

CANADA
Province of Québec
District: Montréal
Locality: Montréal
File No.: 500-06-000964-185

SUPERIOR COURT
Class Action Division

KATHLEEN GAUTHIER

Plaintiff

v.

JOHNSON & JOHNSON INC.

Defendant

**FIRST CASE PROTOCOL (in civil matters)
PRESENTATION PAGE
Superior Court of Québec, Montréal Division**

1. **You are required to complete this page when filing a first case protocol or a proposed case protocol in the record of the Court.** Place this page before the case protocol or the proposed case protocol (before page 1) and staple them together.
 2. **Do not complete or attach** this presentation page if you are filing an amended case protocol.
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For each question, you must check an answer, either YES or NO.
No answer will be deemed to be YES.

The parties are requesting a stay of the proceeding: (line 4 of the protocol)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
The parties are requesting an extension of the time limit: (line 6 of the protocol)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
The parties plan to file more than six expert opinions: (lines 40 to 43 of the protocol)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
A party (defendant, third person, person called) intends to file an application for authorization to file a written defence: (line 33 of the protocol)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
The parties plan to conduct more than six pre-trial examinations: (lines 47 and 48 of the protocol)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
The parties plan to conduct examinations the duration of which is incompatible with article 229 of the <i>Code of Civil Procedure (C.C.P.)</i>:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
The protocol was not signed by the parties or was not notified to them:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

RÉSERVÉ AU GREFFIER : Cocher si protocole trié pour saisie CHEM*EXA

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SUPERIOR COURT
Error! Reference source not found. Division

District: Montréal
Locality: Montréal
File No.: 500-06-000964-185

KATHLEEN GAUTHIER

Plaintiff

v.

JOHNSON & JOHNSON INC.

Defendant

CASE PROTOCOL
Superior Court of Québec, Montréal Division
(article 148 of the Code of Civil Procedure)

1.	Nature of the dispute: Collective action in compensatory and punitive damages	
2.	Value of the subject matter of the dispute: \$10,000,000	
3.	Latest date on which the application was served on all the parties:	July 30 th , 2021
4.	All the parties are requesting a stay of the proceeding in order to allow them to negotiate an out-of-court agreement (C.C.P., a. 156): Duration: (where applicable, indicate a maximum stay of 3 months) If the application is allowed by the Court, the proceeding will therefore be stayed until:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> 1 month <input type="checkbox"/> 2 months <input type="checkbox"/> 3 months
5.	All the parties undertake to hold a settlement conference. (C.C.P., aa. 148(2) and 161 to 165)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6.	All the parties are requesting an extension of the time limit for trial readiness (C.C.P., a. 173): Duration: (where applicable, indicate an additional time limit of 9 months maximum) If the Court allows the application, the six-month time limit will be extended until:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input type="checkbox"/> 9 months January 26, 2024

PRELIMINARY EXCEPTIONS		
7.	Declinatory exceptions	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
8.	<input type="checkbox"/> Referral to competent court or dismissal (C.C.P., a. 167)	
9.	<input type="checkbox"/> Other exception (with a reference to the C.C.P. article):	
10.	Submitted by (enter the name of the party):	

11.	Exceptions to dismiss	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
12.	<input type="checkbox"/> Dismissal (C.C.P., a. 168):	
13.	Submitted by (enter the name of the party):	

14.	Other preliminary exceptions	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
15.	<input type="checkbox"/> Clarifications regarding (C.C.P., a. 169):	
16.	<input type="checkbox"/> Disclosure of documents (C.C.P., a. 169):	
17.	<input type="checkbox"/> Striking of immaterial allegations (C.C.P., a. 169):	
18.	<input type="checkbox"/> Requirement to provide suretyship (C.C.P., a. 492):	
19.	<input type="checkbox"/> Other exception (indicate its nature):	
20.	Submitted by (enter the name of the party):	

21.	Application under article 51 C.C.P.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
22.	<input type="checkbox"/> Application under article 51 C.C.P.	
23.	Submitted by (enter the name of the party):	

OTHER PROCEEDINGS		
24.	Safeguard measures (C.C.P., a. 169 1st para.):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
25.	<input type="checkbox"/> Application for safeguard measures	
26.	Submitted by (enter the name of the party):	

27.	Other incidental procedures	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing
28.	<input type="checkbox"/> Amendment of a pleading	
29.	<input type="checkbox"/> Determination of an issue of law	
30.	<input type="checkbox"/> Declaration of disqualification	
31.	<input type="checkbox"/> Other (indicate its nature):	
32.	Submitted by (enter the name of the party):	

DEFENCE		
33.	<p>Under article 171 C.C.P., the case is subject to the rules of oral defence. Despite this, all the parties are applying for authorization from the Court for the case to be subject to the rules of written defence, on the following grounds (C.C.P., aa. 148(5) and 171) (indicate the grounds):</p> <p>This class action raises complex factual and legal issues pertaining to the regulation of medication in Canada and the United States, the side effects of said medication, representations made to consumers, and choices made by consumers in purchasing said medication. The parties and the Court would benefit from having the Defendant's allegations stated in writing.</p> <p>Deadline: April 28, 2023</p> <p>In the absence of an application for authorization for a written defence, the defendant must state the grounds by oral defence (C.C.P., aa. 154 and 170 2nd para.) (indicate the grounds):</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

