

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

RICHARD MANDEVILLE, WISMAR GREAVES
MARCUS JORDAN and ANTHONY BOWEN

Plaintiffs

- and -

THE MANUFACTURERS LIFE INSURANCE COMPANY

Defendant

Proceedings under the *Class Proceedings Act, 1992*

AMENDED STATEMENT OF DEFENCE

1. The defendant ("Manulife") admits the allegations contained in the first sentence of paragraph 10, the second sentence of paragraph 12, paragraphs 14 and 17, the second sentence of paragraph 26, the first sentence of paragraph 28, the second sentence of paragraph 33, that the quotations are accurate in paragraphs 35 and 41, paragraphs 52, 57 and 63, that the quotation is accurate in paragraph 66, the first sentence of paragraph 70, paragraph 72, the first sentence of paragraph 74, that the quotations are accurate in paragraphs 80-82, the first sentence of paragraph 85, paragraph 115, paragraphs 118-120, and paragraphs 124 and 126 of the Further Fresh Statement of Claim (the "statement of claim").

2. Manulife further admits, in connection with paragraphs 9-12 of the statement of claim, that prior to the Transfer referred to below:

- (a) the plaintiff Richard Mandeville was the owner of the Mandeville Policies;
- (b) the plaintiff Wismar Greaves was the owner of the Greaves Policies;
- (c) the plaintiff Marcus Jordan was the owner of the Jordan Policies; and
- (d) the plaintiff Anthony Bowen was the owner of the Bowen Policies.

3. Manulife denies all of the remaining allegations contained in the statement of claim except as expressly admitted in this statement of defence.

4. Manulife further denies that the plaintiffs are entitled to any of the relief claimed in paragraph 2 of the statement of claim.

Overview

5. In 1996, more than three years before it demutualized, Manulife entered into an agreement to transfer Manulife's Barbados insurance business to Life of Barbados Limited ("LOB"), a local Barbados insurance company (the "Transfer"). The agreement with LOB (the "Transfer Agreement") required regulatory approval in Barbados and Canada, which was sought and obtained in both countries. Manulife denies the improprieties alleged in the statement of claim in connection with the regulatory approval process. As was confirmed by both regulators in Barbados and Canada, the statutory requirements were met.

6. The Transfer Agreement benefited the members of the Class (the "Barbados policyholders") by providing, among other things, certain enhanced dividends and dividend guarantees, and locally based service, from LOB. As a result of the Transfer, as approved, the Barbados policyholders ceased to be participating policyholders of Manulife and became policyholders of LOB.

7. The regulatory process in Barbados included notice to the Barbados policyholders, the right to object, a public hearing in Barbados, and the right to appeal the decision sanctioning the Transfer. The Transfer was sanctioned by the Barbados Supervisor of Insurance. None of the Barbados policyholders appealed, nor did any of the Barbados policyholders seek judicial review of the sanction.

8. The plaintiffs' claim should be dismissed because:

- (a) the Transfer, as approved, had the effect of terminating all of the Barbados policyholders' rights as against Manulife;

- (b) the termination of the Barbados policyholders' status as policyholders of Manulife automatically terminated their statutory rights as participating policyholders under the Canadian *Insurance Companies Act*;
- (c) the Barbados policyholders were not, and were not entitled to be treated as, eligible policyholders of Manulife when Manulife demutualized in September 1999;
- (d) Manulife did not owe or breach the alleged duties to the Barbados policyholders as set out in the statement of claim;
- (e) the plaintiffs have benefited from the Transfer, and cannot now seek to avoid its effect; and
- (f) the plaintiffs' claim, brought in Canada five years after the transfer of the Barbados policies by individuals who never pursued any of the appropriate avenues of appeal or judicial review, is an improper attack on the finality and integrity of the Barbados and Canadian regulatory systems and is an abuse of process.

Manulife

9. Manulife is a Canadian life insurance company. It carries on business in Canada and in other countries around the world. Until the 1990s, Manulife carried on an insurance business in several Caribbean countries, including Barbados.

The plaintiffs

10. The plaintiff Wismar Greaves was the Supervisor of Insurance in Barbados in 1990, when Manulife began its efforts to sell its Barbados insurance business. He ceased to be Barbados Supervisor of Insurance in or about 1994. Greaves was also a Manulife policyholder. As Barbados Supervisor of Insurance and as a policyholder he was directly involved with and opposed the transfer of Manulife's Barbados insurance business. Greaves specifically sought compensation for loss of voting rights and mutual status. Greaves knew and has admitted that:

- (a) the Transfer was governed by the Barbados *Insurance Act*; and

- (b) the Transfer had the effect of causing the Barbados policyholders to lose their rights as mutual policyholders in Manulife.

11. The plaintiffs Marcus Jordan, Anthony Bowen and Richard Mandeville were also Manulife policyholders prior to the Transfer to LOB. Both Jordan and Bowen directly participated in the Barbados approval process in relation to the Transfer. Jordan also objected to the Transfer, and sought additional compensation for Barbados policyholders for loss of rights as mutual policyholders in Manulife.

Manulife's decision to exit the Caribbean market

12. By resolution passed on May 17, 1990, Manulife's Board of Directors authorized negotiations and the obtaining of all required governmental and other approvals to effect the transfer of Manulife's business in the Caribbean-Atlantic region *en bloc*.

13. The sale of most of Manulife's Caribbean insurance business proceeded in the early 1990s, ultimately not as a single block but in several separate transactions. However, the sale of its Barbados insurance business was substantially delayed. The plaintiff Wismar Greaves was the Barbados Supervisor of Insurance in the early 1990s, and was significantly involved in the issues that delayed the transfer of Manulife's Barbados block.

14. While Barbados Supervisor of Insurance, Greaves conveyed to Manulife that since Manulife was a mutual company, in any transfer of Manulife's Barbados insurance business to a stock company, he wanted the surplus distributed to the participating policyholders. That was a decision which would have benefited him personally, as a Manulife policyholder. He wrote:

No certificate of sanction will be signed unless this office is assured that all surpluses belonging to the existing participating policyholders is either distributed to them in an equitable manner or remains in the life fund transferred if the continuing insurer was a mutual.

15. In 1992, Manulife stopped writing new business in Barbados. The Barbados policyholders became a closed block of business. Manulife transferred the administrative responsibilities for this closed block of business to LOB, and continued to attempt to transfer the Barbados block to a third party purchaser.

