C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N^{o} : 500-06-000576-112

S U P E R I O R C O U R T
(Class Action)

ROSLYN SIFNEOS

Applicant

-vs-

PFIZER INC.
PFIZER CANADA ULC
WYETH
WYETH CANADA
WYETH CANADA INC.
WYETH HOLDINGS CANADA INC.
WYETH PHARMACEUTICALS LLC and
WYETH-AYERST INTERNATIONAL INC.

Defendants

and

LE FONDS D'AIDE AUX ACTIONS COLLECTIVES

Impleaded Party

APPLICATION FOR SETTLEMENT AGREEMENT APPROVAL AND CLASS COUNSEL FEES
(Arts. 590, 593 C.C.P.)

TO THE HONOURABLE JUSTICE MARTIN CASTONGUAY OF THE SUPERIOR COURT OF QUÉBEC, APPOINTED TO CASE MANAGE THE PROPOSED CLASS ACTION, THE APPLICANT STATES THE FOLLOWING:

1. By way of this Application, Applicant Roslyn Sifneos seeks:

   1) approval of the terms of this Settlement Agreement, including the Distribution Protocol;

   2) appointment of a Claims Administrator;

3) approval of the Class Counsel Fees, being the Initial Class Counsel Fee and the Individual Contingency Fees terms (to which the Defendants are not opposed and take no position);

4) approval of the publication of the Notice of Settlement Approval in the accordance with the Notice Plan; and

5) an order confirming the releases and terms set out herein, directing that monies owed to the Class, Class Counsel Fees, Public Health Insurer Claims, and fees payable to the Fonds d'aide aux actions collectives ("**FAAC**"), be paid accordingly from the Settlement Amount;

I. INTRODUCTION

2. On August 10, 2011, the Applicant brought her Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative against Defendants Pfizer Inc. Pfizer Canada Inc., Wyeth, Wyeth Canada Wyeth Canada Inc., Wyeth Holdings Canada Inc., Wyeth Pharmaceuticals Inc., and Wyeth-Ayerst International Inc. (the "**Defendants**") on behalf of the following proposed class:

> " All persons in Québec, (including their estates, executors, personal representatives, their dependents and family members), who were prescribed, purchased, used or ingested either of the drugs Premarin or Premplus, manufactured, marketed or distributed by the Respondents, or any other Group or Sub-group to be determined by the Court."

3. The present proposed class action (the "**Québec Action**") is in addition to two (2) substantially similar proposed class actions in Ontario and Saskatchewan:

- ***Judith Vermue and Thomas Vermue v Pfizer Canada Inc., Wyeth, Wyeth Canada, Wyeth Canada Inc., Wyeth Holdings Canada Inc., Wyeth Pharmaceuticals Inc., and Wyeth-Ayerst International Inc.***, in the Ontario Superior Court of Justice (Toronto), No. CV-13-478523-00CP (the "**Ontario Action**"), was commenced on April 17, 2013, with Merchant Law Group LLP as counsel ;

- ***Donna Sevigny v Pfizer Inc., Pfizer Canada Inc., Wyeth, Wyeth Canada, Wyeth Canada Inc., Wyeth Holdings Canada Inc., Wyeth Pharmaceuticals Inc., and Wyeth-Ayerst International Inc.,*** in the Saskatchewan Court of King's Bench (Regina), QBG No. 1869 of 2016 (the "**Saskatchewan Action**"), was commenced on August 2, 2016, with Merchant Law Group LLP as counsel;

  (together, the "**Other Canadian Actions**"; all three Actions together, the "**Canadian Actions**")

4. The Other Canadian Actions are both proposed national classes, but neither has been certified;

5. All the Canadian Actions relate to allegations that the Premarin/Premplus drugs (hormone replacement therapy) caused certain alleged injuries, including the development of breast cancer, which the Defendants allegedly failed to adequately warn about;

6. The Québec Action (and the companion Saskatchewan Action and Ontario Action) were in a sense successors to an earlier certified and settled class proceeding in British Columbia, styled *Dianna Louise Stanway v Wyeth Canada Inc., Wyeth Pharmaceuticals Inc., Wyeth Holdings Canada Inc., Wyeth Canada, Wyeth-Ayerst International Inc., and Wyeth*, in the Supreme Court of British Columbia (Vancouver) No. S111075 (the "**Stanway Action**");

7. The Stanway Action was certified as a class action in 2011 [1] for a class that included all British Columbia residents and those from elsewhere in Canada (including from Québec) who affirmatively "opted in" to participate in the Stanway Action;.

8. A settlement was subsequently reached in the Stanway Action, which provided compensation to participating class members who were prescribed Premplus® or Premarin® (with a progestin) in Canada during the period that ran from January 1, 1977 to December 1, 2003. Importantly for the present purposes, women whose prescription and use began after December 1, 2003 were not included in the Stanway Proceedings;

[1] *Stanway v. Wyeth Canada Inc.*, 2011 BCSC 1057 (CanLII), appeal dismissed *Stanway v. Wyeth Canada Inc.*, 2012 BCCA 260 (CanLII).

9. The settlement in the Stanway Action was approved, with the agreement of all provincial health insurers ("**PHIs**"), by the British Columbia Supreme Court on June 10, 2015 (*Stanway v Wyeth Canada Inc.*, 2015 BCSC 983), and the administration of the settlement has since concluded;

10. On December 1, 2003, the Defendants made changes to the product monograph and additional language was included, which they maintain sufficiently discharged their duty to warn of potential complications;

11. As a result, women whose prescription and use began after December 1, 2003 were not included in the Stanway Action;

12. The position of the plaintiffs in the Canadian Actions has been that the Defendants were negligent in the design, manufacture, distribution, and sale, and that the warnings were incomplete, and that even as amended, the additional warning language was insufficient to discharge the manufacturer's duty to warn.

