CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
NO: 500-06-000714-143

(Class Action)
SUPERIOR COURT

Steve Martineau,

Petitioner

V.

Bayer CropScience Inc., a legal person having an establishment at 160 Quarry Park Boulevard SE, Suite 200, Calgary, Alberta, T2C 3G3 Canada;

and

Bayer Inc., a legal person having an establishment at 1250 René-Lévesque West, Suite 2820 Montréal, Québec, Canada, H3B 4W8;

and

Bayer AG, a legal person having an establishment at Postfach D-51368, Leverkusen, Germany;

and

Syngenta Canada Inc. a legal person having an establishment at 2736 Route 235, Saint-Pie, Québec, Canada, J0H 1W0;

and

Syngenta International AG, a legal person having an establishment at Schwarzwaldallee 215, 4058 Basel, Switzerland.

Defendants

MOTION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE (Articles 1002 and seq. C.C.P.)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN PRACTICE DIVISION, IN AND FOR THE DISTRICT OF MONTRÉAL, PETITIONER RESPECTFULLY SUBMITS THE FOLLOWING:

THE PETITIONER WISHES TO INSTITUTE A CLASS ACTION ON BEHALF THE CLASS OF PERSONS HEREINAFTER DESCRIBED, NAMELY:

1. The Petitioner intends to institute a class action on behalf of the persons forming the class hereinafter described and of which the Petitioner is a member ("the Class"), namely:

> *All Beekeepers who have owned or continue to own and operate honey producing, pollinating, and/or Queen Bee rearing businesses in Québec from January 1, 2006 to the date on which this action is authorized as a class proceeding.*

DEFINED TERMS

2. In this Statement of Claim, and in addition to terms defined elsewhere herein, capitalized terms have the meanings set out below:

   (a) "**Arthropod**" means any invertebrate animals of the phylum *Arthropoda* that have jointed limbs, a segmented body, and an exoskeleton made of chitin. This group includes crustaceans, insects, arachnids, and centipedes;

   (b) "**Bayer**" means the defendants, Bayer AG, Bayer CropScience Inc. and Bayer Inc.;

   (c) "**Bee**" or "**Bees**" means flying insect(s), closely related to wasps and ants that are known for their role in pollination and for producing honey and beeswax. Bees are monophyletic lineage within the superfamily *Apoidea* and feed on pollen and nectar for an energy source, and use pollen primarily for protein and other nutrients, and store pollen, nectar and honey;

   (d) "**Beekeeper**" means a person or entity who owns or is in possession of **Bees** or beekeeping equipment, but does not include a person who is in possession of new beekeeping equipment for

the purpose of transportation, distribution or sale or who is a manufacturer of beekeeping equipment;

(e) "***CBCA***" means the *Canadian Business Corporations Act*, RSC 1985, c C-44;

(f) "**Class**" or "**Class Members**" means all **Beekeepers** who have owned or continue to own and operate honey producing, pollinating, and/or **Queen Bee** rearing businesses in Québec during the **Class Period**;

(g) "**Class Period**" means the period from January 1st, 2006 to the date on which this action is certified as a class proceeding;

(h) "**Defendants**" means the defendants, **Bayer** and **Syngenta**;

(i) "**Health Canada**" means the Canadian Federal department responsible for helping Canadians maintain their health and includes the **PMRA**;

(j) "**Neonicotinoids**" means a class of insecticides products designed, manufactured, distributed and sold by the **Defendants** that contain imidacloprid, clothianidin and/or thiamethoxam;

(k) "**OMAFRA**" means the Ontario Ministry of Agriculture, Food and Rural Affairs, and includes both the former Ministry of Agriculture and Food and the Ministry of Rural Affairs;

(l) "**Petitioner**" means the Petitioner, Steve Martineau;

(m) "**PMRA**" means Health Canada's Pest Management Regulatory Agency;

(n) **"Queen Bee"** means a Bee that is the single reproductive female in a hive or colony of honey Bees;

(o) "**Syngenta**" means the defendants, Syngenta International AG and Syngenta Canada Inc.;

(p) "**US EPA**" means the United States Environmental Protection Agency; and

(q) **"USDA"** means the United States Department of Agriculture.

THE PETITIONER'S PERSONAL CLAIM AGAINST THE DEFENDANTS IS BASED ON THE FOLLOWING FACTS:

THE PETITIONER

3. The Petitioner Steve Martineau and his spouse Marie-Eve Cyr have been operating for the past 6 years a family business specialized in the breeding of queen bees under the name of the Château de Cyr.

4. Château de Cyr is an undeclared partnership registered on February 22, 2012, which operates in the field of beekeeping with the lone partners being the Petitioner and his spouse.

5. The Petitioner and his spouse are mainly specialized in the breeding of reproductive queen bees, which are afterwards sold to honey producers who represent between 90 and 100 of their customers.

6. In addition to the production and sale of queen bees, they produce and sell other products and by-products from the hive, including queen cells, nuclei/nucs (start-up hive), honey, pollen, beeswax and mead.

7. There are very few queens bee breeding companies in Quebec, there are approximately five (5) companies including the Petitioner and his spouse.

8. In the past few years the Petitioner and his spouse have been noticing a massive decrease of their bee population, in other words an abnormal and recurrent mortality rate, year after year, of their bee colonies.

9. Further, they observed in early June during the sowing period, which is the seeding of the corn fields that their «foraging» bees, responsible for supplying the colonies, were dying by the thousands.

10. It's important to know that the «foraging» bees are those that fly out of the hive in search of nectar, pollen and water which are indispensable to the survival of the colony. The «nurse workers» bees must consume honey and pollen to be able to produce royal jelly, the exclusive food of the queen bee.

11. Therefore, the royal jelly nourishes the queen of the colony during her entire life starting from the day she leaves the queen cell and the larvae during the first stages of their development. The queen may lay between 1200 to 2500 eggs per day.

12. Furthermore, the Petitioner and his spouse observed during this period that at the hive entrance or near ditches there were hundreds of dead bees, while others were weakened or completely disoriented.

13. Due to various abnormal behavior observed by the Petitioner and his spouse among their bees, especially the interruption of laying eggs by the queens, the unusual mortality or atrophy of the queens and larvae and eggs dehydration, there was not any royal jelly in the hives.

