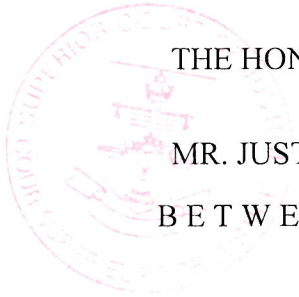


ONTARIO
SUPERIOR COURT OF JUSTICE



THE HONOURABLE

MR. JUSTICE P. PERELL

B E T W E E N :

) FRIDAY , THE 17th

)

)

) DAY OF FEBRUARY, 2017

SUSAN VESTER and DARIN VESTER

Plaintiffs

- and -

BOSTON SCIENTIFIC LTD. and BOSTON SCIENTIFIC CORPORATION

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER
(CERTIFICATION)

THIS MOTION, made by the Plaintiffs for an order that this action be certified pursuant to the *Class Proceedings Act, 1992*, SO 1992, c. 6, was heard on November 23-24, 2015 and January 30-31, 2017, at Osgoode Hall, 130 Queen Street West, Toronto, ON M5H 2N5.

ON READING the materials filed by the Plaintiffs and by the Defendants and on hearing the submissions of counsel for those parties, and for Reasons released this day:

1. THIS COURT ORDERS that the within action be certified as a class proceeding pursuant to the *Class Proceedings Act, 1992*, SO 1992;

2. THIS COURT ORDERS that the Class is defined as:

- (a) all persons resident in Canada who have been implanted with the transvaginal mesh products listed below at any time on or before the date of the certification order, and which products were designed, developed, tested, manufactured, licensed, assembled, labeled, marketed, instructed

for use, distributed and/or sold or otherwise placed into the stream of commerce by the Defendants:

- (i) Advantage System, including Advantage Fit System;
 - (ii) Obtryx Transobturator Mid-Urethral Sling and Obtryx II;
 - (iii) Lynx Suprapubic Mid-Urethral Sling System;
 - (iv) Solyx Single Incision Sling (SIS) System;
 - (v) Pinnacle Pelvic Floor Repair Kit, anterior/apical and posterior configuration; and
 - (vi) Uphold Vaginal Support System.
- (b) all persons resident in Canada who by virtue of a personal relationship to one or more of such persons described in (a) above, have 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.

3. THIS COURT ORDERS that the within proceeding is certified on the basis of the following common issues:

- (a) Does embrittlement and degradation of HGX-030-01 make it unfit for use in the female pelvis for the treatment of POP or SUI?
- (b) If the answer to (a) is “yes,” then is use of HGX-030-01 in the Defendants’ transvaginal mesh products a design defect?
- (c) If the answer to (b) is “yes,” then did the Defendants breach the standard of care with respect to the design, development and/or testing of their transvaginal mesh products?
- (d) Does embrittlement and degradation of HGX-030-01 after it is implanted in the female pelvis for the treatment of POP and SUI cause

complications including erosion, extrusion, mesh contraction, hardening and/or shrinking, scarring, pain including dyspareunia, organ perforation, pelvic floor damage, incontinence, and psychological damage?

- (e) Did the Defendants' failure to disclose in their DFU that HGX-030-01 degrades constitute a breach of their duty to warn?
- (f) If the answer to (e) is "yes," when did the breach of duty occur?
- (g) Did the Defendants' failure to disclose in their DFU that degradation of HGX-030-01 causes complications including erosion, extrusion, mesh contraction, hardening and/or shrinking, scarring, pain including dyspareunia, organ perforation, pelvic floor damage, incontinence, and psychological damage constitute a breach of their duty to warn?
- (h) If the answer to (g) is "yes," when did the breach of duty occur?
- (i) Did the Defendants' failure to disclose in their DFU that the removal of their transvaginal mesh to remediate complications might not be possible and if possible could require multiple surgeries constitute a breach of the duty to warn?
- (j) If the answer to (i) is "yes," when did the breach of duty occur?
- (k) If the answer(s) of any of questions (c), (e), (g), or (i) is "yes" would the Defendants' breach of duty justify an award of exemplary or punitive damages?

4. THIS COURT ORDERS that Susan Vester and Darin Vester be appointed as the representative plaintiffs in the within proceeding;

5. THIS COURT ORDERS that any deficiencies in the litigation plan, attached hereto as schedule "A", shall be resolved by case management as the litigation progresses;

6. THIS COURT ORDERS that the short-form and long-form notice of certification (together, the "Notice of Certification") are hereby approved substantially in the form attached respectively hereto as Schedules "B" and "C".