II. THE SETTLEMENT AGREEMENT

13. In the Quebec Action, this Court authorized and granted Ms. Sifneos the status of class representative on March 16, 2017;

14. On March 5, 2018, as class representative, Ms. Sifneos filed a Motion to Institute Class Action Proceedings wherein the class is described as follows:

> *All persons in Quebec, (including their estates, executors, personal representatives, their dependents and family members), who were prescribed, purchased, used or ingested either of the drugs Premarin and/or Premplus, manufactured, marketed or distributed by the Respondents and developed breast cancer;*

15. After the Québec Action was authorized and leave to appeal was denied to the Defendants and as the parties moved toward the trial process, the Parties engaged in settlement discussions;

16. A significant amount of time has passed without this matter advancing to discoveries or toward the commencement of the common issues trial. Since early 2019, the Parties have been

engaged in a lengthy negotiation toward a potential settlement of this proceeding, the Ontario Action and the Saskatchewan Action;

17. On November 2, 2022, following these lengthy arm's-length negotiations, the Parties reached a proposed settlement agreement, a copy of which (in English and in French) is attached herein as **EXHIBIT A** (the "**Settlement Agreement**"), to fully and finally settle all claims asserted against the Defendants in relation to the Quebec Action as well as the Saskatchewan Action and Ontario Action;

18. The Applicant and the Defendants have agreed to the terms of the Settlement Agreement, the whole subject to the approval of this Court, and without any admission of liability whatsoever by the Defendants and for the sole purpose of resolving the dispute between them;

19. In particular, in light of the significant risks of proceeding to trial, discussed in more detail below, Class Counsel was willing to consider settlement options;

20. Recognizing these significant litigation risks, negotiations took place for more than two years;

21. On or around December 2020, after meetings, conference calls, and email exchanges, the parties agreed to a tentative agreement providing for full settlement of this Québec Action and the Other Canadian Actions subject to a formal agreement being structured, and securing agreement with the PHIs;

22. Between December 2020 and June 2022, the Parties exchanged drafts of the Settlement Agreement and continued to negotiate the final terms of the Settlement;

23. Thereafter, Class Counsel transmitted the Settlement Agreement to the PHIs for their approval, and ultimately, after consideration of the positions of various PHIs, all PHIs approved a revised Settlement Agreement;

24. On November 2, 2022, the Parties executed the final Settlement Agreement (Exhibit-A) in order to fully and finally settle all claims asserted against the Defendants in relation to all the Canadian Actions;

25. In fact, to facilitate a nation-wide settlement, the Parties have agreed that the authorization of the Québec Action will be expanded to include:

> *All persons in Canada, including their estates, heirs and relatives, if any, who purchased, ingested or consumed Premarin® or Premplus® products manufactured, marketed and distributed by the Defendants and who developed breast cancer, but excluding any person who was a Stanway Proceeding Class Member.*
>
> *A "Stanway Proceeding Class Member" means "Any woman who, as of August 25, 2014 (the deadline for opting in or out of the Stanway Proceedings), was a resident of British Columbia or who delivered an opt-in form in respect of the Stanway Proceedings on or before Friday, October 10, 2014, and who was prescribed Premplus, or Premarin in combination with progestin, in Canada during the period that runs from January 1, 1977 to December 1, 2003 and ingested Premplus, or Premarin in combination with progestin, and were thereafter diagnosed with breast cancer."*

26. The Settlement Agreement settles, subject to approval by this Honorable Court (insofar as the Québec Action is concerned) and any and all claims asserted on behalf of the national settlement class (or Class as that term is defined in the Settlement Agreement, Exhibit-A);

27. At all times, settlement negotiations by Class Counsel with Defendants' counsel were conducted in an adversarial fashion at arm's length, with foremost consideration of the best interests of the Class Members;

28. The Settlement Agreement completely resolves the Canadian Actions relating to the Drugs of Premarin® or Premplus® manufactured and sold by the Defendants;

29. The Settlement Agreement is conditional upon:

    (1) the approval of this Action by the Superior Court of Québec;

    (2) the dismissal and/or discontinuance of the Other Canadian Actions;

30. On November 1, 2022, the Applicant filed an *Application for approval of dissemination of notices to class members and to amend the Application to institute a class action for settlement purposes* so as to encompass a national class, rather than a class consisting only of residents of

Québec, which was granted by this Court on December 15, 2022, as it appears from the Court file;

III. SETTLEMENT BENEFITS

31. The Settlement Agreement provides a settlement fund of the fixed amount of $2,400,000 (the "**Settlement Amount**") that the Defendants have agreed to pay toward a global settlement of all the Canadian Actions, which will pay for:

- The **Compensation Fund**, from which individual compensation will be paid to claimants;
- the **Public Health Insurer Claims**;
- **Administration Costs** (including costs to administer and distribute the Compensation Fund including the costs and professional fees of the **Claims Administrator** and the costs of implementing the **Notice Plan**)
- **Class Counsel Fees**, being the **Initial Class Counsel Fee** ($750,000.00, plus applicable taxes) and the **Individual Contingency Fees** (20 %);
- Levies payable to the FAAC;

32. As more fully described in the **Distribution Protocol** (in English and in French) (**EXHIBIT-B**), the exact dollar amount that each **Claimant** will receive cannot be known until the conclusion of the settlement, as damages will be awarded on the basis of a points system depending on the harms (and subsequent medical procedures, if any) that allegedly occurred after the use of the **Drugs**. Additionally, two groups of Claimants are recognized:

a) **Group A Claimants**, who are broadly Claimants who could have qualified for the Stanway Action had they opted in, but who otherwise meet the Stanway Action threshold eligibility critera; and

b) **Group B Claimants**, who are, broadly speaking, Claimants who were not class members in the Stanway Action because they began utilizing the Drugs on or after December 2, 2003;

33. For parity with the existing Stanway Action settlement, the **Approved Award** amounts will be weighted such that the *average* Approved Award for Group A Claimants is no more than $34,935.00, and for Group B Claimants is no more than $3,493.50;

34. This weighting will ensure that at best, Group A Claimants will receive *on average* the same amount that they would have received under the Stanway Action settlement. Group B Claimants, whose claims are significantly riskier and, from the Defendants' perspective, far more tenuous given the additional warning language in the monograph, are entitled to only 10% of those amounts;

35. The settlement as negotiated and agreed with the PHIs provides that the relevant PHI receive the amount of $5,000.00 in respect of a Group A Claimant and the amount of $500.00 in respect of a Group B Claimant [2];

36. All amounts may be pro-rated if the number and size of Claimants exceeds the available funds in the Settlement Amount;

37. This was a difficult settlement to negotiate on a national basis, given that (a) the current certification applies to Quebec only, and (b) the Defendants had originally argued that the Stanway Action settlement barred/prevented *any* further Canadian litigation regarding a failure to warn. Moreover, if the PHIs' positions could not be negotiated successfully, this settlement could have collapsed.

IV. NOTICE TO AND RESPONSE FROM CLASS MEMBERS

38. Pre-approval notice which informed Class Members of their rights to opt out of and/or object to the Settlement Agreement and alerted them to this settlement approval hearing and their

[2] Distribution Protocol, section 1, par. 2 m).

right to appear at it, was disseminated in accordance with the Settlement Agreement and Notice Plan;

39. In particular, the Approval Notice was disseminated in English and in French by way of:

(a) print media advertising:

- The National Post;
- The Globe and Mail (national edition);
- Montreal Gazette;
- Journal de Québec; and
- Journal de Montreal.

