

presided over the hearing from Toronto, Ontario at a special joint hearing of the Superior Court of Ontario, Supreme Court of British Columbia, and Superior Court of Quebec (the "Courts").

AND ON hearing J.J. Camp, Q.C. Sharon D. Matthews, Q.C., Harvey Strosberg, Q.C., Heather Rumble Peterson, Kathryn Podrebarac, Michel Savonitto and Martine Trudeau, counsel for the Joint Committee; Mark Polley, counsel for the Objecting Class Member; William P. Dermody, counsel for Claimants 2213 and 7438; John Callaghan, Fund Counsel for Ontario, Gordon J. Kehler, Fund Counsel for British Columbia; Philippe Dufort-Langlois, Fund Counsel for Québec; Paul B. Vickery, John Spencer, William Knights, Nathalie Drouin, Stéphane Arcelin, Sarah-Dawn Norris, Matthew Sullivan and Nathalie Haman, counsel for the Attorney General of Canada; D. Clifton Prowse, Q.C. and Keith Johnston, counsel for Her Majesty the Queen in Right of the Province of British Columbia; Lise Favreau and Erin Rizok, counsel for Her Majesty the Queen in Right of Ontario; Manon Des Ormeaux, counsel for la Procureure générale du Québec; and Caroline Zayid and J. Michael Rosenberg, counsel for the provinces and territories other than British Columbia, Ontario and Québec;

AND ON READING the:

- (a) Affidavit of Heather Rumble Peterson sworn November 23, 1999, her Affidavit #5 sworn August 7, 2012, her Affidavit #9 sworn November 22, 2013 re-sworn May 3, 2016, her Affidavit #10 sworn November 25, 2013 re-sworn May 3, 2016, her Affidavit sworn November 29, 2013, her Affidavit #13 sworn October 16, 2015, and her Affidavit #15 sworn April 1, 2016;
- (b) Affidavit of J.J. Camp made November 23, 1999, his Affidavit made June 28, 2007, and his Affidavit made May 12, 2014;

- (c) Affidavit of R. Douglas Elliott sworn July 12, 1999;
- (d) Affidavit of Bonnie A. Tough sworn November 25, 1999;
- (e) Affidavit #23 of Sharon D. Matthews sworn January 14, 2010;
- (f) Affidavit of Asvini Krishnamoorthy sworn May 10, 2016;
- (g) Affidavit #4 of Richard Border made March 11, 2015 re-sworn May 9, 2016, his Affidavit #5 made October 14, 2015 re-sworn May 9, 2016, and his Affidavit #6 made March 31, 2016 re-sworn May 9, 2016;
- (h) Affidavit #4 of Peter Gorham sworn April 8, 2015, and his Affidavits sworn January 29, 2016, and April 19, 2016;
- (i) Affidavits #1 and 2 of Dr. Vince Bain sworn March 11, 2015, and March 31, 2016;
- (j) Affidavit #4 of Dr. Murray Krahn sworn March 16, 2015 re-sworn May 4, 2016, and his Affidavit #5 sworn April 1, 2016 re-sworn May 4, 2016;
- (k) Affidavits of Dr. Samuel S. Lee sworn January 26, 2016, and April 20, 2016;
- (l) Affidavits #7, 8, 10 and 13 of Lise Carmichael-Yanish made November 22, 2013, November 26, 2013, December 9, 2013, and April 1, 2016;
- (m) Affidavit #1 of Alan Melamud sworn October 15, 2015;
- (n) Affidavits #1 and 2 of Arnaud Sauvé-Dagenais sworn October 15, 2015, and April 1, 2016;
- (o) Affidavits #1, 2 and 3 of Shelley Woodrich affirmed October 16, 2015, April 1, 2016, and June 16, 2016;
- (p) Affidavit #1 of Chya R. Mogerma sworn October 16, 2015; and
- (q) Affidavit #1 of Julie-Lynn Davis sworn April 1, 2016;

AND THIS ACTION BEING STAYED AGAINST the defendant, the Canadian Red Cross Society by the order of Mr. Justice Blair, made July 20, 1998 in Ontario Superior Court of Justice Action no. 98-CL-002970 (Toronto) and subsequently extended by further orders made on August 18, 1998, October 5, 1998, January 18, 1999, May 5, 1999, July 28, 1999 and February 25, 2000;

AND THIS ACTION BEING STAYED AGAINST the third parties Prince George Regional Hospital, Dr. William Galliford, Dr. Robert Hart Dykes, Dr. Peter Houghton and Dr. John Doe by order of Mr. Justice K. Smith, made May 22, 1997;