7. THIS COURT ORDERS that the plan for disseminating the Notice of Certification (the "Notice Plan") is hereby approved substantially in the form attached hereto as Schedule "D" and that the Notice of Certification shall be disseminated in accordance with the Notice Plan.

8. THIS COURT ORDERS that:

- (a) The opt-out form is approved substantially in the form attached as Schedule "E";
- (b) A person may opt-out of this class proceeding by sending a written election in the manner set out in the long-form notice and the opt-out form;
- (c) No person may opt out of this class proceeding after 60 days after the first publication of the Notice of Certification in accordance with the Notice Plan; and
- (d) A person who opts-out of the class proceeding in the manner set out in the long-form notice and the opt-out form shall not be a class member on or after the date that such person opts-out of the proceeding.

9. THIS COURT ORDERS that the costs of Notice (inclusive of publication and professional fees) are to be divided equally between the Plaintiffs and the Defendants.

Date: June 14, 2017

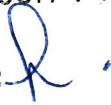


THE HONOURABLE JUSTICE PERELL

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

JUN 14 2017

PER / PAR:



SCHEDULE "A"

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

ONTARIO
SUPERIOR COURT OF JUSTICE

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*

PLAINTIFFS' LITIGATION PLAN

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**ARTICLE ONE
DEFINITIONS**

1.1 In this Plan,

(1) **“Class”** means:

(a) All persons resident in Canada who have been implanted with the transvaginal mesh products listed below at any time on or before February 17, 2017, and which products were designed, developed, tested, manufactured, licensed, assembled, labeled, marketed, instructed for use, distributed and/or sold or otherwise placed into the stream of commerce by the defendants:

(i) Advantage System, including Advantage Fit System;

(ii) Obtryx Transobturator Mid-Urethral Sling;

(iii) Lynx Suprapubic Mid-Urethral Sling System;

(iv) Solyx Single Incision Sling (SIS);

(v) Pinnacle Pelvic Floor Repair Kit, anterior/apical and posterior configuration; and

(vi) Uphold Vaginal Support System.

(b) All persons resident in Canada who by virtue of a personal relationship to one or more of such persons described in (a) above, have standing in this action pursuant to section 61(1) of the *Family Law Act*, RSO 1990 c F3 or analogous provincial legislation or at common law.

(2) **“Class Action”** means, the within action, currently Ontario Superior Court of Justice Action Court File No. CV-15-527310-00CP (Toronto);

(3) **“Class Counsel”** means Siskinds LLP;

- (4) “**Court**” means the Ontario Superior Court of Justice;
- (5) “**CPA**” means the *Class Proceedings Act, 1992*, SO 1992, c 6;
- (6) “**Notice of Certification**” shall be the form of notice approved by the Court on the motion contemplated in paragraph 3.3(1);
- (7) “**Notice Plan**” shall be the means by which the Notice of Certification will be disseminated as approved by the Court as outlined in paragraph 3.3(2);
- (8) “**Notice of Resolution**” shall have the meaning attributed to it in paragraph 6.1;
- (9) “**Parties**” means the Defendants and the Plaintiffs;
- (10) “**Rules**” means the *Rules of Civil Procedure* RRO 1990, Reg 194; and
- (11) “**Transvaginal Mesh**” means surgical mesh that is implanted in women and used for urogynecologic procedures including pelvic organ prolapse (POP) and stress urinary incontinence (SUI).

ARTICLE TWO

REPORTING TO AND COMMUNICATING WITH CLASS MEMBERS

- 2.1 Class Counsel will regularly report to the Class through their firm website and as otherwise provided in this Litigation Plan. The website shall include an electronic form that persons can complete in order to receive additional information about the Class Action.
- 2.2 Class Counsel will designate a person to answer communications from putative Class members concerning the Class Action. Class Counsel is able to communicate with French-speaking class members.

**ARTICLE THREE
LITIGATION SCHEDULE PRIOR TO THE COMMON ISSUES TRIAL**

- 3.1 If the Plaintiffs are successful at the certification motion, the Parties shall attend a case management conference to set a schedule for the remaining steps in the Class Action, for:
- (a) completion of pleadings;
 - (b) the documentary production and delivery of affidavits of documents by the parties;
 - (c) the examinations for discovery;
 - (d) the delivery of expert reports; and
 - (e) the trial of the common issues.
- 3.2 The Plaintiffs or the Defendants may also ask that the litigation schedule be amended from time to time as may be required.

