

COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

APRIL 3, 2008

Appearances:

- Bernard Coffey, Q.C. Commission Co-counsel
- Sandra Chaytor, Q.C. Commission Co-counsel
- Peter Browne/Jane Hennebury Drs. Kara Laing et al
- Rolf Pritchard/Jenny Chai Her Majesty in Right of NL
- Beth Whalen Eastern Regional Integrated
. Health Authority
- Pamela Taylor. Members of the Breast Cancer
. Testing Class Action
- Jennifer Newbury Canadian Cancer Society (NL Division)
- Stacey O’Dea. Central, Western and Labrador-Grenfell
. Regional Integrated Health Authorities

1 given the state that the work is at, we’ve
 2 prepared a supplemental list of documents that
 3 contains the materials that we’ve collected
 4 yesterday. That will be here in about half an
 5 hour, so that co-counsel can review it. It
 6 contains about 40 documents that are new as a
 7 result of this search.

8 THE COMMISSIONER:

9 Q. All right. So, thus far you’ve identified 40
 10 extra documents that, up until two days ago at
 11 least, had not been identified, related to the
 12 work of the Commission.

13 MR. PRITCHARD:

14 Q. That’s correct.

15 THE COMMISSIONER:

16 Q. And you’ve got about five percent of your work
 17 to complete?

18 MR. PRITCHARD:

19 Q. Yes.

20 THE COMMISSIONER:

21 Q. So, it’s possible that there might be another
 22 document or so there?

23 MR. PRITCHARD:

24 Q. It’s possible there might be a few more there.

25 THE COMMISSIONER:

1 THE COMMISSIONER:

2 Q. Please be seated. Mr. Coffey?

3 COFFEY, Q.C.

4 Q. Good morning, Commissioner. As you can see,
 5 Commissioner, Mr. Ottenheimer is not here this
 6 morning. That’s because we had communicated
 7 with counsel for Her Majesty, Mr. Pritchard
 8 and advised him that we would not be resuming
 9 with Mr. Ottenheimer this morning. Other
 10 counsel have also been so advised. What has
 11 happened since we were here on Tuesday is that
 12 I understand from Mr. Pritchard that an
 13 ongoing search is being conducted by his
 14 client for any further documents that might be
 15 relevant to the Commission’s Inquiry. And I’m
 16 going to ask Mr. Pritchard, if he could at
 17 this moment, come forward and explain to
 18 yourself what the exact status of that is.

19 THE COMMISSIONER:

20 Q. Thank you. Mr. Pritchard?

21 MR. PRITCHARD:

22 Q. Good morning, Commissioner. I’ve advised co-
 23 counsel this morning that as of this morning
 24 the work that we’ve been doing is about 95
 25 percent complete. And as a result of the--

1 Q. Okay. All right. So, do I take it from the
 2 percentages, at least, involved, that you
 3 anticipate that that work will be completed
 4 this morning?

5 MR. PRITCHARD:

6 Q. Yes.

7 THE COMMISSIONER:

8 Q. All right. Anything else you need to add?

9 MR. PRITCHARD:

10 Q. No, that’s everything, unless you have a
 11 question, Madam Commissioner.

12 THE COMMISSIONER:

13 Q. No, thank you, Mr. Pritchard.

14 COFFEY, Q.C.

15 Q. Commissioner, as well, since Tuesday, having
 16 reviewed the e-mails that Mr. Pritchard had
 17 forwarded to co-counsel, Commission co-counsel
 18 Monday, late Monday night, yes, late Monday
 19 night, Commission co-counsel decided that
 20 further interviews would be necessary or re-
 21 interviews, in certain instances, and they
 22 have begun and, in fact, will continue today.

23 THE COMMISSIONER:

24 Q. Okay.

25 COFFEY, Q.C.

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1 Q. You'll appreciate, of course, that I haven't
 2 seen or Ms. Chaytor has seen the approximately
 3 40 documents that Mr. Pritchard just referred
 4 to. What I'm going to suggest is as follows
 5 is that because, of course, review of those
 6 documents will have to occur while the
 7 interviews are not going on.

8 THE COMMISSIONER:

9 Q. Yes.

10 COFFEY, Q.C.

11 Q. So, what I'm going to suggest is, is that
 12 right now, assuming that there's nothing that
 13 requires further inquiry, before we can
 14 conclude the examination of Mr. Ottenheimer.
 15 I'm assuming that for the moment. I'm going
 16 to suggest that we resume at 9:30 tomorrow
 17 morning with a view to continuing with Mr.
 18 Ottenheimer. I say that, I certainly hope
 19 that that's the case, that we're able to do
 20 that, but I had assumed the same thing on
 21 Monday afternoon when we adjourned.

22 THE COMMISSIONER:

23 Q. So, do I take it then you're suggesting that
 24 barring information arising in the documents
 25 which are to be revealed today, which cause

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1 you to want to make further inquiries, you at
 2 least, as presently, will be in a position to
 3 proceed with Mr. Ottenheimer tomorrow morning.

