

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

and

PFIZER CANADA SRI

Impleaded Party

**APPLICATION BY THE DEFENDANTS FOR LEAVE 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. and Cencora Inc. hereby respectfully request leave 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 (the “**Amended Application for Authorization**”).
4. Through the Amended Application for Authorization, 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 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 examination of the Applicants.

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 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, December 20, 2024

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

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Inc. and Cencora Inc.

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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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