

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

DIANNA LOUISE PARSONS, MICHAEL HERBERT CRUICKSHANKS, DAVID TULL,  
MARTIN HENRY GRIFFEN, ANNA KARDISH, ELSIE KOTYK, Executrix of the Estate of Harry Kotyk,  
deceased and ELSIE KOTYK, personally

Plaintiffs

and

THE CANADIAN RED CROSS SOCIETY, HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO and  
THE ATTORNEY GENERAL OF CANADA

Defendants

and

HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF ALBERTA  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF SASKATCHEWAN,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF MANITOBA,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NEW BRUNSWICK  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF PRINCE EDWARD ISLAND,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NOVA SCOTIA  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NEWFOUNDLAND,  
THE GOVERNMENT OF THE NORTHWEST TERRITORIES,  
THE GOVERNMENT OF NUNAVUT and THE GOVERNMENT OF THE YUKON TERRITORY

Intervenors

**Proceeding under the *Class Proceedings Act, 1992***

Court File No. 98-CV-146405

B E T W E E N:

JAMES KREPPNER, BARRY ISAAC, NORMAN LANDRY, as Executor of the Estate of the late  
SERGE LANDRY, PETER FELSING, DONALD MILLIGAN, ALLAN GRUHLKE, JIM LOVE and  
PAULINE FOURNIER as Executrix of the Estate of the late PIERRE FOURNIER

Plaintiffs

and

THE CANADIAN RED CROSS SOCIETY, THE ATTORNEY GENERAL OF CANADA and  
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO

Defendants

and

HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF ALBERTA,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF SASKATCHEWAN,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF MANITOBA,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NEW BRUNSWICK,  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF PRINCE EDWARD ISLAND  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NOVA SCOTIA  
HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF NEWFOUNDLAND,  
THE GOVERNMENT OF THE NORTHWEST TERRITORIES,  
THE GOVERNMENT OF NUNAVUT AND THE GOVERNMENT OF THE YUKON TERRITORY

Intervenors

**Proceeding under the *Class Proceedings Act, 1992***

**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**

C A N A D A  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO : 500-06-000016-960

SUPERIOR COURT  
Class action

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DOMINIQUE HONHON

Plaintiff

-vs-

THE ATTORNEY GENERAL OF CANADA  
THE ATTORNEY GENERAL OF QUÉBEC  
THE CANADIAN RED CROSS SOCIETY

Defendants

-and-

MICHEL SAVONITTO, in the capacity of the Joint  
Committee member for the province of Québec

PETITIONER

-and-

FONDS D'AIDE AUX RECOURS COLLECTIFS

-and-

LE CURATEUR PUBLIC DU QUÉBEC

Mis-en-cause

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C A N A D A  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

NO : 500-06-000068-987

SUPERIOR COURT  
Class action

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DAVID PAGE

Plaintiff

-vs-

THE ATTORNEY GENERAL OF CANADA  
THE ATTORNEY GENERAL OF QUÉBEC  
THE CANADIAN RED CROSS SOCIETY

Defendants

-and-

FONDS D'AIDE AUX RECOURS COLLECTIFS

-and-

LE CURATEUR PUBLIC DU QUÉBEC

Mis-en-cause

## NOTICE OF MOTION

The Joint Committee will make a motion before Justice Perell on June 20-22, 2016 at a Courthouse to be determined in Toronto, Ontario

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

### THE MOTION IS FOR:

1. A declaration that the Trustee of the 1986-1990 Hepatitis C Settlement Agreement (the "Settlement Agreement") holds \$206,920,000 actuarially unallocated money and assets as at December 31, 2013 (the "**Excess Capital**").
2. An order that the restrictions on payments of amounts for loss of income claims in section 4.02(2)(b)(i) of the Transfused HCV Plan and section 4.02(2)(b)(i) of the Hemophiliac HCV Plan and for loss of support under section 6.01(1) of the Transfused HCV Plan and section 6.01(1) of the Hemophiliac HCV Plan, as previously varied, not be varied or removed in whole or in part at this time.
3. An order that the Court exercise its unfettered discretion to allocate the Excess Capital for the benefit of Class Members and Family Class Members by approving the following:
  - (a) the Court Approved Protocol for Late Claim Requests following the June 30, 2010 First Claim Deadline, attached as Appendix "A", to permit Class Members who missed the June 30, 2010 First Claim Deadline to apply to receive an Initial Claim Package and have his or her Claim processed in circumstances where they have satisfied a Referee that their delay was for reasons beyond their control or there is a reasonable explanation for their delay;
  - (b) a 10% increase in the fixed payments made pursuant to: section 4.01(1) of the Transfused HCV Plan; the \$50,000 (1999 dollars) fixed payment made pursuant to 5.01(1) of the Transfused HCV Plan; the \$120,000 (1999 dollars) fixed payment made pursuant to 5.01(2) of the Transfused HCV Plan; the fixed payments made pursuant to section 4.01 of the Hemophiliac HCV Plan; the \$50,000 (1999 dollars) fixed payment made pursuant to s.4.08(2) of the Hemophiliac HCV Plan; the \$50,000 (1999 dollars) fixed payment made pursuant

to s. 5.01(1) of the Hemophilic HCV Plan, the \$120,000 (1999 dollars) fixed payment made pursuant to s. 5.01(2) of the Hemophilic HCV Plan and the \$72,000 (1999 dollars) fixed payment made pursuant to 5.01(4) of the Hemophilic HCV Plan, made retroactively and prospectively;

- (c) an increase from \$5,000 (1999 dollars) to \$10,000 (1999 dollars) in the fixed payment to a Child 21 years or older at the date of death of an HCV Infected Person pursuant to section 6.02(c) of the Transfused HCV Plan and section 6.02(c) of the Hemophilic HCV Plan, made retroactively and prospectively;
- (d) an increase from \$5,000 (1999 dollars) to \$10,000 (1999 dollars) in the fixed payment to a Parent pursuant to section 6.02 (d) of the Transfused HCV Plan and section 6.02(d) of the Hemophilic HCV Plan, made retroactively and prospectively;
- (e) a retroactive payment of the amounts deducted for Canada Pension Plan (“**CPP**”) disability payments, disability insurance, Employment Insurance (“**UEI/EI**”) and Multi-Provincial and Territorial Assistance Program (“**MPTAP**”) from loss of income and loss of support claims in sections 4.02 and 6.01(1) of the Transfused HCV Plan and sections 4.02 and 6.01(1) of the Hemophilic HCV Plan, and discontinuing such deductions from loss of income and loss of support claims prospectively;
- (f) a 10% increase on loss of income and loss of support payments made pursuant to Section 4.02 of the Transfused HCV Plan and section 4.02 of the Hemophilic HCV Plan, subject to a cap on the income to which the increase is applied of \$200,000 for years prior to 2014 and \$200,000 indexed for years 2014 forward, to provide compensation for diminished pension due to disability, made retroactively and prospectively;
- (g) an increase in the maximum hours on which a loss of services claim can be based pursuant to sections 4.03(2) and 6.01(2) of the Transfused HCV Plan and section 4.03(2) and 6.01(2) of the Hemophilic HCV Plan from the equivalent of 20 hours per week to 22 hours per week, made retroactively and prospectively;

