

Dalkon Shield Action Newsletter

A supplement to HEALTHMATTERS, a publication of the Vancouver Women's Health Collective

VOLUME 1, NO. 2

Dalkon Shield Action News is produced by Dalkon Shield Action Canada in Vancouver, B.C. It is published quarterly in March, June, September and December each year. We welcome your suggestions, contributions, personal stories and feedback. The deadline for submissions is the first day of the publishing month.

REORGANIZATION PLAN FILED

It has been received about as well as a ton of manure. Just about everyone including Dalkon Shield Action Canada says the entire plan stinks.

The law requires any company that files for protection from bankruptcy under Chapter 11 of the US Bankruptcy Act, to produce a disclosure statement, where the company discloses how it got into the mess its in, as well as a reorganization plan where it outlines the steps it is going to take to make sure it gets out of the mess and pays its bills at the same time. On April 16th 1987 almost a year late Robins' long awaited plan for settling claims was presented to the court.

The plan is nothing less than insulting to women who suffered injury from the Dalkon Shield. It is so bad even Robins' supporters have said it will not adequately compensate claimants. Needless to say the plan is complicated, you might even say it is complete science fiction; it goes something like this.

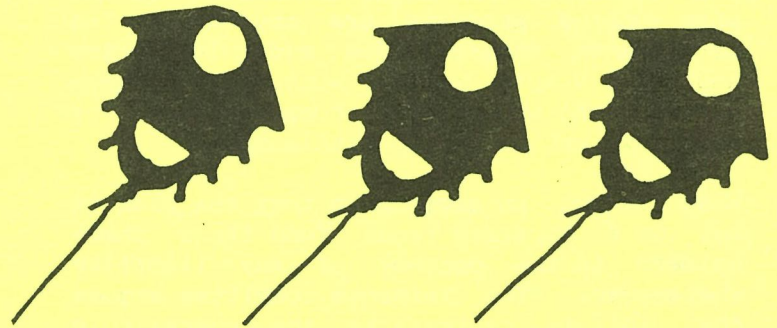
Robins has proposed setting up a \$1.85 billion trust fund completely independent from the company's general operation. The trust fund will be administered by court appointed officials (that are approved by Robins), and the trustees primary objective will be to settle claims. Of the \$1.85 billion, \$1.75 is allocated for claimants, and \$1 million for administrative costs.

How on earth can a company that has successfully filed for bankruptcy protection set up a \$1.85 billion trust fund? Good question.

Robins plans to use \$300 million it has managed to accumulate over the past few years as collateral on a letter of credit for \$1.5 Billion. The credit will come from a group of American commercial banks headed by Manufacturers Hanover. Seems good so far? It looks good until we realize that

Manufacturers Hanover is one of the unfortunate banks that lent money to the Brazilian government a few years back. Recently Brazil announced a moratorium on paying interest on its foreign loans, saying that it would not pay the interest while its people went hungry.

If you think what you've read so far is outrageous, read on. The plan, dubious as it seems, proposes three options for claimants seeking compensation for Dalkon Shield related injuries.



Option 1. Claimants could accept a predetermined amount of money, depending on the injuries suffered, on the condition that a release of liability form is signed, excusing Robins from any future court action. Under this option the amounts paid range between \$100 to \$2,000. A woman who suffered permanent infertility could be eligible for a whopping \$1,200 in compensation!!!. Women who delivered brain damaged children because of the Dalkon Shield would be granted a maximum of \$1,000.

Option 2. Claimants who decline to accept the amount specified under option 1 of the plan could take their claim to binding arbitration known as a claim resolution process.

Option 3. Claimants who reject the first two options can take their case through a full jury trial, in Richmond Virginia.

At the moment difficulties and details are being negotiated between Robins, the claimants committee and the court. Initially Robins seemed determined to stick to every detail of the plan as presented, but sources close to the negotiations tell us that the plan is obviously so outrageous, Robins has to agree to changes or else the court will insist the company be liquidated.

