

Federal Court



Cour fédérale

Date: 20200817

Docket: T-396-13

Citation: 2020 FC 827

Ottawa, Ontario, August 17, 2020

PRESENT: The Honourable Mr. Justice Phelan

BETWEEN:

HOSPIRA HEALTHCARE CORPORATION

Plaintiff

and

**THE KENNEDY TRUST FOR
RHEUMATOLOGY RESEARCH**

Defendant

AND BETWEEN:

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

Plaintiffs by Counterclaim

and

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

Defendants by Counterclaim

ORDER AND REASONS

[1] The issue for resolution is whether the Reconsideration Hearing should be conducted in-person or by Zoom. The Plaintiff/Defendants by Counterclaim, on whom the burden to make the case on the issues under reconsideration, have consistently requested an in-person hearing. The Defendant/Plaintiffs by Counterclaim oppose. Lack of agreement is a hallmark of this case.

[2] The Learned Prothonotary, when setting the matter down for hearing, set it as a “Zoom hearing” subject to the matter being revisited when the Court opened up for in-person hearings.

[3] This is a matter which, given its electronic record and limited scope, is readily Zoomable – it can be done but should it be done by Zoom?

[4] In-person hearings are the norm for courts: Zoom is but a robust alternative. The Federal Court is increasingly receiving requests for the return to in-person hearings.

[5] For many of the reasons advanced by the Plaintiff/Defendants by Counterclaim, I am of the view that the argument itself should be conducted in-person. It will facilitate communication with and between the Court and counsel and between counsel.

[6] However, this is also a situation where the proceeding may also benefit from the use of Zoom. By being a hybrid proceeding, clients, observers and interested persons can attend the hearing remotely.

[7] This is not a case which requires a horde of lawyers and a phalanx of counsel in the courtroom. Those lawyers from each side who may be useful to counsel but whose physical presence is not necessarily essential all the time for the argument may be involved and available remotely.

[8] In my view, a hybrid hearing preserves the benefits of in-person argument while accommodating, in as safe a manner as is reasonably possible, the involvement of interested parties.

[9] As to location of hearing, it is simpler, more efficient and possibly safer to move one person – the judge – to Toronto rather than a gaggle of counsel to Ottawa.

[10] Therefore, argument on this matter scheduled for September 9, 2020, will proceed in Toronto with those counsel reasonably essential to the conduct of the argument present. In all other respects, the proceeding shall be conducted over Zoom.

[11] Further logistics and issues may be discussed at the pending trial management conference.

ORDER in T-396-13

FOR THE REASONS GIVEN, this Reconsideration Hearing shall be conducted as a hybrid in-person/Zoom proceeding consistent with the reasons given. There are no costs awarded.

"Michael L. Phelan"

Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: T-396-13

STYLE OF CAUSE: HOSPIRA HEALTHCARE CORPORATION v THE KENNEDY TRUST FOR RHEUMATOLOGY RESEARCH and 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 ULC

WRITTEN SUBMISSIONS CONSIDERED AT OTTAWA, ONTARIO.

ORDER AND REASONS: PHELAN J.

DATED: AUGUST 17, 2020

WRITTEN SUBMISSIONS BY:

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FOR THE PLAINTIFF/
DEFENDANTS BY COUNTERCLAIM

Andrew Skodyn

FOR THE DEFENDANT/
PLAINTIFFS BY COUNTERCLAIM

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