

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

The Estate of Raymond Duck

Plaintiff

- and -

JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JOHNSON & JOHNSON INC., JOHNSON
& JOHNSON

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(Certification and Hearing Notice Approval)

THIS MOTION made by the Ontario Plaintiff for an order conditionally certifying this proceeding as a class proceeding for the purpose of implementing a national settlement agreement dated November 29, 2021 (the “Settlement Agreement”), and for an order approving the Certification and Hearing Notices, and the Hearing Notice Plan, was made before The Honourable Justice Leitch, this 10th day of June, 2022.

UPON BEING ADVISED that, subject to Court approval, the Plaintiffs and the Defendants have entered into the proposed Settlement Agreement attached hereto as Schedule “A”, and that the Defendants have consented to the terms of this Order;

THE COURT ORDERS THAT:

1. The Settlement Agreement in its entirety is incorporated by reference in this Order. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.

Certification

2. The Ontario Proceeding is certified as a class proceeding for settlement purposes only.
3. The Ontario Class is certified as follows:
 - i. All persons resident in Canada (at the time of Certification Order), with the exception of Saskatchewan Class Members and Quebec Class Members, who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Canada at any time on or before the date of the certification order; and
 - ii. All persons, with the exception of Saskatchewan Class Members and Quebec Class Members, who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
4. The Estate of Raymond Duck is hereby appointed as the representative plaintiff for the Ontario Class.
5. The nature of the claims asserted on behalf of the Ontario Class, are set out in the Statement of Claim herein and include, among others, negligence, misrepresentation, breach of duty to warn and breach of the *Food and Drugs Act*. The relief sought by the Ontario Class is set forth in the Statement of Claim herein and includes various declarations, pecuniary, special, non-pecuniary, punitive, aggravated and exemplary damages, accounting and disgorgement of profits, damages pursuant to the *Family Law Act*, pre-judgment interest, and costs.
6. The common issue in the Ontario Proceeding for settlement purposes is: Did the Defendants breach a duty to warn of the risk of diabetic ketoacidosis, acute kidney injuries, and/or lower limb loss?

Notices

7. The short-form, press release and long-form of the Hearing Notice are hereby approved substantially in the forms attached to this Order as Schedules "B" to "D".
8. The Hearing Notice Plan is hereby approved substantially in the form attached to this Order as Schedule "E" and that the Hearing Notice shall be disseminated in accordance with the Hearing Notice Plan.
9. The Hearing Notice Plan constitutes fair and reasonable notice to the class of the settlement Approval Hearing.

Claims Administrator

10. Trilogy Class Actions is hereby appointed as the Claims Administrator.
11. The Claims Administrator shall execute its obligations as set out in the Settlement Agreement. The Defendants shall have no liability whatsoever relating to the administration of the Settlement Agreement. This includes all aspects of the administration, including, without limitation, any distribution or investment of the Settlement Amount paid by the Claims Administrator or Class Counsel.

Opt Outs

12. The Opt Out Form is approved substantially in the form attached to this Order as Schedule "F".
13. The Opt Out Deadline to opt-out of this Ontario Proceeding is set for a date that is sixty (60) days after the date on which the Hearing Notice is first published.
14. A member of the Ontario Class may opt-out of this Ontario Proceeding by sending a complete Opt Out Form to the Claims Administrator by the Opt Out Deadline.
15. If a member of the Ontario Class opts-out of this Ontario Proceeding, all related Family Class Members will be deemed to have opted-out of the Ontario Proceeding.

16. No person may opt-out a Class Member who is a minor or a person who is otherwise under a legal disability without leave of the court after notice to the office of the Children's Lawyer or the Public Guardian and Trustee, as the case may be.
17. No Class Member may opt-out of the Ontario Proceeding after the Opt Out Deadline.
18. Within thirty (30) days of the Opt Out Deadline, Class Counsel shall provide to the Defendants a report containing the names of each person who has validly and timely opted out of the proceeding and a summary of the information delivered by such persons in accordance with the Settlement Agreement.

