

SUPERIOR COURT

Canada
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000016-960

DATE: February 1, 2010

PRESIDING JUDGE: THE HONORABLE PAUL CHAPUT, S.C.J.

CLAIMANT NO 18371

The Applicant

v.

THE ATTORNEY GENERAL OF CANADA

and

THE ATTORNEY GENERAL OF QUEBEC

and

THE CANADIAN RED CROSS SOCIETY

The Respondents

and

ME JACQUES NOLS, REFEREE

The Respondent

and

THE CLASS ACTION ASSISTANCE FUND

and

THE PUBLIC TRUSTEE OF QUEBEC

The Impleaded Party

JUDGMENT OF RECTIFICATION

[1] **WHEREAS** a judgment of rectification in this instance was rendered on January 21, 2010;

[2] **WHEREAS** the application for rectification was dated January 25, 2010 and filed by Me Philippe Dufort-Langlois of the McCarthy Tétrault Law Firm;

[3] **WHEREAS** Section 475 of the Code of Civil Procedure of Québec applies;

[4] **WHEREAS** the judgment contains an error of content or a clerical error;

NOW THEREFORE, THE COURT:

[5] **RECTIFIES** the judgment so as to replace the name of the Applicant by:

« **Claimant number 18371** »

[6] **ALL WITHOUT COSTS.**

PAUL CHAPUT, S.C.J.

Me Martine Trudeau
Lapointe Rosenstein Marchand Melançon
Amicus curiae

Me Philippe Dufort-Langlois
McCarthy Tétrault
Counsel for the Class Action Assistance Fund

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000016-960

DATE: January 21, 2010

PRESIDING JUDGE: THE HONORABLE

PAUL CHAPUT, S.C.J.

CLAIMANT NO 18371

The Applicant

v.

THE ATTORNEY GENERAL OF CANADA

and

THE ATTORNEY GENERAL OF QUEBEC

and

THE CANADIAN RED CROSS SOCIETY

The Respondents

And

ME JACQUES NOLS, REFEREE

The Respondent

and

THE CLASS ACTION ASSISTANCE FUND

and

THE PUBLIC TRUSTEE OF QUEBEC

The Impleaded Party

JUDGMENT

[1] This hearing concerns the determination of a notice of contestation filed by the Applicant regarding the Referee's ruling to not reverse the Administrator's decision to deny her claim for compensation.

[2] The Applicant filed a claim for compensation (# 18371) pursuant to the Hepatitis C Settlement for the period of January 1, 1986 to July 1, 1990.

[3] On October 30, 2008, after having reviewed the documentation submitted, the Claims' Administrator denied the application because the Applicant had failed to prove that she had received a blood transfusion during surgical procedures she had undergone at the Hôpital Pierre-Boucher as related to her claim's application.

[4] The Applicant exercised her right to have her case reviewed by a Referee. She did not testify before him, but in a letter dated June 14, 2009, she provided him with explanations as well as documents.

[5] In a September 24, 2009 notice document, the Referee writes that he has examined the documents provided. He also added that he had obtained and examined the Applicant's hospital records for the period at issue.

[6] Further to his examination, he writes that he cannot find any indication, either in the documents submitted or in the hospital records, that the Applicant would have received blood transfusions or other blood products during the Settlement period. Consequently, he reaffirms the Administrator's decision to reject the claim.

[7] By letter dated October 21, 2009, the Applicant serves notice of her decision to challenge the Referee's ruling and requests an oral hearing before the Court.

[8] At the hearing, the Applicant was not represented by Counsel, but was assisted by an *Amicus curiae* (friend of the Court). From her account of the evidence, the Court acknowledged that she experienced severe health problems in the years following her hospitalizations and surgeries and that she was still looking for explanations as to the cause of her health difficulties.

[9] The Applicant's health situation clearly inspires sympathy. However, despite its generous application, the Settlement in favour of tainted blood victims cannot be extended beyond the provisions of its terms and conditions. In all cases, victims must have received contaminated blood during the period of January 1, 1986 to July 1, 1990, failing which they cannot file a claim for compensation.

[10] According to the file which has already been reviewed by the Claims' Administrator and the Referee, the Applicant was unable to provide factual evidence that she received contaminated blood during the period at issue.

[11] And, in Court, she failed to produce new evidence or to show how the evidence already submitted would not have been properly evaluated by the Claims' Administrator or the Referee.

FOR THESE REASONS, THE COURT:

[12] **DISMISSES** the Applicant's notice of contestation;

[13] **WITHOUT ANY COSTS.**

PAUL CHAPUT, S.C.J.

Me Martine Trudeau
Lapointe Rosenstein Marchand Melançon
Amicus curiae

Me Philippe Dufort-Langlois
McCarthy Tétrault
Counsel for the Class Action Assistance Fund

Hearing Date : January 14, 2010.