

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF **MONTREAL**

SUPERIOR COURT
(Class Action Division)

No.: **500-06-001327-242**

MAXIME PAQUIN-CHARBONNEAU

**DANIEL JUNIOR MARC MÉLANÇON-
GAUDREAU**

Applicants

v.

INNOMAR STRATEGIES INC.

CENCORA INC.

Defendants

(...)

**AMENDED APPLICATION BY THE DEFENDANTS FOR LEAVE TO ADDUCE
EVIDENCE, TO EXAMINE THE APPLICANTS AND FOR THE COMMUNICATION OF
DOCUMENTS**
(Art. 574 C.C.P.)

**TO THE HONOURABLE JUSTICE MARTIN F. SHEEHAN, J.S.C., IN HIS CAPACITY
AS CASE MANAGEMENT JUDGE, THE DEFENDANTS RESPECTFULLY SUBMIT
THE FOLLOWING:**

I. INTRODUCTION

1. The Defendants Innomar Strategies Inc. ("**Innomar**") and Cencora Inc. hereby respectfully request leave to adduce evidence, to examine the Applicants and to obtain documents from them on limited and specific topics relevant to the analysis of the class action authorization criteria.

II. THE PROCEDURAL CONTEXT

2. On August 13, 2024, Mr. Maxime Paquin-Charbonneau filed the *Demande d'autorisation d'exercer une action collective et pour être représentant* (the "**Application for Authorization**") in the present file.
3. On December 6, 2024, Mr. Paquin-Charbonneau filed proposed amendments to the Application for Authorization, namely seeking to add another applicant, Mr. Daniel Junior Marc Mélançon-Gaudreault, as class representative (...).

3.1 On January 10, 2025, the Applicants filed an application for leave to discontinue their claim against Pfizer Canada SRI (“Pfizer”) and to amend the proceedings again to remove Pfizer as impleaded party. The discontinuance was authorized by the Court on January 14, 2025, as appears from the Court record.

4. Through the (...) Application for Authorization and its amendments (the “Amended Application for Authorization”, as amended on December 6, 2024 and January 10, 2025), the Applicants seek authorization to bring a class action against the Defendants on behalf of the following putative class members:

Toute personne au Québec dont les renseignements personnels détenus par Innomar Strategies Inc. et/ou Cencora Inc. ont fait l’objet d’une exfiltration de données le ou vers le 21 février 2024.

(the “**Proposed Class**”)

5. The proposed class action appears to be predicated on the *Civil Code of Québec*, CQLR c. CCQ-1991, the *Charter of Human Rights and Freedoms*, CQLR c. C-12 and the *Act respecting the protection of personal information in the private sector*, CQLR c. P-39.1.

6. The Applicants allege that the Defendants would have breached their duties under those statutes by failing to secure the Proposed Class’ personal information.

7. On behalf of the Proposed Class, the Applicants are claiming damages comprised of (i) unspecified pecuniary damages, (ii) moral damages in the amount of \$10,000 per class member and (iii) punitive damages in the amount of \$5,000 per class member. The Applicants also seek a declaration from the Court as to the period for which they should be provided with credit monitoring services from both TransUnion and Equifax at the Defendants’ expense.

III. **THE RIGHT TO ADDUCE RELEVANT EVIDENCE, TO EXAMINE THE APPLICANTS AND TO OBTAIN DOCUMENTS**

8. At the authorization hearing, this Court will analyze the allegations found in the Amended Application for Authorization in light of the criteria provided at Article 575 C.C.P. and as developed by jurisprudence. Each of the Applicant’s individual claim are one of the main issues to be analyzed by this Court.

9. This Court is entitled to a complete, actual and precise disclosure of the facts alleged in the Amended Application for Authorization, rather than general and vague allegations that are unsupported by relevant documentary evidence.

10. This Court will need sufficient evidence to assess the existence of the class, determine whether there is an arguable case, and whether it raises issues common to the class as a whole.

11. At the authorization hearing, the Defendants are entitled to a full and complete defence in this regard.
12. Article 574 *C.C.P.* empowers this Court to authorize the presentation of appropriate evidence relevant to the analysis of the conditions set out in Articles 574 and 575 *C.C.P.*, including the filing of relevant evidence and the examination of the Applicants.