16. In 1995, Manulife and LOB signed a letter of intent to transfer Manulife's Barbados insurance business to LOB. However, the letter of intent expired in accordance with its terms in October 1995.

17. In May 1996, Manulife and LOB entered into the Transfer Agreement, to transfer Manulife's Barbados insurance business to LOB. The Transfer Agreement required regulatory approval in Barbados and Canada.

The Transfer

18. The effective date of the Transfer Agreement was the second business day following the date on which the sanction of the Barbados Supervisor of Insurance, the approval of the Canadian Minister of Finance and the permission of the Barbados Exchange Control Authority had all been obtained.

19. Under the terms of the Transfer Agreement, on the effective date of the Transfer Agreement:

- (a) Manulife transferred to LOB the benefit and burden of those life insurance policies and annuity contracts issued or assumed by Manulife out of its Barbados branch in respect of policyholders in Barbados that were in force on December 31, 1994 (including policies under which insurance had lapsed but in which there subsisted a contractual right of reinstatement, and life insurance policies and annuity contracts which had become claims by reason of maturity or death before December 31, 1994 and had not been settled before that date) (the "Barbados Policies"). The Barbados Policies included all of the participating policies owned by the members of the Class.
- (b) LOB assumed all of the obligations and liabilities of Manulife under the Barbados Policies, and acquired the benefit of all the rights of Manulife in respect of the Barbados Policies.
- (c) Manulife was released and discharged from all further obligations under the Barbados Policies.

- (d) Manulife agreed to cease carrying on insurance business in Barbados.
- (e) Participating policyholders under the Barbados Policies maintained their entitlement to participate in the profits of LOB at a level commensurate to, or better than, the level of participation that they had enjoyed with Manulife.
Specifically, LOB was:
 - (i) precluded from reducing the dividend scales for participating Barbados Policies unless there was a commensurate downward adjustment to the dividend scales applicable to LOB policies in Barbados that were in force on December 31, 1994;
 - (ii) required to pay a dividend on each Barbados Policy in an amount not less than the dividend paid by Manulife in respect of that policy in 1994, provided the terms and conditions of each policy remained unchanged, all premiums due to the date of the dividend payment were paid, and LOB paid a dividend to its ordinary shareholders during the 12-month period immediately preceding the payment date for the policyholder dividend; and
 - (iii) required to increase dividend scales commensurately for participating Barbados Policies in the event that dividend scales were increased on LOB participating policies in Barbados that were in force on December 31, 1994.
- (f) Manulife transferred to LOB assets with a value sufficient, in conjunction with future premium payments, to meet all future obligations under the Barbados Policies and to satisfy the reasonable expectations of holders of the Barbados Policies.
- (g) LOB was required to establish, prior to the effective date of the Transfer Agreement, and to maintain a capital/surplus ratio of at least 150% calculated on rules consistent with the rules established by the Office of the Superintendent of

Financial Institutions (Canada) ("OSFI") for life insurance companies, in order to maintain satisfactory security for the transferred policyholders.

- (h) LOB was required to provide every holder of a Barbados Policy, as soon as possible after the effective date of the Transfer Agreement, with a certificate of assumption from LOB, stating "that LOB has assumed the liabilities and obligations of Manulife and shall stand in the place and stead of Manulife under the said policy or contract and that LOB shall thereafter be solely liable directly to each such policyholder, contract holder or certificate holder or other person who has an interest under such policy or contract".

20. The Transfer Agreement was governed by and was to be construed in accordance with the laws of Barbados, and Manulife and LOB agreed that the courts of Barbados were to have jurisdiction for all purposes of or in connection with the Transfer Agreement.

21. Further, and as admitted by the plaintiffs, the Barbados Policies expressly provided that they were governed by the law of Barbados, and the Barbados *Insurance Act* provided that the policies were governed by the law of Barbados and were subject to the jurisdiction of the courts of Barbados.

22. The Transfer benefited the Barbados policyholders in three major areas:

- (a) Dividend expectations: The Transfer Agreement contained minimum dividend guarantees that the Barbados policyholders would not have had with Manulife. In addition, the Transfer created a better outlook for dividends going forward than the closed block.
- (b) Security: The guarantees in the Transfer Agreement with respect to capitalization levels of LOB provided a level of comfort with regard to the future prospects for the Barbados policyholders.
- (c) Service: The local expertise and increased management attention provided by LOB would generate service and return levels to the Barbados policyholders as

high as, or higher than, those they would have reasonably expected from Manulife.

The Barbados regulatory regime

23. The Barbados *Insurance Act* required that any company that desired to have the whole or any part of its insurance business in Barbados transferred to another company obtain the sanction of the Barbados Supervisor of Insurance after following the procedure set out in the Barbados *Insurance Act*.

24. The procedure prescribed by the Barbados *Insurance Act*, and followed by Manulife, included:

- (a) notice to all Barbados policyholders of the intention to apply for a sanction;
- (b) a formal application in writing by Manulife and LOB to the Barbados Supervisor of Insurance (described in the Barbados *Insurance Act* as a "Petition") describing the companies and the proposed transfer (described in the Barbados *Insurance Act* as a "Scheme"), and supported by internal actuarial reports of each company, by the report of an independent actuary regarding the appropriateness and benefits of the proposed transfer, and by audited financial statements from both companies;
- (c) disclosure by Manulife and LOB to policyholders of the terms of the Transfer Agreement;
- (d) the right and opportunity of persons likely to be affected by the proposed transfer to object in writing to the Barbados Supervisor of Insurance;
- (e) where objections are made, the holding of a public hearing regarding the proposed transfer at which objectors were entitled to present their objections to the Barbados Supervisor of Insurance in person or through legal counsel; and
- (f) a decision by the Barbados Supervisor of Insurance whether to grant the sanction as being in the public interest and as otherwise complying with the criteria in the Barbados *Insurance Act*.

(1) Notice and disclosure

25. In accordance with the Barbados *Insurance Act*, and with the permission of the Barbados Supervisor of Insurance, Manulife and LOB gave notice of their intention to apply for sanction of the Transfer as follows:

- (a) notice was published in each of the daily newspapers in Barbados for the period of seven consecutive days;
- (b) the notice was repeated in the Sunday editions of the newspapers for the three Sundays following the first week of continuous publication;
- (c) an "infomercial" was broadcast on Barbados television twice a day for a period of a week (one broadcast made around the middle of the day, the second immediately preceding or following the 7:00 p.m. news);
- (d) two 30-second broadcasts were made on both Barbados AM radio stations each day for one week, and on FM radio stations, advising all interested parties of the Transfer and referring them to details to be found in full page advertisements being published over the same period of time in the daily newspapers, and to the "infomercials";
- (e) a dedicated telephone line was installed at LOB's head office to accommodate telephone calls requesting information on the Transfer, and the telephone number was published;
- (f) members of the LOB/Manulife transfer team were available to field queries from interested parties and to provide any information required with respect to the Transfer; and
- (g) the notice of intention was published in a Barbados government publication, the *Official Gazette*.

