CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO.: 500-06-000550-109

SUPERIOR COURT
(Class Action)

ALAN DICK, domiciled and residing at 9 Calais, in the City of Kirkland, District of Montreal, Province of Quebec, H9H 3R7

Petitioner

-vs-

JOHNSON & JOHNSON INC., a legal person, duly constituted according to law, having its office at 7101 Notre Dame East, in the City and District of Montreal, Province of Quebec, H1N 2G4

DEPUY ORTHOPAEDICS INC., a legal person, duly constituted according to law, with its head office located at 700 Orthopaedic Drive, Warsaw, Indiana, USA 46582

Respondents

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

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

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

   All natural persons in Quebec who, since January 1, 2006, were surgically implanted with an ASR XL Acetabular Hip System or a Depuy ASR Hip Resurfacing System (hereinafter "Depuy Implant System"), manufactured and/or sold by the Respondents, which system was recalled by the Respondents on August 24, 2010.

2. **THE PETITIONER'S PERSONAL CLAIM AGAINST THE RESPONDENTS IS BASED ON THE FOLLOWING FACTS:**

THE PARTIES

2.1. The Petitioner is a 52-year-old man who works as a salesman for an architectural display and graphics company.

2.2. At all relevant times prior to the end of 2007, the Petitioner was a very active, athletic individual, who participated in numerous sports at a high level, including skiing, hockey, softball and golf.

2.3. The Respondents (collectively, "Depuy") are corporations that design, manufacture, sell, market and/or distribute surgical products and medical implants, including the Depuy Implant System, to be surgically implanted by orthopedic surgeons into Quebec patients.

2.4. Hip implant systems, such as the Depuy Implant System, are expected to enable patients to resume all normal activities following hip surgery, without pain or suffering. The hip implant system generally lasts for approximately 20 years.

THE PETITIONER'S PERSONAL SITUATION

2.5. The Petitioner developed osteoarthritis in his right hip, and was scheduled to undergo a procedure described as "Right Total Hip Arthroplasty, The Resurfacing Type" on January 11, 2008 (hereinafter, the "Initial Hip Surgery").

2.6. The Petitioner underwent the Initial Hip Surgery on January 11, 2008, at which time a Depuy Implant System was surgically implanted into his right hip, the whole as appears more fully from the Operative Report of the Initial Hip Surgery, a copy of which is produced herewith as Exhibit P-1.

2.7. The Petitioner began resuming certain activities a short time following the Initial Hip Surgery, however he experienced certain discomfort and pain.

2.8. Beginning in the Fall of 2008, the Petitioner's pain began to increase and he underwent physiotherapy treatment.

2.9. The Petitioner's pain nevertheless became worse. Beginning in May 2009, the Petitioner began undergoing extensive osteopathy treatment, in addition to physiotherapy.

2.10. As the Petitioner's pain did not subside, he consulted a physiatrist and a rheumatologist, as well as his orthopedic surgeon.

2.11. As a result of the Petitioner's tremendous pain, he was prescribed oxycontin and oxycodin pain medication daily. The Petitioner also underwent a cortisone shot and a fluoroscopy-guided injection, in order to try to help alleviate the pain.

2.12. The Petitioner's pain remained, and in late 2009, he was no longer able to walk without the assistance of a cane, crutches or a wheelchair.

2.13. On or about January 8, 2010, the Petitioner learned from his orthopedic surgeon that an X-ray had revealed that his femoral bone had broken.

2.14. The Petitioner was scheduled to undergo a revision surgery to replace the Depuy Implant System that had been inserted during the Initial Hip Surgery (hereinafter, the "Revision Surgery").

2.15. On February 12, 2010, the Petitioner underwent the Revision Surgery, described as "Revision Right Hip Resurfacing Arthroplasty to ASR XL Hip Arthroplasty", the whole as appears more fully from the Operative Report, a copy of which is produced herewith as Exhibit P-2.

2.16. As appears from the Operative Report (Exhibit P-2), during the Revision Surgery, the Petitioner had another Depuy Implant System surgically implanted.