It seems that so far Robins has abandoned its demand that all claims be heard in Richmond, Virginia. It has also agreed to set aside \$50 million dollars for punitive damages. That is \$50 million to be paid as punishment for misleading women about the Dalkon Shield. However, many stumbling blocks remain. Robins insists that whatever money is not spent from the fund, be ploughed back into the company's general revenue. If this is the case we know that Robins will fight to hold on to every penny just as it has done in the past.

For claimants the major weaknesses of the plan Robins proposes are obvious. The settlements suggested are ridiculously low and will simply not be accepted. We have waited long enough for compensation, why should we settle for so little now?

What is not so obvious is that the plan to set up a separate trust fund frees share holders in the company of any liability whatsoever. The claimants committee argues that this is contrary to the general rule in bankruptcy procedures which says that all creditors must be paid in full before equity holders receive any payment. While Robins will not be paying its normal 19 cent quarterly dividend, share holders are free to sell their shares (at grossly inflated prices) and can simply take the money and run.

It seems that Robins hoped to dissuade claimants from completing their claims by offering such pitifully low settlement amounts. Their scheme has back-fired right in their faces. We are so outraged we are bound and determined to fight all the harder for adequate compensation.

The final negotiated plan will be announced in the court on July 21 1987. Dalkon Shield Claimants Advocacy groups including Dalkon Shield Action Canada, will be holding rallies on July 21, to display our frustration and dissatisfaction with the process to date. (See article on Rally)

D.S.A.C. UPDATE

This summer will be a time of planning and considerable excitement, especially as we organize activities for July 21st. (see article on Rallies)

Over the past seven months since Dalkon Shield Action Canada was set up, we have been inundated with requests for information from women who believe they have claims for compensation, as well as from lawyers who want to know more about the legalities of the bankruptcy case. Often we have been slow responding to letters, and please accept our apologies for this, we are simply not large enough, nor well enough funded to reply quickly. We have however, just received a small grant from Employment and Immigration which should make our work run more smoothly. The grant enables two women with UIC benefits, to have them topped up while working part-time on Dalkon Shield related issues. By December, when the grant runs out, we hope to have developed a strong and cohesive network of groups doing Dalkon Shield support work throughout the Canada.

Many of the requests for information are still about lawyers: who is good? who is bad? and so on. This information is very difficult for us to compile and to verify. We have mailed a questionnaire to more than 250 lawyers involved in Dalkon Shield litigation. So far fewer than 50 lawyers have returned the questionnaire.

Dalkon Shield Action Canada was born last November because women who were injured by the Dalkon Shield needed information about their health care and legal options. Our first and primary commitment will always be to these women. Our intention is to do what we can to make their lives easier. Lawyers, who have come to us for information need to know where our priorities lie and accept that they may need to wait a little longer before they can get answers from us.

Dalkon Shield Action is proud to be the only group that has tried to find answers to the many questions we all have. If you have any suggestions or feedback to share with us, or if you are ready to work in your community please phone or write. We aim to be a responsive to your needs as possible, so get in touch with us, let us know what you think of what we're doing.

JULY 21—MARK YOUR CALENDARS!

While Robins enjoys increasing profits and the protection of the law, while it tries to concoct a way out of its 'mess', women around the world have been waiting, not by virtuous patience but by virtue of the slow grind of legal procedure.

Frustration, impatience, boredom, rage, apathy, hope, doubt, loneliness. Can we turn our feelings toward the goals that will help other women and men in the future? Can we work toward seeing an end to this corporate and governmental irresponsibility? Yes. There is a growing interest among women who want to channel their rage, their frustration, their cynicism, into the public arena where they see more social and political changes than they see from dealing with the legal system as it exists.

In the U.S. the Dalkon Shield Information Network, an organization similar to Dalkon Shield Action Canada, is organizing a Rally on July 21st. It will be held in Richmond, Virginia on the day the court hears Robins' reorganization plan. The rally will focus attention on how frustratingly slow the bankruptcy procedure has been for women awaiting compensation, and will stress the need for fair and adequate compensation to all claimants. If the court changes the date for the hearing, the Rally is still on. NO MORE DELAYS.

