



Action No: 0401-13156

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

Lawrence Alexander Hughes, administrator *ad litem* of the  
Estate of Bethany Abigail Hughes, deceased,  
Lawrence Alexander Hughes in his own right, and  
Her Majesty the Queen in Right of Alberta

for

Plaintiffs

-and-

Arliss Carroll Hughes, Shane Heath Brady, David Miles Gnam, Merrill Morrell,  
Thomm Bokor, Watch Tower Bible and Tract Society of Canada, Dr. A. Robert Turner,  
Dr. Andrew Belch, Dr. John Doe, Dr. Jane Doe, Jack Doe, Jill Doe, Cross Cancer  
Institute, Alberta Cancer Board, and Her Majesty the Queen in Right of Alberta

Defendants

STATEMENT OF CLAIM

1. The Plaintiff, Lawrence Alexander Hughes in his capacity as Administrator *Ad Litem* of  
the Estate of Bethany Abigail Hughes ("Bethany"), Deceased (hereinafter referred to as  
the "Estate"), was appointed Administrator *Ad Litem* of the Estate of Bethany Abigail  
Hughes as of August 25, 2004, by the Order of the Honourable Mr. Justice S. J.  
LoVecchio, and is the Administrator *Ad Litem* of the Estate of Bethany Abigail Hughes,  
deceased.

for

for

for

2. The Plaintiff, Lawrence Alexander Hughes in his capacity as Administrator *Ad Litem* of  
the Estate of Bethany Abigail Hughes, Deceased, brings this action for the benefit for the  
Estate and those persons entitled to benefits under the *Survival of Actions Act*, RSA 2000,  
Chapter S-27, as amended, and for the benefit of those persons entitled to benefits under

for

the *Fatal Accidents Act*, RSA 2000, Chapter F-8, as amended, arising from the wrongful death of Bethany Abigail Hughes (“Bethany”), namely, Lawrence Alexander Hughes, Bethany’s father, Arliss Carroll Hughes, Bethany’s mother, and Athalia Larson (nee Hughes) and Cassandra Hughes, Bethany’s sisters.

3. The Plaintiff, Lawrence Alexander Hughes, who also brings this action in his own personal capacity (hereinafter referred to as the “Father”), is an individual residing in the City of Calgary, in the Province of Alberta, and is the father of Bethany.
4. The Plaintiff Her Majesty the Queen in Right of Alberta is a Plaintiff herein for the sole purpose of its recovery rights for medical costs as found in the *Hospitals Act*, RSA 2000, c. H-12, as amended, such costs in respect of the treatment of Bethany.
5. The Defendants, Dr. A. Robert Turner and Dr. Andrew Belch, were at all material times qualified medical doctors licensed to practice medicine by the College of Physicians and Surgeons of Alberta, and practiced as specialists in the fields of oncology and hematology (hereinafter referred to as “Dr. Turner” and “Dr. Belch”), who at all material times carried on the practice of medicine in Edmonton, Alberta, and treated Bethany during the relevant times at the Cross Cancer Institute in Edmonton, Alberta. The Defendant doctors, Dr. John Doe and Dr. Jane Doe, were at all material times qualified medical doctors licensed to practice medicine by the College of Physicians and Surgeons of Alberta, and treated Bethany during the relevant times at the Cross Cancer Institute in Edmonton, Alberta. (“These Doctors are sometimes collectively referred to herein as the “Defendant Doctors”).
6. The Defendant medical personnel Jack Doe and Jill Doe, were at all material times qualified medical personnel employed by the Defendants Cross Cancer Institute and Alberta Cancer Board, and treated Bethany during the relevant times at the Cross Cancer Institute in Edmonton, Alberta. (“These medical personnel are sometimes collectively referred to herein as the “Defendant Medical Employees”).
7. The Defendant Cross Cancer Institute, was at all material times a facility for the treatment of cancer operating in Edmonton, Alberta. The Defendant Alberta Cancer

Board was at all material times the Provincial health authority mandated by Her Majesty the Queen in Right of Alberta (“HMQ”) to operate facilities and programs in Alberta for cancer prevention, detection, diagnosis and treatment, and at all material times operated the Cross Cancer Institute. The Defendant HMQ at all material times owned and operated the Defendant clinic and oversaw the Defendant Board, and, as such, is responsible for all of the Defendants. (Dr. A. Robert Turner, Dr. Andrew Belch, Dr. John Doe, Dr. Jane Doe, Jack Doe, Jill Doe, the Cross Cancer Institute, the Alberta Cancer Board and Her Majesty the Queen in Right of Alberta, are sometimes collectively referred to herein as the “Health Care Defendants”).

