CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-000528-105

(Class Action)
SUPERIOR COURT

B. MACMILLAN

Petitioner

-vs.-

ABBOTT LABORATORIES, LIMITED, legal person duly constituted, having its head office at 8401, Trans-Canada Highway, City of Saint-Laurent, Province of Quebec, H4S 1Z1

and

ABBOTT LABORATORIES, legal person duly constituted, having its head office at 100 Abbott Park Road, City of Abbott Park, State of Illinois, 60064-3500, USA

Respondents

MOTION TO AUTHORIZE THE BRINGING OF A CLASS ACTION
&
TO ASCRIBE THE STATUS OF REPRESENTATIVE
(Art. 1002 C.C.P. and following)

TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR PETITIONER STATES AS FOLLOWS:

I. GENERAL PRESENTATION

A) The Action

1. Petitioner wishes to institute a class action on behalf of the following group, of which he is a member, namely:

    - all persons residing in Canada who have taken and/or purchased the drug MERIDIA (Sibutramine Hydrochloride Monohydrate) since

December 28th 2000 and their successors, assigns, family members, and dependants, or any other group to be determined by the Court.

Alternately (or as a subclass)

- all persons residing in Quebec who have taken and/or purchased the drug MERIDIA (Sibutramine Hydrochloride Monohydrate) since December 28th 2000 and their successors, assigns, family members, and dependants, or any other group to be determined by the Court.

B) The Respondents

2. Respondent Abbott Laboratories is an American pharmaceutical company;

3. Respondent Abbott Laboratories, Limited is Canadian federal incorporation involved in the "manufacture and distribution of healthcare products", the whole as appears more fully from a copy of the *Registre des entreprises* (CIDREQ) Report, produced herein as **Exhibit R-1**;

4. Respondent Abbott Laboratories does business in Canada, including in the province of Quebec, through the Respondent Abbott Laboratories, Limited and as such they have both, either directly or indirectly, performed any one of the commercial activities of designing, testing, manufacturing, labelling, packaging, assembling, advertising, marketing, promoting, branding, distributing, selling, and/or putting the drug Meridia onto the marketplace in Canada, including the province of Quebec;

5. The head office and manufacturing facility of the Respondents in all of Canada appear to be in the province of Quebec -- therefore, the drug Meridia is likely made there and shipped out from Quebec to the rest of Canada;

6. Given the close ties between the Respondents and considering the preceding, both Respondents are solidarily liable for the acts and omissions of the other. Unless the context indicates otherwise, both Respondents will be referred to as "Abbott" for the purposes hereof;

C) The Situation

7. The prescription drug Meridia was first approved for sale in the United States in November 1997 by the US Food and Drug Administration (FDA). It was approved for sale in Europe in January 1999 by the European Medicines

Agency. It was also approved for sale in Canada on December 28th 2000 by Health Canada;

8. In Canada, there are two (2) possible doses of the drug Meridia: (a) 10 mg, blue and white capsules, and (b) 15 mg, yellow and white capsules;

9. In the year 2009, 118,264 prescriptions for Meridia worth $19 million dollars were filled by Canadian retail drug stores, according to the drug research firm IMS Health Canada;

10. The key medicinal ingredient in the drug Meridia is Sibutramine Hydrochloride Monohydrate ("Sibutramine"). Sibutramine is a "serotonin-noradrenaline re-uptake inhibitor" (SNRI). It works by preventing the neurotransmitters 5-hydroxytryptamine (also called serotonin) and noradrenaline from being taken back up into nerve cells in the brain. Neurotransmitters are chemicals that allow nerve cells to communicate with one another. By blocking their re-uptake, sibutramine increases the amount of these neurotransmitters in the brain;

11. The increased levels of neurotransmitters in the brain help patients to feel full after a meal, and this in turn helps to reduce their food intake. This is why sibutramine-containing medicines are used in the management of obesity;

12. Sibutramine was originally developed as an anti-depressant. Due to its "side effect" of moderate weight loss mainly achieved via satiety, the drug was approved and introduced worldwide as a treatment of obesity;

13. In Canada, Meridia is indicated as adjunctive therapy within a weight management program for obese patients with an initial body mass index (BMI) of 30 kg/m^2 or higher and for obese patients with an initial BMI of 27 kg/m^2 or higher in the presence of other risk factors (e.g., controlled hypertension, type 2 diabetes, dyslipidemia, visceral fat), the whole as appears more fully from a copy of the most recent product monograph and patient information dated November 29th 2009, produced herein as **Exhibit R-2**. It would appear that the product monograph was prepared on December 27th 2000 and revised on January 15th 2009;

