

CANADA

SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

JEAN-FRANÇOIS BOURASSA

Representative Plaintiff

No: 500-06-001004-197

v.

JANSSEN INC.

and

LABORATOIRE RIVA INC.

and

LABORATOIRE TRIANON INC.

and

PHARMASCIENCE INC.

and

SANDOZ CANADA INC.

and

SUN PHARMA CANADA INC.

and

TEVA CANADA LIMITED

Defendants

APPLICATION BY TEVA CANADA LIMITED AND SUN PHARMA CANADA INC. TO
STRIKE ALLEGATIONS AND WITHDRAW EXHIBITS FROM THE AMENDED
ORIGINATING APPLICATION
(Article 169 al. 2 CCP)

TO THE HONOURABLE PIERRE NOLLET, J.S.C., THE DEFENDANTS TEVA
CANADA LIMITED AND SUN PHARMA CANADA INC. RESPECTFULLY SUBMIT THE
FOLLOWING:

I. INTRODUCTION

1. On January 23, 2025, the representative plaintiff, Jean-François Bourassa (the **“Plaintiff”**) filed an originating application in accordance with the authorization judgment rendered on April 10, 2022, and the rectifying judgment rendered on April 18, 2024 (the **“Rectifying Judgment”**) (collectively the **“Authorization Judgment”**).

2. On March 6, 2026, the Plaintiff sought an order from the Court authorizing certain amendments to the originating application and authorizing them to file an amended originating application dated March 6, 2026 (the "**Amended Originating Application**").
3. On May 4, 2026, the Court rendered a judgment authorizing the Plaintiff's motion to amend its originating application and to file their Amended Originating Application.
4. As of the present day, the Plaintiff has not filed the Amended Originating Application.
5. Defendants Teva Canada Limited and Sun Pharma Canada Inc. (collectively the "**Teva Sun Defendants**") seek to strike allegations from the Amended Originating Application which broaden the scope of the class action authorized by the Authorization Judgment.
6. The Teva Sun Defendants are amongst the group of defendants that are generic pharmaceutical companies. By way of background, under the Canadian regulatory scheme for pharmaceutical products, innovator (brand) pharmaceutical companies invent drugs and introduce these new products to the market - after the patents on those products expire or are successfully challenged, generic pharmaceutical companies can make high-quality bio-equivalent copies of those drugs, which are brought to market at prices that are usually lower and fixed by regulation. Pharmacists are then allowed to use the generic versions of the drugs instead of the brand drugs to fill prescriptions. As such, in the Canadian regulatory scheme, the role of generic drug companies in the pharmaceutical system is not to promote products to increase the volumes of prescriptions that doctors write, but to fill an already existing market for those drugs by selling more affordable products to pharmacies.

II. THE APPLICATION TO STRIKE ALLEGATIONS AND WITHDRAW EXHIBITS

a) Striking Schedule 1 (Amended)

7. The Teva Sun Defendants seek to strike: (i) the amendments to Schedule 1 of the Authorization Judgment and (ii) all references to Schedule 1 (Amended) in the Amended Originating Application at paragraphs 8, 9.1 and footnote 2 of the Amended Originating Application.
8. In the Amended Originating Application, the Plaintiff has unilaterally expanded the list of opioid products attributed to the Defendants in Schedule 1 of the Authorization Judgment and has effectively altered the composition of the authorized class.
9. These significant amendments were made without affording the Teva Sun Defendants an opportunity to address or contest the changes to Schedule 1

(Amended) as they would have been entitled to do during the authorization hearing.

10. As a result, the Plaintiff has impermissibly and unlawfully extended the scope of the class action beyond the parameters authorized by the Court. Such actions contravene the procedural safeguards inherent in the authorization process and undermine the integrity of the class action framework by circumventing the judicial scrutiny required at this post-authorization stage.

11. The class authorized in the Authorization Judgment reads as follows :

All persons in Quebec who have been prescribed and consumed any one or more of the opioids medications identified in Schedule I attached hereto, manufactured, marketed, distributed and/or sold by the Defendants between 1996 and the present day ("**Class Period**") and who have been diagnosed by a physician as suffering or having suffered from Opioid Use Disorder.

