



# The Pen

Pensioned Employees' Newsletter

[www.bcgrea.com](http://www.bcgrea.com)

Spring 2007

## 600 at Victoria rally in our battle for return of lost pension benefits

By Lawrence Johnson  
President

Your Association spent a busy summer last year deciding what else we could do to convince the provincial government to return your pension benefits.

We have encouraged all members to write letters to their local newspapers and in addition to write, fax, e-mail and phone all local MLAs to make sure that Gordon Campbell's government understands the harm he has caused by breaking the employer's promise to provide pension benefits when we retired.

We also established two organizing committees, one

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Retired BCGEU president John Shields addresses BCGREA's first ever rally attended by more than 600 retired public servants and some opposition MLAs

BCGREA introduces a new long-term care benefit -- available for all members and their families. See [bcgrea.com](http://bcgrea.com)

**Next Annual  
General Meeting  
Oct. 17**

**B.C. Government Retired Employees' Association newsletter**



**President Lawrence Johnson addresses rally**

## The Rally

*(Continued from page 1)*

on the Lower Mainland and one on Vancouver Island to organize a public rally in front of the Legislative Buildings in Victoria bringing our issue to the politician's doorstep.

Branches in the Southern and Northern Interior and the North were asked to develop their own strategies to bring the loss of pension benefits to the attention of their communities and local MLAs.

The attendance at this rally in my opinion was an overwhelming success.

I estimate that there were over 600 people in attendance.

This included several MLAs who all were from the opposition.



Speakers at the rally were John Shields, retired government employee and past president of the BCGEU; Rudy Lawrence, president of Council of Senior Citizens Organizations of B.C. and BCGREA Vancouver Branch chairperson; and Katrine

Conroy, MLA for West Kootenay-Boundary and opposition critic for Seniors Health.

If you weren't able to attend this rally you unfortunately missed our first provincial rally. This was history in the making, you also missed a good one.

I wish to thank the members organizing committees and branches who developed their own strategies and events, your hard work and dedication helps to keep our lawsuit moving forward.

We encourage everyone to continue to write letters, faxes, e-mails and make phone calls to their local MLAs and local newspapers to make sure that the Province of B.C. knows that we deserve to have our pension benefits returned.

We urge you to attend your local branch meetings to keep yourself informed on the progress of our class action.



**Opposition MLAs at our benefits rally**



Officers attending the March directors' meeting included, from left, Membership Director Mary Foster, Secretary Kathy Torhjem, President Lawrence Johnson, First Vice-President Fred Bennett and Second Vice-President Sarjit Manhas

# LOSS OF PENSION BENEFITS — CLASS ACTION LAWSUIT

**By Lawrence Johnson**

A lot of time has passed since we set out on this road to have our lost pension benefits returned.

Association directors started discussions on how to deal with pension benefit cutbacks in the fall of 2002.

We first had to find a lawyer to give us an opinion on whether or not we had a case that we could take to court.

We then had to decide whether we had or could find enough resources to take our case to court.

Next we had to find legal expertise that was willing to take our case on a contingency fee basis.

We were fortunate enough to find more than one firm that

was willing to take our case.

A special directors meeting was arranged to decide which firm we thought understood our case and would be able to present our case with the best chance of a successful result. That took until the fall of 2004.

We then filed a "statement of claim" at the Supreme Court of British Columbia in October of 2004.

After filing the statement of claim we had to wait until the Province of B.C. (The Defendant) filed a Statement of Defence.

The Province waited until the very last minute and filed their defence Dec. 24, 2004.

Their defence was very brief (about three sentences) simply denying any and all allegations and further asking

for the court to dismiss the action with costs.

The Province filed a demand for particulars two days prior to the statement of defence on Dec. 22. Our legal team within time limits fulfilled this demand on Feb. 1, 2005. Our legal team then made a "Demand for Discovery of Documents" on Feb. 3, 2005.

On March 22, the Province filed an amended Statement of Defence.

The defendant stated that our pension benefits were discretionary and could be taken back at any time, because they were not part of a bargaining process.

The Province also filed a Third Party Claim stating that they were not responsible for payments to pensioners, that

*(Continued on page 4)*



## Class action

*(Continued from page 3)*

the Public Pension Plan Board of Trustees was the responsible party.

This put our representative plaintiff then President Ed Bodner in a “perceived conflict of interest” position.

Legal counsel advised that a perceived conflict of interest may not be helpful in reaching a successful conclusion for our case.

Ed Bodner was then replaced with First Vice-President Fred Bennett as the representative claimant.

We finally attended a scheduled Certification Hearing in B.C. Supreme

Court on Nov. 14 and 15, 2005. On Nov. 14 the Province requested an adjournment, which was denied by the court.