- (h) an increase in the limit on cost of care compensation in section 4.04 of the Transfused HCV Plan and section 4.04 of the Hemophilic HCV Plan from \$50,000 per annum (1999 dollars) to \$60,000 per annum (1999 dollars), made retroactively and prospectively;
  - (i) a \$200 (2014 dollars) allowance payable to a Family Member (as that term is defined in section 1.01 of the Transfused HCV Plan and section 1.01 of the Hemophilic HCV Plan) who accompanies an HCV Infected Person to a medical appointment seeking medical advice or treatment due to his or her HCV infection, in addition to the out of pocket expenses recoverable under section 4.07(a) of the Transfused HCV Plan and section 4.07(a) of the Hemophilic HCV Plan, payable prospectively;
  - (j) an increase in the limit on reimbursement of funeral expenses in sections 5.01(1) and 5.02(1) of the Transfused HCV Plan and sections 5.01(1) and 5.02(1) of the Hemophilic HCV Plan, from \$5,000 (1999 dollars) to \$10,000 (1999 dollars), made retroactively and prospectively; and
  - (k) payment of the costs associated with administering the foregoing benefits.
4. An order that all retroactive payments to be made under paragraph 3 shall be made by way of lump sum to the Class Member and/or Family Class Member or their Personal Representative as that term is defined in section 1.01 of the Transfused HCV Plan and section 1.01 of the Hemophilic HCV Plan.
  5. An Order that all allocation benefits payable to Class Members and Family Class Members under paragraph 3 shall be paid from the Invested Fund (as defined below).
  6. An order that the remaining Excess Capital shall be retained within the Trust Fund subject to any further application by the Joint Committee.
  7. Such further and other relief as counsel may request and this Honourable Court may direct.

## **THE GROUNDS FOR THE MOTION ARE:**

### **Background**

1. In the fall of 1999, a settlement of the January 1, 1986 to July 1, 1990 Hepatitis C class actions was approved by the courts in Ontario, British Columbia and Quebec (the “**Courts**”).
2. The consent orders modifying and approving the Settlement Agreement allow the Joint Committee or any party to apply to the Courts when there are actuarially unallocated money and other assets held by the Trustee and they give the Courts the unfettered discretion to decide what to do with any such excess assets.

### **Financial Sufficiency and Actuarially Unallocated Assets**

3. Following the triennial financial sufficiency review triggered on December 31, 2013, the Courts issued consent orders declaring that, after taking into account an amount to protect the Class Members from major adverse experience or catastrophe (the “**Required Capital**”), the Trust assets exceeded the liabilities by an amount between \$236,341,000 and \$256,594,000 as of December 31, 2013.
4. The amounts by which the Trust assets exceed the liabilities calculated by the Joint Committee’s actuaries, Eckler Ltd., did not take into account that Class Members below Level 3 who meet the protocol for treatment are reclassified as Level 3 and therefore eligible to the fixed payment at Level 3 set out in section 4.01(1)(c) of the Plans. The Joint Committee instructed Eckler Ltd. to calculate what effect this has on the liabilities. The liabilities increase by \$29,421,000.
5. When the liabilities are restated to take into account this increase, the assets exceed the liabilities by \$206,920,000. From an actuarial perspective, \$206,920,000 of the assets held in the Trust are actuarially unallocated. These actuarially unallocated assets are excess capital (“**Excess Capital**”).
6. The assets of the Trust include the settlement funds paid at the outset by the Federal Government and invested under the terms of the Settlement Agreement and the Funding Agreement (“**Invested Fund**”) and the obligation of the Provincial and Territorial Governments

to pay their 3/11th share of the liabilities as they arise to a maximum of 3/11ths of \$1.118 billion plus treasury bill rate interest. (“**PT Notional Fund**”).

7. On the current actuarial projections, the PT Notional Fund is insufficient to pay 3/11ths of the total liabilities and will be exhausted by the year 2026. The Invested Fund is more than sufficient to pay the 8/11ths of the liabilities and the shortfall in the PT Notional Fund. The shortfall in the PT Notional Fund is accounted before Excess Capital is realized. All of the Required Capital has been allocated to the Invested Fund and all of the Excess Capital is in the Invested Fund.

8. If the allocation benefits recommended by the Joint Committee ( the “**Allocation Benefits**”) are paid from the Excess Capital in the Invested Fund, then no call will be made on the PT Governments to fund the Allocation Benefits. The PT Notional Fund shortfall will not change and it will exhaust in 2026 (based on the current actuarial projections).

#### **Class Member and Family Member Communications, Consultations and Submissions**

9. The Joint Committee decided that its ability to make recommendations to the Courts on allocating Excess Capital for the benefit of class members and family members should be informed, in part, by hearing directly from as many members of the class as possible as to the how infection with HCV affects them and how the compensation under the Plans addresses or fails to address the reality of the disease.

10. The Joint Committee held consultation sessions in Vancouver, Toronto and Montreal, which were webcast live over the internet to enable class members and family members to participate nationally, as well as in Hamilton, Edmonton, Saskatoon and Dartmouth. 486 people attended these sessions in person or through the webcast.

11. Class members and family class members were also invited to communicate with the Joint Committee by telephone or by written submissions. Numerous telephone calls were received and over 600 written submissions by and on behalf of class members and family members have been received to date. Written submissions were also received from the Canadian Hemophilia Society, Action Hepatitis Canada and the Manitoba Public Guardian and Trustee.



12. From the written submissions, telephone calls and consultation sessions the Joint Committee formed the strong impression that class members and family class members continue to struggle notwithstanding the compensation received to date.

### **The Joint Committee's Recommendations on Allocation of Excess Assets**

13. Based on the input received from class members and family members, the administrator, appeals taken from decisions which exposed perceived shortfalls in compensation, as well as Joint Committee members' views of shortfalls in compensation compared to the tort model and their own observations during the course of the administration, the Joint Committee developed a comprehensive list of issues and possible benefits to class members and family class members. It requested its actuaries to cost a list of possible benefits and requested the Administrator to estimate the cost of administering those benefits.

