

**TERRY BUFFETT**  
- and -  
**CANADIAN HUMAN RIGHTS COMMISSION**  
- and -  
**CANADIAN FORCES**

**Complainant**

**Commission**

**Respondent**

<b><u>DECISION</u></b>	
MEMBER: Athanasios D. Hadjis	2008 CHRT 4 2008/02/13

[1] In a judgment dated October 16, 2007, the Federal Court set aside my decision in the present case and referred it back to the Tribunal for redetermination (*Attorney General of Canada v. Buffett*, 2007 FC 1061). The Court's Order stated that there is no need for the Tribunal to conduct an additional hearing and that Mr. Buffett's complaint is to be redetermined "in accordance with the reasons of the Court, in particular, paragraphs 55 and 56 and following".

[2] It was pointed out in the judgment that if the matter had consisted of an appeal of the Tribunal's decision rather than a judicial review, the Court would have ordered the Canadian Forces (CF) to fund the intra-cytoplasmic sperm injection (ICSI) portion of Mr. Buffett's treatment to a maximum of three cycles. The Court noted, however, that during the judicial review hearing, Mr. Buffett stated that given his and his spouse's current ages, it is no longer recommended that they seek *in vitro* fertilization (IVF) and ICSI treatments. Consequently, the Court concluded that the issuance of such an order has now been rendered "moot". Accordingly, the present decision does not contain such an order.

[3] In addition, the parties have confirmed to the Tribunal that the CF has paid in full the pain and suffering award resulting from my decision of September 15, 2006, which award was undisturbed by the Court in its judgment of October 16, 2007. I do not think it necessary, therefore, for me to re-issue this order.

[4] Thus, for the reasons given by the Court, I hereby make the following order:

Pursuant to s. 53(2)(a) of the *Canadian Human Rights Act*, I order the Canadian Forces to take measures, in consultation with the Commission on the general purposes of the measures, to amend its policy such that as long as the Canadian Forces continues to fund *in vitro* fertilization (IVF) treatments for its female members, male members shall receive funding for the intra-cytoplasmic sperm injection (ICSI) portion of their infertility treatments.

"Signed by"

OTTAWA, Ontario

Athanasios D. Hadjis

## PARTIES OF RECORD

TRIBUNAL FILE:	T979/9604
STYLE OF CAUSE:	Terry Buffett v. Canadian Forces
DECISION OF THE TRIBUNAL DATED:	February 13, 2008
APPEARANCES:	
Terry Buffett	For himself
Giacomo Vigna	For the Canadian Human Rights Commission
Elizabeth Richards	For the Respondent