

Before Madam Justice Tremblay-Lamer

FEDERAL COURT

BETWEEN:

LÉOPOLD DELISLE

Applicant

-and-

ATTORNEY GENERAL OF CANADA

-and-

**DEPARTMENT OF HEALTH
(HEALTH CANADA)**

Respondents

ORDER

WHEREAS on or about January 23, 2004, the Respondents issued guidelines limiting access to a product, 714X, available since 1989 under the Emergency Drug Release Program now the Special Access Program (SAP);

WHEREAS on January 29, 2004, the Applicant filed a class action against the Respondents in this Court's registry, under number T-220-04, the conclusions of which aimed both the review of the decisions applicable to the access requests to 714X and the payment of damages;

WHEREAS on April 2, 2004, the Applicant filed a notice of application for judicial review under number T-698-04 seeking the review of the decisions of the Respondents and more specifically the January 23, 2004 decision of the Director General of the Therapeutics Product Directorate;

WHEREAS on December 1st, 2004, applications for judicial review were also filed in the three following files:

- T-2140-04: *Daniel Grandmont vs. the Attorney General of Canada et al.*
- T-2139-04: *Laurent Légère vs. the Attorney General of Canada et al.*
- T-2138-04: *Dany Laforest vs. the Attorney General of Canada et al.*

WHEREAS on July 28, 2006, the Honorable Mr. Justice François Lemieux granted the applications for judicial review for the reason that the January 23, 2004 decision rendered by Doctor Gillespie was invalid;

WHEREAS on February 10, 2008, the parties signed a settlement agreement (filed as exhibit 4) under the terms of which the Respondents agreed not to appeal the decision of the Honorable Mr. Justice Lemieux thus allowing access to members of the class action according to the terms described in the SAP and the judgment of Mr. Justice Lemieux, in consideration of which the Applicant agreed to withdraw the class action;

THE COURT:

DECLARES that the agreement is just and equitable given all the circumstances of the present class action and the applicable criteria for the approval of such agreements;

TAKES ACT of the settlement agreement (filed as exhibit 4);

APPROVES of the withdrawal of the class action proceeding filed in the registry of this Court under number T-220-04;

APPROVES the notice of approval of settlement informing the members of the group of the modalities of the transaction, and attaching to it a copy of the transaction and informing them of the stopping of the interruption of prescription that would have applied to their individual right to sue, according to the terms of the proposed notice filed as exhibit C to the agreement and reproduced hereafter;

ORDERS that the Applicant advise the members of the group by the mailing of the said notice of approval of an agreement to all persons who personally contacted the Applicant within the framework of these present proceedings and whose coordinates have been kept by the Applicant as well as to doctors having prescribed the product in the past so that they may inform patients concerned;

Danièle Tremblay-Lamer
Justice of the Federal Court

Montreal (Quebec)
June 9, 2008