

B E T W E E N:

**ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LORIE ST. AMAND and  
ROBYN LAMBE**

Applicants

- and -

**THE CROWN IN RIGHT OF ONTARIO as represented by THE MINISTER OF  
EDUCATION, and the ATTORNEY GENERAL OF ONTARIO**

Respondents

- and -

**ONTARIO PUBLIC SCHOOL BOARDS ASSOCIATION**

Intervener

**MINUTES OF SETTLEMENT**

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Whereas the Ontario Public Services Employees Union ("OPSEU"), Lorie St. Amand and Robyn Lambe, on their own behalf and on behalf of all of the members of OPSEU (collectively the "OPSEU Applicants"), are parties to the within Application.

And whereas by Order of Himel J, dated March 4, 2014 and entered April 3, 2014, the within Application was consolidated with Toronto Applications nos. CV-12-465306, CV-12-465278, CV-14-499232 and CV-12-466524 and heard on the merits together with them by Lederer J under the title of proceeding, *Ontario Public Service Employees Union et al v. Ontario*, CV-12-465269, with judgment reserved.

And whereas Lederer J issued a judgment on the merits on the issues of liability in the consolidated Applications on April 20, 2016, holding that the s. 2(d) *Canadian Charter of Rights and Freedoms'* rights of the Applicants were breached by the conduct of the Government of Ontario and by the *Putting Students First Act, 2012* (hereinafter the "PSFA"), which imposed collective agreements on OPSEU locals representing education workers pursuant to the PSFA.

And whereas the issues of liability and remedy were bifurcated in the consolidated Applications.

And whereas Lederer J encouraged the parties to the consolidated Applications to attempt to arrive at a remedy for the *Charter* breaches found by the Court.

And whereas the affected OPSEU members assert that they have suffered damages resulting from the *Charter* breach, which assertion is, for the purpose of this settlement only (and not for the purpose of any other proceedings) not contested by the Crown.

And whereas none of the parties to the within Application are a person under a disability for the purposes of the *Rules of Civil Procedure*.

The Respondent and the OPSEU Applicants hereby agree to the following, as full and final settlement of any and all issues and claims, except for the issue of legal costs, arising from the within Application or the liability findings of Lederer J in the consolidated Applications that were or could be advanced by the OPSEU Applicants in their own right or on behalf of their members:

- 1) The Crown agrees that it will not appeal the judgment of Lederer J finding liability against the Crown dated April 20, 2016 in *Ontario Public Service Employees Union et al v. Ontario*, CV-12-465269, in so far as it relates to OPSEU or its members, and in particular, the Crown agrees that it will not bring an appeal in respect of the within Application (Court File No.: CV- 12-465269). It is agreed that the Crown does not waive its right to appeal the judgment of Lederer J finding liability against the Crown (dated April 20, 2016 in *Ontario Public Service Employees Union et al v. Ontario*, CV-12-465269), in so far as it relates to the Applicants in Applications CV-12-465306, , CV-14-499232 and CV-12-466524, who are not parties to these Minutes of Settlement (i.e., the Applicants other than OPSEU, Lorie St. Amand and Robyn Lambe). The parties agree that the outcome of any remedy determinations that may be made by the Court in *Ontario Public Service Employees Union et al v. Ontario*, CV-12-465269, and the outcome of any appeals that may be taken by any party in respect of liability or remedy in *Ontario Public Service Employees Union et al v. Ontario*, CV-12-465269, or in Applications CV-12-465278, CV-14-499232 and CV-12-466524, shall have no bearing on the respective rights and obligations of the parties under these Minutes of Settlement.
- 2) The Crown shall pay a one-time general damage award for breach of Charter rights in the amount of \$2,750,000.00. This sum will be allocated among all education workers who were members of an OPSEU bargaining unit in one or both of the 2012-2013 or 2013-2014 school years. The sum that is paid to each affected OPSEU member shall be apportioned so that a person who worked in only one of the 2012-2013 or 2013-2014 school years shall be paid one-half of the amount that is to be paid to an affected OPSEU member who worked in both of those school years.
- 3) OPSEU shall provide the Crown with a list of all education workers who are to receive payments pursuant to paragraph 2, listed by school board and bargaining unit, showing the amount of the payment each person is to receive. The Crown shall then forward the lists to the respective school boards and direct the respective school boards to make the payments so listed. The Crown will provide the respective school boards with sufficient funds to make such payments.
- 4) The OPSEU Applicants agree to instruct their counsel to execute a consent to an Order substantially in the form set out in Appendix A dismissing the within Application with prejudice and without costs. The OPSEU Applicants further agree that they will not participate as a party or intervener in any remaining *Charter* applications that challenge the *PSFA* or any other issues arising in the within Application and consolidated in Court File Number CV-12-465269 titled *Ontario Public Service Employees Union et al v. The*

*Crown in Right of Ontario* or in any other proceeding that may be brought in connection with the same subject matter as that of the consolidated Applications.