III.I THE EVIDENCE TO BE ADDUCED

- 12.1 In their Amended Application for Authorization, the Applicants contend that they ignore the extent of the information about them that was affected in the incident. It is also implied that financial information would have been affected, as the Applicant Mélançon-Gaudreault claims that his credit card was fraudulently charged in the amount of \$2,000 following the alleged incident (Amended Application for Authorization, paras. 89.19-89.20).
- 12.2 However, the Applicants' banking or credit card information was not impacted in the alleged incident.
- 12.3 In view of the foregoing, the Defendants seek leave to adduce a succinct affidavit confirming this fact from Mr. Jeff MacDonald, Vice-President, Client Specialty Services at Innomar, communicated herewith as **Schedule A**. This affidavit also briefly addresses what are patient support programs, contextualizing the Applicants' allegations in this respect.
- 12.4 This information is non-controversial and will allow the Court to understand what type of information was potentially affected in the alleged incident.

IV. THE NEED TO EXAMINE THE APPLICANTS

13. In the Amended Application for Authorization, the Applicants put themselves forward to act as class representatives.
14. When it will assess the Amended Application for Authorization in light of Article 575 *C.C.P.*, this Court will do so in view of the Applicants' personal situations.
15. The allegations in the Amended Application for Authorization are vague, incomplete and unsupported by relevant documentary evidence, namely with respect to the alleged individual claims of the Applicants. The Applicants have filed no documentary evidence in support of many of their allegations.
16. To assist the Court in determining whether the Applicants have an appearance of right to the conclusions sought (Article 575(2) *C.C.P.*), the Defendants should namely be allowed to verify the circumstances under which some partners of members of patient support programs would allegedly have been affected by the data incident.

17. For instance, with respect to the Applicant Paquin-Charbonneau, the Amended Application for Authorization simply states that “les renseignements relatifs à sa conjointe ont *possiblement* été touchés” and that he has “*vraisemblablement* dû communiquer certains renseignements personnels de [sa conjointe]” (Amended Application for Authorization, para. 81.1).
18. In addition, in determining whether the Applicants have an appearance of right, the Court will need to know the nature and the quantum of the damages alleged in the Amended Application for Authorization.
19. In particular, with respect to the Applicant Mélançon-Gaudreault having allegedly suffered a fraud in the months following the data incident (Amended Application for Authorization, paras. 89.19 and 89.20), the Court is entitled to a complete picture regarding this alleged fraud, especially since the Applicants suggest that it would be linked to the data incident.
20. Finally, in light of the allegations that the subscription to credit monitoring services offered by the Defendants would be insufficient and the conclusion sought in this respect, the Court should be able to appreciate how the Applicants have been using, are and will use services from credit monitoring agencies.

V. THE PROPOSED EXAMINATIONS

21. In order to verify the facts giving rise to the Applicants’ individual claims, the Defendants respectfully submit that they should be granted leave to examine the Applicants on the following topics:
 - a) The scope of the Proposed Class, including the allegations that the data of the Applicants’ partners would have been affected in the alleged incident;
 - b) The nature and the quantum of the damages claimed;
 - c) As for the Applicant Mélançon-Gaudreault, the circumstances of the fraud he alleges, including the fraud resolution process, and his purported damages in this regard; and
 - d) The credit monitoring services placed, activated or purchased by the Applicants.
22. Such examination should last no more than 90 minutes for the Applicant Mélançon-Gaudreault and 60 minutes for the Applicant Paquin-Charbonneau, and should be conducted out-of-Court, in Montreal, on a date agreed upon by the parties or as directed by this Court in absence of any agreement between the parties.
23. The Applicants state that they are prepared to invest the time required to complete all formalities and tasks related to the exercise of the proposed class action (Amended Application for Authorization, para. 113). As such, they should not object to a short, limited examination.

VI. THE DOCUMENTS FOR WHICH COMMUNICATION IS SOUGHT

24. The Defendants further respectfully request that the Applicants be ordered to communicate, prior to the proposed examinations, certain documents relevant to this Court's analysis of the authorization criteria. The documents for which communication is sought are the following:
- a) All written correspondence, records and documents containing data relating to the Applicants' partners which were sent, communicated or otherwise shared with a physician or a patient support program;
 - b) As for the Applicant Mélançon-Gaudreault, all written correspondence and documents with and from financial institutions and law enforcement agencies regarding the alleged July 12, 2024 fraud, including the fraud resolution process;
 - c) Proof of the credit monitoring services placed, activated or purchased by the Applicants from January 1, 2020 to date; and
 - d) Proof of all payments made by the Applicants, if any, for the credit monitoring services described in paragraph c).
25. This Application is well-founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Application;