THIS COURT ORDERS THAT:

1. Additional assets of the 1986-1990 Hepatitis C Settlement Agreement Trust Fund are required to be allocated to meet ongoing liabilities and therefore the order of this Court, dated July 23, 2015, is varied such that the actuarially unallocated assets of the 1986-1990 Hepatitis C Settlement Agreement Trust Fund as at December 31, 2013 are restated to be in the amount of \$206,920,000 (the "Excess Capital").
2. The restrictions on payments of amounts for loss of income payable under section 4.02(2)(b)(i) of the Transfused HCV Plan and the Hemophiliac HCV Plan (the "Plans") and for loss of support under section 6.01(1) of the Plans, as previously varied by the Courts, are not varied or removed, in whole or in part, at this time.
3. The application of the Attorney General of Canada (dated 29/January/2016) is dismissed.

4. None of the payments allowed by this Order shall in any way modify or affect the financial obligations and the monthly payments of any of the Provincial and Territorial Governments under the 1986-1990 Hepatitis C Settlement Agreement. Nothing in this Order shall amend the 1986-1990 Hepatitis C Settlement Agreement.

5. A discrete HCV Late Claims Benefit Plan funded from Excess Capital, in the amount of \$32,450,000 plus administrative costs of \$51,000 and required capital in an amount to be agreed upon by the Joint Committee and the Attorney General of Canada or directed by the court, be established for the benefit of Class Members (as that term is defined in section 1.01 of the Plans) unable to claim under the Plans because they did not apply prior to June 30, 2010 and are not eligible for the exceptions provided in the Plans and the existing court approved protocols pertaining thereto to provide benefits that are not better or different than the benefits provided to other Class Members, the terms of which shall be prepared by the Joint Committee for approval by the Courts.

6. The sum of \$130,970,000 plus related administrative costs of \$61,000 and required capital in an amount to be agreed upon by the Joint Committee and the Attorney General of Canada or as directed by the Court is allocated for "**HCV Special Distribution Benefits,**" which shall be indexed to the 1st day of January of the year in which they are paid (using the Pension Index in the manner provided in section 7.02 of the Plans, except that for the purpose of these HCV Special Distribution Benefits the reference in the section to the year 1999 be replaced with the year 2014) and paid as special distributions solely from the Excess Capital:

- (a) \$1,143.91 (8.5% of \$10,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.01(1)(a) of the Plans;
- (b) \$2,287.82 (8.5% of \$20,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.01(1)(b) of the Plans;
- (c) \$3,431.72 (8.5% of \$30,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.01(1)(c) of the Plans;
- (d) \$7,435.40 (8.5% of \$65,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.01(1)(d) of the Plans;
- (e) \$11,439.08 (8.5% of \$100,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.01(1)(e) of the Plans;
- (f) \$5,719.54 (8.5% of \$50,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 4.08(2) of the Hemophiliac HCV Plan;
- (g) \$5,719.54 (8.5% of \$50,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 5.01(1) of the Plans;

- (h) \$13,726.89 (8.5% of \$120,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 5.01(2) of the Plans;
- (i) \$8,236.14 (8.5% of \$72,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment under section 5.01(4) of the Hemophiliac HCV Plan;
- (j) \$6,190.56 (\$4,600 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment to a Child 21 years or older under section 6.02(c) of the Plans;
- (k) \$6,190.56 (\$4,600 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for the fixed payment to a Parent under section 6.02(d) of the Plans;
- (l) an amount equivalent to 10% of loss of income payments made to any Class Member who has qualified or who hereafter qualifies under section 4.02(2) of the Plans, subject to a cap of \$20,000 per year for those years prior to 2014 and \$20,000 per year indexed for the years 2014 and following;
- (m) \$32.30 per week (2 hours per week at \$12 per hour in 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for loss of services payments based on the maximum hours permitted per week under sections 4.03(2) and 6.01(2) of the Plans;