14. Noticing that his bee population was diminishing quickly, the Petitioner had to undertake the «requeening» of his affected colonies, which consisted of the replacement of the dead or weakened queens by queen cells that contain future queens, so as to avoid the complete loss of his colonies causing thereby, additional costs for labor and medication.

15. In addition, many of the Petitioner's customers who also had similar problems had to replenish their queens bees from the Petitioner, but the latter could not supply to the demand.

16. Therefore, the drastic drop in the bee population of the Petitioner greatly affected production and the Petitioner suffered important financial losses.

17. The Petitioner had samples of water and dead bees analyzed and found that they were poisonous since they contained "neonicotinoid" a systemic pesticid.

18. Therefore, The Petitioner and his spouse suffered important financial losses totaling more than $20,000 per year.

THE DEFENDANTS

Bayer

19. Bayer AG is a chemical and pharmaceutical company that was founded in 1863. Bayer AG is headquartered in Germany and its primary areas of business include human and veterinary pharmaceuticals, consumer health care products, agricultural chemicals, biotechnology products and high value polymers. Bayer AG's operations are divided into three subgroups: Bayer HealthCare; Bayer MaterialScience; and Bayer CropScience. Bayer AG has numerous research and development facilities and production sites worldwide.

20. Bayer AG developed and designed Neonicotinoid pesticides that were, and are, manufactured, distributed and sold by Bayer Inc. and Bayer CropScience Inc. in Ontario by agreement with and for the benefit of Bayer AG.

21. Bayer Inc. is the Canadian subsidiary of Bayer AG and is responsible for Bayer AG's Canadian operations. Bayer Inc. is incorporated pursuant to the *CBCA* and is headquartered in Etobicoke, Ontario.

22. Bayer Inc. has a principal establishment in Montréal, Québec.

23. On January 1st, 2013, 4118235 Bayer CropScience Inc. and 3523501 Codena Inc. amalgamated to form Bayer CropScience Inc. Bayer CropScience Inc. is a fully consolidated and wholly owned subsidiary of Bayer AG. It is incorporated pursuant to the *CBCA* and is headquartered in Calgary, Alberta.

24. 3523501 Codena Inc. was incorporated in January 2001 pursuant to the *CBCA* and was headquartered in St-Charles-Sur-Richelieu, Québec. It was amalgamated with another Bayer subsidiary in Canada on January 1st, 2013, after which the amalgamated subsidiary was headquartered in Calgary.

25. 4118235 Bayer CropScience Inc. was incorporated in October 2002 pursuant to the *CBCA* and was headquartered in Calgary, Alberta.

26. During the Class Period, Bayer AG reported financial results on a consolidated basis for itself and all of its subsidiaries. Its financial statements therefore incorporated the financial results accrued by Bayer Inc. Bayer CropScience Inc. During the Class Period, its consolidated annual sales and net income were as follows:

Bayer AG		
	Sales (€ millions)	**Net Income (€ millions)**
2006	28,956	1,683
2007	32,385	4,711
2008	32,918	1,719
2009	31,168	1,359

Bayer AG		
	Sales (€ millions)	**Net Income (€ millions)**
2010	35,088	1,301
2011	36,528	2,470
2012	39,760	2,446
2013	40,157	3,189

Syngenta

27. Syngenta International AG is a global agribusiness, agrochemical and biotechnology stock corporation. It is headquartered in Switzerland and has numerous research and development facilities and production sites worldwide.

28. Syngenta International AG developed and designed Neonicotinoid pesticides that were, and are, manufactured, distributed and sold by Syngenta Canada Inc. in Ontario by agreement with, and for the benefit of, Syngenta International AG.

29. On January 1st, 2012, 531201 Syngenta Seeds Canada, Inc. and 3850617 Syngenta Crop Protection Canada, Inc. amalgamated to form Syngenta Canada Inc. Syngenta Canada Inc. is an indirect wholly owned subsidiary of Syngenta International AG. It is incorporated pursuant to the *CBCA* and is headquartered in Guelph, Ontario.

30. 531201 Syngenta Seeds Canada, Inc. was incorporated in March 2001 pursuant to the *CBCA* and was headquartered in Arva, Ontario.

31. Syngenta Canada Inc. has a principal establishment in Saint-Pie, Québec.

32. 3850617 Syngenta Crop Protection Canada, Inc. was incorporated in January 2001 pursuant to the *CBCA* and was headquartered in Guelph, Ontario.

33. During the Class Period, Syngenta International AG reported financial results on a consolidated basis for itself and all of its subsidiaries, including Syngenta Canada. During the Class Period, Syngenta's reported annual sales and net income were as follows:

Syngenta International AG		
	Sales (US$ millions)	**Net Income* (US$ millions)**
2006	8,046	637 (stated as 667 in the 2010 Annual Report)
2007	9,240	1,111 (stated as 1,135 in the 2011 and 2010 Annual Reports; stated as 1,114 in the 2008 Annual Report)
2008	11,624	1,385 (stated as 1,399 in the 2012, 2011 and 2010 Annual Reports)
2009	10,992	1,374 (stated as 1,397 in the 2013 Annual Report; stated as 1,411 in the 2012, 2011 and 2010 Annual Reports)
2010	11,641	1,402 (stated as 1,378 in the 2013 Annual Report)
2011	13,268	1,600 (stated as 1,570 in the 2013 Annual Report)
2012	14,202	1,875 (stated as 1,850 in the 2013 Annual Report)
2013	14,668	1,649

* Syngenta's 2006, 2007 and 2008 Annual Reports appear to term "net income" as "profit for the period".

THE FACTS

34. Clothianidin, its parent compound, thiamethoxam, and its predecessor, imidacloprid, are three widely-used insecticides in a class of insecticides known as neonicotinoids. Neonicotinoids have been shown to adversely impact the survival, growth and health of Bees vital to Canada's agriculture.

35. The chronic effects of the use of the Neonicotinoids are felt by Canada's Beekeepers annually, and include: bee deaths; impaired reproduction; immune suppression; behavioral abnormalities resulting in hive loss; reduced honey production; impacts on the quality of honey; contamination of hive equipment; loss of Queen Bees; breeding stock; and difficulties fulfilling honey product or pollination contracts.

