

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000692-141
500-06-000741-153

DATE: November 18, 2015

BY: THE HONOURABLE SUZANNE COURCHESNE, S.C.J.

SC#500-06-000692-141

DENIS LEBEL
Petitioner

vs.

BOEHRINGER INGELHEIM (CANADA) LTD./LTEE

-and-

BOEHRINGER INGELHEIM AUSLANDSBETEILIGUNGS GMBH

-and-

BOEHRINGER INGELHEIM INTERNATIONAL GMBH

-and-

C.H. BOEHRINGER SOHN AG & CO. KG
Respondents

SC#500-06-000741-153

LIONEL WHITEDUCK
Petitioner

vs.

BOEHRINGER INGELHEIM (CANADA) LTD.

500-06-000692-141
500-06-000741-153

PAGE: 2

-and-

BOEHRINGER INGELHEIM PHARMACEUTICALS INC.

-and-

BOEHRINGER INGELHEIM INTERNATIONAL GMBH
Respondents

JUDGMENT
(ON MOTION ON CONSENT TO STAY THE CLASS ACTION PROCEEDINGS)

[1] Considering that, on or about April 22, 2014, the Petitioner Denis Lebel instituted proceedings before the Court, seeking the authorization of a class action against various Boehringer entities in relation to the drug Pradaxa® (the "**Lebel Proceedings**");

[2] Considering that, pursuant to the Lebel Proceedings, Mr. Lebel seeks to represent a group identified as follows:

"All persons residing in Quebec who have taken drug Pradaxa and their successors, assigns, family members and dependant or any other group to be determined by the Court".

[3] Considering that, on or about May 6, 2015, the Petitioner Lionel Whiteduck, instituted proceedings before the Court, seeking the authorization of a class action against various Boehringer entities in relation to Pradaxa® (the "**Whiteduck Proceedings**");

[4] Considering that, pursuant to the Whiteduck proceedings, Mr. Whiteduck seeks to represent a group identified as follows:

"All natural persons residing in Quebec who were prescribed the pharmaceutical Pradaxa (dabigatran etexilate) and who suffered damages as a result of the use of this prescription drug, and/or their family members, assigns or heirs";

[5] Considering that, by way of the present motion, the parties seek a consent order staying the Lebel Proceedings and the Whiteduck proceedings;

[6] Considering that eleven (11) different class action proceedings were filed throughout Canada against various Boehringer entities concerning Pradaxa® and that the allegations against Boehringer entities are similar in each of these proceedings (the "**Canadian Pradaxa Class Action Proceedings**");

[7] Considering that, on October 26, 2015, counsel for Boehringer and Petitioners' counsel in each of the Canadian Pradaxa Class Action Proceedings, including counsel

for Mr. Lebel and for Mr. Whiteduck, entered into a Pradaxa® Class Action Litigation Procedural Agreement (the "**Procedural Agreement**");

[8] Considering that the Procedural Agreement provides *inter alia* that:

- a) Petitioners' counsel will seek to move for certification of the Batten Class Action initiated before the Ontario Superior Court of Justice (the "**Batten Class Action**");
- b) No steps will be taken by any party in any other Pradaxa® Class Action other than the Batten Class Action prior to the final determination of the certification motion of the Batten Class Action;
- c) In the event that a final determination of the Batten class action certification motion is the certification of a national class, all of the Pradaxa® class Actions, except the Batten class Action, will be discontinued without costs; and
- d) In the event that the Batten class action certification is not a national class, the petitioners may elect to continue the prosecution of the other Canadian Class Action Proceedings, subject to the terms of the Procedural Agreement.

[9] Considering that the consent by the Boehringer entities to the motion seeking a stay of proceedings is made under reserve of their respective right to proceed with preliminary motions, including motions for declinatory exception to contest this court's jurisdiction, if the Whiteduck Proceedings or the Lebel Proceedings were to resume in accordance with the Procedural Agreement;

[10] Considering that the parties agreed on a procedural timetable concerning the Batten Class Action which provides for the certification hearing to be held in July 2016 (the "**Batten Class Action Procedural Timetable**");

[11] Considering that, on November 2, 2015, Justice Perrel of the Ontario Superior Court has scheduled a hearing on the Batten certification motion for July 25, 26 and 27, 2016;

[12] Considering that it is in the best interests of the proposed class members, including the proposed Quebec class members, that the proceedings proceed in accordance with the Procedural Agreement;

[13] Considering that the rights of Quebec putative class members are adequately protected by the Procedural Agreement;

[14] Considering that the Procedural Agreement allows for an efficient use of judicial resources, avoids the multiplication of proceedings and allows the parties to proceed in an orderly and efficient fashion with the prosecution of the Canadian Pradaxa Class Action Proceedings.

[15] **FOR THESE REASONS, THE COURT:**

[16] **GRANTS** the present Motion;

[17] **PRAYS ACT** of the Batten Class Action Procedural Timetable concerning the class action proceedings before the Ontario Superior Court of Justice (No. CV-13-475701-00-CP) which provides for the certification hearing to commence on July 25, 2016;

[18] **ORDERS** that the Lebel Proceedings (500-06-000692-141) and the Whiteduck Proceedings (500-06-000741-153) be stayed pending any further order from this Court;

[19] **ORDERS** that no steps are to be taken in the Lebel Proceedings (550-06-000692-141) and the Whiteduck Proceedings (500-06-000741-153) pending any further order of this Court;

[20] **ORDERS** Counsels to report back to this Court on the status of the Batten Class Action by no later than August 1, 2016, or before that date should any significant development or delay occur in the Batten Class Action proceedings;

[21] **RESERVES** the rights of the respective Boehringer entities to raise preliminary motions, including motions for declinatory exception to contest this court's jurisdiction, if the stay of proceedings were to be lifted and the Whiteduck Proceedings or the Lebel proceedings were to resume;

[22] **THE WHOLE WITHOUT COSTS.**



SUZANNE COURCHESNE, S.C.J.

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Date of hearing: November 18, 2015