Court File No. VLC-S-S-193394

NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

KEVIN GAGNON by his litigation guardian, AMY GAGNON

PLAINTIFF

AND:

PRO DOC LIMITÉE, APOTEX INC., PHARMASCIENCE INC. and TEVA CANADA LIMITED

DEFENDANTS

NOTICE OF CIVIL CLAIM

Brought under the *Class Proceedings Act*, R.S.B.C. 1996, c. 50

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

(a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,

(b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,

(c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

The Parties

1. The infant Plaintiff, Kevin Gagnon, whose date of birth is September 20, 2001, is suing by his guardian ad litem, Amy Gagnon, with an address for service at 1220-1200 West 73rd Avenue, in the City of Vancouver, in the Province of British Columbia.

2. The Defendant, Pro Doc Limitée ("Pro Doc") is a corporation established pursuant to the laws of the Province of Quebec with its registered office located at 2925 boul., Industriel, Laval, Quebec, H7L 3W9.

3. At all material times, Pro Doc or its parents and subsidiaries were engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor, or subsidiary, drugs to treat patients with high blood pressure, heart problems and kidney problems, that contained, among other ingredients, Losartan, in Canada, including:

a) LOSARTAN (PRO DOC LIMITEE) DIN 02394367, 25 mg, lot 498292;
b) LOSARTAN (PRO DOC LIMITEE) DIN 02394367, 25 mg, lot 605344;
c) LOSARTAN (PRO DOC LIMITEE) DIN 02394375, 50 mg, lot 498779;
d) LOSARTAN (PRO DOC LIMITEE) DIN 02394375, 50 mg, lot 600046;
e) LOSARTAN (PRO DOC LIMITEE) DIN 02394375, 50 mg, lot 603903;
f) LOSARTAN (PRO DOC LIMITEE) DIN 02394375, 50 mg, lot 498284;

g) LOSARTAN (PRO DOC LIMITEE) DIN 02394375, 50 mg, lot 603895;
h) LOSARTAN (PRO DOC LIMITEE) DIN 02394383, 100 mg, lot 499008;
i) LOSARTAN (PRO DOC LIMITEE) DIN 02394383, 100 mg, lot 605299; and
j) LOSARTAN (PRO DOC LIMITEE) DIN 02394383, 100 mg, lot 605297.

(collectively, "Pro Doc's Drugs")

4. Any subsidiary, parent, or holding company of Pro Doc that engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor or subsidiary, Pro Doc's Drugs, or was involved in the development of Pro Doc's Drugs for sale in Canada, the conduct of clinical studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Pro Doc's Drugs and other actions central to the allegations of this lawsuit is jointly, severally, and vicariously liable:

(a) as a global partnership or common business enterprise which manufactured Pro Doc's Drugs and distributed them throughout the world, including in Canada;
(b) as each was the partner or agent of the others:
    i. as each company's business was and is inextricably connected with Pro Doc; and
    ii. as each company and Pro Doc had a common plan to manufacture and distribute Pro Doc's Drugs throughout the world, including in Canada, for profit; and
(c) as they are joint tortfeasors.

5. The Defendant, Apotex Inc. ("Apotex") is an extra-provincial company with its attorney's office within the Province of British Columbia located at 2700 - 700 West Georgia Street in the City of Vancouver in the Province of British Columbia.

6. At all material times, Apotex or its parents and subsidiaries were engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor, or subsidiary, drugs to treat patients with high blood pressure, heart problems and kidney problems, that that contained, among other ingredients, Losartan, in Canada, including:

