

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***HCV Settlement Agreement Claim #1540,***
2006 BCSC 239

Date: 20060213
Docket: C965349
Registry: Vancouver

**In the Matter of the HCV 1986-1990
Transfused Settlement Agreement
Re Claim No. 1540**

Before: The Honourable Mr. Justice Pitfield

Reasons for Judgment

Counsel for the Claimant:	Self-Represented
Counsel for the British Columbia Fund:	William A. Ferguson
Written Submissions Received from Fund Counsel:	December 2, 2005
Written Submissions received from Claimant:	None
Place of Hearing:	Vancouver, B.C.

[1] The applicant opposes confirmation of a Referee's decision made November 3, 2005. The Referee affirmed the Administrator's decision denying the Claimant compensation as a primarily infected person within the meaning of the 1986-1990 Hepatitis-C Settlement Agreement and the Transfused HCV Plan appended as Schedule A to the agreement.

[2] In his request for a review of the Administrator's decision by a Referee, the Claimant said the following:

I believe that, even though I was not infected during the 'appropriate time frame' I will still have Hep C for the rest of my life. I was an unwitting victim who went to a hospital for medical treatment and came out infected with a deadly disease.

[3] In the notice of motion opposing confirmation of the Referee's decision, the Claimant stated his view that Government had a fiduciary responsibility to ensure the health and safety of citizens even when contracting blood services through the Red Cross with the result that compensation should be provided to those infected by transfusions received before 1986.

[4] The material before the Administrator and the Referee indicate that the Claimant did not receive a blood transfusion in the period from January 1, 1986, through July 1, 1990, inclusive. The Claimant did receive a blood transfusion at Lion's Gate Hospital, North Vancouver, British Columbia in 1984.

[5] From the reasons for appeal advanced by the Claimant in his appeal of the Administrator's decision and his motion opposing confirmation of the Referee's decision, it is apparent that the Claimant understands and accepts that he did not

receive a blood transfusion in the Class Period extending from January 1, 1986, through July 1, 1990.

[6] The Claimant is not entitled to receive compensation under the terms of the 1986-1990 Hepatitis-C Settlement Agreement which affords relief only to those who were infected by a blood transfusion received in the Class Period. I can do no better than cite the reasons of Mr. Justice Winkler released February 11, 2003 dismissing another application to oppose confirmation of a Referee's decision:

It must be remembered that the Settlement Agreement is not a general compensation scheme for all persons infected with Hepatitis C. Rather, it is an agreement reached in the context of class proceedings brought to advance the claims of a particular class or classes of Canadians who were infected with Hepatitis C through the blood system. Those classes are defined temporally as those persons infected between January 1, 1986 and July 1, 1990. Persons whose claims are based on transfusions outside that period are not eligible for compensation and, accordingly, the court's equitable jurisdiction does not extend to permitting it to award compensation to those persons.

[7] Whatever the merits of the view that all persons infected with Hepatitis C by a blood transfusion whenever received should be compensated, the Administrator, the Referee, and this court are obliged to respect the provisions of the Settlement Agreement.

[8] The application to oppose confirmation of the Referee's decision must be dismissed.

"Mr. Justice Pitfield"