

**BOSTON SCIENTIFIC
CANADIAN TRANSVAGINAL MESH CLASS ACTION
NOTICE OF CERTIFICATION AMENDMENT AND SETTLEMENT
APPROVAL HEARING**

PLEASE READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR RIGHTS

NOTICE

This is a notice alerting Class Members to amendments to the class definition and the proposed settlement of the Canadian class action involving transvaginal mesh devices manufactured by Boston Scientific to treat Stress Urinary Incontinence (“SUI”) and Pelvic Organ Prolapse (“POP”) (“BSC Transvaginal Mesh Devices”).

The class action seeks compensation for injuries that were allegedly related to BSC Transvaginal Mesh Devices. BSC denies the allegations made in the lawsuits.

The Settlement Agreement provides for the payment of \$21,500,000.00 (Canadian dollars) which will be used to pay claimant compensation, the administration of the settlement, health care expenses incurred by the Provincial Health Insurers and Class Counsel’s legal fees, disbursements and applicable taxes.

If you support the settlement, you do not have to do anything at this time. **It is important however, that you start to collect any medical records related to your mesh implant or complications, if you have not retained counsel to do it for you, or have not already done so yourself.** Participation in the settlement, if court approved, will require proof of implant with a BSC Transvaginal Mesh Device(s) which may be found in your medical records obtained from your medical provider.

This Notice is to advise you that the class definition has been amended and a proposed settlement has been reached and that a date to have the settlement approved by the Court is scheduled for June 12, 2020. The settlement is not yet court approved, and **it is not yet time to file your claim.** If the Settlement Agreement is approved by the Court, a further notice will be distributed that will explain how to make a claim and the deadline for doing so.

**SUMMARY OF
THE
SETTLEMENT**

The defendants will pay \$21,500,000.00 to settle the claims of all Class Members, related claims of the Provincial Health Insurers, the costs of administering the settlement, and Class Counsel legal fees, disbursements and applicable taxes.

Class Members who suffered certain injuries alleged to be associated with their BSC Transvaginal Mesh Devices and who satisfy the eligibility criteria may be entitled to compensation that will be based on a points

system. Class Counsel is asking the Court to approve a “Compensation Protocol” which sets out the eligibility and points criteria. You can find a copy of the Compensation Protocol at www.canadabscmeshclassaction.com. While it is important that you review that document carefully, in brief Class Counsel are proposing that the settlement amount, after fees and other court-approved charges, will be allocated among Class Members who qualify for compensation on the basis of the severity of their injuries. Payments will also be made for the related claims of Provincial Health Insurers. Among other factors, women who have greater injuries, including more revision surgeries, will be allocated more points and will be entitled to greater compensation than those who did not.

Until all claims have been adjudicated it will not be possible to determine the exact value of each point or the total amount of compensation that may be paid to each eligible claimant.

Class Counsel are also seeking Court approval of the disbursements incurred to prosecute the action, up to \$230,434.62, plus fees of up to 30% of the settlement amount, plus applicable taxes.

The Court must approve the settlement and Compensation Protocol. Separately, the Court must approve Class Counsel’s fees and disbursements. If you do not agree with the settlement, Compensation Protocol and/or the requested fees and disbursements, you may object. The process for objecting is explained below in the section entitled COURT APPROVAL.

**WHO IS
INCLUDED? The
Original Class**

On February 17, 2017, the Ontario Superior Court of Justice certified a class action regarding BSC Transvaginal Mesh Devices, regarding injuries alleged by women resident in Canada implanted with transvaginal mesh used to treat SUI and POP.

The BSC Class Action was certified to include:

- 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 c F 3 or analogous provincial legislation or at common law.

WHO IS INCLUDED? The Expanded Class

As part of the settlement, the Class is being expanded (the “Expanded Class”) to include:

- c) All persons resident in Canada who have been implanted with:
 - 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; or
 - vi. Uphold Vaginal Support System;

at any time on or after February 17, 2017 and on or before February 28, 2020 (the “Primary Class”); and

- d) All persons resident in Canada by virtue of a personal relationship to one or more of those persons identified 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 (the “Family Class”).