The Class excludes any person whose claim, or any portion thereof, is in relation to the drugs OxyContin and OxyNEO, as well as in relation to opioid drugs that were solely and exclusively available for use in a hospital setting and not prescribed for use in the home.

The Class also includes the direct heirs of any deceased person who during his or her lifetime met the above description, subject to the same exclusions.

12. In the Rectifying Judgment, the Court agreed to add the medication Dilaudid (tablets) to Schedule I of the Authorization Judgment.
13. As a result of the class definition per the Authorization Judgment, to be a class member, an individual must have cumulatively (i) consumed an opioid medication identified in Schedule I and (ii) suffered from Opioid Use Disorder as a result of this consumption.
14. Schedule 1 as it stood at the time of the Rectifying Judgment forms an integral part of the Authorization Judgment and of the definition of the class.
15. However, the class mentioned at paragraph 8 of the Amended Originating Application reads as follows:

All persons in Quebec who have been prescribed and consumed any one or more of the opioid medications identified in Schedule 1 (Amended) attached hereto, manufactured, marketed, distributed and/or sold by the Defendants between 1996 and the present day ("**Class Period**") and who have been diagnosed by a physician as suffering or having suffered from Opioid Use Disorder.

The Class excludes any person's s(...) claim, or any portion thereof, (...) in relation to the drugs OxyContin or OxyNeo, as well as in relation to opioid

drugs that were solely and exclusively available for use in a hospital setting and not prescribed for use in the home.

The Class also includes the direct heirs of any deceased person who during his or her lifetime met the above description, subject to the same exclusions.

16. It is clear from the above that the Plaintiff has now taken the impermissible course of expanding the class by amending Schedule 1, and then including a reference to this amendment in the Class definition at this post-authorization stage.

b) Striking mentions of products added to Schedule 1 (Amended)

17. The Teva Sun Defendants seek to strike the amendments in paragraphs 29, 29.1, 29.2, 29.3 and 29.5 of the Amended Originating Application as those amendments refer to products added to Schedule 1 and broadened the scope of the Authorization Judgment.
18. The Teva Sun Defendants also seek to strike the mention of additional exhibits raised in paragraphs 61 and 63 of the Originating Application, and the following amendments in Schedule II of the Amended Originating Application and to withdraw their corresponding exhibits P-17-1, P-17-2, P-144-1, P-144-2, P-163-1, P-163-2, P-163-3, P-163-4, P-163-5 and P-163-6 :

<u>CO Oxycodone CR</u> <u>[Cobalt/Teva Canada]</u>	<u>EXHIBIT P-17-1</u> <u>PM (Sept. 28, 2012)</u> <u>p. 5 of 38</u>	<u>Under “Dependence/Tolerance”:</u> <u>Concerns about abuse, addiction, and diversion should not prevent the proper management of pain.</u>
<u>CO Oxycodone CR</u> <u>[Cobalt/Teva Canada]</u>	<u>EXHIBIT P-17-2</u> <u>PM (Nov. 8, 2012) p.</u> <u>5 of 40</u>	<u>Under “Dependence/Tolerance”:</u> <u>Concerns about abuse, addiction, and diversion should not prevent the proper management of pain.</u>
<u>CO Tramadol / Acet</u> <u>[Cobalt/Teva Canada]</u>	<u>EXHIBIT P-144-1</u> <u>PM (April 10, 2012)</u> <u>p. 5 of 44</u>	<u>Under “Drug Abuse, Addiction, and Dependence”:</u> <u>Concerns about abuse, addiction, and diversion should not prevent the proper management of pain.</u>
<u>CO Tramadol / Acet</u> <u>[Cobalt/Teva</u> <u>Canada]</u>	<u>EXHIBIT P-144-2</u> <u>PM (Sept. 30, 2013)</u> <u>p. 5 of 44</u>	<u>Under “Drug Abuse, Addiction, and Dependence”:</u> <u>Concerns about abuse, addiction, and diversion should not prevent the proper management of pain.</u>
<u>Taro-Tramadol ER</u> <u>[Taro Pharma,</u> <u>now part of Sun</u> <u>Pharma]</u>	<u>EXHIBIT P-163-1</u> <u>PM (Dec. 16, 2015)</u> <u>p. 6 of 39</u>	<u>Under “Drug Abuse, Addiction and Dependence”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>
<u>Taro-Tramadol</u> <u>ER</u> <u>[Taro Pharma,</u> <u>now part of Sun</u> <u>Pharma]</u>	<u>EXHIBIT P-163-2</u> <u>PM (Dec. 21, 2015)</u> <u>p. 6 of 39</u>	<u>Under “Drug Abuse, Addiction and Dependence”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>