2.17. As a result of the need for a Revision Surgery, the Petitioner had to forego a job opportunity in January 2010, thereby losing five months of earnings.

2.18. Since the Revision Surgery, the Petitioner is no longer suffering unbearable pain, however he feels a "clunking" in his right hip, he experiences pain and discomfort following long walks or physical activity, and he is not able to participate in activities in the manner that he did prior to the Initial Hip Surgery.

THE URGENT RECALL

2.19. On or about August 24, 2010, the Respondents sent a letter to orthopedic surgeons entitled "**URGENT – VOLUNTARY PRODUCT RECALL**", the whole as appears more fully from a copy of said letter, produced herewith as Exhibit P-3 (hereinafter, the "Recall Notice").

2.20. As appears from the Recall Notice, the Respondents announced that it had issued a study in March 2010 based on data indicating a high failure rate associated with the Depuy Implant System.

2.21. Following the foregoing study, the Respondents advised that data indicated that the failure rate was even worse than initially believed. The Respondents reported an astonishing premature failure rate of between 12%-13% associated with the Depuy Implant System.

2.22. The Respondents have warned that patients who receive the Depuy Implant System may experience significant pain, suffering and difficulty walking, and that this may be the result of a fracture of the bone near where the implant was inserted, the whole as appears more fully from documentation available on the Depuy website regarding the symptoms associated with the defective Depuy Implant System, produced herewith as Exhibit P-4.

2.23. The implant surgically inserted into the Petitioner during the Initial Hip Surgery forms part of the Respondents' recall, and the Petitioner experienced all of the foregoing systems following his Initial Hip Surgery.

2.24. The implant surgically inserted into the Petitioner during the Revision Surgery also forms part of the Respondents' recall, and as a result of the "clunking" and discomfort that he is experiencing since the Revision Surgery, it is also possible that the Petitioner will require an additional Revision Surgery in the near future.

THE RESPONDENTS' LIABILITY

2.25. The Respondents are regarded as world leaders in the design and manufacture of medical implants, including hip implants. The Respondents designed, manufactured, marketed and sold the Depuy Implant System, to be surgically implanted into patients.

2.26. The Depuy Implant System is defective.

2.27. The defective Depuy Implant System fails prematurely, and has caused and will continue to cause numerous patients in Quebec, including the Petitioner, to experience considerable pain, suffering, difficulty walking, and the need to undergo Revision Surgery.

2.28. The Respondents knew or ought to have known that the failure to remove a defect in the Depuy Implant System prior to marketing and selling said system would cause disastrous consequences for patients undergoing hip surgery in general, and for the Petitioner and all members of the Class, in particular.

2.29. The Respondents knew or ought to have known that its defective Depuy Implant System would require numerous patients to undergo complicated

and painful Revision Surgery, which entails increased risks of infection, bone resorption and other adverse consequences.

2.30. The Respondents failed to properly test and inspect the Depuy Implant System to ensure that it was safe and fit for its intended purpose, before selling and distributing the implants to the medical community, to be inserted into Quebec patients, beginning in 2006.

2.31. The Depuy Implant System that has been urgently recalled has been inserted into more than 1,000 patients in Quebec since 2006.

2.32. Based on the 13% failure rate reported by the Respondents, it is likely that in excess of 130 Quebec residents will require at least one Revision Surgery.

2.33. Furthermore, the Respondents failed to act responsibly and diligently as they only issued the Recall Notice in August 2010, notwithstanding that it had received numerous reports of problems associated with the Depuy Implant System which led to a field study in March 2010.

2.34. By failing to inform and warn the medical community and patients such as the Petitioner upon first receiving reports of failures associated with the Depuy Implant System, the Respondents prevented patients from knowing about the defects associated with the Depuy Implant System, and thereby demonstrated a wanton disregard for the health and safety of Quebec patients receiving the Depuy Implant System.

THE DAMAGES

2.35. As a result of the defective Depuy Implant System inserted during the Initial Hip Surgery, the Petitioner experienced agonizing pain, suffering and mental anguish, and had to undergo Revision Surgery in February 2010.

