

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-06-000016-960

DATE: December 20, 2005

PRESIDED BY: JUSTICE NICOLE MORNEAU, S.C.J.

DOMINIQUE HONHON

The Applicant

vs

THE ATTORNEY GENERAL OF CANADA

and

THE ATTORNEY-GENERAL OF QUEBEC

The Respondents

and

CLAIMANT NO 1400048

THE APPELLANT

**DECISION ON A MOTION TO OPPOSE CONFIRMATION OF A REFEREE'S DECISION
(JANUARY 1, 1986- JULY 1, 1990 HEPATITIS C CLASS ACTION SETTLEMENT AGREEMENT)**

[1] The Appellant opposes confirmation of the Referee's decision to maintain the Administrator's decision to reject his claim on May 17, 2004.

[2] The Appellant had indeed presented a Claim as an "HCV Secondarily Infected Person", on August 25, 2000.

[3] His request was rejected for lack of proof. It is noted that he meets none of the compulsory definitions allowing him to be eligible under the Settlement whether as an *HCV Primarily Infected Person* or as an *HCV Secondarily Infected Person*, a prerequisite for all compensations.

[4] It is acknowledged that the appellant is HCV infected. His file contains however no proof of a blood transfusion received during the period covered by the January 1, 1986- July 1, 1990 Class Action Settlement Agreement. The same applies for the definition of the Secondarily Infected Person.

[5] The Appellant requested a review of the Plan Administrator's decision. He did not show up at the hearing. After reminders from the Referee, he indicated that he wanted him to proceed on the basis of his file as previously constituted.

[6] As mentioned before, the Referee had to apply the terms of the *Settlement Agreement* and those of the HCV Transfused Plan, so he had no other choice but to maintain the Administrator's decision.

[7] In support of his opposition to the confirmation of the Referee's decision, the Appellant submitted his file as constituted for the Administrator. Again, he added no new elements of proof and did not want to be heard personally.

[8] The undersigned must therefore base her decision on the file as constituted.

[9] Like the Administrator and the Referee, she is also bound by the terms of the *Settlement Agreement* and in this case, *the Transfused Plan*. In no way can she modify them to the benefit of the Appellant or of any Claimant for that matter.

[10] Following a third review of the same file, the undersigned has no other choice but to confirm the previous decisions, and this, in spite of the sympathy that she naturally has for someone who is sick.

[11] In spite of his disease, the Appellant is not entitled to a compensation under the 1986-1990 Class Action Settlement. His file as constituted reveals that he is not a member of the Class Action in question.

[12] **FOR THESE REASONS, THE COURT:**

[13] **REJECTS** the motion to oppose confirmation of the Referee's decision.

[10] **ALL THIS**, without costs.

Signature on original
NICOLE MORNEAU, S.C.J.

Me Christine Kark
MCCARTHY TÉTRAULT
Fund Counsel

Claimant No. 1400048

Me Michel Savonitto,
Ex officio member of the Joint Committee
MARCHAND MELANÇON FORGET