In Canada we plan to organize sister rallies on the same day. It will be a great opportunity to reach the public through the media, to expose the history of the Dalkon Shield and the harm it has caused. It will be an excellent chance for women to meet and support each other. We hope that it will place pressure on the bankruptcy court to settle claims fairly and speedily.

In Vancouver: Dalkon Shield Action is sponsoring activities that will appropriately mark July 21. For more information call the Vancouver Women's Health Collective at 888 Burrard Street, or phone (604) 682-4805.

In Toronto: DSAC is sponsoring a rally at the Robins plant just outside Toronto. For more information call Elizabeth at (416)489-2388

If you want to help, there's plenty to do. Phoning, poster distribution, raising money, organizing car pools, speaking and billeting visitors from out of town. Mark the date on your calendar now, and bring your friends, family and neighbours.



In Montreal a group of women have recently met to establish Dalkon Shield Action Quebec. They would like to mark July 21st somehow and are looking for ideas and energy. They can be reached through the Fed. du Quebec pour Planning des Naissances at: 3826 St Hubert, Montreal H2L 4A5

Other communities are considering what they can do, and with the assistance of Dalkon Shield Action here in Vancouver, we are hopeful that our events will have a pan-Canadian impact. WATCH OUT FOR JULY 21st.

Let's Take the Offensive

Sometimes it appears that DS claimants are on the defensive rather than Robins. We find ourselves struggling for money, for public news coverage and to defend our accusations of suffering and pain. And Robins seems to sit in financial security biding time...

Let's turn our energy and everyone's attention to more offensive action. It is we, after all, who are supposed to be doing the accusing. Robins is working hard to turn the tables by attacking us and enlisting the support of industry and state institutions by their outright help or tacit support. These institutions, including the legal apparatus, in as much as they work with or support Robins' actions, are guilty of aiding, abetting and perpetuating the crimes already committed by the manufacture and distribution of the Dalkon Shield.

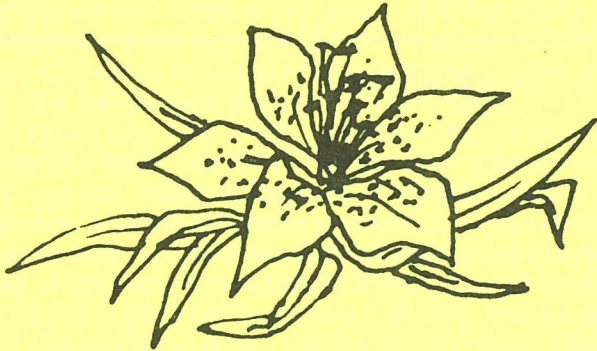
Can personal compensation in the form of a financial settlement repay our real losses? Perhaps we can find additional satisfaction in laying our cases before the public and condemning these actions; practicing a little "preventive medicine" by our examples and by our warnings.

Infertility Fund

By now most of you will have received notice of a new \$15 million emergency fund which is designed to allocate money to women needing in vitro fertilization or reconstructive surgery for infertility.

Maybe you're thinking that finally after all these years, guilt has gotten the better of the folks at A.H. Robins. Think again. This is not the gift Robins would want us to believe it is. Women who become pregnant with assistance from this programme will no longer be able to claim compensation for infertility. Robins has carefully calculated that spending this money now could save it plenty later on.

There are two basic flaws with the entire fund. First the eligibility requirements are so high, many women will be excluded from applying, and second, the infertility treatments the fund pays for are extremely experimental and controversial, as well as being notoriously unsuccessful.



The only women eligible for these treatments, are those who can conclusively prove their injuries were caused by the Dalkon Shield. If for example, a woman wore a Copper 7 after wearing the Dalkon Shield, she is automatically ineligible for this money. Funds are also only available to women whose medical insurance does not provide coverage, and who are under 40 years of age. The fund will allow a maximum of \$15,000 per person. The amount awarded will be subtracted from the women's final compensation settlement. Two medical experts, one chosen by the Robins company and one chosen by the claimants committee will decide on the allocation of money from the fund. A third medical expert will decide on cases where there is an impasse.

