

**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

**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

**Proceeding under the *Class Proceedings Act, 1992***

**PERELL, J.**

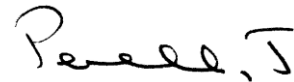
**ENDORSEMENT**

[1] This is a request for the approval of an order requested by the Joint Committee related to financial sufficiency to the 1986-1990 Hepatitis C Settlement Agreement and Trust Fund.

[2] Having reviewed the motion materials and upon being advised that the request is unopposed, I am satisfied that the request should be granted.

[3] In the circumstances of the Covid-19 emergency, this Endorsement is deemed to be an Order of the court that is operative and enforceable without any need for a signed or entered, formal, typed order. The form of the Order is set out in Schedule A.

[4] The parties may submit formal orders for signing and entry once the court re-opens; however, this Endorsement is an effective and binding Order from the time of release.



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Perell, J.

Released: February 18, 2021

**SCHEDULE A**

Court file # 98-CV-141369

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE MR. JUSTICE ) THE DAY  
 )  
PAUL PERELL ) OF FEBRUARY, 2021

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*

**ORDER  
(2019 Financial Sufficiency Assessment)**

**THIS MOTION**, made by the Joint Committee, for orders: permitting reports to be filed pursuant to the provisions of section 10.01(1)(i) of the January 1, 1986 to July 1, 1990 Hepatitis C Settlement Agreement (“**Settlement Agreement**”) and the order of this Court dated June 30, 2020; regarding financial sufficiency of the 1986-1990 Hepatitis C Trust and the financial status of the three notional Accounts of the Trust Fund as at December 31, 2019; declaring the Trustee holds actuarially unallocated assets as at December 31, 2019; reallocating previously allocated excess assets from the HCV Special Distribution Account to the HCV Late Claims Benefit Account as at January 1, 2020; retaining the restrictions on income loss payments under section 4.02(2)(b)(i) of the Transfused HCV Plan, the Hemophiliac HCV Plan and the HCV Late Claims Benefit Plan (“**Plans**”); removing the holdback under section 7.03A of the HCV Late Claims Benefit Plan; and, directions for further hearings for the allocation of the 2019 actuarially unallocated assets of the Trust Fund, was heard this day in Toronto, Ontario.

**ON READING** the Joint Committee Sufficiency Report, the Affidavit of Dr. Murray Krahn made November 19, 2020, the Affidavit of Richard Border made November 25, 2020, the Affidavit of Dr. Vince Bain made November 25, 2020, and the Affidavit of Peter Gorham made December 10, 2020,

**AND ON BEING ADVISED** that the Joint Committee consents to this Order, the Attorney General of Canada does not oppose this Order, and Her Majesty the Queen in Right of Ontario and the Intervenors take no position on this Order,

1. **THIS COURT ORDERS** that the reports listed below be filed with the Court pursuant to the provisions of section 10.01(1)(i) of the January 1, 1986-July 1, 1990 Hepatitis C Settlement Agreement and the order of this Court dated June 30, 2020:
  - (a) Estimating the Prognosis of Canadians Infected with the Hepatitis C Virus Through the Blood Supply, 1986-1990, The Seventh Revision of Hepatitis C Prognostic Model Based on the Post-Transfusion Hepatitis C Compensation Claimant Cohort, November 18, 2020, (Murray Krahn, Yeva Sahakyan, Yi, Qilong, William Wong and Karen Bremner);
  - (b) Actuarial Report to the Joint Committee Assessing the Financial Sufficiency of the 1986-1990 Hepatitis C Trust as at December 31, 2019, by Eckler Ltd. (Richard Border and Euan Reid);
  - (c) Report of the Joint Committee Relating to Financial Sufficiency of the 1986-1990 Hepatitis C Trust as at December 31, 2019; and
  - (d) Actuarial Report Assessing the Financial Sufficiency of 1986-1990 Hepatitis C Trust Fund as at December 31, 2019, Morneau Shepell Ltd. (Peter J. M. Gorham).
2. **THIS COURT ORDERS** that overall the Trust Fund is financially sufficient as at December 31, 2019 and that, after taking into account an allocation of assets necessary to protect the class members from future major adverse experience, the Trust assets exceed the liabilities.
3. **THIS COURT ORDERS** that the Trustee holds between \$197,596,000 and \$203,578,000 of actuarially unallocated money and assets as at December 31, 2019.

4. **THIS COURT ORDERS** that as at December 31, 2019, the financial status of the three notional accounts of the Trust Fund is as follows:

HCV Regular Benefit Account	Excess Capital of between \$191,757,000 and \$197,910,000
HCV Special Distribution Benefit Account	Excess Capital of between \$27,718,000 and \$28,649,000
HCV Late Claims Benefit Account	Insufficient Capital of between \$21,879,000 and \$22,981,000

5. **THIS COURT ORDERS** that \$22,981,000 be reallocated from the HCV Special Distribution Benefit Account to the HCV Late Claims Benefit Account effective January 1, 2020, so that the HCV Late Claims Benefit Account will be financially sufficient to meet the projected maximum liabilities of the HCV Late Claims Benefit Plan and the HCV Special Distribution Benefit Account will have excess capital of between \$4,737,000 and \$5,668,000 as at January 1, 2020.
6. **THIS COURT DECLARES** that the restrictions on payment of amounts for loss of income claims under sections 4.02(2)(b)(i) of the Plans are not varied or removed at this time.
7. **THIS COURT ORDERS** that the 25% holdback on benefit payments provided for in section 7.03A of the HCV Late Claims Benefit Plan be removed at this time and that the administrator be directed to pay out to the affected claimants any monies held back with interest as provided in section 7.03(2)(a) of the HCV Late Claims Benefit Plan.
8. **THIS COURT DECLARES** that the parties may obtain a date through the Court Monitor for a joint hearing of the Courts to consider whether some or all of the actuarially unallocated assets as at December 31, 2019, set out in paragraph 3, should be allocated pursuant to paragraphs 9(b) and 9(c) of the 1999 Approval Order in Ontario.

9. **THIS COURT ORDERS** that the orders, declarations and directions requested herein shall not become effective unless and until orders, declarations and directions, with no material differences, are obtained from the Superior Court of Québec and the Supreme Court of British Columbia.

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PERELL J.

PARSONS et al.  
KREPPNER et al.

vs. THE CANADIAN RED CROSS SOCIETY et al.

Plaintiffs

Defendants

Court File No. 98-CV-141369  
98-CV-146405

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ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDINGS COMMENCED AT TORONTO

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**ORDER**  
**(2019 Financial Sufficiency Assessment)**

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Lawyers for the  
Joint Committee



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**BETWEEN:**

**DIANE LUISE PARSONS et al**

**v**

**THE CANADIAN RED CROSS SOCIETY et al**

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**ENDORSEMENT**

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**PERELL J.**

**Released:** February 18, 2021