

CANADA

(Class Action)  
SUPERIOR COURT

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

NO: 500-06-000688-149

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**M. HAMELIN**

*Petitioner*

-vs.-

**PFIZER CANADA ULC**  
and  
**PFIZER INC.**

*Respondents*

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**APPLICATION FOR AUTHORIZATION TO DISCONTINUE  
THE PRESENT CLASS ACTION**  
(Arts. 9 al. 2, 19, 213, and 585 C.C.P.)

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TO THE HONOURABLE MADAM JUSTICE CHANTAL CHATELAIN OF THE QUEBEC SUPERIOR COURT, DISTRICT OF MONTREAL, CASE-MANAGEMENT JUDGE OF THE PRESENT MATTER, YOUR PETITIONER STATES AS FOLLOWS:

1. On March 24, 2014, the Petitioner filed a Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative (the "Motion for Authorization") on behalf of the following group:

- All persons residing in Canada who have taken and/or purchased the drug, ATORVASTATIN CALCIUM (sold under the brand name LIPITOR®) since March 5<sup>th</sup> 1997, 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 Quebec who have taken and/or purchased the drug, ATORVASTATIN CALCIUM (sold under the brand name LIPITOR®) since March 5<sup>th</sup> 1997, and their successors, assigns, family members, and dependants, or any other group to be determined by the Court;

The whole as appears from the Court record;

2. In this litigation, the Petitioner has alleged *inter alia* that the Respondents designed, developed, manufactured, tested, packaged, promoted, marketed, distributed, labelled and/or sold LIPITOR as a safe and effective drug despite a wealth of existing knowledge that the drug had dangerous side effects including, but not limited to, an increased risk of developing type 2 diabetes, particularly so in postmenopausal women;
3. The Petitioner hereby requests that this Honourable Court allow her to discontinue the present class action and to discontinue her Motion for Authorization;
4. The reason for such a decision, is that the U.S. litigation, which was a precursor to, and has influenced the present one, has been dismissed as follows:
  - (a) The Federal District Court in South Carolina overseeing the multidistrict litigation (“MDL”) excluded the expert testimony of three experts (a statistician, a general causation expert, and a specific causation expert) as unreliable and granted summary judgment dismissing the MDL due to insufficient evidence that Lipitor could cause female patients to develop diabetes, as appears more fully from a copy of Case Management Order No. 100, produced herein as **Exhibit R-1**;
  - (b) On June 12, 2018, the U.S. Fourth Circuit upheld this decision holding that the lower court had handled both the expert testimony dispute and the summary judgment decision properly, as appears more fully from a copy of the judgment in *In Re: Lipitor (Atorvastatin Calcium) Marketing, Sales Practices and Products Liability Litigation (No II) MDL 2502*, produced herein as **Exhibit R-2**;
5. The undersigned attorneys also undertake to publish and to disseminate a notice informing all interested parties of the discontinuance and of the effects of article 2908 of the *Civil Code of Québec*, CQLR c CCQ-1991, in English and in French, which shall be approved by this Honourable Court, attached hereto is a draft of said notice as **Exhibit R-3**;
6. The notice is proposed to be disseminated to Class Members in the following manner:
  - (a) On the Quebec Class Actions Registry,
  - (b) On the Canadian Bar Association’s National Class Action Database,
  - (c) On the undersigned attorneys’ website at [www.clg.org](http://www.clg.org) for a period of no less than 120 days, and
  - (d) By directly emailing all persons who contacted Consumer Law Group to express interest in the present action;

**PAR CES MOTIFS, PLAISE AU FOR THESE REASONS, MAY IT PLEASE**

**TRIBUNAL :****THIS HONOURABLE COURT TO:****ACCUEILLIR** la présente demande;**GRANT** the present application;**AUTORISER** la requérante à se désister de la demande d'autorisation d'exercer une action collective et de se voir attribuer le statut de représentante;**AUTHORIZE** the Petitioner to discontinue the Motion to Authorize the Bringing of a Class Action and to Ascribe the Status of Representative;**PERMETTRE** à la requérante de produire son désistement au dossier de la Cour dans les 30 jours de la date du présent jugement;**ALLOW** the Petitioner to file her discontinuance in the court record within 15 days following the date of this judgment;**APPROUVER** le texte de l'avis public aux membres putatifs selon le texte reproduit à la pièce R-3;**APPROVE** the text of the public notice to putative members in accordance with Exhibit R-3;**ORDONNER** à la requérante de veiller à la publication de tel avis public, sous forme bilingue :**ORDER** the Petitioner to ensure that said public notice be published, in bilingual format:

- a) Au Registre des actions collectives du Québec;
- b) Sur la base de données nationale des recours collectifs de l'Association du Barreau canadien;
- c) Sur le site internet [www.clg.org](http://www.clg.org) durant au moins 120 jours consécutifs;

- a) On the Quebec Class Actions Registry;
- b) On the Canadian Bar Association's National Class Action Database;
- c) On the website [www.clg.org](http://www.clg.org) for a duration of at least 120 consecutive days;

**ORDONNER** que copie de tel avis public soit transmise par courriel à toute personne ayant manifesté aux avocats de la requérante son intérêt dans la présente action collective;**ORDER** that a copy of said public notice be sent by email to every person who expressed an interest in the present action to Petitioner's counsel;**LE TOUT** sans frais de justice.**THE WHOLE** without legal costs.

Montreal, September 13, 2019

Andrea Grass

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CONSUMER LAW GROUP INC.

Per: Me Andrea Grass

Attorneys for the Petitioner

**CONSUMER LAW GROUP INC.**

1030 rue Berri, Suite 102  
Montréal, Québec, H2L 4C3  
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SOLEMN DECLARATION

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I, Andrea Grass, attorney, practicing my profession at 1030 rue Berri, Suite 102, Montreal, Quebec, H2L 4C3, solemnly affirm:

1. That I am one of the attorneys for the Petitioner in this matter;
2. That I have taken cognizance of the Application attached and the facts alleged therein are accurate to the best of my knowledge;
3. That said Application is made in good faith.

AND I HAVE SIGNED

(s) Andrea Grass

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Andrea Grass

Solemnly affirmed before me at Montreal  
this 13<sup>th</sup> day of September, 2019

(s) Michelle Fridman # 219648

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Commissioner of Oaths  
for the judicial district of Montreal

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NOTICE OF PRESENTATION

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TO: Me Paul Prosterman  
Norton Rose Fulbright Canada LLP  
1 Place Ville Marie  
Suite 2500  
Montréal, Quebec  
H3B 1R1

Attorneys for the Respondents

TAKE NOTICE that the present application will be presentable for adjudication before the Honourable Madam Justice Chantal Chatelain of the Superior Court, at the Palais de Justice in Montreal, located at 1 Notre Dame East, in Quebec, Canada, H2Y 1B6 **at a date, at a time, and in a room to be determined** or as the Court so decides.

Montreal, September 13, 2019



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CONSUMER LAW GROUP INC.  
Per: Andrea Grass  
Attorneys for the Petitioner

**CONSUMER LAW GROUP INC.**  
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**APPLICATION FOR AUTHORIZATION TO  
DISCONTINUE THE PRESENT  
CLASS ACTION**

(Arts. 9 al. 2, 19, 213, and 585 C.C.P.)

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**COPY**

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Me Jeff Orenstein (Ext. 2)  
Me Andrea Grass (Ext. 3)  
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**BC 4013**

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Consumer Law Group