

**DUPLICATE ORIGINAL**

COURT FILE NUMBER: Q.B.G. 2809 OF 2015

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE: REGINA

PLAINTIFF(S): RONALD ALLEN FIDDLER

DEFENDANT(S): JANSSEN INC., JANSSEN PHARMACEUTICALS INC.,  
JANSSEN ORTHO LLC, JOHNSON & JOHNSON, and  
JOHNSON & JOHNSON INC.

Brought under *The Class Actions Act*

**ORDER**

Before The Honourable Mr. Justice G.G. Mitchell in chambers this 10<sup>th</sup> day of June, 2022.

**THIS APPLICATION** made by the Saskatchewan Plaintiff for an order conditionally certifying this proceeding as a class proceeding for the purpose of implementing a national settlement agreement dated November 29, 2021 (the "Settlement Agreement"), and for an order approving the Certification and Hearing Notices, and the Hearing Notice Plan, was made before The Honourable Justice Mitchell, this 10<sup>th</sup> day of June, 2022.

**UPON BEING ADVISED** that, subject to Court approval, the Plaintiffs and the Defendants have entered into the proposed Settlement Agreement attached hereto as Schedule "A", and that the Defendants have consented to the terms of this Order;

**THE COURT ORDERS THAT:**

1. The Settlement Agreement in its entirety is incorporated by reference in this Order. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.

**Certification**

2. The Saskatchewan Proceeding is certified as a class proceeding for settlement purposes only.

3. The Saskatchewan Class is certified as follows:
  - i. All persons resident in Saskatchewan (at the time of Certification Order), who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Saskatchewan at any time on or before the date of the certification order; and
  - ii. All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
4. Ronald Allen Fiddler is hereby appointed as the representative plaintiffs for the Saskatchewan Class.
5. The causes of action asserted on behalf of the Saskatchewan Class, are set out in the Statement of Claim herein and include, among others, negligence, breach of duty to warn, waiver of tort and breach of the *Consumer Protection Act*. The relief sought by the Saskatchewan Class is set forth in the Statement of Claim herein and includes general, special, punitive, aggravated and exemplary damages, accounting and disgorgement of profits, damages pursuant to the *Family Law Act*, pre-judgment interest, and costs.
6. The common issue in the Saskatchewan Proceeding for settlement purposes is: Did the Defendants breach a duty to warn of the risk of diabetic ketoacidosis, acute kidney injuries, and/or lower limb loss?

#### **Notices**

7. The short-form, press release and long-form of the Hearing Notice are hereby approved substantially in the forms attached to this Order as Schedules "B" to "D"
8. The Hearing Notice Plan is hereby approved substantially in the form attached to this Order as Schedule "E" and that the Hearing Notice shall be disseminated in accordance with the Hearing Notice Plan.
9. The Hearing Notice Plan constitutes fair and reasonable notice to the class of the settlement Approval Hearing.

#### **Claims Administrator**

10. Trilogy Class Action Services is hereby appointed as the Claims Administrator.

11. The Claims Administrator shall execute its obligations as set out in the Settlement Agreement. The Defendants shall have no liability whatsoever relating to the administration of the Settlement Agreement. This includes all aspects of the administration, including, without limitation, any distribution or investment of the Settlement Amount paid by the Claims Administrator or Class Counsel.

### **Opt Outs**

12. The Opt Out Form is approved substantially in the form attached to this Order as Schedule "F".
13. The Opt Out Deadline to opt-out of this Saskatchewan Proceeding is set for a date that is sixty (60) days after the date on which the Hearing Notice is first published.
14. A member of the Saskatchewan Class may opt-out of this Saskatchewan Proceeding by sending a complete Opt Out Form to the Claims Administrator by the Opt Out Deadline.
15. If a member of the Saskatchewan Class opts-out of this Saskatchewan Proceeding, all related Family Class Members will be deemed to have opted-out of the Saskatchewan Proceeding.
16. No person may opt-out a Class Member who is a minor or a person who is otherwise under a legal disability without leave of the court after notice to the office of the Children's Lawyer or the Public Guardian and Trustee, as the case may be.
17. No Class Member may opt-out of the Saskatchewan Proceeding after the Opt Out Deadline.
18. Within thirty (30) days of the Opt Out Deadline, Class Counsel shall provide to the Defendants a report containing the names of each person who has validly and timely opted out of the proceeding and a summary of the information delivered by such persons in accordance with the Settlement Agreement.

### **Objections**

19. The application for settlement approval in this proceeding shall be heard on September 29, 2022, at 10:00 a.m. (local Saskatchewan time) or at such other date and time as the parties

and the Court may agree to, at the Court of Queen's Bench for Saskatchewan, 2425 Victoria Avenue in Regina, Saskatchewan, or virtually as directed.

20. The Approval Hearing will be conducted: to determine whether the Settlement Agreement is fair, reasonable, and in the best interests of the Saskatchewan Class and therefore is finally approved pursuant to section 38 of *The Class Actions Act*, S.S. 2001, c.C-12.01; to enter an order of dismissal of this proceeding with prejudice and without costs; to approve the releases as specified at section 8 of the Settlement Agreement; and to rule on such other matters as the Court may deem appropriate.
21. A Class Member may object to the approval of the Settlement by sending a written objection by pre-paid mail, courier, or email to Class Counsel in accordance with the Settlement Agreement. Objections must be received before 5:00 p.m. E.S.T. time five (5) days before the date of the Approval Hearing.
22. A Class Member who wishes to object to the Settlement Approval Orders must state in their objection:
  - i. The full name, current mailing address, telephone number, and email address of the person who is objecting;
  - ii. A brief statement of the nature and reasons for the objection;
  - iii. A declaration that the person believes they are a member of the Class and the reason for that belief; and
  - iv. Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.
23. This Order is contingent upon parallel orders being made by the Superior Court of Quebec in *Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.* Court File No. 500-06-000906-186 and the Superior Court of Justice of Ontario in *Raymond Duck v Janssen Inc., Janssen Pharmaceuticals, Inc., Johnson & Johnson, and Johnson & Johnson Inc.*; commenced Court File No. CV-18-00000570-00CP and the terms of this Order shall not be effective unless and until such orders are made by the Quebec Court and the Ontario Court.

24. In the event the Settlement Agreement is not approved by the Courts, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, then the Settlement Agreement shall become null and void pursuant to its terms, and the within Order certifying this Saskatchewan Proceeding for settlement purposes is hereby set aside, without further Order of this Court.
25. There shall be no costs of this motion.

ISSUED at Regina, Saskatchewan, this 15<sup>th</sup> day of June, 2022.



\_\_\_\_\_  
Dy/Local Registrar