

500-06-000818-167

NOTICE TO CLASS MEMBERS

AUTHORIZATION TO INSTITUTE A CLASS ACTION

**THIS NOTICE CONCERNS PERSONS WHO
HAVE PURCHASED THEIR PRESCRIPTION
MEDICATIONS FROM ONE OF THE
FOLLOWING PHARMACIES AND BENEFITED
FROM A PRIVATE MEDICATION INSURANCE
OR A PRIVATE BENEFITS REGIME FOR THE
PERIODS COVERED:**

1. PHARMACIE FRANCIS GINCE INC.

395 rue Jacques-Cartier S, Saint-Jean-sur
Richelieu

Period covered: October 25th, 2013 to March 29th, 2021

2. MARC DONTIGNY PHARMACIEN INC.

4400 côte Rosemont, Trois-Rivières
701 boul. Thibeau, Trois-Rivières
15 rue Fusey, Trois-Rivières
385 boul. Ste-Madeleine, Trois-Rivières

Period covered: October 25th, 2013 to March 29th, 2021

3. PHARMACIE STÉPHANE Fiset INC.

8325 rue Notre-Dame E, Montréal

Period covered: September 26th, 2018 to August 26th,
2019

**4. PHARMACIE LUCAS DESORMIERS ET ZYAD KHODER
(HOCHELAGA) INC.**

9080 rue Hochelaga, Montréal

Period covered: December 1st, 2020 to March 29th,
2021

**5. TANIA ET NELLY KANOU PHARMACIENNES S.E.N.C.
(FORMERLY PHARMACIE TANIA KANOU S.E.N.C.)**

740 boul. de la Côte-Vertu, Montréal
475 boul. de la Côte-Vertu, Montréal
237 boul. de la Côte-Vertu, Montréal

Period covered: October 25th, 2013 to March 29th, 2021

**6. PHARMACIE MAHER BITAR, VALÉRIE SAVOIE-ROSAY
ET JEAN COUTU INC. (FORMERLY PHARMACIE BITAR,
SAVOIE-ROSAY ET JEAN COUTU S.E.N.C.)**

1675 rue Sainte-Catherine O, Montréal
1222 av. Greene, Westmount

Period covered: October 25th, 2013 to March 29th, 2021

7. PHARMACIE DOLARIAN ET CHIRINIAN, S.E.N.C.

5510 chemin de la Côte-des-Neiges, Montréal
6200 chemin de la Côte-des-Neiges, Montréal

Period covered: October 25th, 2013 to March 29th, 2021

8. HENG MUI CHANG ET RAHSAN ERDOGDU, S.E.N.C.

5333 boul. Henri-Bourassa E, Montréal
6075 boul. Henri-Bourassa E, Montréal

Period covered: October 25th, 2013 to March 29th, 2021

9. PHARMACIE JOYAL ET RENÉ-HENRI S.E.N.C.

4484 rue Sainte-Catherine E, Montréal
4815 rue Ontario E, Montréal

Period covered: October 25th, 2013 to March 29th, 2021

**10. PHARMACIE PATRICK BOUCHARD ET MATHIEU
LÉGER INC. (FORMERLY PHARMACIE PATRICK
BOUCHARD ET MATHIEU LÉGER, S.E.N.C.)**

148 rue Fleury O, Montréal
241 rue Fleury O, Montréal

Period covered: October 25th, 2013 to March 29th, 2021

**11. MARIE NGUYEN, JULIE DANSEREAU & JULIE DUBOIS
PHARMACIENNES INC.**

501 av. du Mont-Royal E, Montréal
1370 av. du Mont-Royal E, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

**12. KARIM CHATA ET MARTHE AUDRÉE DESRIVEAUX
PHARMACIENS INC. (FORMERLY KARIM CHATA ET
MARTHE-AUDRÉE DESRIVEAUX PHARMACIENS,
S.E.N.C.)**

2900 boul. St-Charles, Kirkland
963 boul. Saint-Jean, Pointe-Claire

Period covered: October 25th, 2013 to March 29th, 2021

13. PHARMACIE PROULX GAGNÉ S.E.N.C.

2984 boul. Taschereau, Longueuil
3216 boul. Taschereau, Longueuil
598 av. Victoria, Saint-Lambert

