the *ESA* because they provided Enbridge with written notice that they did not intend to pay their contributions. These claims will be dismissed under the Settlement Agreement.

[9] All class members were advised of their rights under the Settlement Agreement through notices of the certification proceedings, proposed settlement, and this hearing. All class members (including those who would not receive compensation under the agreement) were advised of their right to opt out or object to the settlement. None have done so.

History of the action

[10] On March 12, 2021, Williams issued the statement of claim (the “Claim”). The Claim was later amended on July 5, 2021 to name counsel for Enbridge and correct the name of one of the Enbridge pension plans. It was amended again on February 1, 2022 to clarify the scope of the proposed class.

[11] The parties negotiated a potential settlement over several years, with exploratory discussions about a potential resolution beginning shortly after Williams commenced the action.

The Settlement Agreement

[12] On December 22, 2025, the parties executed the Settlement Agreement. It provides for a group of 223 “Settlement Class Members” as being eligible for payment out of the Settlement Sum, which totals \$826,836.

[13] Following payment of Class Counsel’s fees, disbursements and taxes in an amount ordered by the court, Enbridge will distribute the net Settlement Sum to Settlement Class Members based on a pre-calculated portion of the value of their missed pension service.

[14] To receive payment, Settlement Class Members must only fill out and email a simple Claim Form. Enbridge will receive these forms, match the information in the forms to the pre-determined list of Settlement Class Members and their pre-calculated entitlement amounts, and send a notification letter to each Settlement Class Member explaining their entitlement amount. If a Settlement Class Member disagrees with the conclusion, they can appeal. Class Counsel are provided updates and information to monitor the claims process and support Settlement Class Members where needed.

[15] Pursuant to the Settlement Agreement, the parties obtained an order from this court in February 2026 which: (i) certifies the action on consent; (ii) establishes an opt-out process; and (iii) sets out how the parties are to notify Class Members and others of the present motion.

Williams' wrongful dismissal action

[16] Following her termination by Enbridge Gas Inc. in March 2019, Williams brought a claim for damages arising from her termination, seeking approximately \$300,000 for wrongful dismissal, approximately \$100,000 for incorrect placement on the defendant's bands or grids, as well as damages for the reduced pension arising from the failure to credit the period of Statutory Leave.

[17] Williams retained Mr. Moreau and Cavalluzzo LLP to bring the wrongful dismissal action. Williams had sufficient resources to carry her claim to its completion, had that been required.

[18] However, in the course of her action, Williams "uncovered that what had happened to me with the lack of pensionable service recognition was something that may have affected other employees". Williams "decided that I could not just pursue this pension issue for myself alone. I was a leader and manager when employed at Enbridge. I was sure many women employed there or who had worked there, women who I had worked closely with and whose families I knew, had been detrimentally impacted and did not know it or were powerless to do anything about it".

[19] Williams' evidence is that she made the decision to act as a representative plaintiff without any knowledge that she could seek an honorarium:

When I agreed to take on the role of Representative Plaintiff, I did not know I could potentially be compensated beyond what the Statement of Claim sought for the Class. I did not know about honoraria and the thought of obtaining one never occurred to me until I reviewed the Settlement Agreement, which states that I could receive an honorarium in an amount to be approved by the Court out of any remaining Settlement Sum that is not claimed by the Settlement Class Members.

[20] Consequently, with the approval of Enbridge, Williams chose to act as a representative plaintiff for the pension claim (with Mr. Moreau as counsel), carving that issue out from her personal action (for which she retained new counsel). Williams provided the following evidence about carving the pension claim out of her personal action:

I also understood that in doing so I would lose control over how much I might succeed in winning for myself or settling for. I knew that I might secure a lower amount for myself by attaching myself to the claims of many other, unknown people, but I was prepared to make that sacrifice.

...

If I had wanted to, I am sure I could have taken my many claims to the end and not bothered by commencing a class action. I knew that pursuing my own individual claim would have likely resulted in a higher percentage of recovery for myself, with less risk involved. However, I felt it was important for me to pursue a collective claim on behalf of a group of other impacted people.