14. The estimated costs of possible benefits far exceed the Excess Capital available. Because of the limits on the funds available at this time and the competing interest of other benefits to be addressed, the Joint Committee was required to limit its recommendations.

15. The Joint Committee proposes that the Excess Capital be allocated to benefit class members and family class members as follows.

#### ***(i) Late Claims -- Proposed Court Approved Protocol***

16. As at September 30, 2015, the Administrator had received 246 late claim requests after the June 30, 2010 First Claim Deadline from persons who do not meet the exceptions to the deadline listed in the Plans and the court approved protocols in place. Over the last 3 years, approximately two late claim requests per month are made.

17. The proposed Court Approved Protocol for Late Claim Requests permits class members who missed the June 30, 2010 First Claim Deadline to apply to receive an Initial Claim Package and have his or her Claim processed in circumstances where they have satisfied a Referee that their delay was for reasons beyond their control or there is a reasonable explanation for their delay.

18. The persons who would be governed by the proposed Court Approved Protocol are class members who, by virtue of the Settlement Agreement and the settlement approval orders, have released their claims.

19. The value of this Allocation Benefit is approximately \$32,399,000 before administration expenses and \$32,450,000 inclusive of administrative expenses.

***(ii) A 10% increase in fixed payments***

20. Pursuant to section 4.01(1) of the Plans, the following amounts (in 1999 dollars) are payable at the following disease levels to all persons alive when they claim and the estates of all persons who died after January 1, 1999:

(a) disease level 1: \$10,000 where the Hepatitis C antibody is present in the blood;

(b) disease level 2: \$20,000 where the Hepatitis C virus is present in the blood;

(c) disease level 3: \$30,000 where there is non-bridging fibrosis of the liver due to HCV or where compensable HCV Drug Therapy is recommended or taken;

(d) disease level 5: \$65,000 where cirrhosis, porphyria cutanea tarda, thrombocytopenia or glomerulonephritis develops due to HCV; or

(e) disease level 6: \$100,000 where liver transplant, HCC, decompensation of the liver, B-cell lymphoma, cryoglobulinemia, glomerulonephritis requiring dialysis or renal failure develops due to HCV.

21. The foregoing amounts are cumulative and total \$225,000 in 1999 dollars. In 1999, the upper limit on non-pecuniary damages payable under the trilogy of Supreme Court of Canada decisions was \$260,500.

22. The Hemophiliac HCV Plan offers an alternative election in respect of class members co-infected with HIV. Pursuant to section 4.08(2) of the Hemophiliac HCV Plan, a hemophiliac class member co-infected with HIV may elect to be paid \$50,000 (1999 dollars) in full satisfaction of all claims past present or future including potential claims by his or her dependents or other family members.

23. The estate of a person who died before January 1, 1999 may claim an all-inclusive sum of \$50,000 in respect of pre-death losses including pain and suffering and loss of enjoyment of life.

24. The Plans contains a lump sum alternative to the \$50,000 payment. The estate, the dependants and the family class members may agree to collectively claim an all-inclusive lump sum of \$120,000 in lieu of the \$50,000 payment for pre-death losses and all post-death losses (except funeral expenses) such as Family Member payments and dependency claims.

25. The Hemophiliac HCV Plan also offers an alternative election in respect of deceased class members co-infected with HIV. Pursuant to section 5.01(4) of the Hemophiliac HCV Plan, the estate, dependents and other family members of a hemophiliac class member co-infected with HIV who died prior to January 1, 1999 may collectively claim \$72,000 (1999 dollars) in full satisfaction of all their claims, except funeral expenses.

26. The Joint Committee recommends an increase of 10% retroactively and prospectively in respect of all fixed payments under the Plans at this time. If this recommendation is accepted, persons at level 6 of the disease will move closer to, but not over, the amount prescribed by the trilogy.

27. The value of this Allocation Benefit is approximately \$51,266,000 before administration expenses and \$51,392,000 of administrative expenses.

***(iii) Family Class Member Payments – an increase of \$5,000 (1999 dollars) in the fixed payments to a Child 21 years or older and to a Parent***

28. Family class members of a class member whose death was caused by his or her infection by HCV are entitled to be paid fixed amounts for loss of guidance, care and companionship.

29. At the time of the settlement, there was variation in the common law and statutory entitlements to such benefits across Canada. At present, more provinces have legislated fixed quantum for various family member awards however even the newer legislation is not uniform across the country.

30. The Joint Committee received many submissions about the inadequacy of these awards provided under the Settlement Agreement.

31. While the Joint Committee considered recommending increases to each of these awards, because of the limits on the funds available at this time and the competing interest of other benefits to be addressed, it is only recommending at this time that the benefits for children 21 years or older and the benefits of parents be increased by \$5,000 (1999 dollars), retroactively and prospectively.

32. The Joint Committee believes that the benefits payable to children 21 years or older and to parents are significantly out of line with the award to spouses and to children under age 21 having regard to the fact that parent, child and spouse are all first degree of consanguinity/affinity family members and having regard to the common law and legislation pertaining to such compensation.

33. The value of this Allocation Benefit is approximately \$22,162,000 before administration expenses and \$22,449,000 inclusive of administrative expenses.

***(iv) Eliminate Deductions of Collateral Benefits In Calculating Loss of Income and Loss of Support Claims***

34. The provisions of sections 4.02(2)/6.01(1) of the Plans relating to the calculation of loss of income and loss of support claims exclude collateral income from being included in pre-claim net income yet require any such collateral benefits to be deducted as post-claim net income, which significantly reduces the recovery of actual income loss.

35. The claims data demonstrates that class members have had significant amounts deducted in their income loss calculation for CPP/QPP disability, UEI/EI, sickness, accident or disability insurance, and EAP/MPTAP/Nova Scotia Compensation Plan in respect of HIV.

36. The Joint Committee recommends at this time that the deduction of collateral benefits as post-claim net income be eliminated from the calculation of annual loss of net income.

37. The value of this Allocation Benefit is approximately \$27,539,000 before administration expenses and \$27,682,000 inclusive of administrative expenses.

***(v) Compensation for Diminished Pension Benefits***

38. The Settlement Agreement and Plans do not provide compensation for loss of pension including CPP pensions, employment-related pension benefits or private pension arrangements

such as registered retirement savings plans or individual pension plans. Second, the Plans do not have any provision for pension loss suffered by class members as a result of their infection with HCV.

39. The pension benefits that class members may have had would vary widely and it would be difficult to calculate an amount to be paid in the pensionable years to compensate for a diminished or lost pension. It is possible to increase loss of income and loss of support by a percentage to represent the pension benefit lost due to decreased or lost employment. A reasonable level of retirement income can be accumulated with a pension based on 20% of pay. On average, pensions are funded at half that rate. Including the employer contribution to CPP of up to 4.95%, overall a reasonable rate of compensation for the loss of pension benefits is 14%.