26. The Barbados newspaper and *Official Gazette* notices stated that:

- (a) Manulife and LOB intended to apply to obtain the sanction of the Barbados Supervisor of Insurance to the Transfer to LOB of that part of Manulife's insurance business formerly carried on from Barbados;
- (b) the Transfer Agreement was open to the inspection of the policyholders, shareholders and members of Manulife and LOB for a designated period at the offices of Manulife and LOB in St. Michael, Barbados; and
- (c) any policyholder, shareholder or member of Manulife and LOB was entitled to receive a copy of the Transfer Agreement by requesting a copy in writing.

27. Any interested policyholder could inspect or obtain a copy of the Transfer Agreement as set out in the notices.

(2) The Petition

28. Manulife and LOB submitted the required formal Petition to obtain the sanction of the Barbados Supervisor of Insurance for the Transfer in September 1996.

29. Manulife's Chief Actuary gave an opinion that the proposed Transfer was in the best long-term interests of all of Manulife's policyholders, including those being transferred and those remaining. Eckler Partners, the independent actuary, reviewed the proposed Transfer and opined that the outlook for the Barbados policyholders was clearly better if the Transfer was carried out than the alternative of running off the Barbados Policies as a closed block.

30. In accordance with routine practice regarding the preparation of opinions of independent actuaries, Manulife and others, including the Barbados and Canadian insurance regulators, were given an opportunity to comment on drafts of the Eckler report. The independent actuary then rendered his own opinion. Manulife denies the alleged impropriety with respect to the preparation of the Eckler report, as set out in the statement of claim.

(3) Letters of objection

31. After publication of the notice of the Transfer, the Barbados Supervisor of Insurance received a small number of letters of objection. Of the more than 8,000 policyholders in

Manulife's Barbados block, only eight objected to the Transfer. Among the objectors were Greaves and Jordan.

32. The objectors raised the issue that their policies were being transferred from a mutual company to a stock company, which resulted in the loss of the corporate governance rights that they had with Manulife, and in the loss of a contingent interest to share in the value of Manulife in the event of a demutualization. The objectors requested compensation. Greaves also requested that the Barbados Supervisor of Insurance consult with his own independent actuary to consider the merits of the Transfer.

33. In his letter, Greaves expressed the following view:

I am of the view that with the transfer of policies to Life of Barbados Ltd., the Manufacturers Life policyholders have been transferred to a Stock Company and therefore will lose their rights as mutual policyholders. ...

... A naked guarantee with respect to dividend rates and capitalization is not enough. There must be compensation to policy owners in exchange for membership rights and additional benefits for participating policy owners on the basis of the age of the policy and the sum assured. ...

I am recommending Sir, that you take up this matter with your independent Actuary on the question of 'reasonable compensation' by ManuLife to its Barbados policyholders. In the event that no compensation is forthcoming, I give you notice in accordance with the Insurance Act that I do object to the transfer to Life of Barbados Ltd. of the Barbados portfolio of Manufacturers Life, and that I wish a hearing to be held at which my case can be eloquently made.

(4) Retainer of an independent actuary by the Barbados Supervisor of Insurance

34. As permitted by the Barbados *Insurance Act*, the Barbados Supervisor of Insurance retained an independent actuary, the Hymans Robertson firm from the United Kingdom, to assess the likely impact of the Transfer on the policyholders of Manulife and LOB.

35. The Barbados Supervisor of Insurance provided a copy of Greaves' letter of objection to Hymans Robertson, and specifically raised with Hymans Robertson the concern that had been

expressed regarding loss of corporate governance rights and loss of possible future rights to participate in a demutualization.

36. The Barbados Supervisor of Insurance advised Greaves in writing that he had retained an independent actuary, and that the independent actuary had been alerted to Greaves' expressed concerns.

37. Hymans Robertson submitted a report to the Barbados Supervisor of Insurance that expressly considered the issue of additional compensation for the loss of mutual status. Hymans Robertson suggested that the dividends be enhanced in some manner, suggesting an enhancement that it estimated would cost approximately BDS\$2.2 million.

38. When the Barbados Supervisor of Insurance ultimately sanctioned the Transfer, he did so on condition that the dividends payable by LOB in connection with the transferred Barbados Policies be enhanced, in the manner described below.

39. In the course of preparing its report, Hymans Robertson also invited comments from Manulife and others, and then gave its own opinion. In doing so, Hymans Robertson did not accept all of the comments provided by Manulife. Manulife denies the alleged impropriety with respect to the preparation of the Hymans Robertson report, as set out in the statement of claim.

40. Greaves knew that the Barbados Supervisor of Insurance had retained an independent actuary. He knew that he could obtain information about the opinion of the independent actuary, and he did so. Manulife denies that it had the alleged duty to provide Greaves or any of the plaintiffs with the report of the actuary retained by the Barbados Supervisor of Insurance.

(5) The Hearing

41. As a result of the letters of objection, the Barbados Supervisor of Insurance gave notice of and conducted a hearing as required by the Barbados *Insurance Act*. The notice stated, among other things, that attendees at the hearing could be represented by an attorney-at-law and could produce any evidence relevant to the hearing.

42. Prior to the hearing, Manulife and LOB had an informal meeting with the Barbados Supervisor of Insurance. Although objectors were not present at the meeting, the meeting was

not held in secret. The meeting was an ordinary course meeting by two regulated entities with their regulator. Manulife denies the plaintiffs' allegation at paragraphs 88-89, 95, 132 and 136 of the statement of claim that this meeting was a "secret meeting" that violated principles of procedural fairness, and denies the application, and the alleged contravention, of the Constitution of Barbados.

43. The hearing was held in November 1996 in accordance with the requirements of the Barbados *Insurance Act*. It was attended by some objectors and by representatives of Manulife and LOB, among others.

44. At the hearing, each policyholder who had submitted a letter of objection was invited to make oral representations, produce any document, and invite any person, including counsel, to give supporting information on his or her behalf.