8. The Defendant Watch Tower Bible and Tract Society of Canada is a body corporate with headquarters in Georgetown, Ontario, which carries on business in Alberta and throughout Canada, and governs, directs, controls and oversees, all aspects of the Jehovah’s Witness religion in Canada and the lives of its members (“Watch Tower Society” or “Society”). The Society has its Canadian headquarters and business offices situated at Georgetown, Ontario, which includes its Canadian printing and distribution facilities, and large grounds and residence facilities for employees and members who work at headquarters (collectively referred to as “Bethel-Canada”). The Society governs, controls, organizes, directs and oversees all aspects of the Jehovah’s Witness religion and its membership and practice in Canada. This is done from Bethel-Canada, and from there, the Society controls, organizes, directs and oversees its approximately 108,000 members who practice the Jehovah’s Witness religion in its 1,300 congregations in Canada, including Alberta, and carries out its printing and distribution of Jehovah’s Witness literature and conducts all of its Canadian business and other operations. The Society has an in-house legal department which operates out of Bethel-Canada, in which the Society employs lawyers and support staff to serve, protect and represent the Society’s interests. Although the said legal department sometimes uses the name “W. Glen How & Associates, Barristers and Solicitors”, it is a department of, and is controlled, directed and overseen by, the Society.
9. The Defendants Shane Heath Brady (“Brady”) and David Miles Gnam (“Gnam”), (collectively sometimes referred to as the “Watch Tower Lawyers”) reside in

Georgetown, Ontario, and were at all material times engaged or employed full time by the Society at Bethel-Canada. In providing full time service to the Society as they have done and continue to do through their employment or engagement at the Society's headquarters at Bethel-Canada, both were at all material times, and continue to be, members of the "Order of Special Full-Time Servants", a religious order of the Society that is devoted exclusively to the Jehovah's Witness ministry, and which is governed, controlled, organized, directed and overseen by the Society. Both were at all material times practicing lawyers and members of the Law Society of Upper Canada, and practicing Jehovah's Witnesses and members of and elders and Pioneers in the Society and engaged or employed by and servants and agents of the Society, and maintained their offices at and carried on their practices from the Society's legal department in Bethel-Canada, where their principal mandate was to serve, protect and represent the interests of the Society. From time to time their employment with the Society required them to represent members of the Society who had legal matters to be dealt with, but only if the interests, beliefs and practices of such members and the resolution of their legal matters were congruent with the interests of the Society and did not contravene Jehovah's Witness teachings mandated and espoused by the Society.

10. The Defendant Merrill Morrell ("Morrell"), was at all material times the Chairman of the Society's Hospital Liaison Committee for the area of Calgary, Alberta, and surrounding region, and a practicing Jehovah's Witness and member of the Society and an agent thereof. He was at all material times involved in assisting the Society and the Defendant Watch Tower Lawyers with Bethany's case, as more fully described below, and overseeing Bethany and her Mother to ensure that these two stood fast in refusing to consent to any blood transfusions for Bethany.
11. The Defendant Thomm Bokor ("Bokor"), was at all material times the Chairman of the Society's Hospital Liaison Committee for the area of Edmonton, Alberta, and surrounding region, a practicing Jehovah's Witness and member of the Society and an agent thereof. He was at all material times involved in assisting the Society and the Defendant Watch Tower Lawyers in dealing with public and media relations to ensure that the Society's perspective on Bethany's case, as more fully described below, was

conveyed to the public. (Bokor and Morrell are sometimes collectively referred to herein as the "Watch Tower Hospital Liaison Defendants"). (Bokor, Morrell, Gnam, Brady, and the Society are sometimes collectively referred to herein as the "Watch Tower Defendants").

12. The Defendant Arliss Carol Hughes (hereinafter referred to as the "Mother"), was Bethany's mother and at all material times a practicing Jehovah's Witness and member of the Society.
13. Bethany was born on August 20, 1985, and resided in Calgary until about July 29, 2002. On February 13, 2002, she was diagnosed with acute myeloid leukemia, sub-type M-1 ("leukemia"), one of the most virulent and aggressive forms of blood cancer, and immediately admitted to the Calgary Children's Hospital in Calgary.
14. It was the recommendation of her physicians that she immediately undergo treatment consisting of chemotherapy supported by blood transfusions and that such treatment was essential and the only curative treatment available for Bethany's leukemia, and that without such blood support, she would die.
15. Until February 15, 2002, the Father had also been a practicing Jehovah's Witness and member of the Society. When Bethany was diagnosed with leukemia, the Father entered into a deep and serious study and investigation of his Jehovah's Witness faith, particularly in respect of the Society's condemnation of blood transfusions that are necessary to save peoples lives, and reconsidered the Society's teachings that blood transfusions were wrong and not to be taken by or consented to by members of the Society, and decided that he would give his consent so that Bethany could receive blood transfusions for the treatment of her leukemia, which he believed was the only realistic treatment option available to her and without which she would die, and by doing so, he went against the Society's teachings that such blood transfusions were forbidden, and was consequently expelled from the Society, disfellowshipped and excommunicated from the congregation of Jehovah's Witnesses and, as mandated by the Society, actively shunned by all Jehovah's Witnesses from that day forward, including by his wife (the Defendant Arliss Carrol Hughes), and his other two daughters, all of whom opposed

Bethany's receiving a blood transfusion even though it meant that without blood transfusions to support her chemotherapy, Bethany would surely die from leukemia.