Notice of Certification

- 3.3 The Plaintiffs will ask the Court to:
- (1) Settle the form and content of the Notice of Certification (the “Notice of Certification”); and
 - (2) Settle the means by which the Notice of Certification will be disseminated to Class members (the “Notice Plan”).
- 3.4 The Plaintiffs propose that the Notice Plan will provide, among other things that:
- (1) The Notice of Certification will be sent by email or direct mail by Class Counsel to any person who has inquired about the Class Action or who has registered to receive updates on Class Counsel’s website. Where the person is located in

Quebec (or otherwise specifically requests), the Notice of Certification will be sent in English and French;

- (2) The Notice of Certification will be posted by Class Counsel, in English and French, on their website;
- (3) The Notice of Certification will be disseminated to all hospitals in Canada which have purchased products from Boston Scientific together with a request that the Notice of Certification be forwarded to all patients who have received the Transvaginal Mesh listed in the Class definition in paragraph 1.1(1)(a) or any of them;
- (4) The Notice of Certification will also be clearly and prominently posted by the Defendants, in English and French, on their website;
- (5) The Notice of Certification will be published once, in either English or French, as is appropriate for each newspaper, in:
 - (i) Globe and Mail (National Edition)—1/6 page advertisement in the Legal section, weekend placement.
 - (ii) Le Journal de Quebec—1/6 page advertisement in the News section, weekend placement.
 - (iii) La Presse—1/6 page advertisement in the News section, weekend placement.
 - (iv) Montreal Gazette—1/6 page advertisement in the News section, weekend placement.

- (v) National Post—1/6 page advertisement in the News section, weekend placement.
- (vi) Toronto Star—1/7 page advertisement in the News section, weekend placement.
- (6) A national press release with form and content to be agreed by the Parties and approved by the Court will be issued in English and French through Canada Newswire; and
- (7) The Notice of Certification will be provided by Class Counsel to any person who requests it.

3.5 The Plaintiffs and Defendants will each pay half of the total costs of the Notice Plan.

Opt-Out Procedure

3.6 The Notice of Certification shall advise putative Class members of their right to opt-out of the Class Action.

3.7 The following opt-out procedure is proposed:

- (1) A person may opt-out of the Class Action by sending a written election to opt-out to Class Counsel at an address to be specified in the Notice of Certification. The written election must be signed by the putative Class member and contain a statement to the effect that the putative Class member wants to be excluded from the Class Action;
- (2) Written elections to opt-out must be postmarked no later than sixty (60) days after the Notice of Certification is first published;

- (3) No person may opt out a minor or a person who is mentally incapable without leave of the Court after notice to the Children's Lawyer and/or the Public Guardian and Trustee, as appropriate;
- (4) If a Class member under part (a) of the class definition opts out of the Class Action, all derivative Class members under part (b) of the class definition will be deemed to have also opted out; and
- (5) Within thirty (30) days of the opt-out deadline, Class Counsel will provide a report to the Defendants and the Court listing the names of all persons who timely requested to opt out of the Class Action and their reasons for doing so, to the extent known.

Document Exchange and Management

- 3.8 The Defendants possess documents relating to the common issues, such as applications and reports to Health Canada. These documents will be produced to Class Counsel through the normal production, cross-examination and examination for discovery processes. The scope of documentary discovery will be subject to discussion between the parties, and where required, direction from the Court will be sought. The Plaintiffs will produce all relevant documents in their possession in the same manner.
- 3.9 Within sixty (60) days after the close of pleadings or as otherwise agreed to by the Parties, the Parties shall attend a "meet and confer" in order to develop a discovery plan in accordance with Rule 29.1 of the *Rules*. In developing the discovery plan, the Parties shall consult the Sedona Canada Principles Addressing Electronic Discovery.

- 3.10 In accordance with Rule 30 of the *Rules* and the discovery plan, the Parties shall provide documentary discovery.
- 3.11 Class Counsel are able to handle the intake and organization of the documents that will likely be produced by the Defendants and will use data management systems and specialized software to organize, code and manage the documents.
- 3.12 The same data management systems will be used to organize and manage all relevant documents in the possession of the Plaintiffs.