36. Foraging Bees are exposed to the active ingredients in Neonicotinoids in addition to Neonicotinoid degradates. The degradation components of the Neonicotinoids are equally or more toxic to Bees. For instance, thiamethoxam is known to degrade to clothianidin, which is more toxic to Bees than thiamethoxam. The stored pollen or nectar brought to the Bee hive containing a single Neonicotinoid active ingredient may later contain a mixture of both the active ingredient and the degradation products that form over time. This mixture poses a significant risk of colony impairment for hives using stored food sources during the fall and winter months.

37. The harm to the Class is ongoing due to the Defendants' continued production, marketing and sale of the Neonicotinoids. Beekeepers have suffered, and will continue to suffer, devastating economic hardships as a result of the continued use of Neonicotinoids

THE NEONICOTINOIDS

Imidacloprid

38. Imidacloprid is manufactured by Bayer and is present throughout agricultural land in Canada in a range of soil, seed or foliar application crop protection products to control Arthropod pests, such as aphids, thrips, whiteflies, turf insects, soil insects and some beetles.

39. Imidacloprid was first registered by the PMRA in 1995 for control of the Colorado potato beetle. It has since been approved for use on an extensive range of field crops, root and tuber vegetables, tree fruits and legumes such as corn, cauliflower, artichokes and strawberries, among others.

40. Imidacloprid persists in soils and is found to have a half-life of approximately 1,000 days (just under 3 years) depending on soil type and environmental conditions. In water, imidacloprid can have a half-life of more than a year depending on environmental conditions.

41. Imidacloprid is highly mobile in plants and, when used as a seed dressing, migrates from stem to leaf tips and, eventually, into male flowers. This type of migration and uptake results in imidacloprid residues in the pollen and nectar of numerous flowering crop plants.

Clothianidin

42. Clothianidin is manufactured by Bayer and is present in a range of crop protection products used throughout Canada. Clothianidin is a successor product to imidacloprid.

43. Clothianidin was first conditionally registered by the PMRA in 2003 and is commercially used as a seed treatment on corn, canola, rice, and turf, on row crops such as grapes and strawberries as well on as some tree crops. It is also used on barley (winter, seed), durum wheat (seed), oats (winter, seed), rye (seed), triticale (seed), wheat (winter, seed), forage maize, grain maize, sweetcorn, fodder beet (seed), and sugar beet (seed).

44. Clothianidin is both persistent and systemic. It persists in soils throughout agricultural land in Canada and is found to have a half-life ranging from 148 to 1,155 days (approximately 5 months to over 3 years) depending on soil type and environmental conditions. It has been found that in water clothianidin can have a half-life of 33 days depending on environmental conditions.

45. Clothianidin is also highly mobile in plants and, when used as a seed dressing, migrates from stem to leaf tips and, eventually, into male flowers. This migration and uptake leads to clothianidin presence in the pollen and nectar of numerous flowering crop plants.

Thiamethoxam

46. Thiamethoxam is manufactured by Bayer and Syngenta and is present in a range of crop protection products used throughout Canada. Thiamethoxam is a successor product to clothianidin.

47. Thiamethoxam was first registered by the PMRA in 2004 and is used to protect field crops, vegetable crops, stone fruit, turf and ornamentals, as well as for other agricultural purposes. It is also approved for use on potato, potato (seed crop), house plants, house plants (container-grown), ornamental garden plants (indoor container-grown), apple, pear, fodder beet (seed), and sugar beet (seed).

48. Thiamethoxam is found to have a half-life of 229 days depending on soil type and environmental conditions. It has been found that in water thiamethoxam can have a half-life of 6,080 days (approximately 16 and a half years) depending on environmental conditions.

49. Thiamethoxam is a systemic insecticide and is highly mobile in plants. When used as a seed dressing, thiamethoxam migrates from stem to leaf tips and, eventually, into male flowers. Thiamethoxam is known to degrade to metabolite clothianidin in soil throughout agricultural land in Canada.

IMPACT OF NEONICOTINOIDS ON BEES

50. Neonicotinoids are a class of neuro-active, nicotine-based insecticides developed in 1991 and brought into commercial use in mid-1992. Products containing neonicotinoids may be applied at the plant root, as seed coating or seed drench or sprayed onto crop foliage.

51. Unlike other pesticides that remain on the surface of the treated foliage, systemic insecticides, such as the Neonicotinoids, are taken up by the plant and transported to all of its tissues including its leaves, flowers, roots and stems, as well as its pollen and nectar.

52. Neonicotinoids interfere with the nicotinic receptor in the central nervous system of insects, which causes tremors, paralysis and death, at extremely low doses.

53. Neonicotinoids are considered systemic chemicals that work their way from the seed through the plant and attack the nervous system of any insect that comes into contact with the plant, resulting in long term damage to beneficial insects such as Bees.

54. When Bees forage on pollen or nectar from treated crops, consume guttation droplets or are otherwise exposed to small levels of the Neonicotinoids, paralysis and death can result along with a bioaccumulation of the Neonicotinoids in the bee hive.

55. Neonicotinoids remain active in the plant for many months, or years. Neonicotinoids remain toxic even at very low doses and have a higher persistence in soil and water than other conventional insecticides, remaining *in situ* for months on average, increasing the risk of cumulative toxic loading effects, especially with repeated applications. This chronic persistence results in the sustained exposure of non-target organisms, such as Bees.

56. Over the past decade, use of the Neonicotinoids has resulted in: mass die-offs in the Bee population, Bee reproductive failures, difficulties rearing Queen Bees, and a decrease in the quality and quantity of honey produced.

57. Bees are social insects that rely heavily on memory, cognition and communication to coordinate the activities that are essential for their survival. Chronic ingestion of the Neonicotinoids damages foraging behaviour, overall mobility and ability to communicate. The Neonicotinoids also have numerous other effects on Bees, such as causing a premature shift in hive roles and impairing medium-term olfactory memory and associative learning abilities that foraging Bees rely on to find their way back to the hive.

58. Neonicotinoids are among the most widely used insecticides in Canada and pose serious risks to the Bee population primarily because of their persistence in crops and soil, and their potency at low concentrations. These properties, coupled with the Neonicotinoids' widespread use in many cropping systems and presence in pollen and nectar, result in a chronic, continuing and lethal exposure to the Bee population.

59. The connection between the sale and use of Neonicotinoids as described herein, and the impact of those substances on Bees as pleaded herein was concealed and/or denied by the Defendants. Only since the fall of 2012 has information come to light linking Neonicotinoids with the adverse effects pleaded herein.