14. As part of a post-market requirement for the European approval of sibutramine, due to their concerns regarding the increase in blood pressure and heart rate observed in the clinical trial data, the Committee for Medicinal Products for Human Use (CHMP) required Abbott to conduct a cardiovascular outcome study -- which became known as the Sibutramine Cardiovascular Outcome Trial (SCOUT);

15. The SCOUT trial was a randomized, double-blind, placebo-controlled multicenter trial conducted between January 2003 and March 2009 in Europe,

Latin America, and Australia. The study population consisted of approximately 10,000 men and women aged 55 and older with a Body Mass Index (BMI) of between 27 kg/m^2 and 45 kg/m^2, or between 25 kg/m^2 and 27 kg/m^2 with an increased waist circumference. Patients were also required to have a history of cardiovascular disease (coronary artery disease, stroke, occlusive peripheral arterial disease) and/or type 2 diabetes mellitus with at least one other cardiovascular risk factor (hypertension, dyslipidemia, current smoking, or diabetic nephropathy). All patients underwent a 6-week lead-in period on Meridia 10 mg. Eligible patients were then randomized to either placebo or Meridia 10 mg daily. Titration to Meridia 15 mg daily was allowed for individuals with inadequate weight loss on 10 mg daily. The mean duration of exposure to Meridia and placebo was approximately 3.5 years;

16. According to the SCOUT trial results, there was a 16% increase in the relative risk of the primary outcome event (a composite of non-fatal myocardial infarction, non-fatal stroke, resuscitation after cardiac arrest, and cardiovascular death) in the Meridia group compared to the placebo group. There was no between-treatment difference in cardiovascular death or all-cause mortality. The primary outcome was driven by non-fatal myocardial infarction and non-fatal stroke;

17. With respect to efficacy, the SCOUT trial found that the difference in mean percent change in body weight at month 60 (end of the trial) between the Meridia and placebo groups was approximately 2.5%;

18. Preliminary results of the SCOUT trial were released and on January 21st 2010, the European Medicines Agency suspended the marketing authorisations for all medicines containing sibutramine. The Agency's Committee for Medicinal Products for Human Use (CHMP) concluded that the risks of these medicines were greater than their benefits, the whole as appears more fully from a copy of the Press Release, produced herein as **Exhibit R-3**;

19. More specifically, the the CHMP noted that:

> "... the use of sibutramine was not in accordance with the prescribing information for most of the patients enrolled in the SCOUT study, as sibutramine is contra-indicated in patients with known cardiovascular disease. The treatment duration in the study was also longer than normally recommended. However, because obese and overweight patients are likely to have a higher risk of cardiovascular events, the Committee was of the opinion that the data from the SCOUT are relevant for the use of the medicine in clinical practice.
>
> The Committee also noted that the date from available studies show that the weight loss achieved with sibutramine is modest and may not be

maintained after stopping. The CHMP was therefore of the opinion that the benefit of sibutramine as a weight-loss aid do not outweigh the cardiovascular risks."

20. On August 6th 2010, the European Medicines Agency confirmed and clarified their position, the whole as appears more fully from a copy of the Questions and Answers, produced herein as **Exhibit R-4**;

21. On September 2nd 2010, the final results of the SCOUT trial were published in the New England Journal of Medicine (NEJM) with an article entitled "Effect of Sibutramine on Cardiovascular Outcomes in Overweight and Obese Subjects", the whole as appears more fully from a copy of said journal article, produced herein as **Exhibit R-5**;

22. In that same journal (NEJM), authors Gregory D. Curman M.D., Stephen Morrisey Ph.D, and Jeffrey M. Drazen M.D. published an editorial entitled "Sibutramine – Another Flawed Diet Pill", the whole as appears more fully from a copy of said journal article, produced herein as **Exhibit R-6**;