The undersigned declare that they have read these Minutes of Settlement and fully understand the terms of this settlement and that they have received, or had the opportunity to receive, legal advice from their respective solicitors with respect to these Minutes of Settlement.

A waiver of any default, breach or non-compliance under these Minutes of Settlement is not effective unless in writing and signed by the party to be bound by the waiver. No waiver shall be inferred from or implied by any failure to act or delay in acting by a party in respect of any default, breach or non-observance or by anything done or omitted to be done by any other party. The waiver by a party of any default, breach or non-compliance under these Minutes of Settlement shall not operate as a waiver of such party's rights under these Minutes of Settlement in respect of any continuing or subsequent default, breach or non-observance.

These Minutes of Settlement shall be binding upon and shall enure to the benefit of the respective successors, heirs, assigns, officers, directors and employees, and agents and solicitors (as those terms may apply) of the parties.

Should there be any breach of any term of these Minutes of Settlement, the parties shall be entitled to all legal and equitable remedies available at law.

The parties are permitted to enter into these Minutes of Settlement in counterparts. Executed copies of these Minutes of Settlement may be transmitted via facsimile, email or courier.

Notwithstanding any other rights with respect to the enforcement of the terms of these Minutes of Settlement that the parties may have, the parties hereto irrevocably acknowledge and consent to the jurisdiction of the Ontario Superior Court of Justice to resolve any dispute arising in relation to these Minutes of Settlement. The Minutes of Settlement shall be governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario and the laws of Canada as applicable therein.

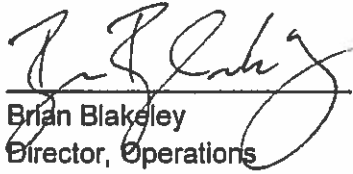
The parties agree that these Minutes of Settlement reflect the entire agreement among the parties with respect to the settlement of the Application except for the issue of legal costs. Any prior communications with respect to the settlement of the Application, be they written or oral, are of no effect and are superseded by these Minutes of Settlement.

The OPSEU Applicants hereby represent and warrant that they have the authority to bind all their members in respect of the subject matter of this settlement.

For greater certainty the Respondent makes no representation and assumes no responsibility or liability with respect to the appropriate tax treatment of any payments made to any person under this settlement.

Signed on this 3rd day of May 2017.

FOR THE RESPONDENT, THE CROWN IN RIGHT OF ONTARIO as represented by THE MINISTER OF EDUCATION and the ATTORNEY GENERAL OF ONTARIO:



Brian Blakeley  
Director, Operations  
Education Labour Relations Division

FOR THE APPLICANT, ONTARIO PUBLIC SERVICES EMPLOYEES UNION



Stephen Saysell  
Supervisor BPS Negotiations and Research Units

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Lorie St. Amand (Applicant)



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Robyn Lambe (Applicant)

Appendix "A"

Court File No.: CV-12-465269\_

BETWEEN:

THE HONOURABLE )  
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, THE \_\_\_ DAY  
OF April, 2017

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, LORIE ST. AMAND and ROBYN  
LAMBE Applicants

- and -

THE CROWN IN RIGHT OF ONTARIO as represented by THE MINISTER OF  
EDUCATION and THE ATTORNEY GENERAL OF ONTARIO

Respondents

- and -

ONTARIO PUBLIC SCHOOLS BOARDS' ASSOCIATION

Intervenor

**ORDER**

THIS APPLICATION was heard on the issue of liability on December 14, 16, 17, 18, 21 and 22, 2015, in the presence of all counsel, judgment having been reserved to April 20, 2016, and a hearing on the relief sought in the Application having been deferred on consent pending settlement discussions between the parties.

ON BEING ADVISED by counsel of the settlement of all remedial issues and costs,

THIS COURT ORDERS that the Application is dismissed with prejudice and without costs.

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