<u>Taro-Tramadol ER</u> <u>[Taro Pharma, now part of Sun Pharma]</u>	<u>EXHIBIT P-163-3</u> <u>PM (Sept. 5, 2017</u> <u>p. 7 of 51</u>	<u>Under “Addiction, Abuse and Misuse”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>
<u>Taro-Tramadol ER</u> <u>[Taro Pharma, now part of Sun Pharma]</u>	<u>EXHIBIT P-163-4</u> <u>PM (June 22, 2018</u> <u>p. 7 of 53</u>	<u>Under “Addiction, Abuse and Misuse”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>
<u>Taro-Tramadol ER</u> <u>[Taro Pharma, now part of Sun Pharma]</u>	<u>EXHIBIT P-163-5</u> <u>PM (Oct. 13, 2020)</u> <u>p. 7 of 53</u>	<u>Under “Addiction, Abuse and Misuse”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>
<u>Taro-Tramadol ER</u> <u>[Taro Pharma, now part of Sun Pharma]</u>	<u>EXHIBIT P-163-6</u> <u>PM (Mar. 9, 2022)</u> <u>p. 7 of 54</u>	<u>Under “Addiction, Abuse and Misuse”:</u> <u>The development of addiction to opioid analgesics in properly managed patients with pain has been reported to be rare.</u>

[Extracts of Schedule II of the Amended Originating Application]

19. Through the Amended Originating Application, the Plaintiff has impermissibly and unlawfully extended the scope of the class action beyond the parameters authorized by the Court by extending the list of defendants’ opioids listed in Schedule 1 of the Authorization Judgment. The additional products included in Schedule 1 of the Authorization Judgment are mentioned in various paragraphs and exhibits throughout the Amended Originating Application.
20. These significant amendments were made without affording the Teva Sun Defendants an opportunity to address or contest the changes to Schedule 1 (Amended) as they would have been entitled to do during the authorization hearing.
21. Paragraphs 29, 29.1, 29.2, 29.3 and 29.5 read as follows :

29 Defendant Teva Canada Limited (“**Teva Canada**”), formerly Novopharm Limited, is a Canadian corporation which, during the Class Period, manufactured, marketed, distributed and/or sold opioids in Quebec, including, Codeine Phosphate, Fentora, Methoxisal-C ½, Methoxisal-C ¼, Novo-gesic C15, Novo-gesic C30, Teva-Codeine, Teva-Emtec-30, Teva-Fentanyl, Teva-HYDROmorphine, Teva-Lenoltec No. 2, Teva-Lenoltec No. 3, Teva-Lenoltec No. 4, Teva-Morphine SR, Teva-Oxycocet, Teva-Oxycodan, (...) Teva-Tramadol/Acetaminophen, Teva-Tecnal C1/2 and Teva-Tecnal C1/4.

29.1 Novopharm Limited was an Ontario corporation which amalgamated with Teva Canada in 2001, and which, during the Class Period, manufactured, marketed, distributed and/or sold opioids in Quebec, including Novo-gesic C15 and Novo-gesic C30, NOVO-Fentanyl, NOVO-Morphine SR and NOVO-Oxycodone Acet.

29.2 Rougier Pharma Inc. was a Canadian corporation, which amalgamated into Ratiopharm Inc. (formerly known as Altimed Pharma Inc.) in January 2001, and which, during the Class Period, manufactured, marketed, distributed and/or sold opioids in Quebec, including Alti-Morphine Sulfate SR, Codeine Tab 15MG, Coryphen Codeine, Methoxisal-C 1/2 Methoxisal-C 1/4 and Paveral.