40. The Joint Committee was not able to recommend 14% because of the limits on the funds available at this time and the competing interest of other benefits to be addressed. At this time the Joint Committee recommends that 10% of gross loss of income (loss of income capped at \$200,000 prior to 2014 and indexed thereafter) be paid to compensate for lost pension benefits.

41. The value of this Allocation Benefit is approximately \$19,787,000.

***(vi) Increase Loss of Services from 20 hours per week to 22 hours per week***

42. Claims for loss of services in the home under section 4.03 of the Plans are equivalent to a maximum of 20 hours per week recoverable at a rate of \$12 per hour (1999 dollars) for class members at disease level 4 or higher and for class members at level 3 who waive the level 3 fixed payment and who are at least 80% disabled. Loss of income and loss of services in the home are alternative benefits - a class member cannot claim both in respect of the time same period.

43. If the class member is deceased, his or her dependants may make a claim for loss of services the deceased would have provided if the deceased's death was caused by infection with HCV, provided that loss of support is not claimed for the same period.

44. Loss of services in the home is payable for the lifetime of the infected person and then until the earlier of the death of the dependant or the statistical lifetime of the deceased class member without regard to his or her HCV infection. Class members who claimed loss of income or loss of support may claim loss of services when the entitlement to loss of income/support

terminates due to the class member reaching age 65 or on what would have been the 65th birthday of a deceased class member.

45. The Administrator's data demonstrates that for the majority of class members, 20 hours is less than full compensation. In addition, class members have reported to the Joint Committee that the per hour dollar rate is lower than what they pay to replace the services.

46. The Joint Committee considered increases to both the number of hours reimbursed and the hourly rate of this compensation. It also considered three different scenarios for extending the duration of the payments and whether these benefits and loss of income/support should be mutually exclusive. Because of the limits of the funds available and the competing interests of other benefits to be addressed, the Joint Committee recommends at this time an increase in the maximum number of hours compensated by 2 hours per week (for a total of 22 hours), payable retroactively and prospectively.

47. The value of this Allocation Benefit is approximately \$34,561,000 before administration expenses and \$34,756,000 inclusive of administrative expenses.

***(vii) Increase Maximum Payable for Cost of Care from \$50,000 (1999 dollars) to \$60,000 (1999) dollars per annum***

48. Section 4.04 of the Plans provide for compensation for costs of care where a class member at disease level 6 incurs such costs. The compensation payable for costs of care is up to \$50,000 (1999 dollars) per calendar year.

49. The Administrator estimated that the current maximum reimbursement for this benefit is inadequate to cover the costs incurred in 10% to 15% of these cases. The Joint Committee also heard from some class members and family class members that in some cases care is or was required at disease levels below level 6. The Joint Committee considered recommending that this benefit become available at a lower disease level and that the amount of this award be increased.

50. Because of the limits on the funds available and the competing interests of other benefits to be addressed, the Joint Committee recommends at this time that the maximum award for costs of care be increased by \$10,000 (in 1999 dollars for a total of \$60,000 per year), payable retroactively and prospectively.

51. The value of this Allocation Benefit is approximately \$627,000 plus approximately \$2,000 in administration costs.

***(viii) Include a \$200 Allowance for Family Members who accompany HCV Infected Persons to HCV Medical Appointments***

52. Class members at any disease level may claim reimbursement for uninsured treatment and medication costs and out-of-pocket expenses in accordance with the provisions of sections 4.06 and 4.07 of the Plans.

53. The Joint Committee heard from class members and family class members that time, vacation/sick days and/or wages were lost by family class members when they accompanied class members to required HCV related medical appointments.

54. The Joint Committee recommends that at this time that the benefits under out-of-pocket expenses include an amount of \$200 (2014 dollars) per visit payable prospectively in those circumstances where a family class member accompanies a class member to his or her medical appointment seeking medical advice or treatment due to his or her HCV infection.

55. The value of this Allocation Benefit is approximately \$1,957,000.

***(ix) Increase Cap on Funeral Expenses from \$5,000 (1999 dollars) to \$10,000 (1999 dollars)***

56. The Plans provide at sections 5.01 and 5.02 for payment of an amount up to \$5,000 (1999 dollars) to reimburse uninsured funeral expenses incurred in respect of a deceased class member whose death was caused by his or her infection with HCV. This payment is also subject to a deduction of collateral benefits received pursuant to section 8.03 of the Plans.

57. The claims data and the submissions made by claimants demonstrate that the amount of \$5,000 is inadequate to reimburse the expenses incurred by the majority of the claimants who have claimed this benefit.

58. The Joint Committee considered recommending that the collateral benefit reduction be removed and that the maximum reimbursement under this benefit be increased. However, because of the limits on the funds available and the competing interests of other benefits to be addressed and because the claims data shows that more claimants will benefit from an increase in the maximum amount payable, it recommends at this time an increase of the maximum award for

funeral expenses by \$5,000 (in 1999 dollars for a total of \$10,000) payable retroactively and prospectively.

59. The value of this Allocation Benefit is approximately \$2,050,000 before administrative expenses and \$2,093,000 inclusive of administrative expenses.

**(x) *Administrative Expenses***

60. The Administrator has provided estimates for the cost of administering the Joint Committee's recommended allocation benefits, and these costs have been included in the actuarial estimates.

61. In addition, the Administrator has advised that there will be costs associated with making payments to estates which are not specific to any of the Allocation Benefits but will arise because some class members and family class members will have passed away since they were last paid compensation or other complications. These costs are estimated to be \$61,000 and have been included as a separate line item in the costs of the benefits proposed to be allocated from the Excess Capital.

**Required Capital**

62. The future costs of the Allocation Benefits impact required capital. The total impact on required capital due to the Allocation Benefits is \$12,167,000.

**Total Recommended Allocation Benefits**

63. The Allocation Benefits total \$205,422,000, including administrative expenses and the increase to required capital. This is slightly less, by \$1,498,000, than the Excess Capital. The Joint Committee recommends that these additional funds be retained by the Trustee, subject to a further application by the Joint Committee to fund, among other things, a replacement of the software used in the administration of the settlement and to provide assistance to class members in dealing with the administrator and the paperwork required under the settlement.



### **The Existing Restrictions on Payments For Loss of Income Claims and Loss of Support Claims Should Be Maintained**

64. The Plans as originally approved contained certain restrictions on payments pertaining to the disease level 2 fixed payment and loss of income and loss of support payments. Restrictions are required to be reviewed by the Courts on the triennial financial sufficiency assessments.