23. In this editorial, the authors remark that:

> "Despite the concern that sibutramine may increase the risk of cardiovascular events, 13 years passed before a clinical trial of sufficient size and duration to provide an accurate assessment of cardiovascular risk was completed.
> ...
> The increase in the risk of cardiovascular events in the SCOUT trial could be directly related to the higher blood pressure and heart rate observed in the sibutramine-treated subjects, as compared with those receiving placebo. Alternatively, blood pressure and heart rate could simply be markers of other adverse mechanisms resulting in cardiovascular events.
> ...
> In quantifying the risks associated with drugs, it is often useful to calculate the number of patients who need to be treated to cause one particular adverse event (i.e., the number needed to harm). In the overall SCOUT population, the number of subjects who needed to be treated to cause one cardiovascular event (nonfatal myocardial infarction or stroke) was 70. When the calculation is limited to the patients who had known cardiovascular disease at baseline, the number needed to harm declines to 52.
>
> This assessment of cardiovascular risk needs to be placed in the context of the potential clinical benefit of sibutramine. In the SCOUT trial, the total weight lost in the sibutramine-treated group at 12 months was 4.3 kg (9.5 lb). During the remainder of the study there was a regain of approximately 0.5 kg, and thus the net weight loss with sibutramine during the study was

> less than 4 kg (8.8 lb) from an average baseline weight of 96 kg (211 lb). At 12 months, the weight loss with sibutramine was 4.5% of initial body weight — less than the 5% figure stipulated by the FDA as one of the key efficacy benchmarks for approval of a weight-loss drug.6 Thus, in exchange for an average weight loss of less than 4 kg, a subject had a 1 in 70 chance (or a 1 in 52 chance for those with known cardiovascular disease) of having a myocardial infarction or stroke — an unattractive benefit-to-risk ratio.
> ...
> Even though many of the patients in the SCOUT trial had preexisting cardiovascular disease and were therefore being treated outside the labeled indication, the agency noted that obese and overweight persons in general are likely to have an increased risk of sometimes asymptomatic cardiovascular disease and may be harmed by sibutramine. In real-world clinical practice, it can be difficult to reliably identify patients with silent cardiovascular disease who may be placed at risk with sibutramine treatment."

24. On September 15th 2010, the FDA Advisory Committee met to discuss the SCOUT trial and the continued marketing of sibutramine in the US. On October 4th 2010, the Office of New Drugs and the Office of Surveillance and Epidemiology of the FDA recommended that sibutramine be withdrawn from the market, the whole as appears more fully from a copy of the Memorandum to the File, produced herein as **Exhibit R-7**;

25. On October 8th 2010, the FDA asked Abbott to voluntarily withdraw Meridia from the US market, the whole as appears more fully from a copy of the FDA Safety Announcement and Questions and Answers, produced herein as **Exhibits R-8 and R-9**, respectively. The company complied with the FDA's request;

26. Of note in the FDA's Press Release, produced herein as **Exhibit R-10**, it quotes the following:

> « "Meridia's continued availability is not justified when you compare the very modest weight loss that people achieve on this drug to their risk of heart attack or stroke," said John Jenkins, M.D., director of the Office of New Drugs in the FDA's Center for Drug Evaluation and Research (CDER).
> ...
> "The patients in the European SCOUT trial did not have the same characteristics as the patients for the approved indication in the United States; however, these results, combined with other available safety data raised serious questions about Meridia's safety for all patient groups," said Gerald Dal Pan, M.D., M.H.S., director of the Office of Surveillance and Epidemiology in CDER. »

27. On the same day (October 8th 2010), Abbott decided, in collaboration with Health Canada, to voluntarily withdraw the drug Meridia from the Canadian market, the whole as appears more fully from a copy of the Information Update, produced herein as **Exhibit R-11**;

28. While the drug Meridia was already contraindicated in patients with a history of coronary artery disease, congestive heart failure, arrhythmias, or cerebrovascular -- Health Canada stated that:

> "Despite these previous risk mitigation measures, there continues to be concern of an increased risk of heart-related adverse events, particularly as people at risk of cardiovascular disease may not have symptoms. In light of this concern, and the accumulating scientific evidence on the safety and efficacy of Meridia®, it has been determined that the benefits no longer outweigh the risks for this drug."