16. The Father consented to the entirety of the proposed treatment but the Mother would not consent to Bethany's receiving the recommended blood transfusions because they were contrary to Jehovah's Witness teachings mandated and espoused by the Society, even though the diagnosing doctors believed that without the blood transfusions, Bethany would die.
17. On February 18th, 2002, Judge Jordan of the Provincial Court of Alberta granted the applications of the Director of Child Welfare for the Province of Alberta for an Apprehension Order and a Treatment Order for Bethany who was then in the Calgary Children's Hospital because of her leukemia, following which the recommended treatment regimen of chemotherapy and blood transfusions were administered to her. By July 2, 2002, the treatment regimen concluded and the terms of the Apprehension Order and Treatment Order ceased to apply.
18. Bethany was admitted to the Calgary Children's Hospital on February 13, 2002, and remained there until her discharge on or about July 15, 2002.
19. The Mother and Watch Tower Defendants, all opposed Bethany receiving blood transfusions for the treatment of her leukemia, and from the time blood transfusions for Bethany were directed by the Order of Judge Jordan on February 15, 2002, these Defendants, by using prayer services and other means, all overtly influenced Bethany to believe that the blood transfusions were wrong and would not help cure her cancer and that she had a right to and should resist them, and actively influenced her to resist the blood transfusions by telling her, *inter alia*, that (1) she had the right to withdraw from her treatment protocol, (2) that she should fight and resist the implementation of the treatment protocol when administered by the hospital staff, and these Defendants misled Bethany by intentionally misstating to her that her treatment protocol was experimental when in fact it was not.

20. The Watch Tower Defendants and the Mother, by prayer services and other means, actively encouraged Bethany to not question her faith and to not engage in any form of deep thought or reflection on the consequences of resisting or not receiving blood transfusions. At all material times, these Defendants imposed their influence on Bethany in order to dissuade and prevent her from questioning her belief-system which informed her belief that it was against God's law to take a blood transfusion, and that if she did, that she would perish in Armageddon and be eternally damned. In the premises, these Defendants exerted undue influence on Bethany.
21. At or about the time Bethany was discharged from the Calgary Children's Hospital on July 15, 2002, until the end of her life on September 5, 2002, the Mother and the Watch Tower Defendants, conspired together and formulated a plan to move Bethany to a location to be kept secret from the Father for the purpose of arranging and having administered to Bethany a regimen of treatment for her leukemia which did not include blood transfusions, well knowing that if the Father knew of the intended treatment regimen being planned by these Defendants, that he would immediately realize that it did not include blood transfusions and that if he knew Bethany's location that he would take the necessary steps to inform the Department of Child Welfare in order to request the Director of Child Welfare for the Province of Alberta seek an Apprehension Order and a Treatment Order for Bethany in order that she could get the only reasonable treatment that could possibly save her life, which was a treatment that included blood transfusion support for any chemotherapy to be administered to her.
22. Unknown to the Father, and without his consent, some time after Bethany's discharge from the Calgary Children's Hospital, the Mother and the Watch Tower Defendants, with stealth and deliberation for the purpose of keeping Bethany's whereabouts and their intended treatment regimen for Bethany, which excluded blood transfusions, hidden from the Father, arranged a regimen of treatment for Bethany's leukemia which did not include blood transfusions and, on or about July 29, 2002, Bethany was admitted to the Defendant Cross Cancer Institute to commence this alternative treatment which was to be administered, and was administered by, the Health Care Defendants.

23. From on or about July 29, 2002, until September 5, 2002, when she died, Bethany was under the care of the Health Care Defendants who, at all material times, carried out their alternative treatment of Bethany at the Cross Cancer Institute.
24. In the proceedings Calgary Provincial Court before Judge Jordan on February 15 & 18, 2002, the Mother and Watch Tower Lawyer Defendants opposed Bethany having a blood transfusion and vigorously fought the matter all the way to the Supreme Court of Canada. In addition to the legal proceedings leading to the February 18, 2002, Order of Judge Jordan, the following legal proceedings occurred:
  - a. Application to the Court of Queen's Bench for a stay of the Order of Judge Jordan, heard by Justice Rooke on February 20, 2002;
  - b. Appeal to the Court of Queen's Bench from the Order of Judge Jordan and applications to adduce new evidence and for a grant of *habeas corpus*, heard by Justice Kent on April 4-8, 2002;
  - c. Appeal to the Court of Appeal from the Order of Justice Kent, heard April 26, 2002;
  - d. Application to the Supreme Court of Canada for leave to appeal from the judgment of the Court of Appeal, filed May 6, 2002, which included a motion to expedite the decision on the leave application, a motion for a stay of execution of the orders below, and a motion for an "interim" interim stay of execution of the orders below.
  - e. Trial in Calgary Provincial Court on an application by the Director of Child Welfare for the Province of Alberta for a Temporary Guardianship Order, before Judge Vickery June 17 – 24, 2002.
  - f. (The above legal proceedings are sometimes collectively referred to as "Bethany's Case")
25. The Defendant Bokor was responsible for media coverage for the Society and took the necessary steps to ensure that Bethany's Case was widely publicized and covered and



