

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-001338-249

(Class Action)
SUPERIOR COURT

M.T.
and
MARC HAMEL

Plaintiffs

-VS.-

CHURCH & DWIGHT CANADA CORP.
and
CHURCH & DWIGHT CO., INC.

Defendants

APPLICATION FOR AUTHORIZATION TO DISCONTINUE THE CLASS ACTION
(Arts. 9 al. 2, 19, 213, and 585 C.C.P.)

TO THE HONOURABLE MR. JUSTICE LUKASZ GRANOSIK OF THE SUPERIOR COURT, DISTRICT OF MONTREAL, DESIGNATED AS CASE-MANAGEMENT JUDGE OF THE PRESENT MATTER, YOUR PLAINTIFFS STATE AS FOLLOWS:

I. INTRODUCTION

1. By way of the present Application, the Plaintiffs respectfully seek authorization from this Honourable Court to discontinue the current proposed class action proceedings, in accordance with the relevant provisions of the *Code of Civil Procedure* and subject to any conditions the Court may deem appropriate;

II. OVERVIEW OF THE LITIGATION

2. On October 21, 2024, the Plaintiffs instituted these proceedings by filing an Application to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative Plaintiff (the “Application for Authorization”), on behalf of the following proposed class:
 - All persons residing in Quebec who have purchased or used Trojan Ultra Thin Condoms for Ultra Sensitivity (the “Trojan Condoms”) or any other group to be determined by the Court;

as appears from the Court record;

3. The Application for Authorization was amended twice. The most recent version, the Re-Amended Application for Authorization, was filed on February 3, 2025, as appears from the Court record;
4. In the course of the litigation, the Plaintiffs have alleged, among other things, that the Defendants failed to disclose that the Trojan Condoms contained per- and polyfluoroalkyl substances (“PFAS”), a class of synthetic chemicals widely referred to as toxic “forever chemicals” due to their persistence in the environment and potential human health risks;
5. The Defendants deny the Plaintiffs’ allegations;
6. The proposed class proceeding is still in the pre-authorization stage – a judgment authorizing the class action has not been rendered;

III. THE DISCONTINUANCE

7. The Plaintiffs respectfully request that this Honourable Court grant leave to discontinue the present legal proceedings. The reasons for this request are as follows:

Challenges under Article 575 2) C.C.P. – Facts Appearing to Justify the Conclusions Sought:

(a) Disputed Scientific Methodology – Total Organic Fluorine (TOF):

The proposed class action rests mainly on an exhibit alleging that lab tests were conducted on Trojan Ultra Thin condoms for the presence of Total Organic Fluorine, and concluding that this means that PFAS may be found in these condoms;

A central challenge concerns the scientific validity of the testing method used to detect PFAS in products, which would include the Trojan Condoms. Specifically, while Total Organic Fluorine (TOF) testing may be used as a broad screening tool for some products to suggest the presence of PFAS, it may not be a definitive method of detection. Numerous fluorinated organic compounds are not classified as PFAS, and the scientific community remains divided on whether TOF testing alone can reliably establish that PFAS are present in a specific product. This methodological uncertainty would make it difficult to establish a reliable evidentiary foundation across the proposed class. According to the Defendants, the composition of the Trojan Condoms makes TOF testing for PFAS difficult, if not unsuitable;

(b) Harm and Causation:

Even if trace amounts of PFAS can be demonstrated and then proven to be present in the Trojan Condoms, the Plaintiffs anticipate having significant difficulties in establishing that any such presence occurred at levels harmful to

human health or capable of causing material damages. Establishing individual or general harm attributable specifically to the use of the Trojan Condoms allegedly containing trace PFAS would require complex and highly individualized expert analysis. This would raise substantial obstacles to proving causation;

(c) Parallel U.S. Dismissal:

A parallel class action against the same U.S.-based Defendant in the United States (Case No. 1:24-cv-06813) was voluntarily dismissed on January 24, 2025. This occurred approximately one month after the Defendant filed a motion to dismiss accompanied by a detailed memorandum of law. While not determinative of this case, the outcome in the U.S. suggests that the legal and evidentiary hurdles may be difficult to overcome, even under a more permissive class action framework, a copy of the “Notice of Voluntary Dismissal” in Case No. 1:24-cv-06813, dated January 24, 2025, is attached hereto as **Appendix A**;