a) APO-LOSARTAN (DIN 02379058) 25 mg, NL1453;
b) APO-LOSARTAN (DIN 02379058) 25 mg, NL1452;
c) APO-LOSARTAN (DIN 02353504) 50 mg, NK1254 ;
d) APO-LOSARTAN (DIN 02353504) 50 mg, NK1253
e) APO-LOSARTAN (DIN 02353512) 100 mg, NL1461;
f) APO-LOSARTAN (DIN 02353512) 100 mg, NG2092;
g) APO-LOSARTAN (DIN 02353512) 100 mg, NH5932;
h) APO-LOSARTAN (DIN 02353512) 100 mg, NH5933;
i) APO-LOSARTAN (DIN 02353512) 100 mg, NL1460;
j) APO-LOSARTAN (DIN 02353512) 100 mg, NH5934;
k) APO-LOSARTAN/HCTZ (DIN 02371235) 50/12.5 mg, NL1441;
l) APO-LOSARTAN/HCTZ (DIN 02371235) 50/12.5 mg, NZ8848;
m) APO-LOSARTAN/HCTZ (DIN 02371235) 50/12.5 mg, NL1445;
n) APO-LOSARTAN/HCTZ (DIN 02371235) 50/12.5 mg, NZ8849 ;
o) APO-LOSARTAN/HCTZ (DIN 02371235) 50/12.5 mg, NZ8860;
p) APO-LOSARTAN/HCTZ (DIN 02371243) 100/12.5 mg, NG2087;
q) APO-LOSARTAN/HCTZ (DIN 02371243) 100/12.5 mg, NL1421;
r) APO-LOSARTAN/HCTZ (DIN 02371243) 100/12.5 mg, NG2086;
s) APO-LOSARTAN/HCTZ (DIN 02371243) 100/12.5 mg, NL1422;
t) APO-LOSARTAN/HCTZ (DIN 02371251) 100/25 mg, NL1429;
u) APO-LOSARTAN/HCTZ (DIN 02371251) 100/25 mg, NZ8846;
v) APO-LOSARTAN/HCTZ (DIN 02371251) 100/25 mg, NZ8847; and
w) APO-LOSARTAN/HCTZ (DIN 02371251) 100/25 mg, NZ8845.

(collectively, "Apotex's Drugs")

7. Any subsidiary, parent, or holding company of Apotex that engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor or subsidiary, Apotex's Drugs, or was involved in the development of Apotex's Drugs for sale in Canada, the conduct of clinical studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Apotex's Drugs and other actions central to the allegations of this lawsuit is jointly, severally, and vicariously liable:

(a) as a global partnership or common business enterprise which manufactured Apotex's Drugs and distributed them throughout the world, including in Canada;

(b) as each was the partner or agent of the others:

i. as each company's business was and is inextricably connected with Apotex; and

ii. as each company and Apotex had a common plan to manufacture and distribute Apotex's Drugs throughout the world, including in Canada, for profit; and

(c) as they are joint tortfeasors.

8. The Defendant, Pharmascience Inc. ("Pharmascience") is a corporation established pursuant to the laws of the Province of Quebec with its registered office located at 100 – 6111 Royalmount Avenue, Montreal, Quebec, H4P 2T4.

9. At all material times, Pharmascience or its parents and subsidiaries were engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor, or subsidiary, drugs to treat patients with high blood pressure, heart problems and kidney problems, that contained, among other ingredients, Losartan, in Canada, including:

(a) PMS-LOSARTAN (DIN 02309750), 25 mg, lot 498294;
(b) PMS-LOSARTAN (DIN 02309750), 25 mg, lot 605342;
(c) PMS-LOSARTAN (DIN 02309750), 25 mg, lot 611944;
(d) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 498285;
(e) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 600047;
(f) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 600091;
(g) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 603894;
(h) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 612025;
(i) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 612031;
(j) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 612679;
(k) PMS-LOSARTAN (DIN 02309769), 50 mg, lot 616743;
(l) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 498864;
(m) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 602668;
(n) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 603816;

(o) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 605298;
(p) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 605300;
(q) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 613935; and
(r) PMS-LOSARTAN (DIN 02309777), 100 mg, lot 613936.
(collectively, "Pharmascience's Drugs")

10. Any subsidiary, parent, or holding company of Pharmascience that engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor or subsidiary, Pharmascience's Drugs, or was involved in the development of Pharmascience's Drugs for sale in Canada, the conduct of clinical studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Pharmascience's Drugs and other actions central to the allegations of this lawsuit is jointly, severally, and vicariously liable:

(a) as a global partnership or common business enterprise which manufactured Pharmascience's Drugs and distributed them throughout the world, including in Canada;
(b) as each was the partner or agent of the others:
    i. as each company's business was and is inextricably connected with Pharmascience ; and
    ii. as each company and Pharmascience had a common plan to manufacture and distribute Pharmascience's Drugs throughout the world, including in Canada, for profit; and
(c) as they are joint tortfeasors.

11. The Defendant, Teva Canada Limited/Teva Canada Limitee ("Teva") is an extra-provincial company with its attorney's office within the Province of British Columbia located at Suite 2200, 1055 West Hastings Street in the City of Vancouver in the Province of British Columbia.