reported by media, right from when Judge Jordan granted her Order on February 18, 2002, until Bethany's admission to the Cross Cancer Clinic on or about July 29, 2002, and thereafter.

26. At the time of her admission to the Cross Cancer Institute on or about July 29, 2002, the story about Bethany's Case was well known across Canada as a result of the media coverage. In Alberta, it was a huge media story and at all material times the Watch Tower Defendants and Health Care Defendants well knew the legal history and issues and details of Bethany's Case and the details and implications pertaining to the legal issues respecting her blood transfusions, as set forth above.
27. In particular, at the time of her admission to the Defendant Cross Cancer Clinic until the time of her death, the Health Care Defendants knew, or ought to have known, and the fact is, that:
  - a. The Mother and the Watch Tower Defendants, all opposed Bethany receiving blood transfusions for the treatment of her leukemia, and from February 15, 2002, until her admission to the Defendant Cross Cancer Institute on or about July 29, 2002, and thereafter, these Defendants all overtly influenced Bethany to believe that blood transfusions were wrong and would not help cure her cancer and intentionally misstated to Bethany that a chemotherapy/blood transfusion treatment protocol for her leukemia was experimental when in fact it was not.
  - b. The Watch Tower Defendants conducted prayer services in Bethany's room at the Calgary Children's Hospital, as referred to above, and together with the Mother, encouraged and influenced her to not engage in any form of deep thought or reflection on the consequences of not receiving blood transfusions. At all material times, these Defendants unduly influenced Bethany to prevent her from questioning her belief-system which informed Bethany's belief that it was against God's law to take a blood transfusion, and that if she did, she would be eternally damned by God and not survive Armageddon.

- c. A treatment regime involving chemotherapy supported by blood transfusions was the only curative treatment possibility available to Bethany that provided any realistic chance of saving her life and it was in her best interests to receive such a treatment regimen and Bethany did not have the life or developmental experience which would allow her to question her Jehovah's Witness faith or the Society's teachings, which experience was an essential step in arriving at a personal level of development for her to be considered to have the capacity to consent to a medical treatment for her leukemia which did not include life saving blood transfusions, given that only with a treatment regimen which included blood transfusions, would she have any chance of surviving her leukemia.
- d. As a result of the undue influence of and misleading information from her Mother and the Watch Tower Defendants, Bethany did not believe that death would result without blood transfusions and she believed that she would not die if she did not have blood transfusions, all of which took away her ability to make an informed choice on the matter.
- e. Given the pressures and influences brought to bear on Bethany by her Mother and the Watch Tower Defendants, Bethany was incapable of coming to a free or informed choice on the matter of the consequences to her of refusing a blood transfusion, which pressures effectively negated her ability to make an informed decision or provide an informed, or any proper consent on the matter of whether she should accept a treatment regimen which did not include blood transfusions.
- f. The inaccurate and improper statements made by the Mother to Bethany while she was being treated in the Calgary Children's Hospital, that Bethany had the right to withdraw from her treatment protocol, and to fight and resist the implementation of the treatment protocol when administered by the hospital staff and that her treatment protocol was experimental, and the Mother's improper actions at that hospital where she attempted to pull the intravenous lines from Bethany's arm and in the process thereby risking harm to Bethany, indicated that the Mother had no perspective on Bethany's medical situation and that the Mother could not make

decisions for Bethany or advise her, and was in no position to provide her consent to the treatment regimen that was to be administered to Bethany by the Health Care Defendants.

