

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF QUÉBEC CITY

SUPERIOR COURT  
(CLASS ACTION)

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NO.: 200-06-000107-089

**ANGÈLE BROUSSEAU**

and

**JEAN-CLAUDE PICARD**

Petitioners

v.

**ABBOTT      LABORATORIES  
LIMITED**

Respondent

**NOTICE TO MEMBERS**

October 17<sup>th</sup> 2011  
(Article 1006 C.C.P.)

1. TAKE NOTICE that the bringing of a CLASS ACTION has been authorized on July 27, 2011 by judgment of the Superior Court of Québec against Abbott Laboratories Ltd. (hereinafter the Respondent), for the benefit of the natural persons forming part of the groups hereinafter described, namely:

***“All natural persons domiciled and residing in the Province of Québec who have sustained, either as direct or indirect victims, damages resulting from side effects of psychiatric disorders induced by the drug Biaxin (clarithromycin) manufactured, commercialized, and distributed by the Respondent.”***

2. The Senior Associate Chief Justice has ordered that the CLASS ACTION authorized by the said judgment shall be brought in the judicial district of Montreal.
3. For the purposes of the CLASS ACTION, the status of Representatives has been ascribed to Ms. Angèle Brousseau and Mr. Jean-Claude Picard.

4. The principal questions of law or fact to be dealt with collectively are as follows:
- a) Is the drug Biaxin (clarithromycin) harmful and does it present a risk of causing side effects of psychiatric disorders?
  - b) The determination of the intensity of Abbott's obligation to disclose the potential side effects of psychiatric disorders to the users of the drug at the time of its consumption.
  - c) Did Abbott minimize the risk of side effects of psychiatric disorders?
  - d) Are the presumptions in favour of the Petitioners and the members of the group provided in the *Civil Code of Québec* and the *Consumer Protection Act* in product liability cases opposable to Abbott?
  - e) Did Abbott commit one or more civil faults giving rise to its liability as a manufacturer and distributor toward the Representatives and the members of the group?
  - f) If Abbot is found liable, can it be held liable as a manufacturer and distributor for the damages caused by the consumption of Biaxin?
  - g) Are the Petitioner and the members of the group entitled to claim damages from Abbott as direct victims, and, if so, on what grounds and on what count?
  - h) The definition of indirect victim as it relates to the Petitioner and to the other individuals in the same situation, as members of the group.
  - i) Can the Petitioner, as an indirect victim, and the other members of the group in the same situation claim damages from Abbott, and, if so, on what grounds and on what count?
  - j) Is there a causality link between the fault(s) committed by Abbott and the damages sustained by the Petitioners and the members of the group?

- k) Can Abbott be compelled to pay punitive and exemplary damages to the Petitioners and the members of the group?

5. The conclusions sought with relation to such questions are as follows:

- (1) **GRANT** the Petitioners' Motion to institute a class action;
- (2) **CONDEMN** the Respondent to pay to the Petitioners the sum of **\$265,000.00**, subject to adjustment, namely the evaluated amount of the damages sustained, including the punitive and exemplary damages, with interest at the legal rate and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (3) **CONDEMN** the Respondent to pay to the Petitioners the sum of **\$10,000.00**, subject to adjustment, namely the evaluated amount of the damages sustained, with interest at the legal rate and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (4) **CONDEMN** the Respondent to pay to each member of the group the amount equal to the damages sustained, with interest at the legal rate and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (5) **ORDER** that the above damages be the object of individual claims, in accordance with Articles 1037 to 1040 of the *Code of Civil Procedure*;
- (6) **CONDEMN** the Respondent to any other form of relief as may be just and proper.
- (7) Any member of the group who has not requested his exclusion in the manner hereinafter indicated will be bound by any judgment to be rendered on the CLASS ACTION.
- (8) The date after which a member can no longer request his exclusion without special permission has been set at sixty (60) days from the date of publication of the present notice.
- (9) A member who has not already brought a suit in his own name may request his exclusion from the group by advising the clerk of the Superior Court of the district of Québec City by registered or certified mail before the expiry of the delay for exclusion.

- (10) Any member of the group who has brought a suit which the final judgment on the CLASS ACTION would decide will be deemed to have requested his exclusion from the group if he does not discontinue such suit before the expiry for the delay for exclusion.
- (11) A member of the group other than the Representatives or an intervener cannot be condemned to pay the costs of the CLASS ACTION.
- (12) The Court may permit a member to intervene in the CLASS ACTION if it considers such intervention useful to the group. An intervening member may be bound to submit to an examination on discovery or a medical examination at the request of the Respondent. A member who does not intervene in the CLASS ACTION can only be required to submit to an examination on discovery or a medical examination if the Court considers it useful.
- (13) For further information, please consult the full version of this notice, which is available at the Superior Court Clerk Office of the Québec City Court House, and/or contact counsel for the Representatives at:

Mtre. David Bourgoin  
BGA AVOCATS S.E.N.C.R.L.  
67, rue Sainte-Ursule  
Québec (Québec) G1R 4E7  
Telephone: 418 692-5137  
Toll Free: **1-866-523-4222**  
Fax: **1-866-616-0120**  
  
E-mail: **dbourgoin@bga-law.com**

Mtre. Alain Daigle  
GAULIN, CROTEAU, GOSSELIN,  
DAIGLE  
ET ASSOCIÉS  
400, boul. Jean-Lesage, bureau 330  
Québec (Québec) G1K 8W1  
Telephone: (418) 686-0400  
Fax: (418) 686-0408  
E-mail: **alaindaigleme@videotron.ca**