The B.C. Supreme Court then heard arguments from both parties. A judgment was issued on Nov. 30, 2005 certifying our action as a “Class Action”.

The Province then filed three appeals that was seen by your association as another delaying tactic by the provincial government.

Its appeals were: (1) the denial of the adjournment of the proceedings, (2) the denial of the “stay of proceedings” based on the provinces argument that the claims should be settled through a

grievance arbitration, (3) that the court erred in its judgment certifying our action as a “Class Action”.

The defendant set forth its reasons for the appeals and our legal team filed a “Respondent’s Factum” setting out our reasons why the B.C. Supreme Court judgments should be upheld.

We then attended a B.C. Court of Appeal hearing on Oct. 19 and 20, 2006 in Vancouver before Justices Newbury, Levine and Chiasson.

The B.C. Court of Appeal issued its judgment on Jan. 2, 2007.

The defendant’s appeals

*(Continued on page 5)*

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**Lawyer Albert Peeling, second from left, updates directors on class action against the government for return of benefits taken away**

## Class action

*(Continued from page 4)*

again, were not successful. The B.C. Court of Appeal said that our case could proceed in two ways: (1) for retirees who had retired from a job working directly for the provincial government could proceed with "breach of contract" (2) for retirees who had retired from a job working for an employer, other than the provincial government, who contributed to the Public Service Pension Plan could proceed with "breach of Fiduciary Duty".

Again the provincial government has decided to appeal a court decision.

Your association sees this as another delaying tactic.

The next step in the legal system appeal process is to be heard by the Supreme Court of Canada.

In order to have an appeal heard by the Supreme Court of Canada parties must seek, "Leave of the Court", or permission to have the appeal heard.

The Province of British Columbia has applied to the Supreme Court of Canada for "Leave to Appeal" the decision of the B.C. Court of Appeal.

At the same time our legal team has asked the Supreme Court of Canada to hear our appeal to have the part of the B.C. Court of Appeal decision overturned, which separates retirees who worked for employers other than the provincial government, from those who worked directly for the provincial government.

It is our belief that we all retired from employment to

receive benefits from the Public Service Pension Plan under the same type of contract. At the same time our legal team has made arguments as to why the B.C. Government's reasons to have their appeal heard should be denied.

The appropriate paperwork was filed with the Supreme Court of Canada and we now await their decision.

Your association realizes that this continues to be a time consuming and frustrating process, however we ask our members to be patient and to support each other in every way possible to have our benefits returned.

**WHAT CAN YOU DO?** We encourage everyone to continue to write letters, faxes, e-mails and make phone calls to their local MLAs and local newspapers to make sure that the Province of B.C. knows that we deserve to have your pension benefits returned.

We also urge you to attend your local branch meetings to keep yourself informed on the progress of our class action.



**Delegates to AGM**

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## President's report

# Activities concentrate on return of benefits

By Lawrence Johnson

Your table officers continue to be very active with their various responsibilities.

We met formally once in Nanaimo on Jan. 31, 2007.

Activities continue to centre on our class action suit.

Our newest table officer, Sarjit Manhas, joined the team and fitted in seamlessly and has taken on the project of guiding the provincial newsletter to its next edition with editor Charles La Vertu.

Although Wayne Dermody is no longer a table officer he continues to act as liaison to the Council of Senior Citizens' Organizations of BC (COSCO).

Since the 2006 AGM, Fred Bennett continues to be a very busy officer looking after resolutions and letters received from various branches that require considerable research and reporting on.

John Cone continues to keep our financial house in order and is to be commended for all of his work assisting branch treasurers keep financial records in accordance with accepted accounting practices.

Another table officer who does amazing work is our provincial secretary, Kathy Torhjem, who does the minutes, makes sure that all the letters and reports are done on time and free of errors.

She assigns deadlines, makes all

of the arrangements for our meetings including the directors and annual general meeting.

On top of that she is the secretary for Branch 600, plus being involved in many other organizations.

Thanks to Mary Foster our

membership director, who is always there to make sure that the membership records are in order and assists the branch membership directors ensure that our members' information is kept up to date and confidential.

Mary has also changed the

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## Estate Planning Tips

By Thomas D. Martell,  
CFP, CLU

There are a number of tools associated with Estate Planning including The Will, The Trust, The Inter Vivos Gift and Co-ownership of Property.

It is the latter, Co-ownership of Property and the associated pitfalls of this strategy that are the topic of this article.

Co-ownership most commonly falls under the title of Joint Tenancy.

Transferring assets into joint title is a very effective way to accomplish some or all of the following objectives:

- **Probate planning** – avoiding probate fees as high as 1.5% because transfer of ownership happens automatic at death of an owner.
- **Confidentiality** – transfers by right of survivorship are not subject to public scrutiny as are probate and wills.
- **Efficiency** – transfers by right of survivorship require little if any legal documentation.