65. In July 2002, the Courts ordered that the restriction upon payment pertaining to the disease level 2 lump sum payment contained in section 4.01(1)(b) of the Plans be deleted, that all postponed payments be made to class members inclusive of interest, and that future payments at disease level 2 include the full \$20,000 benefit for that level.

66. In 2004, the Courts addressed the restrictions pertaining to loss of income and loss of support. They ordered that the 70% restriction on loss of income calculation at section 4.02(2) and the loss of support calculation at section 6.01(1) be deleted and that the incremental amount owed to class members affected by the restriction be paid out with interest. The Courts further ordered that the \$75,000 cap on pre-claim gross income at section 4.02(2)(b)(i) of the Plans be deleted and replaced with a \$300,000 restriction on pre-claim gross income.

67. In early 2008, the Courts reassessed the loss of income restriction on pre-claim gross income at section 4.02(2)(b)(i) by amending the section so that pre-claim gross income used in calculating a claimants loss of income was restricted to \$2.3 million (1999 dollars) (instead of the previous \$300,000) subject to approval by the Court with jurisdiction for claims where the pre-claim gross income exceeds \$300,000 (1999 dollars).

68. The Courts also ordered in 2008 and 2013 that the past and future loss of income claims of four claimants (one with annual pre-claim gross income of \$2.3 million in 1999 dollars) be approved. Of the four claimants approved by the Courts for these claims: (a) one died in 2010 after reaching age 65; (b) one is now over 65 years old; (c) one whose entitlement runs until 2024 had a net income loss in 2014 of \$1.5 million; and (d) one whose entitlement runs until 2034 had a net income loss in 2014 of \$340,000.

69. The Courts have not revisited the restriction on loss of income since 2008. In accordance with the amendment made at that time, the pre-claim gross income is restricted to \$2.3 million.

70. For the purposes of its 2013 sufficiency opinion, Eckler Ltd. was instructed to assume that the restriction on pre-claim gross income would remain at \$2.3 million and has maintained this assumption for its costing of the Joint Committee's recommendations for allocating Excess Capital. While it is statistically unlikely that another very large loss of income claim will be submitted, it is prudent to retain the restriction in the form that it currently exists.

71. The factors which the Courts may consider in exercising their discretion under the settlement approval orders support the Excess Capital being allocated in the manner proposed by the Joint Committee. Among other things, the Allocation Benefits respect the integrity of Settlement Agreement, do not create any risk that the benefits in the Plans will not be paid, are consonant with the experience of the Trust Fund and the class members and family class members, and reflect the changes in the medical model and medical understanding of the disease. Allocating and distributing the Excess Capital to benefit class members and family class members in the manner proposed at this time is also the course most consistent with the fact that the FPT Governments' contributions were capped and class members and family class members bore the risk of insufficiency.

72. The 1986-1990 Hepatitis C Settlement Agreement, the Transfused HCV Plan, the Hemophiliac HCV Plan, and the Funding Agreement.

73. Section 9 of the Judgment dated October 22, 1999.

74. *The Class Proceedings Act, 1992*, S.O. 1992, c. 6.

75. Decisions regarding settlement:

- *Parsons v. Canadian Red Cross Society*, [1999] O.J. No. 3572
- *Honhon v. The Attorney General of Canada*, [1999] Q.J. No. 4370 (S.C.)
- *Endean v. Canadian Red Cross Society*, [1999] B.C.J. No. 2180 (S.C.)

76. Orders approving Settlement (and in Québec, modifying the approval granted):

- Order of the Superior Court of Ontario, made October 22, 1999
- Order of the Québec Superior Court, made November 19, 1999

- Order of the Supreme Court of British Columbia, made October 28, 1999

77. November 2001 orders that the claims deadlines in s.3.05, 3.06 and 3.07 of the Transfused HCV Plan and sections 3.04(1), 3.05 and 3.06 of the Hemophiliac HCV Plan commenced to run on March 12, 2001 rather than the approval date of the Settlement Agreement

- Order of the Superior Court of Ontario, made on November 14, 2001
- Order of the Québec Superior Court, made on January 11, 2002
- Order of the Supreme Court of British Columbia, made November 14, 2001

78. Orders from July 2002, courts asked to reassess the first restriction – the \$5,000 holdback in respect of the disease level 2 fixed payment, ordered that the restriction upon payment contained in section 4.01(1)(b) of the Plans be deleted, that all postponed payments in respect of disease level 2 be made to class members inclusive of interest and that future claims at disease level 2 be paid to the full \$20,000 benefit:

- Order of the Superior Court of Ontario, made July 11, 2002
- Order of the Québec Superior Court, made July 11, 2002
- Order of the Supreme Court of British Columbia, made July 12, 2002

79. In February 2004, the Courts approved a protocol entitled “Requirements for the Exceptional Filing of Claims after applicable Time Limits”:

- Order of the Superior Court of Ontario, made February 5, 2004
- Order of the Québec Superior Court, made December 4, 2003
- Order of the Supreme Court of British Columbia, made December 19, 2003

80. October 2004, courts addressed remaining two restrictions – limits on loss of income in or about October 2004. Ordered that 70% restriction on the loss of income calculation and loss of support be deleted and that \$75,000 cap be replaced with \$300,000:

- Order of the Superior Court of Ontario, made October 19, 2004
- Order of the Québec Superior Court, made July 7, 2004
- Order of the Supreme Court of British Columbia, made June 30, 2004

81. February 2008 courts reassessed loss of income. Amended plan. Raise pre claim gross income to 2.3 million subject to approval by court with jurisdiction for claims where the pre-claim gross income exceeds \$300,000:

- Order of the Superior Court of Ontario, made February 1, 2008
- Order of the Québec Superior Court, made January 17, 2008
- Order of the Supreme Court of British Columbia, made January 25, 2008

82. June/July 2012 revoking protocol issuing Issuance of Initial Claim Packages after June 30, 2010 deadline”, also approved Recent HCV Diagnosis Exception to the June 30, 2010 First Claim Deadline

- Order of the Superior Court of Ontario, made June 11, 2012;
- Orders of the Québec Superior Court made June 27, 2012 and July 23, 2012;
- Order of the Supreme Court of British Columbia, made May 15, 2012;

83. Decisions of the courts regarding late claims issue

- *Parsons v. The Canadian Red Cross Society*, 2013 ONSC 7788;
- *Honhon v. The Attorney General of Canada*, 2014 QCCS 2032 (included is also unofficial English version);
- *Endean v. The Canadian Red Cross Society*, 2014 BCSC 621;