(b) Internet websites;

(c) email (to all potential Class Members who contacted Class Counsel and provided a valid email address);

(d) regular mail (to all potential Class Members who contacted Class Counsel and provided only a mailing address as their contact information); and,

(e) regular mail or email to the following community organizations whose constituents have a direct interest in the litigation:

- Alberta Cancer Foundation;
- BC Cancer Foundation;
- BC Cancer;
- Breast Cancer Action Québec;
- Breast Cancer Society of Canada;
- Canadian Breast Cancer Foundation;
- Canadian Breast Cancer Network;
- Canadian Cancer Society;
- Cancer Care Foundation (of Newfoundland and Labrador);
- Cancer Care Ontario;
- Cancer Foundation of Saskatchewan;

- Cancer Care Manitoba;
- New Brunswick Breast and Women's Cancer Partnership;
- PEI Cancer Society;
- Prince Edward Island Breast Cancer Information Partnership
- Quebec Breast Cancer Foundation; and
- Saskatchewan Cancer Agency;

40. Class Counsel provides detailed information regarding the successful dissemination of the Approval Notice to the Class Members, the total number of opt outs and the total number of objections in a sworn statement by its employee Heidi Derkson, Legal Assistant from Merchant Law Group LLP and is communicated herewith as **EXHIBIT-C**;

41. The deadline for objections to the Settlement Agreement and for opting out of the Québec Action and Settlement Agreement was set to March 30, 2023;

42. Of the **528** class member records received by Class Counsel, **34** bilingual pre-approval notices were sent by regular mail for those who had a valid emailing address and no email, of which no mailed notices were returned. And **490** bilingual pre-approved notices were sent by email, including duplicates which numbered **113**, of which **34** bounced back. Of the emails that bounced back, three **(3)** were contacted, and pre-approved notices were resent. There were four **(4)** class member records that no pre-approved notice was sent. Of these, three **(3)** had no contact information and one was not a legitimate entry;

43. As of April 3, 2023, the notice administrator, has received two **(2)** objections from Québec, and, one **(1)** opt-out election from Ontario;

V. SUPPORT FOR THE SETTLEMENT AGREEMENT

(1) Representative Plaintiff

44. The Applicant, Roslyn Sifneos, approves of the Settlement Agreement and has sworn an affidavit in support of this application, communicated herein as **EXHIBIT-D**;

(2) Class Counsel

45. Considering the benefits provided by the Settlement Agreement, that the terms of the Settlement Agreement are comparable with the terms of the settlement reached in the Stanway Action and the risks and costs and uncertainty to successfully bring a claim for damages incurred after the Drugs labels were updated and disclosed the risk which is the object of the Canadian Actions, Class Counsel views the Settlement Agreement as fair, reasonable, and in the best interests of Class Members;

VI. NOTICE AND ADMINISTRATION OF THE SETTLEMENT

46. The Parties have agreed to the form and content of the **Approval Notice** (in English and in French), which are attached hereto as **EXHIBIT-E**;

47. The Approval Notice will advise Class Members who have not opted out of their rights to participate in the settlement and will provide them with information, on how to submit a **Claims Form** and obtain the settlement benefits for which they are eligible;

48. The Approval Notice will be disseminated in accordance with the Settlement Agreement and the Notice Plan;

49. Pursuant to the Settlement Agreement and Notice Plan, the Approval Notice will be disseminated in English and in French via:

    (a) print media advertising;

    (b) internet websites, including the Canadian Bar Association (CBA) National Class Action Registry and the Québec Class Action Registry;

    (c) email[3] (to all potential Class Members (i) who have contacted Class Counsel and provided a valid email address,); and,

[3] This is subject to any method of contact preference that a Class Member has registered with the Notice Administrator.

(d) regular mail[4] (to all potential Class Members (i) for whom the Class counsel have a valid mailing address, (ii) who have contacted Class Counsel and provided a valid mailing address).

50. The Parties agree to the appointment of **Deloitte LLP** as Claims Administrator, subject to the approval of this Court.

51. Deloitte LLP has extensive experience and expertise in providing bilingual notice and other class action administration services, and provided claims administration services for the Stanway Action settlement;

52. The administrative costs and fees of the Claims Administrator, including the cost of the dissemination of the Approval Notice and the cost of the administration of the Settlement Agreement, are to be paid from the Settlement Amount pursuant to the Settlement Agreement;

IX. STATEMENT OF ISSUES, LAW & AUTHORITIES

53. On this Application, the Court is required to determine if the proposed settlement is fair and reasonable, and in the best interest of Class Members[5];

54. The Court must either approve or refuse the proposed Settlement Agreement as is, and should not modify any terms therein absent the consent of the Parties[6];

55. Under Article 590 C.C.P., a transaction is valid only if it is approved by the Court. The criteria for evaluating whether the proposed settlement is fair and reasonable have been recently summarized in ***Zuckerman v Target Corporation Inc.*, 2018 QCCS 2276** at para. 20 and include consideration of:

- the likelihood of recovery or probability of success;
- the importance and nature of the evidence presented;
- the terms and conditions of the transaction;
- the recommendations of counsel, and their experience;

[4] This is subject to any method of contact preference that a Class Member has registered with the Notice Administrator.
[5] *Bouchard* c. *Abitibi Consolidated*, 2004 CanLII 26353 (QC CS), par. 16
[6] *Bouchard* c. *Abitibi Consolidated*, 2004 CanLII 26353 (QC CS), par. 17.

- the likely cost and time involved in pursuing the action to a conclusion;
- the recommendation of a neutral third party, if any;
- the number and nature of objections to the settlement;
- the good faith of the parties; and
- the absence of collusion between the parties.

56. Each case and each proposed settlement must be considered on its own merits, and not every one of these considerations will necessarily have to be present, applicable, or satisfied in each and every case. The transaction must be viewed in a global sense;[7]

57. Settlements need not be perfect, and the question is not whether the settlement meets the individual needs of any particular class member, but whether it is fair and reasonable and in the best interests of the class as a whole;[8]

58. Given that the settlement of a litigation is always encouraged, the Court should not refuse to approve the settlement agreement, other than for serious reasons;[9]

(a) <u>The likelihood of recovery and probability of success;</u>

59. A primary concern with any settlement is whether the settlement is truly in the "best interests" of the class, taking into account the relative risk of proceeding to a trial and receiving a judgment on the merits;

60. Apart from being required by the *Code of Civil Procedure*, judicial scrutiny of proposed class action settlement agreements is an integral part of the class action process and the Court's supervisory role over class actions generally ;

61. The proposed settlement is not a very early-stage settlement;

[7] *Comité d'environnement de Ville-Emard (CEVE) v Stodola*, 2016 QCCS 1834, at para. 18.
[8] *Jacques v Pétroles Therrien inc.*, 2010 QCCS 5676, at para. 112.
[9] *Mailhot v Diabète Amiante inc.*, 2010 QCCS 1789, at paras. 17-19.