In Canada today, some provincial medical plans do cover part of the costs for in vitro fertilization programmes, but usually only for married couples. The unpaid portion can amount to \$1,500 per cycle, thereby automatically excluding poorer women.

Just as in 1971, when we were told the Dalkon Shield would solve our birth control problems, today we are being told in vitro fertilization will solve our infertility problems. Lets put the record straight. In vitro fertilization is a very invasive procedure. Usually a woman is placed on high doses of hormones so that she will produce more than one egg at ovulation. The egg(s) are surgically removed from her body and placed in a petri-dish with sperm. The fertilized egg is then returned to her uterus, and she again takes more hormone treatment to help the embryo implant and develop. The whole procedure is very experimental and very controversial. Noone knows if the children born from IVF are healthy or not, long term studies have not been done. Of course IVF has helped some women realize their dream of having a biological child. It has also left countless others with nothing but pain, frustration and a hefty medical bill. At best success rates for getting pregnant are only 10%; that's a failure rate of 90%!!

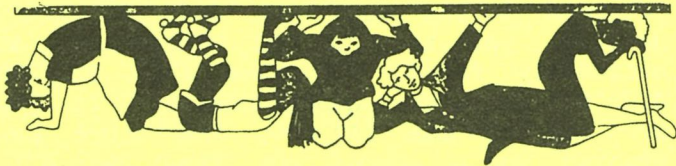
Many of us have come to terms with our infertility, opening the wounds now may be more than we can bear. For more information on IVF and other reproductive technologies, read *The Mother Machine* by Gina Corea, published by Harper and Row.



Workers on this issue
Megan Arundel, Barbara Bell, Colleen
Penrowley, Maggie Thompson.

LETTERS

Support letters have been pouring in and with them come many women's personal stories, parts of which are quoted here. But first, many thanks for all the support and appreciation we are receiving for the newsletter and DSAC.



The main reason that I have not consulted a lawyer concerning my suit against A.H. Robins, is that I became pregnant while using the Dalkon Shield. Although it was an unplanned pregnancy my son was born healthy and I do not want him to feel that he was unwanted and so I was trying to keep the lawsuit as low key as possible. In addition I'm afraid that if I lose my lawsuit I will be stuck with a huge legal bill. Throughout my pregnancy and for years afterwards I suffered from vaginal infections. I spent many nights in bed awake with the burning and itching which accompany a vaginal infection. I don't expect that it can ever be proven that my problems with vaginal infections and cervical cysts were the result of having used the Dalkon Shield but there is no doubt in my mind that the IUD was the cause since I had no similar problems before I had it inserted and I had infections constantly afterwards.

C.F., Ottawa, Ontario

Editor's Note:

Legal representation does not have to cost you large amounts of money. Most lawyers are willing to represent their clients on a contingency fee basis; that means you pay only upon winning the case. Contingency fees will range from 15% to 40%. Also, some lawyers will charge a disbursement fee, which can range from \$50 to \$250. This fee is used to cover the costs of mailing, photocopying and retrieving medical records needed for the case.

I suffered alot and lost a baby girl thanks to that company. I never realized until I read your newsletter last night to what extent the company was to blame, as I had always put the blame on the medical care I had at the time.

P.A., Scarborough, Ontario

Following the birth of our first son, it was time to wait before the next baby. The pill bothers me. The condom, forget it! I asked the Doctor for advice, an IUD Dalkon Shield was recommended. What else can I do? I try it. Pain with insertion, but I don't complain. A foul smell begins to come from below. My husband thinks a woman gets that way if she doesn't care for herself properly. I blame myself, I complain to the Doctor. He treats the discomfort and discharges with cremes. Spotting is constant. Hot baths and pain killers do not help anymore. Finally I am rushed to the emergency ward. The excruciating pain in the lower back and pelvic area is diagnosed by a female doctor. She states I have suffered enough. She schedules me for a hysterectomy. After surgery a doctor tells me I was full of benign tumors, no wonder I was in such pain. There was no connection made with blaming the Dalkon Shield. Its a good feeling to finally know, after 10 years, I can stop blaming myself for not being able to have another child.

