

CHURCH & COMPANY

**THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS IN RESPECT
OF THE REDUCTION OF YOUR LONG TERM DISABILITY BENEFITS**

PLEASE READ CAREFULLY

August 28, 2017

BY MAIL

Dear Class Member:

**Re: Nina Watt and James Hensman v. Health Sciences Association
of B.C., and others SCBC S134066 (Vancouver Registry)**

A class action has been certified by the Honourable Mr. Justice Punnett in the case of **Watt and Hensman v. Health Sciences Association of B.C., and others**, SCBC S134066 Vancouver Registry, (the "Class Action"). The Class Action was certified by the Court on July 24, 2015. We previously provided an information letter about the Class Action in November, 2015. The Defendants appealed the certification to the British Columbia Court of Appeal. The Court of Appeal allowed portions of the defendants' appeal, thereby narrowing the issues in the Class Action.

The Class Action has been certified on behalf of two subclasses consisting of:

1. Health Science Association of British Columbia ("HSA") members who started receiving long term disability benefits between March 1, 1989 and February 28, 1999 and who were still receiving such benefits as of June 1, 2012 (the "LTD Agreement #1 Subclass"); and
2. HSA members who started receiving long term disability benefits between March 1, 1999 and August 3, 2006 and who were still receiving such benefits as of June 1, 2012 (the LTD Agreement #2 Subclass").

You are being contacted by us because the records of the Trustees indicate that you are likely to be a class member.

The Parties

The representative plaintiff approved by the Court to represent the LTD Agreement #1 Subclass is James Hensman. Mr. Hensman can be contacted through Church & Company at the address below.

The representative plaintiff approved by the Court to represent the LTD Agreement #2 Subclass is Nina Watt. Ms. Watt can be contacted through Church & Company at the address below.

The defendants in the action are:

1. the HSA;
2. Reid Johnson, Valerie Avery and Bruce MacDonald in their capacity as the Trustees of the Health Sciences Association of B.C. Trust Fund;
3. Reid Johnson, Bruce MacDonald and Marg Beddis in their capacity as the Trustees of the HSA Ltd Trust No. 2;
4. Reid Johnson, Bruce MacDonald, Valerie Avery and Marg Beddis in their capacity as the Trustees of the HSA Ltd Trust No. 3;
5. Reid Johnson;
6. Bruce Macdonald;
7. Valerie Avery; and
8. Marg Beddis.

The representative plaintiffs seek financial compensation on behalf of the class membership for the alleged losses suffered by class members as a result of the reduction in long-term disability benefits paid to class members starting in approximately June, 2012 and, in the case of the LTD Agreement #1 Subclass, the termination of certain benefits such as life insurance.

The Class is represented by the law firm of:

Church & Company
900 - 1040 W. Georgia Street
Vancouver, BC V6E 4H1

Telephone: 1-866-408-8277
Email: info@churchlegal.com
www.churchlegal.com

Class members should contact the above firm with any requests for further information. You can either leave an email message at the info@churchlegal.com email or a voice mail message on the 1-866-408-8277 number.

The Lawsuit

The lawsuit alleges that there were contracts between HSA and its members and that HSA breached the terms of those contracts by reducing long-term disability benefits to disabled members.

The lawsuit also alleges that the LTD Agreements constituted contracts of insurance under the BC Insurance Act and that HSA was precluded by legislation from taking steps to reduce benefits.

Further, the lawsuit alleges that the Trustees owed a fiduciary duty to the class members and breached that duty or were negligent.

The allegations in the action are denied by the Defendants.

For a more detailed understanding of the allegations made in this class action, please see the Further Amended Notice of Civil Claim, the Defendants' Responses to Civil Claim, the Court's Reasons for Certification and the Court of Appeal's Reasons for Judgment at www.churchlegal.com. Class members may also contact Class Counsel for further information. If you are uncertain about whether you are a member of one of the two subclasses, you may contact our firm (by phone 1-866-408-8277 or by email info@churchlegal.com) and we will advise you accordingly.