62. The Parties had, when settlement negotiations began, a good grasp and understanding of the scope of the Class and the potential liability of the Defendant;

63. The Applicant contends that the Defendants committed faults in the design or manufacture of the Drugs and that these faults resulted in alleged damages or losses suffered by the Applicant or any Class Member;

64. The Defendants deny all of these allegations, deny any liability, and believe that they have meritorious defenses to the claims alleged in the Actions;

65. Notwithstanding the Defendants' denial of any liability or culpability, to avoid protracted litigation in respect of the Drugs which remain approved by Health Canada for sale in Canada and to bring finality to the Canadian Actions, the Defendants wish to settle all claims asserted in the Canadian Actions;

66. Taking these competing positions into account, Class Counsel were motivated to settle the litigation because of the significant risks in continuing with the same;

67. There is a real and tangible benefit to the Class Members that will receive compensation *now* as opposed to several years from now at the conclusion of a contested trial and likely appeal therefrom;

68. As a consequence, the negotiated Settlement Agreement provides almost immediate benefit to the members of the Class and provides for a more guaranteed outcome and meaningful recovery of compensation;

69. The Settlement Agreement represents a reasonable and just resolution given the facts at play both at the time the Canadian Actions were commenced and subsequent to that. The Settlement Agreement was negotiated at arm’s length by experienced counsel who had the requisite information available to them, including the terms of the settlement reached in the Stanway Action ;

70. Given the relevant civil law, tort and contract law principles applicable to the Canadian

Actions, it is unlikely that any litigated outcome - in addition to being time consuming and costly, and carrying inherent risk - would result in a significantly better recovery for Class Members;

71. In light of the significant risks of proceeding to trial, and the potentially limited recovery with the Quebec Action limited only to residents of Québec, Class Counsel was willing to consider settlement options. From a litigation risk perspective, the 'failure to warn' claim will require consideration of the timing of the warnings, updates to the product monograph, and a consideration of what individual Class Members were or were not told about the Drugs. The claim is focused on what was in (or more accurately, what was not in) the product monographs, and much of the product monograph is intended only for healthcare professionals in any event. The "learned intermediary" defence is potentially very strong in a case such as this. Moreover, the addition of some warning language in 2003, although not accepted as being sufficient to discharge the duty to warn, may be deemed legally sufficient;

72. Even if successful on the common issues trial, individual Claimants would continue to bear significant litigation risks, including the risk of a finding of pre-existing conditions or genetic histories increasing the baseline risk for breast cancer, the risk that the Claimant's medical team was fully aware of the risk (from the published research or otherwise) but failed to disclose it, the risk that even with heightened warnings, Claimants and their medical teams may have recommended use of the Drugs in any event, and the risk of a finding that no recoverable damages have been incurred, notwithstanding exposure to increased risks;

(b) <u>Settlement Agreement terms and conditions</u>

73. The Settlement Agreement provides benefits to Class Members depending on their circumstances;

74. Claims will be evaluated by the Claims Administrator. In the event the Claims Administrator is unable to resolve any disputes that arise between the Parties regarding the administration of the Distribution Protocol or the performance of the Claims Administrator,

this Courts retains jurisdiction. The Defendants will play no role in the determination of a Claimant's entitlement to benefits from the Compensation Fund;

(c) Class Counsel recommendations and experience

75. The Settlement Agreement was negotiated in good faith at arm's length and by experienced counsel on both sides. The Class is represented in the Quebec Action and in the Other Canadian Actions by Merchant Law Group LLP. The Defendants are represented by Norton Rose Fulbright Canada LLP. These firms have a lengthy history and a wealth of experience in class action litigation;

76. Given all of the considerations that must be undertaken by this Honourable Court, Class Counsel submits that the Settlement Agreement is fair, within the zone of reasonableness, and in the best interests of the Class Members, and recommends that it be approved.

(d) The cost and time in pursuing the action to a conclusion

77. Class actions, such as the present one are expensive to pursue, as documentary discovery alone, including expert opinions, is extensive and time consuming;

78. It is likely that a trial of this action would take weeks or months, and the preparations for the same would require a significant investment of time on the part of all Parties and the Court;

79. Significant further disbursements could be expected, including several hundred thousand dollars for the possible retention of experts necessary for the prosecution of the action;

80. It is likely that the trial of the Quebec Action would be scheduled several years in the future, significantly delaying access to justice and compensation for the Class;

81. The Settlement Agreement avoids the need for much of this expense and provides far more timely access to compensation for members of the Class;

82. Moreover, as the Settlement Agreement provides for the resolution of the Canadian Actions, it represents judicial economy and is in the interests of the judicial systems in Quebec, Ontario and Saskatchewan;

(e) The number and nature of objections

83. As of April 1, 2023, class counsel has received two **(2)** objections to the approval of the settlement, from Francine Bouchard and Helen Lay-Cock Van Eyk, communicated together herein as **EXHIBIT-F;**

Francine Bouchard

84. According to the chronology of events provided by Francine Bouchard in her objection (which has not been verified against medical records or otherwise):

a) She used Premarin/Provera from July 27, 2001 through the end of November 2003;
b) On November 4, 2004, at a regular doctor appointment, nipple retention was detected and she was referred for a mammogram and ultrasound;
c) Two months passed before these tests were completed in January 2005, and the resulting biopsy was identified as malignant on January 20, 2005;

85. The delay in having the tests completed resulted in the cancer diagnosis occurring in January 2005, more than 12 months after she stopped taking the Drugs in November 2003. As a result, Ms. Bouchard will be assessed as Group A, Category D in the Settlement, which does not give her access to the additional points for the severity of the injury contemplated in Table 2 of the Distribution Protocol, even though she allegedly experienced significant prejudice after the diagnosis (including, for example, mastectomies, chemotherapy and radiation treatments);

86. The requirement that the diagnosis of breast cancer occur within 1 year of the cessation of use of the Drugs reflects the need for Claimants to ultimately demonstrate some degree of causation between the ingestion of the Drugs and the harm suffered. As in the Stanway Action settlement, a significant delay in the presentation of symptoms and the diagnosis of breast

cancer is antithetical to a demonstration of causation;

87. Unfortunately, when any point of demarcation is made in a qualification criterion, be that a time limit or diagnosis requirement, there is always the possibility that some individual Claimant's facts will exclude them from recovery if only by days. This is the nature of any distribution protocol and qualification limits are essential to ensure fairness and equity to all who may be eligible;

88. In Ms. Bouchard's case, based on the facts as presented, it would appear that she will be eligible to receive *some* compensation from the settlement as proposed. To the extent that this is less than she may feel is appropriate, this reflects the necessary compromises inherent in any negotiated settlement;

