

SUPERIOR COURT
(Class Action)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N^o: 500-06-000831-160

DATE: December 12, 2019

PRESIDING: THE HONOURABLE PIERRE-C. GAGNON, J.S.C.

STEVEN SCHEER

Plaintiff

v.

BRISTOL-MYERS SQUIBB CANADA CO.

and

OTSUKA CANADA PHARMACEUTICAL INC.

Defendants

**JUDGMENT AUTHORIZING A CLASS ACTION
AND RULING ON NOTICES TO THE CLASS MEMBERS**

[1] This Court is seized with an application for authorization to institute a class action (as later amended, the *Fourth Amended Application to Authorize the Bringing of a Class Action & to Appoint the Petitioner as Representative Plaintiff*, the "Application for Authorization").

[2] The Plaintiff seeks to represent the following class, of which he is a member:

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 (the "Class" or "Class Members");

[3] The Plaintiff, Mr. Steven Scheer, wishes to institute a class action seeking compensatory and punitive damages against the Defendants on behalf of the Class based on, *inter alia*, the Defendants' alleged failure to warn against the risk of developing Impulse Control Disorders allegedly associated with the use of the drug ABILIFY®.

A. AUTHORIZATION

[4] At this stage, the allegations of the Application for Authorization and the facts contained in the 74 supporting exhibits (including two expert reports) must be taken as true.

[5] The parties agree that the authorization hearing is not the proper forum to entertain expert debates nor to rule on contradicting medical or scientific theories.

[6] The parties also agree that the proposed class action raises complex scientific and technical issues which can only be addressed in the course of an eventual trial on the merits rather than at this preliminary stage.

[7] The Court takes note that the Defendants make no admissions as to the merits of the proposed class action nor as to the underlying theory of the case and supporting evidence, as the Defendants believe that they have strong defences to assert on the merits.

[8] The parties have agreed to the following common issues of law or fact:

- 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:
 - i) pathological gambling (also known as gambling disorder or compulsive gambling);
 - ii) compulsive eating/ binge eating;

- iii) uncontrollable or compulsive shopping or spending; and/or
 - iv) 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?

[9] The Court considers that these common issues meet the criterion of paragraph 575(1) of the *Civil Code of Procedure* ("C.C.P.").

[10] As well, the Court is satisfied that the facts alleged in the Application for Authorization appear to justify the conclusions sought, thereby meeting the criterion of paragraph 575(2) C.C.P.

[11] The Class is to be composed of persons residing in all parts of Canada. By definition, these persons do not know one another. Clearly, the criterion of paragraph 575(3) C.C.P. is met.

[12] The facts alleged show that Mr. Scheer is a member of the class. As well, he has documented his capacity to properly represent the class members. The criterion of paragraph 575(4) C.C.P. is met as well.

[13] Indeed, none of the findings above are contested by the Defendants.

[14] This Court is to authorize the bringing of a class action in the form of an originating demand in damages.

B. NOTICES TO THE MEMBERS AND NOTICE PLAN

[15] As this class action is being authorized, the Court must determine the contents, date, forum and method of publication of proper notices to the members, all across Canada.

[16] Articles 579 and 580 C.C.P. are to be applied:

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| <p>579. Lorsque l'action collective est autorisée, un avis est publié ou notifié aux membres, indiquant :</p> <p>1° la description du groupe et, le cas échéant, des sous-groupes;</p> <p>2° les principales questions qui seront traitées collectivement et les conclusions recherchées qui s'y rattachent;</p> <p>3° le nom du représentant, les coordonnées de son avocat et le district dans lequel l'action collective sera exercée;</p> <p>4° le droit d'un membre de demander à intervenir à l'action collective;</p> | <p>579. When a class action is authorized, a notice is published or notified to the class members:</p> <p>(1) describing the class and any subclass;</p> <p>(2) setting out the principal issues to be dealt with collectively and the conclusions sought in relation to those issues;</p> <p>(3) stating the representative plaintiff's name, the contact information of the representative plaintiff's lawyer and the district in which the class action is to proceed;</p> <p>(4) stating that class members have the right to seek intervenor status in the class action;</p> |
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5° le droit d'un membre de s'exclure du groupe, les formalités à suivre et le délai pour s'exclure;

