

**SUPERIOR COURT  
(Class Action)**

C A N A D A  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

No.: 500-06-000966-198

DATE: July 11, 2019

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**PRESIDING: THE HONOURABLE JUSTICE CHANTAL TREMBLAY, J.S.C.**

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**KAREN BASAL**

Applicant

v.

**ALLERGAN INC.**  
and  
**ALLERGAN USA INC.**  
and  
**ALLERGAN PLC**  
and  
**MENTOR WORLDWIDE LLC**  
and  
**JOHNSON & JOHNSON INC.**  
and  
**IDEAL IMPLANT INCORPORATED**  
and  
**CLARION MEDICAL TECHNOLOGIES**

Defendants

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**JUDGMENT FOR PERMISSION TO DISCONTINUE THE PUTATIVE CLASS ACTION  
AGAINST IDEAL IMPLANT INCORPORATED AND CLARION MEDICAL  
TECHNOLOGIES**

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- [1] On January 3, 2019, Karen Basal filed an *Application to authorize the bringing of the class action and to be appointed the status of representative Plaintiff (Application for authorization)* seeking to represent the following class:

All consumers in Canada (alternatively in Quebec) who have received textured surface breast implants manufactured, marketed or sold by Allergan Inc., Inamed Corporation, Mentor Worldwide LLC or Ideal Implant Inc.

(hereinafter referred to as the "Class")

or any other Class to be determined by the Court

- [2] On June 20, 2019, the Applicant filed an *Application for Permission to Discontinue Against Defendants Ideal Implant Incorporated and Clarion Medical Technologies<sup>1</sup>* for the following reasons:

- a. On January 31, 2019, the CEO and President of Ideal Implant Incorporated (**Ideal**) provided Applicant with an Affidavit in which he declares that Ideal does not manufacture, market or sell textured surface breast implants. Clarion Medical Technologies (**Clarion**), who distributes Ideal's products in Canada, does not distribute textured surface breast implants. The implants manufactured by Ideal are smooth-surface, saline-filled breast implants with an internal structure and, as such, no Canadian (or Quebec residents) would be considered a member of the Class as result of products sold or distributed by Ideal or Clarion<sup>2</sup>;
- b. Ideal and Clarion were no longer mentioned in Health Canada's notice dated May 28, 2019 titled "*Health Canada suspends Allergan's licences for its Biocell breast implants after safety review concludes an increased risk of cancer*", communicated as Exhibit P-15. They were initially mentioned by Health Canada in its notice updated July 31, 2018 titled "*Breast Implants - Risk of Anaplastic Large Cell Lymphoma (BIA-ALCL)*", communicated as Exhibit P-4; and
- c. By letter dated March 28, 2019, Ideal and Clarion recognize that if at some point in the future and based on evidence that has yet to manifest itself, a woman who has smooth shell breast implants manufactured by them alleges that the breast implants in question are also defective, this will constitute a new "*fait générateur du préjudice*"<sup>3</sup>.

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<sup>1</sup> Articles 213 and 585 C.C.P.

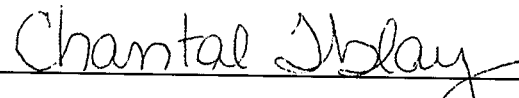
<sup>2</sup> Exhibit A-1.

<sup>3</sup> Exhibit A-2.

- [3] Based on the above, it is not in the Applicant's best interest nor in the best interest of the putative class members and in the interest of justice to continue the Application for Authorization against Ideal and Clarion;
- [4] Counsel for Applicant agrees to publish the present judgment on the English and French versions of its website <https://lpclex.com/breastimplants/> and <https://lpclex.com/fr/implantsmammaires/>, as well as on Quebec's Registry of Class Actions;
- [5] The Court finds the discontinuance to be in the interest of justice.

**FOR THESE REASONS, THE COURT:**

- [6] **GRANTS** the *Application for Permission to Discontinue Against Defendants Ideal Implant Incorporated and Clarion Medical Technologies*, as requested in the Discontinuance communicated as Exhibit A-3;
- [7] **AUTHORIZES** the Applicant to file a discontinuance in favor of Defendants Ideal Implant Incorporated and Clarion Medical Technologies within ten (10) days following the date of the present judgment;
- [8] **ORDERS** the publication of the present judgment on the English and French versions of class counsel's website <https://lpclex.com/breastimplants/> and <https://lpclex.com/fr/implantsmammaires/>, as well as on Quebec's Registry of Class Actions;
- [9] **THE WHOLE** without costs.



JUSTICE CHANTAL TREMBLAY, J.S.C.

**Me Joey Zukran**  
LPC Avocat Inc.  
Co-Counsel for Applicant

**Me Aaron Tiger**  
**Me Joel Banon**  
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Co-Counsel for Applicant

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Blake, Cassels & Graydon LLP  
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Johnson & Johnson Inc.

**Me Noah Boudreau**

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Counsel for Allergan Inc., Allergan USA Inc.  
and Allergan