- g. From the time of Bethany's discharge from the Calgary Children's Hospital on July 15, 2002, until her admission to the Cross Cancer Institute on or about July 29, 2002, the Mother and the Watch Tower Defendants all acted with stealth and deliberation for the purpose of keeping Bethany's whereabouts hidden from the father and used deceit and other misleading means to deceive the Father so as to achieve these ends and until on or about August 23, 2002, the Father was kept unaware of Bethany's location and at all times kept unaware of the nature of the treatment that was arranged for and being administered to her by the Health Care Defendants at the Cross Cancer Institute.
- h. The Father was being shunned by Bethany, the Mother, the remainder of his children, and the Watch Tower Defendants and other members of the Society who until February 15, 2002, had constituted virtually his entire social circle which was limited to only other members of the Society who faithfully practiced Jehovah's Witness teachings espoused and mandated by the Society and which social circle was tightly circumscribed by the Society, and these Defendants had intentionally alienated Bethany from her Father, and the Mother and the Watch Tower Defendants were at all material times actively ensuring that Bethany had no confidential communication with her Father, and that in the very few telephone conversations that she did have with him from after her discharge from the Calgary Children's Hospital, all of which were monitored, plus the undue influence that had been brought to bear on her by her Mother and Watch Tower Defendants, Bethany was not in a position to freely inform her father of the true situation she was in, and could not, would not and did not tell him her location or the nature of the treatment that was intended for her, or that she was receiving, thus precluding any involvement from her Father and preventing him from taking any steps to try to ensure that Bethany got blood transfusions to support whatever

other therapy she was to receive, or receiving, which blood transfusions were necessary to save her life.

- i. Although the Defendant Watch Tower Lawyers purportedly acted for the Mother as well as for Bethany, they were also employees and servants of and engaged by and also members of the Society, which condemned blood transfusions for its members on pain of disfellowshipment and excommunication, and who themselves believed that blood transfusions were wrong and who would not have acted for Bethany or her Mother if Bethany or her Mother chose these blood transfusions as part of the treatment for Bethany. Moreover, the Defendant Watch Tower Lawyers were elders in the Society and, as Bethany and her Mother were members of the Society, they were obliged by the Society to obey what these elders said. In the end, the Defendant Watch Tower Lawyers were unable to differentiate their roles as counsel for Bethany, counsel for the Mother, and employees and servants of and engaged by, and at all material times supporting, advising and advocating to Bethany and her Mother choices and conduct which conformed with the objectives and teachings of the Society and not presenting to Bethany and her Mother choices and conduct options which did not. Additionally, the Defendant Watch Tower Lawyers were themselves members of the Jehovah's Witness faith and the Society as well as being religious superiors within the Society, and were unable to give objective or reasonable advice to Bethany or her Mother, or either of them, on any matter pertaining to the medical treatment and care of Bethany for her leukemia, including, without restriction, what constituted Bethany's best interests, whether refusing blood transfusions was in Bethany's interest, whether the treatment regimen to be undertaken by the Health Care Defendants should include blood transfusions, whether the Mother's desire that Bethany refuse blood transfusions should be taken into account by Bethany's lawyer in persuading Bethany what to do in making her decision on the matter, collaborating between themselves upon advice that would be given to Bethany and her Mother on matters that were opposing in interest, and *vice versa*.

- j. The Defendant Watch Tower Lawyers were from the same legal department of the same Society yet were representing Bethany and her Mother, who held opposing interests on life and death matters respecting Bethany, her best interests, and her medical treatment, and the Defendant Watch Tower Lawyers were thus generally not in a position to advise Bethany or her Mother in an objective, fully informed manner that would enable Bethany to make a free, informed decision on whether to chose to have blood transfusions as a component of her treatment regimen, or to refuse transfusions, or enable her Mother to provide an informed or any reasonable consent to any treatment to be recommended for Bethany, whether it included blood transfusions or did not. In the premises, the Defendant Watch Tower Lawyers, or either of them, were in a conflict of interest in acting for Bethany and her Mother, or either of them.
28. From July 29, 2002, through September 5, 2002, the day she died, Bethany was at all material times under the medical care of the Health Care Defendants for the treatment of her leukemia, and during this period these Defendants treated Bethany's leukemia by administering to her a treatment regimen which did not include blood transfusions. The Plaintiffs do not at this time have the full details of the treatment, which details will be provided at the trial of this action, but believe that such treatment involved some type chemotherapy without any blood transfusions to support the chemotherapy (the "alternative treatment").
29. By about August 1, 2002, Bethany's medical condition had improved from when she was discharged from the Calgary Children's Hospital as aforesaid, and continued to improve until about August 21, 2002, however, by approximately August 28, 2002, her medical condition had deteriorated as a direct result of the alternative treatment being administered to her by the Health Care Defendants, which did not include blood support and, by August 28, 2002, or thereabouts, Bethany had become, and remained until her death on September 5, 2002, a child in need of protective services, as there were at all material times from about August 28, 2002, and thereafter, reasonable and probable grounds to believe that Bethany's survival was endangered because her Mother was unable or unwilling to provide Bethany with the necessities of life, including failing to

permit Bethany to receive essential medical or other remedial treatment, namely blood transfusions, which were necessary to save Bethany's life and which had been recommended by a physician, as the Mother, Watch Tower Defendants and Health Care Defendants at all material times well knew.

