

NOTICE OF CERTIFICATION OF CANADA-WIDE ALLERGAN BREAST IMPLANT CLASS ACTION

www.AllerganBreastImplants.ca

This notice is to let Canadians know about a class action lawsuit known as *Kibalian et al. v. Allergan PLC et al.* (Court File No. CV-19-00620507-00CP) which was certified as a Canada-wide class action by Justice E.M. Morgan of the Ontario Superior Court of Justice (the “Court”) on December 21, 2022 (the “Class Action”).

The Class Action is about certain injuries that are alleged to be caused by certain models of breast implants that were supplied in Canada by one or more of Allergan PLC, Allergan Limited, Allergan, Inc., Allergan USA, Inc. and Allergan Inc. (the “Defendants”). **If you were implanted with Allergan breast implants in Canada between May 31, 1999 and May 29, 2019, you should read all of this notice carefully.**

Several proposed class actions related to the Allergan breast implants were commenced in other provinces in Canada. However, ALL claims relating to these Allergan breast implants in Canada are now proceeding through this Class Action, including the proposed class action commenced in Montréal, Québec (known as *Basal v. Allergan Inc. et al.*, S.C.M. file no. 500-06-000966-198) which was suspended by judgment rendered on November 12, 2020, until a final judgment is rendered in this Class Action. The law firms advancing the Class Action (“Class Counsel”) are listed below.

Please note that the summaries of documents contained in this notice are not intended to be comprehensive and may be paraphrased. Please refer to the actual documents referenced for their precise terms and content. All such documents will be made available on Class Counsel’s websites or provided to you directly by Class Counsel upon request. See below under “Class Counsel” for more information.

Class Definition

The Court has certified the Class Action on behalf of the following classes (the “Classes” or “Class Members”):

- (a) **All persons who, between May 31, 1999 and May 29, 2019, were implanted in Canada with one or more BIOCELL® textured breast implants** enumerated as follows:

Natrelle Saline-Filled Breast Implants (Textured); Natrelle 410 Truform Silicone-Filled Breast Implants; Natrelle Silicone-Filled Breast Implants (Biocell Round); Natrelle Inspira Truform 1 (Responsive) Breast Implants (Textured Shell); and Natrelle Inspira Truform 2 (Soft Touch) Breast Implants (Textured Shell) (collectively, the “Textured Breast Implants”);

and/or other silicone gel-filled breast implants supplied by the Defendants (the “Allergan Silicone Breast Implants”)¹, and their estates, administrators or other legal representatives, heirs or beneficiaries (the “Primary Class” or “Primary Class Members”); and

¹ For clarity, “Allergan Silicone Breast Implants” includes all models of silicone gel-filled breast implants supplied by the Defendants.

- (b) All persons who, by virtue of a personal relationship with one or more Primary Class Members, have standing to claim damages pursuant to section 61(1) of the *Family Law Act*, R.S.O. 1990, c. f.3, as amended, or analogous provincial legislation (the “Family Class” or “Family Class Members”).

If you do not know what model of breast implant you were implanted with, you should retrieve your medical records from your implanting surgeon as soon as possible to obtain that information. If you need help retrieving your records, Class Counsel can help you do so. See below under “Class Counsel” for more information.

What is the Class Action About?

The plaintiffs in the Class Action (the “Plaintiffs”) allege that the Defendants were negligent in the design, manufacture, testing and/or post-market surveillance/monitoring of the Textured Breast Implants and Allergan Silicone Breast Implants. The claim also alleges that the Defendants failed to warn Canadian patients adequately about the alleged risks of developing three different types of injuries:

- A type of cancer called breast implant-associated anaplastic large-cell lymphoma (“BIA-ALCL”);
- premature rupture of the implants; and
- systemic symptoms classified as Autoimmune/Inflammatory Syndrome Induced by Adjuvants (“ASIA”), sometimes known and referred to as Breast Implant Illness (“BII”).

The Class Action seeks to recover damages for the physical injuries, death, loss of income and other expenses alleged by the Primary Class Members as well as related damages for the loss of care and companionship alleged by the Family Class Members.

Certification

On March 23, 2022, this action was partially certified on consent against one of the Defendants, Allergan Inc., in respect of certain common issues (the “Partial Certification Order”). On December 21, 2022, the action was certified as against all Defendants in respect of a broader set of common issues (the “Contested Certification Order”). The Partial Certification Order and Contested Certification Order can be found on Class Counsel’s websites. See below under “Class Counsel” for more information.

The Contested Certification Order provides that certain questions should be decided in common for all Class Members (the “Common Issues”). The Common Issues that the Court certified include questions about:

- Whether Textured Breast Implants can cause BIA-ALCL and/or premature implant rupture;
- Whether the Defendants had a duty to warn about this and whether they breached that duty;
- Whether Allergan Silicone Breast Implants can cause ASIA/BII;
- Whether the Defendants had a duty to warn about ASIA/BII and whether they breached that duty;

- Whether the Defendants breached either provincial consumer protection legislation and/or the *Competition Act* by making certain alleged representations regarding certain implants; and
- What damages, if any, the Defendants might be liable to pay to Class Members.

The full list of certified Common Issues is set forth in the Contested Certification Order.

THESE CLAIMS AGAINST THE DEFENDANTS HAVE NOT BEEN PROVEN BY THE PLAINTIFFS. THE DEFENDANTS DENY ANY FAULT OR LIABILITY REGARDING THESE CLAIMS AND THEY INTEND TO DEFEND THE CLASS ACTION.

THIS NOTICE DOES NOT MEAN THAT THE COURT HAS DECIDED ON THE LIKELIHOOD OF RECOVERY ON THE PART OF ANY CLASS MEMBERS OR ON THE MERITS OF THE CLAIMS OR DEFENCES ASSERTED OR TO BE ASSERTED IN THE CLASS ACTION.