2.36. The Petitioner required medical care and attention and numerous visits to health professionals as a result of the problems associated with the Initial Hip Surgery.

2.37. The Petitioner was forced to forego accepting employment in January 2010 as a result of the pain and problems he was experiencing following the Initial Hip Surgery, and he was only able to accept employment beginning in May 2010.

2.38. Since the Revision Surgery, the Petitioner has experienced a "clunking" in his right hip, he is in pain and discomfort after long walks or other athletic activities, and he has tremendous anxiety that the Depuy Implant System that he received during the Revision Surgery will fail prematurely as well.

2.39. Petitioner will require follow-up medical attention as well as most probably suffer the long-term effects of having to undergo Revision Surgery, which should not have been necessary.

2.40. As a result, the Petitioner is entitled to claim and does hereby claim from the Respondents an amount of $150,000.00 for non-pecuniary damages, and an amount of $40,000.00 for pecuniary damages.

2.41. In addition, inasmuch as the Respondents failed to act in a responsible manner upon learning of the defects associated with the Depuy Implant System and of the drastic consequences that patients would suffer, the Petitioner is also entitled to claim and does hereby claim an amount of $50,000.00 as exemplary and punitive damages, the whole pursuant to the *Quebec Charter of Human Rights and Freedoms*.

3. **THE PERSONAL CLAIMS OF EACH OF THE MEMBERS OF THE CLASS AGAINST RESPONDENT ARE BASED ON THE FOLLOWING FACTS:**

3.1. All members of the Class were implanted with a Depuy Implant System during Initial Hip Surgery, and they were entitled to expect that they would resume normal activities without experiencing pain, suffering, difficulty walking and the need for Revision Surgery. Instead, they were implanted with the defective Depuy Implant System.

3.2. The claims of each of the members of the Class are based on the same facts as those upon which the claim of Petitioner is based, as set forth above.

3.3. In particular, each member of the Class has had a defective Depuy Implant System inserted into him/her.

3.4. As a result, members of the Class have already, or likely will in the future, experience pain and suffering associated with the defective Depuy Implant System, as well as mental anguish knowing that they have been implanted with a defective product.

3.5. In addition, many members of the Class will require Revision Surgery to remove and replace the defective Depuy Implant System.

3.6. Furthermore, patients who require Revision Surgery are exposed to an increased risk of infection, bone resorption and other detrimental consequences of additional hip surgery.

3.7. Accordingly, each member of the Class has sustained damages similar to those sustained by the Petitioner.

3.8. The Petitioner is accordingly entitled to claim and does hereby claim from the Respondents, both personally and on behalf of each member of the Class, compensatory damages in the amount of $150,000.00 per Class member for non-pecuniary damages, and an amount to be determined by the Court per Class member for pecuniary damages.

3.9. The Petitioner is also entitled to claim and does hereby claim from the Respondents, both personally and on behalf of each member of the Class, an amount of $50,000.00 per Class member for punitive and exemplary damages, the whole pursuant to the *Quebec Charter of Human Rights and Freedoms*.

3.10. The Petitioner and all members of the Class have suffered damages in Quebec.

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

4.1. To the best of Petitioner's knowledge, the Respondents have been marketing, selling and distributing the Depuy Implants in Quebec since January 2006.

4.2. To the best of Petitioner's knowledge, more than 1,000 Quebec patients have had the defective Depuy Implant System surgically inserted during hip surgery.

4.3. It would therefore be difficult and impractical for the Petitioner to locate and contact all members of the Class to obtain a mandate to institute proceedings for their benefit.

4.4. Furthermore, inasmuch as the Depuy Implant System may take approximately five years before prematurely failing, many members of the Class are likely unaware that they have been implanted with a defective product which entitles them to be awarded damages.

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

5.1. Are the Depuy Implant Systems designed, manufactured, sold and distributed by the Respondents in Quebec defective?

5.2. Did the Respondents know or are the Respondents deemed to have known of the defects in the Depuy Implant System?

5.3. Are the Respondents liable as manufacturer, distributor and/or vendor of defective products?

5.4. Did the Respondents fail to warn the public and the medical community in a responsible and timely manner of problems reported with the Depuy Implant System?