[21] Williams eventually settled the personal action for a “substantial amount”.

ISSUES AND THE LAW

[22] This motion raises three issues: (i) whether the Settlement Agreement should be approved; (ii) whether Class Counsel's fees should be approved; and (iii) whether an honorarium of up to \$5,000 for Williams should be approved. I address each of these issues below.

Settlement approval

The applicable law

[23] Pursuant to s. 27.1(1) of the *CPA*, a class action may only be settled with the approval of a judge. The test for approving a class action settlement is whether, in all of the circumstances, the settlement is fair, reasonable and in the best interests of the class as a whole, taking into account the claims and defences in the litigation and any objections to the settlement. A settlement need not be perfect. It need only fall "within a zone or range of reasonableness": *Parsons v. Canadian Red Cross Society*, 40 C.P.C. (4th) 151 (Ont. S.C.J.), at paras. 69-70.

[24] In determining whether to approve a settlement, the court will consider factors such as: (i) the likelihood of recovery or likelihood of success; (ii) the amount and nature of discovery evidence; (iii) the terms and conditions of the proposed settlement; (iv) the future expense and likely duration of litigation; (v) the recommendation of neutral parties, if any; (vi) the number of objectors and nature of objections; (vii) the presence of arm's length bargaining and the absence of collusion; (viii) the degree and nature of communications by counsel and the representative plaintiff(s) with class members during the litigation; and, (ix) the information conveying to the court the dynamics of, and the positions taken, by the parties during the negotiations: *Parsons*, at paras. 71-72.

[25] These factors are guidelines rather than rigid criteria. Depending on the case, some criteria may be given more weight than others, some may not be satisfied, and others may be irrelevant: *Parsons*, at para. 73.

Application of the law to the present case

[26] I review the relevant factors below:

(i) The likelihood of recovery or success

[27] There was evidence to support a claim that Enbridge's actions were contrary to s. 51(3) of the *ESA*, with Williams' evidence establishing a strong case of a breach. However, while there would have been a group of employees who had accrued less credited service in their pension plans after their Statutory Leaves, there were several risks, which I describe below:

- (i) **Lack of clarity surrounding the size of the class and the scope of damages:** The strength of an individual claim depended on individual circumstances. By way of example, there is evidence that when certain employees took a Statutory Leave, Enbridge sent them a form which allowed those employees to decline contributing to their pension plan. There is evidence that certain Settlement Class Members declined to contribute to their plans (with a pension manager note added to their file but without a completed employee form). Other Settlement Class Members received the form but did not respond. Consequently, the true scope of the losses was unclear. The strength of an individual case could depend on individual evidence about the s. 51(3) process.

The only real way to address this concern was to review data in Enbridge's possession. While this would have been possible through a lengthy and costly discovery process during litigation, these parameters were clarified far more efficiently and amicably during settlement negotiations; the parties and their actuaries exchanged numerous without prejudice reports containing extensive data and analysis.

- (ii) **Limitation defences:** It was uncertain when the statutory two-year limitation period would begin running – when pension payments became due (as held in *Robin Boys et al v. Shoppers Drug Mart Inc.*, 2013 ONSC 7026, at para. 28), in or around 2001, when the “harm” arguably ceased to accrue, as the main pension plan became non-contributory (thus no longer requiring employees to make contributions to acquire Credited Service), or even as early as the 1990s, when the procedure under s. 51(3) was allegedly not followed by Enbridge.

I note that the court in *Robin Boys* expressly decided not to follow the court in *Huang v. Telus Corp. Pension Plan (Trustees of)*, 2005 ABQB 40, 41 Alta. L.R. (4th) 107, which adopted a stricter approach to the limitations issue: at para. 28.

- (iii) **The claims of unionized employees:** Since some employees at Enbridge who suffered pension losses upon taking Statutory Leave were unionized, the union had an obligation to pursue the claims against Enbridge on behalf of unionized employees, while non-unionized employees would pursue their claims in court. This could have fractured an already uncrystallized class into factions.