(5) stating that class members have the right to opt out of the class and specifying the procedure and time limit for doing so;

6° le fait qu'un membre qui n'est pas un représentant ou un intervenant ne peut être appelé à payer les frais de justice de l'action collective;

(6) stating that no class member other than the representative plaintiff or an intervenor may be required to pay legal costs arising from the class action; and

7° tout autre renseignement que le tribunal juge utile dont, entre autres, l'adresse du site Internet pour accéder au registre central des actions collectives.

(7) providing any additional information the court considers useful, including the address of the website for the central registry of class actions.

Le tribunal détermine la date, la forme et le mode de la publication en tenant compte de la nature de l'action, de la composition du groupe et de la situation géographique de ses membres; le cas échéant, l'avis indique, en les désignant nommément ou en les décrivant, ceux des membres qui seront notifiés individuellement. Il peut, s'il l'estime opportun, autoriser la publication d'un avis abrégé.

The court determines the date, form and method of publication of the notice, having regard to the nature of the class action, the composition of the class and the geographical location of its members. The notice identifies, by name or a description, any class members who are to receive individual notification. If the court sees fit, it may authorize the publication of an abbreviated notice.

580. Le membre qui entend s'exclure d'un groupe ou d'un sous-groupe est tenu d'aviser le greffier de sa décision avant l'expiration du délai d'exclusion. Étant exclu, il n'est lié par aucun jugement sur la demande du représentant.

580. A class member who wishes to opt out of the class or a subclass is required to so inform the court clerk before the time limit for doing so has expired. A person who has opted out is not bound by any judgment on the representative plaintiff's application.

Un membre est réputé exclu s'il ne se désiste pas, avant l'expiration du délai d'exclusion, d'une demande introductive d'instance qu'il a prise ayant le même objet que l'action collective.

A class member who does not discontinue an originating application having the same subject matter as the class action before the time for opting out has expired is deemed to have opted out.

[soulignement ajouté]

[emphasis added]

[17] These provisions describe the official notice (the "long notice") as well as the abbreviated notice (the "short notice"). The long notice is nowadays posted on a website for members of the public to gather relevant information about the class action as it is

being authorized. The short notice is particularly convenient for publication on electronic and print media through which the public will be reached and directed to the long notice.

[18] In this instance, the parties have also designed two proposals of a “Programmatic Display Advertisement” (actually, “catchy” very short ads) to be posted on electronic media.

[19] As well, the parties have designed the opt-out form to be used.

[20] All the above-mentioned documents have been modified to take into account comments from the Court.

[21] This is a case where the right of every member to opt out must be rigorously upheld.

[22] At this stage, it is not known whether the class action will be granted or dismissed, in part or globally, or whether a settlement will be achieved.

[23] However, it is possible that some members might succeed in proving that their use of Abilify caused them severe damages. If so, they may contemplate opting out in order to retain counsel and sue individually, in their local jurisdiction rather than in Montréal. To restate differently, they may refuse that their individual claim be decided as part of a class action.

[24] The Court needs to approve efficient notices that bring the existence of this class action to the attention to as many class members as reasonably feasible, wherever they reside in Canada.

[25] Class counsel reported that 1,489 individuals have identified themselves as members on the website of the law firm. But there are potentially thousands of other members who have yet to learn about the existence of the class action. This is not a case where one of the parties (usually a defendant) possesses a reliable list of all the members.

[26] The Court approves the contents of the following documents:

- (a) French version of the long notice (Schedule A);
- (b) English version of the long notice (Schedule B);
- (c) French version of the short notice (Schedule C);
- (d) English version of the short notice (Schedule D);
- (e) French version of the online display ads (Schedule E);
- (f) English version of the online display ads (Schedule F);

(g) French version of the opt-out form (Schedule G);

(h) English version of the opt-out form (Schedule H);

[27] The notice plan is another matter of concern.

