

THIS PAGE ONLY REVISED ON NOVEMBER 18, 2008

COMMISSION OF INQUIRY
ON HORMONE RECEPTOR TESTING

BEFORE THE HONOURABLE JUSTICE CAMERON - COMMISSIONER

APRIL 4, 2008

Appearances:

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

1 Ottenheimer.
 2 THE COMMISSIONER:
 3 Q. So do I take it from your remarks that we will
 4 have very shortly the complete material from
 5 Mr. Pritchard's client?
 6 COFFEY, Q.C.:
 7 Q. I gather, that's my understanding and Mr.
 8 Pritchard is nodding and the answer is yes.
 9 THE COMMISSIONER:
 10 Q. All right, thank you. You raise, Mr. Coffey,
 11 something that, perhaps for the benefit of
 12 those who are not parties in this room, I
 13 should expand on. For those who would think,
 14 well, the material that comes in this morning,
 15 why can't we proceed this morning. I've
 16 referred to this before, but all material that
 17 is provided to us has to be put into our
 18 computer system. It has to be then put in a
 19 form which is searchable so that those parties
 20 with standing who want to use it have it--can
 21 have it in a form which makes it available on
 22 a reasonably swift basis, should they want to
 23 search for a particular topic or under a
 24 particular term. All that material has to be
 25 reviewed for redaction because we're trying

1 THE COMMISSIONER:
 2 Q. Please be seated. Mr. Coffey?
 3 COFFEY, Q.C.:
 4 Q. Good morning, Commissioner. Commissioner,
 5 yesterday Ms. Chaytor and I continued with
 6 some interviews of individuals. We plan--well
 7 first of all I'm going to ask for an
 8 adjournment today until Monday. We have
 9 tentatively arranged other interviews for
 10 today, if we are granted the adjournment. As
 11 well, there is material that Mr. Pritchard has
 12 just advised me there is additional material,
 13 some of which we had yesterday, but some of
 14 which, kind of the finalized version of it, in
 15 the sense of a complete version of it we have
 16 today from Mr. Pritchard, who will in fact--
 17 he'll be giving it to us momentarily, and
 18 we'll be in a position to distribute that
 19 throughout the morning to other counsel for
 20 other parties. However, of course, the
 21 lawyers involved will have to review and
 22 consider where it fits into the cases or their
 23 approach on behalf of their clients. I am in
 24 a position to advise you that beginning on
 25 Monday at 9:30, we will continue with Mr.

1 very, very hard to assure those patients who
 2 might be concerned that we make every effort
 3 to ensure that no personal information gets
 4 distributed. We then consult the lawyer who
 5 has provided us the material about the
 6 question of the material which should be
 7 redacted and hopefully can come to an
 8 agreement as to whether or not some material
 9 is personal or should be in another category
 10 or whatever. Once that is determined, then it
 11 has to be put in another form which is then
 12 disclosed to all parties, and then once it's
 13 disclosed to all parties, counsel have to
 14 determine whether or not this document or
 15 documents, sometimes very long documents,
 16 contain information which should be placed
 17 before the Commission, either because
 18 Commission counsel believes that it's relevant
 19 to the Terms of Reference, or perhaps because
 20 counsel on behalf of a person with standing
 21 believes that it contains information that
 22 should be placed before the Commission. So
 23 that it is a somewhat work-intensive process,
 24 even though we'd like to think that everything
 25 is automatic when you're dealing with

1 computers. So as a result, while I believe
 2 that the timeframe we're talking about is
 3 sufficient to turn this material around and
 4 allow everybody to have an adequate review of
 5 the material, I wanted those who had not been
 6 involved to understand that it is not a quick
 7 automatic process, that it does involve some
 8 work on behalf of Commission staff and counsel
 9 before you can then proceed with the
 10 documentation to use it in this room.

11 COFFEY, Q.C.:

12 Q. Thank you, Madam Commissioner.

13 THE COMMISSIONER:

14 Q. So you're quite confident, however, we're
 15 going to be in a position to proceed on
 16 Monday?

17 COFFEY, Q.C.:

18 Q. Yes, Commissioner, yes.

19 THE COMMISSIONER:

20 Q. All right, on that basis we'll adjourn until
 21 Monday at 9:30 and at that time we'll proceed
 22 with the examination of Mr. Ottenheimer.