45. A number of people spoke, including the plaintiffs Greaves and Jordan. Greaves objected that the Transfer deprived him of the right to participate in Manulife's corporate governance, and of his contingent interest in receiving a share of the value of Manulife in the event Manulife was ever permitted to, and chose to, demutualize. He asked for compensation. Jordan endorsed Greaves' submissions.

46. Geoffrey Guy, Manulife's Chief Actuary, responded to the objectors' concerns relating to demutualization, and conveyed that, at that time, Manulife had no plan or intent to demutualize. Among other things, he noted that the Barbados policyholders would benefit from the Transfer, because of the dividend guarantees that were being made, and the security provided by the capital/surplus ratio that was required to be maintained.

47. Manulife denies the allegation that it did not make appropriate disclosure at the hearing, as alleged in the statement of claim. Manulife denies that, at the material time in 1996, the company intended to demutualize or had demutualization as part of its business plans or its plans for financial restructuring.

48. At the hearing, Greaves and Jordan were given an opportunity to make rebuttal, but did not do so. The Barbados Supervisor of Insurance then summed up as follows:

I have listened to the arguments of both objectors and representatives of the companies. The significant issue is the issue of whether or not policyholders in Manulife should be paid some sort of compensation for their membership rights in the circumstance of the demutualization in Barbados. I will take all of the arguments of the objectors. I will take all the arguments of the two companies into consideration, and I will make a determination that I consider to be fair, equitable and in the best interest of all the persons involved. Now let me make one observation. That determination most likely is not going to please everybody, but in attempting to make that determination I am going to consider every person. If there are no other remarks or counter arguments, I think that this Hearing is now hereby closed.

49. After the hearing, the Barbados Supervisor of Insurance met with LOB and Manulife. LOB and Manulife indicated that a special dividend (the "Special Dividend") would be paid by LOB in relation to the Barbados Policies. The Special Dividend would equal BDS \$20 for each BDS \$1,000 of basic sum assured, and would be payable to the beneficiaries of the Barbados Policies upon the death of the insured or the maturity date of the policy.

50. Manulife denies the allegation at paragraph 88 of the statement of claim that it made misrepresentations to the Barbados Supervisor of Insurance regarding the cost of the Special Dividend in 1996, which had been estimated by LOB at BDS\$7.2 million.

51. Like the pre-hearing meeting, this post-hearing meeting between the Barbados Supervisor of Insurance, Manulife and LOB was an ordinary course meeting to inform the Supervisor of Insurance of LOB's willingness to provide the Special Dividend in recognition of the concerns expressed regarding loss of mutual rights.

52. Manulife denies the plaintiffs' allegations, at paragraphs 87-90, 132, 136 and 145 of the statement of claim, that this was an improper "secret meeting", in which the Barbados Supervisor of Insurance "secretly agreed" to a "private deal", and that Manulife was a "party to the hijacking of the administrative process in Barbados".

The sanction of the Barbados Supervisor of Insurance under the Barbados *Insurance Act*

53. The Barbados *Insurance Act* required the Barbados Supervisor of Insurance to be satisfied that the Transfer was in the public interest -- including the interests of the transferred Barbados policyholders, the LOB policyholders, the insurance industry and Barbados as a whole

-- before granting his sanction. The decision whether to sanction the Transfer was discretionary, subject to the requirements of the Barbados *Insurance Act*.

54. The Barbados *Insurance Act* provided that the Barbados Supervisor of Insurance could not sanction the Transfer in certain circumstances, including where more than one tenth of affected Barbados policyholders dissented.

55. On November 26, 1996, the Barbados Supervisor of Insurance sanctioned the Transfer subject to certain conditions, including the condition that LOB pay the Special Dividend in recognition of the concerns raised by the Barbados policyholders.

56. The Certificate of Sanction confirmed that Manulife and LOB had complied with the provisions of the Barbados *Insurance Act* as they related to the transfer of the insurance business.

57. In the Certificate of Sanction, the Barbados Supervisor of Insurance certified that:

I, Ian St.C. Carrington, Supervisor of Insurance having given due consideration to all applications [that is, the objections] filed under Section 35A of the *Insurance Act* of Barbados do hereby sanction the Scheme of Transfer as agreed between the two companies subject only to such special arrangements as may be established for monitoring the business of Life of Barbados Limited on a continuing basis. [Note added]

The effect of the Barbados *Insurance Act*

58. The Transfer under the Barbados *Insurance Act* had the effect of terminating the Barbados policyholders' relationship with Manulife and extinguishing any claims against Manulife. The Barbados *Insurance Act* expressly provided that the sanctioning of the Transfer was binding on the companies and their policyholders notwithstanding anything contained in the policies. Subsection 35B(1) of the Barbados *Insurance Act* stated:

(1) Subject to subsection (3) [which sets out a right of appeal from the Supervisor's decision], a Scheme, after being sanctioned by the Supervisor, is binding on the companies affected by it, and on all shareholders, members and policyholders and has effect notwithstanding --

- (a) anything contained in any policy or in any instrument constituting the companies; or
- (b) anything contained in any rules or bye-laws of the companies... [Note added]

59. The Barbados *Insurance Act* further expressly stated that transfer of the insurance business did not require the consent of the insured. Subsection 34(4) stated:

(4) Subject to this Act, nothing operates to prevent a contract relating to insurance that has been entered into in Barbados from being transferred by an insurer to another company without the approval of the person insured.

60. Section 35(3) of the Barbados *Insurance Act* confirmed the substitution of LOB as "continuing insurer" in place of Manulife as "retiring insurer":

(3) Where, in pursuance of an agreement between --

- (a) an insurer, in this section and section 35A referred to as "the continuing insurer"; and
- (b) another insurer, in this section referred to as "the retiring insurer",

in anticipation of the retiring insurer ceasing to do business in Barbados, the continuing insurer assumes liability under contracts of insurance specified in the agreement issued by the retiring insurer, and the retiring insurer does in fact cease to do business in Barbados, an insured person may enforce any rights accruing to him under any of those contracts as if the contracts had been issued by the continuing insurer.

61. The Certificate of Assumption subsequently delivered by LOB to the transferred Barbados policyholders provided as follows:

From and after the 31st day of December, 1996, said policy shall be read and construed as if the name of LIFE OF BARBADOS LIMITED appeared therein in the place and stead of THE MANUFACTURERS LIFE INSURANCE COMPANY. THE MANUFACTURERS LIFE INSURANCE COMPANY is released from all liabilities whatsoever under the said policy and LIFE OF BARBADOS LIMITED is solely liable thereunder. All sums previously payable to THE MANUFACTURERS LIFE

INSURANCE COMPANY in respect of said policy as premium or in repayment of policy loans or other rights related to such policy will be paid hereunder to LIFE OF BARBADOS LIMITED at Wildey, St. Michael, Barbados or such other place as LIFE OF BARBADOS LIMITED may designate.