[28] Article 579 C.C.P., cited above, requires that the notice to the members be disseminated "having regard to the nature of the class action, the composition of the class and the geographical location of its members".

[29] Again, it is acknowledged that there are potentially members of the class in every province and territory of Canada.

[30] However, the Court is told nothing about the demographics of the class: gender distribution, age distribution, regional distribution, level of education, of literacy, of income, etc. If the defendants know, they are not saying.

[31] The parties filed jointly a Notice Administration Plan dated December 4, 2019 proposed by Angeion Group, class action administrators based in Philadelphia (Pennsylvania), with a branch office in Coral Springs (Florida).

[32] The author of the proposal, Mr. Steven Weisblot, testified by conference call from Florida on December 5, 2019. He admitted that he knows very little about the demographics of the group. This is one reason why the notice plan he proposes is "*painted with a proverbial wide brush*".

[33] The plan comprises various segments, of which the main ones are summarized as follows:

(a) Outreach activities: seeking the support of Canadian organizations in order to inform their community about the class action including without limitation:

- Canadian Mental Health Association (CMHA);
- Mental Health Commission of Canada (MHCC);
- Center for Addiction and Mental Health (CAMH);
- Mood Disorder Society of Canada (MDSC);
- Schizophrenic Society of Canada (SSC);
- Responsible Gambling Council (RGC);
- National Eating Disorder Information Centre (NEDIC);

- Canadian Psychiatric Association (CPA);
 - Canadian Pharmacists Association (CPHA);
 - Canadian Health Advocates (CHA);
- (b) Paid display ads: advertising during 60 days on various websites that the members of the class are likely to visit; with monitoring by Angeion during the period;
- (c) Social campaign on Facebook: in particular, targeting members likely to search for supports groups related to Abilify or impulse control disorders;
- (d) Paid searches: identifying search terms used when searching the web for information related to the class action, and driving the users of such search terms to the other tools of the notice plan;
- (e) Print advertisements: one-time only publication of the short notice in the following print newspapers:
- Vancouver Sun;
 - Calgary Herald;
 - Montréal Gazette;
 - Journal de Montréal;
 - Toronto Star;
 - Journal de Québec;
 - Halifax Chronicle-Herald
- (f) Direct notice by email to approximately 1,489 individuals who have already contacted class counsel via the firm's website.
- (g) Firm website: posting both the short notice and the long notice on the website of Consumer Law Group (and not a separate dedicated website);

[34] For this notice administration plan, Angeion Group proposed a global fee of \$75 464 USD, being approximately \$100,000 CAD, an amount to be paid entirely by the Defendants. Notably, 58% of the total amount is to be dedicated to the traditional print media campaign.

[35] The Court is concerned by academic research indicating that fewer and fewer individuals read print newspapers regularly, even on weekends. And when they do, they pay little attention to public notices and even commercial advertisement, unless they are “experienced readers”¹.

[36] However, one must keep in mind that, very likely, many members of the class have reached an age where they still gather their news and general information in print media rather than electronic media.

[37] It is regrettable that the parties and their expert did not enquire adequately about the demographics of the class, as required by article 579 C.C.P. One way to alleviate this shortcoming is to extend the duration of the opt-out period.

[38] That being said, the notice administration plan has some creative and valid features, in particular the segment involving outreach to Canadian mental health organizations.

[39] The Court shall not seek perfection and will rather approve the notice administration plan, but with the following specifications:

- (a) Implementation of the plan is to begin on January 6, 2020 and not earlier. No notices under the plan may be sent or posted before January 6, 2020, in order to avoid confusion or lack of attention during the holiday period;
- (b) Advertisements in print media must all be published between January 6, 2020 and February 1st, 2020. The same time frame shall apply for direct notice by email.
- (c) To avoid confusion, the sole official date of notification shall be **February 1st, 2020**, regardless of the actual date when a member received notification;
- (d) The opt-out period shall be extended to 120 days. Therefore the final opt-out date shall be **May 31st, 2020**.

