

**IN THE COURT OF QUEENS BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY**

BETWEEN:

MAUREEN MACKRORY AND LAUREL JACKSON

Plaintiffs

- and -

TELUS SOURCING SOLUTIONS INC.

Defendant

A Class Proceeding pursuant to the
Class Proceedings Act, Chapter C-16.5

STATEMENT OF CLAIM

THE PARTIES

1. The Representative Plaintiff Maureen Mackrory is an individual residing in the City of Calgary, in the Province of Alberta.
2. The Representative Plaintiff Laurel Jackson is an individual residing in the City of Calgary, in the Province of Alberta.
3. The Defendant, Telus Sourcing Solutions Inc., ("TSSI") is a Named Alberta Corporation registered under Corporate Access Number 2010636138. TSSI's Registered Office is at: 31st Floor, 10020 – 100 Street, Edmonton, Alberta, T5J 0N5.

- r. On or about 2004, TSSI contracted with the formerly named Calgary Health Region (the “CHR”; its successor being Alberta Health Services – Calgary Zone) to provide services to CHR for the benefit of its employees, including administration of payroll and benefits.
5. The Health Sciences Association of Alberta (“HSAA”) is a trade union representing paramedical, professional and technical employees of the CHR.
6. In bringing this action on behalf of a class of CHR employees represented by HSAA in its labour relations capacity, who were beneficiaries of the services of the Defendant, the Plaintiffs plead and rely upon the provisions of the *Class Proceedings Act*, Chapter C-16.5. The particulars of the causes of action will be further defined in the motion for certification.

THE CONTRACTED SERVICES

7. TSSI is in the business of providing pay and benefits administration and distribution services.
8. The contract-based relationships between TSSI, CHR, and CHR’s employees creates a trust. CHR as settlor pays monies in trust to TSSI who holds and administers the funds in trust for the benefit of CHR employees for the purposes of paying the beneficiaries’ salary/wages, and administering/paying the beneficiaries’ benefits pursuant to the applicable HSAA-CHR collective agreement.

FACTS SPECIFIC TO THE REPRESENTATIVE PLAINTIFFS

Maureen Mackrory

9. The Plaintiff, Maureen Mackrory, is a Social Worker in Forensic Assessment and Outpatient Services, and was one of the HSAA workers negatively affected by TSSI's actions.
10. When Ms. Mackrory was working full time, it came to her attention that her Local Authorative Pension Plan ("LAPP") showed contributions that did not add up to the 1.0 full time status for the years she worked full time. This was the result of a mistake of TSSI.
11. When Ms. Mackrory phoned TSSI to inquire about the mistake, she was told by the service representative, and a supervisor, that they did not know what she was talking about. Ms. Mackrory then requested that a representative find the information for her. She later received a Notice of Cost, but this document still did not clarify the amounts of the employer's and employees' contributions.
12. Ms. Mackrory was eventually told that the problem had been resolved, but when she received her LAPP statement for the year, she found that it did not reflect full time contributions.
13. When Ms. Mackrory was asked to deposit monies to buy back pension, she received no information on where to send the money and had to spend time finding the information herself.

14. Each time Ms. Mackrory made a phone call to TSSI in an attempt to gain information or clarify mistakes, she would have to repeat her situation to the service representative, who would have no knowledge of the situation or how to remedy it.
15. Ms. Mackrory did not attend the 2008 Annual General Meeting of HSAA because of fears that TSSI would make a mistake regarding pension buy back that would take a great deal of time and effort for Ms. Mackrory to fix.
16. In 2006, the HSAA flexible spending process changed and HSAA employees, including Ms. Mackrory, had to choose where they wanted their money allocated. TSSI was in charge of this process. The process was unclear to the employees, but TSSI did not provide adequate direction to them. As a result, Ms. Mackrory and other employees had to make multiple trips to the bank and phone calls to TSSI in an attempt to clarify the situation.

Laurel Jackson

17. On or about December 2004, Laurel Jackson was overpaid her wages, as were most Calgary Health Region employees. The Defendant was not aware of which employees were and were not overpaid and some of the Plaintiff's colleagues did not have to pay the overpayment back.
18. On or about January 2007, Ms. Jackson changed positions. She telephoned the Defendant to ask when her next pay increase would be, and was told that the time for it had already passed. The Defendant did not correct the problem until April 2007.
19. The Defendant was late sending out the notice of costs for the year 2007.

20. On or about August 2008, Ms. Jackson was overpaid on her night shift deferential. In the letter to Ms. Jackson, the Defendant cited the wrong dates and pay-period. Ms. Jackson telephoned the Defendant to tell them this, but they did not send her any documents with the correction. The Defendant then deducted the total overpayment amount without any forms or acknowledgement from Ms. Jackson.
21. The Plaintiff's 2007 T4 that she received from the Defendant was incorrect. She did not realize this until she had filed her tax return, so had to amend her tax return after the amended T4 was delivered to her in March 2008.
22. On or about August of 2007, the Defendant made a coding error, and as a result, Laurel Jackson was overpaid night shift differential. The Defendant allowed her to choose how she would repay the overpayment, but did not follow her instructions.
23. On or about April 2009, the Plaintiff was paid incorrectly for her night shift deferential. She telephoned the Defendant, and was on hold for almost an hour before speaking to an agent.

