

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

The Honourable  
Justice Grace  
BETWEEN:

) ✓ TUESDAY, the 30<sup>th</sup> day  
)  
) of OCTOBER, 2019 ✓ dg

**EDWARD MICHAEL GATER and KATHLEEN ANN GATER, by her litigation  
guardian, Edward Michael Gater**

Plaintiffs

- and -

**PFIZER INC., PFIZER CANADA INC. and PHARMACIA & UPJOHN COMPANY LLC**

Defendants

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

**ORDER**


**THIS MOTION** made by the Plaintiffs for an Order that the within proceeding be discontinued was heard in writing at the Superior Court of Justice, 80 Dundas Street, London, Ontario N6A 6K1.

**ON READING** the materials filed by counsel for the Plaintiffs, including the Consent signed on behalf of the parties:

1. **THIS COURT ORDERS** that the Notice of Discontinuance, in the form of the attached Schedule "A", is approved pursuant to section 19 and section 29 of the *Class Proceedings Act, 1992*, SO 1992, c 6 ("*CPA*").
2. **THIS COURT ORDERS** that the Plan of Notice, attached as Schedule "B", is approved pursuant to section 19 and section 29 of the *CPA*.

3. **THIS COURT ORDERS** that the Notice of Intent to Discontinue shall be disseminated in accordance with the Plan of Notice attached as Schedule "B".
4. **THIS COURT ORDERS** that the within proceeding be and hereby is discontinued, effective (90) days after publication of the Notice as described in the Notice Plan.
5. **THIS COURT ORDERS** that any limitation period applicable to all people in Canada, including their estates, who were prescribed and used Depo-Testosterone and to all people in Canada who, by reason of their relationship to a person who was prescribed and used Depo-Testosterone, 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 .

Date: dg

  
The Honourable JUSTICE A.D. GRACE

ORDER ENTERED  
OCT 31 2019  
3410

SCHEDULE "A"

**NOTICE OF DISCONTINUANCE OF DEPO-TESTOSTERONE 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 Depo-Testosterone are advised that:**

In July 2014, Siskinds LLP commenced a proposed class proceeding in Ontario alleging that Depo-Testosterone, a form of testosterone replacement therapy, intended to treat hypogonadism or low-testosterone. The proposed class proceeding alleged the Depo-Testosterone 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 Depo-Testosterone 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 Depo-Testosterone 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 Depo-Testosterone 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:**

|                                                                                                                                                                                                                                         |                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>SISKINDS LLP</b><br>680 Waterloo Street<br>P.O. Box 2520<br>London, ON N6A 3V8<br><br>Jill McCartney<br>Sharla Stroop<br>(800) 461-6166 x 2341<br>(519) 672-2121 x 2341<br>Jill.mccartney@siskinds.com<br>sharla.stroop@siskinds.com | <b>SISKINDS, DEMEULES sncrl</b><br>Les Promenades du Vieux, Québec<br>43, rue Buade, bur 320<br>Québec, QC, G1R 4A2<br><br>Caroline Perrault<br>(418) 694-2009<br>caroline.perrault@siskindsdesmeules.com |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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**

DP

## SCHEDULE "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 Depo-Testosterone 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**

**Siskinds LLP**  
Barristers & Solicitors  
680 Waterloo Street  
London, ON N6A 3V8

**Charles M. Wright** LSUC #: 36599Q  
**Jill S. McCartney** LSUC #: 50632S  
Tel: (519) 660-7700  
Fax: (519) 660-7701

Lawyers for the Plaintiffs