62. Pursuant to the Transfer Agreement, LOB assumed liability under the Barbados Policies, and Manulife agreed to cease, and did cease, its life insurance business in Barbados.

63. Under the Barbados *Insurance Act*, each of the Barbados policyholders had a right to appeal from the decision of the Barbados Supervisor of Insurance to a judge of the Barbados High Court. Under Barbados law, the Barbados policyholders also had the right to seek judicial review of the decision. The plaintiff Greaves, as a past Barbados Supervisor of Insurance, was fully conversant with the applicable procedures for challenging the decision of the Supervisor of Insurance. None of the Barbados policyholders appealed or sought judicial review.

64. Accordingly, the effect of the Transfer under the Barbados *Insurance Act*, including the sanction made under it, was to terminate the relationship between Manulife and the Barbados policyholders, and to extinguish the claims against Manulife that now form the basis for the statement of claim.

65. Manulife therefore denies the allegation, at paragraph 91 of the statement of claim, that the Barbados Supervisor of Insurance did not have the power or capacity to extinguish the Barbados policyholders' rights.

66. Manulife denies the allegations in the statement of claim that it unilaterally transferred the Barbados Policies or unilaterally terminated ownership rights of the Barbados policyholders. On the contrary, regulatory approval was required, and the required regulatory approval was sought and obtained in Barbados and, as described below, in Canada.

67. Further, the plaintiffs have admitted that they:

- (a) accept that Manulife's Barbados insurance business was validly transferred to LOB;
- (b) do not call into question the validity of the Sanction;

- (c) do not assert that the Barbados regulatory approval is void;
- (d) do not ask this Court to quash that approval;
- (e) do not ask that the Transfer be set aside;
- (f) do not seek rescission of the Transfer Agreement; and
- (g) accept the Transfer as binding on the Barbados policyholders.

Canadian regulatory approval

68. In Canada, Manulife sought and obtained authorization for the Transfer under the *Insurance Companies Act* (the "ICA"), from the Canadian Minister of Finance. In that regard, Manulife:

- (a) had published, in the *Canada Gazette* and in *The Globe and Mail* newspaper, a notice of intention to apply for approval of the Canadian Minister of Finance to the Transfer Agreement;
- (b) made the Transfer Agreement available for inspection by policyholders at its head office after publication of the notice, and was prepared to provide a copy of the Transfer Agreement to any policyholder on request in writing (no such requests were received); and
- (c) provided to OSFI all required supporting documentation in relation to the application for approval, including the Barbados Certificate of Sanction as well as the form of certificate of assumption that was to be provided to the transferred Barbados policyholders by LOB.

69. OSFI recommended that the Canadian Minister of Finance approve the Transfer. In doing so, OSFI informed the Minister of Finance of the process that had been followed under the Barbados *Insurance Act*.

70. Manulife denies the allegation, at paragraphs 93 and 99 of the statement of claim, that Manulife failed to disclose required information to the Canadian Minister of Finance in obtaining the approval.

71. The approval of the Canadian Minister of Finance was granted in December 1996. The approval of the Minister of Finance gave force and effect in Canada to the Transfer Agreement, as sanctioned under the Barbados *Insurance Act*.

72. The Barbados policyholders ceased to be participating policyholders of Manulife in 1996, and ceased to have any of the rights of a participating policyholder of Manulife thereafter. They have since then enjoyed the benefits of the Transfer, including increased dividends and the Special Dividend.

73. The plaintiffs are attempting to enjoy not only the benefits of the Transfer -- which they admit was valid -- but also the benefits of Manulife's demutualization three years after the Transfer, when the plaintiffs were no longer Manulife policyholders. Contrary to the allegations in paragraphs 1, 103 and 104 of the statement of claim, in this action the plaintiffs are not entitled to avoid the recognition and enforcement of the governing Canadian and Barbados statutes and of the regulatory approvals given under those statutes.

Common law novation

74. In the alternative, the Barbados Policies were novated, and as a result the Barbados policyholders ceased to be policyholders of Manulife and became policyholders of LOB. Specifically:

- (a) LOB assumed Manulife's liability and became solely liable under the Barbados Policies;
- (b) Manulife was released from all obligations under the Barbados Policies;
- (c) the transferred Barbados policyholders were notified, through the Certificate of Assumption and otherwise, of the Transfer, of LOB's assumption of liability, and of Manulife's release from obligations under the Barbados Policies; and
- (d) all Barbados policyholders have expressly or impliedly consented to be policyholders of LOB, with novated contracts with LOB, in full satisfaction and substitution for their original insurance contracts with Manulife.

75. The transferred Barbados policyholders communicated their consent to the Transfer of the Barbados Policies from Manulife to LOB by, among other things:

- (a) each of their decisions not to object to the Transfer before the Barbados Supervisor of Insurance or the Canadian Minister of Finance;
- (b) each of their decisions not to appeal or seek judicial review from the Barbados Certificate of Sanction or the Canadian Minister of Finance's approval of the Transfer Agreement;
- (c) each of them accepting the Certificate of Assumption issued by LOB without objection, including each of their decisions not to complain when they received no further notices from Manulife with respect to corporate governance issues, and each of their decisions not to attempt to participate in Manulife's corporate governance thereafter;
- (d) paying premiums to LOB instead of Manulife;
- (e) accepting dividends from LOB instead of Manulife, including the Special Dividend where applicable;
- (f) corresponding with in writing, and contacting by telephone and in person, LOB regarding their policies; and
- (g) renewing or amending their contracts of insurance with LOB, where applicable.

Termination of status and rights as participating policyholders under the ICA

76. Under the ICA a "participating policyholder" of a company must be the holder of a participating policy in that company. After 1996, the Barbados policyholders held no policies with Manulife, participating or otherwise, and therefore were no longer participating policyholders under the ICA.

77. In a mutual company under the ICA, participating policyholders of the company are entitled to vote at meetings of the company and to share in the property of the company on

dissolution. The voting rights are conferred by the ICA. The rights on dissolution are conferred by the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, s. 95, as amended (formerly the *Winding-up Act*). The dissolution rights are theoretical because a solvent mutual company is not permitted to dissolve.