Objections

19. The motion for settlement approval in this proceeding shall be heard on September 29, 2022, at 12:00 p.m EST, or at such other time as the court directs, at the Courthouse, 80 Dundas Street in London, Ontario, or virtually as directed.
20. The Approval Hearing will be conducted to determine whether the Settlement Agreement is fair, reasonable, and in the best interest of Class Members in accordance with the *Class Proceedings Act*, 1992, SO 1992, c 6.
21. A Class Member may object to the approval of the Settlement by sending a written objection by pre-paid mail, courier, or email to Class Counsel in accordance with the Settlement Agreement. Objections must be received before 5:00 p.m. EST, five (5) days before the date of the Approval Hearing.
22. A Class Member who wishes to object to the Settlement Approval Orders must state in their objection:
 - i. The full name, current mailing address, telephone number, and email address of the person who is objecting;
 - ii. A brief statement of the nature and reasons for the objection;
 - iii. A declaration that the person believes they are a member of the Class and the reason for that belief; and

- iv. Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.
23. This Order is contingent upon parallel orders being made by the Superior Court of Quebec in *Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.* Court File No. 500-6-000906-186 and the Court of Queen's Bench for Saskatchewan in *Ronald Allen Fiddler v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.*, Court File Number Q.B.G. 2809 of 2015 and the terms of this Order shall not be effective unless and until such orders are made by the Quebec Court and the Saskatchewan Court.
24. In the event the Settlement Agreement is not approved by the Courts, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, then the Settlement Agreement shall become null and void pursuant to its terms, and the within Order certifying this Ontario Proceeding for settlement purposes is hereby set aside, without further Order of this Court.
25. There shall be no costs of this motion.

ISSUED at London, Ontario, this 16 day of June, 2022.



The Honourable Justice Leitch

Schedule "A"

INVOKANA
CLASS ACTION NATIONAL SETTLEMENT AGREEMENT

<p style="text-align: center;">ESTATE OF RAYMOND DUCK</p> <p style="text-align: right;">Plaintiffs</p> <p style="text-align: center;">- and -</p> <p>JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JOHNSON & JOHNSON, and JOHNSON & JOHNSON INC.</p> <p style="text-align: right;">Defendants</p>	<p style="text-align: center;">PROVINCE OF ONTARIO Ontario Superior Court of Justice Court File No.: No.CV-18-00000570-00CP</p>
<p style="text-align: center;">STEVEN VARNAI & JOANNE GIROUX</p> <p style="text-align: right;">Plaintiffs</p> <p style="text-align: center;">v.</p> <p>JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JOHNSON & JOHNSON, and JOHNSON & JOHNSON INC.</p> <p style="text-align: right;">Defendants</p>	<p style="text-align: center;">PROVINCE OF QUEBEC Superior Court of Quebec District of Montreal (Class Actions) No.: 500-06-000906-186</p>
<p style="text-align: center;">RONALD ALLEN FIDDLER</p> <p style="text-align: right;">Plaintiff</p> <p style="text-align: center;">- and -</p> <p>JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JANSSEN ORTHO LLC, JOHNSON & JOHNSON, and JOHNSON & JOHNSON INC.,</p> <p style="text-align: right;">Defendants</p>	<p style="text-align: center;">PROVINCE OF SASKATCHEWAN Court of Queen's Bench for Saskatchewan Judicial Centre of Regina Q.B.G. 2809/2015</p>

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PREAMBLE & RECITALS

A. WHEREAS, unless otherwise indicated or required by context, capitalized terms in these recitals have the meanings assigned to them in Section 1 of this Settlement Agreement below;

