

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

DIANNA LOUISE PARSONS, deceased by her Estate Administrator, William John Forsyth,
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*

This is the 19th Affidavit
of Heather Rumble Peterson in the BC Actions
and was made on October 13, 2017

No. C965349
Vancouver Registry

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

S U P E R I O R C O U R T
Class action

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

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

NO : 500-06-000068-987

S U P E R I O R C O U R T
Class action

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

AFFIDAVIT OF HEATHER RUMBLE PETERSON
(Amending Court Approved Protocols)
Sworn October 13, 2017

I, Heather Rumble Peterson, of the Town of Harrow, in the County of Essex, in the Province of Ontario, lawyer, SWEAR THAT:

1. I am a partner in the firm Strosberg Sasso Sutts LLP. I have assisted Harvey T. Strosberg, Q.C., counsel in action 98-CV-141369 and one of the Ontario court-appointed members of the Joint Committee, with all aspects of this action and the implementation and ongoing supervision of the 1986-1990 Hepatitis C Settlement Agreement including the Transfused HCV Plan and the Hemophiliac HCV Plan. I also drafted the proposed HCV Late Claims Benefit Plan in the first instance. As such I have knowledge of the facts to which I now depose. Where I make statements in this affidavit which are not within my personal knowledge, I have identified the source of that information and belief. All of the information I am deposing to I do verily believe to be true.

2. The 1986-1990 Hepatitis C Settlement Agreement provides at sections 9.02(b) and 10.01(1)(h) for the Courts to approve, rescind or amend protocols for the administration of the Settlement Agreement proposed by the Joint Committee.

3. Currently, there are 13 court approved protocols which provide direction to the Administrator on reviewing and assessing the claims brought pursuant to the Transfused HCV Plan and the Hemophiliac HCV Plan.

4. Concurrently with this motion, the Joint Committee is seeking court approval of the HCV Late Claims Benefit Plan. Section 2.01(2) of the proposed plan provides for the Courts to enjoy the same powers in respect of implementing,

administering, monitoring and supervising as provided in the Settlement Agreement. If that plan is approved, each protocol must address whether it applies to the HCV Late Claims Benefit Plan and if so, to reference the applicable sections and to address the way in which it applies. The majority of the amendments proposed to the protocols for which approval is sought in this motion are to accomplish that.

5. Also, concurrently with this motion, the Joint Committee is seeking to have the courts approve as Compensable HCV Drug Therapy direct-acting antiviral agents (“**DAA**”) treatment in the circumstance where the treating physician certifies that the HCV Infected Person suffered adverse side effects as a result of having undergone such treatment. If approved, certain amendments to the Medical Evidence Protocol, are necessary and appropriate. Those amendments are included in the proposed medical evidence protocol and addressed in detail in the material supporting the motion pertaining to Compensable HCV Drug Therapy and DAA.

6. Certain housekeeping amendments are also proposed to the protocols. The existing court approved protocols were drafted at different times and they do not all use a consistent style nor always make use of the definitions in the Settlement Agreement, the Transfused HCV Plan and the Hemophiliac HCV Plan. In some cases their titles are cumbersome or not appropriately descriptive. The Joint Committee has taken this opportunity to review them all and to propose amendments intended to utilize a consistent style; provide a clear statement at the beginning of each protocol as to which provisions of which Plans it applies to (including the proposed HCV Late Claims Benefit Plan, if approved); use the defined terms in the Plans for consistency and clarity; and, remove provisions which are out of date or no longer applicable.

7. Some of the more substantive issues identified in this review of the protocols which are addressed in the amendments proposed are as follows:

- (a) Recent Diagnosis Exception to June 30, 2010 First Claim Deadline and Issuance of Claim Forms After June 30, 2010 First Claim Deadline – these two protocols originally had transition provisions from a previous protocol that dealt with other deadlines in the Plans. The transition has taken place so those provisions no longer have any purpose. The Joint Committee proposes their deletion.
- (b) Non-Prescription Intravenous Drug Use – the Joint Committee proposes adding language specifically addressing the application of this protocol to persons with Thalassemia Major. When the Settlement Agreement was approved, the courts ordered that persons with Thalassemia Major would be subjected to the proof requirements and benefits under the Hemophiliac HCV Plan except section 4.01(5) of that Plan. At the time this protocol was first drafted, that was well understood and persons with Thalassemia Major were not expressly addressed. Given the passage of time, the Joint Committee thought it appropriate to expressly address their status in this protocol.
- (c) Uninsured Treatment and Medical Expenses and Out-of-Pocket Expenses – the Administrator has recommended the deletion of the provision which limited the number of times per year a class member could claim these expenses to once per year, or more often if the total claimed exceeds \$250, since it is no longer necessary for the purposes of efficiency and volume control in administration.