12. On January 1, 2017, Actavis Pharma Inc., then a corporation established pursuant to the laws of Canada, was amalgamated into Teva, and as such Teva is responsible for the actions and inactions of Actavis Pharma Inc. and products produced and marketed by Actavis Pharma Inc.

13. At all times material times, Teva or its parents and subsidiaries were engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor, or subsidiary, drugs to treat patients with high blood pressure, heart problems and kidney problems, that contained, among other ingredients, Losartan, in Canada, including:

a) TEVA-LOSARTAN/HCTZ (DIN 02358263) 50/12.5 mg, lot 35349397A; and

b) TEVA-LOSARTAN/HCTZ (DIN 02358263) 50/12.5 mg, lot 35344801A.

(collectively, "Teva's Drugs")

14. Any subsidiary, parent, or holding company of Teva that engaged in the business of designing, manufacturing, developing, preparing, processing, inspecting, testing, packaging, promoting, marketing, distributing, labelling, or selling for profit, either directly or indirectly, through an agent, affiliate, predecessor or subsidiary, Teva's Drugs, or was involved in the development of Teva's Drugs for sale in Canada, the conduct of clinical studies, the preparation of regulatory applications, the maintenance of regulatory records, the labelling and promotional activities regarding Teva's Drugs and other actions central to the allegations of this lawsuit is jointly, severally, and vicariously liable:

(a) as a global partnership or common business enterprise which manufactured Teva's Drugs and distributed them throughout the world, including in Canada;

(b) as each was the partner or agent of the others:

i. as each company's business was and is inextricably connected with Teva; and

ii. as each company and Teva had a common plan to manufacture and distribute Teva's Drugs throughout the world, including in Canada, for profit; and

(c) as they are joint tortfeasors.

FACTS

15. Pro Doc's Drugs, Pharmascience's Drugs, Apotex's Drugs, and Teva's Drugs are referred to collectively as the "Losartan Drugs".

16. Losartan, the primary active ingredient in each of the Losartan Drugs, is an angiotensin receptor blocker used in adults and children over the age of six to treat high blood pressure, heart failure, to improve survival rates after heart attacks, lower the risk of strokes in patients with high blood pressure and an enlarged heart, and help protect kidney damage. Losartan operates by blocking the action of certain substances that constrict or tighten blood vessels, by relaxing blood vessels so that blood can flow more easily.

17. The Losartan Drugs at issue in this action contain Losartan manufactured in whole or in part by a third party vendor, Hetero Labs Ltd. Unit 1 ("Hetero"), based in India.

18. Losartan Drugs are very commonly prescribed in Canada.

19. On or about March 9, 2019, Health Canada became aware that the Losartan in at least some (if not all) of the Losartan Drugs contained an impurity or contaminant known as N-Nitroso-N-methyl-4-aminobutyric acid ("NMBA").

20. NMBA is a compound chemical that is a known probable human carcinogen that could cause cancer with long-term exposure.

21. NMBA is found in various types of tobacco, including snuff, chewing and pipe tobacco, cigars and cigarettes. The occurrence of NMBA is highly correlated with levels of tobacco-specific N-nitrosamines which are known carcinogens in a wide range of animal species.

22. NMBA is not ordinarily commercially produced or utilized in any pure form, but is more often produced as a by-product or unintended consequence of other chemical interactions.

23. The United States Food and Drug Administration ("FDA") announced a recall of medications containing Losartan supplied by Hetero on March 1, 2019.

24. Based on a review of information from the FDA, Health Canada identified Hetero to be non-compliant with requirements for Good Manufacturing Practices. A non-compliant rating means that Canadian companies can no longer import drugs that contain active pharmaceutical ingredients from the identified site unless they are medically necessary.

25. On March 9, 2019, Health Canada issued Recall Alert RA-69272 advising Canadians that the identified Losartan Drugs were being voluntarily recalled by Teva, Apotex, Pharmascience, and Pro Doc because it had been discovered that the Losartan supplied by Hetero contained NMBA.

The Proposed Class

26. This action is brought on behalf of the Plaintiff and a class including all persons residing in Canada (or, alternatively, in British Columbia) who ingested Losartan Drugs as well as any others who, by virtue of their familial relationship or fatal accidents legislation, are entitled to bring a derivative claim.

Plaintiff's Claim

27. The Plaintiff has been prescribed and has, since at least June 2018, taken Losartan-PMS to help manage his high blood pressure. His most recent prescription filled was for Losartan-PMS (DIN 02309750) 25mg, which is a Losartan Drug.