B. WHEREAS, the Saskatchewan Proceeding, the Ontario Proceeding, and the Quebec Proceeding allege that the Defendants failed to warn of the risks of developing certain side effects and injuries, including ketoacidosis, acute kidney injuries, and limb loss, that the Defendants were negligent in the design, development, testing and marketing of the Invokana Products, that the Defendants breached applicable consumer protection legislation and breached the *Civil Code of Québec*, and that the Invokana Products should not have been marketed in Canada, which allegations the Defendants deny;

C. WHEREAS, the Other Class Proceedings were commenced in the Ontario Superior Court of Justice, arising from the same subject matter as the Saskatchewan Proceeding, the Ontario Proceeding, and the Quebec Proceeding;

D. WHEREAS, the Parties intend by this Settlement Agreement to resolve all claims for damages alleged to be due in any way to the use of Invokana Product(s) by (a) all persons resident in Canada who have been prescribed Invokana Product(s) at any time on or before the date of the Certification and Hearing Notice Orders; (b) all persons resident in Canada who by virtue of a personal relationship to one or more of such persons described in (a) have claims for common law or statutory damages; and (c) all Provincial Health Insurers' claims with respect to Settling Claimants;

E. WHEREAS, counsel to the Parties have conducted settlement negotiations in good faith and at arms-length to come to the within resolution;

F. WHEREAS, the Defendants do not admit, through the execution of this Settlement Agreement or otherwise, any allegation of unlawful or otherwise actionable conduct alleged in the Proceedings or otherwise, and in fact deny any and all such allegations;

G. WHEREAS, the Plaintiffs, Class Counsel, and the Defendants agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Released Parties or evidence of the truth

of any of the Plaintiffs' allegations against the Released Parties, which allegations are expressly denied by the Defendants;

H. WHEREAS, the Plaintiffs and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of Class Members based on an analysis of the facts and applicable law, taking into account the extensive burdens and expense of litigation, including the risks and uncertainties associated with protracted trials and appeals, as well as the fair, cost-effective and assured method provided in this Settlement Agreement of resolving the claims of Class Members;

I. WHEREAS, the Defendants have similarly concluded that this Settlement Agreement is desirable in order to avoid the time, risk, and expense of defending multiple and protracted litigation, and to resolve finally and completely the pending and potential claims of Class Members;

J. WHEREAS, the Parties intend by this Settlement Agreement to finally resolve, on a national basis, without admission of liability, the Proceedings and all the present and future claims of Class Members relating in any way to their prior use of Invokana Product(s), and to terminate the Other Class Proceedings;

K. WHEREAS, the Parties shall seek Settlement Approval Orders from the Courts;

L. WHEREAS, the Provincial Health Insurers have confirmed, or shall confirm, that they consent to and approve, and will not object to court approval of, the settlement provided for in this Settlement Agreement, and they will accept a payment, as provided for in the Compensation Protocol, in satisfaction of all Provincial Health Insurer Rights of Recovery that they may have, whether by subrogation or by independent right of action, respecting Settling Claimants' use of Invokana Product(s);

M. WHEREAS, the Parties shall seek the Dismissal Order from the Ontario Superior Court of Justice, and this settlement is contingent on the granting of same;

N. NOW THEREFORE, subject to the issuance of the Settlement Approval Orders and the Dismissal Order, this Settlement Agreement embodies the terms of the resolution of claims of Class Members and of the Provincial Health Insurers.

SECTION 1 - DEFINITIONS

Unless a particular section of this Settlement Agreement explicitly provides for another interpretation, the following terms, as used in this Settlement Agreement and its exhibits, shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural, and vice versa, where appropriate. Feminine pronouns and female references shall be deemed to include the masculine, and vice versa, where appropriate.