34.	The defendant intends to file a cross-application.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
35.	Deadline for filing the cross-application	
36.	Deadline for filing the defence to cross-application	

37.	<p>Issues in dispute (C.C.P., a. 148):</p> <p>As authorized by the Court:</p> <p>a) Whether the Material Omissions indeed constitute information that is material to the members of the class' consumer knowledge;</p> <p>b) Whether Defendant has a duty to inform the members of the Quebec as to the Material Omission under the provisions of the Consumer Protection Act and whether it breached said duty;</p> <p>c) Whether Defendant has a duty to inform the members of the class as to the Material Omission under the provisions of the Competition Act and whether it breached said duty;</p> <p>d) Whether Defendant breached its duties of good faith under the Civil Code of Quebec vis-à-vis the members of the Quebec in the consumer market;</p> <p>e) If any of b. to d. are answered in the affirmative, are the class members entitled to compensatory damages? And if so, in what amount?</p> <p>f) Whether the class members are entitled to punitive damages by reason of the violation by the Defendant of the Consumer Protection Act and Competition Act? And if so, in what amount?</p> <p>g) Whether collective recovery of compensatory and punitive damages is appropriate?</p>	
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38.	Third person intervention or impleading (C.C.P., aa. 151 and 158(4))	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
39.	Deadline for the intervention or impleading of a third person	

EXPERT OPINIONS		
40.	<p>Joint expert opinion (C.C.P. a. 232)</p> <p>Nature of and need for joint expert opinion:</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

	<p>Reasons for refusing joint expert opinion (C.C.P., a. 148(4)):</p> <p>The parties have different topics for their respective expert opinions and do not agree with the assumptions and facts to be provided to their experts.</p>	
	Deadline for filing joint expert opinion:	
41.	<p>Expert opinion for the plaintiff (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p> <p>Risks associated with APAP Lack of knowledge of the general population with regard to these risks</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing an expert opinion for plaintiff:	August 25, 2023
42.	<p>Expert opinion for the defendant (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p> <p>Counter-expertise to the opinions filed by the Plaintiff Labelling of over-the-counter medication Consumer behavior in choosing and purchasing over-the-counter medication</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing an expert opinion for defendant:	December 8, 2023
43.	<p>Expert opinion for third person or impleaded person (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion)</p>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing an expert opinion for third person or impleaded person:	

EXAMINATIONS			
44.	Pre-trial examination(s) by either party (C.C.P., aa. 148(3), 158(3) and 221)		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
45.	Value of the subject matter of the dispute is less than \$100 000 (C.C.P., a. 229):		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
46.	The parties intend to submit their anticipated objections before pre-trial examination (C.C.P., a. 228):		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
47.	Number of examinations before defence		1
48.	Number of examinations after defence		1
49.	Name of persons to be examined for the plaintiff:		
	Kathleen Gauthier	March 9, 2023	10:00 am
	Offices of Renno Vathilakis Inc.		
	Given name, surname	Date	Time
			Place

	Given name, surname	Date	Time	Place
50.	Name of persons to be examined for the defendant:			
	Jill Grande	June 20, 2023	10:00 am	Offices of Blakes or virtually
	Given name, surname	Date	Time	Place
	Given name, surname	Date	Time	Place
51.	In order to avoid service of a subpoena, the parties agree that, in the 20 days preceding a pre-trial examination, the examining party will disclose in writing to the other parties a detailed list of all the documents that must be in the possession of the party to be examined at the pre-trial examination. List the documents below if the parties are currently able to identify them (an appendix of all the documents may be enclosed with this protocol):			
	Given name, surname	Documents		
	Given name, surname	Documents		
52.	Deadline for filing transcripts for the plaintiff (C.C.P., a. 227)			January 12, 2024
53.	Deadline for filing transcripts for the defendant (C.C.P., a. 227)			January 26, 2024
54.	Deadline for filing transcripts for the impleaded person (C.C.P., a. 227)			
55.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations for the plaintiff			15 days after receipt of transcript and undertakings
56.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations for the defendant			15 days after receipt of transcript and undertakings
57.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the plaintiff			30 days after receipt of transcript
58.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the defendant			60 days after receipt of transcript

EXHIBITS		
	Exhibits and other evidence (C.C.P., aa. 145 and 158)	Deadline
59.	Filing of exhibits for the plaintiff	January 12, 2024
60.	Filing of exhibits for the defendant	January 26, 2024

61.	Filing of exhibits for the third person, impleaded person or intervening person	
62.	List of exhibits admitted by plaintiff: To be annexed to the Request for Setting down for Trial and Judgment	
63.	List of exhibits admitted by defendant: To be annexed to the Request for Setting down for Trial and Judgment	
	Filing of affidavits in lieu of testimony	Deadline
64.	Filing of affidavits for plaintiff	January 12, 2024
65.	Filing of affidavits for defendant	January 26, 2024