The risk of the class fracturing became heightened following the Court of Appeal's recent decision in *Knisley v. Canada (Attorney General)*, 2025 ONCA 185. The court emphasized that an unworkable class definition, or a class that was not clearly defined, weighed against certification: *Knisley*, at paras. 23, 33. The court further held that “conditional certification” is not an option: *Knisley*, at paras. 40-42. This poses a particular concern in pension benefits cases, where class members often fall into several overlapping categories.

While all of the parties (including Enbridge) worked cooperatively to ensure that all similar pension claims (whether by unionized or non-unionized employees) were addressed collectively in this class action, this risk existed at the outset of the litigation.

(ii) *The amount and nature of discovery, evidence or investigation*

[28] The number of Class Members who Class Counsel spoke to, the many documents gathered, and the clarification of how a common issues trial on the key issues would play out once Enbridge's evidence was proffered and tested, meant that Class Counsel had sufficient grounds to conclude that although it believed it had a meritorious case, there were risks that the case may not succeed at trial and that the class would suffer legal barriers and inordinate delay.

[29] The parties exchanged a significant volume of materials during the period of settlement negotiations, which spanned over three years. There were numerous actuarial reports, interim reports, memoranda, and correspondence containing data and analysis about the identification of Class Members and the scope of their losses. A lengthy discovery process was not necessary for Class Counsel to have a full understanding of the relevant information.

(iii) *The terms and conditions of the proposed settlement*

[30] Notwithstanding the presence of the risks outlined above, the Settlement Agreement achieves substantial recovery for the Settlement Class Members and a process for obtaining recovery that is simple, expeditious, largely pre-determined, and monitored by Class Counsel.

[31] Despite the above risks, the Settlement Agreement obtains a high level of recovery (75% of total losses). The Settlement Class members have obtained realistic recovery for those with potentially stale claims and the Settlement Agreement offers an efficient means for compensating a pre-determined list of Settlement Class Members, based on pre-calculated entitlement amounts.

[32] A discount of 25% is appropriate to reflect the risks that (i) the proposed class action would not be certified due to the possible predominance of individual limitation and liability issues; and (ii) the scope of the class and damages could have been seriously reduced depending on the evidence of each class members' process.

[33] The 62 class members who are not compensated under the Settlement Agreement would likely have been unsuccessful since they provided the form required under s. 51(3) of the ESA. In any event, those class members had the right to opt out of the settlement and chose not to do so.

[34] Each Class Member has been assigned a pre-calculated entitlement based on a variety of factors individual to each member. In *Manuge v. Canada*, 2013 FC 341, [2014] 4 F.C.R. 67, the court approved a similarly structured settlement in a class action involving alleged underpayments of disability pension benefits that were administered by Veteran Affairs Canada.

[35] As in the present case, the settlement in *Manuge* provided payments to a pre-determined list of class members based on pre-calculated entitlements, which the court commended as a “streamlined process for administrating the payment of refunds and for resolving future claim disagreements”: at para. 12.

[36] In the present case, the list of Settlement Class Members was determined and their entitlement amounts were calculated using actuarial data and research. These calculations then translated into the Settlement Sum of \$826,836.

[37] In *Manuge*, at para. 30, the court noted that “simple and cost effective measures have been put in place to resolve any ongoing disputes about entitlements and it is anticipated that the take-up rate for beneficiaries will approach 100 percent.” Similarly, in the present case, given the nature of the claims and the extensive calculations completed, notice efforts upon settlement approval can be directed towards an already identified group of Settlement Class Members who are entitled to payment. The purpose of the Claim Form is not for Settlement Class Members to “prove” their claims or to allow for adjudication of their eligibility or entitlement amounts.

[38] The Claim Form is simple and intended to ensure that those who have been pre-determined as being entitled to payment will receive it, and the estates of deceased Settlement Class Members will be able to apply for payment.