**FOR THESE REASONS, THE COURT POUR CES MOTIFS, LE TRIBUNAL:
HEREBY:**

[40] **GRANTS** the *Fourth Amended Application to Authorize the Bringing of a Class Action & to* [40] **ACCUEILLE** la *Fourth Amended Application to Authorize the Bringing of a Class Action & to*

¹ Option Consommateurs, *Class Actions: How can take-up rates be improved?*, Research report submitted to Innovation Science and Economic Development Canada’s Office of Consumer Affairs, June 2017, p. 53 [www.option-consommateurs.org/wp-content/uploads/2018/03/OC-2016-2017-taux-reclamation-rapport-809303-english.pdf].

Appoint the Petitioner as Representative Plaintiff;

[41] **AUTHORIZES** the bringing of a class action in the form of an application to institute proceedings in damages;

[42] **ASCRIBES** the Petitioner, Mr. Steven Scheer, the status of representative of the persons included in the class herein described as:

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;

and their successors, assigns, family members, and dependants (the “**Class**” or “**Class Members**”);

Appoint the Petitioner as Representative Plaintiff;

[41] **AUTORISE** l'exercice de l'action collective sous la forme d'une demande introductive d'instance en dommages-intérêts;

[42] **ATTRIBUE** au Demandeur, M. Steven Scheer, le statut de représentant des personnes faisant partie du groupe ci-après décrit:

Toutes les personnes résidant au Canada qui se sont fait prescrire et ont ingéré et/ou utilisé le médicament ABILIFY® (aripiprazole) avant le 23 février 2017 et qui ont développé un ou plusieurs des comportements compulsifs suivants :

- le jeu pathologique (aussi désigné comme trouble du jeu ou jeu compulsif);
- la compulsion alimentaire/l'hyperphagie;
- les achats ou dépenses incontrôlables ou compulsifs; et/ou
- les comportements hypersexuels / la dépendance sexuelle;

ainsi que leurs successeurs, leurs ayants droit, les membres de leur famille et leurs personnes à charge (le

« **Groupe** » ou les « **Membres du Groupe** ») ;

[43] **IDENTIFIES** the principle issues of fact and law to be treated collectively as the following:

- a) Does ABILIFY cause, exacerbate or contribute to an increased risk of dangerous side effects including having uncontrollable and irrepensible impulses to engage in harmful impulse control behaviours such as:
- i) pathological gambling (also known as gambling disorder or compulsive gambling);
 - ii) compulsive eating/ binge eating;
 - iii) uncontrollable or compulsive shopping or spending; and/or
 - iv) 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

[43] **IDENTIFIE** comme suit les principales questions de faits et de droit qui seront tranchées collectivement :

- a) Est-ce qu'ABILIFY cause, exacerbe ou contribue à accroître le risque d'effets secondaires dangereux, y compris des impulsions incontrôlables et irrépressibles à adopter des comportements de type compulsifs tels que :
- i) le jeu pathologique (également connu sous le nom de trouble du jeu ou jeu compulsif);
 - ii) la compulsion alimentaire/ hyperphagie;
 - iii) les achats ou dépenses incontrôlables ou compulsifs; et/ou
 - iv) les comportements hypersexuels/ dépendance sexuelle

(les « **Troubles du Contrôle des Impulsions** »)?

- b) Dans l'affirmative, les Défenderesses connaissaient-elles ou auraient-elles dû connaître les risques de Troubles du Contrôle des Impulsions associés à l'utilisation d'ABILIFY?
- c) Les Défenderesses ont-elles contrevenu à la norme de diligence applicable en omettant de tester

both before and/or after placing it on the market?

adéquatement ABILIFY avant et/ou après sa mise sur le marché?