Consequences of Certification of the Lawsuit as a Class Action

Now that the lawsuit has been certified as a class action, the claims of the representative plaintiffs will be used to determine the legal responsibility of the Defendants to compensate the class members for the losses allegedly suffered.

Judgment on the common issues **whether favourable or not** will bind all Class members. You will be bound by the result of the Class action - whether the lawsuit is successful or unsuccessful - and will not be able to start or pursue your own legal claim against the Defendants. A list of the common issues is attached as **Schedule "A"** to this letter.

The representative plaintiffs will instruct the lawyers for the class during the common issues stage. The lawyers must act in the best interests of all class members.

Class members will not have a right to participate directly in the lawsuit, unless specifically permitted to do so by the Court.

RESIDENTS OF BRITISH COLUMBIA

If you are resident in British Columbia, fall within the definition of the class, and wish to participate in the Class action, then you do not have to do anything. You will **automatically be included in the Class Action** as a member of the applicable Subclass.

If you remain in the Class Action and it is successful in obtaining recovery from the Defendants, then you will be entitled to share in the recovery. If you opt out of the class action, you will **not** have this right. Persons who opt out of the Class Action may start their own lawsuits, but will not be able to claim in any recovery in the Class Action. Persons who opt out of the Class Action will not be able to share in any recovery in the Class Action whether through judgment or settlement.

If you do **not** wish to participate in the Class Action you **must** opt-out by completing and mailing the attached opt-out form to: Church & Company, 900 - 1040 W. Georgia Street, Vancouver, BC, V6E 4H1 **post marked by no later than November 24, 2017** or by otherwise delivering it to Church & Company by that date. If you do not opt-out by the deadline you will automatically be included in the Class Action.

NON-RESIDENTS OF BRITISH COLUMBIA

If you are resident outside of British Columbia, fall within the definition of the class, and you wish to participate in the Class Action, then you **must** opt-in by completing and mailing the attached opt-in form to: Church & Company, 900 - 1040 W. Georgia Street, Vancouver, BC, V6E 4H1 **post marked by no later than November 24, 2017** or by otherwise delivering it to Church & Company by that date.

If you join the Class Action and it is successful in obtaining recovery from the Defendants, either by settlement or judgment, then you will be entitled to share in that recovery. If you do not want to participate in the Class Action, then you do not have to do anything - you will automatically be excluded.

The Lawyers and their Fees

Class Counsel (the lawyers for the Class Action who represent the members of the two subclasses) are Church & Company (www.churchlegal.com).

Class Counsel will be seeking fees up to a maximum of one-third of the value of any settlement or judgment plus disbursements and applicable taxes as a first charge on any recovery, to be approved by the British Columbia Supreme Court. The fee arrangement is subject to court approval and the approved fee may be less than the maximum. You will NOT have to pay any amount unless there is a recovery. Any such payment will be deducted from your share of the recovery.

Class Member
August 28, 2017
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Questions?

Class Members can obtain more information by contacting Class Counsel directly at the addresses and numbers set out above.

This Notice has been approved by the BC Supreme Court.

Yours truly,

CHURCH & COMPANY

By:

A handwritten signature in blue ink, appearing to read "David P. Church", is written over the printed name.

David P. Church, Q.C.

Direct: (604) 331-9501

Email: church@churchlegal.com

Encl.