5.5. Did the Respondents continue to market and distribute the Depuy Implant System in Quebec even after having been informed of problems associated with the products which entail drastic consequences for patients?

5.6. If the answers to any or all of the foregoing questions are "yes", did the Respondents commit a fault for which they are liable to pay compensatory damages to the Petitioner and the members of the Class?

5.7. Are the Respondents responsible to pay punitive and exemplary damages to the Petitioner and the members of the Class?

5.8. What is the amount of damages sustained by the Class, collectively, as a result of the faults of the Respondents?

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

6.1. What is the extent of the pecuniary and non-pecuniary damages sustained by each member of the Class?

7. **IT IS EXPEDIENT THAT THE INSTITUTION OF A CLASS ACTION FOR THE BENEFIT OF THE MEMBERS OF THE CLASS BE AUTHORIZED FOR THE FOLLOWING REASONS:**

7.1. The Class action is the best procedural vehicle available to members of the Class in order to protect and enforce their rights herein.

7.2. While the amount of the damages and loss sustained by each member of the Class may differ, the faults of the Respondents and their liability therefor are identical with respect to each member.

7.3. Members of the Class who have been implanted with a defective Depuy Implant System and who have suffered relatively minor pain and suffering, in the absence of a class action, could be prevented from instituting a separate recourse against the Respondents in view of the costs involved to enforce their rights compared to the value of the damages they may have suffered.

7.4. The great number of patients who were implanted with a defective Depuy Implant System could, in the absence of a class action, lead to a multitude of recourses against the Respondents to determine the same issues of fact and law, and which will entail an inefficient and costly use of judicial resources, the duplication of costly expertise, and result in contradictory judgments on questions of fact or law which are identical for each member of the Class.

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

8.1. An Action in damages against the Respondents to sanction the design, manufacture, sale and distribution of the defective Depuy Implant System into unsuspecting patients who underwent hip surgery in Quebec since 2006.

9. **THE CONCLUSIONS SOUGHT BY PETITIONER AGAINST THE RESPONDENT ARE AS FOLLOWS:**

GRANT the Class Action against the Respondents;

CONDEMN the Respondents, solidarily, to pay to the Petitioner and to each member of the Class, damages in the amount of $150,000.00, to be recovered collectively, the whole with interest and the additional indemnity provided by law;

CONDEMN the Respondents, solidarily, to pay to the Petitioner damages in the amount of $40,000.00 for loss of earnings, and to pay to each member of the Class pecuniary damages to be determined by the Court, the whole with interest and the additional indemnity provided by law;

CONDEMN the Respondents, solidarily, to pay to the Petitioner and to each member of the Class, exemplary and punitive damages in the amount of $50,000.00, to be recovered collectively, the whole with interest and the additional indemnity provided by law.

RESERVE the rights of the members of the Class to apply for additional damages, the whole in accordance with Article 1615 of the *Civil Code of Quebec*;

ORDER collective recovery of the total amount of the claims herein;

ORDER that the claims of the members of the Class be the object of individual liquidation in accordance with Articles 1037 to 1040 C.C.P. or, if impractical or inefficient, order the Respondents to perform any remedial measures that this Honourable Court deems to be in the interests of the members of the Class;

ORDER the Respondents to advise all hospitals and/or medical clinics in the Province of Quebec, which purchased the defective Depuy Implant System, of the present Class Action lawsuit, and **DEMAND** that these hospitals and/or clinics advise all of their patients who were implanted with the defective Depuy Implant System of the pending Class Action and of their right to contact Class Counsel free of charge;

CONDEMN the Respondents to any further relief as may be just and proper;

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

10. **PETITIONER REQUESTS THAT HE BE ASCRIBED THE STATUS OF REPRESENTATIVE;**

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

11.1. Petitioner underwent Initial Hip Surgery, during which time he was implanted with a defective Depuy Implant System, manufactured, designed and distributed by the Respondents.