4 COFFEY, Q.C.:

5 Q. Yes, Commissioner, either in the documents or
 6 during the interviews.

7 THE COMMISSIONER:

8 Q. Okay.

9 COFFEY, Q.C.

10 Q. But I don't know to be taken to pre-judge what
 11 we may be told today during the interviews.
 12 So, assuming that there is nothing that
 13 requires any necessary further requests for an
 14 adjournment, I will anticipate, myself and Ms.
 15 Chaytor will be here tomorrow morning,
 16 prepared at 9:30 to continue.

17 THE COMMISSIONER:

18 Q. Prepared to continue, okay. Thank you. Do
 19 any of the counsel for persons with standing
 20 have an objection to our following the plan
 21 proposed by Mr. Coffey, that is to adjourn to
 22 tomorrow morning at 9:30 in the belief that
 23 we'll be able to proceed at that time? All
 24 right.

25 COFFEY, Q.C.

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1 Q. Commissioner, I will say as well, if I could,
 2 to my fellow counsel, that we will, the
 3 Commission will endeavour, as soon as Mr.
 4 Pritchard client gets us those extra
 5 documents, endeavour to have them entered in
 6 the database here and distributed to counsel
 7 for them to prepare, as well, as they have to.

8 THE COMMISSIONER:

9 Q. All right, yes. Thank you. We'll adjourn
 10 then until tomorrow morning at 9:30.

11 Upon conclusion.

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1 CERTIFICATE

2 I, Judy Moss, hereby certify that the foregoing is
 3 a true and correct transcript in the matter of the
 4 Commission of Inquiry on Hormone Receptor Testing,
 5 heard on the 3rd day of April, A.D., 2008 before
 6 the Honourable Justice Margaret A. Cameron,
 7 Commissioner, at the Commission of Inquiry, St.
 8 John's, Newfoundland and Labrador and was
 9 transcribed by me to the best of my ability by
 10 means of a sound apparatus.