Examinations for Discovery

- 3.13 The Parties shall conduct examinations for discovery on the common issues in accordance with Rule 31 of the *Rules*.
- 3.14 Depending on documentary discovery, the Plaintiffs will examine for discovery at least one representative from each of the Defendants unless otherwise agreed but cannot, until the production of documents has been completed, estimate the time required for each examination or the number of examinations required.
- 3.15 The Plaintiffs may ask the Court for an Order allowing them to examine multiple representatives of one or more Defendant and/or for an Order allowing more than seven (7) hours of examination if the Parties cannot otherwise agree.
- 3.16 The Parties may elect to conduct examination for discovery by written questions in accordance with Rule 35 of the *Rules*.
- 3.17 The Parties may agree to conduct some or all of the examinations for discovery by way of video conferencing.

Expert Reports

3.18 The Plaintiffs will retain experts to provide assistance as may be required to Class Counsel and to produce reports as may be required. All expert reports will be exchanged in accordance with the directions of the case management judge with respect to scheduling, following completion of examinations for discovery, unless the Parties agree or the Court orders otherwise.

Motions

3.19 Although no motions other than those indicated in this Plan are currently anticipated by the Plaintiffs, additional motions may be required and will be scheduled as the case progresses in conference with the Defendants and the case management judge. For example, the examinations for discovery may result in the need for motions relating to undertakings and refusals.

Mediation

3.20 The Plaintiffs will participate in mediation if the Defendants are prepared to do so.

Clarification of the Common Issues

3.21 Following certification, examinations for discovery and the exchange of expert opinions and before the trial of the common issues, the Plaintiffs or the Defendants may ask the Court for an Order to clarify and/or redefine the common issues, if required.

Pre-Trial Conference

3.22 If it is deemed necessary by the Court, the parties will attend a pre-trial conference in advance of a trial on the common issues.

**ARTICLE FOUR
TRIAL OF THE COMMON ISSUES**

- 4.1 The common issues trial will determine the common issues as certified by the Court.
- 4.2 The common issues trial will proceed pursuant to the *Rules*.
- 4.3 The proposed common issues relating to design negligence, failure to warn, fact of harm and standard of care can be determined by, *inter alia*, expert evidence. The expert evidence put forward by the Plaintiffs' experts in support of certification provide some indication of the type of evidence that might be used to resolve the common issues on a Class wide basis. Once all documents have been produced, the Plaintiffs will be in a position to identify which, if any, further expert evidence will be required for the purposes of the common issues trial.
- 4.4 In addition to expert testimony as described above, and any other experts as may be identified as required by the Plaintiffs, the Plaintiffs anticipate that evidence will be heard from other witnesses, including past and present employees of the Defendants and the Representative Plaintiffs.
- 4.5 The findings of fact and conclusions on the common issues will permit the judge at the common issues trial to give directions, pursuant to s. 25(3) of the *CPA* to deal with the remaining individual issues. Subclasses may be determined and employed by the Court if deemed appropriate.

**ARTICLE FIVE
LITIGATION STEPS FOLLOWING THE COMMON ISSUES TRIAL**

- 5.1 If following a determination of the common issues, the Defendants are successful in all aspects of the common issues litigation, subject to appeals, the litigation will come to an end.
- 5.2 In the event that some or all of the common issues are resolved in favour of the Class, depending on the rulings of the court, further procedures to determine individual issues may be established pursuant to section 25 of the *CPA*. In such circumstances, pursuant to section 25(2) the court has a broad discretion to give directions relating to the procedures to be followed in conducting hearings, inquiries and determinations including directions for the purpose of achieving procedural conformity.
- 5.3 Accordingly, following the common issues trial, assuming success in favour of the Plaintiffs, the Parties shall attend a case management conference to set a schedule and confirm the process to be followed in bringing the Class Action to a final resolution, including the resolution of individual issues.

ARTICLE SIX NOTICE OF RESOLUTION OF COMMON ISSUES

- 6.1 Class Counsel will ask the Court to:
- (i) settle the form and content of a Notice of Resolution of the common issues; and
 - (ii) order that the Notice of Resolution be distributed substantially in accordance with the Notice Program set out above, except that the Notice of Resolution shall not be mailed to any Class Member who validly opted out in accordance with the procedure set out herein.

ARTICLE SEVEN: SUPERVISION BY THE COURT

- 7.1 Pursuant to section 25 of the *CPA* the judge at the trial of the common issues will be asked to make orders or provide directions as may be necessary to determine all issues not determined at the common issues trial.

ARTICLE EIGHT: REVIEW OF THE LITIGATION PLAN

- 8.1 This Plan will be reconsidered and may be revised under the continuing case management authority of the Court, if required, both before and after the determination of the Common Issues.