[39] While the settlement in *Manuge* was on the basis that “[e]very dollar deducted will be returned to class members or their families with appropriate interest”: at para. 30, that was based on, in part, “the willingness of the respondent to abandon what was likely a viable, if partial, limitations defence”: at para. 44. I am satisfied that the 75% settlement in the present case falls within the zone of reasonableness given the risks (including a limitations defence) set out above.

[40] Another significant benefit of the settlement is that the parties did not retain a third-party administrator to administer the “Claims Protocol”, as is commonly done in such cases. The Claims Protocol will instead be administered by Enbridge, with oversight and monitoring rights by Class Counsel. The Settlement Sum is therefore not depleted by what is typically a sizable administrative cost (sometimes amounting to hundreds of thousands of dollars in expense).

[41] Under the proposed Claims Protocol, Enbridge is to make significant efforts to correct minor omissions or errors, and shall not deny compensation simply because a claim form is incomplete or improperly completed.

[42] Further, there is no reversion of any remaining Settlement Sum that is not claimed by the Settlement Class Members. Instead, any remaining sum will be paid *cy près* to the Canadian

Women's Foundation,³ subject to my discussion of the requested honorarium of up to \$5,000 for Williams.

(iv) *The future expense and likely duration of litigation*

[43] The settlement resolution was reached at an early stage in the process. Had the parties failed to reach a resolution, it likely would have been years before the matter proceeded to trial. Further, the present amount of disbursements, totaling approximately \$21,000, would increase dramatically if a trial were required.

(v) *The recommendations of a neutral party and arm's length bargaining*

[44] There was arm's length bargaining between the parties.

[45] This Settlement Agreement was negotiated over several years, with exploratory discussions about a potential resolution beginning shortly after the plaintiff commenced the action. There was an extensive exchange of information and data, including actuarial research and analysis from the parties' actuarial experts, and numerous reports to narrow the parameters of a potential settlement.

(vi) *Support and objections*

[46] Class Counsel has not received any objections to the proposed settlement since the notice of settlement approval hearing was disseminated to the class. Class Counsel's website for the action has received a total of 784 views from March 16, 2026 to April 24, 2026. During that time, Class Counsel have received correspondence from over 75 individuals regarding the action.

(vii) *The degree and nature of communications with Class Members*

[47] Class Counsel did everything that reasonably could have been done to communicate with the Class. Class Counsel received correspondence from and had discussions with approximately 60 individuals who were employees of Enbridge and had been similarly impacted.

³ I find that payment of any outstanding balance on a *cy près* basis to the Canadian Women's Foundation is consistent with the requirements set out in *Serhan v. Johnson & Johnson*, 2011 ONSC 128, at paras. 58-59 that (i) "it is not practical to distribute the [remaining] benefits in any other manner" and (ii) "the *cy près* distribution is directly related to the issues in the lawsuit" and will "directly benefit" people in similar circumstances to the class members.

[48] The main points of contact between Class Counsel and the class have been through Class Counsel's website, which includes their contact information. Class Members received email updates as the action progressed.

[49] The parties agreed to, and the court approved, a robust First Notice Plan disseminated by Enbridge directly to the Class Members to their last known contact and address information, determined through internal data. For those whose information they could not locate, Enbridge retained a search firm, Equifax, to make reasonable efforts to locate this information. These efforts allowed Enbridge to locate an address for every Class Member.

[50] The intended audience for Second Notice has already been determined. The proposed Second Notice and Second Notice Plan, attached as Schedules "A" and "B" to the Second Order, respectively, are similarly focused on the identified list of Class Members. The Second Notice Plan involves Enbridge making best efforts to search for and reach as many of these individuals as practicable, and Class Counsel making best efforts to communicate with each Class Member to provide support where required or requested.

(viii) The recommendation of experienced counsel and the representative plaintiff

[51] In Class Counsel's opinion, the proposed settlement is fair, reasonable and in the best interests of the Class Members. Class Counsel are experienced in class actions litigation and in pensions matters. Their tactics, analysis and thought processes have been disclosed to the court in a long and detailed affidavit by one of the lead lawyers on this file. Their opinions reflect their best exercise of judgment.