Helen Laycock-Van Eyk

89. Ms. Laycock-Van Eyk objects to the settlement for two reasons: first, the quantum, and second, the requirements of the distribution protocol;

90. As to quantum, she suggests that the overall Settlement Amount of $2.4 million is *potentially* insufficient should there be a significantly greater number of Claimants than anticipated. While this is possible, the Parties believe it is unlikely. For one, there are unlikely to be many Group A Claimants, as it is expected that almost anyone with a viable claim under the Stanway Action settlement likely "opted in" and participated in the Stanway Action settlement. Considerable efforts were made during the Stanway Action to ensure broad Canada-wide notice coverage. Compensation is provided for Group A Claimants to guard against the possibility that the required "opt in" procedure presented an access to justice barrier, but the *reality* is that a very small number of Group A Claimants are expected. Moreover, the number of potential Group B Claimants is likewise more limited in terms of time, in terms of the qualification requirements, and in any event the potential liability (at 10% of the Group A maximums) is more limited;

91. It *is* true that, if there were a significantly larger number of Claimants than Class Counsel

estimate, *pro rata* shares of the Compensation Fund could be reduced. However, the Parties had the benefit of having been through the Stanway Action settlement and therefore having a very realistic understanding of the nature, breadth, and scope of the Claims that are likely to emerge;

92. As to the Distribution Protocol, Ms. Laycock-Van Eyk raises numerous objections. We address these individually;

93. **Section V (Eligibility – Opt-in)**. Ms. Laycock-Van Eyk expresses concern about how non-British Columbia residents will "prove that they did not opt in to the Stanway Proceeding." In response, it is to be noted that Claimants will be required to confirm that they did not opt in to the Stanway Action settlement, but there is no requirement to *prove* that they did not do so. The Claims Administrator will know who *did* opt in to the Stanway Action settlement and can address this if the situation arises, but this will not present a barrier to accessing the settlement for those who took no action regarding the Stanway Action;.

94. **Section VIII (Adjuvant Therapy)**: Ms. Laycock-Van Eyk suggests that in addition to the injury categories enumerated in Tables 2 and 4, points should be expressly awarded in respect of "adjuvant therapy", which according to Ms. Laycock-Van Eyk represents an "established protocol" for the treatment of breast cancer in Québec, with radiation and/or chemotherapy frequently not being the "end of the process";

95. The categories of treatments and procedures identified in Tables 2 and 4 were derived from the Stanway Action, and to ensure parity, no changes were made to these categories in developing the current Distribution Protocol;

96. We cannot know, from the information provided by Ms. Laycock-Van Eyk, whether she also received other compensable treatments (although her objection suggests that she received adjuvant therapy in addition to chemotherapy and/or radiation); however, to the extent that she did receive those treatments, she will be eligible to recover accordingly;

97. That Ms. Laycock-Van Eyk and perhaps other Class Members may, subsequent to their breast cancer diagnosis, have been treated in ways not considered by the Distribution Protocol is

reflective of the nature of the compromise that has to be struck when negotiating the same. It is not possible for the Parties to contemplate every possible outcome for every possible individual, and as a result, a defined list of compensable harms must be pre-determined to ensure fairness and objectivity in the administration of the settlement.

98. Unfortunately, no settlement can be perfect, as to meet the individual needs of any particular Claimant. Ms. Bouchard and Ms. Laycock-Van Eyk are two examples wherein the Distribution Protocol may not perfectly align with their individual factual situation, but the question remains if the Settlement Agreement on the whole, including but not limited to the Distribution Protocol, is fair and reasonable and in the best interests of the Class as a whole;

(f) <u>The good faith of the Parties and the absence of collusion</u>

99. Pursuant to article 2805 of the *Civil Code of Quebec*, the Court is entitled to presume the presence of good faith in the absence of any evidence to the contrary;

100. The Applicant submits that notwithstanding this presumption, the facts substantiate the assertion that there was no collusion between the Parties and that the Settlement Agreement has been negotiated in good faith;

101. Negotiations to settle this litigation began in September 2019, after most of the pre-authorization steps had been completed, and continued over a period of months and then years with several proposals developed, considered, and revised, as amongst the Parties and the PHIs;

102. While the content of the negotiations is privileged and confidential, both Parties maintained their respective positions on the fundamental merits of the Canadian Actions, with a full appreciation of the facts, the issues, and the applicable laws;

103. An agreement on the terms of Settlement Agreement was finally reached in November

2022 ;

104. The resulting Settlement Agreement is a compromise in which each Party made concessions in good faith to resolve the Canadian Actions and provide immediate and meaningful compensation to the members of the Class;

105. In the unfortunate event that the Settlement Agreement is not approved for any reason, counsel for the Applicant is prepared to advance the Quebec Action, notwithstanding reservations about the risks to the Class and the significant disadvantages as regards timeliness inherent to that course of action;

III. Art. 593 CCP: Approval of Class Counsel Fees

106. As of March 31, 2023, Merchant Law has, since the commencement of the action in August 10, 2011, docketed a total of **$ 853,586.25** ($428,532.50 for Quebec only) (plus applicable taxes) worth of time in connection with the pursuit of authorization and the motion to institute proceedings and the related Saskatchewan Action and Ontario Action, and incurred **$ 34,930.95** ($28,086.86 for Quebec only) (plus applicable taxes) in out-of-pocket disbursements on behalf of the Class, for a grand total of **$ 888,517,20** plus applicable taxes, a copy of the docketed time and disbursements summary by Class Counsel for the Canadian Actions; communicated herein as **EXHIBIT- G;**

107. The Professional Mandate & Attorneys Fee Agreement entered into by the Plaintiff provided for the payment to Merchant Law Group LLP of all disbursements incurred, plus the greater of 30% of the total amount recovered;

108. The Settlement Agreement provides for Class Counsel's initial fees to be paid by the Defendants **($750,000.00, plus applicable taxes**) as part of the Settlement Agreement, plus 20% of any amounts awarded to Approved Claimants;

109. This amount, in sum, represent the entirety of the compensation to be paid to Class Counsel for the pursuit of the Canadian Actions through to the completion of the settlement,

including all fees, disbursements, plus applicable taxes;

110. In class actions, there is no doubt that the duty of reviewing the professional fees of class counsel rests with the Court which must assess whether the fees are fair and reasonable, justified by the circumstances and proportional to the services rendered;

111. Class Counsel have extensive experience in the preparation and litigation of class actions both in Quebec and in the common law provinces, including in particular, consumer and misrepresentation class actions;

112. The questions of fact and law at issue in this litigation are inherently complex, due to their nature, and given the passage of time;