29.3 Ratiopharm Inc. was a Canadian corporation, which amalgamated into Teva Canada in August 2010, and which, during the Class Period, manufactured, marketed, distributed and/or sold opioids in Quebec, including ratio-Codeine, ratio-Emtec-30, ratio-Fentanyl, ratio-Lenoltec No. 2, ratio-Lenoltec No. 3, ratio-Lenoltec No. 4, ratio-Morphine SR, ratio-Oxycocet and ratio-Oxycodan, ratio-Tecnal C1/2, ratio-Tecnal C1/4.

29.5 Cobalt Pharmaceuticals Inc. ("**Cobalt**") was an Ontario corporation which, during the Class Period, manufactured, marketed, distributed and/or sold opioids in Quebec, including CO Fentanyl, CO Oxycodone CR and CO Tramadol/Acet. In 2009, Cobalt continued in Nova Scotia and changed its name to Cobalt Pharmaceuticals Company. In 2013, the latter changed its name to Actavis Pharma Company, and in 2014, amalgamated with Actavis Pharma OTC Company and Actavis Pharma Inc. and continued as Actavis Pharma Company ("**Actavis Pharma**"). In 2015, Actavis Pharma amalgamated with 3242038 Nova Scotia Company and Actavis Canada Company and continued as Actavis Pharma Inc. ("**Actavis**").

22. Schedule II of the Amended Originating Application is named "*Extracts of Defendants' Documents Containing Misleading Information About the Subject Opioids*".
23. Schedule II of the Amended Originating Application adds mentions of product monographs for certain products added in the Amended version of Schedule 1 of the Authorization Judgment.
24. As mentioned above, the Plaintiff broadened the scope of the class action authorized by amending the list of defendants' opioids listed in Schedule I of the Authorization Judgment and this is also reflected in paragraphs 29, 29.1, 29.2, 29.3 and 29.5 and in Schedule II of the Amended Originating Application.

c) Striking all mentions of Taro Pharmaceutical Inc., which is not a named defendant

25. The Teva Sun Defendants seek to strike paragraph 28.1 of the Amended Originating Application. This new paragraph seeks to name Taro Pharmaceutical Inc. ("Taro") and include its products in the claim. However, Taro was never a named defendant in the authorized class action (see the Amended Originating Application and the Authorization Judgment).
26. Paragraph 28.1 of the Amended Originating Application reads as follows :

28.1 On April 1, 2025, Taro Pharmaceuticals Inc. ("Taro") merged with Sun Pharma Canada and became a wholly-owned entity of Sun Pharma Canada. During the Class Period, Taro manufactured, marketed, distributed and/or sold opioids in Quebec, including, Taro-Tramadol/Acet and Taro-Tramadol ER.

27. Taro was not named as a defendant at the authorization stage, and its products were never included or mentioned before the Amended Originating Application.
28. The Plaintiff is attempting to indirectly include Taro and the opioid products it manufactured in the class action at this post-authorization stage without the scrutiny of an authorization judge and without any possibility for the Teva Sun Defendants to express their position on this question as they would have at the authorization hearing. Consequently, the Plaintiff unlawfully broadened the scope of the class action authorized at this post-authorization stage.
29. This argument also applies in addition to the arguments raised at paras 16-22 militating in favours of striking the mentions of Taro-Tramadol and Taro-Tramadol ER products from Schedule II of the Amended Originating Application and withdrawing the corresponding exhibits P-163-1, P-163-2, P-163-3, P-163-4, P-163-5 and P-163-6.

d) Striking references to irrelevant litigation in the United States of America

30. The Teva Sun Defendants seek to strike the amendments in paragraphs 176 and paragraph 176.1 in their entirety, and seek the withdrawal of exhibit P-174 of the Amended Originating Application. These amendments refer to irrelevant foreign proceedings, dealing with different facts and distinct legal entities, in a completely different legal framework in which completely different rules apply, both procedurally and on the merits.
31. The amendments in paragraphs 176, paragraph 176.1 and exhibit P-174 of the Amended Originating Application relate to the outcome proceedings that arose in the United States of America (the "**American Proceedings**") and are irrelevant to the authorized questions in the Authorization Judgment.
32. Paragraphs 176 and 176.1 of the Amended Originating Application read as follows:

176 (...) Three of the most publicized cases arising from the opioid crisis involve the parent entities of Purdue Canada and Defendants Janssen and Teva Canada.