78. Participating policyholders also have certain corporate governance rights under the ICA that are ancillary to the right to vote, namely the ability to nominate and elect directors of the company, to requisition a meeting of policyholders, to make proposals for consideration at such a meeting, and to appoint or revoke the appointment of the company's external auditor.

79. These statutory rights arise as an incident to being a participating policyholder of the company. In the same way, a policyholder whose status as a "participating policyholder" under the ICA terminates, whether by reason of maturity of the policy, death of the insured, or transfer of the policy to another company, automatically loses these statutory rights. The rights end, and there is no entitlement to receive additional compensation for the loss of the rights.

80. Therefore, while they were participating policyholders of Manulife, and only for so long as they were participating policyholders of Manulife, the Barbados policyholders had the following statutory rights:

- (a) Dividends: The right to receive dividends from Manulife, as and when declared by the Board of Directors of Manulife, as was set out in the Barbados policyholders' life insurance policies.
- (b) Corporate governance: The right to vote at meetings of Manulife and the ancillary statutory corporate governance rights that the ICA makes available to participating policyholders of the company.
- (c) Rights on dissolution: The rights in the event of involuntary liquidation or dissolution under the *Winding-up and Restructuring Act*.

81. Once the Barbados policyholders were transferred to LOB, they ceased to be participating policyholders of Manulife and their statutory rights under the ICA were therefore extinguished.

82. The Barbados policyholders had no other rights arising from their participating policies with Manulife, apart from the contractual rights under the policies, which became the obligation of LOB, and with which the plaintiffs do not take issue in this action.

No liability

83. Manulife denies the alleged liability to the Barbados policyholders. The plaintiffs' claim should be dismissed because:

- (a) the principles of international comity require the Ontario courts to decline to exercise jurisdiction over the plaintiffs' action;
- (b) the plaintiffs' action constitutes an improper collateral attack upon the Barbados Sanction and upon the approval granted by the Canadian Minister of Finance, and is thus an abuse of process of this Court;
- (c) the Barbados policyholders were not participating policyholders of Manulife, and so were not entitled to participate in Manulife's demutualization in September 1999;
- (d) Manulife did not owe or breach the alleged fiduciary duty as set out in the statement of claim; and
- (e) Manulife was not negligent as alleged in the statement of claim.

Comity requires recognition of the effect of Barbados law

84. Barbados is a sovereign state, governed by the rule of law, with a legislature that is sovereign within its powers and an independent judiciary.

85. The Barbados *Insurance Act* establishes a mandatory statutory regime for approving the transfer of insurance business in Barbados.

86. The plaintiffs have admitted that:

- (a) the Barbados legislature had jurisdiction to enact the statutory regime set out in the Barbados *Insurance Act*;

- (b) the Barbados *Insurance Act* applied to the Transfer;
- (c) the Barbados Supervisor of Insurance had jurisdiction under the Barbados *Insurance Act* to sanction the Transfer;
- (d) the Barbados Supervisor of Insurance did sanction the Transfer; and
- (e) that Sanction is valid and binding on the transferred Barbados policyholders.

87. Under principles of comity, Canadian courts must defer to and respect the law of Barbados and the legal actions taken by Barbados within its territory. In particular, Canadian courts must recognize, defer to and respect the regulatory regime established by the Barbados *Insurance Act*, and the effect of the Sanction.

88. Under the law of Barbados, the relationship between Manulife and the Barbados policyholders has been terminated, and the claims that now form the basis for the statement of claim have been extinguished. The issue of demutualization was expressly raised in the process leading to the sanction of the Transfer. Through the benefits of the Transfer, and the Special Dividend, the Barbados policyholders have been properly compensated.

89. In the interests of comity, this Court should therefore dismiss the claim.

The plaintiffs' action is an improper collateral attack

90. The plaintiffs' action is an improper collateral attack upon:

- (a) the decision of the Barbados Supervisor of Insurance sanctioning the Transfer; and
- (b) the decision of the Canadian Minister of Finance authorizing Manulife to enter into the Transfer Agreement.

91. The plaintiffs plead, at paragraphs 1(ss) and 103 of the statement of claim, that they are asking the Ontario courts not to recognize or enforce these decisions, despite the fact that the decisions stand unchallenged under the laws of Barbados and Canada.

92. The decisions are valid, final and binding. The plaintiffs did not appeal from, or seek judicial review of, either of the decisions, in Barbados or Canada. They do not and did not challenge the validity and finality of the decisions, yet they now attempt to impugn, in a collateral proceeding, the decisions and the process followed in that regard.

93. The plaintiffs are attempting to circumvent the regulatory regimes of Canada and Barbados, and should not be permitted to do so.

Manulife could not demutualize in 1996

94. Under the ICA and its regulations at the time of the Transfer in 1996, Manulife could not demutualize. The demutualization regulations that existed at the time did not apply to larger insurance companies like Manulife.

95. In June 1996 the federal government released a White Paper entitled *1997 Review of Financial Sector Legislation: Proposals for Change*. One of the many matters raised in the White Paper was the government's proposal to make demutualization available to larger insurance companies. No specific plan or proposal for implementing such a change was provided in the White Paper. The release of the White Paper was only the beginning of a lengthy discussion period. It was not until August 1998 that the government published a draft regulation to implement the proposed changes.

96. Contrary to the allegations at paragraphs 107 and 116 of the statement of claim, it was not the sunset clause in the ICA that caused the federal government to enact the conversion regulations required to make demutualization available to larger insurance companies.

97. The ICA contained a sunset clause that required that some action be taken by the Parliament of Canada within approximately five years after the ICA came into force in 1992. This clause did not relate specifically to demutualization, nor did it require that any changes be made with respect to demutualization. It was a device used in the ICA to ensure that Parliament turned its mind to new legislation within a fixed period of time after its enactment. Amending legislation was passed in 1997, within the time required by the sunset clause. The amending legislation did not put in place a regime for demutualization of large insurance companies.

98. The legislative change regarding demutualization proposed in the White Paper was not implemented until the passage of the *Mutual Company (Life Insurance) Conversion Regulations* (the "Demutualization Regulations") approximately two years later, in March 1999.

Manulife began to study demutualization in 1997

99. In 1997, Manulife commenced a study of demutualization and other financial restructuring possibilities, in the event that Manulife pursued restructuring in the future. An internal working group was struck. The three demutualization structures studied were:

- (a) a mutual holding company structure;
- (b) use of subscription rights; and
- (c) full demutualization.