SCHEDULE “A” – COMMON ISSUES

1. Did HSA enter into a binding agreement with its members to provide various benefits, specifically though LTD Agreement #1 and LTD Agreement #2, as alleged in the Further Amended Notice of Civil Claim?
2. If HSA did enter into LTD Agreement #1 and LTD Agreement #2, what were the terms thereof?
3. Did HSA breach LTD Agreement #1 through one or more of the following, with respect to HSA members who became disabled between March 1, 1989 and February 28, 1999:
 - (a) the reduction in long term disability benefits;
 - (b) the imposition of early retirement and the concurrent discontinuance of long term disability benefits; and / or
 - (c) the termination of group life insurance and AD&D insurance.
4. Did HSA breach LTD Agreement #2 through one or more of the following, with respect to HSA members who became disabled between March 1, 1999 and August 3, 2006:
 - (a) the reduction in long term disability payments under the Index Removal;
 - (b) the reduction in long term disability benefits; and / or
 - (c) the imposition of early retirement and the concurrent discontinuance of long term disability benefits?
5. If the steps identified in paragraph 3, above, did not constitute a breach of LTD Agreement #1, on the basis that the terms thereof permitted HSA to undertake such actions:
 - (a) is LTD Agreement #1 “group insurance” within the meaning of the *Insurance Act*;
 - (b) is HSA an “insurer” within the meaning of the *Insurance Act*; and
 - (c) is HSA thus precluded from taking the steps identified in paragraph 3, above, by sections 58 and / or 116 of the *Insurance Act*?
6. If the steps identified in paragraph 4, above, did not constitute a breach of the LTD Agreement #2, on the basis that the terms thereof permitted HSA to undertake such steps:
 - (a) is LTD Agreement #2 “group insurance” within the meaning of the *Insurance Act*;
 - (b) is HSA an “insurer” within the meaning of the *Insurance Act*; and
 - (c) is HSA thus precluded from taking the steps identified in paragraph 4, above, by sections 116 of the *Insurance Act*?
7. [Deleted by the Court of Appeal’s Order].

8. [Deleted by the Court of Appeal's Order].
9. N/A
10. Did the Trustees breach their fiduciary duty to the Disabled HSA Members by failing to actively support a referendum seeking support to raise HSA union dues. [This issue was amended by the Court of Appeal's Order].
11. Do the trustees of Trust No. 1 and trustees of Trust No. 2 owe one or more of the following duties of care to the Disabled HSA Members, who are the beneficiaries of the Trusts:
 - (a) to act reasonably in the administration of each trust; and / or
 - (b) to act in accordance with sound business practices, custom, usage and applicable law in the administration of each trust?
12. Were the trustees of Trust No. 1 and Trust No. 2 negligent or grossly negligent or, in the alternative, did the trustees of Trust No. 1 and Trust No. 2 fail to act in accordance with sound business practice by failing to properly obtain, and utilize, actuarial advice in determining the amount of funds to be placed in Trust No. 3.
13. To the extent that the court concludes that there was a breach of contract (or contracts) on the part of HSA and/or breach of fiduciary duty on the part of the Trustees and/or negligence on the part of the trustees of Trust No. 1 or Trust No. 2, what damages were suffered by the class members as a result thereof?
14. N/A
15. Should punitive damages be awarded to the Class members against any of the Defendants? If so, in what amount?

To: Church & Company
900 – 1040 West Georgia Street
Vancouver, BC V6E 4H1

OPT IN NOTICE
(For non-BC Residents)

Dear Church & Company,

**Re: Nina Watt and James Hensman v. Health Sciences Association
of B.C., and others SCBC S134066, Vancouver Registry (the “Class Action”)**

I want to **OPT IN** to the above noted class action.

Name: _____

Address: _____

Email: _____

Phone #: _____

Signature: _____

This OPT IN Notice is for non-residents of BC who WANT to be in the Class Action. If you do not reside in BC and do not send in an OPT IN notice you will NOT be included in the Class Action.

If you reside in BC and wish to be part of the Class Action, **you do not** need to send us this Opt In Notice.

To: Church & Company
900 – 1040 West Georgia Street
Vancouver, BC V6E 4H1

OPT OUT NOTICE
(For BC Residents)

Dear Church & Company,

**Re: Nina Watt and James Hensman v. Health Sciences Association
of B.C., and others SCBC S134066 (Vancouver Registry)**

I want to **OPT OUT** of the above noted class action.

Name: _____

Address: _____

Email: _____

Phone #: _____

Signature: _____

This OPT OUT Notice is for BC Residents who DO NOT WANT to be in the Class Action. If you reside in BC and wish to be part of the Class Action, you will automatically be included in the Class Action if you do nothing.