

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MADAM) TUESDAY, THE 14TH DAY
)
JUSTICE TRANQUILLI) OF JULY, 2021

B E T W E E N:

WAYNE NAULT

Plaintiff

- and -

MERCK & CO., INC., MERCK SHARPE & DOHME CORP.
and MERCK CANADA INC.

Defendants

(Proceeding under the *Class Proceedings Act, 1992*, SO 1992, c C.6)

ORDER DISCONTINUANCE

THIS MOTION, made by the Plaintiffs, on consent, for an Order approving the discontinuance of the within action, without costs, and without prejudice, was heard this day in writing at London the Superior Court of Justice, 80 Dundas Street, London, Ontario N6A 6K1.

ON READING the materials filed, including the consent of the parties:

1. **THIS COURT ORDERS** that the within action be and is hereby discontinued, effective (90) days after publication of the Notice as described in the Notice Plan.
2. **THIS COURT ORDERS** that Plaintiffs' counsel shall provide notice of the discontinuance of this action in the form set out in Appendix "A" and in the manner set out in Appendix "B".
3. **THIS COURT ORDERS** that any limitation period applicable to all people in Canada, including their estates, who were prescribed and used Andriol and to all people in Canada who, by reason of their relationship to a person who was prescribed and used Andriol, are entitled to make claims pursuant to the *Family Law Act*, RSO 1990, c F 3, s 61 or analogous legislation in other provinces or at common law, to the extent that it was suspended by the filing of this

proposed action, shall remain suspended until the date ninety (90) days following the publication of the Notice of discontinuance on class counsel's website.

4. **THIS COURT ORDERS** that there be no costs of this motion.

Date: JULY 14, 2021



The Honourable Justice K. Tranquilli

NOTICE OF DISCONTINUANCE OF ANDRIOL CLASS ACTION – TESTOSTERONE REPLACEMENT THERAPY FOR MALES WITH LOW TESTOSTERONE

Please Read This Notice Carefully. It May Affect Your Legal Rights.

By Order of the Ontario Superior Court of Justice, all persons resident in Canada who have been prescribed and used Andriol are advised that:

In September 2014, Siskinds LLP commenced a proposed class proceeding in Ontario alleging that Andriol, a form of testosterone replacement therapy, intended to treat hypogonadism or low-testosterone. The proposed class proceeding alleged that Andriol increased the risk of cardiovascular events and conditions. The various defendants in the action deny these allegations.

Siskinds is of the opinion that the proposed Andriol class proceeding is no longer viable. On this basis, Siskinds filed motion materials with the Ontario Superior Court of Justice to obtain approval of the discontinuance. The discontinuance was approved by the Court and it will be filed and take effect on [date to be inserted: 90 days after publication of the intention to discontinue].

The discontinuance relates to the proposed Andriol class action only. It does not relate to claims against various other manufacturers of testosterone replacement therapy products. If you do not know which brand of testosterone replacement therapy you were prescribed, you can retrieve your medical records, which will typically note the brand.

YOU SHOULD TAKE NOTICE THAT THE limitation period for bringing a claim, if there is any time left within it, will be impacted when the notice of discontinuance is filed with the Ontario Superior Court of Justice on [date to be inserted: 90 days after publication of the intention to discontinue]. On the expiry of the limitation period a right to sue may be extinguished.

TAKE NOTICE THAT because the limitation period for bringing a claim will be impacted by the filing of the notice of discontinuance, if you wish to pursue a court claim arising from Andriol in relation to cardiovascular events and conditions, you should take steps before [date to be inserted 90 days after publication of the intention to discontinue].

Siskinds will answer questions about the discontinuance or the running of the limitation period. Please contact Siskinds at:

SISKINDS LLP 680 Waterloo Street P.O. Box 2520 London, ON N6A 3V8 Jill McCartney Sharla Stroop (800) 461-6166 x 2341 (519) 672-2121 x 2341 Jill.mccartney@siskinds.com sharla.stroop@siskinds.com	SISKINDS, DEMEULES sncrl Les Promenades du Vieux, Québec 43, rue Buade, bur 320 Québec, QC, G1R 4A2 Caroline Perrault (418) 694-2009 caroline.perrault@siskindsdesmeules.com
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It is recommended that you obtain legal advice from Siskinds or a lawyer of your choice.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO SUPERIOR COURT OF JUSTICE

Appendix "B"

PLAN OF NOTICE

- (1) The Notice of Discontinuance will be sent by email or direct mail by Plaintiffs' counsel to any person who has contacted Siskinds LLP about the proposed Andriol class action or who has registered to receive updates on Siskinds LLP's website. Where the person is located in Quebec (or otherwise specifically requests), the Notice of Discontinuance will be sent in English and French;
- (2) The Notice of Discontinuance will be posted by Plaintiffs' counsel, in English and French, on their website;
- (3) The Notice of Discontinuance will be sent by email or direct mail by Plaintiffs' counsel to any other Plaintiffs' counsel representing testosterone replacement therapy claimants, within the knowledge of Plaintiffs' counsel;
- (4) The Notice of Discontinuance will be provided by Plaintiffs' counsel to any person who requests it.

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at London, ON

Proceeding under the *Class Proceedings Act, 1992*

ORDER
Discontinuance

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