[52] Williams was briefed regularly throughout the litigation. She was involved in making all major decisions, including instructing Class Counsel to sign the Settlement Agreement and recommending approval to the court.

Conclusion

[53] Given all of the factors I review above, the Settlement Agreement falls within the range of acceptable settlements. Consequently, I find that the Settlement Agreement is fair, reasonable, and in the best interests of the Class Members. I order that it be approved.

Fee and disbursements approval

[54] I first review the applicable law and then apply the law to the present case.

The applicable law

[55] The CPA gives proposed plaintiffs the right to enter contingent fee arrangements with Class Counsel, subject to court approval. Retainer agreements must be in writing and must: (a) state the terms under which fees and disbursements shall be paid; (b) give an estimate of the expected fee

contingent on success in the proceeding; and (c) state the method by which payment is to be made: see ss. 32(1)–33.

[56] Compensating counsel through a percentage of recovery is “considered to reflect a fair allocation of risk and reward as between lawyer and client.” Contingency fees induce counsel to maximize recovery and are fair to plaintiffs because there is no payment without success. They promote access to justice by allowing counsel to finance the litigation and indemnify the plaintiff for costs: *Baker (Estate) v. Sony BMG Music (Canada) Inc.*, 2011 ONSC 7105, 31 C.P.C. (7th) 320, at para. 64; *Osmun v. Cadbury Adams Canada Inc.*, 2010 ONSC 2752, 97 C.P.C. (6th) 169, at para. 21; *Westwood v. TD Asset Management Inc.*, 2024 ONSC 6872 at paras. 50-51.

[57] In *Ford v. F. Hoffmann-La Roche Ltd.*, 2005 CanLII 8689, Cumming J. stated, at para. 107:

Using a percentage-based calculation in determining class counsel fees “properly places the emphasis on the quality of representation, and the benefit conferred to the class. A percentage-based fee rewards ‘one imaginative, brilliant hour’ rather than ‘one thousand plodding hours.’”

[58] Contingency fee retainer agreements worth up to 33% of the settlement amount have been held to be presumptively valid, with the caveat that there may be an upper limit to the size of the fund to which a one-third contingency fee may presumptively be applied. This approach works especially well for all-cash settlements: *Cannon v. Funds for Canada Foundation*, 2013 ONSC 7686, at paras. 7-8, 11; *Brown v. Canada (Attorney General)*, 2018 ONSC 3429, at para. 46; *Sheridan Chevrolet et al v. Nishikawa Rubber et al*, 2019 ONSC 4124, at para. 11; *Dufault v. The Toronto-Dominion Bank*, 2024 ONSC 961, at paras. 37-39.

[59] In *Sayers v. Shaw Cable Systems Limited*, 2011 ONSC 962, 16 C.P.C. (7th) 367, at paras. 37-39, Perell J. approved a percentage fee which provided class counsel with no premium and recovery just below actual time expended. He noted that the case demanded “ingenuity and creativity in negotiating a settlement that would provide a payment for every class member”, and that “[i]f the lawyers were not paid a substantial portion of their actual time, there would be no incentive to take on this type of proceeding.”

[60] Factors relevant to assessing the reasonableness of Class Counsel’s fees include: (i) the factual and legal complexities of the matters dealt with; (ii) the risk undertaken, including the risk that the matter might not be certified; (iii) the degree of responsibility assumed by Class Counsel; (iv) the monetary value of the matters in issue; (v) the importance of the matter to the Class; (vi) the degree of skill and competence demonstrated by Class Counsel; (vii) the results achieved; (viii) the ability of the Class to pay; (ix) the expectations of the Class as to the amount of the fees; and (x) the opportunity cost to Class Counsel in the expenditure of time in pursuit of the litigation and settlement: *Smith v. National Money Mart*, 2010 ONSC 1334, 94 C.P.C. (6th) 126, at paras. 18-20.

Application of the law to the present case

[61] Class Counsel entered into a retainer agreement with Williams which provided for a 25% fee if settlement was achieved within one year of the date the action was commenced, and an increased fee of 30% of total recovery if the matter lasted longer, as it did in this case. The Settlement Agreement was reached after almost six years of negotiations between the parties.