OTHER		
66.	Legal costs (C.C.P., aa. 148 1st para., and 339) <ul style="list-style-type: none"> Evaluation of legal costs for plaintiff (including expert opinions): Evaluation of legal costs for defendant (including expert opinions): Evaluation of legal costs for other parties (including expert opinions): 	<p style="text-align: right;">\$ 50 000</p> <p style="text-align: right;">\$ 125 000</p> <p style="text-align: right;">\$</p>

67.	Methods of notification the parties intend to use (C.C.P., aa. 109 to 140 and 148(9)): Parties intend to notify by emails: Plaintiff's lawyers: krenno@renvath.com, aliaghathi@renvath.com Defendant's lawyers: robert.torralbo@blakes.com, simon.seida@blakes.com
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68.	Appointment of a lawyer to a minor or a person of full age considered incapable If yes, name of proposed lawyer:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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N.B. Non-compliance with this protocol may constitute a breach punished under articles 341 and 342 C.C.P.

On January 11, 2023

Renno Vathilakis

Mtre. Karim Renno
Mtre. Ava Liaghathi
Counsel for Plaintiff
Renno Vathilakis
145 St-Pierre Street
Montreal, Quebec
Telephone: 514 937 1221
Fax: 514 221-4714
Email: krenno@renvath.com /
aliaghathi@renvath.com

On January 12, 2023

Blake, Cassels & Graydon L.L.P.

Mtre. Robert Torralbo
Mtre. Simon Seida
Counsel for Defendant
Blake, Cassels & Graydon LLP
1 Place Ville-Marie, Suite 3000
Montreal, Québec H3B 4N8
Telephone: 514-982-4014 / 514-982-4103
Fax: 514-982-4099
Email: robert.torralbo@blakes.com /
simon.seida@blakes.com

From: [Ava Liaghati](#)
To: kathleen-gauthier@hotmail.com
Cc: [Karim Renno](#)
Subject: Notification du protocole de l'instance // Gauthier c. Johnson & Johnson // C.S. 500-06-000964-185
Date: January 11, 2023 5:00:00 PM
Attachments: [image001.png](#)
[2023-01-11 - Case protocol \(signed by Plaintiff\).pdf](#)

Bonjour Mme. Gauthier,

Vous trouverez ci-joint le protocole de l'instance convenu avec l'avocat de la partie adverse, que nous sommes tenus de vous notifier conformément au *Code de procédure civile*.

Veillez noter qu'aucune action ou réponse n'est requise de votre part.

Cordialement,

Ava Liaghati | B.Sc., M.Sc., B.C.L., J.D.

Associate / Sociétaire



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From: postmaster@outlook.com
To: kathleen-gauthier@hotmail.com
Subject: Delivered: Notification du protocol de l'instance // Gauthier c. Johnson & Johnson // C.S. 500-06-000964-185
Date: January 11, 2023 5:00:42 PM
Attachments: [Notification du protocol de l'instance Gauthier c. Johnson Johnson C.S. 500-06-000964-185.msg](#)

Your message has been delivered to the following recipients:
kathleen-gauthier@hotmail.com <<mailto:kathleen-gauthier@hotmail.com>>
Subject: Notification du protocol de l'instance // Gauthier c. Johnson & Johnson // C.S. 500-06-000964-185

Seida, Simon

De: David, Valérie
Envoyé: 12 janvier 2023 11:26
À: Ramaral5@its.jnj.com
Cc: Seida, Simon; Torralbo, Robert
Objet: NOTIFICATION : First case protocol (No. 500-06-000964-185)
Pièces jointes: 2023-01-11 - Case protocol.pdf

NOTIFICATION BY EMAIL

(Art. 134 C.C.P.)

From: **M^{tre} Robert J. Torralbo**
M^{tre} Simon J. Seida
Blake, Cassels & Graydon LLP
1, Place Ville Marie, Suite 3000
Montréal, Québec H3B 4N8
robert.torralbo@blakes.com
simon.seida@blakes.com

(Attorneys for the defendant)

To : **Rose Amaral Ryan**
7050 Camp Hill Road, RA1608
Fort Washington, PA 19034
Ramaral5@its.jnj.com

(Assistant General Counsel)

Parties : ***Kathleen Gauthier v. Johnson & Johnson Inc.***

Court No. : **500-06-000964-185**

Nature of document : **Case protocol**

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The present email constitutes notification of Case protocol

In accordance with the Quebec *Rules of Civil Procedure*, please find attached a **First Case Protocol** setting out the timetable for the proceedings in the above-mentioned matter before the Superior Court of Québec for your file. This is provided for your information only. No further action is required on your part.

Valérie J. David (elle/she)
Adjointe juridique/Legal Assistant
pour/for Simon Seida, Eric Stachecki et Anthony Cayer
valerie.david@blakes.com
T. +1-514-982-5074