

COUR SUPÉRIEURE
(Class Action Chamber)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N° : 500-06-000948-188

DATE : December 12, 2023

PRESIDING THE HONOURABLE PIERRE NOLLET, S.C.J.

MICHAEL POHORESKY
et
HAROLD POHORESKY
Plaintiffs

c.
OTSUKA CANADA PHARMACEUTICAL INC.
et
LUNDBECK CANADA INC.
Défendants

**JUDGMENT APPROVING THE PROTOCOL AND EXTENDING THE INSCRIPTION
DEADLINE**

[1] **WHEREAS** the Superior Court granted an authorization to institute a class action against the Defendants on behalf of the following class:

All persons who reside or have resided in Canada who were prescribed and ingested the drug REXULTI® during the Class Period, starting from February 16, 2017, and who thereafter developed one or more of the following Compulsive Behaviours and Impulse Control Disorders:

- Compulsive gambling
- Hypersexuality

- Binge eating
- Compulsive shopping and/or spending

and their family members, dependents, heirs and estates” (the “Class” and “Class Members”)

(«the Authorization Judgment»)

[2] **WHEREAS** on December 16 and December 19, 2022, the Plaintiffs served on the Defendants the Originating Application;

[3] **WHEREAS** on February 10, 2023, the Court suspended the proceedings until the Supreme Court of Canada issued its decision on the Plaintiffs’ leave application, as appears from the court records;

[4] **WHEREAS** on May 25, 2023, the Supreme Court of Canada issued its decision;

[5] **WHEREAS** the Parties submitted the First case protocol on December 8, 2023;

[6] **WHEREAS** the First case protocol is requesting an extension of the time limit for trial readiness until January 30, 2026.

[7] **WHEREAS**, from the explanations provided to the Court on December 8, 2023, the extension requested is based on several factors including what the Parties estimate to be a realistic timeline to obtain documents from either Party, to introduce preliminary motions, to obtain various permissions, to proceed to out-of-court examinations, to mandate and obtain various expertises based on the evidence so obtained;

[8] **WHEREAS** the Parties wish to avoid continuous back and forth to obtain time limit extension;

[9] **WHEREAS** the Court expressed concerns with respect to the length of time required to proceed to certain steps and what it perceived as a timeline not favourable to the Class Members;

[10] **WHEREAS** the Defense team insisted on imposing a strict sequence to facilitate their work and accommodate their workload;

[11] **WHEREAS** the Court, while agreeing to the First case Protocol, has required a few modifications including a clear separation of the field of expertise of the Plaintiffs’ experts;

[12] **WHEREAS** the Court will impose regular case management conference to supervise the progress of the file;

FOR THESE REASONS, THE COURT:

- [13] **APPROVES** the First case Protocol dated December 7, 2023 as modified herein.
- [14] **ORDERS** Plaintiffs to specify, by December 22, 2023, with respect to section 41 of the case Protocol, the actual field of expertise of each of the intended expert.
- [15] **ORDERS** the Parties to communicate to the Court, by January 30th, 2024, with respect to section 49 of the case Protocol, the date and time of the examination of Michael Pohoresky;
- [16] **ORDERS** the Defendants to file by March 15, 2024, with respect to section 31 of the case Protocol, any Application for leave to examine Class Members other than the Plaintiffs and any Application to examine Plaintiff's treating psychiatrist;
- [17] **ORDERS** the Defendants to provide, by June 30th 2024, with respect to section 50 of the case Protocol, the names of the Defendants' representatives to be examined out of Court;
- [18] **ORDERS** Counsels to serve or notify copy of the First Case Protocol and this judgment to their respective client and file in the Court record, copy of such service or notification within 10 days of this judgment.
- [19] **EXTENDS** the time limit for trial readiness and to file a request for setting down the trial, to January 30, 2026;
- [20] **THE WHOLE** without legal costs

PIERRE NOLLET, J.C.S.

Me Laurence Ste-Marie
Me Bogdan-Alexandru Dobrota
WOODS S.E.N.C.R.L.
Avocats pour les demandeurs

Me Joël Rochon
Me Golnaz Nayerahmadi
ROCHON GENOVA LLP
Avocats-conseils pour les demandeurs

Me Marianne Ignacz
Me Lydia Amazouz
INF S.E.N.C.R.L.
Avocates pour Otsuka Canada Pharmaceutical Inc.

Me Samuel Lepage
Me Michel Gagné
Me Andrée-Anne Labbé
McCARTHY TÉTRAULT S.E.N.C.R.L., S.R.L.
Avocats pour Lundbeck Canada Inc.

Hearing date : December 8, 2023.