113. Significant risks exist that would make prosecution of the Quebec Action and the Other Canadian Actions through trial a risky proposition, not the least of which that the Defendants may have a number of potential defences to the substantive claims which could eliminate or reduce the damage awards available for the benefit of Class Members;

114. The pursuit of class action litigation is an inherently specialized area of the law, and Class Counsel's significant past experience in this area was a particular asset to the Class;

115. This is an important case to Class Members who have been impacted by the alleged actions of the Defendants;

116. Many Class Members , including the representative plaintiff, have suffered many damages, including physical and mental harm;

117. Class Counsel accepted the entirety of the risk associated with the prosecution of the Quebec, Ontario and Saskatchewan Actions. Neither the FAAC nor any other third-party funder provided support, funding, or insurance in respect of the authorization motion or the proceedings themselves;

118. The results achieved for the Class are commendable and represent significant compensation for losses which were incurred, at this stage, more than a decade ago;

119. The payment of $750,000,00 (plus taxes) does not cover the total Class Counsel fees and disbursements of **$ 888,517,20 (plus applicable taxes)** incurred by Merchant Law to pursue the Quebec Action and the Other Canadian Actions;

120. Given all of the circumstances, Class Counsel is seeking legal fees equivalent to a multiplier of just less than 0.8 for the total of all the docketed time and 1.75 for the docketed time for Quebec Action alone;

121. The Quebec case law generally recognizes that a multiplier between 2 and 3 is presumptively fair and reasonable;[10]

122. The compensation to be paid to Class Counsel was disclosed in the Notice of Settlement Approval. To the extent that any objections may exist as to the quantum of Class Counsel Fees, all Class Members have had an opportunity to voice the same;

123. Counsel for the Defendants takes no position with respect to the Class Counsel Fees;

CONCLUSION

124. Given the benefits provided by the Settlement Agreement, Class Counsel views it to be fair, reasonable, and in the best interests of Class Members;

125. The Settlement Agreement is contingent upon approval by this Honourable Court;

126. For all the above reasons, this nationwide settlement is in the best interests of the Class Members and represents a fair and a reasonable resolution to the Quebec Action, the Ontario Action and the Saskatchewan Action ;

127. The Applicant requests that the Settlement Agreement be approved as set out in this application substantially in the form of the draft judgment communicated herewith as **EXHIBIT-H**;

[10] Rahmani c. Groupe Adonis inc., 2021 QCCS 2616 (CanLII), para 62.

FOR THESE REASONS, MAY IT PLEASE THE COURT:	**POUR CES MOTIFS, PLAISE AU TRIBUNAL DE :**
GRANT this *Application for Settlement Agreement Approval*;	**ACCUEILLIR** la présente *Demande d'approbation d'une Entente de règlement;*
DECLARE that for the purposes of the Order and unless otherwise defined in the Order, the definitions set out in the Settlement Agreement attached as Exhibit "A" apply to and are incorporated into the Order;	**DÉCLARER** que pour l'applicable du présent Jugement et sauf indication contraire au présent Jugement, les définitions contenues dans l'Entente de règlement, communiqué comme Pièce « A », s'appliquent et y sont incorporées par renvoi;
DECLARE that the Settlement Agreement is fair, reasonable and in the best interests of the Class Members and constitutes a transaction pursuant to the article 2631 of *Civil Code of Québec;*	**DÉCLARER** que, l'Entente de règlement est juste, raisonnable et dans le meilleur intérêt des Membres du groupe et constitue une transaction au sens de l'article 2631 du *Code civil du Québec;*
APPROVE the Settlement Agreement and all Exhibits thereto pursuant to article 590 of *the Code of Civil Procedure*, CQLR c. C-25.01;	**APPROUVER** l'Entente de règlement dans son intégralité et toutes ses Pièces, en vertu de l'article 590 du *Code de procédure civile*, RLRQ c. C-25.01*;*
ORDER that the Settlement Agreement shall be implemented in accordance with its terms;	**ORDONNER** que l'Entente de règlement soit mise en œuvre conformément à ses modalités;
ORDER that the benefits set forth in the Settlement Agreement are provided in full satisfaction of the obligations of the Defendants under the terms of the Settlement Agreement;	**ORDONNER** que tous les avantages prévus dans l'Entente de Règlement soient fournis en pleine satisfaction des obligations qui incombaient des Défenderesses en vertu de l'Entente de règlement;
ORDER that the Order gives effect to the release and waiver in favour of the Defendants provided for in the Settlement Agreement;	**ORDONNER** que le présent Jugement donne effet aux quittances et aux renonciations prévues dans l'Entente de règlement en faveur des Défenderesses;
DECLARE that the Settlement Agreement is incorporated by reference into and forms part	**DÉCLARER** que l'Entente de règlement dans son intégralité fait partie intégrante de ce

of the Order and is binding upon the Representative Plaintiff and all Class Members;	présent Jugement et lie la représentante du Groupe et tous les Membres du groupe;
ORDER that Deloitte LLP is appointed as Claims Administrator and that the Claims Administrator shall perform the duties and responsibilities set out in the Settlement Agreement and any other related duty or responsibility as ordered by this Court;	**ORDONNER** que Deloitte LLP soit nommée à titre d'Administrateur des réclamations et que l'Administrateur des réclamations exécutera les fonctions et responsabilités énoncées dans l'Entente de règlement et tout autre fonction ou responsabilité connexe ordonnées par cette Cour;
APPROVE the form and content of the Notice of Settlement Approval, attached as Exhibit "E";	**APPROUVER** la forme et le contenu de l'Avis d'approbation du règlement, tel que présenté à la Pièce « E»;
ORDER that the Notice of Settlement Approval shall be published and disseminated by the Claims Administrator in accordance with the Settlement Agreement and the Notice Plan;	**ORDONNER** que l'Administrateur des réclamations publie et dissémine l'Avis d'approbation du règlement de la manière prévue dans l'Entente de règlement et dans le Plan de diffusion de l'avis;
ORDER that the dissemination of the Notice of Settlement Approval as set out in the Settlement Agreement and in the Notice Plan is the best notice practicable under the circumstances, and constitutes sufficient notice to all Class Members entitled to notice;	**ORDONNER** que la dissémination de l'Avis d'approbation du règlement telle que prévue par l'Entente de règlement et dans le Plan de diffusion de l'avis est le meilleur avis possible dans les circonstances et constitue un avis suffisant à tous les Membres du groupe qui sont éligibles à recevoir un avis ;
ORDER that the costs and fees of the Claims Administrator, including the costs associated with publishing and disseminating the Notice of Settlement Approval, to be paid from the Settlement Amount in accordance with the terms of the Settlement Agreement;	**ORDONNER** les coûts et les frais de l'Administrateur des réclamations, incluant les coûts associés à la publication et la dissémination de l'Avis d'approbation du règlement soient payés à même le Montant du règlement en conformité avec les modalités de l'Entente de règlement ;
ORDER that all information provided to the Claims Administrator by or about Class	**ORDONNER** que tous les renseignements fournis à l'Administrateur des réclamations

