

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
JUSTICE E.M. MORGAN)
MONDAY, THE 4th
DAY OF NOVEMBER, 2024

B E T W E E N:

(Court Seal)

MATTHEW KIRSH and GAYLE KIRSH

Plaintiffs

– and –

BRISTOL-MYERS SQUIBB, BRISTOL-MYERS SQUIBB CANADA CO./LA SOCIÉTÉ
BRISTOL-MYERS SQUIBB, OTSUKA PHARMACEUTICAL CO., LTD., OTSUKA
CANADA PHARMACEUTICAL INC., OTSUKA AMERICA PHARMACEUTICAL, INC.,
OTSUKA AMERICA, INC., OTSUKA MARYLAND MEDICINAL LABORATORIES, INC.,
and OTSUKA PHARMACEUTICAL DEVELOPMENT & COMMERCIALIZATION, INC., H.
LUNDBECK A/S, and LUNDBECK CANADA INC.

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

THIS MOTION, made by the Plaintiffs, for *inter alia*, an Order fixing the date of the Settlement Approval Hearing, approving the form, content and the manner of dissemination of the Notice of Settlement Approval Hearing and Certification of this action, appointing Dewar Communications Inc. as Administrator of the Notices, and directing that MNP Ltd. be appointed as Claims Administrator to coordinate the Notice of Settlement Approval Hearings was heard in writing this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the materials filed, including the Settlement Agreement, dated September 3, 2024 attached as Schedule “A” to this Order; and;

ON BEING ADVISED that the Defendants consent to this Order;

1. **THIS COURT ORDERS** that except as otherwise stated, the capitalized terms in this Order have the definitions set out in the Settlement Agreement;
2. **THIS COURT ORDERS** that the Settlement Approval Hearing shall take place on a date and time to be set by the court;
3. **THIS COURT ORDERS** that the form and content of the Notice of Settlement Approval Hearings substantially in the forms attached as Schedules “B” and “C” (the “Short Form Notices”), Schedules “D” and “E” (the “Long Form Notices”), and the press releases substantially in the form attached as Schedule “F” (the “Press Release”) are hereby approved;
4. **THIS COURT ORDERS** that the Notice of Settlement Approval Hearing and Press Releases shall be published and disseminated in accordance with the Notice Plan attached as Schedule “G”;
5. **THIS COURT ORDERS** that the form of the Notice of Settlement Approval Hearings and Press Releases, and the manner of their dissemination as set out in the Notice Plan, constitute sufficient notice to all persons entitled to notice and satisfies the requirements of notice under section 17 and 19 of the *CPA*;
6. **THIS COURT ORDERS** that Abilify Maintena Class Members may opt out of the Settlement by sending a signed Opt Out Form by mail, courier or facsimile to the Claims

Administrator in the form attached as Schedule “H” and “I” (the “Opt Out Forms”) by the Opt Out Deadline;

7. **THIS COURT ORDERS** that the opt out rights of Abilify Class Members shall be dealt with in accordance with paragraph 7 of the Settlement Agreement.

8. **THIS COURT ORDERS** that any Class Member in this action who does not opt out of this action by the Opt Out Deadline and in accordance with the Settlement Agreement may not subsequently opt out without leave of court, and will be bound by the Settlement and/or any subsequent court decision or any settlement reached by the parties and approved by the court;

9. **THIS COURT ORDERS** that any objector who wishes to appear before the court at the Settlement Approval Hearing must send a notice of intention to appear in writing, which should be postmarked, served, filed and be received by the Claims Administrator at least ten (10) days prior to the said Settlement Approval Hearing. Such notice of intention to appear should include the name, address, and telephone number of the Class Member and any lawyer who will appear on his or her behalf, if applicable;

10. **THIS COURT ORDERS** that, within 5 days of the expiration of the Opt Out Deadline and the Objection Deadline, the Claims Administrator shall provide to the Parties, through their counsel, an Opt Out and Objection Report advising as to the following information in respect of each Class Member, if any, who has opted out or objected to the Settlement:

- i. the Class Member’s full name, current address, telephone number and email address;
- ii. the stated reasons the Class Member is seeking to opt out or object, if known; and

- iii. a copy of all information provided by that Class Member in the opting-out or objections process, including the Opt Out Form or written objection.

11. **THIS COURT ORDERS THAT** the Defendants shall pay Notice Expenses and Claims Administration Expenses before approval of the Settlement, such expenses to be deducted from the Settlement Amount payable if the Settlement is approved. In the event that the Settlement is not approved, the Defendants shall bear the Notice Expenses as well as all Claims Administration Expenses up until the date of termination of the Settlement, such costs being non-refundable to the Defendants;

12. **THIS COURT ORDERS** that Dewar Communications Inc. be appointed as Administrator of the Notices;

13. **THIS COURT ORDERS** that MNP Ltd. be appointed as Claims Administrator to administer the proposed Settlement, including processing opt outs and coordinating the Notice of Settlement Approval Hearings;

14. **THIS COURT ORDERS** that if the Settlement Agreement is not approved, if it is terminated in accordance with its terms or otherwise fails to take effect for any reason, this Order, and all Opt Out Forms delivered pursuant to this Order, shall be set aside and declared null and void and of no force or effect, without the need for any further order of this Court.

15. **THIS COURT ORDERS** that there be no costs on this consent motion.



Morgan J.

MATTHEW KIRSH, et al.
Plaintiffs

-and-

BRISTOL-MYERS SQUIBB, et al.
Defendants

Court File No.: CV-16-553833-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED IN
TORONTO

ORDER

ROCHON GENOVA LLP

Barristers • Avocats

121 Richmond Street West, Suite 900

Toronto, ON M5H 2K1

Joel P. Rochon (LSO #: 28222Q)

Golnaz Nayerahmadi (LSO #: 68204C)

Sarah J. Fiddes (LSO #: 84897H)

Tel: 416.363.1867

Fax: 416.363.0263

Lawyers for the Plaintiffs