29. In view of the foregoing, the Respondents have:

a) misrepresented information concerning both the safety and efficacy of the drug Meridia to the medical community and the public; and

b) failed to provide adequate warning to the medical community and the public about the drug Meridia's increased risk of adverse cardiovascular events, such as non-fatal heart attacks, non-fatal strokes, and other heart-related events;

c) placed the drug Meridia onto the marketplace that has only minimal effectiveness in the treatment of obesity, but a significant and serious likelihood of injury (i.e. 16% increase);

II. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PETITIONER

30. Petitioner was prescribed, purchased, and ingested the drug Meridia over a one year period, from approximately 2004 until 2005;

31. He had heard that the drug Meridia would cause him to lose weight and he understood that it was safe;

32. On or about sometime in the year 2005, while Petitioner was using the drug Meridia, he had a serious episode, whereby one morning he felt as if he was having a heart attack -- Petitioner was suffering from severe chest pains, sweating, and shortness of breath;

33. This event was the most traumatic that the Petitioner had ever experienced in his life, as he thought that he was going to die;

34. Since that day forward, Petitioner has stopped taking the drug Meridia;

35. After Petitioner ceased using the drug Meridian, he has not had a recurring episode -- however, Petitioner continues to experience a strange sensation in his chest, intermittent cramping, and occasional chest pains;

36. While Petitioner was on the drug Meridia, he experienced some modest weight loss, but after stopping the medication, he has gained it all back -- thereby, rendering his use of the drug Meridia a waste of money;

37. Petitioner just recently found out that the FDA recommended that the makers of the drug Meridia remove their product from the market;

38. Petitioner has also just recently found out that Health Canada has asked them to do the same;

39. He now believes that his symptoms that morning, as well as, his ongoing symptoms were the result of his use of the drug Meridia;

40. Further, at no time was Petitioner made aware of the true risks associated with taking the drug Meridia, and more specifically, of the significant increase in the risk of an adverse cardiovascular event, including myocardial infarction, stroke, and other hear-related events;

41. Petitioner would not have taken the drug Meridia if the Respondents had properly disclosed the true risks and benefits of taking this medication;

42. Petitioner is at risk of developing more pronounced health problems in the near future and will be followed by a physician;

43. Petitioner's modest weight loss was ineffective, since any gains he made were quickly lost when he ceased using the drug Meridia. These small results do not outweigh the injury that the Petitioner has suffered. In addition, he has expended money for an drug that has not improved his medical obesity condition;

44. Petitioner's damages are a direct and proximate result of his use of the drug Meridia, Respondents' negligence and/or lack of adequate warnings, and Respondents' misrepresentations as to its efficacy;

45. In consequence of the foregoing, Petitioner is justified in claiming damages;

III. FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP

46. Every member of the class has either ingested and/or purchased the drug Meridia or is the successor, family member, assign, and/or dependant of a person who purchased and/or ingested the drug Meridia;

47. The class members' damages would not have occurred but for the acts and/or omissions of the Respondents in failing to ensure that the drug Meridia was safe for use, for failing to provide adequate warning of the risks associated with its use, and for over-promoting (and misrepresenting) their efficacy;

48. In consequence of the foregoing, each member of the class is justified in claiming at least one or more of the following as damages:

    a. physical and mental injuries, including pain, suffering, anxiety, fear, loss of quality and enjoyment of life, and increased risk of health problems;

    b. out-of-pocket expenses incurred or to be incurred, including those connected with hospital stays, medical treatment, life care, medications, medical monitoring services, and the diagnosis and treatment of Meridia side effect services;

    c. loss of income and loss of future income;

    d. refund of the purchase price of the drug Meridia or alternately, the incremental costs of Meridia as paid for by class members and/or by the *Régie de l'assurance maladie du Québec*, the Ontario Health Insurance Plan, and other provincial health insurers;

    e. disgorgement of all profits earned by the Respondents from the sale of the drug Meridia;

    f. punitive damages;

49. As a direct result of the Respondents' conduct, the users' family members, and dependants have, had, and/or will suffer damages and loss, including:

    a. out of pocket expenses, including paying or providing nursing, housekeeping and other services;

    b. loss of income and loss of future income;

c. loss of support, guidance, care, consortium, and companionship that they might reasonably have expected to receive if the injuries had not occurred;

50. Some of the expenses related to the medical treatment that the class members have undergone or will undergo, will have been borne by the various provincial health insurers, including the *Régie de l'assurance maladie du Québec* and the Ontario Health Insurance Plan. As a result of the Respondent's conduct, these various provincial health insurers have suffered and will continue to suffer damages for which they are entitled to be compensated by virtue of their right of subrogation in respect to all past and future insured services. These subrogated interests are asserted by the Petitioners and the class members;

