

Court File No. CV-15-527310-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
) _____ DAY, THE th
JUSTICE P. PERELL) DAY OF _____, 2020

B E T W E E N:

SUSAN VESTER and DARIN VESTER

Plaintiffs

and

BOSTON SCIENTIFIC LTD. and BOSTON SCIENTIFIC CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(CERTIFICATION AMENDMENT)**

THIS MOTION, made by the Plaintiffs for an Order amending the Certification Order of Justice Perell dated February 17, 2017, was heard this day at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

ON READING the materials filed on this motion and on consent of the Parties;

1. **THIS COURT ORDERS** that, except as otherwise specified in, or as modified by, this Order, capitalized terms used herein shall have the meaning ascribed to them in the Settlement Agreement concluded on December 20, 2019 (“Settlement Agreement”).

2. **THIS COURT ORDERS** that the definition of the class in the Certification Order dated February 17, 2017 (attached hereto as Schedule “A”) be amended to provide for an expanded class as follows:

- a. All persons resident in Canada who have been implanted with a BSC Transvaginal Mesh Device (as defined in the Settlement Agreement) at any time on or before the date of this Order (the “Primary Class”);
- b. All persons resident in Canada who by virtue of a personal relationship to one or more such persons described in (a) above, having standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990, c F 3 or analogous provincial legislation or at common law (the “Family Class”).

3. **THIS COURT ORDERS** that:

- a. The only individuals who may exclude themselves from the class are:
 - i. persons who were or are implanted with a BSC Transvaginal Mesh Device after February 17, 2017 and on or before the date of this Order but who were neither Class Members nor Opt Outs (both as defined in the Settlement Agreement) prior to the Certification Amendment Order; and
 - ii. persons who have standing in this action by virtue of a personal relationship with one or more persons described in paragraph 3a(i) above but who were neither Class Members nor Opt Outs prior to the Certification Amendment Order;

- b. persons described in paragraph 3a above may exclude themselves from the Class by exercising their right to opt out by submitting a complete and signed Opt Out Form to Siskinds LLP in accordance with the Hearing Notice Order, by the Opt Out Deadline (as defined in the Settlement Agreement);
- c. no person who was implanted with a BSC Transvaginal Mesh Device on or before February 17, 2017, and no person who has standing in this action by virtue of a personal relationship with one or more such persons, may exclude themselves from the Class;
- d. the Opt Out Form is approved substantially in the form attached as Schedule “B”;
and,
- e. a person eligible to opt out and who opts out of this class proceeding in the manner provided for in this Order shall be an Opt Out and shall not be a Class Member.

THE HONOURABLE JUSTICE P. PERELL