Members as part of the Notice Plan or administration of the Settlement Agreement shall be collected, used, and retained by the Claims Administrator and its agents pursuant to the applicable privacy laws and solely for the purposes of providing notice of settlement and administering the Settlement Agreement; the information provided shall be treated as private and confidential and shall not be disclosed without the express written consent of the relevant Class Member, except in accordance with the Settlement Agreement and/or orders of this Court;	par ou relatifs aux Membres du groupe dans le cadre du Plan de diffusion de l'avis ou de la mise en œuvre de l'Entente de règlement soient collectés, utilisés et conservés par l'Administrateur des réclamations ou ses agents conformément aux lois applicables en matière de protection des renseignements personnels et uniquement aux seuls fins de permettre la dissémination de l'Avis d'approbation du règlement et de la mise en œuvre de l'Entente de règlement ; les renseignements fournis demeureront strictement privés et confidentiels et ne seront pas communiqués sans le consentement écrit exprès du Membre du groupe concerné, sauf conformément à l'Entente de Règlement et/oules ordonnances rendues par cette Cour;
ORDER that in order to receive the eligible benefits set out in the Settlement Agreement, Class Members must submit a Claim Form to the Claims Administrator on or before the Claims Deadline;	**ORDONNER** qu'afin de se prévaloir de tous les avantages prévus par l'Entente de Règlement, les Membres du groupe doivent soumettre un Formulaire de réclamation à l'Administrateur des réclamations avant la Date limite aux fins de soumission des réclamations *;*
ORDER that the Québec Action shall be dismissed without costs and without prejudice;	**ORDONNER** que la présente action sera rejetée sans frais de justice et sans préjudice.
ORDER that each Class Member who did not opt-out of the Class shall be deemed to have consented to the dismissal as against the Releasees, without costs and without prejudice, of any and all proceedings asserting the Class Members' Released Claims;	**ORDONNER** que chaque Membre du groupe qui ne s'est pas exclu du Groupe, sera réputé avoir consenti au rejet à l'encontre des Renonciataires, sans frais de justice et sans préjudice, de toutes procédure visant des Réclamations faisant l'objet d'une quittance;
ORDER that any and all proceedings asserting the Released Claims by any Class Member shall be dismissed against the Releasees, without costs and without prejudice;	**ORDONNER** que toute procédure visant les Réclamations faisant l'objet d'une quittance intentée par un Membre du groupe sera rejetée à l'encontre des Renonciataires, sans frais de justice et sans préjudice;

ORDER that Class Members shall be deemed to release, forever discharge, and acquit the Releasees of and from any and all Released Claims;	**ORDONNER** que les Membres du groupe sont réputés donner une quittance aux Renonciataires et de libérer et décharger à tout jamais les Renonciataires à l'égard des Réclamations faisant l'objet d'une quittance ;
ORDER that the Class Members shall not now or hereafter make or continue any claim, action, complaint or proceeding or to take any proceedings against any other person, entity, agency or corporation who might claim, in any manner or forum, contribution, indemnity, declaratory relief, or any other relief whatsoever from the Releasees in connection with any Released Claim;	**ORDONNER** que les Membre du groupe ne peuvent présenter ou continuer de réclamation, d'action, de plainte ou de procédure ou de prendre toute procédure contre toute autre personne, entité, agence ou société qui pourrait réclamer des Renonciataires, de quelque manière ou devant quelque forum que ce soit, une contribution, une indemnité, un jugement déclaratoire, ou tout autre recouvrement que ce soit ou autrement, relativement aux Réclamations faisant l'objet d'une quittance ;
ORDER that neither the Settlement Agreement, including all terms thereof, nor performance under the terms of the Settlement Agreement by the Parties is, or shall be, construed as any admission by the Plaintiffs, the Class Members, or the Defendants, including, but not limited to: (1) the validity of any claim, theory, fact or defence asserted; (2) any liability, fault, or responsibility; (3) the existence, cause, or extent of any damages or losses alleged or suffered by the Plaintiff or any Class Member; or, (4) the appropriateness of class certification in the Québec Action;	**ORDONNER** que ni l'Entente de règlement, incluant toutes ses modalités, ni son exécution par les Parties selon ses modalités, ne sont, ou ne seront, interprétés comme étant une admission par la Demanderesse, les Membres du groupe ou les Défenderesses, incluant mais sans s'y limiter : (1) du caractère véridique de l'une ou l'autre des réclamations, des allégations, tout autre théorie ou tout moyen de défense allégué; (2) d'une responsabilité ou d'une faute; (3) de l'existence, d'un lien de causalité, ou d'un dommage ou d'une perte alléguée ou subie par le Demandeur ou un des Membres du groupe ; ou, (4) le caractère approprié du groupe visé par l'autorisation de l'action collective au Québec;

ORDER that if the Settlement Agreement fails to become effective on its terms, or the Order is not entered or is vacated, reversed or materially modified on appeal (and, in the event of material modification, one of the Parties elects to terminate the said Agreement), then the Order shall become null and void, the Settlement Agreement shall be deemed terminated in accordance with its terms, and the Parties shall return to their positions without prejudice in any way, as provided in the said Settlement Agreement;	**ORDONNER** que si l'Entente de règlement ne prend pas effet selon ses modalités, ou que le présent Jugement ne prend pas effet ou est annulé, renversé ou modifié substantiellement en appel (et, dans le cas d'une modification substantielle, une des Parties qui décide de mettre fin à l'Entente de règlement), le présent Jugement sera réputée nulle, l'Entente de règlement sera réputée résiliée conformément à ses termes et sans effet et sera inopérante, et toutes les Parties seront remises en état sans préjudice aucun, tel que stipulé dans l'Entente de règlement ;
ORDER that the Order is contingent upon the dismissal and/or discontinuance by : (i) the Ontario Superior Court of the action titled *Judith Vermue and Thomas Vermue v Pfizer Canada Inc. et al*, Court File No. CV-13-478523-00CP (ii) the Saskatchewan Court of King's Bench of the action titled *Donna Sevigny v Pfizer Inc., Pfizer Canada Inc. et al*, Court File QBG No. 1869 of 2016; The terms of this Order shall not be effective unless and until such orders have been made.	**ORDONNER** que ce présent Jugement soit conditionnel à ce qu'une ordonnance de rejet et/ou de désistement soit par: (i) la Cour supérieure de l'Ontario dans le dossier *Judith Vermue and Thomas Vermue v Pfizer Canada Inc. et al.*, Court File No. CV-13-478523-00CP; (ii) la Cour du Banc du Roi pour la Saskatchewan dans le dossier *Donna Sevigny v Pfizer Inc., Pfizer Canada Inc., et al.*, Court File No. QBG No. 1869 of 2016; Le présent jugement ne prendra effet que si et lorsque ces ordonnances seront rendues;
ORDER that this Court will retain an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement, subject to the terms and conditions set out in the Settlement Agreement;	**ORDONNER** que cette Cour exercera un rôle de supervision pour les fins de la mise en œuvre, de l'administration et de l'application de l'Entente de règlement, sujet sous réserve des modalités et conditions prévues à l'Entente de règlement;
ORDER that any Party may bring an application to this Court at any time for directions with respect to the implementation	**ORDONNER** qu'une toute Partie puisse soumettre au juge responsable de la gestion de l'instance, présenter une demande à la Cour en tout temps pour obtenir des directives

