

**SUPERIOR COURT**  
(Class Actions Division)

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

N° : 500-06-000784-161

DATE : June 28, 2021

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**PRESENT: THE HONOURABLE DONALD BISSON, J.S.C. (JB4644)**

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**PATRICK THOMAS WALLACE**

Applicant

v.

**COOK MEDICAL INCORPORATED**

**COOK INCORPORATED**

**COOK (CANADA) INC.**

**COOK GROUP INC.**

**WILLIAM COOK EUROPE APS**

Defendants

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**JUDGMENT ON THE ADDITIONAL JOINT APPLICATION TO TEMPORARILY STAY  
THE CLASS ACTION**

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[1] **CONSIDERING** that on December 20, 2017<sup>1</sup>, this Court granted a temporary stay of the *Application for Authorization to Institute a Class Action and to Appoint the Status of Representative* filed on or about March 22, 2016, by Applicant Patrick Thomas Wallace (the “Quebec Action”);

[2] **CONSIDERING** that the temporary stay has expired;

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<sup>1</sup> *Wallace c. Cook Medical Incorporated*, 2017 QCCS 6261.

- [3] **CONSIDERING** the *Additional Joint Application to Temporarily Stay The Class Action*, the affidavit of Me Karim Diallo of June 16, 2021 and the Exhibits P-1 to P-11 in support thereof (the "Application to Stay");
- [4] **CONSIDERING** that the parties seek an additional temporary stay of the Quebec Action for a period ending after the final judgment in the Ontario Action;
- [5] **CONSIDERING** that the conditions justifying a stay in December 2017 still prevail;
- [6] **CONSIDERING** that the Ontario Action was filed with the Ontario Superior Court of Justice before the Quebec Action was filed in Quebec;
- [7] **CONSIDERING** that the Ontario Divisional Court decision reversed the lower court decision in part and certified the action against three of the Defendants;
- [8] **CONSIDERING** that granting the additional stay of the Quebec Action in favour of the Ontario Action is consistent with the Court's duty to protect the rights and interests of Quebec residents;
- [9] **CONSIDERING** that counsel for the parties have undertaken, prior to the termination date of the stay ordered, to advise the Court of the status of the Ontario Action and of the procedural steps that have been taken to move the litigation forward every six (6) months;
- [10] **CONSIDERING** that granting an additional stay of the Quebec Action is consistent with the principle of proportionality and avoids the possibility of contradictory judgments and multiple proceedings;
- [11] **CONSIDERING** that granting an additional stay of the Quebec Action will likewise avoid potential contradictory judgments and multiple proceedings, which will be both expensive and taxing on limited judicial resources;

**FORE THESE REASONS, THE COURT:**

- [12] **GRANTS** the Additional Joint Application to Stay the Quebec Action;
- [13] **STAYS** any and all proceedings related to the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff for a period ending sixty (60) days after the final judgment of the Ontario Action;
- [14] **ORDERS** counsel for the parties to inform the Court promptly, and at least, every six (6) months of the progress and any relevant developments in the Ontario Action;

- [15] **RESERVES** the Court discretion to lift the stay on request or on its own initiative if the circumstances so warrant;
- [16] **THE WHOLE**, without judicial costs.



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**DONALD BISSON, J.S.C.**

Me Karim Diallo  
SISKINDS DESMEULES, AVOCATS, S.E.N.C.R.L.  
Attorneys for the Applicant Patrick Thomas Wallace

Me Noah Boudreau  
FASKEN MARTINEAU DUMOULIN LLP  
Attorneys for the Defendants

Hearing date: June 18, 2021 (on file)