- a. As a result, from on or about August 28, 2002, until September 5, 2002, s. 4 of the *Child Welfare Act* RSA 2000, c. C-12 required the Mother, Watch Tower Defendants and Health Care Defendants to report the matter of Bethany's medical state and situation to a director under the *Child Welfare Act*, yet all of these Defendants, all of whom were familiar with the procedures for reporting the matter as required by the said *Act*, failed to report the matter, thereby committing an offence under s. 4 (6) of the said *Act*.
- b. Aggravating the matter, the Health Care Defendants who at all material times knew or ought to have known of their responsibility to report the matter of Bethany's condition as required by the *Child Welfare Act* and failed to do so, knew or ought to have known that the Mother was unable or unwilling to consent to a blood transfusion, and also knew that the Father was Bethany's other guardian and knew, or ought to have known, that the Father had rights and interests pertaining to Bethany and her treatment and best interests equal to those of the Mother and that the true facts pertaining to Bethany's life threatening medical condition had not been communicated to him by themselves or the other Defendants, and that the other Defendants had intentionally misled the Father by representations they made to him to induce him to believe, and he did believe, that after August 28, 2002, or thereabouts, Bethany's condition was continuing to improve and that she was looking forward to finishing up her treatment and continuing with her life, including her schooling, which representations these Health Care Defendants knew or ought to have known had been made to the Father and were false. Despite these aggravating factors, as well as the fact that it was doubtful that the Mother had the capacity to consent to any treatment for Bethany which denied her a life saving blood transfusion as more fully set forth in ¶ 27 (f) above, the Health Care Defendants chose to not communicate Bethany's

deteriorating condition to the Father, or to respond to the inquiries the Father had made directly to the Defendant Doctors and Cross Cancer Institute from about August 23, 2002, until September 5, 2002, where he requested that they inform him of the state of Bethany's health and medical condition and the nature of the medical treatment that was being administered to her, yet they refused to have any communications with him whatsoever. In the premises, the conduct of the Health Care Defendants constituted a callous and wanton disregard of the Father's right to be informed of Bethany's health and medical condition and the treatment that was being administered to her so that he could take steps to save Bethany's life, given that none of the Defendants were taking steps to provide Bethany with the one and only treatment that could save her life, namely blood transfusions.

- c. Had the Father known of the true state of Bethany's health and medical condition and the nature of the medical treatment that she was receiving, he would have immediately informed the Department of Child Welfare in order to request the Director of Child Welfare for the Province of Alberta seek an Apprehension Order and a Treatment Order for Bethany in order that she could be provided blood transfusions to save her life.
30. The Plaintiffs say that the Health Care Defendants had no consent, or no proper consent, to administer the alternative treatment that they administered to Bethany, all of which was participated in, contributed to, incited and made possible by the involvement of the Mother and Watch Tower Defendants, as more fully set out below, and the Health Care Defendants thereby committed a trespass to Bethany's person for which all the Defendants are liable.
  31. As a result of the wrongful acts, neglect, negligence, default or other wrongdoing of the Defendants, as aforesaid, and the resulting death of Bethany, the Plaintiff Estate, suffered a loss of earnings which Bethany would have earned over her life expectancy. As a result of the death of Bethany, the Plaintiff Estate claims the following:

- a. the value of the present capital loss of earning capacity of the deceased at the date of death in the sum of \$300,000.00, or such other amount as may be proven at the trial of this action;
  - b. future loss of accumulated wealth in the sum of \$300,000.00, or such other amount as may be proven at the trial of this action; and
  - c. a sum representing the “tax gross-up” in the sum of \$100,000.00, or such other amount as may be proven at the trial of this action.
32. As a result of the wrongful acts, neglect, negligence, default or other wrongdoing of the Defendants, as aforesaid, the Plaintiff incurred expenses, including the cost of the funeral and related items that will be proven at the trial of this action.
33. The Plaintiffs plead and rely upon the *Survival of Actions Act*, RSA 2000, Chapter S-27, as amended, and the *Fatal Accidents Act*, RSA 2000, Chapter F-8, as amended.
34. The Plaintiffs plead and rely upon the *Excise Tax Act*, RSC 1985, Chapter E-15, as amended, and particularly Part IX, being the Goods and Services Tax (the “GST”).
35. By the nature of their relationship to Bethany, the Health Care Defendants and each of them owed her a duty of care to take all necessary and reasonable steps to protect her life, health and well-being. These Defendants breached that duty by not meeting the requisite standard of care, constituting negligence, and these breaches directly caused Bethany’s death. Some particulars of negligence and breaches of duty of these Defendants which directly caused Bethany’s death include, but are not limited to, the following:
- a. Failing to prescribe, recommend, administer or carry out, a treatment regimen to Bethany for her leukemia which consisted of the proper chemo, or other therapy, supported by blood transfusions, well knowing that such treatment was essential and the only curative treatment available for Bethany’s leukemia, and that without proper chemo, or other therapy, together with blood transfusions to support it, that Bethany would almost certainly die, whereas with the proper chemo, or other



therapy, which included blood transfusions to support the proper chemo, or other therapy, she would have lived;