- (d) Loss of Services In the Home - concurrently with this motion, the Joint Committee is seeking an order that alive permanently disabled approved dependants of a deceased HCV Infected Person, who receive compensation for loss of services in the home, receive that compensation for loss of services for their lifetime rather than the notional life expectancy of the deceased HCV Infected Person, to be paid out of excess capital. This proposal is more fully addressed in the motion pertaining to Implementation of 2016 Allocation Orders and provided for in the proposed protocol.

- (e) Claims or Late Claims Involving Family Members and/or Dependants:
 - (i) this protocol was previously titled “Claims Where One or More Family Member was a Minor or Mentally Incompetent” but it also applied to several types of claims involving family members and/or dependants who were neither under age nor mentally incompetent. The title and wording of the protocol has been cleaned up in this regard;

 - (ii) this protocol did not address the duration of loss of support payments to a child who was a dependant at the time of the deceased’s death. It is has been clarified to provide the same duration as provided for loss of services in the Loss of Services in the Home Protocol, namely that the child shall be presumed to be a dependant until age 25 unless the child provides the Administrator with evidence that some other period of loss is appropriate;

- (iii) this protocol provided for review in the event the courts amend or remove the \$75,000 and/or the 70% restrictions on the calculations of loss of income (which affect loss of support payments governed by the protocol). Those restrictions have been amended (and in the case of the 70% restriction, removed) over the years and the Joint Committee is of the view that this provision no longer serves any purpose and may be removed at this time;
- (iv) concurrently with this motion, the Joint Committee is seeking an order to permit approved HCV Infected persons co-infected with HIV who made an election under section 4.08(2) of the Hemophiliac HCV Plan to re-elect and receive all compensation and benefits to which they would be entitled under the Settlement Agreement as if that election had not been made, provided that the compensation they received prior to their re-election is indexed to the date of their re-election in accordance with section 7.02 and deducted from the compensation to which they are entitled as a result of their re-election. This proposal is addressed in detail in the motion pertaining to Implementation of 2016 Allocation Orders and provided for in the revised protocol.
- (f) Deficient Claims/Late Claims, Claimants that Cannot be Located and Duplicate Claims - this protocol directs the Administrator to use reasonable efforts through the internet to locate claimants whose contact

information is no longer valid. The words “or other available means” have been added to provide greater flexibility.

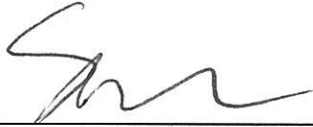
8. The protocols in the form which is proposed are annexed to the notice of motion as appendices A1 to A13.

9. The changes which are proposed shown in the tracked versions of the protocols annexed to the notice of motion as appendices “B1” to “B13” as follows:

- B1 Recent HCV Diagnosis Exception to the June 30, 2010 First Claim Deadline
- B2 Issuance of Initial Claims Packages after the June 30, 2010 First Claim Deadline
- B3 Traceback Procedure Criteria
- B4 Eligibility and Traceback Requirements for Secondarily Infected Persons
- B5 Non-Prescription Intravenous Drug Use
- B6 Medical Evidence
- B7 Alternative to Biopsy Medical Evidence
- B8 Uninsured Medical Expenses and Treatment and Out-of-Pocket Expenses
- B9 Claims or Late Claims Involving Family Members and/or Dependents
- B10 Loss of Services in the Home
- B11 Deficient Claims/Late Claims, Claimants that Cannot be Located and Duplicate Claims/Late Claims
- B12 Payments to Approved Class Members and Approved Late Claim Class Members

B13 Rules for References and Arbitrations

SWORN BEFORE ME at the City of
Windsor in the County of Essex, this 13th
day of October, 2017.



A Notary Public or Commissioner for taking
Affidavits for Ontario

#1549543

Shelley Lynn Woodrich, a Commissioner, etc.,
Province of Ontario, for Strosberg Sasso Sutts LLP,
Barristers and Solicitors.
Expires February 18, 2019.



Heather Rumble Peterson