

No. C965349  
Vancouver Registry

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

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**ORDER MADE AFTER APPLICATION  
(IMPLEMENTATION OF 2016 ALLOCATION ORDER)**

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☒ *The Honourable*  
BEFORE Chief Justice Hinkson

*) Tuesday the 19<sup>th</sup> day  
) of December 2017*

ON THE APPLICATION of the British Columbia Joint Committee member dated November 9, 2017 before the Honourable Chief Justice Hinkson in writing, and the Attorney General of Canada, Her Majesty the Queen in Right of the Province of British Columbia and British Columbia Fund Counsel all having been served with the application materials;

ON BEING ADVISED that the Public Guardian and Trustee for British Columbia was served with the application and did not respond;

AND ON BEING ADVISED that the British Columbia Joint Committee and the Attorney General of Canada consent to the making of this order and the remaining Parties do not oppose to it;

UPON READING the materials filed, including Affidavit #18 of Heather Rumble Peterson made October 13, 2017, Affidavit #7 of Richard Border made October 12, 2017, and the Written Arguments of Class Member 2213 and 7438;

AND THIS ACTION BEING STAYED AGAINST the defendant the Canadian Red Cross Society by the Order of Mr. Justice Blair made on July 20, 1998 in Ontario Superior Court of Justice Action No. 98-CL-002970 (Toronto) and subsequently extended by further orders made on August 18, 1998, October 5, 1998, January 18, 1999, May 5, 1999, July 28, 1999 and February 25, 2000;

AND THIS ACTION BEING STAYED AGAINST the third parties Prince George Regional Hospital, Dr. William Galliford, Dr. Robert Hart Dykes, Dr. Peter Houghton and Dr. John Doe by order of Justice K. Smith, made May 22, 1997.

THIS COURT ORDERS that:

1. The following three separate accounts of the Trust Fund be established as at December 31, 2013, to be held, invested and administered by the Trustee:

- (a) the HCV Late Claims Benefit Account, for the payment of compensation under the HCV Late Claims Benefit Plan, the administrative costs thereof, and the HCV Late Claims Notice Campaign costs;
- (b) the HCV Special Distribution Benefit Account, for the payment of Special Distribution Benefits ordered in:
  - (i) paragraph 6 of the 2016 Allocation Orders and the administrative costs thereof; and
  - (ii) paragraphs 4 to 7 below.
- (c) the HCV Regular Benefit Account, for the payment of compensation under the Transfused HCV Plan and the Hemophiliac HCV Plan and the administrative costs thereof.

2. \$7,411,000 of the 2013 Excess Capital be allocated to the HCV Late Claims Benefit Account as required capital for the HCV Late Claims Benefit Plan.

3. \$12,199,000 of the 2013 Excess Capital be allocated to the HCV Special Distribution Benefit Account as required capital for HCV Special Distribution Benefits for Approved Class Members under the HCV Transfused Plan and the HCV Hemophiliac Plan.

4. (a) Claimant 2213; and

- (b) all other alive Primarily-Infected Hemophiliacs who are Approved HCV Infected Persons co-infected with HIV and who received a lump sum payment under Section 4.08(2) of the Hemophiliac HCV Plan,

may apply to the Administrator and receive by way of Special Distribution Benefits all compensation and benefits to which they would be entitled under the Settlement Agreement as amended by the 1999 Approval Orders, the 2016 Allocation Orders and any future orders, provided that the amount they received prior to their special distribution application is indexed to the date of that application in accordance with section 7.02 of the Hemophiliac HCV Plan and deducted from the compensation to which they are entitled as a result of their Special Distribution Benefits application.

5. \$4,600,000 of the 2013 Excess Capital plus required capital of \$500,000 be allocated to the HCV Special Distribution Benefit Account to fund the Special Distribution Benefits payments to be made pursuant to paragraph 4.

6. (a) Claimant 7438; and

- (b) all other alive permanently disabled Approved Dependents of a deceased HCV Infected Person, who receive or have received compensation for loss of the deceased HCV Infected Person's services in the home,

may apply to the Administrator and receive by way of Special Distribution Benefits compensation for loss of services after the actuarially calculated notional life expectancy of the deceased HCV Infected Person up to the Approved Dependent's death.

7. \$3,900,000 of the 2013 Excess Capital plus required capital of \$400,000 be allocated to the HCV Special Distribution Benefit Account to fund the Special Distribution Benefits payments to be made pursuant to paragraph 6.

8. The value of the HCV Late Claims Benefit Account as at December 31, 2016 shall be comprised of the following allocated from the 2013 Excess Capital:

- (a) the amount of \$32,450,000 plus administrative costs of \$51,000, as ordered in paragraph 5 of the 2016 Allocation Orders;
- (b) the required capital ordered in paragraph 2 above; and
- (c) the amount of interest earned on the sum of 8(a) and 8(b), from January 1, 2014 to December 31, 2016, by applying the annual rate of return for the invested assets of the Trust Fund net of investment expenses.