- (a) “**Approval Hearing**” means the hearing of the motion for final approval of the Settlement Agreement.
- (b) “**Certification and Hearing Notice Orders**” means the Court orders certifying the Ontario Proceeding, Saskatchewan Proceeding, and Quebec Proceeding and approving the Hearing Notice and Hearing Notice Plan, in a form agreed to by the Parties, attached hereto as Schedule “A”;
- (c) “**Claim Deadline**” means one hundred and twenty (120) days after the first day on which the Settlement Approval Notice is published;
- (d) “**Claims Administration Costs**” means all costs, other than Class Counsel Legal Fees, required to implement this Settlement Agreement, including without limitation, costs required to satisfy the notice provisions;
- (e) “**Claims Administrator**” means the firm proposed by Class Counsel and appointed by the Courts to administer the Settlement Amount in accordance with the provisions of this Settlement Agreement and the Compensation Protocol, and any employees of such firm.
- (f) “**Classes**” means the Ontario Class, Saskatchewan Class, and Quebec Class;
- (g) “**Class Counsel Legal Fees**” means all legal fees, disbursements and applicable taxes in respect of all legal services provided by Class Counsel or any other law firm for the benefit of the Class(es) and the Provincial Health Insurers, as approved by the Court, but does not include fees for legal services for the benefit of particular Settling Claimants (which are payable by the Settling Claimant);

- (h) **“Class Counsel”** means Merchant Law Group, Siskinds LLP and Siskinds Desmeules, Avocats;
- (i) **“Class Member”** means a member of any of the Ontario Class, Saskatchewan Class, and Quebec Class, but, for greater certainty, does not include any Opt Out or Provincial Health Insurer. **“Class Members”** means members of those three classes, with the same exceptions;
- (j) **“Compensation Protocol”** means the Court-approved plan for administering this Settlement Agreement and distributing the Settlement Amount to Class Members;
- (k) **“Courts”** means the Court of Queen’s Bench for Saskatchewan, the Ontario Superior Court of Justice, and the Superior Court of Quebec;
- (l) **“Defendants’ Counsel”** means the law firm of Blake, Cassels & Graydon LLP;
- (m) **“Defendants”** means Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.;
- (n) **“Dismissal Order”** means the Order of the Ontario Superior Court of Justice dismissing the Other Class Proceedings with no costs against either the Plaintiffs or Defendants, and alternatively dismissing the Joudry Action and converting the Rosevear Action into an individual proceeding if the named plaintiff opts out of the applicable Class;
- (o) **“Effective Date”** means the date on which all of the following have occurred: (i) each Provincial Health Insurer has provided all statutorily required consents or approvals and executed a Provincial Health Insurer Release; (ii) copies of all the Provincial Health Insurer Releases have been provided to counsel for the Defendants; (iii) the Settlement Approval Orders and Dismissal Order become Final Orders and (iv) the Settlement Agreement has not been and can no longer be terminated pursuant to Section 5;
- (p) **“Final Order”** means any order contemplated by this Settlement Agreement from which no appeal lies, in respect of which any right of appeal has expired without

the initiation of proceedings in respect of that appeal, or proposed appeal, such as the delivery of a notice of appeal or application for leave to appeal, or, in respect of any order from which an appeal is taken, that appeal and any subsequent appeal are dismissed;

- (q) **“Hearing Notice Plan”** means the method by which the Hearing Notice is disseminated, in a form agreeable to the Parties and approved by the Court;
- (r) **“Hearing Notice”** means the notice (in long, abridged and press release form) approved by the Court, substantially in the form of Schedule “B”, in English and French, which advises Class Members of the certification of the Saskatchewan, Ontario and Quebec Proceedings (for settlement purposes only), the opt out process, and the hearings to approve the settlement provided for in this Settlement Agreement;
- (s) **“Invokana Product(s)”** means Invokana, Invokamet, and/or Invokamet XL;
- (t) **“Net Settlement Proceeds”** means the Settlement Amount less the amounts payable in respect of Claims Administration Costs, Class Counsel Legal Fees and any other costs associated with claims administration and notice of settlement approval hearing and, where the settlement is approved, notice of settlement approval;
- (u) **“Non-Refundable Expenses”** means the costs of publishing and distributing the Hearing Notice, including the associated professional fees (but expressly excluding Class Counsel Legal Fees), and any Claims Administration Costs incurred prior to any termination of this Settlement Agreement pursuant to section 5, limited to a maximum of \$50,000 pursuant to section 3.2(2);
- (v) **“Ontario Class”** means:
 - (i) All persons resident in Canada (at the time of the certification order), with exception of Saskatchewan Class Members and Quebec Class Members, who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Canada at any time on or before the date of the certification order; and