84. Financial sufficiency orders 2013

- Order of the Superior Court of Ontario, made July 10, 2015;

- Order of the Québec Superior Court, made July 16, 2015;
- Order of the Supreme Court of British Columbia, made July 23, 2015

85. Such further and other grounds as counsel may advise and this Honourable Court may permit

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

***New Affidavits***

- Affidavit #13 of Heather Rumble Peterson, made October 16, 2015;
- Affidavit #5 of Richard Border, made October 14, 2015;
- Affidavit #1 of Chya Mogerman, made October 16, 2015;
- Affidavit of Alan Melamud, made October 15, 2015;
- Affidavit of Shelley Woodrich, made October 15, 2015;
- Affidavit of Arnaud Sauvé-Dagenais, made October 15, 2015;

***Previously Delivered Affidavits***

- Affidavit of J.J. Camp, made November 23, 1999;
- Affidavit of R. Douglas Elliott, made July 12, 1999;
- Affidavit of Heather Rumble Peterson, made November 23, 1999 (Ontario);
- Affidavit of Bonnie A. Tough, made November 25, 1999 (Ontario);
- Affidavit #23 of Sharon D. Matthews, made January 14, 2010;
- Affidavit #5 of Heather Rumble Peterson, made August 7, 2012;

- Affidavit #9 of Heather Rumble Peterson, made November 22, 2013;
- Affidavit #7 of Lise Carmichael-Yanish, made November 22, 2013;
- Affidavit #8 of Lise Carmichael-Yanish, made November 26, 2013;
- Affidavit #10 of Heather Rumble Peterson, made November 25, 2013;
- Affidavit #10 of Lise Carmichael-Yanish, made December 9, 2013;
- Affidavit #4 of Richard Border, made March 11, 2015;
- Affidavit #1 of Dr. Vince Bain, made March 11, 2015;
- Affidavit #4 of Murray Krahn, made March 16, 2015;
- Such further and other evidence as counsel may advise and this Honourable Court may permit.

October 16, 2015

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Appendix “A”

**COURT APPROVED PROTOCOL  
Late Claim Requests following the  
June 30, 2010 First Claim Deadline**

approved as of June 2016

1. The Court Approved Protocol—Requirements for the Exceptional Filing of Claims after Applicable Time Limits shall not have any force and effect after June 30, 2010.

**Late Claim Request**

2. In the circumstances where the Administrator receives a request for an Initial Claim Package after the June 30, 2010 first claim deadline from a person who is unable to qualify to receive an Initial Claim Package and have his or her Claim processed under any other Court Approved Protocol or existing order, the request shall be referred to as a “**Late Claim Request.**”
3. Where a Late Claim Request is sought to be made, the Administrator shall request a signed statement from the person making the Late Claim Request which:
  - (a) sets out why the person is seeking to make a claim after the first claim deadline; and
  - (b) recites the facts he or she is relying upon in seeking to be relieved from the deadline.
4. The Administrator shall advise the person making the Late Claim Request in writing that he or she has sixty (60) days to deliver the signed statement to the



Administrator for consideration by the Referee appointed by the Courts to consider Late Claim Requests on a summary basis and that, if he or she fails to do so, he/she will be required to seek an order from the Court having jurisdiction to determine if his or her Claim will be permitted to proceed.

5. If the person making the Late Claim Request fails to deliver the signed statement to the Administrator in sixty (60) days, the Administrator shall notify the person making the Late Claim Request in writing that he/she must seek an order from the Court having jurisdiction to determine if the Claim will be permitted to proceed.

#### **Referral to Referee**

6. The Administrator shall forthwith deliver each timely signed statement it receives to the Referee appointed by the Courts to consider Late Claim Requests together with the Administrator's information setting out the first contact with the person making the Late Claim Request and any other information it has relevant to the request.
7. The Referee appointed by the Courts to consider Late Claim Requests on a summary basis shall determine whether an Initial Claim Package shall issue based upon the following guidelines:
  - (a) Late Claim Requests by persons who did not receive timely notice of the deadline until after it had passed should be allowed if, in the opinion of the

Referee, the Late Claim Request was made within a reasonable time after notice was acquired;

- (b) Late Claims Requests by persons whose failure to meet the deadline was due to matters that, in the opinion of the Referee, should reasonably be considered to be beyond their control or is otherwise a reasonable explanation for their delay, should be allowed;
- (c) Late Claim Requests made by persons who had notice of the deadline before it expired should be disallowed unless they meet the exception in paragraph 7(b) above or, in the opinion of the Referee, the timing of the receipt of such notice was inadequate for the purpose of making a Claim;  
and
- (d) any other Late Claim Requests and those where the Referee is uncertain as to the appropriate application of the above guidelines should be referred by the Referee in writing to the appropriate Court to be dealt with summarily.

8. The Referee shall have the power to establish any procedures he or she considers necessary and proper to consider the Late Claim Request on a summary basis and shall have the power to require additional submissions from the person making the Late Claim Request and/or the Administrator either orally or in writing and whether admissible in a court of law or not, as he or she considers proper.

9. The Referee shall give a written decision within sixty (60) days of his/her receipt of the Late Claim Request which decision will be automatically confirmed and be final and binding unless the person making the Late Claim Request serves and files a notice of motion with the Court having jurisdiction opposing confirmation within thirty (30) days of the delivery of the Referee's decision.
  
10. The provisions of section 10.04 and Appendix C of the Plans shall have no application to the summary procedure established by this Court Approved Protocol.

#### **Issuance of an Initial Claim Package**

11. Where the Referee determines an Initial Claim Package shall issue to a person making a Late Claim Request, the Administrator shall forthwith provide the Initial Claim Package to the person making the Late Claim Request and advise the claimant in writing that:
  - (a) the deadline to deliver the completed Initial Claim Package to the Administrator is six (6) months from the date the Initial Claim Package is issued to the claimant ("**Completed Package Delivery Deadline**");
  - (b) if the claimant is unable to deliver the completed Initial Claim Package to the Administrator by the Completed Package Delivery Deadline, the claimant must submit a "Request Form – Completed Package Delivery Deadline Extension" attached as Appendix "A" (the "**Request Form**") to

- the Administrator before the Completed Package Delivery Deadline expires if the claimant wishes to maintain the right to submit a claim; and
- (c) if the Administrator does not receive the completed Initial Claim Package or the completed Request Form by the Completed Package Delivery Deadline, the Administrator shall deny the claim.

