

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000409-074

DATE: October 24, 2019

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

DONNA WOODS
and
RENÉ PEPIN
and
GRANT DRISDELLE
Petitioners

v.
GLAXOSMITHKLINE INC.
and
GLAXOSMITHKLINE PLC

Respondents

JUDGMENT ON DISCONTINUANCE

[1] On August 1, 2007, the present class proceeding was filed.

[2] Thereafter, the Motion for Authorization was amended twice, the most recent Re-Amended Motion for Authorization being filed on March 6, 2012, on behalf of the following group (as amended):

“All persons residing in Canada who have taken and/or purchased the drug rosiglitazone (sold under the brand name AVANDIA®, AVANDAMET®, and AVANDARYL®) since March 21st 2000 and their successors, assigns, family members, and dependants or any other group to be determined by the Court;

Alternately (or as a subclass)

All persons residing in Canada who have taken and/or purchased the drug rosiglitazone (sold under the brand name AVANDIA®, AVANDAMET®, and AVANDARYL®) since March 21st 2000 and their successors, assigns, family members, and dependants or any other group to be determined by the Court”.

[3] In this litigation, the Petitioners have alleged, *inter alia*, that Avandia, a pharmaceutical drug used to treat type II diabetes, increases the risk of cardiovascular events, including heart attacks (myocardial infarction) and congestive heart failure, and that adequate warnings were not given by the Respondents. The term Avandia refers to three drugs: Avandia, Avandamet and Avandaryl. They all contain the active ingredient rosiglitazone.

[4] Parallel class actions were commenced across Canada, namely, in the provinces of British Columbia¹, Alberta², Saskatchewan³, Manitoba⁴, Ontario⁵, Nova Scotia⁶, New Brunswick⁷, Newfoundland⁸, and Prince Edward Island⁹ – in all, 14 class actions have been commenced alleging substantially similar allegations.

[5] Following an agreement between counsel in some of these proceedings to coordinate and concentrate efforts in one jurisdiction only, the Nova Scotia proceeding of *Sweetland et al. v. GlaxoSmithKline Inc. et al.*, Hfx. No. 315567 was selected to proceed in the Supreme Court of Nova Scotia on behalf of all Canadian Class Members.

¹ *Honour v. Glaxosmithkline Inc., et al.*, Court File No. 073210.

² *Allison, et al. v. Glaxosmithkline Inc., et al.*, Court File No. 0701-08275 & *Bernales v. GlaxoSmithKline Consumer Healthcare Inc, et al.*, Court File No. 1001-14991 and Court File No. 1301-05007.

³ *Estate of Iris Edith Wall and Vic Wall v. Glaxosmithkline Inc., et al.*, Q.B.G. No. 1073/2007.

⁴ *Kernel v. Glaxosmithkline Inc., et al.*, Court File No. C107-01-53523

⁵ *Lloyd, et al. v. Glaxosmithkline Inc. et al.*, Court File No. CV-11-434420-00CP, *Waheed v. Glaxosmithkline Inc. et al.*, Court file No. CV-09-385922CP

⁶ *Sweetland et al. v. GlaxoSmithKline Inc. et al.*, Hfx. No. 315567 & *Finck v. Glaxosmithkline Inc. et al.*, Court File No. SH-300379.

⁷ *Ring v. Glaxosmithkline Inc. et al.*, Court File No. MC 405-13.

⁸ *Morris v. Glaxosmithkline Inc. et al.*, Court File No. 0597 & *Wiseman v. GlaxoSmithKline Inc. et al.*, Court File No. 2582 CP.

⁹ *Lamoureux v. Glaxosmithkline Inc., GlaxoSmithKline PLC, et al.*, Court File No. SI-GS-255577.

[6] On October 11, 2018 a national settlement was reached in the Canadian proceedings. On June 3, 2019, the Settlement Agreement was amended to make changes to the fee calculation of "Individual Claims" (sections 13.4 to 13.6) (the "Amended Settlement Agreement").

[7] On April 30, 2019, the Supreme Court of Nova Scotia released its decision approving the Amended Settlement Agreement¹⁰ and on June 13, 2019, the Settlement Approval Order was issued.

[8] Pursuant to ss. 3.3 and 3.4 of the Amended Settlement Agreement, actions of the same subject matter as the within class action that have been filed in other jurisdictions are to be discontinued, to conclude related litigation and give effect to the settlement across Canada. The Amended Settlement Agreement will not be effective and implemented until all of these discontinuances are obtained.

[9] On October 3, 2019, the Petitioners filed an application for a discontinuance seeking permission to discontinue the present legal proceedings under articles 9 al. 2, 19, 213, and 585 C.C.P.

[10] **SEEING** the above-mentioned Application, as well as, the Exhibits in support thereof produced in the Court record;

[11] **GIVEN** the consent by the Respondents to the discontinuance without legal costs;

[12] **GIVEN** the undertaking by the attorneys for the Petitioners to email all 883 people who inputted their information on its firm website www.clg.org a copy of the settlement notice (see Exhibit R-4, Schedule "B") in both English and French;

[13] **CONSIDERING** that the Court finds the discontinuance to be in the interest of justice;

PAR CES MOTIFS, LE TRIBUNAL : FOR THESE REASONS, THIS COURT:

[14] **ACCUEILLE** la présente demande; **GRANTS** the present application;

[15] **AUTORISE** les requérants à se désister de la demande pour autorisation d'exercer une action collective et d'attribuer le statut de représentant; **AUTHORIZES** the Petitioners to discontinue the Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative;

¹⁰ *Sweetland v. Glaxosmithkline Inc.*, 2019 NSSC 136.

[16] **PERMETTRE** aux requérants **ALLOW** the Petitioners to file a de produire un désistement au dossier discontinuance in the Court record within 30 de la Cour dans les 30 jours de la date days following the date of this judgment; du présent jugement;

[17] **LE TOUT**, sans frais de justice. **THE WHOLE**, without legal costs.



SUZANNE COURCHESNE, S.C.J.

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