- (ii) All persons, with exception of Saskatchewan Class Members and Quebec Class Members, who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
- (w) **“Ontario Court”** means the Ontario Superior Court of Justice;
- (x) **“Ontario Proceeding”** means *Raymond Duck v Janssen Inc., Janssen Pharmaceuticals, Inc., Johnson & Johnson, and Johnson & Johnson Inc.*; commenced in the Toronto office of the Ontario Court under Court File No. CV-18-00000570-00CP;
- (y) **“Opt Out Deadline”** means the date sixty (60) days after the date on which the Hearing Notice is first published, or such other date as the Parties agree and is approved by the Court;
- (z) **“Opt Out Form”** means the form for requesting exclusion from the Classes, substantially in the form of Schedule “D”;
- (aa) **“Opt Out Threshold”** shall mean the threshold agreed upon by the Plaintiffs and Defendants, delivered to the Court under seal and kept confidential by the Plaintiffs, the Defendants and the Court;
- (bb) **“Opt Out”** means a person who would have been a Class Member but for her timely and valid request for exclusion pursuant to the opt out procedures set out in the Certification and Hearing Notice Orders;
- (cc) **“Other Class Proceedings”** means
 - (i) *Amanda Evelyn Rosevear v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, and Johnson & Johnson*; commenced in the Toronto office of the Ontario Court under Court File No. CV-16-551-20100CP (**“Rosevear Action”**); and
 - (ii) *Rosalba Joudry v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson and Johnson & Johnson Inc.*; commenced

in the Toronto office of the Ontario Court under Court File No. CV-15-536111CP (“**Joudry Action**”);

- (dd) “**Parties**” means the Plaintiffs and the Defendants;
- (ee) “**Plaintiffs**” means the Plaintiffs in the Saskatchewan Proceeding, the Ontario Proceeding, and the Quebec Proceeding;
- (ff) “**Proceedings**” means the Saskatchewan Proceeding, the Ontario Proceeding, and the Quebec Proceeding;
- (gg) “**Provincial Health Insurer Release**” means the form of Release attached hereto as Schedule “H”;
- (hh) “**Provincial Health Care Recovery Fund**” means a separate fund allocated to the Provincial Health Insurers as compensation for the Provincial Health Insurer Rights of Recovery.
- (ii) “**Provincial Health Insurer Rights of Recovery**” means all statutory authority for the recovery of costs of insured health or medical services, as defined in the empowering legislation of each jurisdiction and listed in Schedule “G”;
- (jj) “**Provincial Health Insurers**” means all provincial and territorial Ministries of Health or equivalents, and/or provincial and territorial plans funding medical and health care services and costs throughout Canada as listed in Schedule “G”;
- (kk) “**Quebec Class**” means:
 - (i) All persons resident in Quebec (at the time of the authorization) who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Quebec at any time on or before the date of the certification order; and
 - (ii) All persons, who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;

(ll) **“Quebec Proceeding”** means *Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.* filed under Court File No. 500-06-000906-186;

(mm) **“Released Claims”** means:

