

SUPERIOR COURT
(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

No.: 500-06-001044-201

DATE: February 1, 2022

BY THE HONOURABLE DONALD BISSON, J.S.C.

JB4644

SARA HIMMICHE
Plaintiff

v.

DEVA CONCEPTS LLC
Defendant

JUDGMENT

(On an Application to Stay the Class Action)

[1] **CONSIDERING** that the Defendant seeks a temporary stay of the Application for *Authorization to Institute a Class Action and to Obtain the Status of Representative* which was filed on or about February 17, 2020 (Québec Class Action), with such stay to remain in place until a final resolution of the class action filed against the Defendant before the Supreme Court of British Columbia in *Penelope Ann Elton et al. v. Deva Concepts LLC* in court file number VLC-S-S-204870 (B.C. Class Action) or until such time as this Court decides otherwise;

[2] **CONSIDERING** that the B.C. Class Action was also filed by the Plaintiff's counsel and raises the same issues and includes the same members as those of the Québec Class Action;

[3] **CONSIDERING** that the Defendant is also represented by Gowling WLG (Canada) LLP in the B.C. Class Action;

[4] **CONSIDERING** that the parties, seeing the identical factual and legal theory of liability in both proceedings and the fact that the class members proposed by the

Québec Class Action are included in the class proposed by the BC Action, have come to the conclusion that in the interest of proportionality, to achieve judicial economy and to foster cost-efficiency, they should proceed in the B.C. Action first and temporarily stay the Québec Application while the parties address the B.C. Class Action;

[5] **CONSIDERING** the parties are represented by the same counsel in B.C. and Québec and in the context of the stay, counsel for the Plaintiff and for the Defendant, both in B.C. and Québec, have agreed to cooperate to ensure the efficient conduct of the proceedings and coordination of the Québec Class Action and the B.C. Class Action;

[6] **CONSIDERING** the application seeks to avoid the possibility of contradictory judgments and to ensure a sound and efficient use of judicial resources, all the while protecting the interests of the putative class members who are Québec residents;

[7] **CONSIDERING** that both proceedings concern the same parties, are based on the same facts and have the same subject;

[8] **CONSIDERING** a Case Management Judge has been appointed for the B.C. Class Action to be available to the parties, as needed;

[9] **CONSIDERING** the Québec Action has not progressed since its filing on February 17, 2020 and no procedural steps other than the present Application have been taken;

[10] **CONSIDERING** that the Court is of the view that the temporary stay of the Québec Class Action in favour of the B.C. Class Action will serve the rights and interests of Québec members in accordance with article 577 of the Code of Civil Procedure;

[11] **CONSIDERING** the Plaintiff consents to this Application;

[12] **CONSIDERING** that the parties undertake to provide this Court, on a semi-annual basis, with an update on the status of the B.C. Class Action, and to advise this court within 30 days of any significant development in the B.C. Class Action that may affect the course of the Québec Class Action;

[13] **CONSIDERING** the principles of proportionality and judicial economy;

WHEREFORE, THE COURT:

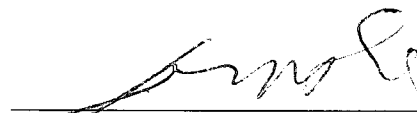
[14] **GRANTS** the Application to Temporarily Stay the Québec Class Action;

[15] **STAYS** the present Québec Class Action with such stay to remain in place until a final resolution of the class action filed against the Defendant before the Supreme Court of British Columbia in Penelope Ann Elton et al. v. Deva Concepts LLC in court file

number VLC-S-S-204870 (B.C. Class Action) or until such time as this Court decides otherwise;

[16] **ORDERS** the parties to provide this Court, on a semi-annual basis, with an update on the status of the B.C. Class Action and to advise this court within 30 days of any significant development in the B.C. Class Action that may affect the course of the Québec Action, including but not limited to providing a copy of any and all judgments rendered in the B.C. Class Action;

[17] **THE WHOLE**, without legal costs.



DONALD BISSON, J.S.C.

M^e Michael Simkin
SIMKIN LÉGAL
M^e Theodore P. Charney
CHARNEY LAWYERS
Attorneys for the Plaintiff

M^e Guy Poitras
GOWLING WLG (CANADA) S.E.N.C.R.L., S.R.L.
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Hearing date: January 27, 2022 (On file)