100. Only full demutualization entailed the distribution of benefits to participating policyholders of Manulife.

101. Later in 1997, the initiative was brought under the subcommittee on corporate structure, a subcommittee of the Board of Directors' Corporate Governance Committee. The subcommittee reported to the Board of Directors in December 1997 regarding the advantages and disadvantages of five restructuring options:

- (a) mutual holding company;
- (b) initial public offering of stock of one or more subsidiaries;
- (c) initial public offering of non-par business;
- (d) sponsored demutualization; and
- (e) full demutualization.

102. At the December 1997 meeting of the Board of Directors, the Board recommended that management focus its future research on full demutualization.

103. In January 1998, the Board of Directors asked management to prepare a plan of demutualization.

104. Manulife's demutualization plan was presented to and approved by the Board of Directors sixteen months later, in May 1999. Eligible policyholders of Manulife voted on and approved the plan of demutualization at a special meeting of eligible policyholders in July 1999.

105. By letters patent of conversion effective September 23, 1999, the Canadian Secretary of State (International Financial Institutions), on behalf of the Minister of Finance and pursuant to subsection 237(1) of the ICA, gave effect to Manulife's demutualization plan.

106. Contrary to the plaintiffs' allegations, Manulife denies that at the material time in 1996 it intended to demutualize, or had demutualization as part of its business plans or plans for financial restructuring.

No entitlement to demutualization benefits

107. The Barbados policyholders did not have the right to receive a share of the value of Manulife in the event of a demutualization.

108. The Demutualization Regulations did not permit Manulife to demutualize at the time of the Transfer in 1996. Under the Demutualization Regulations, it would have been illegal for Manulife to have given demutualization benefits to the Barbados policyholders at the time of demutualization in 1999.

109. Under the Demutualization Regulations, which regulated Manulife's demutualization in 1999, Manulife was required to provide benefits only to "eligible policyholders".

110. An "eligible policyholder" was defined in the Demutualization Regulations as a person who was "the holder of a voting policy" on or (within tight limits) near the eligibility day selected by the company in accordance with the Demutualization Regulations. The eligibility date was required to be the date of the public announcement by the converting company of its intention to develop a demutualization proposal, or within 30 days of that date.

111. The eligibility date for receiving benefits under the Manulife demutualization was January 20, 1998, the date of Manulife's announcement that the Board of Directors had asked management to prepare a plan of demutualization.

112. None of the Barbados policyholders held a voting policy with Manulife on January 20, 1998. None qualified as an eligible policyholder under the Demutualization Regulations. The Demutualization Regulations therefore barred the Barbados policyholders from participating in Manulife's demutualization.

113. Contrary to the allegations at paragraphs 105, 125, 127, 131 and 132(h) of the statement of claim, the Barbados policyholders were not entitled to be recognized as "eligible policyholders" under Manulife's demutualization plan at the time of Manulife's demutualization in September 1999, nor did Manulife have the unilateral power to extend demutualization benefits to the former policyholders who then held the Barbados Policies.

114. Before the demutualization plan was submitted to a vote by Manulife's eligible policyholders in July 1999, the demutualization plan was required to be and was approved by OSFI as being compliant with the Demutualization Regulations. The demutualization plan was approved by the Canadian Minister of Finance pursuant to the ICA and the Demutualization Regulations in September 1999. The Barbados policyholders did not appeal or seek judicial review of the Canadian Minister of Finance's decision approving the demutualization plan.

115. Contrary to the allegations in the statement of claim, the Barbados policyholders had no other right entitling them to participate in the demutualization. The Barbados policyholders had the benefits of the Transfer and Sanction. All other alleged rights of Barbados policyholders as against Manulife had been extinguished. The Barbados policyholders ceased to be participating policyholders of Manulife, and ceased to have any rights under the ICA, in 1996.

116. Manulife denies the plaintiffs' claim that they have a right to receive the benefits of Manulife's demutualization, while at the same time receiving the benefits of the Transfer and acknowledging that their policies were validly transferred to LOB.

117. Further, since the time of the Transfer, LOB has become a subsidiary of Barbados Mutual Life Assurance Society ("Barbados Mutual"), a mutual company that has itself announced its intention to demutualize. The plaintiffs may therefore be seeking to participate in two separate demutualizations in relation to the same insurance policies.

United States and Hong Kong subsidiarizations

118. The U.S. and Hong Kong transfers were fundamentally different from the Barbados Transfer, contrary to the plaintiffs' allegations.

119. In 1994, Manulife authorized a transfer of its Hong Kong branch life insurance business to its wholly-owned subsidiary Manulife (International) Limited. This was a transfer internally within the Manulife group, not a transfer to an unrelated third party as occurred in Barbados. The policies remained policies of Manulife. The policyholders maintained their voting rights in Manulife, dividends continued to be paid in accordance with the Manulife dividend policy, and the policyholders remained entitled to benefit in the hypothetical event of a future demutualization.

120. Similarly, in 1995 Manulife authorized the transfer of its U.S. participating policies to its wholly-owned subsidiary, The Manufacturers Life Insurance Company (U.S.A.). The policies were transferred with the condition that there be no novation, with participating policyholders retaining their rights in Manulife, as was done in the Hong Kong subsidiarization. Again, this was a transfer internally within the Manulife group, not a transfer to an unrelated third party as occurred in Barbados. These participating policyholders also maintained their voting rights in Manulife, dividends continued to be paid in accordance with the Manulife dividend policy, and the policyholders remained entitled to benefit in the hypothetical event of a future demutualization.

121. As admitted by the plaintiffs in paragraphs 1(cc) and 1(dd) of the statement of claim, Manulife (International) Limited and The Manufacturers Life Insurance Company (U.S.A.) conduct Manulife's insurance business in Hong Kong and the United States respectively.

122. Manulife ceased its life insurance business in Barbados, while it has continued to carry on its business in the U.S. and Hong Kong. Manulife denies the allegation, at paragraph 130 of the statement of claim, that it could just as easily have structured the Transfer in a manner that preserved the Barbados policyholders' status as participating policyholders of Manulife.

No negligence or breach of fiduciary duty

123. Manulife denies the allegations in the statement of claim that it was negligent and breached a fiduciary duty in relation to the Barbados policyholders in regard to:

- (a) the Transfer Agreement with LOB; and
- (b) the regulatory approval for the Transfer Agreement under the Barbados *Insurance Act* and the ICA.