Period covered: October 19th, 2017 to March 29th, 2021

**14. PHARMACIE KEVIN BOIVIN ET FRANÇOIS
DAIGNEAULT PHARMACIENS INC.**

1295 rue des Cascades O, Saint-Hyacinthe
5575 boul. Laurier O, Saint-Hyacinthe
970 boul. Casavant O, Saint-Hyacinthe
2935 boul. Laframboise, Saint-Hyacinthe

Period covered: October 25th, 2013 to March 29th, 2021

**15. PHARMACIE JEAN PROVOST, MAJED BITAR ET KEVIN
SMITH INC.**

751 rue Principale, Granby

Period covered: October 19th, 2017 to March 29th, 2021

**16. PHARMACIE DANIEL BUSQUE, ELIE TAWIL, MARK
MALEK INC. (FORMERLY DANIEL BUSQUE ET ASSOCIÉS)**

1001 boul. De Montarville, Boucherville

Period covered: January 16th, 2018 to March 29th, 2021

17. PHARMACIE JEAN ARCHAMBAULT, CATHERINE ARCHAMBAULT ET STÉPHANIE SAMSON INC.

12 boul. Clairevue O, Saint-Bruno

Period covered: October 19th, 2017 to March 29th, 2021

18. PHARMACIE MICHEL DESJARDINS, MARIE-ÈVE LAURIN INC. (FORMERLY MICHEL DESJARDINS ET ASSOCIÉS)

531 rue Jarry E, Montréal

Period covered: January 16th, 2018 to March 29th, 2021

19. PHARMACIE LUC CHAINÉ INC. (FORMERLY PHARMACIE FRANÇOIS JEAN COUTU INC.)

15 boul. Montclair, Gatineau

Period covered: October 25th, 2013 to March 29th, 2021

20. PHARMACIE MARIE FRANCE BELLEY INC (FORMERLY PHARMACIE FRANÇOIS JEAN COUTU INC.)

280 route 338, Les Coteaux

Period covered: October 25th, 2013 to March 29th, 2021

21. PHARMACIE LUC CHAINÉ ET FRANCIS CHATAIN INC. (FORMERLY PHARMACIE FRANÇOIS JEAN COUTU INC.)

455 boul. Riel, Gatineau

100-28 boul. Du Mont-Bleu, Gatineau

Period covered: October 25th, 2013 to March 29th, 2021

22. PHARMACIE ELIE ISSA ET TAKLA MURR INC. (FORMERLY PHARMACIE FRANÇOIS JEAN COUTU INC.)

62 boul. Gréber, Gatineau

Period covered: October 25th, 2013 to March 29th, 2021

23. PHARMACIE GILLES LALONDE

161 rue Principale, Gatineau

381 boul. Maloney E, Gatineau

181 rue Principale, Gatineau

Period covered: October 25th, 2013 to March 29th, 2021

24. CYRILLE LUGASSY ET MICHEL LAPALME, PHARMACIENS

55 rue de l'Église, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

25. CYRILLE LUGASSY, PHARMACIEN

5987 rue de Verdun, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

26. PAMELA ORFALI ET HOURIG TARAQDJIAN, PHARMACIENNES

1120 rue Sainte-Catherine O, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

27. FÉLICE SAULNIER, PHARMACIENNE

1 av. du Mont-Royal E, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

28. YARA ABI-SAMRA, PHARMACIENNE (FORMERLY THI PHUONG THAO BUI, PHARMACIENNE)

5696 rue Sherbrooke E, Montréal

Period covered: January 16th, 2018 to March 29th, 2021

28. EL SHAIMAA SALIEM, PHARMACIENNE

4999 Chemin Queen-Mary, Montréal

Period covered: October 19th, 2017 to March 29th, 2021

This notice concerns the Superior Court judgment dated October 30, 2018 by the Honourable Marie-Claude Armstrong, j.c.s., and confirmed February 21st, 2020 by the Court of Appeal of Quebec, authorizing a class action against the defendants listed above. The authorized class action has been modified by subsequent judgments. The application for authorization alleges that Quebec pharmacies charge individuals subscribing to private group insurance or private benefit plans filling or renewal fees and charges that are (1) neither declared nor disclosed; (2) disproportionate, unreasonable and unfair compared to those charged to participants in the public plan, and (3) disproportionate, unreasonable and unfair compared to those charged to participants in the public plan since they are double or triple for a two- or three-month renewal.