- b. Failing to give Bethany blood transfusions to save her life when on or about August 28, 2002 or thereabouts, it became obvious from information obtained about the state of Bethany's medical condition as a result of these Defendants' routine monitoring of Bethany's medical condition in the course of the alternative treatment regimen that was being administered to Bethany by the Health Care Defendants, that Bethany's blood count was then continuing to become increasingly and dangerously low and constituted a threat to her life, knowing that if at that point they persisted with the alternative treatment that Bethany would quickly die, yet persisting with the alternative treatment which thereby caused Bethany's death from congestive heart failure caused by a lack of healthy blood which could and ought to have been provided to Bethany by transfusions.
  - c. Such further and other particulars as the Plaintiffs may become aware of prior to the trial of this action.
36. The Defendants are concurrent tortfeasors whose wrongful acts ran together to produce the same damage, and each of these Defendants is jointly and severally liable with the others for the full damages arising from the wrongful death of Bethany.
  37. The Defendants Cross Cancer Institute, Alberta Cancer Board, and HMQ are vicariously liable for the acts of the Defendant Doctors and Defendant Medical Employees herein, and for any mistakes made by employees or other agents hired by these Defendants and who participated in the treatment, testing and diagnosing of Bethany, including nurses, technicians, and the like.
  38. The Watch Tower Hospital Liaison Defendants were at all material times servants and agents of the Society and, as a consequence, the Society is vicariously liable for their actions, and the damages arising therefrom.
  39. The Watch Tower Lawyers were at all material times employees of and acting within the course of their employment and engagement with, and also servants and agents of the

Society and, as a consequence, the Society is vicariously liable for their actions, and the damages arising therefrom.

40. From about July 1, 2002, until September 5, 2002, all of the Defendants acted in concert with and conspired with each other to achieve a common end, namely to arrange and facilitate Bethany's receiving the alternative treatment from the Health Care Defendants, and providing false information and using other misleading and coercive means to keep the Father from learning of the alternative treatment, or the nature thereof, or the location or facility where it would be and was administered, or by whom, for the specific purpose of preventing him from interceding to save Bethany's life, all of which contributed and directly led to the alternative treatment being administered to Bethany which caused her death. In the premises, these wrongful acts and their commission and the planning and deliberation with which they were carried out, constituted a joint enterprise of the Defendants which inexorably led to and caused Bethany's death, and all these Defendants are jointly and severally liable for the damages arising therefrom.
41. Furthermore, all of the Defendants combined together and actively took part in the planning, execution, furtherance, and performance of the wrongful acts which were done for the predominant purpose of insuring that Bethany received the alternative treatment from the Health Care Defendants, pursuant to which planning and combination between these Defendants, the alternative treatment was arranged for Bethany and carried out in furtherance of the original intention of these Defendants, all of which directly resulted in the administration of the alternative treatment which caused loss and damage arising from Bethany's death. In the premises, the Defendants committed the tort of conspiracy, for which they are all jointly and severally liable for the damages arising therefrom. The fact is that without the Defendants having conspired and acted in concert in the joint enterprise described herein, that the wrongful acts that caused Bethany's death as stated herein, would not have occurred and Bethany would not have died from these wrongful acts.
42. The fact is that the Mother and the Watch Tower Defendants were co-conspirators of and in joint enterprise with the Health Care Defendants and share the same liability for

Bethany's death as the Health Care Defendants whose wrongful acts directly caused Bethany's death, as set out herein, and all of the Defendants are jointly and severally liable for all damages arising from Bethany's death.

43. Representations to the Father were made by the Watch Tower Defendants by their words and conduct, as aforesaid, with the knowledge that the representations were false, or in the absence of any genuine belief that they were true, or recklessly, which representations were made with the intention that they should be acted upon by the Father, which representations the Father did rely on and act upon, and for which he sustained the damages arising from Bethany's death, for which these and all the other Defendants are jointly and severally liable.
44. In the premises, the Watch Tower Defendants committed the torts of deceit and undue influence, all of which contributed to and led to the circumstances causing the death of Bethany, the damages for which they are jointly and severally liable together with all the other Defendants for the reasons aforesaid.
45. The Plaintiff Her Majesty the Queen in Right of Alberta claims for the cost of health services provided to Bethany, as a result of the wrongful acts or omissions of the Defendants as alleged herein, pursuant to the *Hospitals Act*, RSA 2000, c. H-12, as amended, which services include but are not limited to:
  - a. in-patient and out-patient services provided in a hospital or other facility;
  - b. health services as defined in the *Alberta Health Care Insurance Act*;
  - c. transportation services, including air and ground ambulance services;
  - d. public health services;
  - e. mental health services;
  - f. drug services;
  - g. any goods and services prescribed to be a health service by the regulations made pursuant to the *Hospitals Act*.