SCHEDULE "B"

TRANSVAGINAL MESH LITIGATION

The litigation against Boston Scientific Ltd. and Boston Scientific Corporation ("BSC") will proceed as a class action on behalf of women who were or are implanted with BSC transvaginal mesh products on or before February 17, 2017 for treatment of stress urinary incontinence or pelvic organ prolapse, and their families.

The allegations have not been proven in court and should not be considered medical advice. The defendants deny the allegations and any fault or liability and will vigorously defend the actions.

FOR MORE INFORMATION:

www.siskinds.com/transvaginal-mesh/

1-800-461-6166 ext. 2367 (English)

1-800-461-6166 ext. 2409 (French)

IMPORTANT INFORMATION:

For important details see the "Long Form Notice" available at www.siskinds.com/transvaginal-mesh/ or from Class Counsel.

If you want to exclude yourself from the BSC Class Action you must notify Class Counsel by [60 days from pub], 2017 in the manner described in the "Long Form Notice" available at www.siskinds.com/transvaginal-mesh/

If you have questions about the BSC Class Action, or for a no-cost consultation about your case, contact Class Counsel at the numbers above. Email inquiries may be directed to BSCmesh@siskinds.com.

SCHEDULE "C"

BOSTON SCIENTIFIC TRANSVAGINAL MESH CLASS ACTION LONG-FORM NOTICE OF CERTIFICATION

This is a notice alerting Class Members to the certification of a class action regarding certain medical devices sometimes referred to as "transvaginal mesh," "TVM," "slings" or "hammocks" manufactured by Boston Scientific Ltd. and Boston Scientific Corporation ("BSC") as listed below. These devices are used to treat Stress Urinary Incontinence ("SUI") or Pelvic Organ Prolapse ("POP"). If you were implanted with a BSC transvaginal mesh product, you should read all of this notice carefully.

This notice is about BSC transvaginal mesh products only. The BSC Class Action does not include claims against various other manufacturers of transvaginal mesh devices, including Johnson & Johnson, Covidien, American Medical Systems, and Cook Medical Inc.

If you do not know what transvaginal mesh you were implanted with, you should retrieve your medical records, which will typically note what brand of mesh was used. If you need help retrieving your records, Class Counsel can assist. See below under "Class Counsel" for more information.

Class Action Lawsuits And Claims Alleged

Class action lawsuits have been commenced in Canada alleging that BSC did not properly warn of alleged complications, including: erosion, extrusion, mesh contraction, hardening and/or shrinking, scarring, pain including dyspareunia, organ perforation, pelvic floor damage, incontinence, and psychological damage.

The BSC Class Action seeks, among other things, damages for personal injuries allegedly relating to the BSC transvaginal mesh products as well as consequential damages allegedly suffered by family members of women who have been implanted with a BSC transvaginal mesh products.

Certification

On February 17, 2017, the action was certified as a class action by Order of the Ontario Superior Court of Justice.

The claims against BSC have not been resolved, and the defendants deny any fault or liability.

THIS NOTICE DOES NOT MEAN THAT THE COURT HAS DECIDED ON LIABILITY OR THE LIKELIHOOD OF RECOVERY ON THE PART OF ANY CLASS MEMBER, OR AS TO THE MERITS OF THE CLAIMS OR DEFENCES ASSERTED BY EITHER SIDE. THE ALLEGATIONS MADE BY THE PLAINTIFFS HAVE NOT BEEN PROVEN IN COURT, AND THE COURT HAS NOT MADE ANY CONCLUSIONS. THIS NOTICE SHOULD NOT BE CONSIDERED IN ANY WAY TO BE MEDICAL ADVICE.

Class Definition

The "Class Definition" for the BSC Class Action is:

a) all persons resident in Canada who have been implanted with the transvaginal mesh products listed below at any time on or before the date of the certification order, and which products were designed, developed, tested, manufactured, licensed, assembled, labeled, marketed, instructed for use, distributed and/or sold or otherwise placed into the stream of commerce by the defendants:

- (i) Advantage System, including Advantage Fit System;

- (ii) Obtryx Transobturator Mid-Urethral Sling;
- (iii) Lynx Suprapubic Mid-Urethral Sling System;
- (iv) Solyx Single Incision Sling (SIS);
- (v) Pinnacle Pelvic Floor Repair Kit, anterior/apical and posterior configuration; and
- (vi) Uphold Vaginal Support System.

b) all persons resident in Canada who by virtue of a personal relationship to one or more of such persons described in (a) above, have 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.