BAYER'S DEVELOPMENT, DESIGN, DISTRIBUTION AND SALE OF THE NEONICOTINOIDS

60. The PMRA has issued conditional approvals for the following products containing the Neonicotinoids produced by Bayer: Poncho 600 FS; Confidor 200 SL; Prosper EverGol; Poncho 600 Seed Treatment Insecticide; Poncho FS Seed Treatment Insecticide; Prosper FX Flowable Insecticide and Fungicide Seed Treatment; Prosper T200 Flowable Insecticide and Fungicide Seed Treatment; and Titan ST Insecticide.

SYNGENTA'S DEVELOPMENT, DESIGN, DISTRIBUTION AND SALE OF THE NEONICOTINOIDS

61. The PMRA has issued conditional approvals for the following products containing the Neonicotinoids produced by Syngenta: Actara 25 WG Insecticide; Actara 240SC Insecticide; Cruiser 5SF Seed Treatment; Cruiser 250FS Seed Treatment; Cruiser Maxx Beans; Helix Colourless Seed Treatment; Helix Liquid Seed Treatment; Cruiser Maxx Cereals Seed Treatment; Cruiser Maxx Cereals Commercial Seed Treatment; Endigo Insecticide; Flagship Insecticide; Helix Liquid Seed Treatment; and Helix Xtra Seed Treatment.

PMRA'S CONDITIONAL REGISTRATIONS OF NEONICOTINOIDS

62. PMRA's conditional registrations and their renewal are meant to be time limited exceptions to the normal requirement that before a pest control product may be sold or used in Canada it must possess a full registration based on meeting all statutory information requirements. The conditional registration itself acknowledges that *"clothianidin is highly toxic to bees …"*.

63. The PMRA, likely as a result of the concerns expressed with the impacts of the neonicotinoids on Bees, has initiated a re-evaluation of clothianidin and other neonicotinoids that will focus on potential effects on pollinators and will include consideration of all new scientific measures. This re-evaluation is not expected to be completed before 2017 or 2018.

FAULT

64. The fault of the Defendants has caused a damage to the Petitioner and the Class Members.

65. Bayer AG and Syngenta International AG failed in their duty of care when designing and developing Neonicotinoid pesticides.

66. Bayer Inc., Bayer CropScience Inc. and Syngenta Canada Inc. were failing, and continue to fail in their duty of care when distributing and selling Neonicotinoid pesticides.

67. The Defendants were failing, and continue to fail in their duty of care by permitting or failing to prevent the damages caused by the Neonicotinoids to the Beekeepers.

68. The Defendants knew or ought to have known at all material times that the Neonicotinoids would cause damage to the property of the Petitioner and the other Class Members.

69. The Petitioner and Class Members plead that the harm to the Beekeepers was reasonably foreseeable to the Defendants as a result of the following facts, all of which were known to the Defendants:

Global Response to Neonicotinoids

a) The international regulatory community has repeatedly expressed concern about the continued use of Neonicotinoids and their impact on the Bee population.

b) In 2009, a group of European scientists from several disciplines convened as a result of the growing scientific concern over the rapid decline in Arthropod populations across Europe. Reviewing existing studies, field observations and circumstantial evidence, this group concluded that a new generation of pesticides being the persistent, systemic and neurotoxic Neonicotinoids, introduced in the mid-1990's, may be considered as one of the main causes of the escalation in the decline of the Arthropod populations. To investigate this theory, the Task Force on Systemic Pesticides ("Task Force") was established to engage in an analysis of all the available scientific studies of the effects of systemic pesticides on biodiversity and the ecosystem with a focus on pollinators and other non-target species.

c) The Task Force reviewed all of the relevant information from studies all over the world, representing approximately eight hundred (800) peer reviewed reports, relating to the use and impact of Neonicotinoids. The key findings of the Task Force are set out in the Worldwide Integrated Assessment on Systemic Pesticides and include, among others:

- Neonicotinoids persist, particularly in soils, for months and some cases years, and accumulate. This increases their toxicity by increasing the duration of exposure of non-target species;

- the metabolites (degradates that are produced by metabolism of the active ingredient by animals, plants and microorganisms such as soil bacteria and fungi) of Neonicotinoids are often as or more toxic than the active ingredients;

- the classic measurements used to assess the toxicity of a pesticide (short-term lab toxicity results) are not effective for systemic pesticides and conceal their true impact. They typically measure direct acute effects rather than chronic effects via multiple routes

of exposure. In the case of acute effects alone, some Neonicotinoids are at least 5,000 to 10,000 times more toxic to bees than DDT;

- the evidence is clear that Neonicotinoids pose a serious risk of harm to honey bees and other pollinators; and

- the most affected group of species include insect pollinators such as bees and butterflies that are exposed to contamination through all four routes with high exposure through air and plants and medium exposure through water. The assessment found that both individuals and populations can be adversely affected by low or acute exposure making them highly vulnerable. Pollinators exposed to contaminated pollen, nectar and water are harmed at field realistic concentrations.

d) The Task Force concluded that the present scale use of Neonicotinoids is not sustainable and that continued use can only accelerate the global decline of important invertebrates, and risk reductions in the level, diversity, security and stability of the ecosystem.

e) The Permanent Peoples' Tribunal (the "Tribunal") is an international opinion tribunal that is independent of state authorities. Over the course of four days, from December 3rd to 6th, 2011, the Tribunal convened in India to hear cases that were brought against six multinational agrochemical companies, which included the Defendants. One of the cases brought before the Tribunal from the United Kingdom and Europe focused on the widespread death of bees in Europe and North America linked to Bayer's Neonicotinoid insecticides.

f) On December 6th, 2011, the Tribunal reached its verdict and found that the "testimonies of witnesses convincingly showed that "… the extinction of bees has already occurred to a large extent in many places of the world (in the USA, in Europe, in Argentina and elsewhere)…". The Tribunal declared that on all the evidence presented before it "the six [transnational corporations were] *prima facie* responsible for gross widespread and systemic violations of the right to

health and life, economic, social and cultural rights…". The Tribunal further declared that "their systemic acts of corporate governance have caused avoidable catastrophic risks, increasing the prospects of extinction of biodiversity, including species whose continued existence is necessary for reproduction of human life".

g) The European Food Safety Authority ("EFSA") issued reports in 2013 confirming that neonicotinoids present acute risks to honey bee survival. A "high acute risk" to honey bees was identified from exposure via dust drip for authorized uses in cereals, cotton, maize and oilseed rape. A "high acute risk" was also identified for exposure to the residues in nectar and/or pollen for authorized uses in cotton, oilseed rape and sunflowers. The EFSA also identified other risks and major data gaps in the studies previously undertaken.

h) The European Commission, based on the findings of the EFSA, has restricted the sale and use of neonicotinoid insecticides, specifically products containing clothianidin, imidacloprid and thiamethoxam. This restriction entered into force on December 1st, 2013 and will be reviewed within two years. The restriction applies to the use of neonicotinoids for seed treatment, soil application (granules) and foliar treatment on plants and cereals (with the exception of winter cereals) that are attractive to bees.