BREACH OF CONTRACT; BREACH OF TRUST; NEGLIGENCE

24. The Defendant breached its contract with TSSI to provide competent pay and benefits administration services. The contract was for the benefit of the Plaintiffs and the other class members. The Plaintiffs rely on the traditional trust exception to the doctrine of privity of contract, and any other applicable exception to that doctrine.
25. The Defendant committed breach of trust to the Plaintiffs and the other class members by failing to perform its obligations as trustee in a competent and timely manner to the detriment of the trust beneficiaries.

26. The Defendant at all material times owed a duty of care to the Plaintiffs and the other class members because:

- a) The harm that occurred to the Plaintiffs and the other class members was the reasonably foreseeable consequence of the Defendant's acts and omission;
- b) The relationship between the Defendant and the Plaintiffs and the other class members was sufficiently proximate to establish a duty of care; and
- c) There are no broad policy reasons why tort liability should not be recognized in the circumstances.

27. The Defendant at all material times owed a standard of care to the Plaintiffs and the other class members to take the care, in perform services for the benefit of the Plaintiffs and the other class members, of a reasonably prudent payroll and benefits administrator.

28. The Defendant breached the standard of care by failing to administer the Plaintiffs' payroll and benefits as would be expected of a reasonably prudent payroll and benefits administrator. Examples include, but are not limited to, the following:

- (a) the Defendant failed to ensure that the payroll of the Plaintiffs and other class members was administrated properly, particularly in regards to timing of the release of funds;
- (b) the Defendant failed to establish any adequate procedures to educate their customer representatives to effectively assist customers phoning for assistance;

- (c) the Defendant failed to provide any or any adequate updated and current information to the Plaintiffs and the other class members respecting their pay or benefits;
- (d) the Defendant, after receiving numerous complaints regarding their services and customer assistance, failed to adequately respond or fix the problem;
- (e) the Defendant represented that TSSI was an effective service when they knew or ought to have known that these representations were false;
- (f) the Defendant failed to properly supervise their employees;
- (g) the Defendant breached other duties of care to the Plaintiff and the class of Plaintiffs, details of which breaches are known only to the Defendant.

29. The Plaintiffs and the other class members' damages were caused, both in fact and law, by the negligence of the Defendant.

DAMAGES

- 30. The Plaintiffs' and other class members' damages were caused by: the negligence of the Defendant, its servants and agents; by the Defendant's breach of contract; and/or, by the Defendant's breach of trust.
- 31. As a result of the conduct of the Defendant, the Plaintiffs and the other class members have suffered mental stress and frustration, and damaged relationships.
- 32. As a result of the conduct of the Defendant, the Plaintiff and other class members suffered and continue to suffer expenses and special damages, of a nature and amount to be particularized prior to trial.

33. The Plaintiffs therefore collectively claim against all the Defendant:
- a) General or non-pecuniary damages in the amount of \$50,000,000.00;
 - b) Special damages, the amount of which to be proven at trial;
 - c) Aggravated, exemplary and punitive damages;
 - d) Interest pursuant to the *Pre-Judgment Interest Act*, as may be allowed;
 - e) Costs of this action on a solicitor/client basis;
 - f) Such further and other relief as this Honourable Court may allow or counsel may advise.
32. The trial of this action will not take more than twenty-five days to complete.
33. The Plaintiffs propose that this action be tried in the City of Calgary in the Province of Alberta.

DATED at the City of Calgary, in the Province of Alberta, this 20th day of May, 2009 and DELIVERED by Docken & Company, Barristers and Solicitors, 900, 800 – 6th Avenue SW, Calgary, Alberta, T2P 3G3, Solicitors for the Plaintiffs, whose address for service is in care of the said Solicitors.

ISSUED out of the office of the Clerk of the Court for the Judicial District of Calgary, this 20 day of May, 2009

V A BRANDT 

Clerk of the Court

NOTICE:

To the Defendant:

TELUS SOURCING SOLUTIONS
INC.

You have been sued. You are the Defendant. You have only 15 days to file and serve a Statement of Defence or Demand of Notice. You or your lawyer must file your Statement of Defence or Demand of Notice in the office of the Clerk of the Court of Queen's Bench in Calgary, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiff named in this Statement of Claim.

WARNING: If you do not do both things within 15 days, you may automatically lose the lawsuit. The Plaintiff may get a Court judgment against you if you do not file, or do not give a copy to the Plaintiff, or do either thing late.

This Statement of Claim is issued by the Solicitors for the Plaintiff, whose name and address for service is:

DOCKEN & COMPANY
Barristers & Solicitors
Solicitors for the Plaintiff
900, 800 – 6th Avenue SW
Calgary, Alberta T2P 3G3
Tel: (403) 269-3612

Action No: 0901-07522

IN THE COURT OF QUEEN'S BENCH
OF ALBERTA

JUDICIAL DISTRICT OF CALGARY

BETWEEN:

MAUREEN MACKRORY AND
LAUREL JACKSON

Plaintiffs

-and-

TELUS SOURCING SOLUTIONS
INC.

Defendant

STATEMENT OF CLAIM

This Statement of Claim is issued by
Clint G. Docken, Q.C.
DOCKEN & COMPANY
Barristers & Solicitors
Solicitors for the Plaintiff
900, 800 – 6th Avenue SW
Calgary, Alberta T2P 3G3
Tel: (403) 269-3612
Fax: (403) 269-8246

and is addressed to the Defendant whose
residence as far as known to the Plaintiffs is
Calgary, Alberta, and other places
Solicitor's File No.: 7909