[62] The retainer agreement was short, simple, and plainly worded. It met the requirements of s. 32(1) of the *CPA*.

[63] Class Counsel seeks approval of the total amount of \$301,575.80 in fees, disbursements and HST. The amount is based on fees of \$248,050.80, or 30% of the Settlement Sum, HST on that fee in the amount of \$32,246.60, and disbursements in the amount of \$21,278.40, incurred to date, inclusive of HST on many of those disbursements.

[64] The amount sought is less than the docketed time value incurred by Class Counsel. As of May 4, 2026, Class Counsel docketed over 500 hours at a time value of \$326,993 before tax. Class Counsel estimates that the total time to be expended by Class Counsel to the conclusion of this matter will be worth approximately \$25,000 in legal fees.

[65] I find that the fees and disbursements sought are fair and reasonable. I rely on the following factors:

- (i) The retainer agreement is presumptively valid.
- (ii) Class Counsel obtained significant recovery for the Class in an all-cash settlement, particularly given the risks inherent in pursuing this litigation as discussed above.
- (iii) Class Counsel incurred a substantial investment of time and money and will not obtain full recovery of docketed costs after almost six years of negotiations. The fees under the retainer agreement are approximately \$80,000 less than the docketed time value.
- (iv) Class Counsel explored the possibility of an early resolution as expeditiously as possible after the action was commenced.
- (v) Class Counsel did not seek Class Proceedings Fund support, thus taking on the risk of adverse costs and avoiding the depletion of the potential recovery for the Class.
- (vi) The disbursements are very reasonable, particularly given the involvement of actuarial experts. Class Counsel were prudent with their expenditures.

Conclusion

[66] For the above reasons, I approve the retainer agreement and find that the fees and disbursements sought by Class Counsel are fair and reasonable.

Honorarium approval

[67] Class Counsel asks the court to order the payment of an honorarium to Williams. Such payment is to be made only if there are funds available after payment to Settlement Class Members under the Settlement Agreement, and only up to a maximum of \$5,000.

[68] Enbridge takes no position on Class Counsel's request.

[69] For the reasons that follow, I do not approve the honorarium requested. I first review the applicable law and then apply the law to the facts of the present case.

The applicable law

[70] Payment of an honorarium is “exceptional and rarely done” and it requires more than the plaintiff doing what is expected of them. It should be reserved for “exceptional circumstances” where their contribution “has gone well above and beyond the call of duty,” involving “exposure to a real risk of costs or significant personal or financial hardship in connection with the prosecution of the action”: *Fresco v. Canadian Imperial Bank of Commerce*, 2024 ONCA 628, at paras. 108, 111; *Doucet v. The Royal Winnipeg Ballet*, 2023 ONSC 2323 (Div. Ct.), at para. 92.

[71] In *Doucet*, the court summarized the applicable law as follows, at para. 92:

I conclude that the principles set out in the prior jurisprudence, which provide that a modest payment to the representative plaintiff could be available in exceptional circumstances, should be followed. Those principles provide that these payments should be rare, not routine, and should be modest. They should foster the goals of class proceedings while addressing significant concerns about an apparent conflict of interest between recipients of these payments and other class members. Summarizing that jurisprudence, as it has developed, the court addressing these proposed payments should have regard to the following factors in the exercise of their discretion to approve or disapprove requests for these payments:

1. The nature of the case, including whether the representative plaintiff brings forward a claim (such as for sexual abuse) in which they expose themselves to re-traumatization for the benefit of the class.
2. The nature of the remedies available for the cause of action asserted, particularly cases where even complete success would lead to only a tiny monetary remedy for each class member or none at all.

3. The steps taken by the representative plaintiff, who must do more than taking an active role and fulfilling the normal steps required in class proceedings, achieving a settlement. Exceptional circumstances include enduring significant additional personal or financial hardship in connection with the prosecution of the class proceeding.
4. The rationale for the requested payment, which must not be added compensation for losses or damages that fall within the potential remedies available for the causes of action asserted in the claim itself or for the necessary steps to fulfill the responsibilities of a representative plaintiff.
5. The exposure to a real risk of an adverse costs award.
6. The quantum of the requested payment, which must be modest both in general terms and in relation to the remedies available to the class members in the settlement.