28. The Plaintiff read and followed the directions regarding the use of these drugs and would have explored alternatives to these drugs had he been properly appraised of the risks associated with the use of the same.

29. On or about Monday, March 11, 2019, the Plaintiff became aware of the contaminated Losartan Drugs by way of a news broadcast regarding Health Canada's Recall Alert RA-69272.

30. The Plaintiff immediately called his cardiologist and pharmacist to inquire about the recall.

31. The Plaintiff's pharmacist confirmed his prescription was identified as one of the recalled Losartan Drugs. His cardiologist provided him with a prescription for an alternative medication which he subsequently filled at his pharmacy.

32. In addition to the expense of his new prescription, the Plaintiff also paid the transportation costs to fill his prescription and will face the transportation costs of needed return visits to his doctor to monitor his condition. Various negative outcomes including but not limited to high blood pressure and the development of cancer in the future may be one of the results of ingesting this dangerous chemical.

33. The Plaintiff is extremely alarmed and has experienced anxiety and significant worry about the fact that he has been exposed, potentially over a long period of time, to a chemical that is known to be so harmful to humans.

Part 2: RELIEF SOUGHT

34. The Plaintiff claims, on his own behalf, and on behalf of class members:

(a) an order certifying this action as a class proceeding;

(b) general damages;

(c) special damages;

(d) accounting, disgorgement, or restitution of revenue the Defendants earned from selling Losartan Drugs, including as a aggregate monetary award;

(e) punitive damages;

(f) recovery of health care costs pursuant to the *Health Care Cost Recovery Act,* S.B.C. 2008, c. 27, and comparable legislation in other provinces and territories;

(g) pre-judgement and post-judgement interest;

(h) costs; and

(i) such further and other relief as to this Honourable Court may seem just and meet.

Part 3: LEGAL BASIS

Causes of Action

35. The Plaintiff incorporates by this reference the assertions set forth in the paragraphs above as if fully set forth under each of the causes of action pled below.

Violation of Statutory Obligations

36. The Plaintiff pleads and relies upon competition, consumer protection, trade legislation, and common law as it exists in this jurisdiction, and the equivalent/similar legislation and common law in all Canadian provinces and territories.

37. The misrepresentations by the Defendants as to the risks associated with the use of the Losartan Drugs constitute unlawful, unfair, and deceptive trade practices and the Defendants are in violation of sections 74.01 and 74.02 of the *Competition Act*, R.S.C. 1985, c. C-34.

38. The Losartan Drugs were not of acceptable quality and were not fit for the sole and only purpose for which they were offered for sale in Canada, which constitutes a violation of s. 18 of the *Sale of Goods Act,* R.S.B.C. 1996, c. 410, and other equivalent provincial legislation elsewhere. Pursuant to section 52 of that the *Sale of Goods Act*, the Plaintiff and Class Members are entitled to recover the amounts they paid for the Losartan Drugs in addition to recovering compensation for other damages.

Strict Liability

39. The Defendants are strictly liable for a product intended to be ingested by the Plaintiff and Class Members that could not be tested by them prior to use.

40. The Defendants were engaged in the business of researching, creating, designing, testing, manufacturing, labeling, packaging, supplying, marketing, selling, advertising, and distributing Losartan Drugs in Canada, when they knew or ought to have known about the serious risks.

41. The Losartan Drugs manufactured or supplied by the Defendants were unaccompanied by warnings that accurately reflected the hazards of consuming the Losartan Drugs. Had appropriate quality control and validation testing been adequately performed, the Losartan Drugs would not have been allowed to enter the stream of commerce.

42. As the proximate cause and legal result of the defective condition of the Losartan Drugs as manufactured or supplied or distributed by the Defendants, and as a direct and legal result of the conduct of the Defendants described herein, the Plaintiff and Class Members have been damaged.

43. The Losartan Drugs manufactured or distributed or supplied by the Defendants were defective in design or formulation in that, when it left the hands of the manufacturers or suppliers or distributors, the foreseeable risks exceeded the benefits associated with the design and formulation of the drug.

44. Alternatively, the Losartan Drugs manufactured or distributed or supplied by the Defendants were defective in design or formulation in that, when it left the hands of the manufacturers or suppliers or distributors, it was unreasonably dangerous, it was more dangerous than an ordinary consumer would expect and more dangerous than alternative drugs available for the treatment of Plaintiff and Class Members' condition.

45. There existed, at all times material hereto, safer alternative medications that did not contain harmful and hazardous chemical substances such as NOMA.

