

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

(Class Action Division)
SUPERIOR COURT

No.: **500-06-001201-223**

JADE CORBEIL

-and-

MERIEME HAMZI

Plaintiffs

v.

JOHNSON & JOHNSON

-and-

**KENVUE CANADA INC. (FORMERLY
KNOWN AS JOHNSON & JOHNSON INC.)**

Defendants

APPLICATION FOR LEAVE TO EXAMINE THE PLAINTIFFS
(Arts. 574 and 575 C.C.P.)

**TO THE HONOURABLE JUSTICE ELENI YIANNAKIS, J.S.C., THE DEFENDANTS
RESPECTFULLY SUBMIT THE FOLLOWING:**

I. INTRODUCTION

1. The Defendants, Johnson & Johnson and Kenvue Canada Inc. (formerly known as Johnson & Johnson Inc.), hereby respectfully request leave to examine the Plaintiffs, Ms. Jade Corbeil and Ms. Merieme Hamzi, out-of-Court on limited and specific topics relating to the class action authorization criteria.

II. THE PROCEDURAL CONTEXT

2. On October 20, 2022, Ms. Julie Chouinard filed an *Application for authorization to institute a class action and to appoint a representative plaintiff* (the “**Application for Authorization**”).

3. She sought authorization to institute a class action against the Defendants on behalf of the following putative class members (the “**Proposed Class**”):

All parents in Quebec (including any deceased parent and/or their estate) with a child whose biological mother regularly ingested during the pregnancy (a) Tylenol or (b) any other product(s) of the Defendant(s) containing acetaminophen alone or in combination with other medications, as listed below (hereinafter collectively referred to as the “**PRODUCTS**”), where the said child then developed autism spectrum disorder (ASD) or attention deficit hyperactivity disorder (ADHD);

and

All children in Quebec (including any deceased child and/or their estate) with a parent who falls within the class definition above and who developed autism spectrum disorder (ASD) or attention deficit hyperactivity disorder (ADHD) (or such similar class definition as may be prescribed by the Court);

The **PRODUCTS** include, but are not necessarily limited to:

TYLENOL Rapid Release Gels
TYLENOL Extra Strength
TYLENOL Liquid Gels
TYLENOL Regular Strength
TYLENOL Ultra Relief
TYLENOL Muscle Aches & Body Pain
TYLENOL Back Pain
TYLENOL Arthritis Pain
TYLENOL Nuit Extra Fort
TYLENOL Body Pain Night
TYLENOL Complete Cold, Cough & Flu
TYLENOL Complete Cold, Cough & Flu Plus Mucus Relief Liquid Gels
TYLENOL Complete Cold, Cough & Flu Plus Mucus Relief Syrup
TYLENOL Complete Cold, Cough & Flu Plus Mucus Relief Nighttime Syrup
TYLENOL Cold
TYLENOL Cough
TYLENOL Flu
TYLENOL Cold & Sinus
TYLENOL Sinus

(the “**Tylenol Products**”)

4. On February 16, 2023, Ms. Chouinard filed an *Application for approval to substitute the representative plaintiff and to amend the application for authorization to institute a class action and to appoint a representative applicant* (the “**Application to Substitute**”) to which was appended an amended version of the Application for Authorization (the “**Amended Application for Authorization**”).

5. On April 3, 2024, the Honourable Florence Lucas, J.S.C., granted the uncontested Application to Substitute and authorized the filing of the Amended Application for Authorization.
6. The Amended Application for Authorization only provides for unsupported allegations as regards the personal factual backgrounds of the Plaintiffs in two sections titled "Facts Giving Rise to an Individual Action by the Applicant Jude [sic] Corbeil" (paras. 58-70) and "Facts Giving Rise to an Individual Action by the Applicant Merieme Hamzi" (paras. 71-83).
7. As regards the Plaintiffs adequacy to act as representative plaintiffs, the Amended Application for Authorization contains a single paragraph (para. 93) which is not only unsupported but also identical to the one found in the original Application for Authorization, when Ms. Chouinard was the proposed representative plaintiff.
8. In fact, paragraph 93 of the Application for Authorization was not even amended to reflect the addition of a second Applicant to the case through the Application to Substitute; it still reads "the Applicant" in the singular form, transposing the entirety of the relevant section from Ms. Chouinard, without further personalization of the facts.

III. THE RIGHT TO EXAMINE THE PLAINTIFFS

9. At the authorization hearing, this Court will analyze the allegations found in the Amended Application for Authorization in view of the criteria provided at Article 575 C.C.P. and developed by jurisprudence. The Plaintiffs' respective individual causes of action and their adequacy as class representatives are among the main issues to be analyzed by this Court. The Defendants are entitled to mount a full and complete defence in this regard.
10. This Court is entitled to a complete and precise disclosure of the facts with regards to the Plaintiffs' alleged purchase and use of the Tylenol Products and their individual causes of action, rather than general and vague allegations that are unsupported by any evidence. Furthermore, allegations are no longer accepted as averred if they are implausible or if disproved by the evidence in the record.
11. Article 574 C.C.P. empowers this Court to authorize the examination of the Plaintiffs for the analysis of the conditions set out in Article 575 C.C.P.