- (i) For all Releasers, other than the Provincial Health Insurers, any and all legal, equitable, administrative or other claims of any kind, regardless of the legal, equitable, statutory or other theory on which they are based, including all existing, future, known, and unknown claims, actions, demands, causes of action, cross-claims, counterclaims, obligations, contracts, indemnity, contribution, suits, debts, sums, accounts, controversies, rights, damages, costs, lawyers’ fees, administration costs, losses, expenses, and all liabilities whatsoever existing now or arising in the future, whether class, individual or otherwise in nature, including direct, contingent or absolute, accrued, mature, derivative, subrogated, personal, assigned, discovered, undiscovered, suspected, unsuspected, disclosed, undisclosed, asserted, unasserted, known, unknown, inchoate, or otherwise, relating in any way to any conduct anywhere: 1) that arise directly or indirectly out of, relate to, or are in any way connected with Invokana Product(s); 2) that have been brought or could have been brought by the Class that relate to Invokana Product(s); 3) relating to the creation, design, manufacture, testing, distribution, promotion, advertising, sale, administration, research, development, efficacy, inspection, clinical investigation, licensing, regulatory approval or authorization, packaging, labelling, use, marketing, recommendation, ingestion, compliance with regulatory obligations or reporting requirements, warnings and post-sale warnings, packaging, instructions for use, condition, promises, and any other matter arising out of, relating to, resulting from, or in any way connected with or related to Invokana Product(s), including by way of example but without limitation, alleged failure to warn, negligence in design or manufacturing, and/or labeling, of Invokana Product(s); and/or 4) relating to any alleged representations, promises, statements, warranties (express or implied) or

guarantees given or made by anyone affiliated with or representing the Released Parties relating to Invokana Product(s). Subject to the foregoing, the “Released Claims” include all claims for damages or remedies of whatever kind or character, known or unknown, that are now recognized or that may be created or recognized in the future by statute, regulation, judicial decision, or in any other manner, for or in respect of, arising out of or relating to any Invokana Product(s).

(ii) For the Provincial Health Insurers, any and all manner of claims which a Provincial Health Insurer ever had, now has or hereafter can, shall or may have pursuant to Provincial Health Insurer Rights of Recovery arising out of or in any way related to Class Members’ use of Invokana Products whether known or unknown, direct or indirect, subrogated or otherwise, relating in any way to the design, manufacture, sale, distribution, labelling, and/or use, of Invokana Product(s) in Class Members during the Class Period, and including, without limitation and by way of example, all subrogated and/or direct claims in respect of Class Members that were or could have been brought by or on behalf of the Provincial Health Insurers for the cost of medical care and treatment provided to Class Members, as well as medical screening and monitoring, arising from the facts alleged in the Proceedings.

(nn) **“Released Parties”** means, jointly and severally, individually and collectively, the Defendants, and any and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors, agents and assigns, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing; any and all suppliers of materials, components, and services used in the manufacture of any Invokana Product(s), including the

labelling, packaging, marketing and selling thereof, along with any and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors and assigns, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing; any and all distributors of Invokana Product(s), including those involved in the labelling, packaging, marketing and selling of Invokana Product(s), wholesale distributors, private label distributors, retail distributors, hospitals and clinics, and all of their present, future and former, direct and indirect, parents, subsidiaries, divisions, affiliates, controlling persons, general or limited partners, insurers, vendors, contractors and assigns, and all other persons, partnerships or corporations with whom any of the former have been, or are now, affiliated or related, and all of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, trustees, servants and representatives, and the predecessors, successors, purchasers, heirs, executors, estate administrators, assigns and personal representatives (or equivalent thereto) of each of the foregoing;

(oo) **“Releasors”** shall mean, jointly and severally, individually and collectively, the Plaintiffs and the Class Members and all of their present, future and former representatives, predecessors, successors, heirs, executors, administrators, insurers and assigns;

(pp) **“Saskatchewan Class”** means:

(i) All persons resident in Saskatchewan (at the time of the certification order) who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Saskatchewan at any time on or before the date of the certification order; and