Challenges Under Article 575 4) C.C.P. – Proper Representative Plaintiffs:

(d) Plaintiffs Wish to Withdraw:

Both Plaintiffs have expressed their desire to discontinue their participation in the proceedings and to withdraw as representative plaintiffs. Their decision is motivated, in part, by the emotional toll of participating in the litigation process, including the necessity of revisiting personal medical histories and executing extensive documentation. Neither Plaintiff wishes to continue pursuing this matter, and no alternative representative has emerged, nor has any been sought, to assume carriage of the case, based on a), b), and c) above;

8. The Plaintiffs submit that this Court should apply Article 585 C.C.P. with a degree of flexibility and judicial economy in light of the pre-authorization stage of the proceeding. Discontinuance at this early stage avoids unnecessary legal costs and preserves court resources while respecting the Plaintiffs’ autonomy and procedural rights;
9. The Defendants consent to this discontinuance without legal costs, without any admission of liability, and expressly deny any liability. The Defendants agree to reimburse the legal fees and expenses incurred by the Plaintiffs’ attorneys in connection with this litigation, supported by receipts and/or invoices, up to a maximum of \$10,000. Such sum will be reimbursed to Defendants within five business days if another action on behalf of the same class or a subset thereof is filed by any firm within 12 months of the discontinuance decision;

IV. NOTICE OF THE DISCONTINUANCE

10. The Plaintiffs' attorneys undertake to publish and disseminate a bilingual notice (in English and French) informing all interested parties of the discontinuance of the present legal proceedings, including the legal consequences of such discontinuance under article 2908 C.C.Q. The form and content of the proposed notice are subject to approval by this Honourable Court. A draft the notice is attached hereto as **Appendix B**;
11. Subject to the Court's approval, Class Counsel proposes to disseminate the notice to putative Class Members through the following means:
 - (a) By publication on the website of the undersigned attorneys, www.actislaw.org, for a period of 120 days commencing from the date of the Court's judgment,
 - (b) By direct email to all persons who contacted Actis Law Group to express interest in the class action,
 - (c) By publication on the *Registre des actions collectives*;

V. CONCLUSION

12. For the foregoing reasons, the Plaintiffs respectfully request that this Honourable Court allow them to discontinue the Re-Amended Application to Authorize the Bringing of a Class Action and to Designate the Plaintiffs as Representatives as against the Defendants, who accept such a discontinuance without legal costs;

PAR CES MOTIFS, PLAISE AU TRIBUNAL :

FOR THESE REASONS, MAY IT PLEASE THIS HONOURABLE COURT TO:

ACCUEILLIR la présente demande;

GRANT the present application;

AUTORISER le désistement de la Demande remodifiée d'autorisation d'exercer une action collective et de désigner les demandeurs comme représentants;

AUTHORIZE the discontinuance of the Re-Amended Application to Authorize the Bringing of a Class Action and to Designate the Plaintiffs as Representatives;

PRENDRE ACTE du consentement des défenderesses au désistement;

TAKE NOTE of the Defendants' consent to the discontinuance;

APPROUVER la forme et le contenu de l'Avis de désistement, essentiellement sous la forme jointe à la présente comme

APPROVE the form and content of the Notice of Discontinuance substantially in the form as attached hereto as

l'annexe A;

ORDONNER que l'Avis de désistement soit publié et diffusé de la manière suivante:

(a) Sur le site Web des avocats soussignés à l'adresse www.actislaw.org pendant une période de 120 jours à compter de la date du présent jugement,

(b) En envoyant directement par courriel l'avis de désistement à toutes les personnes qui ont contacté Groupe de droit Actis pour manifester leur intérêt pour la présente action,

(c) Par publication au Registre des actions collectives;

LE TOUT, sans frais de justice.

Schedule A;

ORDER that the Notice of Desistment shall be published and disseminated in the following manner:

(a) On the undersigned attorneys' website at www.actislaw.org for a period of 120 days beginning at the date of this judgment,

(b) By directly emailing the Notice of Discontinuance to all persons who contacted Actis Law Group to express interest in the present action,

(c) By publication on the *Registre des actions collectives*;

THE WHOLE, without legal costs.

Montreal, June 13, 2025

Andrea Grass

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Per: Me Andrea Grass
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