Japan's Response to Neonicotinoids

i) In 2013, Japan refused to accept containers of Canadian buckwheat that was grown in 2012 on the grounds that it exceeded Japan's maximum residue limit for thiamethoxam. The buckwheat farmers did not apply thiamethoxam to their crops and believe that the contamination may have resulted from residues subsisting in the soil from previously-treated crops.

France's Response to Neonicotinoids

j) Since 1999, France has banned the use of Bayer's imidacloprid, sold under the name Gaucho in France, and used as a seed dressing for sunflowers, after one-third of French honey bees died following its widespread use.

k) In 2003, the Comité Scientifique et Technique, a team of expert scientists appointed by the French Minister of Agriculture, concluded that imidacloprid poses a significant risk to bees. In 2004, the Minister of Agriculture suspended the use of imidacloprid as a seed treatment for maize (corn).

l) In 2008, Bayer's registration application for clothianidin was rejected by the French authorities.

Germany's Response to Neonicotinoids

m) In 2008, the German Federal Office of Consumer Protection and Food Safety suspended the registrations of eight pesticide seed treatment products used on rapeseed oil and sweetcorn. The ban occurred following reports, in May 2008, from German beekeepers in the Baden-Württemberg region that two-thirds of their bees died and that some beekeepers lost all of their hives as a result of the use of clothianidin**.** The tests conducted on the dead bees showed that ninety-nine percent (99%) of those examined had a buildup of clothianidin.

Italy's Response to Neonicotinoids

n) In 2008, Italy's agricultural ministry, relying on the precautionary principle, suspended the use of pesticides containing neonicotinoids for the coating of any plant seeds.

United States of America's Response to Neonicotinoids

o) In 1995, beekeepers in North Dakota lost thousands of honey bee colonies during a period when oilseed rape in the area was treated with imidacloprid. The loss of colonies represented approximately one-third of the honey bees in the area.

p) In February 2003, the US EPA issued a Risk Assessment for clothianidin seed treatment for corn and canola. At that time, US EPA scientists raised serious concerns about neonicotinoids and requested field testing to evaluate potential environmental hazards including harm to pollinators.

q) The US EPA, in its "Pesticide Fact Sheet", issued May 30th, 2003, granting the conditional registration of clothianidin, produced by Bayer Corporation, the US subsidiary to Bayer AG, stated that "[c]lothianidin has the potential for toxic chronic exposure to honey bees, as well as other non-target pollinators, through the translocation of clothianidin residues in nectar and pollen."

r) In a memorandum dated November 2nd, 2010, the US EPA stated that clothianidin's major risk concern is to non-target insects such as honey bees and that "[a]cute toxicity studies to honey bees show that clothianidin is a neonicotinoid insecticide that is both persistent and systemic on an oral basis."

s) In January 2012, the USDA Agricultural Research Station published a study finding that injury to honey bees from neonicotinoids also makes them more vulnerable to highly-damaging parasites.

t) The US EPA's "Clothianidin Summary Document Registration Review: Initial Docket December 2013", outlined the key findings of the most recent ecological risk assessment and states: "…in the 2010 assessment, information from standard tests, field studies, and incident reports suggest the potential for long-term toxic risks to honey bees…"

Canada's Response to Neonicotinoids

u) In Canada, the federal government, through the PMRA, is responsible for the registration of pesticides.

v) Since 2009, approximately eighty (80) Pesticide Incident Reports, and hundreds of complaints, relating to Bee deaths in Ontario and Québec have been filed with the PMRA. Four of these reports appear to have been formally evaluated by Health Canada, however only three of these evaluations are publicly available.

w) "Pesticide Incident Report 2010-3100" concerned an abnormally high number of "dead or paralyzed/agonizing" Bees observed by a Beekeeper in Coteau-du-Lac, Québec on May 15th, 2010. Tests by the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec ("MAPAQ")

detected residues of clothianidin and thiomethoxam in the dead Bees, which Health Canada used to confirm that exposure to these pesticides occurred. The incident was classified as "Environment Moderate". Health Canada concluded:

> …[I]t is **highly probable** that exposure to clothianidin and/or thiamethoxam *caused* the bee mortality in Coteau-du-Lac. Even though it is not clear how the bees were exposed to clothianidin and thiamethoxam in this incident, *this conclusion is supported by the fact that clothianidin and thiamethoxam are known to be highly toxic to bees* and these were the only pesticides found in the dead bees. In addition, no pesticide residues were found in control bees which were collected from a healthy hive in another location.
>
> [bolded emphasis in original; italicized emphasis added]

x) "Pesticide Incident Report 2010-3391" concerned an "abnormally high bee mortality" observed by a Beekeeper in St-Dominique, Québec in May 2010. The Bees were sent for testing by the MAPAQ, and the incident was classified as "Environment Moderate". Health Canada concluded:

> …[I]t is **highly probable** that exposure to clothianidin *caused* the bee mortality in St-Dominique. Even though it is not clear how the bees were exposed to clothianidin in this incident, this conclusion is supported by the fact that *clothianidin is known to be highly toxic to bees* and was the only pesticide found in the dead bees.
>
> [bolded emphasis in original; italicized emphasis added]

y) "Pesticide Incident Report 2011-4412" concerned Bee mortality observed by a Beekeeper in the Montérégie region of Québec, which was first noticed on June 1st, 2011. The affected hives "were surrounded by agricultural fields in which corn and soybean are grown and the incident occurred during the sowing of corn and soybean seeds". Testing by the MAPAQ detected residues of clothianidin, thiamethoxam, fenitrothion, and atrazine in the dead Bees. Fenitrothion is no longer registered for use in Canada. The incident was classified as "Environment Major". Health Canada concluded:

> …[I]t is **highly probable** that exposure to clothianidin and/or thiamethoxam and/or fenitrothion *caused* the bee mortality in this incident. Even though it is not clear how the bees were exposed to these compounds in this incident, this conclusion is supported by the fact that residues of clothianidin, thiamethoxam and fenitrothion were found in dead bees and that these compounds are known to be highly toxic to bees. *In addition, clothianidin and/or thiamethoxam were detected in other incidents where high bee mortality was observed*.
>
> It is unlikely that atrazine contributed to the bee mortality observed in this incident, as this pesticide is not known to be hazardous to bees.
>
> [bolded emphasis in original; italicized emphasis added]

z) In response to this, the fourth, incident concerning Bee mortality and clothianidin and thiomethoxam, Health Canada added that:

> A trend analysis will therefore be initiated by the PMRA to further its understanding of the issue. In addition, as clothianidin and thiamethoxam are

> conditionally registered, all incidents involving these compounds will be considered during the evaluation for full registration along with other requested data. It should finally be noted that pollinator issues are identified as a PMRA priority. Within this context, the PMRA is working with federal, provincial and international partners as well as other stakeholders including industry to improve risk mitigation measures for pollinators.

aa) In the spring of 2013, Health Canada, with support from the Ontario Ministry of the Environment and OMAFRA, released a report titled, "Evaluation of Canadian Bee Mortalities that Coincided with Corn Planting in Spring 2012". This evaluation noted the "significant number of honey bee mortality reports from the provinces of Alberta, Manitoba, Saskatchewan, Nova Scotia, Quebec and Ontario", but observed that the "majority of reports were from southern Ontario, involving over 40 beekeepers and 240 different bee yard locations", particularly in corn growing regions. Residue analysis was conducted by the PMRA and MAPAQ:

> Clothianidin was detected in approximately 70% of the samples analyzed in Ontario and clothianidin and thiamethoxam were detected in the samples analyzed from Quebec. On a bee yard basis, these residues were detected in approximately 80% of the bee yards where dead bee samples were collected and analysed. Samples of unaffected bees were also analysed and clothianidin was only detected in one sample at very low levels. Corn seed in Ontario and Quebec is treated in approximately equal quantities with either clothianidin or thiamethoxam. Since thiamethoxam is converted to clothianidin, the detection of clothianidin in dead bees could indicate exposure to either clothianidin or thiamethoxam.

…

> The information evaluated suggests that planting of corn seeds treated with the nitroguanidine insecticides clothianidin and/or thiamethoxam contributed to the majority of the bee mortalities that occurred in corn growing regions of Ontario and Quebec in Spring 2012. The likely route of exposure was insecticide contaminated dust generated during the planting of treated corn seed. …

bb) A similar Health Canada evaluation titled, "Evaluation of Canadian Bee Mortalities in 2013 Related to Neonicotinoid Pesticides" ("Evaluation"), the interim results of which were published in September 2013, found that "approximately 75% of the dead bee samples had detectable residues of neonicotinoid insecticides used to treat corn and soybean seed" and that "[c]lothianidin and/or thiamethoxam were detected in >90% of the comb pollen samples from affected yards and were also detected in some water, soil, and comb honey samples".

cc) The Evaluation also found that "[s]ome beekeepers have reported that they have noticed mortalities in their hives for years, but they had not made the link to pesticides being the cause until the acute kills that were observed in 2012". The Evaluation concluded that "current agricultural practices related to the use of neonicotinoid-treated corn and soybean seed are not sustainable due to their impact on bees and other pollinators".

dd) In late 2013, Canada's Standing Senate Committee on Agriculture and Forestry commenced hearings on "the importance of bees and bee health in the production of honey, food and seed in Canada" with emphasis on the use of neonicotinoid pesticides and pollinator exposure and protection. These hearings are set to conclude with a final report to be issued in the fall of 2014.

- Rod Scarlett, Executive Director of the Canadian Honey Council, has testified that "it has been very difficult,

particularly in Ontario and Quebec, to buy non-treated seed";

- Scott Kirby, Director of Product Assessment with the PMRA has testified that there are "clear linkages" and a "direct relationship" between neonicotinoid use and the 2012 and 2013 bee mortalities observed in Ontario and Quebec; and further stated that double-blind equivalent studies have shown that neonicotinoids are fatal to bees.

ee) In 2013, OMAFRA released a presentation titled, "Neonicotinoids and Field Crop Production in Ontario". This presentation stated that neonicotinoids are now used on:

(i) 100% of canola acreage;
(ii) 99% of corn crop acreage;
(iii) 95% of dry bean acreage;
(iv) 65% of soybean crop acreage; and
(v) 25-33% of cereals acreage.

ff) OMAFRA Field Crop Entomologist and presenter, Tracey Baute, subsequently stated: "It is time to start using these insecticide seed treatments only when necessary. Not every acre in the province needs protection from wireworm and grubs. Only 10 to 20% of the acres are at risk of these two pests, particularly those fields with sandy or silty soils".

gg) On May 27th, 2014, the Council for Prince Edward County ("County") passed a resolution that the County would immediately discontinue the use of neonicotinoid products on municipal property. The County also resolved to, among other things:

- call on the provincial and federal governments to declare a moratorium surrounding the use of neonicotinoid crop treatments, as soon as possible, pending further study;

- circulate its resolution to "other municipalities through the Association of Municipalities of Ontario, to request their support on this serious issue";

- forward its resolution to "The Right Honourable Stephen Harper, The Honourable Gerry Ritz, Federal

Minister of Agriculture and Agri-Food, The Honourable Rona Ambrose, Federal Minister of Health, Federal MP Daryl Kramp, Federal Opposition Members at this time, and the Premier of Ontario, Provincial Minister of Agriculture and local Provincial Member of Parliament immediately after the Provincial election"; and

- "[u]ntil such time as a moratorium is enacted where an agronomic assessment shows particular fields to be at minimal risk of damage from soil insects…urge farmers to order seed not treated with insecticide for the 2015 growing season, and…urge seed companies to make adequate supplies available".

hh) On July 7th, 2014, King Township passed a resolution supporting the actions taken by the County, confirming its commitment to the non-use of neonicotinoid products on any municipally owned properties.