176.1 In December 2021, a jury in New York found Teva Pharmaceuticals, Ltd. and its American subsidiary Teva Pharmaceuticals USA, and its affiliates ("Teva") liable for their role in fueling the opioid crisis. Although Teva had indicated that it would appeal the decision, in November 2022, a nationwide settlement was reached where Teva agreed to pay up to US \$4.24 billion, the whole as appears from a copy of a Press Release by the New York State Attorney General, dated November 3, 2022 and an Executive Summary of National Opioid Settlements dated June 5, 2024,

communicated herewith, en liasse, as EXHIBIT P-174. Both the trial verdict and the national settlement concerned the claims made by the States.

33. The American Proceedings bear no relevance to the authorized class action at issue, which is specifically confined to individuals in Quebec who developed Opioid Use Disorder as a result of consuming certain opioid products, as defined in the class description previously outlined in this application.
34. The scope and focus of the American Proceedings are distinct and unrelated to the matters before this Court. This is particularly so in this context given the different regulatory and legal frameworks for pharmaceuticals as between Canada and the United-States of America, notably with regards to regulatory approval, marketing, promotion and sales.
35. Additionally, the American Proceedings related to different products marketed in the United-States of America. This fact is particularly relevant here, as in the present proceedings, unlike in the American Proceedings, all the products but one sold in Canada by the Teva-Sun Defendants (generic manufacturers) are generic opioid products, not branded opioid products, as appears from Schedule I of the Authorization Judgment.
36. Any attempt to incorporate elements from the American proceedings into the current case, as the Plaintiff seeks to do through the Amended Originating Application, is not only irrelevant and unwarranted, but will eventually be prejudicial.
37. Such an approach risks causing significant and irreparable harm, particularly by opening the door to discovery requests for a substantial volume of materials from the American proceedings. This would unduly complicate and prolong the litigation, contrary to the principles of proportionality and efficiency that govern class actions in Quebec.

FOR THESE REASONS, MAY IT PLEASE THIS COURT TO:

GRANT the present *Application By Defendant Teva Canada Limited and Sun Pharma Canada Inc. To Strike Allegations and Withdraw Exhibits from the Amended Originating Application*;

STRIKE from the Plaintiff's *Amended Originating Application* :

- (a) The amendments to Schedule 1 of the Authorization Judgment as well as all references to Schedule 1 (Amended) in the Amended Originating Application which are found at paragraphs 8, 9.1 and footnote 2 of the Amended Originating Application;
- (b) Paragraph 28.1 of the Amended Originating Application;

- (c) The amendments in paragraphs 29, 29.1, 29.2, 29.3 and 29.5 of the Amended Originating Application;
- (d) The amendments in paragraphs 176 of the Amended Originating Application;
- (e) Paragraph 176.1 of the Amended Originating Application;
- (f) The mention of additional exhibits raised in paragraphs 61 and 63 of the Amended Originating Application;
- (g) The amendments in Schedule II of the Amended Originating Application corresponding to exhibits P-17-1, P-17-2, P-144-1, P-144-2, P-163-1, P-163-2, P-163-3, P-163-4, P-163-5 and P-163-6.

WITHDRAW from the Plaintiff's *Amended Originating Application* :

- (a) Exhibit P-174;
- (b) Exhibit P-17-1, P-17-2, P-144-1, P-144-2, P-163-1, P-163-2, P-163-3, P-163-4, P-163-5 and P-163-6.

THE WHOLE with legal costs.

Montreal, June 15, 2026



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TAKE NOTICE that the present *Application By Defendant Teva Canada Limited and Sun Pharma Canada Inc. To Strike Allegations and Withdraw Exhibits from the Amended Originating Application* will be presented before the Honourable Justice Nolle, J.C.S., at the Superior Court at the Courthouse of Montréal, located at 1 Notre-Dame Street East, at a date and time to be determined by the Court.

GOVERN YOURSELVES ACCORDINGLY.

Montreal, June 15, 2026

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Pièces jointes: 2026-06-15 Application by Teva Canada and Sun Pharma to strike allegations and withdraw exhibits.pdf

**NOTIFICATION BY EMAIL
(Art. 134 CCP)**

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ORIGINAL

Code : BO 0323

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