23 COFFEY, Q.C.:

24 Q. Thank you, Commissioner.

25 THE COMMISSIONER:

Q. Thank you.

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 4th 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 4th day of April, A.D., 2008

13 Judy Moss

<p style="text-align: center;">-1-</p> <p>1 [1] 6:1 18 [1] 1:1</p> <hr/> <p style="text-align: center;">-2-</p> <p>2008 [4] 1:1,5 7:5,12</p> <hr/> <p style="text-align: center;">-4-</p> <p>4 [1] 1:5 4th [2] 7:5,12</p> <hr/> <p style="text-align: center;">-9-</p> <p>9:30 [2] 2:25 5:21</p> <hr/> <p style="text-align: center;">-A-</p> <p>A.D [2] 7:5,12 ability [1] 7:9 Action [1] 1:13 additional [1] 2:12 adequate [1] 5:4 adjourn [1] 5:20 adjournment [2] 2:8 2:10 advise [1] 2:24 advised [1] 2:12 agreement [1] 4:8 al [1] 1:10 allow [1] 5:4 answer [1] 3:8 apparatus [1] 7:10 Appearances [1] 1:6 approach [1] 2:23 April [3] 1:5 7:5,12 arranged [1] 2:9 Association [1] 1:14 assure [1] 4:1 Authorities [1] 1:17 automatic [2] 4:25 5:7 available [1] 3:21</p> <hr/> <p style="text-align: center;">-B-</p> <p>basis [2] 3:22 5:20 beginning [1] 2:24 behalf [3] 2:23 4:20 5:8 believes [2] 4:18,21 benefit [1] 3:11 Bernard [1] 1:7 best [1] 7:9 Breast [1] 1:12 Browne [1] 1:10</p> <hr/> <p style="text-align: center;">-C-</p> <p>Cameron [2] 1:4 7:6 Canadian [1] 1:15 Cancer [2] 1:12,15 cases [1] 2:22</p>	<p>category [1] 4:9 Central [1] 1:16 CERTIFICATE [1] 7:1 certify [1] 7:2 Chai [1] 1:11 Chaytor [2] 1:8 2:5 Class [1] 1:13 client [1] 3:5 clients [1] 2:23 Co-counsel [3] 1:7,8,9 Coffey [8] 1:7 2:2,3 3:6 3:10 5:11,17,23 Commission [10] 1:2,7 1:8,9 4:17,18,22 5:8 7:4 7:7 Commissioner [13] 1:4 2:1,4,4 3:2,9 5:12,13,18 5:19,24,25 7:7 complete [2] 2:15 3:4 computer [1] 3:18 computers [1] 5:1 concerned [1] 4:2 confident [1] 5:14 consider [1] 2:22 consult [1] 4:4 contain [1] 4:16 contains [1] 4:21 continue [1] 2:25 continued [1] 2:5 correct [1] 7:3 counsel [5] 2:19 4:13,18 4:20 5:8 course [1] 2:20</p> <hr/> <p style="text-align: center;">-D-</p> <p>Dated [1] 7:11 dealing [1] 4:25 determine [1] 4:14 determined [1] 4:10 disclosed [2] 4:12,13 distribute [1] 2:18 distributed [1] 4:4 Division [1] 1:15 document [1] 4:14 documentation [1] 5:10 documents [2] 4:15,15 Drs [1] 1:10</p> <hr/> <p style="text-align: center;">-E-</p> <p>effort [1] 4:2 either [1] 4:17 ensure [1] 4:3 et [1] 1:10 everybody [1] 5:4 examination [1] 5:22 expand [1] 3:13</p> <hr/> <p style="text-align: center;">-F-</p>	<p>fact [1] 2:16 finalized [1] 2:14 first [1] 2:7 fits [1] 2:22 foregoing [1] 7:2 form [3] 3:19,21 4:11</p> <hr/> <p style="text-align: center;">-G-</p> <p>gather [1] 3:7 giving [1] 2:17 Good [1] 2:4 granted [1] 2:10</p> <hr/> <p style="text-align: center;">-H-</p> <p>hard [1] 4:1 Health [1] 1:17 heard [1] 7:5 hereby [1] 7:2 Honourable [2] 1:4 7:6 hopefully [1] 4:7 Hormone [2] 1:3 7:4</p> <hr/> <p style="text-align: center;">-I-</p> <p>individuals [1] 2:6 information [3] 4:3,16 4:21 Inquiry [3] 1:2 7:4,7 Integrated [1] 1:17 interviews [2] 2:6,9 involve [1] 5:7 involved [2] 2:21 5:6</p> <hr/> <p style="text-align: center;">-J-</p> <p>Jennifer [1] 1:15 John's [2] 7:8,11 Judy [2] 7:2,13 Justice [2] 1:4 7:6</p> <hr/> <p style="text-align: center;">-K-</p> <p>Kara [1] 1:10 kind [1] 2:14</p> <hr/> <p style="text-align: center;">-L-</p> <p>Labrador [2] 7:8,11 Labrador-Grenfell [1] 1:16 Laing [1] 1:10 lawyer [1] 4:4 lawyers [1] 2:21</p> <hr/> <p style="text-align: center;">-M-</p> <p>Madam [1] 5:12 Majesty [1] 1:11 makes [1] 3:21 Mandy [1] 1:9 Margaret [1] 7:6 Mark [1] 1:14</p>	<p>material [11] 2:11,12 3:4 3:14,16,24 4:5,6,8 5:3,5 matter [1] 7:3 means [1] 7:10 Medical [1] 1:14 Members [1] 1:12 might [1] 4:2 momentarily [1] 2:17 Monday [4] 2:8,25 5:16 5:21 morning [4] 2:4,19 3:14 3:15 Moss [2] 7:2,13 Ms [1] 2:5</p> <hr/> <p style="text-align: center;">-N-</p> <p>Newbury [1] 1:15 Newfoundland [2] 7:8 7:11 NL [3] 1:11,14,15 NOVEMBER [1] 1:1</p> <hr/> <p style="text-align: center;">-O-</p> <p>O'Dea [1] 1:16 once [2] 4:10,12 Ottenheimer [2] 3:1 5:22</p> <hr/> <p style="text-align: center;">-P-</p> <p>PAGE [1] 1:1 Pamela [1] 1:12 particular [2] 3:23,24 parties [5] 2:20 3:12,19 4:12,13 patients [1] 4:1 perhaps [2] 3:11 4:19 person [1] 4:20 personal [2] 4:3,9 Peter [1] 1:10 Pike [1] 1:14 placed [2] 4:16,22 plan [1] 2:6 position [3] 2:18,24 5:15 Pritchard [3] 2:11,16 3:8 Pritchard's [1] 3:5 Pritchard/Jenny [1] 1:11 proceed [4] 3:15 5:9,15 5:21 process [2] 4:23 5:7 provided [2] 3:17 4:5 put [3] 3:17,18 4:11</p> <hr/> <p style="text-align: center;">-Q-</p> <p>Q.C [7] 1:7,8 2:3 3:6 5:11,17,23 quick [1] 5:6 quite [1] 5:14</p>	<p style="text-align: center;">-R-</p> <p>raise [1] 3:10 reasonably [1] 3:22 Receptor [2] 1:3 7:4 redacted [1] 4:7 redaction [1] 3:25 Reference [1] 4:19 referred [1] 3:16 Regional [1] 1:17 relevant [1] 4:18 remarks [1] 3:3 result [1] 5:1 review [2] 2:21 5:4 reviewed [1] 3:25 REVISED [1] 1:1 right [3] 1:11 3:10 5:20 Rolf [1] 1:11 room [2] 3:12 5:10</p> <hr/> <p style="text-align: center;">-S-</p> <p>Sandra [1] 1:8 search [1] 3:23 searchable [1] 3:19 seated [1] 2:2 sense [1] 2:15 shortly [1] 3:4 Society [1] 1:15 sometimes [1] 4:15 somewhat [1] 4:23 sound [1] 7:10 St [2] 7:7,11 Stacey [1] 1:16 staff [1] 5:8 standing [2] 3:20 4:20 sufficient [1] 5:3 swift [1] 3:22 system [1] 3:18</p> <hr/> <p style="text-align: center;">-T-</p> <p>Taylor [1] 1:12 tentatively [1] 2:9 term [1] 3:24 Terms [1] 4:19 Testing [3] 1:3,13 7:4 thank [4] 3:10 5:12,24 6:1 throughout [1] 2:19 timeframe [1] 5:2 today [3] 2:8,10,16 topic [1] 3:23 transcribed [1] 7:9 transcript [1] 7:3 true [1] 7:3 trying [1] 3:25 turn [1] 5:3</p> <hr/> <p style="text-align: center;">-U-</p>
--	--	--	--	---

under [1] 3:23
understand [1] 5:6

-V-

version [2] 2:14,15

-W-

Western [1] 1:16

Woodland [1] 1:9

work-intensive [1] 4:23

-Y-

yesterday [2] 2:5,13