

SUPERIOR COURT
(Class Action)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N^o: 500-06-001141-213

DATE: January 24, 2022

BY: THE HONOURABLE LUKASZ GRANOSIK, J.S.C.

J.N. POIRIER
Plaintiff

v.

MÉTALLIFER ALUMINUM INC.

-and-

MÉTALLIFER (2009) LTÉE
Defendants

JUDGMENT ON DISCONTINUANCE

[1] On April 6, 2021, the Plaintiff filed an Application to Authorize the Bringing of a Class Action and to Appoint the Plaintiff as Representative Plaintiff (the "Application for Authorization") on behalf of the following group:

"All persons residing in Quebec who wore a face mask coated with nanoform graphene materials (the "Graphene Masks") or any other group to be determined by the Court;"

[2] In this litigation, the Plaintiff has alleged *inter alia* that the Defendants imported, distributed, and sold Chinese-made face masks coated with nanoform graphene materials (the "Graphene Masks") within the province of Quebec, to which on March 25, 2021, Health Canada warned that graphene particles could potentially be inhaled, which may pose health risks;

[3] On January 13, 2022, the Plaintiff filed an Application for a Discontinuance seeking permission to discontinue the present legal proceedings pursuant to articles 9 al. 2, 19, 213, and 585 C.C.P.;

[4] The reason alleged in the above-mentioned Application to support the discontinuance is that on July 13, 2021, Health Canada published an update to their original advisory entitled “Graphene face masks by Shandong Shengquan New Materials Co. Ltd. can resume sale in Canada; Health Canada found no health risks of concern with these products”;¹

[5] In particular, Health Canada stated the following as relates to the Graphene Masks in question:

“Health Canada assessed four models produced by the company and found no health risks of concern. As a result, sale of these masks can resume in Canada.

(...)

Health Canada previously advised Canadians not to use face masks that contain graphene after a preliminary assessment identified some potential for inhaled graphene particles to cause early lung effects in animals (e.g., early signs of inflammation). As a precaution while a risk assessment was ongoing, Health Canada directed all known importers and distributors of these masks to remove four mask models from one manufacturer, Shandong Shengquan New Materials Co. Ltd., from the market.

Health Canada has reviewed the available scientific literature along with data provided by Shandong Shengquan New Materials Co. Ltd., related to the biomass graphene contained within its four models. The review found that biomass graphene particles are not shed from these masks in quantities that are likely to cause adverse lung effects.

(...)

As a result, given the evidence supporting the safety and effectiveness of these products, Health Canada is permitting the sale of the four Shandong Shengquan New Materials Co. Ltd. mask models to resume in Canada.”

[6] **CONSIDERING** the above-mentioned Application as well as the Exhibits in support thereof produced in the Court record;

[7] **GIVEN** the consent by the Defendants to the discontinuance;

[8] **CONSIDERING** that the Court finds the discontinuance to be in the interest of justice;

¹ Exhibit R-1: Health Canada’s Public Advisory, last updated on September 28, 2021.

PAR CES MOTIFS, LE TRIBUNAL : FOR THESE REASONS, THIS COURT:

[9] **ACCUEILLE** la présente **GRANTS** the present Application; demande;

[10] **AUTORISE** le Demandeur à se **AUTHORIZES** the Plaintiff to désister de la Demande d'autorisation discontinue the Application to d'exercer une action collective et de se Authorize the Bringing of a Class voir attribuer le statut de représentante; Action and to Appoint the Plaintiff as Representative Plaintiff;

[11] **PERMET** au Demandeur de **ALLOWS** the Plaintiff to file his produire son désistement au dossier de discontinuance in the Court record la Cour dans les 30 jours de la date du within 30 days following the date of this présent Jugement; judgment;

[12] **APPROUVE** le texte de l'avis **APPROVES** the text of the public public aux membres putatifs selon le notice to putative members in texte reproduit à la Pièce R-2; accordance with Exhibit R-2;

[13] **ORDONNE** au Demandeur de **ORDERS** the Plaintiff to ensure that veiller à la publication de tel avis public, said public notice be published, in sous forme bilingue : bilingual format:

- | | |
|---|---|
| a) Au Registre des actions collectives du Québec; | a) On the Quebec Class Actions Registry; |
| b) Sur le site internet www.clg.org durant au moins 120 jours consécutifs; | b) On the website www.clg.org for a duration of at least 120 consecutive days; |

[14] **ORDONNE** que copie de tel avis **ORDERS** that a copy of said public public soit transmise par courriel à toute notice be sent by email to every person personne ayant manifesté aux avocats who expressed an interest in the du Demandeur son intérêt dans la present action to Plaintiff's counsel; présente action collective;

[15] **LE TOUT** sans frais de justice. **THE WHOLE** without legal costs.



LUKASZ GRANOSIK, J.S.C..

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