- d) Did the Defendants have a duty to warn Class Members of the risk of Impulse Control Disorders associated with the use of Abilify?
- d) Les Défenderesses avaient-elles le devoir d'avertir les Membres du Groupe du risque de Troubles du Contrôle des Impulsions associé à l'utilisation d'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?
- e) Les Défenderesses ont-elles adéquatement et suffisamment informé les Membres du Groupe, Santé Canada et/ou leurs médecins des risques de souffrir des Impulsions associés à l'utilisation d'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?
- f) Les Défenderesses, ou certains d'entre elles, sont-elles responsables d'un complot visant à promouvoir, commercialiser et distribuer Abilify au Canada sans fournir d'avertissements adéquats et en temps opportun concernant le risque de Troubles du Contrôle des Impulsions et, si oui, sur quelle période de temps?
- g) Can causality be determined on a collective basis and, if so, can Class Members rely on a presumption to establish causation?
- g) La causalité peut-elle être déterminée sur une base collective et, le cas échéant, les Membres du Groupe peuvent-ils se fonder sur une présomption pour établir le lien de causalité?
- 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?
- h) En cas de réponse positive à l'une ou l'autre des questions ci-dessus, la conduite des Défenderesses engage-t-elle leur responsabilité solidaire envers certains ou tous les Membres du Groupe?

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| <p>i) Are the Defendants liable to pay compensatory damages to some or all of the Class Members?</p> <p>j) In the affirmative, can the compensatory damages payable to the Class Members be determined and recovered on a collective basis?</p> <p>k) Are the Defendants liable to pay aggravated or punitive damages and, if so, in what amount?</p> | <p>i) Les Défenderesses sont-elles tenues de verser des dommages-intérêts compensatoires à certains ou à tous les Membres du Groupe?</p> <p>j) Dans l'affirmative, les dommages-intérêts compensatoires payables aux Membres du Groupe peuvent-ils être déterminés et recouverts sur une base collective?</p> <p>k) Les Défenderesses sont-elles tenus de payer des dommages-intérêts majorés ou punitifs et, dans l'affirmative, de quel montant?</p> |
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[44] **IDENTIFIES** the conclusions sought by the class action to be instituted 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 Petitioner 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

[44] **IDENTIFIE** les conclusions recherchées dans le cadre de l'action collective à être instituée comme suit :

ACCUEILLIR l'action collective du Demandeur et de chacun des membres du Groupe;

DÉCLARER que les Défenderesses n'ont pas fourni les avertissements adéquats en ce qui concerne les effets secondaires dangereux d'ABILIFY;

RÉSERVER le droit pour chacun des Membres du Groupe de réclamer des dommages-intérêts futurs liés à l'utilisation d'ABILIFY;

DÉCLARER les Défenderesses solidairement responsables du préjudice subi par le Demandeur et chacun des Membres du Groupe;

CONDAMNER les Défenderesses à verser à chacun des Membres du Groupe une somme à déterminer en réparation du préjudice subi, et

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;

[45] **DECLARES** that all members of the Class that have not requested their exclusion, shall be bound by any judgment to be rendered on the

ORDONNER le recouvrement collectif de ces sommes;

CONDAMNER les Défenderesses à payer à chacun des Membres du Groupe des dommages-intérêts majorés ou punitifs, et ORDONNER le recouvrement collectif de ces sommes;

CONDAMNER les Défenderesses à payer les intérêts et l'indemnité additionnelle prévus à la loi sur les sommes ci-dessus à compter de la date de signification de la demande d'autorisation d'exercer une action collective;

ORDONNER aux Défenderesses de déposer au greffe de la Cour la totalité des sommes qui font partie du recouvrement collectif, avec intérêts et frais de justice;

ORDONNER que les réclamations des membres individuels du Groupe fassent l'objet d'une liquidation collective si la preuve le permet et sinon, d'une liquidation individuelle;