124. Manulife's duty to its Barbados policyholders to the time of the Transfer was to fulfill its obligations under the terms of the Barbados Policies, and to meet the policyholders' statutory rights as defined and circumscribed by the ICA and the Barbados *Insurance Act*, until these obligations and statutory rights were terminated. Manulife fulfilled this duty.

125. Manulife denies that it owed the alleged additional duties to the Barbados policyholders as set out in the statement of claim.

126. The ICA and the Barbados *Insurance Act* expressly permitted the Transfer of Manulife's Barbados insurance business, setting out a prescribed statutory transfer process to obtain the requisite approvals, with which Manulife complied.

127. The Barbados policyholders were entitled to and did participate as separate parties in the prescribed statutory process.

128. In any event, Manulife did not owe the alleged duty to the Barbados policyholders in 1996 to preserve a contingent interest in receiving a share of Manulife's value, in the event that, in the future, Manulife ever received legislative authority to, and did, demutualize.

129. Manulife denies the allegation at paragraph 37 of the statement of claim that the overarching policy objective of the Canadian government in structuring the demutualization process was to impose a fiduciary duty on Manulife and other mutual insurance companies.

130. Manulife denies the alleged breaches of duty of care and fiduciary duty as set out in the statement of claim, and denies that the alleged breaches of duty caused any damages to the Barbados policyholders.

131. If Manulife had a duty to ensure the transferred Barbados policyholders were compensated for the loss of their contingent interest in receiving a share of Manulife's value on demutualization, which is denied, Manulife did not breach this duty. The benefits of the Transfer and the Special Dividend properly compensated the Barbados policyholders for a contingent interest that, as of 1996, might never have crystallized into a right at all.

Damages

132. Manulife denies that the Barbados policyholders have suffered any damages whatsoever. On the contrary, they have benefited from the Transfer, including the benefits of the Transfer Agreement and the Special Dividend.

133. Manulife denies that the Barbados policyholders are entitled to any amount that is not a condition of the sanctioning of the Transfer.

134. In the alternative, the total damages should be no more than BDS\$2.2 million -- the amount suggested by Hymans Robertson as additional compensation for loss of mutuality, among other things.

135. In the further alternative, damages should be no more than a proportion of the contribution made by the Barbados policyholders to Manulife's surplus as of the time of the Transfer in 1996.

136. In addition and in the further alternative, the damages claimed by the plaintiffs are excessive, and should be reduced to take into account the uncertainty, in 1996, whether Manulife would ever demutualize.

137. In addition and in the further alternative, if the plaintiffs are entitled to receive demutualization benefits as if they had been eligible policyholders under Manulife's plan of demutualization, which is denied, damages should be reduced to take into account the reduction in the membership of the Class between 1996 and January 20, 1998 by reason of termination of some of the participating policies held by the Barbados policyholders through, among other things, surrender, maturity or death.

138. In the further alternative, if the alleged voting rights were retained despite the Barbados Policies being transferred to LOB, which is denied, the Barbados policyholders are entitled, at most, to damages equivalent to the amount of the fixed allocation distributed by Manulife to eligible policyholders on demutualization in 1999, reduced to take into account the reduction in the membership of the Class between 1996 and January 20, 1998 by reason of termination of some of the participating policies held by the Barbados policyholders through, among other things, surrender, maturity or death.

139. In any event, the damages claimed by the plaintiffs are excessive and should be reduced

(a) by the net difference between:

- (i) the dividends received and to be received by the Barbados policyholders as a result of the dividend guarantees set out in the Transfer Agreement; less
- (ii) the dividends the Barbados policyholders would have received from Manulife had the Transfer not occurred;

(b) by the net difference between:

- (i) the dividends actually received by the Barbados policyholders from Manulife between the time Manulife closed the Barbados block of business and the time of the Transfer; less
- (ii) the dividends the Barbados policyholders would have received from Manulife during this period of time had the Transfer not been contemplated;

(c) by the amount paid or payable as the Special Dividend; and

(d) by the amount received or receivable by the Barbados policyholders in relation to the demutualization of Barbados Mutual.

140. Manulife denies that the Barbados policyholders are entitled to recover the costs of distributing the recovery in this action, if any, and states that the amount of such costs alleged by the plaintiffs is excessive.

141. The plaintiffs allege, at paragraphs 144-147 of the statement of claim, that they are entitled to punitive damages. Manulife strongly denies this allegation, and states that the plaintiffs should be required to pay Manulife's substantial indemnity costs of this action, for having made unsubstantiated accusations of misconduct against Manulife.

142. Manulife pleads and relies upon the Insurance Companies Act, S.C. 1991, c. 47; the Mutual Company Conversion Regulations, SOR/93-205; the Mutual Company (Life Insurance) Conversion Regulations, SOR/99-128; the Office of the Superintendent of Financial Institutions Act, R.S.C. 1985 (3rd Supp.), c. 18; the Winding-up and Restructuring Act, R.S.C. 1985, c. W-11 (formerly the Winding-up Act); the Courts of Justice Act, R.S.O. 1990, c. C.43; and the Barbados Insurance Act, L.R.O. 1979, CAP. 310; all as amended at the relevant times.

143. Manulife therefore submits that this action should be dismissed with costs on a substantial indemnity basis.

November 15, 2002

Amended June 30, 2005

Torys LLP
79 Wellington Street West
Suite 3000
Toronto, Ontario
M5K 1N2

Sheila Block LSUC#14089N
Tel: 416.865.7319

Wendy Matheson LSUC#28548T
Tel: 416.865.8133

David Outerbridge LSUC#42724V
Tel: 416.865.7825

Fax: 416.865.7380

Solicitors for the defendant

TO: **Sutts, Strosberg LLP**
Barristers and Solicitors
600 Westcourt Place, 261 Goyeau Street
Windsor, Ontario N9A 6V4

Harvey T. Strosberg, Q.C.
Tel: 519.258.9333
Fax: 519.561.6203

Solicitors for the plaintiffs

Richard Mandeville et al
Plaintiffs

- and -

The Manufacturers Life Insurance Company
Defendant

Court File No. 01-CV-221418CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

AMENDED STATEMENT OF DEFENCE

Torys LLP
Suite 3000
79 Wellington St. W.
Box 270, TD Centre
Toronto, Ontario M5K 1N2

Sheila Block LSUC#14089N
Tel: 416.865.7319

David Outerbridge LSUC#42724V
Tel: 416.865.7825

Fax: 416.865.7380

Solicitors for the Defendant