PARTICIPATION IN THE CLASS ACTION

If you are a member of the Expanded Class and want to participate in the class action, you are automatically included and do not need to do anything at this time.

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

OPTING OUT

If you were implanted with a BSC Transvaginal Mesh Device prior to **February 17, 2017** and did not opt out of the action prior to September 6, 2017 you are a member of this class and may not opt out now.

If you were first implanted with a BSC Transvaginal Mesh Device on or after **February 17, 2017** and on or before February 28, 2020, you are a member of the Expanded Class unless you “opt out.”

Opting out means that you will not be entitled to any compensation if the settlement is approved, but you will be able to commence your own lawsuit or continue any lawsuit you already have brought.

Opting Out means that you do not want to be included in the class action. If you opt out, you will not be entitled to any compensation that might otherwise be available to you under the settlement, if it is approved, but you will be able to commence your own lawsuit or continue any lawsuit you may have already filed. In general, only persons who wish to bring an individual action at their own expense have an interest in opting out. **If you want to commence or continue your own lawsuit, you must opt out of this class action.** If you opt out because you wish to commence your own action, there are time limits for doing so (limitation periods). It is important that you abide by all applicable limitation periods and you should consult a lawyer as soon as possible to ensure your rights are protected.

If you are a member of the Expanded Class **and do not wish to be part of the class action or make a claim under the settlement, if it is approved, you must “opt out”.**

If you are a member of the Expanded Class and would like to opt out, you must complete an opt out form and send it to Class Counsel **no later than May 27, 2020**. A copy of the opt out form and instructions for completing it are available online at www.canadabscmeshclassaction.com or you may request it from Class Counsel at BSCmesh@siskinds.com. or by calling Class Counsel at 1-800-461-6166 ext. 2367.

If you are included in the original Class definition that was certified in February 2017, the right to opt out has already passed and you cannot now opt out of the class action. **If you previously opted out, you may not rejoin this action and you are not eligible for compensation under this proposed settlement, if approved.**

COURT APPROVAL

In order for the settlement to become effective, it must be approved by the Ontario Superior Court of Justice. The Court must be satisfied that the settlement is fair, reasonable and in the best interests of the Class Members.

The Settlement Approval hearing is scheduled to proceed on June 12, 2020 at 10:00 A.M. at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

If you wish to object to the Settlement Agreement, the Compensation Protocol or Class Counsel fees and disbursements, you must deliver a written objection to Siskinds LLP by **no later than May 27, 2020** at BSCmesh@siskinds.com. Individuals who object may make oral submissions to the Court at the approval hearing.

Do NOT send an objection directly to the Court. Siskinds LLP will forward all objections received prior to the deadline to the Court.

LEGAL FEES

Class Counsel will seek court approval of legal fees, disbursements and applicable taxes at the Settlement Approval hearing.

Class Counsel conducted this litigation on a “contingency fee” basis, pursuant to a retainer agreement with the representative plaintiffs. As such, Class Counsel is requesting that the Court approve reimbursement for the disbursements incurred, up to \$230,434.62, and a fee of up to 30% of the settlement amount, plus applicable taxes.

You may object to either the fee or disbursement request, or both, if you wish as detailed above.

FURTHER INFORMATION

If you have questions about the Settlement Agreement and/or would like to obtain more information and/or copies of the settlement documents, please visit the settlement website at www.canadabscmeshclassaction.com.

You can also contact Class Counsel at either of the firms listed below. There is **no charge** to speak with Class Counsel to discuss the class action. If you wish to retain counsel other than Class Counsel to represent you individually for advice on your claim, assisting you in retrieving medical records and/or preparing your claim, you will be responsible to pay any fees that lawyer might charge.

Class Counsel are:

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