- (ii) All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
- (qq) **“Saskatchewan Proceeding”** means *Ronald Allen Fiddler v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.*, commenced in the Court of Queen’s Bench for Saskatchewan under Court File Number Q.B.G. 2809 of 2015;
- (rr) **“Settlement Agreement”** means this agreement, including the recitals, exhibits and schedules;
- (ss) **“Settlement Amount”** means CAD \$1,500,000.00 inclusive, including without limitation all interest, taxes, costs, Class Counsel Legal Fees, other legal fees and Claims Administration Costs;
- (tt) **“Settlement Approval Notice”** means the notice (in long, abridged and press release form) approved by the Courts, substantially in the form of Schedule “F”, in English and French, which advises Class Members of the approval of the settlement provided for in this Settlement Agreement;
- (uu) **“Settlement Approval Notice Plan”** means the method by which the Settlement Approval Notice is disseminated, in a form agreeable to the Parties and approved by the Courts;
- (vv) **“Settlement Approval Orders”** means the orders or judgments issued by the Courts substantially in the form of Schedule “E” hereto.
- (ww) **“Settling Claimant”** (collectively, the “Settling Claimants”) means each Class Member who files a claim pursuant to the Compensation Protocol;
- (xx) **“Trust Account”** means a guaranteed investment vehicle, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, S.C. 1991, c. 46) held at a Canadian financial institution under the control of Class Counsel or

the Claims Administrator, once appointed, for the benefit of the Settlement Claimants, as provided for in this Settlement Agreement.

SECTION 2 - SETTLEMENT APPROVAL

2.1 Best Efforts

(1) The Parties shall use their best efforts to implement this settlement and to secure the Settlement Approval Orders and Dismissal Order. Pending approval of the Settlement Agreement, the Parties agree to hold the Proceedings in abeyance. The party required to file motions as a result of this Section 2 will provide drafts to the other party in advance, with sufficient time to review and have meaningful input on the contents of same.

2.2 Motions Seeking Certification and Approval of Notice

(1) The Plaintiff shall file motions with the Courts, on consent of the Defendants, as soon as practicable after this Settlement Agreement is executed, for orders certifying the Proceedings (for settlement purposes only) and approving the Hearing Notice and Hearing Notice Plan (the “Certification and Hearing Notice Orders”).

2.3 Motions Seeking Approval of the Settlement Agreement

(1) The Plaintiffs shall file motions with the Courts for Settlement Approval Orders as soon as practicable after:

- (a) the Certification and Hearing Notice Orders are granted; and
- (b) the Hearing Notice has been provided to Class Members in accordance with the Certification and Hearing Notice Orders.

(2) Prior to incurring any Non-Refundable Expenses, Class Counsel will provide counsel for the Defendants with any statutorily required consents or approvals to the settlement, with executed Provincial Health Insurer Releases to follow prior to the hearing of the Settlement Approval motions.

2.4 Motion Seeking Dismissal Order

- (1) Once the Courts have granted the Settlement Approval Orders, Defence Counsel will file a motion seeking the Dismissal Order.
- (2) Class Counsel will make best efforts to facilitate the Defendants' motion seeking the Dismissal Order.

2.5 Objections

- (1) A Class Member may object to the approval of the Settlement by sending a written objection by pre-paid mail, courier, or email to Class Counsel. Objections must be received before 5:00 p.m. Toronto time on a date that is five (5) days before the date of the Approval Hearing.
- (2) A Class Member who wishes to object to the Settlement Approval Orders must state in his/her/their objection:
 - (a) The full name, current mailing address, telephone number, and email address of the person who is objecting;
 - (i) A brief statement of the nature and reasons for the objection;
 - (ii) A declaration that the person believes he/she/they is a member of the Class and the reason for that belief;
 - (iii) Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel; and
 - (iv) Class Counsel shall, no later than three (3) days before the date of the Approval Hearing, report to the Court, by affidavit, with a copy to counsel for the Defendants, the names of persons who objected and copies of any objections.