51. All of these damages to the class members are a direct and proximate result their use of the drug Meridia, Respondents' negligence and/or lack of adequate warnings, and Respondents' misrepresentations as to its efficacy;

IV. CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION

A) The composition of the class renders the application of articles 59 or 67 C.C.P. difficult or impractical

52. Petitioner has reason to believe that there are approximately 118,264 persons in Canada who took and/or purchased the drug Meridia last year. However, Petitioner has no way of knowing the names and addresses of potential class members due to the confidential nature of medical and pharmacy records;

53. Class members are numerous and are scattered across the entire province and country;

54. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Respondents. Even if the class members themselves could afford such individual litigation, the court system could not as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of Respondents would increase delay and expense to all parties and to the court system;

55. Also, a multitude of actions instituted in different jurisdictions, both territorial (different provinces) and judicial districts (same province), risks having contradictory judgements on questions of fact and law that are similar or related to all members of the class;

56. These facts demonstrate that it would be impractical, if not impossible, to contact each and every member of the class to obtain mandates and to join them in one action;

57. In these circumstances, a class action is the only appropriate procedure for all of the members of the class to effectively pursue their respective rights and have access to justice;

B) <u>The questions of fact and law which are identical, similar, or related with respect to each of the class members with regard to the Respondents and that which the Petitioner wishes to have adjudicated upon by this class action</u>

58. Individual questions, if any, pale by comparison to the numerous common questions that predominate;

59. The damages sustained by the class members flow, in each instance, from a common nucleus of operative facts, namely, Respondents' misconduct;

60. The recourses of the members raise identical, similar or related questions of fact or law, namely:

    a. Does Meridia cause, exacerbate, or contribute to adverse cardiovascular events, such as non-fatal heart attacks, non-fatal strokes, and other heart-related events?

    b. Were the Respondents negligent and/or did they fail in their duty of safety, duty of care, and/or duty to inform imposed upon them as manufacturers, distributers and/or sellers of Meridia?

    c. Did the Respondents knowingly, recklessly or negligently breach a duty to warn class members and/or their physicians of the risks of harm from the use of Meridia?

    d. Did the Respondents knowingly, recklessly or negligently misrepresent to class members and/or their physicians the risks and benefits from the use of Meridia?

    e. In the affirmative to any of the above questions, did Respondents conduct engage their solidary liability toward the members of the class?

    f. If the responsibility of the Respondents is established, what is the nature and the extent of damages and other remedies to which the members of the class can claim?

g. Are members of the class entitled to bodily, moral, and material damages?

h. Are members of the class entitled to recover the medical costs incurred in the screening, diagnosis and treatment of medical conditions caused by taking Meridia?

i. Are the members of the class entitled to recover as damages an amount equal to the purchase price of Meridia or any part of the purchase price?

j. Should Respondents be ordered to disgorge all or part of its ill-gotten profits received from the sale of Meridia?

k. Are members of the class entitled to aggravated or punitive damages?

61. The interests of justice favour that this motion be granted in accordance with its conclusions;

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

62. The action that Petitioner wishes to institute on behalf of the members of the class is an action in damages;

63. The conclusions that Petitioner wishes to introduce by way of a motion to institute proceedings are:

GRANT the class action of Petitioner and each of the members of the class;

DECLARE the Defendants solidarily liable for the damages suffered by the Petitioner and each of the members of the class;

CONDEMN the Defendants to pay to each member of the class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to reimburse to each of the members of the class, the purchase price of the product, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay to each of the members of the class, punitive damages, and ORDER collective recovery of these sums;

RESERVE the right of each of the members of the class to claim future damages related to the use of Meridia;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the motion to authorize a class action;

ORDER the Defendants to deposit in the office of this court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to an amount sufficient to compensate the various provincial health insurers for the medical treatments and expenses that the class members have undergone and will continue to undergo in the future, and ORDER the Defendants to deposit in the office of this court these sums so as to establish a fund to be administered as this Honourable Court deems fit;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable court shall determine and that is in the interest of the members of the class;

A) <u>The Petitioner requests that he be attributed the status of representative of the Class</u>

64. Petitioner is a member of the class;

65. Petitioner is ready and available to manage and direct the present action in the interest of the members of the class that she wishes to represent and is determined to lead the present dossier until a final resolution of the matter, the whole for the benefit of the class, as well as, to dedicate the time necessary for the present action before the Courts of Quebec and the *Fonds d'aide aux recours collectifs*, as the case may be, and to collaborate with his attorneys;