**Common
Issues**

By court Order, the class proceeding will determine the following “Common Issues”. This means that these issues will be determined as part of the common issues trial on behalf of the Class:

- a) Does embrittlement and degradation of HGX-030-01 make it unfit for use in the female pelvis for the treatment of POP or SUI?
- b) If the answer to (a) is "yes," then is use of HGX-030-01 in the Defendants' transvaginal mesh products a design defect?
- c) If the answer to (b) is "yes," then did the Defendants breach the standard of care with respect to the design, development and/or testing of their transvaginal mesh products?
- d) Does embrittlement and degradation of HGX-030-01 after it is implanted in the female pelvis for the treatment of POP and SUI cause complications including erosion, extrusion, mesh contraction, hardening and/or shrinking, scarring, pain including dyspareunia, organ perforation, pelvic floor damage, incontinence, and psychological damage?
- e) Did the Defendants' failure to disclose in their DFU that HGX-030-01 degrades constitute a breach of their duty to warn?
- f) If the answer to (e) is "yes," when did the breach of duty occur?
- g) Did the Defendants' failure to disclose in their DFU that degradation of HGX-030-01 causes complications including erosion, extrusion, mesh contraction, hardening and/or shrinking, scarring, pain including dyspareunia, organ perforation, pelvic floor damage, incontinence, and psychological damage constitute a breach of their duty to warn?
- h) If the answer to (g) is "yes," when did the breach of duty occur?
- i) Did the Defendants' failure to disclose in their DFU that the removal of their transvaginal mesh to remediate complications might not be possible and if possible could require multiple surgeries constitute a breach of the duty to warn?
- j) If the answer to (i) is "yes," when did the breach of duty occur?
- k) If the answer(s) of any of questions (c), (e), (g), or (i) is "yes" would the Defendants' breach of duty justify an award of exemplary or punitive damages?

**Participation
in the Class
Actions**

BSC Class Members who want to participate in the class action are **automatically included** and do not need to do anything at this time. The *Class Proceedings Act* provides that no class member, other than the representative plaintiffs, will incur liability for legal costs if a class action is dismissed. If the class action is successful, Class Members may be entitled to share in the amount of any award or settlement recovered. In addition, there will be a process by which Class Members will be required to prove their individual damages and injuries. For this reason, you should preserve any records, including medical records, you have regarding mesh. For English-language assistance contact Class Counsel at 1-800-461-6166 x2367 or, for assistance in French, 1-800-461-6166 x

2409. Email inquiries may be directed to BSCmesh@siskinds.com.

IF YOU DO NOTHING AND REMAIN A CLASS MEMBER, YOU ARE NOT REQUIRED TO PAY LEGAL COSTS OR OTHER EXPENSES

Each Class Member who does not opt out of the class action will be bound by the terms of any judgment or settlement and will not be allowed to pursue an independent action against BSC.

Opting Out If you are a Class Member and **do not** want to be a part of the class action you must “opt out”. Opting out means that **you will not be entitled to any compensation that may become available as part of the BSC Class Action** but you will be able to commence your own lawsuit or continue any lawsuit you already have brought. If you want to commence or continue your own lawsuit, **you must opt out**. If you do opt out, you **must** abide by all applicable limitation periods and should consult a lawyer. In general, only persons who wish to bring an individual action at their own expense have an interest in opting out.

If you would like to opt out, you must do so no later than [60 days after publication], 2017 by completing the opt-out form and sending it to Class Counsel. You can get a copy of the opt-out form and accompanying instructions by retrieving it online at www.siskinds.com/transvaginal-mesh/ or by requesting it from Class Counsel. For English-language assistance contact Class Counsel at 1-800-461-6166 x2367 or, for assistance in French, 1-800-461-6166 x2409. Email inquiries may be directed to BSCmesh@siskinds.com.

What Happens Next The BSC Class Action will proceed to a common issues trial. If the action is not successful, that result will bind all members of that Class. If the action is successful, or settles before trial, Class Members will be bound by that result and may be entitled to compensation in the manner in which the Court orders if they prove individual damages. No Class Member will have to pay for any expenses or legal costs. The retainer agreements between the representative plaintiffs and Class Counsel provide that Class Counsel will pay for all disbursements and indemnify the Class Members for any adverse cost awards. However, if the action is successful at trial or is settled, Class Counsel will be entitled to a contingency fee in an amount approved by the Court. The retainers provide that class counsel will be paid by a 30% contingency fee, plus applicable taxes and disbursements, subject to Court approval. No private or public funding has been sought.

