

CANADA

(Class Action)
SUPERIOR COURT

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-000831-160

STEVEN SCHEER

Petitioner

-vs.-

BRISTOL-MYERS SQUIBB CANADA CO.
and
OTSUKA CANADA PHARMACEUTICAL INC.

Respondents

NOTICE TO CLASS MEMBERS:
ABILIFY CANADIAN CLASS ACTION

NOTICE TO All persons residing in Canada who were prescribed and have ingested and/or used the drug, ABILIFY® (aripiprazole) before February 23, 2017 and who developed one or more of the following impulse control behaviours:

- pathological gambling (also known as gambling disorder or compulsive gambling)
- compulsive eating/ binge eating
- uncontrollable or compulsive shopping or spending, and/or
- hypersexual behaviours / sexual addiction

(the "Impulse Control Disorders")

and their successors, assigns, family members, and dependants.

1. **TAKE NOTICE** that on December 12, 2019, the Honourable Justice Pierre-C. Gagnon of the Superior Court of Québec authorized the bringing of a class action against Bristol-Myers Squibb Canada Co. and Otsuka Canada Pharmaceutical Inc. and appointed the status of representative plaintiff to Mr. Steven Scheer to act on behalf of the class of persons described above.
2. This class action will be brought in the district of Montréal.
3. For the purpose of this class action, the class representative has elected domicile at his attorneys' offices located at:

Consumer Law Group Inc.
1030 rue Berri, Suite 102
Montreal, (Québec), H2L 4C3
Telephone: (514) 266-7863
Fax: (514) 868-9690
Email: abilify@clg.org
Website: www.clg.org

4. The principal questions of facts and law that will be dealt with collectively are:
- a) Does ABILIFY® cause, exacerbate or contribute to an increased risk of dangerous side effects including having uncontrollable and irrepressible impulses to engage in harmful impulse control behaviours such as:
 - pathological gambling (also known as gambling disorder or compulsive gambling)
 - compulsive eating/ binge eating
 - uncontrollable or compulsive shopping or spending, and/or
 - hypersexual behaviours / sexual addiction(the “Impulse Control Disorders”)?
 - b) In the affirmative, did the Defendants know or should they have known about the risks of Impulse Control Disorders associated with the use of ABILIFY®?
 - c) Did the Defendants breach the applicable standard of care in failing to adequately test ABILIFY® both before and/or after placing it on the market?
 - d) Did the Defendants have a duty to warn Class Members of the risk of Impulse Control Disorders associated with the use of ABILIFY®?
 - e) Did the Defendants adequately and sufficiently advise/warn the Class Members, Health Canada, and/or their physicians about the risks of experiencing the Impulse Control Disorders associated with the use of ABILIFY®?
 - f) Are the Defendants, or some of them, liable for conspiracy to promote, market, and distribute ABILIFY® in Canada without adequate and timely warnings about the risk of Impulse Control Disorders and, if so, over what period of time?
 - g) Can causality be determined on a collective basis and, if so, can Class Members rely on a presumption to establish causation?
 - h) In the affirmative to any of the above questions, did the Defendants’ conduct engage their solidary liability toward some or all of the Class Members?
 - i) Are the Defendants liable to pay compensatory damages to some or all of the Class Members?
 - j) In the affirmative, can the compensatory damages payable to the Class Members be determined and recovered on a collective basis?

k) Are the Defendants liable to pay aggravated or punitive damages and, if so, in what amount?

5. The conclusions sought in relation to the above questions are as follows:

GRANT the class action of the Plaintiff and each of the members of the Class;

DECLARE that the Defendants failed to provide adequate warnings with regard to the dangerous side effects of ABILIFY®;

RESERVE the right of each of the members of the Class to claim future damages related to the use of ABILIFY®;

DECLARE the Defendants solidarily liable for the damages suffered by the Plaintiff and each of the members of the Class;

CONDEMN the Defendants to pay to each member of the Class a sum to be determined in compensation of the damages suffered, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay to each of the members of the Class aggravated or punitive damages, and ORDER collective recovery of these sums;

CONDEMN the Defendants to pay interest and additional indemnity on the above sums according to law from the date of service of the application to authorize a class action;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action including expert and notice fees;

RENDER any other order that this Honourable Court shall determine and that is in the interest of the members of the Class;

6. The Superior Court has not yet ruled on the merits of the class action, nor on any compensation that may be awarded to class members. The Defendants deny the allegations contained in the class action.

7. **If you wish to opt-out of the class action**, you have to notify Class Counsel (identified below) and the clerk of the Superior Court of Quebec, District of Montreal **no later than May 31st, 2020**, by registered or certified mail at this address:

Superior Court of Québec, 1 Notre-Dame street East, Montreal, H2Y 1B6.

You must state that you wish to exclude yourself from the class action of *Scheer v. Bristol-Myers Squibb Canada Co. et al.* (case number 500-06-000831-160).

8. After that date, a class member can no longer request his exclusion from the class, unless specifically authorized by the Court.
9. A class member who has not requested his exclusion is bound by any judgement that may be rendered in the class action to be instituted in the manner provided for by law, whether favourable or not.
10. **If you wish to be included** in the class action, **you have nothing to do**.
11. As a class member, you have the right to intervene in the present class action, in the manner provided for by law.
12. No class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action.
13. For further information, you may contact class counsel listed below. Your name and any information provided will be kept confidential.

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14. You may also visit the Central Registry of Class Actions at the following address: <https://www.registredesactionscollectives.quebec/en>.
15. The certification of a national class action on behalf of a similar proposed class and based on similar facts as those asserted herein is sought in the matters of (i) *Kirsh, et al. v. Bristol-Myers Squibb, et al.* before the Ontario Superior Court of Justice in the file bearing docket number CV-16-553833-00CP, and (ii) *Siobahn Snyder et al. v. Otsuka Canada Pharmaceutical, Inc. et al.* before the Court of Queen's Bench of Alberta in the file bearing docket number 1701-03651. Those proposed class actions have not yet been certified.

THE PUBLICATION OF THIS NOTICE TO CLASS MEMBERS HAS BEEN APPROVED AND ORDERED BY THE SUPERIOR COURT OF QUEBEC.