66. Petitioner has the capacity and interest to fairly and adequately protect and represent the interest of the members of the class;

67. Petitioner has given the mandate to his attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;

68. Petitioner, with the assistance of his attorneys, is ready and available to dedicate the time necessary for this action and to collaborate with other members of the class and to keep them informed;

69. Petitioner is in good faith and has instituted this action for the sole goal of having his rights, as well as the rights of other class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Respondents' conduct;

70. Petitioner understands the nature of the action;

71. Petitioner's interests are not antagonistic to those of other members of the class;

B) The Petitioner suggests that this class action be exercised before the Superior Court of justice in the district of Montreal

72. A great number of the members of the class reside in the judicial district of Montreal and in the appeal district of Montreal;

73. Respondent Abbott Laboratories has its head office and manufacturing facilities in the judicial district of Montreal;

74. The Petitioner's attorneys practice their profession in the judicial district of Montreal;

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

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present motion;

AUTHORIZE the bringing of a class action in the form of a motion to institute proceedings in damages;

ASCRIBE the Petitioner the status of representative of the persons included in the class herein described as:

- all persons residing in Canada who have taken and/or purchased the drug MERIDIA (Sibutramine Hydrochloride Monohydrate) since December 28th 2000 and their successors, assigns, family members, and dependants, or any other group to be determined by the Court.

Alternately (or as a subclass)

- all persons residing in Quebec who have taken and/or purchased the drug MERIDIA (Sibutramine Hydrochloride Monohydrate) since December 28th 2000 and their successors, assigns, family members, and dependants, or any other group to be determined by the Court.

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

a. Does Meridia cause, exacerbate, or contribute to adverse cardiovascular events, such as non-fatal heart attacks, non-fatal strokes, and other heart-related events?

b. Were the Respondents negligent and/or did they fail in their duty of safety, duty of care, and/or duty to inform imposed upon them as manufacturers, distributers and/or sellers of Meridia?

c. Did the Respondents knowingly, recklessly or negligently breach a duty to warn class members and/or their physicians of the risks of harm from the use of Meridia?

d. Did the Respondents knowingly, recklessly or negligently misrepresent to class members and/or their physicians the risks and benefits from the use of Meridia?

e. In the affirmative to any of the above questions, did Respondents conduct engage their solidary liability toward the members of the class?

f. If the responsibility of the Respondents is established, what is the nature and the extent of damages and other remedies to which the members of the class can claim?

g. Are members of the class entitled to bodily, moral, and material damages?

h. Are members of the class entitled to recover the medical costs incurred in the screening, diagnosis and treatment of medical conditions caused by taking Meridia?

i. Are the members of the class entitled to recover as damages an amount equal to the purchase price of Meridia or any part of the purchase price?

j. Should Respondents be ordered to disgorge all or part of its ill-gotten profits received from the sale of Meridia?

k. Are members of the class entitled to aggravated or punitive damages?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the class action of Petitioner and each of the members of the class;

DECLARE the Defendants solidarily liable for the damages suffered by the Petitioner and each of the members of the class;

CONDEMN the Defendants to pay to each member of the class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to reimburse to each of the members of the class, the purchase price of the product, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay to each of the members of the class, punitive damages, and ORDER collective recovery of these sums;

RESERVE the right of each of the members of the class to claim future damages related to the use of Meridia;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the motion to authorize a class action;

ORDER the Defendants to deposit in the office of this court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to an amount sufficient to compensate the various provincial health insurers for the medical treatments and expenses that the class members have undergone and will continue to undergo in the future, and ORDER the Defendants to deposit in the office of this court these sums so as to establish a fund to be administered as this Honourable Court deems fit;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable court shall determine and that is in the interest of the members of the class;

DECLARE that all members of the class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by law;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;

ORDER the publication of a notice to the members of the group in accordance with article 1006 C.C.P. within sixty (60) days from the judgement to be rendered herein in LA PRESSE and the NATIONAL POST;

ORDER that said notice be available on the Respondent Abbott Laboratories, Limited website with a link stating “Notice to Meridia users”;

RENDER any other order that this Honourable court shall determine and that is in the interest of the members of the class;

THE WHOLE with costs including publications fees.

Montreal, October 12, 2010

_____
Me Jeff Orenstein
CONSUMER LAW GROUP INC.
Attorneys for the Petitioner