

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200130

**Dockets: A-354-18
A-360-18**

Citation: 2020 FCA 31

**CORAM: NADON J.A.
RIVOALEN J.A.
LOCKE J.A.**

BETWEEN:

HOSPIRA HEALTHCARE CORPORATION

Appellant

and

**THE KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH**

Respondent

AND BETWEEN

**HOSPIRA HEALTHCARE CORPORATION,
CELLTRION HEALTHCARE CO. LTD., CELLTRION, INC.
and PFIZER CANADA INC.**

**Respondents
(Plaintiffs by Counterclaim)**

and

**THE KENNEDY TRUST FOR RHEUMATOLOGY RESEARCH,
JANSSEN BIOTECH, INC., JANSSEN INC.,
CILAG GmbH INTERNATIONAL and CILAG AG**

**Appellants
(Defendants by Counterclaim)**

Heard at Toronto, Ontario, on October 28, 2019.

Judgment delivered at Ottawa, Ontario, on January 30 2020.

REASONS FOR JUDGMENT BY:

NADON J.A.

CONCURRED IN BY:

RIVOALEN J.A.
LOCKE J.A.

Federal Court of Appeal



Cour d'appel fédérale

Date: 20200130

**Dockets: A-354-18
A-360-18**

Citation: 2020 FCA 31

**CORAM: NADON J.A.
RIVOALEN J.A.
LOCKE J.A.**

BETWEEN:

HOSPIRA HEALTHCARE CORPORATION

Appellant

and

**THE KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH**

Respondent

AND BETWEEN

**HOSPIRA HEALTHCARE CORPORATION,
CELLTRION HEALTHCARE CO. LTD., CELLTRION, INC.
and PFIZER CANADA INC.**

**Respondents
(Plaintiffs by Counterclaim)**

and

**THE KENNEDY TRUST FOR RHEUMATOLOGY RESEARCH,
JANSSEN BIOTECH, INC., JANSSEN INC.,
CILAG GmbH INTERNATIONAL and CILAG AG**

**Appellants
(Defendants by Counterclaim)**

REASONS FOR JUDGMENT

NADON J.A.

[1] Because of our conclusion in court file A-338-18 (2020 FCA 30) that the judgment of the Federal Court dated September 28, 2018 (2018 FC 259) must be set aside, including the order of costs in favour of the respondents contained therein, it follows that the Federal Court's Order of October 23, 2018 (2018 FC 1067), as amended by an Order dated January 21, 2019, fixing the respondents costs at the sum of \$3,481,778.54, must also be set aside.

[2] As a result, the appeal in A-354-18 will be allowed. As to the appeal in file A-360-18 it is now moot and will thus be dismissed.

"M. Nadon"

J.A.

"I agree.
Marianne Rivoalen J.A."

"I agree.
Georges R. Locke J.A."

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKETS: A-354-18
A-360-18
STYLE OF CAUSE: HOSPIRA HEALTHCARE
CORPORATION v. THE
KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH

AND BETWEEN

STYLE OF CAUSE: THE KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH,
JANSSEN BIOTECH, INC.,
JANSSEN INC., CILAG GmbH
INTERNATIONAL and CILAG AG
v. HOSPIRA HEALTHCARE
CORPORATION, CELLTRION
HEALTHCARE CO. LTD.,
CELLTRION, INC. AND PFIZER
CANADA INC.

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: OCTOBER 28, 2019

REASONS FOR JUDGMENT BY: NADON J.A.

CONCURRED IN BY: RIVOALEN J.A.
LOCKE J.A.

DATED: JANUARY 30, 2020

APPEARANCES:

Warren Sprigings
Mary McMillan

FOR THE APPELLANTS
(DEFENDANTS BY
COUNTERCLAIM)
HOSPIRA HEALTHCARE
CORPORATION, CELLTRION
HEALTHCARE CO. LTD.,
CELLTRION, INC. AND PFIZER

Andrew Skodyn
Melanie Baird

CANADA INC.

FOR THE RESPONDENTS
(PLAINTIFFS BY
COUNTERCLAIM) THE
KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH,
JANSSEN BIOTECH, INC.,
JANSSEN INC., CILAG GMBH
INTERNATIONAL AND CILAG
AG

SOLICITORS OF RECORD:

SPRIGINGS IP
Toronto, Ontario

BLAKE, CASSELS & GRAYDON LLP
Toronto, Ontario

FOR THE APPELLANTS
(DEFENDANTS BY
COUNTERCLAIM) HOSPIRA
HEALTHCARE CORPORATION,
CELLTRION HEALTHCARE CO.
LTD., CELLTRION, INC. AND
PFIZER CANADA INC.
FOR THE RESPONDENTS
(PLAINTIFFS BY
COUNTERCLAIM) THE
KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH,
JANSSEN BIOTECH, INC.,
JANSSEN INC., CILAG GMBH
INTERNATIONAL AND CILAG
AG