Note that the trial has not taken place yet, that the representative plaintiff's allegations must be submitted to the Court and that the defendants vigorously deny the merits of these allegations.

The class targeted by the class action is as follows:

"All persons in Quebec who, between October 25, 2013 and March 29, 2021, benefitted from a private prescription drug insurance or a benefits regime for drugs, and who purchased prescription medications in one of the defendant pharmacies"

The status of representative plaintiff was granted to the late Mr. Bernard Côté. Ms. Yvette Turgeon continued the proceedings in his name.

The questions to be dealt with collectively are as follows:

In relation to the violation of the *Consumer Protection Act (CPA)*:

- a) Is the transaction between a pharmacy and a class member for the purchase of a prescription drug subject to the *Consumer Protection Act*?
- b) If so, do the pharmacist's costs have to be accurately disclosed on the invoice given to the class member?
- c) Are the costs billed by the pharmacists to class members disproportionate, unreasonable and unfair compared to those charged to consumers covered by the *Public prescription drug insurance plan (Régime public d'assurance médicaments or "RPAM")* for the same prescription and the same professional act?
- d) If so, is this equivalent to exploitation?

In relation to the violation of the *Civil Code of Quebec (CCQ)*:

- e) Does the transaction between a pharmacy and a class member for the purchase of a prescription drug constitute a contract subject to the *Civil Code of Quebec (CCQ)*?
- f) If so, do the pharmacist's costs have to be disclosed on the invoice given to the class member under the contractual obligations of information and good faith?
- g) Are the costs billed by the pharmacists to class members disproportionate, unreasonable and unfair compared to those charged to consumers covered by the RPAM for the same prescription and the same professional act?

In relation to the violation of both laws:

- h) Does the filling or renewal of a prescription for a period of more than a month justify superior costs?
- i) Do class members have the right to be reimbursed for the costs billed in excess of those billed under the RPAM, taking into account the violation of the *CPA* and *CCQ*?
- j) If the responsibility of the defendants is recognized under the *CPA*, are the class

members entitled to punitive damages? If so, what amount are they entitled to?

The conclusions sought by the representative plaintiff are as follows:

- **ALLOW** the class action;
- **CONDEMN** the aforementioned Defendants to reimburse to the representative plaintiff and to each class member the costs paid in excess of the costs provided for under the RPAM for the same professional act and for the periods covered indicated above;
- **CONDEMN** the aforementioned Defendants, for the periods covered indicated above, to pay to the representative plaintiff and to each class member a sum of \$25.00 in punitive damages;
- **CONDEMN** the aforementioned Defendants to pay to the representative plaintiff and to each class member, for the periods covered indicated above, interest on the above sums plus the additional indemnity under Article 1619 of the *CCQ* as of the date of service of the motion for authorization;
- **ORDER** the collective recovery of the damages;
- **THE WHOLE** with costs, including costs of the notices, expert and administration fees.

A class member may seek intervenor status in the class action. An intervening member is required to be examined on discovery at the request of a Defendant. A class member who does not intervene in the class action can only be subjected to a pre-trial examination if the Court deems it useful.

The class action has been brought in the District of Montreal.

A member may opt out of the class action by January 20, 2025, at 5:00PM at the latest, by transmitting to the Superior Court clerk a request in writing to opt out of the present class action.

The judgment authorizing the class action and the notice to class members are available in the Registry of class actions on the following website:

www.registredesactionscollectives.quebec

A member of the class other than the class representative or an intervener cannot be condemned to pay the costs of the class action in the event that the class action is dismissed.

The class members are represented by:

LAPOINTE LÉGAL

1124 rue Marie-Anne Est, suite 22, Montréal
(Québec), H2J 2B7

Email : actioncollective@lapointelegal.ca

Phone : (514) 688-9169

www.lapointelegal.ca

Please note that if you decide to remain a class member you have nothing to do and there is no claim to file or money to distribute at this time.

The class action is not over and the final judgment has not yet been rendered.

A new notice will be issued once a final judgment is rendered on this class action.

**THE PUBLICATION OF THIS NOTICE HAS
BEEN ORDERED BY THE COURT.**