IV. THE RELEVANCE AND USEFULNESS OF THE PROPOSED EXAMINATION

12. In the Amended Application for Authorization, the Plaintiffs put themselves forward to act as class representatives.
13. When this Court will assess the Amended Application for Authorization in light of Article 575(2) C.C.P., it will do so in view of the Plaintiffs' respective personal situations, which serve as a test case in this regard.
14. Likewise, at the authorization stage, as part of the analysis required under Article 575(4) C.C.P. this Court must be satisfied that the Plaintiffs are part of the Proposed Class that they seek to represent and have a personal interest in the case.

15. The allegations in the Amended Application for Authorization are vague, incomplete and unsupported by relevant evidence. The vagueness is more striking with respect to the personal causes of action asserted by the Plaintiffs, who have not filed any evidence in support of any allegations relating to their personal situation.
16. To determine whether the Plaintiffs have demonstrated an arguable case as regards their respective individual cases pursuant to Article 575 paragraphs (2) and (4) C.C.P., the Court is entitled to precise and sufficient allegations of fact, supported as needed by relevant evidence, to assess Plaintiffs' purchase and use of Tylenol Products during their pregnancies, the circumstances in which they used those products and the medical advice they received from health professionals regarding the use of such products.
17. The Amended Application for Authorization does not include precise allegations regarding any of the foregoing key facts, and the medical and pharmaceutical records provided by the Plaintiffs are also largely incomplete in this regard.
18. The allegations are also silent in regard to any medical advice received from health professionals regarding the use of Tylenol Products or any other pain relief medicine during the Plaintiffs' pregnancies.
19. In the case of Plaintiff Jade Corbeil in particular, the health professionals and clinic identified by Ms. Corbeil as the custodians of the relevant medical records relating to the medical care, follow-ups, testing, and diagnoses during her pregnancy, indicated that they did not hold any records regarding Ms. Corbeil or that those records had been destroyed, as appears from the answers to the *Demandes d'autorisation de divulgation des dossiers médicaux ou pharmaceutiques de Jade Corbeil* allegedly received from Dr. Elsa Le Blanc, Dr. Stéphanie Blain and Clinique Adoncourt, communicated *en liasse* as **Exhibit R-1 (UNDER SEAL)**.
20. As regards Plaintiff Merieme Hamzi, excerpts from her medical records raise questions regarding her alleged use of Tylenol Products during her pregnancy, as appears from the excerpts from Ms. Hamzi's medical and pharmaceutical records communicated *en liasse* as **Exhibit R-2 (UNDER SEAL)**.
21. Moreover, to assess whether the Plaintiffs have demonstrated an arguable case based on their personal situations, this Court is entitled to know about their relevant medical history and whether they present any risk factors associated with the alleged development of ASD or ADHD in their children, as well as the alleged diagnoses of said conditions. Again, the Amended Application for Authorization fails to provide precise allegations in this regard supported by some evidence.

V. THE PROPOSED EXAMINATION

22. In order to verify the facts giving rise to the Plaintiffs' individual claims and to determine the Plaintiffs' adequacy to act as class representatives, the Defendants seek leave to examine the Plaintiffs with respect to the following topics:
 - a) Their purchase and use of Tylenol Products during their pregnancies, including, *inter alia*, the quantity of Tylenol Products that they consumed during their pregnancies,

the types of Tylenol Products that they used, the frequency of use and whether the Tylenol Products were used in conjunction with other medicines or treatments;

- b) Their medical condition during their pregnancies, including, *inter alia*, the circumstances that led to the use of Tylenol Products and medical conditions or symptoms that they sought to treat or alleviate, the advice sought or received from health professionals regarding the use of Tylenol Products during pregnancy and other medicines or treatments contemplated or received during the pregnancies;
 - c) The relevant familial medical history and risk factors as regards the conditions mentioned in the definition of the Proposed Class, namely autism spectrum disorder and attention deficit hyperactivity disorder;
 - d) Their respective children's neurodevelopmental diagnoses, as the case may be;
 - e) The nature and the quantum of the damages claimed;
 - f) Their communications with other members of the putative class about the proposed class action.
23. Such examination should last no more than 2.5 hours per Plaintiff, 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.
24. 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 to examine the Plaintiffs, Ms. Jade Corbeil and Ms. Merieme Hamzi, out-of-Court, at a date to be determined by the parties or by this Court in the absence of any agreement, for a maximum of 2.5 hours per Plaintiff, on the following topics:

- a) Their purchase and use of Tylenol Products during their pregnancies, including, *inter alia*, the quantity of Tylenol Products that they consumed during their pregnancies, the types of Tylenol Products that they used, the frequency of use and whether the Tylenol Products were used in conjunction with other medicines or treatments;
- b) Their medical condition during their pregnancies, including, *inter alia*, the circumstances that led to the use of Tylenol Products and medical conditions or symptoms that they sought to treat or alleviate, the advice sought or received from health professionals regarding the use of Tylenol Products during pregnancy and other medicines or treatments contemplated or received during the pregnancies;
- c) The relevant familial medical history and risk factors as regards the neurodevelopmental conditions mentioned in the definition of the Proposed Class, namely autism spectrum disorder and attention deficit hyperactivity disorder;

- d) Their respective children's neurodevelopmental diagnoses, as the case may be;
- e) The nature and the quantum of the damages claimed;
- f) Their communications with other members of the putative class about the proposed class action.

THE WHOLE without costs, unless contested.

Montreal, July 30, 2025

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP

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Kenvue Canada Inc.

(Court Code: BB-8098)

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ORIGINAL

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

M^{re}. Ariane Bisailon

M^{re}. Anthony Cayer

BB-8098

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