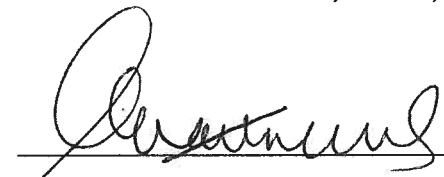
- (n) up to an additional \$13,457.74 per year (\$10,000 1999 dollars adjusted to 2014 dollars) for any Class Member who has qualified or who hereafter qualifies for costs of care compensation under section 4.04 of the Plans for any costs of care incurred in excess of \$67,288.69 per year (\$50,000 per year in 2014 dollars);
 - (o) \$200 (2014 dollars) for each occasion, after August 16, 2016, that a Family Member (as that term is defined in section 1.01 of the Plans) accompanies an HCV Infected Person to his or her medical appointment(s) seeking medical advice or treatment due to his or her HCV infection. For greater certainty, the payment shall be limited to \$200 per occasion irrespective of whether more than one Family Member is in attendance and irrespective of whether the attendance requires more than a single day.
7. Each payment of HCV Special Distribution Benefits that is based upon a prior payment having been made to a Class Member be made by way of lump sum to the Class Member or such other legal representative as may be provided for by the standard operating procedures in place for the administration of the Plans, without the necessity of a further claim or request from the Class Member.
8. The recommendations made by the Joint Committee for payment of additional uninsured funeral expenses and for the elimination of certain deductions on loss of income calculations under the Plans are not approved.

9. The request for removal of the cap recommended by the Joint Committee on maximum income loss to be used to calculate a pension loss benefit made by the objecting Class Member at the joint hearing is not approved.
10. The Joint Committee may apply to the Courts for consideration of special distribution benefits which address the circumstances of Class Members such as Class Members 2213 and 7438.
11. The costs associated with establishing and administering the payments allowed by this Order shall be paid solely from the Excess Capital allocated for HCV Special Distribution Benefits in accordance with paragraph 6 of this Order.
12. Any Excess Capital not utilized to establish and administer the HCV Late Claims Benefit Plan provided for in paragraph 5 of this Order or not paid out as HCV Special Distribution Benefits and/or related administrative costs as provided for by paragraph 6 of this Order shall be retained in the Trust Fund, subject to the motions contemplated in paragraphs 5 and 10 of this Order or future motions made pursuant to the 1986-1990 Hepatitis C Settlement Agreement and/or the settlement approval orders of the Courts.
13. There shall be no costs of the applications, provided however that the \$60,562.22 expense for translation services and webcast video-conferencing of the joint hearing and the \$29,539.29 expense for the joint motion record shall be paid one half by the Trust Fund and one half by the Attorney General of Canada.
14. The Joint Committee and counsel for the Attorney General of Canada shall discuss such changes as may be required to give effect to this Order. In the absence of agreement,

any one of them may apply to the Court for directions. In the event a change is subsequently approved by the Court, any payment made or expense paid pursuant to this Order which is recorded in a manner inconsistent with the approved change shall be rectified so that it is accounted for in accordance with the approved change.


- 15. This Order shall take effect upon the date when the last judgment of the Quebec Superior Court or order of the Ontario Superior Court of Justice, with no material differences, becomes final.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT.



Signature of Counsel for the Joint Committee

SHARON MATTHEWS, Q.C.



Signature of lawyer for the Attorney General of Canada

SARAH-DAWN NORRIS

Signature of British Columbia Fund Counsel
GORDON J. KEHLER

Signature of lawyer for Her Majesty the Queen in Right of the Province of British Columbia

KEITH JOHNSTON


By the Court



Registrar

ENDORSEMENTS ATTACHED



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Signature of Counsel for the Joint
Committee

SHARON MATTHEWS, Q.C.

Signature of lawyer for the Attorney
General of Canada

SARAH-DAWN NORRIS

Signature of British Columbia Fund Counsel

 GORDON J. KEHLER

Signature of lawyer for Her Majesty the
Queen in Right of the Province of British
Columbia

KEITH JOHNSTON

By the Court

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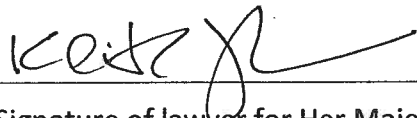
Signature of Counsel for the Joint
Committee

SHARON MATTHEWS, Q.C.

Signature of lawyer for the Attorney
General of Canada

SARAH-DAWN NORRIS

Signature of British Columbia Fund Counsel
GORDON J. KEHLER



Signature of lawyer for Her Majesty the
Queen in Right of the Province of British
Columbia

KEITH JOHNSTON

By the Court

Registrar

In the Supreme Court of British Columbia

Between

Anita Endean, as representative plaintiff

Plaintiff

and

**The Canadian Red Cross Society,
Her Majesty the Queen in Right of the Province of British
Columbia, and The Attorney General of Canada**

Defendants

and

**Prince George Regional Hospital, Dr. William Galliford,
Dr. Robert Hart Dykes, Dr. Peter Houghton,
Dr. John Doe, Her Majesty the Queen in Right of Canada, and
Her Majesty the Queen in Right of the
Province of British Columbia**

Third Parties

Proceeding under the *Class Proceedings Act*, R.S.B.C 1996, C. 50

ORDER MADE AFTER APPLICATION

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