9. The value of the HCV Special Distribution Benefit Account as at December 31, 2016, shall be comprised of the following allocated from the 2013 Excess Capital:

- (a) the amount of \$130,970,000 plus related administrative costs of \$61,000, as ordered in paragraph 6 of the 2016 Allocation Orders;

- (b) the required capital ordered in paragraph 3 above;
- (c) the amount for Special Distribution Benefits for co-infected Primarily-Infected Hemophiliacs plus required capital ordered in paragraph 5 above;
- (d) the amount for Special Distribution Benefits for permanently disabled Approved Dependants plus required capital ordered in paragraph 7 above; and
- (e) the amount of interest earned on the sum of 9(a), 9(b), 9(c) and 9(d), from January 1, 2014 to December 31, 2016, by applying the annual rate of return for the invested assets of the Trust Fund net of investment expenses.

10. The value of the HCV Regular Benefit Account as at December 31, 2016 shall be comprised of the total amount of the Trust Fund minus:

- (a) the value of the HCV Late Claims Benefit Account as at December 31, 2016 calculated in accordance with paragraph 8 above; and
- (b) the value of the HCV Special Distribution Benefit Account as at December 31, 2016 calculated in accordance with paragraph 9 above.

11. From December 31, 2016 onward, the HCV Late Claims Benefit Account, the HCV Special Distribution Benefit Account and the HCV Regular Benefit Account shall be updated monthly as follows:

- (a) the monthly rate of investment return on the total invested assets net of investment fees will be calculated;
- (b) each account balance will then be reduced by the payments (benefits and expenses) out of the account; and
- (c) then interest at the monthly investment return rate will be added to each account balance.

12. Each of the HCV Late Claims Benefit Account, the HCV Special Distribution Benefit Account and the HCV Regular Benefit Account include:

- (a) any investments in which such assets may from time to time be invested;
- (b) any proceeds of disposition of any investments; and
- (c) all income, interest, profit, gains and accretions and additional assets, rights and benefits of any kind or nature whatsoever arising, directly or indirectly, from or in connection with or accruing to any of the foregoing, but excluding any amounts which have been paid or disbursed therefrom.

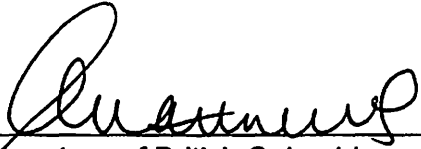
13. For the purposes of implementing, administering, monitoring and supervising:

- (a) the payments to be made pursuant to the 2016 Allocation Orders and this Order; and
- (b) the HCV Late Claims Benefit Account, the HCV Special Distribution Benefit Account and the HCV Regular Benefit Account,

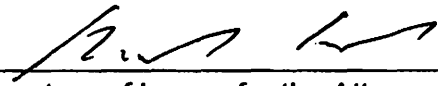
the Administrator, Trustee, Fund Counsel, Auditors, Joint Committee, Investment Advisors, Referees, Arbitrators, Monitor and Courts shall perform the roles and have the duties and responsibilities provided for in the Settlement Agreement and the HCV Late Claims Benefit Plan, with all the necessary adaptations, modifications and powers as may be required to do so.

14. The terms of this Order shall not be effective unless and until they are also approved by the Superior Court of Quebec and the Ontario Superior Court of Justice with no material differences.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of British Columbia  
Joint Committee Member

Sharon Matthews, Q.C.

  
\_\_\_\_\_  
Signature of lawyer for the Attorney  
General of Canada  
*for*  
Craig Cameron

*see attached*  
\_\_\_\_\_  
Signature of lawyer for Her Majesty the  
Queen in Right of the Province of British  
Columbia

Keith L. Johnston

*see attached*  
\_\_\_\_\_  
Signature of British Columbia Fund  
Counsel

Gordon J. Kehler

  
\_\_\_\_\_  
By the Court

  
\_\_\_\_\_  
Registrar

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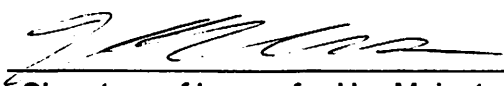
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Signature of lawyer for the Attorney  
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Queen in Right of the Province of British  
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Keith L. Johnston

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Signature of British Columbia Fund  
Counsel

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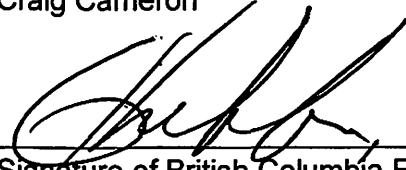
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Keith L. Johnston

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Signature of British Columbia Fund  
Counsel

Gordon J. Kehler

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*In the Supreme Court of British Columbia*

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