Class Members will receive notice of any major steps in the litigation, including settlement. If the action is settled, you will have an opportunity to “object” to the settlement and the amount of Class Counsel’s fees if you do not think they are appropriate.

Class Counsel There is **no charge** to speak with Class Counsel to discuss the class action, to have your questions answered, or to retrieve a copy of the opt-out form, or related documents.

Class Counsel are:

SISKINDS LLP
680 Waterloo Street
P.O. Box 2520
London, ON, N6A 3V8

Elizabeth deBoer
Daniel Bach
(800) 461-6166 x2367
(519) 672-2121 x2367

elizabeth.deboer@siskinds.com
daniel.bach@siskinds.com

SISKINDS, DESMEULES sncrl
Les Promenades du Vieux-Québec
43, rue Buade, bur. 320
Québec, QC, G1R 4A2

Caroline Perrault
Barbara Ann Cain
(418) 694-2009

caroline.perrault@siskindsdesmeules.com
barbaraann.cain@siskindsdesmeules.com

For information on the BSC Class Action:

- www.siskinds.com/transvaginal-mesh/
- BSCmesh@siskinds.com.
- For assistance in English: (800) 461-6166 x2367
- For assistance in French: (800) 461-6166 x2409.

This notice was authorized by the Ontario Superior Court of Justice

SCHEDULE “D”: Notice Plan

- (1) The Notice of Certification will be sent by email or direct mail by Class Counsel to any person who has inquired about the Class Action or who has registered to receive updates on Class Counsel’s website. Where the person is located in Quebec (or otherwise specifically requests), the Notice of Certification will be sent in English and French;
- (2) The Notice of Certification will be posted by Class Counsel, in English and French, on their website;
- (3) The Notice of Certification will be disseminated to all hospitals in Canada which have purchased products from Boston Scientific together with a request that the Notice of Certification be forwarded to all patients who have received the Transvaginal Mesh listed in the Class definition in paragraph Error! Reference source not found. or any of them;
- (4) The Notice of Certification will also be clearly and prominently posted by the Defendants, in English and French, on their website;
- (5) The Notice of Certification will be published once, in either English or French, as is appropriate for each newspaper, in:
 - (i) Globe and Mail (National Edition)—1/6 page advertisement in the Legal section, weekend placement.

- (ii) Le Journal de Quebec—1/6 page advertisement in the News section, weekend placement.
 - (iii) La Presse—1/6 page advertisement in the News section, weekend placement.
 - (iv) Montreal Gazette—1/6 page advertisement in the News section, weekend placement.
 - (v) National Post—1/6 page advertisement in the News section, weekend placement.
 - (vi) Toronto Star—1/7 page advertisement in the News section, weekend placement.
- (6) A national press release with form and content to be agreed by the Parties and approved by the Court will be issued in English and French through Canada Newswire; and
- (7) The Notice of Certification will be provided by Class Counsel to any person who requests it.

SCHEDULE "E"

OPT OUT FORM

BOSTON SCIENTIFIC
TRANSVAGINAL MESH LITIGATION

This is an **opt out form**. You should only fill out this form if you want to be **excluded** from the class action regarding Boston Scientific's Transvaginal Mesh Devices. The class action relates to alleged injuries suffered by women implanted with mesh devices used to treat Stress Urinary Incontinence ("SUI") and Pelvic Organ Prolapse ("POP"). If you have any questions, contact class counsel at (800) 461-6166 x2367 or, to speak to a French-speaking representative, (800) 461-6166 x2409.

This form must be submitted no later than August 1, 2017.

You may submit this form one of three ways:

- By email to BSCmesh@siskinds.com: To submit the form by email, fill it out and scan it and send the attachment to BSCmesh@siskinds.com
- By fax to: (519) 660-2081
- By mail to:

Boston Scientific Mesh Opt Out
c/o Siskinds LLP
680 Waterloo Street
P.O. Box 2520
London, ON, N6A 3V8

If you do not submit this form in time, you will not be able to opt out. In the case of email and fax submissions, the form will be deemed to have been submitted when received. In the case of mail submissions, the form will be deemed to have been submitted when postmarked.

For more information about the Boston Scientific Transvaginal Mesh class action, see the "Long Form Notice" available at <http://www.siskinds.com/transvaginal-mesh/>.