Participation in the Class Action

Primary Class Members and their related Family Class Member(s) who want to participate in the Class Action, and be bound by any judgment or order made therein, are automatically included and do not need to do anything at this time. No Class Member will be responsible to pay any legal costs if the Class Action is unsuccessful.

If the Class Action is successful, Class Members may be entitled to share in the amount of any judgment or settlement amount by advancing claims through a process that may allow Class Members to prove their individual damages and injuries. For this reason, you should preserve any records, including medical records, you have regarding your breast implants and any injuries which you allege in connection with your breast implants.

Each Primary Class Member who does not opt out of the Class Action will be bound (and will bind their related Family Class Member(s)) by the terms of any judgment or settlement and will not be allowed to pursue an independent action against Allergan related to the subject matter of the Class Action. For clarity, if you participate in the Class Action, and it is unsuccessful, you will NOT be permitted to commence your own lawsuit against the Defendants regarding the subject matter of the Class Action. If you opt out, neither you nor your related Family Class Member(s) will be entitled to share in any judgment or settlement amount that might be obtained in the Class Action.

Opting Out

If you are a Primary Class Member and you DO NOT want to be a part of the Class Action, you must “opt out”. Opting out means that you will not be entitled to any judgment or settlement amount that may be obtained in the Class Action, but you will retain the right to commence or continue your own lawsuit against the Defendants regarding the subject matter of the Class Action. Family Class Members do not have an independent right to opt out and are bound by the decision made by their related Primary Class Member about whether to opt out or not.

If you choose to opt out, you must abide by all applicable limitation periods and should consult a lawyer.

If you would like to opt out, you must do so **by no later than June 30, 2025**, by completing an Opt-Out Form and sending it to the Administrator, Epiq Class Action Services Canada Inc. at:

Epiq Class Action Services Canada Inc.

Attention: Allergan Breast Implant Class Action Administrator

PO Box 507 STN B

Ottawa, ON K1P 5P6

Email: info@AllerganBreastImplants.ca

Telephone: 1-888-870-0704

Fax: 1-866-262-0816

Opt-Out Forms are available here www.AllerganBreastImplants.ca and on all of Class Counsel's websites, and/or may be requested by mail or telephone from the Administrator or Class Counsel. See below under "Class Counsel" for more information.

What Happens Next?

The Class Action will now proceed with the pleading and discovery processes, which involves, without limitation, the filing of a statement of defence by the Defendants and sharing and review of documents related to the lawsuit and the examination of various parties. This part of the Court process may also involve one or more motions to decide any issues that arise between the parties.

Once the discovery process is completed, the Class Action will proceed to a trial of the Common Issues (the "Common Issues Trial"). The result reached at the conclusion of the Common Issues Trial will be binding on ALL Class Members.

If the parties to the Class Action reach a settlement at any point, that result will also bind all Class Members. If the Plaintiffs achieve a successful trial result or a settlement, Class Members may then be entitled to compensation in accordance with the trial judgment or settlement terms.

No Class Member will have to pay for any expenses or legal costs associated with either the trial or settlement process. The retainer agreements between the Plaintiffs (who represent the Class) and Class Counsel provide that Class Counsel will pay for all disbursements and will indemnify (protect) the Class Members against any adverse cost awards. However, if the Class Action is successful at trial or is settled, Class Counsel will be entitled to a contingency fee in an amount approved by the Court. The retainer agreements provide that Class Counsel will be paid a contingency fee equal to thirty percent (30%) of any judgment or settlement amount obtained in the Class Action, plus applicable taxes and disbursements, subject to Court approval.

Class Counsel has obtained third-party funding to cover the cost of legal expenses and disbursements from the Law Foundation of Ontario's Class Proceedings Fund. The Class Proceedings Fund will be entitled to a levy in the amount of ten percent (10%) of any judgment or settlement amount obtained in the Class Action which is in addition to the contingency fee described above.

Class Members may receive notice of any major steps in the litigation, including any judgment or settlement. If the action is settled, you will have an opportunity to oppose (object to) the terms of the settlement, including the amount of Class Counsel's requested fees.

Class Counsel

There is no charge to speak with Class Counsel to discuss the Class Action, to have your questions answered, or to obtain an Opt-Out Form.

For further information or details about the Class Action, you may contact Class Counsel identified below. Your name and any information provided will be kept confidential. Please do not contact the Defendants or the judges of the Court.

Rochon Genova

900-121 Richmond St. W.
Toronto ON M5H 2K1
Telephone: 1-866-881-2292
www.rochongenova.com

Thomson Rogers LLP

3100-390 Bay St.
Toronto ON M5H 1W2
Telephone: 1-888-223-0448
www.trlaw.com

Rice Harbut Elliott LLP

820-980 Howe Street
Vancouver BC V6Z 0C8
Telephone: 1-604-682-3771
www.rhelaw.com

Merchant Law Group

100-2401 Saskatchewan Drive
Regina SK S4P 4H8
Telephone: 1-877-359-7777
www.merchantlaw.com

Class Counsel for the Québec class action (S.C.M. file no: 500-06-000966-198) which was suspended until final judgment is rendered in this Class Action are:

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Email: jzukran@lpclex.com
www.lpclex.com/breastimplants

Mtre Joel Banon

Tiger Banon Inc
716-1010, Sherbrooke West
Montréal QC H3A 2R7
Telephone: (514) 284-8401 ext. 103
Email: jbannon@tigerbanon.com
www.tigerbanon.com

Please do not contact the court with inquiries about the class actions or settlement. All inquiries should be directed to Epiq Class Action Services Canada Inc., or to Class Counsel.

This notice was authorized by the Ontario Superior Court of Justice. Please do not contact the Court.