46. The Defendants did not perform adequate testing upon Losartan Drugs. Adequate testing would have revealed that Losartan Drugs contained an undesirable substance.

Negligence

47. The Defendants knew or ought to have known that the Losartan Drugs impermissibly contained NOMA that increased the risk to consumers of serious complications, including the development of cancer and other ailments.

48. The Defendants owed a duty of care to the Plaintiff and Class Members to:

(a) take reasonable care in formulating, manufacturing, and testing of Losartan Drugs;
(b) ensure the Losartan Drugs were safe for human ingestion and offer only safe drugs for sale and human consumption in the streams of commerce;
(c) conduct ongoing testing and analyses to learn within a reasonable time of any impurities in the manufacture of Losartan Drugs, and to inform the public and proper governmental authorities of the results; and
(d) recall Losartan Drugs promptly after becoming aware of adverse health risks.

49. In discharging their duties of care, the Defendants breached the standards of care expected of them.

50. The Defendants were negligent in:

(a) failing to use care in designing, developing, and manufacturing the Losartan Drugs so as to avoid potential sources of contamination or, in the alternative, to identify contamination in an efficient and effective manner;
(b) failing to establish any or adequate procedures to monitor the formulation of the Losartan Drugs; and
(c) failing to establish any or adequate procedures to control and minimize the potential for cross-contamination of the Losartan Drugs during the production process.

51. The Defendants failed to use sufficient quality control, to conduct adequate testing, and to perform proper manufacturing, production, or processing, or failed to take sufficient measures to prevent harmful products such as the Losartan Drugs from being offered for sale, sold, or used by consumers.

52. As a result of breach of the standard of care imposed upon them, the Defendants deprived the Plaintiff and the Class Members of the right to know what risks were involved in the use of the Losartan Drugs and their right to make meaningful decisions as to which of a number of alternative forms of drugs available to them, based on a full understanding of those risks.

Breach of Warranty

53. The Defendants expressly warranted to the public, including the Plaintiff and Class Members, by and through statements made by the Defendants or their authorized agent or sales representatives, orally or in publications, package inserts, product monographs or other written materials to the medical community or the public as they marketed and did business in Canada, that the Losartan Drugs were safe, effective, and fit and proper for their intended use.

54. In using Losartan Drugs, the Plaintiff and Class Members relied on the skill, judgment, representations, and foregoing express warranties of the Defendants. These warranties and representations proved to be false because the product was not safe or was unfit for the purposes for which it was intended.

55. As a direct and proximate result of the Defendants' breaches of warranties, the Plaintiff and Class Members suffered special, general, and aggravated damages.

56. Prior to the time when the Losartan Drugs were used by Class Members, the Defendants impliedly warranted to the market, including the Plaintiff and Class Members, that the Losartan Drugs were of merchantable quality and safe, and fit for the purposes for which they were intended.

57. The Defendants are the manufacturers and sellers of the Losartan Drugs and Class Members are buyers within the meaning of statutes such as the *Sale of Goods Act* and the *Business Practices and Consumer Protection Act,* S.B.C. 2004, c. 2 and all Provincial and Federal equivalents. The Defendants are deemed to have given and breached the statutory warranty that the Losartan Drugs, having been sold by description, corresponded with that description and were of acceptable quality.

58. As a result of a breach of the statutory and common law warranties, the Plaintiff and Class Members are entitled to all the remedies contained in the *Sale of Goods Act* and the *Business Practices and Consumer Protection Act,* all Provincial and Federal equivalents, and the common law.

Violations of Consumer Protection Legislation

59. The Defendants' solicitations, offers, advertisements, promotions, sales and supply of the Losartan Drugs for personal use by the Plaintiff and by Class Members were "consumer transactions" within the meaning of the *Business Practices and Consumer Protection Act*. At all relevant times, the Defendants manufactured, marketed, and distributed the Losartan Drugs that they knew or ought to have known were defective and unfit for their stated purpose, in an unlawful, unfair, and deceptive manner that was likely to deceive the Plaintiff and Class Members.

60. As a result of these violations, the Defendants caused the Plaintiff and the Class Members to purchase and ingest Losartan Drugs which are subject to either the same or other dangerous defects.

61. As a result of the foregoing, the Plaintiff and the Class have suffered economic damages, personal injuries, and endangerment, and are entitled to damages in an amount to be proven at trial.