### **Completed Package Delivery Deadline Extension Request**

12. A request to extend the Completed Package Delivery Deadline must be made before the Completed Package Delivery Deadline expires. The Request Form shall be provided by the Administrator to claimants upon request and shall also be made available on the Administrator's website.
13. The claimant will be required to set out:
- (a) the steps already taken to complete the Initial Claim Package;
  - (b) the reasons why the Initial Claim Package has not been completed to date;  
and
  - (c) the new steps the claimant proposes to take to complete the Initial Claim Package and how long these steps will take.
14. Upon receipt of a completed Request Form, the Administrator shall forthwith review it and determine if the Request Form sets out a plan that could reasonably result in the completion of the Initial Claim Package. If so, the Administrator shall grant the extension, which shall not exceed six (6) months from the date the

- Request Form is submitted. The Administrator shall communicate the length of the extension and the terms on which it is granted by sending the claimant a “Notice of Extension of Completed Package Delivery Deadline” substantially in the form attached as Appendix “B”.
15. If, upon reviewing a Request Form, the Administrator determines that it does not set out a plan that could reasonably result in the completion of the Initial Claim Package, the Administrator shall deny the claim and shall send the claimant a “Rejection Letter” substantially in the form attached as Appendix “C”.
  16. If the claimant has not submitted a completed Initial Claim Package or a completed Request Form on or before the Completed Package Delivery Deadline, the Administrator shall deny the claim and shall send the claimant a “Rejection Letter” substantially in the form attached as Appendix “D”.
  17. If a claimant obtains an extension of the Completed Package Delivery Deadline but fails to submit a completed Initial Claim Package to the Administrator on or before the extended Completed Package Delivery Deadline expires, the Administrator shall deny the claim and shall send the claimant a “Rejection Letter” substantially in the form attached as Appendix “E”.

**Processing the Completed Initial Claim Package**

18. The issuance of an Initial Claim Package pursuant to this Court Approved Protocol and the order of the Referee shall not be determinative of the eligibility of the person making the Late Claim Request to receive compensation.
  
19. Where the Administrator receives a completed Initial Claim Package in compliance with the provisions of this Protocol, it shall process the Initial Claim Package and determine eligibility for compensation by applying the terms of the Settlement Agreement in light of the Court Approved Protocols and Standard Operating Procedures which are in place under the Plans at the time of processing.

**Denied Claims**

20. Where the Administrator denies a Late Claim Request received in accordance with the provisions of this Protocol, the Administrator shall also notify the claimant in writing that:
  - (a) the appeal route at section 10.01 of the relevant Plan applies; and
  - (b) the claimant shall not be estopped from seeking to advance a claim under any other relevant Court Approved Protocol or Court Order which hereafter issues.

Appendix "A"

The 1986-1990 Hepatitis C Settlement

REQUEST FORM  
COMPLETED PACKAGE DELIVERY DEADLINE EXTENSION

A Claimant may apply in writing to the Claims Administrator for an extension of the Completed Package Delivery deadline. The Claimant must set out the steps taken to complete the Initial Claim Package, the reason why the Initial Claim Package has not been completed to date and what new steps the Claimant proposes to take to complete the Initial Claim Package.

**Section A – HCV INFECTED CLASS MEMBER or FAMILY MEMBER information**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_  
Home Address \_\_\_\_\_  
City \_\_\_\_\_ Province/Territory \_\_\_\_\_ Postal Code \_\_\_\_\_  
Country \_\_\_\_\_ Date of Birth (MM/DD/YYYY) \_\_\_\_\_  
Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_  
E-mail address \_\_\_\_\_

**Section B – PERSONAL REPRESENTATIVE**

Complete this Section about yourself if you are a Personal Representative submitting a claim on behalf of an HCV Infected Class Member or Family Member who is a minor, a mentally incompetent adult, or deceased.

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_  
Home Address \_\_\_\_\_  
City \_\_\_\_\_ Province/Territory \_\_\_\_\_  
Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_  
E-mail address \_\_\_\_\_

**Section C – TYPE OF CLAIMANT**

Check the appropriate box.

- HCV Infected Class Member  
 Family Member

**Section D – FILE NUMBER**

Identify the file number this extension request pertains to.

File Number \_\_\_\_\_

Specify the steps already taken to complete the Initial Claim Package:

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Specify the reason why the Initial Claim Package has not been completed to date:

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Specify the steps the Claimant proposes to take to complete the Initial Claim Package and how long these new steps will take:

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\_\_\_\_\_  
Date Signed (Month Day Year)

\_\_\_\_\_  
Signature of the Claimant or Personal Representative

*Please return both pages of this form to the Administrator at the address or fax number below if you are requesting an extension.*



**Appendix "B"**

**The 1986-1990 Hepatitis C Settlement Administration**

**NOTICE OF EXTENSION OF COMPLETED PACKAGE DELIVERY DEADLINE**

*date*

*name*

*address*

Dear Claimant:

*Subject: Your file no.*

After reviewing your request for an extension of the Completed Package Delivery Deadline, we have determined to grant you an extension to \*\*\*.

To complete the Initial Claim Package required for your claim, you must complete the following steps:

\*\*\*

If you have not completed all of these steps by \*\*\*, the claim will be **denied**. **No further extensions will be granted**. A denial of a claim for failure to complete the Initial Claim Package is subject to appeal by referring the decision to a Referee or an Arbitrator.

If you have any questions, please do not hesitate to contact the Settlement Administrator at 1 877 434-0944 or by e-mail at [info@hepc8690.ca](mailto:info@hepc8690.ca), or visit our website at [www.hepc8690.ca](http://www.hepc8690.ca). All correspondence and documents must include your file number and should be mailed to the Administrator at the following address or faxed to 1 613 569-1763:

The 1986-1990 Hepatitis C Claims Centre  
P.O. Box 2370, Station D  
Ottawa, Ontario  
K1P 5W5  
Toll-free: 1 877 434-0944

Yours truly,

The 1986-1990 Hepatitis C Settlement Administrator

## Appendix “C”

### The 1986-1990 Hepatitis C Settlement Administration

#### REJECTION LETTER

#### Completed Package Delivery Deadline – Extension Denied

*date*

*name*

*address*

Dear Claimant:

*Subject: Your file no.*

We are writing to advise you that your claim for compensation under The 1986-1990 Hepatitis C Settlement Administration has been denied. The reasons for denial are set out below.

#### **Completed Package Delivery Deadline**

On [*insert date*], we sent you a letter providing you notice that you had until \*\*\* to complete the Initial Claims Package or to request an extension of the Completed Package Delivery Deadline. Your request for an extension of the Completed Package Delivery Deadline was denied, because \*\*\*. Because you did not set out a plan that could reasonably result in the completion of the Initial Claims Package, your request for an extension of time was denied and your claim has been denied.