70. The Petitioner pleads that the Defendants owed them and the other Class Members the following duties of care and other duties:

(a) to take reasonable steps to avoid harm and/or damage to the property of the Petitioner and the other Class Members;

(b) to conduct appropriate testing and monitoring and properly research the impact of Neonicotinoids on the Bee population prior to the registration and sale of the Neonicotinoids in Canada;

(c) to monitor, investigate, evaluate and follow up on adverse events associated with use of the Neonicotinoids;

(d) upon discovering that the Neonicotinoids resulted in death to Bees and are prone to persistence in the environment, promptly to remove the Neonicotinoids from the marketplace, disclose the harm to the Petitioner and Class Members, and take other appropriate remedial actions; and

(e) to act in good faith towards the Petitioner and Class Members and users of the Neonicotinoids in Canada.

71. The Defendants are at fault for breaching, and continuing to breach, these duties by:

(a) encouraging the indiscriminate use of Neonicotinoids far beyond what was reasonable or necessary, purely for their own economic gain;

(b) marketing such products in a manner which was intended to and did have the effect of rendering the Neonicotinoids ubiquitous and inescapable for Bees, resulting inevitably in devastation of the Bee population and resulting in damages to the Beekeepers;

(c) designing and developing products the use of which results in the significant adverse effects pleaded herein;

(d) failing, after becoming aware of the problems with the use of Neonicotinoids and their impacts on the Bee population and to Beekeepers, to seek to suspend the registration of the Neonicotinoids, publicize the problems, and cease or limit manufacturing and distribution of the Neonicotinoids after the Defendants knew or ought to have known of the problems with the use of the Neonicotinoids and their impacts on the Bee population and Beekeepers;

(e) failing to adequately study and test Neonicotinoids in a manner that would fully disclose the magnitude of their risks to the Bee population and Beekeepers;

(f) failing to provide to the PMRA and other regulatory agencies, on a timely basis, complete and accurate information on Neonicotinoids and Bee exposure as it became available;

(g) misrepresenting the state of research, opinion and scientific literature pertaining to the purported risks associated with the use of the Neonicotinoids to the Bee population and Beekeepers, including but not limited to instances where these misrepresentations were unreasonable in the face of the risks that were or ought to have been known to the Defendants;

(h) actively encouraging, or failing to take effective steps to discourage, the use of the Neonicotinoids;

(i) failing to institute an effective products recall upon discovering of the harm of the Neonicotinoids to the Bee population and Beekeepers or potential harm to Bees and Beekeepers;

(j) making false, misleading and deceptive representations relating to the use and possible impacts of Neonicotinoids and making false, misleading and deceptive representations regarding the risk to Bees and Beekeepers in order to preserve their interest in the lucrative business of selling Neonicotinoids; and

(k) breaching other duties of care to the Petitioner and Class Members, the details of which are known only to the Defendants.

72. The Petitioner and Class Members owned Bees that died or were harmed and/or owned hive products that were contaminated or otherwise damaged as a direct result of Bee exposure to the Neonicotinoids.

73. The damages suffered by the Petitioner and Class Members would not have occurred but for the fault of the Defendants.

74. In the circumstances of this case, the Defendants applied callous and reckless disregard for the property of the Petitioner and Class Members.

THE PERSONAL CLAIMS OF EACH OF THE MEMBERS OF THE CLASS AGAINST DEFENDANTS ARE BASED ON THE FOLLOWING FACTS:

75. The claims of each Class Members are based on the same facts as those upon which the claim of the Petitioner is based.

76. The Petitioner is a Class Member.

77. Class Members have been, and continue to be, injured by the Defendants' Neonicotinoids. The monetary damages to their businesses are significant, and include: the costs of replacing killed and weakened Bees, contaminated beeswax, comb and hives; reduced honey production and lost profits; costs associated with the purchase of honey to meet existing contracts; increased labour, equipment and supply expenditures; and costs and lost profits associated with the inability to perform contracted pollination services. These losses are not insured nor are they insurable.

THE COMPOSITION OF THE MEMBERS OF THE CLASS MAKES THE APPLICATION OF ARTICLES 59 AND 67 OF THE *C.C.P.* DIFFICULT AND/OR IMPRACTICAL FOR THE FOLLOWING REASONS:

78. The size of the Class consists of thousands of persons geographically dispersed throughout Canada.

79. Thus, it is impossible for the Petitioner to identify all such potential Class Members and/or obtain a mandate from each of them.

80. A class action will ensure the most efficient use of judicial resources.

THE IDENTICAL, SIMILAR OR RELATED QUESTIONS OF LAW OR OF FACT BETWEEN EACH MEMBER OF THE CLASS AND THE DEFENDANTS, WHICH PETITIONER WISHES TO HAVE DECIDED BY THIS CLASS ACTION ARE:

81. The identical, similar or related questions of fact and law between each Class Member and the Defendants which the Petitioner wishes to have settled by the class action are as follows:

(a) Did the Defendants Bayer AG and Syngenta International AG fail in their duty of care when designing and developing Neonicotinoid pesticides?

(b) Did the Defendants Bayer Inc., Bayer CropScience Inc. and Syngenta Canada Inc. fail in their duty of care when distributing and selling Neonicotinoid pesticides?

(c) Did the Defendants fail in their duty of care when they permitted or failed to prevent the damages caused by the Neonicotinoids to the Beekeepers?

(d) Did the Defendants commit a fault in violation of section 1457 of the *Civil Code of Québec*?

(e) If the above questions are answered in the affirmative, did the Petitioner and Class Members suffer damages due to the Defendants' conduct?

(f) Are the Defendants jointly liable for past, present and future pecuniary losses and damages suffered by the Petitioner and the Class members?

(g) Are the Defendants jointly liable for punitive damages?

THE QUESTIONS OF LAW OR OF FACT WHICH ARE PARTICULAR TO EACH OF THE MEMBERS OF THE CLASS ARE:

82. Out of the damages recovered by the Class, collectively, from the Defendants, what amount of damages is each member of the Class entitled to?

IT IS EXPEDIENT THAT THE INSTITUTION OF A CLASS ACTION FOR THE BENEFIT OF THE MEMBERS OF THE CLASS BE AUTHORIZED FOR THE FOLLWING REASONS:

83. The class action is an efficient procedural vehicle that allows members of the Class to have access to justice.

84. The legal and factual issues surrounding the Defendants conduct and their liability are identical for each member of the Class.

85. It is in the interests of justice that Class Members be given the opportunity to participate in the institution of a Class action that would benefit all those who have sustained damages as a result of the Defendants conduct.