11.2. While the Petitioner legitimately expected the Depuy Implant System to last for approximately 20 years, the Petitioner began experiencing pain soon after his Initial Hip Surgery, and thereafter required Revision Surgery, such that he has suffered damages that many members of the Class have suffered, or soon will also suffer.

11.3. The Petitioner is well-informed of and understands the facts giving rise to the present Action and the nature of the present Action.

11.4. The Petitioner is determined to devote the time necessary to act as the representative of the Class in this Action, and has demonstrated that he is dedicated to obtaining justice for all members of the Class.

11.5. The Petitioner does not have any conflict of interest with the members of the Class.

11.6. The Petitioner has retained competent counsel with experience in class actions and medical product liability in general, and with significant experience in class actions pertaining to defective hip implants in particular.

11.7. The Petitioner has fully cooperated with the undersigned attorneys in the context of this Action, including answering diligently and intelligently to their questions, and there is every reason to believe that he will continue to do so.

11.8. The Petitioner will fairly and adequately represent and protect the rights of the members of the Class, and will take measures with the undersigned attorneys to keep the members of the Class informed of the present Class Action.

11.9. The Petitioner is in at least as good a position as any other member of the Class to serve as the Class Representative in the present Action.

12. **PETITIONER SUGGESTS THAT THE CLASS ACTION BE BROUGHT BEFORE THE SUPERIOR COURT FOR THE DISTRICT OF MONTREAL FOR THE FOLLOWING REASONS:**

12.1. To the best of Petitioner's knowledge, the majority of the members of the Class are domiciled in the City of Montreal. The vast majority of patients who were implanted with the defective Depuy Implant System underwent their Initial Hip Surgery at the Jewish General Hospital in Montreal.

12.2. The Petitioner is domiciled in the District of Montreal.

12.3. The Petitioner's undersigned attorneys practice in the District of Montreal.

12.4. The Respondents market and distribute the defective Depuy Implant System throughout Montreal.

13. The present Motion is well-founded in fact and in law;

WHEREFORE THE PETITIONER PRAYS THAT BY JUDGMENT TO BE RENDERED HEREIN;

a) The present Motion be granted;

b) That the institution of a Class action be authorized as follows:

An Action in damages against the Respondents to sanction the design, manufacture, sale and distribution of the defective Depuy Implant System into unsuspecting patients who underwent hip surgery in Quebec since 2006.

c) That the status of representative be granted to Alan Dick for the purpose of instituting the said Class action for the benefit of the following group of persons, namely:

All natural persons in Quebec who, since January 1, 2006, were surgically implanted with an ASR XL Acetabular Hip System or a Depuy ASR Hip Resurfacing System (hereinafter "Depuy Implant System"), manufactured and/or sold by the Respondents, which system was recalled by the Respondents on August 24, 2010.

d) That the principal questions of law and of fact to be dealt with collectively be identified as follows:

1. Are the Depuy Implant Systems designed, manufactured, sold and distributed by the Respondents in Quebec defective?

2. Did the Respondents know or are the Respondents deemed to have known of the defects in the Depuy Implant System?

3. Are the Respondents liable as manufacturer, distributor and/or vendor of defective products?

4. Did the Respondents fail to warn the public and the medical community in a responsible and timely manner of problems reported with the Depuy Implant System?

5. Did the Respondents continue to market and distribute the Depuy Implant System in Quebec even after having been informed of problems associated with the products which entail drastic consequences for patients?

6. If the answers to any or all of the foregoing questions are "yes", did the Respondents commit a fault for which they are liable to pay compensatory damages to the Petitioner and the members of the Class?

7. Are the Respondents responsible to pay punitive and exemplary damages to the Petitioner and the members of the Class?

8. What is the amount of damages sustained by the Class, collectively, as a result of the faults of the Respondents?

e) That the conclusions sought by the Petitioner in relation to such questions are as follows:

GRANT the Class Action against the Respondents;

CONDEMN the Respondents, solidarily, to pay to the Petitioner and to each member of the Class, damages in the amount of $150,000.00, to be recovered collectively, the whole with interest and the additional indemnity provided by law;

CONDEMN the Respondents, solidarily, to pay to the Petitioner damages in the amount of $40,000.00 for loss of earnings, and to pay to each member of the Class pecuniary damages to be determined by the Court, the whole with interest and the additional indemnity provided by law;

CONDEMN the Respondents, solidarily, to pay to the Petitioner and to each member of the Class, exemplary and punitive damages in the amount of $50,000.00, to be recovered collectively, the whole with interest and the additional indemnity provided by law.