46. The actions of the Defendants were morally and legally outrageous and heinous and, in the result, an award of punitive damages against the Defendants would be just and proper in the this action in the amount of \$100,000.00 or such other amount as to the Court seems just.
47. The Plaintiffs propose that the trial of this action be held at the Court House in Calgary, Alberta, which in the Plaintiffs' estimate should not exceed 25 days.

WHEREFORE the Plaintiffs claim from the Defendants:

1. As to Lawrence Alexander Hughes:
  - a. damages for grief in the sum of \$75,000.00;
  - b. special damages in the sum of \$10,000.00;
  - c. punitive damages in the sum of \$100,000.00; and
  - d. aggravated and exemplary damages in an amount to be determined at trial.
2. As to the persons entitled to benefits under the *Fatal Accidents Act* as identified in ¶ 2 of this statement of claim:
  - a. those benefits specified in the said *Act* and those damages referred to in the said *Act* that the court considers appropriate to the injury resulting from Bethany's death.
3. As to the Estate:
  - a. damages for loss of earning capacity in the sum of \$300,000.00;
  - b. damages for future loss of accumulated wealth in the sum of \$300,000.00;
  - c. a sum representing the "tax gross-up" of \$100,000.00;
  - d. punitive damages in the sum of \$100,000.00; and
  - e. aggravated and exemplary damages in an amount to be determined at trial.
4. As to all the Plaintiffs:
  - a. costs;
  - b. Goods and Services Tax on all applicable amounts;

- c. such further and other relief as this Court may allow; and
- d. interest pursuant to the *Judgment Interest Act*.

DATED at Calgary, Alberta this August 25, 2004, AND DELIVERED by Marshall Attorneys, counsel for the Plaintiffs, whose address for service is in care of said trial lawyers at Suite 2600, Sun life Plaza – West Tower, 144 – 4 Ave SW, Calgary, Alberta, Canada T2P 3N4, telephone number (403) 270-4110 and fax number (403) 206-7075.

ISSUED out of the Court of Queen's Bench of Alberta, this August 25, 2004.

**K. MCAUSLAND**



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Clerk of the Court

**NOTICE TO THE DEFENDANTS:**

TO:

Arliss Caroll Hughes, Shane Heath Brady, David Miles Gnam, Merrill Morrell, Thomm Bokor, Watch Tower Bible and Tract Society of Canada, Dr. A. Robert Turner, Dr. Andrew Belch, Dr. John Doe, Dr. Jane Doe, Jack Doe, Jill Doe, Cross Cancer Institute, Alberta Cancer Board, and Her Majesty the Queen in Right of Alberta

You have been sued. You are the Defendants. You have only 15 days to file and serve a Statement of Defence or a Demand of Notice in the office of the Court of Queen's Bench in Calgary, Alberta. You or your lawyer must also leave a copy of your Statement of Defence or Demand of Notice at the address for service for the Plaintiffs named in this Statement of Claim.

**WARNING:** If you do not do both things within **fifteen (15)** days, you may automatically lose the lawsuit. The Plaintiffs may get a Court Judgment against you if you do not file or do not give a copy to the Plaintiff, or do either thing late.

CLERK OF THE COURT  
AUG 25 2004  
CALGARY, ALBERTA

Action No: 0401 - 13156 August 25, 2004

In the Court of Queen's Bench of Alberta  
Judicial District of Calgary

BETWEEN:

Lawrence Alexander Hughes, administrator *ad litem* of the Estate of Bethany Abigail Hughes, deceased, Lawrence Alexander Hughes in his own right, and Her Majesty the Queen in Right of Alberta

*Plaintiffs*

- and -

Arliss Caroll Hughes, Shane Heath Brady, David Miles Gnam, Merrill Morrell, Thomm Bokor, Watch Tower Bible and Tract Society of Canada, Dr. A. Robert Turner, Dr. Andrew Belch, Dr. John Doe, Dr. Jane Doe, Jack Doe, Jill Doe, Cross Cancer Institute, Alberta Cancer Board, and Her Majesty the Queen in Right of Alberta

*Defendants*

**STATEMENT OF CLAIM**

This Statement of Claim is issued by:

**Marshall Attorneys**  
Trial Lawyers

Counsel for the Plaintiffs who reside at Calgary, Alberta, and whose address for service is in care of said Counsel at:

Sun Life Plaza – West Tower  
Suite 2600, 144 - 4 Ave SW  
Calgary, Alberta, Canada T2P 3N4  
Attention: F. G. Vaughn Marshall  
Tel: (403) 270-4110 Fax: (403) 206-7075  
Email: fgvm@marshall-attorneys.com  
Website: www.marshall-attorneys.com

And is addressed to the ~~Plaintiffs~~ <sup>*Defendants*</sup> whose residence so far as is known to the Plaintiffs is Calgary, Alberta; Edmonton Alberta; and Georgetown, Ontario.