CONDAMNER les Défenderesses à supporter les frais de la présente action, y compris les frais d'expertise et de publication d'avis;

RENDRE toute autre ordonnance que cette honorable Cour déterminera et qui est dans l'intérêt des Membres du Groupe;

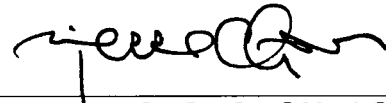
[45] **DÉCLARE** que tous les Membres du Groupe qui n'auront pas demandé leur exclusion seront liés par tout jugement à intervenir sur

class action to be instituted in the manner provided for by the law;

l'action collective à être intentée, de la manière prévue par la loi;

- [46] **SETS** the official date of notice at **February 1st, 2020** notwithstanding the date when an individual member received prior notification of any of the Notices;
- [46] **FIXE** au **1^{er} février 2020** la date officielle d'avis, sans égard à la date antérieure à laquelle un membre individuel aura reçu notification de l'un quelconque des Avis;
- [47] **SETS** the delay of exclusion at **May 31st, 2020** being 120 days from the official date of notice (February 1st, 2020), date upon which the members of the Class who have not exercised their means of exclusion shall be bound by any judgment to be rendered herein;
- [47] **FIXE** le délai d'exclusion au **31 mai 2020** soit 120 jours après la date officielle d'avis (1^{er} février 2020), délai à l'expiration duquel les membres qui ne se seront pas prévalus des moyens d'exclusion seront liés par tout jugement à intervenir;
- [48] **APPROVES** the French and English versions of the short-form and long-form notices to the Class Members substantially in the form of the notices attached as Schedules A, B, C and D, as well as of the online display ads attached as Schedules E and F (altogether, the "Notices");
- [48] **APPROUVE** les versions françaises et anglaises des avis aux Membres du groupe abrégés et détaillés, essentiellement sous la forme des avis joints en Annexes A, B, C et D, ainsi que des annonces pour supports électroniques joints en Annexes E et F (collectivement, les « **Avis** »);
- [49] **ORDERS** that the Notices shall be published and disseminated in accordance with the notice administration plan dated December 4, 2019 by Angeion Group, attached as Schedule I and in conformity with these additional specifications:
- [49] **ORDONNE** que les Avis soient publiés et disséminés conformément au « *notice administration plan* » daté du 4 décembre 2019 par Angeion Group, joint en Annexe I et conformément aux spécifications additionnelles :
- (a) not before January 6, 2020;
- (a) pas avant le 6 janvier 2020;
- (b) at latest by February 1st, 2020;
- (b) au plus tard le 1^{er} février 2020;

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| <p>[50] ORDERS the parties to cause that an officer of Angeion Group file a written statement, by February 17, 2020 at latest, certifying that the notice administration plan has been entirely and adequately performed;</p> | <p>[50] ORDONNE aux parties de veiller à ce qu'un officier d'Angeion Group produise une déclaration écrite, au plus tard le 17 février 2020, certifiant que le « <i>notice administration plan</i> » a été exécuté entièrement et adéquatement;</p> |
| <p>[51] DECLARES that the Defendants shall bear all costs associated with said notice administration plan;</p> | <p>[51] DÉCLARE que les Défenderesses doivent assumer tous les frais liés au « <i>notice administration plan</i> »;</p> |
| <p>[52] APPROVES the form and content of the Opt-Out forms attached as Schedules G and H;</p> | <p>[52] APPROUVE la forme et le contenu des Formulaires d'exclusion joints en Annexes G et H;</p> |
| <p>[53] DETERMINES that the class action is to be instituted in the district of Montréal;</p> | <p>[53] DÉTERMINE que l'action collective doit être introduite dans le district de Montréal;</p> |
| <p>[54] THE WHOLE with costs to follow suit.</p> | <p>[54] LE TOUT avec frais de justice à suivre.</p> |



PIERRE C.-GAGNON, J.S.C.

Mtre. Jeff Orenstein
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