Class Counsel are:

SISKINDS LLP

680 Waterloo Street
P.O. Box 2520
London, ON, N6A 3V8

Jill McCartney
Elizabeth deBoer
Rachel Pardy

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SISKINDS, DESMEULES sncrl

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43, rue Buade, bur. 320
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Caroline Perrault
Barbara Ann Cain

(418) 694-2009

caroline.perrault@siskindsdesmeules.com
barbaraann.cain@siskindsdesmeules.com

Personal Information

Please provide the following information about yourself, or, if you are filing this Opt-Out Form as the legal representative of a Class Member, please provide the following information about the Class Member.

Name used by the person with the mesh implant:

Last Name	First Name	Middle Initial	Health Card Number	Date of Birth
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Current or last known residence address used by the person with the mesh implant:

Street Address

City	Province/Territory	Postal Code
------	--------------------	-------------

() Daytime Phone Number	() Evening Phone Number	E-mail Address
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Mesh Information

Please provide particulars of the mesh(es) in question. If you do not know or are uncertain of the answer, please so indicate.

Indication(s) for treatment:

☐ Stress urinary incontinence

☐ Pelvic organ prolapse

Identity of transvaginal mesh manufacturer: _____

Model of transvaginal mesh: _____

Date of implant surgery: _____

Location/facility where mesh was implanted _____

Treating physician(s) _____

If you have records indicating the type of manufacturer and model of the mesh check this box and attach copies: [☐]

Legal Representative Information (if applicable)

If you are filing this Opt-Out Form as the legal representative of a Class Member or a Class Member's estate, please provide the following information about ***yourself*** and attach a copy of your court approval or other authorization to represent the Class Member identified in "Personal Information" above.

Last Name	First Name	Middle Initial
-----------	------------	----------------

Street Address

City	Province/Territory	Postal Code
------	--------------------	-------------

()	()	
Daytime Phone Number	Evening Phone Number	E-mail Address

Relationship to Class Member

Please attach a copy of a court order or other official document(s) demonstrating that you are the duly authorized legal representative of the Class Member and check the box below describing the Class Member's status:

☐ minor (court order appointing guardian or property or custody order, if any, or sworn affidavit of the person with custody of the minor). Date of birth of the minor: _____

☐ a mentally incapable person (copy of a continuing power of attorney for property, or a Certificate of statutory guardianship);

☐ Certificate of Appointment as Estate Trustee. Date of death: _____

Lawyer Information (if applicable)

If you or the Class Member have hired a lawyer in connection with a claim arising from the Class Member's Boston Scientific Transvaginal Mesh Device, in any way, please provide the following information about the lawyer:

_____ Last Name	_____ First Name	_____ Middle Initial
_____ Street Address		
_____ City	_____ Province/Territory	_____ Postal Code
() Office Phone Number	() Fax Number	_____ E-mail Address
_____ Law Society Number		

If a claim has been filed:

_____ Date of Issuance	_____ Court File No	_____ Jurisdiction of Filing
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Acceptance and Acknowledgement

I have read the foregoing and reviewed and understand the Long Form Notice. I understand that by checking the box below, I am indicating my intention to OPT OUT of the class action relating to Boston Scientific Transvaginal Mesh.

☐ I hereby opt out of the Boston Scientific Transvaginal Mesh class action

I understand that by opting out:

- I will not be a member of the class and will never be eligible to receive any compensation through the class action opted out of.
- All family members who might otherwise be Class Members by virtue of a personal relationship with me are deemed to have opted out as well.
- I will not be entitled to participate in the designated class action

By signing this form, I acknowledge that I have reviewed and understand the Long Form Notice

Date

Signature (Class Member or Executor, Administrator, or Personal Representative)

To be effective as an election to opt out, this Form must be completed, signed and sent, as outlined above, **no later than ●, 2017**

The consequences of returning this Opt-Out Form are explained in the Long Form Notice. If you have questions about using or completing this Form, contact your lawyer or Class Counsel at (800) 461-6166 x2367 or, to speak to a French-speaking representative, (800) 461-6166 x2409.

**THE INFORMATION CONTAINED IN THIS FORM WILL REMAIN CONFIDENTIAL
WITHIN THIS PROCEEDING**

VESTER et al BOSTON SCIENTIFIC LTD. et al
Plaintiffs and Defendants

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto, ON

**ORDER
(CERTIFICATION)**

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Barristers & Solicitors
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London, ON N6A 3V8

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