Damages

62. As manufacturers, marketers, developers, distributors, and/or importers of the Drugs, the Defendants were in such a close and proximate relationship to the Plaintiff, and other class members, as to owe them a duty of care.

63. The acts, omissions, wrong doings, and breaches of legal duties and obligations of the Defendants have caused or materially contributed to the Plaintiff and Class Members suffering injury, economic loss, and damages.

64. As a result of the Defendants' negligence and the Defendants' deceptive acts and practices, the Plaintiff and Class Member have suffered and will continue to suffer loss and damage. Such loss and damage was foreseeable by the Defendants. Particulars of the loss and damage suffered was foreseeable by the Defendants. Particulars of the loss and damage suffered by the Plaintiff and the Class Members which were caused or materially contributed to by the aforementioned acts of the Defendants include:

(a) personal injury including, but not limited to, the development of cancers;

(b) direct or indirect economic losses including, but not limited to out of pocket expenses for treatment, replacement medications, cost of future care, and loss of employment income; and

(c) other pain, suffering, or loss, stemming from illness of a Class Member as a result of the use of Losartan Drugs.

65. The Defendants' conduct was reprehensible and departed to a marked degree from ordinary standard of decent behavior. The Defendants' reckless disregard for public safety is deserving of punishment and condemnation by means of an award of punitive damages. This case raises issues of general deterrence. A punitive damage award in this case is necessary to express society's condemnation of conduct such as the Defendants', to advance public safety and to achieve the goal of both specific and general deterrence.

Heath Care Cost Recovery Act

66. The Plaintiff and class members have a claim for recovery of health care costs incurred by the provincial heath ministries on their behalf. The Plaintiff pleads the *Health Care Cost Recovery Act*, S.B.C. 2008, c.27 ("HCCRA"), and comparable legislation in other provinces.

Jurisdiction

67. The Plaintiff relies upon ss. 3, 7 and 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c.28. The Plaintiff pleads that there is a real and substantial connection between the subject matter of this action and the Province of British Columbia by reason that the Defendants marketed and sold the Drugs in British Columbia and this action concerns a tort committed in British Columbia.

Plaintiff's address for service:
c/o Hammerberg Lawyers LLP
1220 – 1200 West 73rd Avenue
Vancouver, BC V6P 6G5

Fax number address for service (if any): 604-269-8511

Place of trial: Vancouver

The address of the registry is:
Law Courts, 800 Smithe Street
Vancouver, BC V6Z 2E1

DATED at the City of Vancouver, in the Province of British Columbia, this 22 day of March, 2019.

Solicitor for the Plaintiff,
JOEL D. ZANATTA

This **Notice of Civil Claim** is prepared and filed by Joel D. Zanatta **(Attention: Alexia S. Majidi)** of the law firm of **HAMMERBERG LAWYERS LLP**, Barristers and Solicitors whose place of business is Suite 1220 – 1200 West 73rd Avenue, Vancouver, BC V6P 6G5, (Telephone: (604)269-8500)

Rule 7-1 (1) of the Supreme Court Civil Rules states:
(1) Unless all parties of records consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,
(a) prepare a list of documents in Form 22 that lists
(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
(ii) all other documents to which the party intends to refer at trial, and
(b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

This action is a proposed class action proceeding brought by the Plaintiff on behalf of all persons in B.C. who consumed the Defendants' product containing or contaminated with Losartan until the time the Defendants' product was recalled on March 9, 2019.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

[ ] a motor vehicle accident

[x] personal injury, other than one arising from a motor vehicle accident

[ ] a dispute about real property (real estate)

[ ] a dispute about personal property

[ ] the lending of money

[ ] the provision of goods or services or other general commercial matters

[ ] an employment relationship

[ ] a dispute about a will or other issues concerning the probate of an estate

[ ] a matter not listed here

Part 3: THIS CLAIM INVOLVES:

[X] a class action

[ ] maritime law

[ ] aboriginal law

[ ] constitutional law

[ ] conflicts of law

[ ] none of the above

[ ] do not know

Part 4:

Negligence Act, R.S.B.C. 1996, c. 333;

Court Order Interest Act. R.S.B.C. 1996, c. 79;

Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2;

Class Proceedings Act, R.S.B.C. 1996, c. 50;

Sale of Goods Act, R.S.B.C. 1996, c. 410

Court Jurisdiction and Proceedings Transfer Act, S.B.C. 2003, c.2 8; and

Health Care Costs Recovery Act, R.S.B.C. 2008 c. 27