11 Dated at St. John's, Newfoundland and Labrador
 12 this 3rd day of April, A.D., 2008

13 Judy Moss

<p>-2-</p> <p>2008 [3] 1:4 8:5,12</p> <p>-3-</p> <p>3 [1] 1:4 3rd [2] 8:5,12</p> <p>-4-</p> <p>40 [3] 3:6,9 5:3</p> <p>-9-</p> <p>95 [1] 2:24 9:30 [4] 5:16 6:16,22 7:10</p> <p>-A-</p> <p>A.D [2] 8:5,12 ability [1] 8:9 able [2] 5:19 6:23 Action [1] 1:13 add [1] 4:8 adjourn [2] 6:21 7:9 adjourned [1] 5:21 adjournment [1] 6:14 advised [3] 2:8,10,22 afternoon [1] 5:21 ago [1] 3:10 al [1] 1:8 anticipate [2] 4:3 6:14 apparatus [1] 8:10 Appearances [1] 1:5 appreciate [1] 5:1 April [3] 1:4 8:5,12 arising [1] 5:24 assumed [1] 5:20 assuming [3] 5:12,15 6:12 Authorities [1] 1:16 Authority [1] 1:11</p> <p>-B-</p> <p>barring [1] 5:24 begun [1] 4:22 belief [1] 6:22 Bernard [1] 1:6 best [1] 8:9 Beth [1] 1:10 Breast [1] 1:12 Browne/Jane [1] 1:8</p> <p>-C-</p> <p>Cameron [2] 1:3 8:6 Canadian [1] 1:14 Cancer [2] 1:12,14 case [1] 5:19 Central [1] 1:15 certain [1] 4:21</p>	<p>certainly [1] 5:18 CERTIFICATE [1] 8:1 certify [1] 8:2 Chai [1] 1:9 Chaytor [3] 1:7 5:2 6:15 Class [1] 1:13 client [2] 2:14 7:4 co [1] 2:22 co-counsel [6] 1:6,7 3:5 4:17,17,19 Coffey [10] 1:6 2:2,3 4:14,25 5:10 6:4,9,21,25 collected [1] 3:3 Commission [9] 1:1,6 1:7 3:12 4:17,19 7:3 8:4 8:7 Commission's [1] 2:15 Commissioner [23] 1:3 2:1,4,5,19,22 3:8,15,20 3:25 4:7,11,12,15,23 5:8 5:22 6:5,7,17 7:1,8 8:7 communicated [1] 2:6 complete [2] 2:25 3:17 completed [1] 4:3 conclude [1] 5:14 conclusion [1] 7:11 conducted [1] 2:13 contains [2] 3:3,6 continue [3] 4:22 6:16 6:18 continuing [1] 5:17 correct [2] 3:14 8:3 counsel [6] 2:7,10,23 6:19 7:2,6 course [2] 5:1,5</p> <p>-D-</p> <p>database [1] 7:6 Dated [1] 8:11 days [1] 3:10 decided [1] 4:19 distributed [1] 7:6 Division [1] 1:14 document [1] 3:22 documents [9] 2:14 3:2 3:6,10 5:3,6,24 6:5 7:5 Drs [1] 1:8 during [2] 6:6,11</p> <p>-E-</p> <p>e-mails [1] 4:16 Eastern [1] 1:10 either [1] 6:5 endeavour [2] 7:3,5 entered [1] 7:5 et [1] 1:8 exact [1] 2:18 examination [1] 5:14 explain [1] 2:17</p>	<p>extra [2] 3:10 7:4</p> <p>-F-</p> <p>fact [1] 4:22 far [1] 3:9 fellow [1] 7:2 few [1] 3:24 five [1] 3:16 following [1] 6:20 follows [1] 5:4 foregoing [1] 8:2 forward [1] 2:17 forwarded [1] 4:17</p> <p>-G-</p> <p>given [1] 3:1 Good [2] 2:4,22</p> <p>-H-</p> <p>half [1] 3:4 Health [2] 1:11,16 heard [1] 8:5 Hennebury [1] 1:8 hereby [1] 8:2 Honourable [2] 1:3 8:6 hope [1] 5:18 Hormone [2] 1:2 8:4 hour [1] 3:5</p> <p>-I-</p> <p>identified [2] 3:9,11 information [1] 5:24 inquiries [1] 6:1 inquiry [5] 1:1 2:15 5:13 8:4,7 instances [1] 4:21 Integrated [2] 1:10,16 interviews [5] 4:20,21 5:7 6:6,11 involved [1] 4:2</p> <p>-J-</p> <p>Jennifer [1] 1:14 John's [2] 8:8,11 Judy [2] 8:2,13 Justice [2] 1:3 8:6</p> <p>-K-</p> <p>Kara [1] 1:8</p> <p>-L-</p> <p>Labrador [2] 8:8,11 Labrador-Grenfell [1] 1:15 Laing [1] 1:8 late [2] 4:18,18 least [3] 3:11 4:2 6:2 list [1] 3:2</p>	<p>-M-</p> <p>Madam [1] 4:11 Majesty [2] 1:9 2:7 Margaret [1] 8:6 materials [1] 3:3 matter [1] 8:3 may [1] 6:11 means [1] 8:10 Members [1] 1:12 might [3] 2:14 3:21,24 moment [2] 2:17 5:15 Monday [4] 4:18,18,18 5:21 morning [12] 2:4,6,9,22 2:23,23 4:4 5:17 6:3,15 6:22 7:10 Moss [2] 8:2,13 Ms [2] 5:2 6:14</p> <p>-N-</p> <p>necessary [2] 4:20 6:13 need [1] 4:8 new [1] 3:6 Newbury [1] 1:14 Newfoundland [2] 8:8 8:11 night [2] 4:18,19 NL [2] 1:9,14 nothing [2] 5:12 6:12 now [1] 5:12</p> <p>-O-</p> <p>O'Dea [1] 1:15 objection [1] 6:20 occur [1] 5:6 ongoing [1] 2:13 Ottenheimer [5] 2:5,9 5:14,18 6:3</p> <p>-P-</p> <p>Pamela [1] 1:12 percent [2] 2:25 3:16 percentages [1] 4:2 persons [1] 6:19 Peter [1] 1:8 plan [1] 6:20 position [1] 6:2 possible [2] 3:21,24 pre-judge [1] 6:10 prepare [1] 7:7 prepared [3] 3:2 6:16 6:18 presently [1] 6:2 Pritchard [14] 2:7,12 2:16,20,21 3:13,18,23 4:5,9,13,16 5:3 7:4 Pritchard/Jenny [1] 1:9</p>	<p>proceed [2] 6:3,23 proposed [1] 6:21</p> <p>-Q-</p> <p>Q.C [9] 1:6,7 2:3 4:14 4:25 5:10 6:4,9,25</p> <p>-R-</p> <p>re [1] 4:20 Receptor [2] 1:2 8:4 referred [1] 5:3 Regional [2] 1:10,16 related [1] 3:11 relevant [1] 2:15 requests [1] 6:13 requires [2] 5:13 6:13 result [2] 2:25 3:7 resume [1] 5:16 resuming [1] 2:8 revealed [1] 5:25 review [2] 3:5 5:5 reviewed [1] 4:16 right [7] 1:9 3:9 4:1,8 5:12 6:24 7:9 Rolf [1] 1:9</p> <p>-S-</p> <p>Sandra [1] 1:7 search [2] 2:13 3:7 seated [1] 2:2 see [1] 2:4 Society [1] 1:14 soon [1] 7:3 sound [1] 8:10 St [2] 8:7,11 Stacey [1] 1:15 standing [1] 6:19 state [1] 3:1 status [1] 2:18 suggest [3] 5:4,11,16 suggesting [1] 5:23 supplemental [1] 3:2</p> <p>-T-</p> <p>Taylor [1] 1:12 Testing [3] 1:2,13 8:4 thank [4] 2:20 4:13 6:18 7:9 today [3] 4:22 5:25 6:11 tomorrow [5] 5:16 6:3 6:15,22 7:10 transcribed [1] 8:9 transcript [1] 8:3 true [1] 8:3 Tuesday [2] 2:11 4:15 two [1] 3:10</p> <p>-U-</p>
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unless [1] 4:10

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-V-

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-W-

Western [1] 1:15

Whalen [1] 1:10

-Y-

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