#### **Right of Appeal**

Under Section 10.01 of Schedules A and B of the Settlement Agreement, you can refer the decision of the Administrator to a Referee or an Arbitrator within 30 days of receiving this letter. That section provides:

*A person making a Claim may, within 30 days after he or she receives notice of the Administrator's decision respecting his or her Claim, refer that decision to, at his or her option, a Referee or an Arbitrator by filing with the Administrator a notice requiring a reference or arbitration and setting out the objection to its decision and the reasons in support of the objection. If no notice requiring a reference or arbitration is filed within the 30 day period, the Administrator's decision will be automatically confirmed and be final and binding.*

To request a review you must complete and return to the Administrator the enclosed “Request for Review Form” within 30 days from the date that you receive this letter. You must state your objections and the reasons supporting your objections.

For more information about the review process, please review the section of our website, [www.hepc8690.ca](http://www.hepc8690.ca), called “Appeals”.

**If you do not mail or fax a completed “Request for Review Form”, the Administrator’s decision to deny your claim will become final 30 days after you receive this letter.**

If you have any questions, please do not hesitate to contact the Settlement Administrator at 1 877 434-0944 or by e-mail at [info@hepc8690.ca](mailto:info@hepc8690.ca), or visit our website at [www.hepc8690.ca](http://www.hepc8690.ca). All correspondence and documents must include your file number and should be mailed to the Administrator at the following address or faxed to 1 613 569-1763:

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P.O. Box 2370, Station D  
Ottawa, Ontario  
K1P 5W5  
Toll-free: 1 877 434-0944

Yours truly,

The 1986-1990 Hepatitis C Settlement Administrator

Encl. Request for Review Form

## Appendix “D”

### The 1986-1990 Hepatitis C Settlement Administration

#### REJECTION LETTER

#### Completed Package Delivery Deadline Not Met – Extension Not Requested

*date*

*name*

*address*

Dear Claimant:

*Subject: Your file no.*

We are writing to advise you that your claim for compensation under The 1986-1990 Hepatitis C Settlement Administration has been denied. The reasons for denial are set out below.

#### **Completed Package Delivery Deadline**

On [*insert date*], we sent you a letter advising you that you had until \*\*\* to deliver the completed Initial Claim Package or to request an extension of time. Because you did not deliver the completed Initial Claim Package or request an extension of the deadline to deliver the completed Initial Claim Package, your claim has been denied.

#### **Right of Appeal**

Under Section 10.01 of both Schedules A and B of the Settlement Agreement, you can refer the decision of the Administrator to a Referee or an Arbitrator within 30 days of receiving this letter. That section provides:

*A person making a Claim may, within 30 days after he or she receives notice of the Administrator's decision respecting his or her Claim, refer that decision to, at his or her option, a Referee or an Arbitrator by filing with the Administrator a notice requiring a reference or arbitration and setting out the objection to its decision and the reasons in support of the objection. If no notice requiring a reference or arbitration is filed within the 30 day period, the Administrator's decision will be automatically confirmed and be final and binding.*

To request a review you must complete and return to the Administrator the enclosed “Request for Review Form” within 30 days from the date that you receive this letter. You must state your objections and the reasons supporting your objections.

For more information about the review process, please review the section of our website, [www.hepc8690.ca](http://www.hepc8690.ca), called “Appeals”.

**If you do not mail or fax a completed “Request for Review Form”, the Administrator’s decision to reject your claim will become final 30 days after you receive this letter.**

If you have any questions, please do not hesitate to contact the Settlement Administrator at 1 877 434-0944 or by e-mail at [info@hepc8690.ca](mailto:info@hepc8690.ca), or visit our website at [www.hepc8690.ca](http://www.hepc8690.ca). All correspondence and documents must include your file number and should be mailed to the Administrator at the following address or faxed to 1 613 569-1763:

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P.O. Box 2370, Station D  
Ottawa, Ontario  
K1P 5W5  
Toll-free: 1 877 434-0944

Yours truly,

The 1986-1990 Hepatitis C Settlement Administrator

Encl. Request for Review Form

## Appendix “E”

### The 1986-1990 Hepatitis C Settlement Administration

#### REJECTION LETTER

#### Extension Granted but Completed Package Not Delivered on Time

*date*

*name*

*address*

Dear Claimant:

*Subject: Your file no.*

We are writing to advise you that your claim for compensation under The 1986-1990 Hepatitis C Settlement Administration has been denied. The reasons for denial are set out below.

#### **Completed Package Delivery Deadline**

On [*insert date*], we sent you a letter advising you that you had until \*\*\* to return your Initial Claim Package or to request an extension of that deadline. You requested an extension of this deadline, which was granted by the Administrator. The deadline to complete the Initial Claim Package was extended to \*\*\*. Because your Initial Claim Package was not returned by the extended deadline, your claim has been denied.

#### **Right of Appeal**

Under Section 10.01 of Schedules A and B of the Settlement Agreement, you can refer the decision of the Administrator to a Referee or an Arbitrator within 30 days of receiving this letter. That section provides:

*A person making a Claim may, within 30 days after he or she receives notice of the Administrator's decision respecting his or her Claim, refer that decision to, at his or her option, a Referee or an Arbitrator by filing with the Administrator a notice requiring a reference or arbitration and setting out the objection to its decision and the reasons in support of the objection. If no notice requiring a reference or arbitration is filed within the 30 day period, the Administrator's decision will be automatically confirmed and be final and binding.*

To request a review you must complete and return to the Administrator the enclosed “Request for Review Form” within 30 days from the date that you receive this letter. You must state your objections and the reasons supporting your objections.

For more information about the review process, please review the section of our website, [www.hepc8690.ca](http://www.hepc8690.ca), called “Appeals”.

**If you do not mail or fax a completed “Request for Review Form”, the Administrator’s decision to reject your claim will become final 30 days after you receive this letter.**

If you have any questions, please do not hesitate to contact the Settlement Administrator at 1 877 434-0944 or by e-mail at [info@hepc8690.ca](mailto:info@hepc8690.ca), or visit our website at [www.hepc8690.ca](http://www.hepc8690.ca). All correspondence and documents must include your file number and should be mailed to the Administrator at the following address or faxed to 1 613 569-1763:

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P.O. Box 2370, Station D  
Ottawa, Ontario  
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Toll-free: 1 877 434-0944

Yours truly,

The 1986-1990 Hepatitis C Settlement Administrator

Encl. Request for Review Form

PARSONS et al.  
KREPPNER et al.

Plaintiffs

vs. THE CANADIAN RED CROSS  
SOCIETY et al.

Defendants

Court File No. 98-CV-141369 CP00  
98-CV-146405

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDINGS COMMENCED AT TORONTO

**NOTICE OF MOTION**

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