RESERVE the rights of the members of the Class to apply for additional damages, the whole in accordance with Article 1615 of the *Civil Code of Quebec*;

ORDER collective recovery of the total amount of the claims herein;

ORDER that the claims of the members of the Class be the object of individual liquidation in accordance with Articles 1037 to 1040 C.C.P. or, if impractical or inefficient, order the Respondents to perform any remedial measures that this Honourable Court deems to be in the interests of the members of the Class;

ORDER the Respondents to advise all hospitals and/or medical clinics in the Province of Quebec, which purchased the defective Depuy Implant System, of the present Class Action lawsuit, and **DEMAND** that these hospitals and/or clinics advise all of their patients who were implanted with the defective Depuy Implant System of the pending Class Action and of their right to contact Class Counsel free of charge;

CONDEMN the Respondents to any further relief as may be just and proper;

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

f) That it be declared that any member of the Class who has not requested his/her exclusion from the Class be bound by any judgment to be rendered on the Class action, in accordance with law;

g) That the delay for exclusion from the Class be fixed at sixty (60) days from the date of notice to the members, and at the expiry of such delay, the members of the Class who have not requested exclusion be bound by any such judgment;

h) That it be ordered that a notice to the members of the Class be drafted according to the terms of form VI of the Rules of Practice of the Superior Court of Quebec and that it be made public within fifteen (15) days of judgment to intervene in the present Motion in the following manner:

1. By publication of a notice to members of the Class in newspapers throughout the Province of Quebec on two (2) Saturdays, in accordance with the model notice provided for as form VI of the Rules of Practice of the Superior Court of Quebec;

2. By publication of the notice to members of the Class on the internet site of the Respondents and the internet site of the attorneys for Petitioner with a hypertext entitled "Avis aux members de recours collectif, Notice to all Class Action Members" prominently displayed on Respondent's internet site and to be maintained thereon until the Court orders publication of another notice to members by final judgment in this instance or otherwise;

i) That the record be referred to the Chief Justice so that he may fix the district in which the Class action is to be brought and the Judge before whom it will be heard;

j) That in the event that the Class action is to be brought in another district, the Clerk of this Court be ordered upon receiving the decision of the Chief Justice, to transmit the present record to the Clerk of the district so designated.

k) That in the event a Class action is to be instituted, notice of same be published on the Class Action Registry maintained for said purposes in the Province of Quebec.

THE WHOLE with costs, including the costs of all publications of notices.

MONTREAL, December 21, 2010.

(sgd) Kugler Kandestin LLP, S.E.N.C.R.L.

KUGLER KANDESTIN, L.L.P.
Attorneys for Petitioner

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Kugler Kandestin LLP, S.E.N.C.R.L.

NOTICE OF PRESENTATION

TO: JOHNSON & JOHNSON INC.,
7101 Notre-Dame East,
Montreal, Quebec.

&: DEPUY ORTHOPAEDICS INC.,
700 Orthopaedic Drive,
Warsaw, Indiana, USA
46582

SIRS:

TAKE NOTICE of the foregoing *Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative* attached hereto and that same will be presented for adjudication before one of the Judges of this Honourable Court, sitting in and for the Judicial District of Montreal, in Room 2.16 of the Courthouse, situated at 1 Notre-Dame Street East, Montreal, Quebec, on the **31st day of January 2011**, at 9:00 a.m., or so soon thereafter as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, December 21, 2010.

(sgd) Kugler Kandestin LLP, S.E.N.C.R.L.

KUGLER KANDESTIN, L.L.P.
Attorneys for Petitioner

True Copy / **Copie Conforme**

Kugler Kandestin **LLP, S.E.N.C.R.L.**