O.B., Peachland, British Columbia

Thanks very much for your efforts in this publication. It was GREAT! You are right, we are as unaware now as we were when we got our Dalkon Shields. We still have many questions. 1. Will we have to appear in court? 2. How many years before its finished? 3. Is it worth it after 14 years? 4. Have the laws been changed so this can't happen again?!

a childless victim, anonymous,
Forest, Ontario

Editor's Note:

The first and second questions you have, anyone could hazard a guess at. We're guessing you won't have to appear in court, and at the rate things are going we could have to wait another two years before the money starts to be paid out. Only you can answer the question of whether this is worth it or not, and again time will tell. As to whether the laws have been changed so that this can never happen again, I'm afraid the answer is only a qualified Yes. The Food and Drug Administration in the US has stricter guidelines for drug and medical device approval now. The guidelines were changed because women raised a row about the Dalkon Shield. However, there is always the chance that guidelines will be broken and no-one will catch it.

BANKRUPTCY UPDATE

Questionnaire

Remember the 52 page questionnaire that we've been discussing in the last two issues of Dalkon Shield Action News? The latest reports from Richmond tell us that claimants may not be required to complete this questionnaire as was originally planned. It seems the ill-fated questionnaire will be an optional one, and we're not exactly sure why. We hoped the questionnaire would be the sole means of adjudicating which claimants would receive settlements and how much they would receive. Making the questionnaire optional leads us to believe that the court is leaning towards fully litigated claims, ie. claims that will actually have to be heard in court. Bob Manchester of Burlington, Vermont fears that the long and expensive task of compiling the questionnaire and examining the 3,000 samples that were sent out is nothing but a 'make work project'.

Robins Not Selling

Robins has rejected yet another handsome offer that could pour much needed dollars into the fund that could then be used to settle Dalkon Shield claims. Dow Chemical's pharmaceutical subsidiary, Merell Dow Pharmaceuticals offered to buy seven name brands from Robins for \$840 million. The brands sought included Robitussin, Robins' very successful cough syrup, Dimetapp and Chap Stick, as well as four prescription drugs. Robins rejected the offer out of hand, but yet again the offer has caused increased speculation on Robins' shares which closed May 7th at \$21.00. In February this year Robins' shares were valued at \$10.50!!

Claimants Get Second Chance

Remember way back in 1986 after filing your claim against Robins, the court sent you a small two page questionnaire that asked a few rudimentary questions? Those questionnaires were due to have been returned to the court by July 31 1986. However, of the 330,000 claimants that originally filed, it seems that 152,000 didn't return the questionnaire. If you are one of the 152,000, the court has granted you a second, but final chance to complete the questionnaire.

You don't need a lawyer to complete the questionnaire; it is very straight forward. You will however need to be fairly certain that you wore a Dalkon Shield, but you still have time to gather your medical records to prove it. Later on the court will require medical records and that's when you will have the opportunity to really make your case. So don't delay sending in the questionnaire for lack of concrete evidence. Send it today registered mail, and remember to keep a copy for your file. Questionnaires must be postmarked in Canada no later than August 12th. LAST CALL FOR QUESTIONNAIRES.



Make me a member of Dalkon Shield Action Canada so I can join the fight against A.H. Robins. With my membership I will receive a subscription to HealthMatters and stay abreast of the latest news.

My cheque or money order is enclosed:

\$15 regular membership \$10 low income membership

I am also enclosing a donation of \$_____ to help cover expenses.

Yes I am interested in legal representation through Dalkon Shield Action Canada.

Yes I am interested in participating in a group in my community.

Yes I am interested in helping to start a group in my community.

NAME _____

ADDRESS _____

PROVINCE/STATE _____

POSTAL CODE/ZIP CODE _____