[72] The amounts to be paid as honorariums should generally be “modest”, i.e., within the range of \$5,000 to \$15,000: *Doucet* at paras. 115-19.

Application of the law to the present case

[73] Class Counsel fairly acknowledged that Williams’ work as a representative plaintiff was not of the exceptional or rare nature which “has gone well above and beyond the call of duty”. While all parties and the court recognized the effort Williams provided as a representative plaintiff, and thank her for her participation, such participation cannot be said to be significantly different from that provided by any representative plaintiff.

[74] Further, Williams does not seek an honorarium on the basis that she was required to relive traumatic events (another exception discussed in *Doucet*). The pension claim was financial in nature and does not result in an exceptional situation where class members are relieved of having to undergo trauma through individual actions.

[75] Class Counsel submits that an honorarium is appropriate because Williams transferred her pension claim from her individual action so that she could act as a representative plaintiff on behalf of others who suffered a similar loss. I do not agree that such a transfer supports the exceptional and rare requirements for an honorarium.

[76] In the present case, there is no evidence that Williams suffered any loss by having her pension claim addressed in the class action. She received a “substantial settlement” in her wrongful dismissal action, and any settlement in that action would have taken into account the pension claim if it continued in that action. Even if Williams had a “strong” claim based on her evidence that Enbridge never raised the prospect of her continuing to make contributions during the Statutory Leave, it would be speculative to set a value for the pension claim in the wrongful dismissal action. The strength of each of the claims would have been considered, with a global assessment of

liability and damages. There is no way to determine that Williams would have received “full value” for the pension claim in the wrongful dismissal action.

[77] Further, while Williams resolved her individual action before the class action, that is not a basis for an honorarium. Any person with an individual action who subsequently chooses to act as a representative plaintiff for her claim will likely have a longer process. However, that person benefits from not being required to incur any direct legal costs associated with what could be a very complex issue and instead pays a contingency fee.

[78] By way of example, Class Counsel in the present case incurred over \$300,000 in docketed time to consider all the legal issues related to the pension plan and to bring the action. While not all of these costs would have been charged to Williams had she left the pension claim in her action, such costs could still have been significant and may even have exceeded the \$42,390.61, which Williams claims as her entitlement under the Settlement Agreement.⁴

[79] There is no evidence of financial hardship arising out of the class action. Williams had the means to pursue her individual litigation and obtain a substantial settlement. She was able to pursue the pension claim without any risk as she was indemnified for adverse costs and disbursements by Class Counsel, who worked on a contingency fee basis such that no legal fees were charged during the litigation.

[80] Given the above, I find that there is no evidentiary basis to support a request for an honorarium, and I find that the facts of the present case do not meet the “exceptional” or “rare” circumstances where the court can exercise its discretion under *Doucet* to award an honorarium.

ORDER

[81] For the above reasons, I grant the relief sought, except for the request for an honorarium. Counsel are to provide an order to the court for its review.

GLUSTEIN J.

Date: 20260604

⁴ It is unclear whether Williams would be entitled to \$42,390.61 (as she claims at para. 30 of her affidavit) or only to 75% of that amount (as Class Counsel suggested at the hearing), with either amount being reduced by legal fees, disbursements, and HST. The distinction is not relevant to the issue raised of legal costs possibly exceeding the value of the claim.

CITATION: Williams v. Enbridge Gas Inc., 2026 ONSC 3321
COURT FILE NO.: CV-21-0065868-00CP
DATE: 20260604

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

SUSAN WILLIAMS

Plaintiff

AND:

ENBRIDGE GAS INC. and ENBRIDGE INC.

Defendants

REASONS FOR DECISION

Glustein J.

Released: June 4, 2026

2026 ONSC 3321 (CanLII)