While joint tenancy provides a number of advantages, unintended consequences

could be experienced if sufficient care is not exercised.

Pitfalls to be aware of are:

- **Unequal inheritances** – will transfer by right of survivorship produce unequal divisions of the estate to various beneficiaries.
- **Legal issues** – loss of control of property in question because transactions involving the property require all owners' agreement.
- **Taxation** – transferring an asset to joint title is a disposition for tax purposes, this could trigger a tax liability on capital gains or recapture of depreciation.
- **Creditors** – as an asset of the new co-owner, the property is exposed to the new co-owners creditors.

Every estate plan is unique because no two individuals have exactly the same objectives and situations.

Always consult an experienced planner who knows the benefits of the appropriate strategy and how to balance them against the sometimes-hidden costs.

## President's report

(Continued from page 6)

association website to include a new category "Stay in Touch".

This is designed to encourage our membership to keep the association advised of any changes in information of addresses telephone numbers etc.

If you wish to suggest further changes that would enhance our website please bring them up at your branch meeting for approval and then forwarded onto the table officers.

Our central office manager, Michele, continues to keep our membership database up to date as much as possible and deals with incoming telephone calls and e-mails.

This is no small task and Michele continues to claim minimal paid hours and ensures that the cost of running central office is kept as low as possible.

Our webmaster Josie provides a top quality and professional service to our association with helpful suggestions and ideas to keep our website functional and user friendly.

Johnson Inc. launched a Long Term Insurance Product in April with a mailout to the association membership.

I encourage all branches to invite a representative of Johnson Inc. to be a guest speaker at one of your meetings to inform your branch membership of the products offered.

This will also give your members the opportunity to directly ask questions of Johnson Inc. representatives.

Four table officers also met in Nanaimo with Tom Martel who is a representative for Manual Life.

There will be a mailing to the association membership in the near future regarding their life insurance product.

At the Jan. 31 table officer

meeting we changed policy to allow branches to post their newsletter on the association website, up to four pages (previously it was two pages).

Newsletters will be kept on the website for up to three months and one issue per branch at a time will be allowed.

We encourage all branches to have their newsletters posted on the website.

This will allow the exchange of information to all branches around the province and to whoever else in the world cares to look.

So make sure that whatever you ask to have posted on the website meets all privacy and other legislative requirements.

We also met with our legal team on Feb. 23 to discuss strategy on the next step to take after receiving the ruling from the B.C. Court of Appeal on our class action suit.

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## Membership has its benefits!

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**President Lawrence Johnson honoured Wayne Dermody at the 2006 annual general meeting for his dedication, hard work and meritorious service done on behalf of our association**

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## **President's report**

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This was discussed at the directors meeting in March.

Since then the Province of British Columbia (the defendant) has appealed to the Supreme Court of Canada to have the latest ruling overturned.

In addition, our legal team has appealed to have that part of the B.C. Court of Appeal ruling overturned, which divides public pension plan recipients into those directly employed by the provincial government, and to those who worked for other employers who made contributions to the public service pension plan.

We contend that we all made contributions to the same pension plan while working and then applied for and began receiving a pension and benefits from the same pension plan under the same set of rules.

We now await the Supreme Court's decision as to whether or not they will hear the defendant's appeal and/or our appeal.

I have attended meetings and/or other events of six branches.

I must say that meeting the general membership has helped me to better understand your needs and wishes for a comfortable retirement.

That still leaves me with nine more branches to visit for the first time and I intend to visit all nine before our annual general meeting in October.

We have also designed a presentation that branches can use at pension corporation retirement seminars.

This presentation can be used as an oral presentation with handouts to seminar participants or can be a Power Point presentation with handouts.

I also attended a "Conversation on Health" event in Nanaimo on Feb. 24, and participated in the COSCO rally before that meeting on a cold, wet and windy Saturday morning.

I encourage all branches whenever possible, to participate in the COSCO rallies that are being held before all "Conversation on Health" events around the province.

While I am not convinced that the province's "Conversation on Health" will produce any positive results it is an opportunity for citizens to put forward their opinions in a non-threatening environment.

I thank the association table officers for their continuing dedication to this organization and for all of their hours of hard work.

I know that sometimes that it feels like you have a full time job.

It is a pleasure to work with such a dedicated, professional and hard working team.

Additionally let me thank all of the association directors for your hard work to keep your branches and this association meaningful and active.

I know that sometimes it feels like you are working in isolation and support seems so very far away.

Finally a heartfelt thank you to everyone who I met since the annual general meeting in October it has been a great experience.

I look forward to the upcoming months.