or interpretation of the Settlement Agreement on notice to all other Parties;	concernant la mise en œuvre ’application ou l’interprétation de l’Entente de règlement en notifiant avec avis préalable suffisant à toutes les Parties;
ORDER that if the Case-Management Judge originally assigned in this Action is, for any reason, unable to fulfill any of the duties set out in the Settlement Agreement, another Judge of the Superior Court shall be appointed in his stead;	**ORDONNER** que si le juge initialement chargé de la gestion de la présente Action collective est, pour quelque raison que ce soit, incapable de remplir l’une des fonctions prévues à l’Entente de Règlement et dans les pièces qui s’y rattachent, un autre juge de la Cour supérieure du Québec devra être nommé à sa place ;
DECLARE that where any term of the Order and the Settlement Agreement conflict, the term contained in the Order shall govern;	**DÉCLARER** qu'en cas de conflit entre le présent Jugement et l’Entente de Règlement, ce Jugement prévaudra ;
ORDER such further and other relief as counsel may request and this Honourable Court deems just.;	**ORDONNER** toute autre mesure de redressement supplémentaire à la demande des avocats des Parties et que ou substitutive que cette honorable Cour estime juste et convenable ;
ORDERS that the levies for the Fonds d’aide aux action collectives as provided for in the Settlement Agreement be remitted according be remitted according to the *Act respecting the Fonds d’aide aux actions collectives* and s.1(1) of the *Regulation respecting the percentage withheld by the Fonds d’aide aux actions collectives*;	**ORDONNE** que les prélèvements du Fonds d’aide aux action collectives prévus à l’Entente de règlement soient remis conformément à la *Loi sur le Fonds d’aide aux actions collectives* et à l’article 1(1) du *Règlement sur le pourcentage prélevé par le Fonds d’aide aux actions collectives*;
DECLARE that the fees to be paid to Class Counsel are fair and reasonable;	**DÉCLARE** que les frais des Avocats du groupe sont justes et raisonnables;
APPROVES the Class Counsel Fees of $750,000.00, plus taxes, plus 20% of	**APPROUVE** les Honoraires des avocats du groupe de $750,000.00$, plus les taxes applicables, plus 20 % de la somme attribuée aux Réclamants approuvés demandes

Approved Claims once administered, pursuant to Settlement agreement;	approuvées une fois administrées, conformément à l'Entente de règlement;
THE WHOLE without costs.	**LE TOUT**, sans les frais de justice

Montreal, April 5, 2023

Merchant Law LLP

Merchant Law Group LLP
Attorneys for the Applicant

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N^{o} : 500-06-000576-112

S U P E R I O R C O U R T
(Class Action)

ROSLYN SIFNEOS

Applicant

-vs-

PFIZER INC.,
And al.

Defendants

LIST OF EXHIBITS

EXHIBIT "A" : Copy of the **Settlement Agreement**, in its original version in English and in a translated version in French;

EXHIBIT "B": Copy of the **Distribution Protocol**, in its original version in English and in a translated version in French

EXHIBIT "C': Affidavit of Heidi Derkson from Merchant Law Group LLP., sworn April 4, 2023;

EXHIBIT "D": Affidavit of Roselyn Sifneos, representative plaintiff, sworn April 4, 2023;

EXHIBIT "E": Notice Plan and Approval Notice (in English and French);

EXHIBIT "F": Copy of the objections and opt out received;

EXHIBIT "G": Copy of the docketed time and disbursements summary by Class Counsel for the Canadian Actions;

EXHIBIT "H": Draft judgement on the Application for settlement agreement approval.

MONTRÉAL, April 5, 2023

Merchant Law LLP

MERCHANT LAW GROUP LLP
Attorneys for the Applicant

AFFIDAVIT

I, the undersigned, **Christine Nasraoui**, attorney, practicing my profession with the firm Merchant Law Group LLP, located at 3055 Blvd. St-Martin Ouest, Bureau T500, Laval, Québec, H7T 0J3, solemnly declare:

1. I am one of the attorneys representing the Applicant in the present matter;

2. All of the facts alleged in the present Application for settlement agreement approval are true to the best of my knowledge.

AND I HAVE SIGNED:

Christine Nasraoui

SOLEMNLY DECLARED TO BEFORE ME
AT ~~MONTRÉAL~~ LAVAL, April 5, 2023

Sylvie Landry, g.a.c.s.

Commissioner of Oath

NOTICE OF PRESENTATION

TO: **Mtre. Paul Prosterman**
Mtre Randy Sutton
Norton Rose Fulbright Canada S.E.N.C.R.L., s.r.l. / LLP
1, Place Ville Marie, Bureau 2500,
Montréal, QC, H3B 1R1, Canada

Email : paul.prosterman@nortonrosefulbright.com
randy.sutton@nortonrosefulbright.com

TAKE NOTICE that the present Application for the settlement agreement approval will be presented for adjudication on the **April 11, 2023 at 9:30 AM**, in front of the **Honourable Justice Martin Castonguay** of the Superior Court of Québec, District of Montréal, at the Montreal Courthouse situated at 1 Notre-Dame street East, Montréal, Québec.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTRÉAL, April 5, 2023

Merchant Law LLP

MERCHANT LAW GROUP LLP
Attorneys for the Applicant

Nº.: 500-06-000576-112

S U P E R I O R C O U R T
DISTRICT OF MONTREAL

ROSLYN SIFNEOS

Applicant

vs

PFIZER INC.,

AND AL.

Defendants

And

LE FONDS D'AIDE AUX ACTIONS COLLECTIVES

Impleaded Party

APPLICATION FOR SETTLEMENT AGREEMENT APPROVAL AND CLASS COUNSEL FEES and EXHIBITS A TO H (Arts. 590, 593 C.C.P.)

ORIGINAL

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