THE NATURE OF THE RECOURSE WHICH THE PETITIONER WISHES TO EXERCISE ON BEHALF OF THE MEMBERS OF THE CLASS IS:

86. The nature of the recourse which the Petitioner wishes to exercise on behalf of the members of the Class is an action in civil liability and damages.

THE CONCLUSIONS SOUGHT BY PETITIONER AGAINST THE DEFENDANTSARE AS FOLLOWS:

87. The conclusions sought by the Petitioner are:

GRANT the Petitioner's action against the Defendants;

CONDEMN the Defendants jointly to pay the Petitioner and the Class Members on an aggregate basis an amount to be determined as compensatory damages, the whole with interest and additional indemnity pursuant to section 1619 of the *Civil Code of Québec*, reckoned from the date of service of the present motion;

ORDER the collective recovery of the damage claims;

CONDEMN the Defendants jointly to pay punitive damages and/or grant the Petitioner and the Class members such further relief payment as this Honourable Court may determine as being just and proper;

THE WHOLE with costs, including the costs of all exhibits, experts, expertise and publication notices.

PETITIONER REQUESTS THAT HE BE ASCRIBED THE STATUS OF REPRESENTATIVE

PETITIONER IS IN A POSITION TO REPRESENT THE MEMBERS OF THE CLASS ADEQUATELY FOR THE FOLLOWING REASONS:

88. The Petitioner, who requests that he be ascribed the status of representative, will fairly and adequately protect and represent the interests of the Class members for the following reasons:

    (a) The Petitioner understands the nature of the action;

    (b) The Petitioner is well-informed of the facts alleged in this motion;

    (c) The Petitioner is available to dedicate the time necessary for an action to collaborate with members of the Class;

    (d) The Petitioner has retained an established law firm with experience in class actions;

    (e) The Petitioner does not have any interests in conflict with other Class Members.

THE PETITIONER PROPOSES THAT THE CLASS ACTION BE BROUGHT BEFORE THE SUPERIOR COURT OF THE DISTRICT OF MONTRÉAL FOR THE FOLLOWING REASONS:

89. Bayer Inc. has a principal establishment in Montréal.

90. Due to demographics, the judicial District of Montréal is the appropriate district for the class action.

91. The legal counsel for Petitioner has an office and practices in the judicial District of Montréal.

92. The present motion is well founded in law and in fact.

WHEREUPON THE PETITIONER PRAYS:

THAT the present motion be granted;

THAT the bringing of a class action be authorized as follows:

A civil liability action for damages

THAT the status of representative be granted to the Petitioner for bringing the said class action for the benefit of the Class described as follows, namely:

> *All Beekeepers who have owned or continue to own and operate honey producing, pollinating, and/or Queen Bee rearing businesses in Québec from January 1, 2006 to the date on which this action is authorized as a class proceeding.*

THAT the principal questions of fact and law be dealt with collectively and be identified as follows:

(a) Did the Defendants Bayer AG and Syngenta International AG fail in their duty of care when designing and developing Neonicotinoid pesticides?

(b) Did the Defendants Bayer Inc., Bayer CropScience Inc. and Syngenta Canada Inc. fail in their duty of care when distributing and selling Neonicotinoid pesticides?

(c) Did the Defendants fail in their duty of care when they permitted or failed to prevent the damages caused by the Neonicotinoids to the Beekeepers?

(d) Did the Defendants commit a fault in violation of section 1457 of the *Civil Code of Québec*?

(e) If the above questions are answered in the affirmative, did the Petitioner and Class Members suffer damages due to the Defendants' conduct?

(f) Are the Defendants jointly liable for past, present and future pecuniary losses and damages suffered by the Petitioner and the Class members?

(g) Are the Defendants jointly liable for punitive damages?

THAT the conclusions sought with respect to such questions be identified as follows:

GRANT the Petitioner's action against the Defendants;

CONDEMN the Defendants jointly to pay the Petitioner and the Class Members on an aggregate basis an amount to be determined as compensatory damages, the whole with interest and additional indemnity pursuant to section 1619 of the *Civil Code of Québec* (SQ 1991, c 64), reckoned from the date of service of the present motion;

ORDER the collective recovery of the damage claims;

CONDEMN the Defendants jointly to pay punitive damages and/or grant the Petitioner and the Class members such further relief payment as this Honourable Court may determine as being just and proper;

THE WHOLE with costs, including the costs of all exhibits, experts, expertise and publication notices.

THAT it be declared that any Class member who has not requested exclusion from the Class be bound by any judgment to be rendered on the class action in accordance with the *Code of Civil Procedure*;

THAT the delay for exclusion be set at thirty (30) days from the notice to the Class members and that at the expiration of such delay, any Class member who has not requested exclusion be bound by any such judgment;

THAT it be ordered that a Notice to Members be published in both the paper and online versions of The Gazette, La Presse, Métro, 24Heures and the Journal de Québec;

THAT the Defendants be ordered to assume the publication costs of the Notice to Members;

THAT the record be referred to the Chief Justice so that he may determine the district wherein the class action is to be brought and the judge before whom it will be heard;

THAT the clerk of this Court be ordered, upon receiving the decision of the Chief Justice, in the event that the class action is brought to another district, to transmit the present record to the clerk of the designated district;

THE WHOLE with costs, including the costs of notices.

Montréal, October 9, 2014

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SISKINDS, DESMEULES, AVOCATS, S.E.N.C.R.L.
Lawyers for the Petitioner

SCHEDULE 1

NOTICE TO DEFENDANT

Take notice that the Petitioner has filed this action or application in the office of the Superior Court of the judicial district of Montreal.

To file an answer to this action or application, you must first file an appearance, personally or by advocate, at the courthouse of Montreal located at 1, Notre-Dame East, Montreal, Quebec, H2Y 1B6 within 10 days of service of this motion.

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10 day period.

If you file an appearance, the action or application will be presented before the court on November 25th, 2014 at 9h00 a.m. On that date, the court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the court may hear the case, unless you have made a written agreement with the Petitioner or the Petitioner's advocate on a timetable for the orderly progress of the proceeding. The timetable must be filed in the office of the court.

These exhibits are available on request.

Montréal, October 9, 2014

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SISKINDS, DESMEULES, AVOCATS, S.E.N.C.R.L.
Lawyers for the Petitioner