AUTHORIZE the Defendants Innomar Strategies Inc. and Cencora Inc. to file into the record and adduce a signed copy of the proposed affidavit of Mr. Jeff MacDonald, Vice-President, Client Specialty Services at Innomar Strategies Inc. (Schedule A);

AUTHORIZE the Defendants Innomar Strategies Inc. and Cencora Inc. to examine the Applicants, Mr. Maxime Paquin-Charbonneau and Mr. Daniel Junior Marc Mélançon-Gaudreault, out-of-Court, at a date to be determined by the parties or by this Court in the absence of any agreement, on the following topics:

- a) The scope of the Proposed Class, including the allegations that the data of the Applicants' partners would have been affected in the alleged incident;
- b) The nature and the quantum of the damages claimed;
- c) As for the Applicant Mélançon-Gaudreault, the circumstances of the fraud he alleges, including the fraud resolution process, and his purported damages in this regard; and

- d) The credit monitoring services placed, activated or purchased by the Applicants.

ORDER the Applicants, Mr. Maxime Paquin-Charbonneau and Mr. Daniel Junior Marc Mélançon-Gaudreault, to communicate, prior to the examinations, the following documents:

- a) All written correspondence, records and documents containing data relating to the Applicants' partners which were sent, communicated or otherwise shared with a physician or a patient support program;
- b) As for the Applicant Mélançon-Gaudreault, all written correspondence and documents with and from financial institutions and law enforcement agencies regarding the alleged July 12, 2024 fraud, including the fraud resolution process;
- c) Proof of the credit monitoring services placed, activated or purchased by the Applicants from January 1, 2020 to date; and
- d) Proof of all payments made by the Applicants, if any, for the credit monitoring services described in paragraph c);

THE WHOLE without costs, unless contested.

Montreal, February 5, 2025

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

Attorneys for Defendants Innomar Strategies Inc. and Cencora Inc.

(Court Code: BB-8098)

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SCHEDULE A

C A N A D A

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AFFIDAVIT OF JEFF MACDONALD

I, Jeff MacDonald, Vice-President, Client Specialty Services, having my professional domicile at 3470, Superior Court, in the City of Oakville, Ontario, L6L 0C4, being duly sworn and under oath, state:

1. I am the Vice-President, Client Specialty Services at Innomar Strategies Inc. ("**Innomar**"). I have been with the company since 2016 and have held my current position for over 9 years.
2. I have reviewed an English translation of the *Demande d'autorisation d'exercer une action collective et pour être représentant modifiée* notified by the Applicants on January 10, 2025.
3. As part of my job responsibilities and duties, I lead a team of over 1,300 associates located across Canada and I am responsible for overseeing patient experience in over 145 patient support programs that Innomar manages nationally.
4. Patient support programs (PSPs) are comprehensive services designed to help patients navigate their healthcare journey and improve health outcomes, especially when dealing with chronic or complex conditions. Patients who are enrolled in PSPs receive personalized assistance in a number of ways, such as education and guidance on prescription medicines and therapy options, assistance in accessing medications, financial aid, and ongoing support from professionals.

5. I was part of the response team to the February 21, 2024 incident that impacted Cencora Inc., Innomar's parent company. As such, I am familiar with the type of information for patients enrolled in PSPs that was potentially affected in the incident.
6. Based on the information that was provided to the response team, I understand that the information potentially affected in the incident is limited to that indicated in the Notice of Data Security Incident (which both Applicants have received and filed as Exhibits R-2, R-16 and R-17) and does not include bank account information, credit card numbers, or social insurance numbers of patients enrolled in PSPs.
7. I have specifically validated that the information relating to the Applicants that
 - a) Innomar collected in the context of the PfizerFlex and Xhale+ PSPs; and
 - b) was potentially affected in the incidentdoes not include the Applicants' bank account information, credit card numbers, or social insurance numbers.
8. All of the facts alleged herein are true.

AND I HAVE SIGNED:

JEFF MACDONALD

SOLEMNLY AFFIRMED BEFORE ME, in
MONTREAL, on <•>, 2025

Commissioner for taking affidavits

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ORIGINAL

The logo for the law firm Blakes, featuring the word "Blakes" in a stylized, cursive script.

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