2.6 Pre-Motion Confidentiality

(1) Until the motions required by section 2.2 are brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior written consent of Counsel for the Defendants and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), as necessary to give effect to its terms, or as otherwise required by law. Nothing in this section shall bar counsel from communicating with clients or the Provincial Health Insurers, provided that they also shall be required to maintain confidentiality consistent with the provisions of this section.

2.7 Settlement Agreement Effective

This Settlement Agreement shall only become final following the Effective Date.

SECTION 3 - NOTICE TO THE CLASSES

3.1 The Notices

(1) The Parties have agreed to the form, contents and method of dissemination of the Hearing Notice and the Settlement Approval Notice, subject to approval by the Courts, which shall be sought by way of the Plaintiffs' motions.

(2) The Settlement Approval Notice shall be disseminated in accordance with the Settlement Approval Notice Plan as soon as practicable after the Effective Date.

(3) The costs of publishing and distributing the Hearing Notice and the Settlement Approval Notice, including the associated professional fees (but expressly excluding Class Counsel Legal Fees), will form part of the Claims Administration Costs to be paid out of the Settlement Amount.

(4) No costs associated with publishing and distributing the Hearing Notice and the Settlement Approval Notice will be incurred until each of the Provincial Health Insurers confirm their approval of this Settlement Agreement and Provincial Health Insurer Release, and provide the statutorily required consents and approvals.

3.2 Notice of Termination

(1) If this Settlement Agreement is terminated by the Defendants pursuant to Section 5 and the Courts order that notice be given to the Classes, the Defendants will cause any such notice, in a form approved by the Courts, to be published and disseminated as the Courts direct, other than any notice required to be posted by Class Counsel on their websites.

(2) If this Settlement Agreement is terminated by the Defendants pursuant to Section 5, the Defendants shall be liable for the Non-Refundable Expenses and any costs which may arise as described in section 3.2(1), up to a maximum amount of \$50,000.00. The balance of the Settlement Amount shall be forthwith returned to the Defendants.

3.3 Cooperation

(1) The Parties shall cooperate, assist one another and the Claims Administrator and undertake all reasonable actions in order to ensure that the Notices are disseminated in a timely manner by the Claims Administrator.

SECTION 4 - SETTLEMENT BENEFITS

4.1 Payment of Settlement Amount

(1) The Defendants shall deposit \$50,000.00 into the Trust Account within 30 days of execution of this Settlement Agreement, and shall deposit the balance of the Settlement Amount within 30 days of the Effective Date.

(2) Payment of the Settlement Amount shall be made by wire transfer. At least fifteen (15) business days prior to any payment becoming due, Class Counsel will provide, in writing, the following information necessary to complete the wire transfers: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, Trust Account number, beneficiary's address and bank contact details.

(3) The Settlement Amount to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Released Parties.

- (4) The Settlement Amount shall be inclusive of all amounts, including, without limitation, interest, costs, Class Counsel Fees and Claims Administration Costs, other legal fees, Provincial Health Insurer claims and, if any, amounts payable to the Fonds d'aide aux actions collectives.
- (5) The Defendants shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement.
- (6) Once the appointment of the Claims Administrator has been approved by the Courts, Class Counsel shall transfer control of the Trust Account to the Claims Administrator.
- (7) Class Counsel and the Claims Administrator shall maintain the Trust Account as provided for in this Settlement Agreement and shall not pay out all or any part of the money in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Parties.

4.2 Taxes and Interest

- (1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class Members and the Provincial Health Insurers and shall become and remain part of the Trust Account and the Net Settlement Proceeds.
- (2) All taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be paid from the Trust Account. Class Counsel or the Claims Administrator, as appropriate, shall be solely responsible to fulfill all tax reporting and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.
- (3) The Defendants shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the money in the Trust Account, unless this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendants

which, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel or the Claims Administrator.

4.3 Compensation Protocol

(1) Class Counsel will draft the Compensation Protocol, to be approved by the Courts. The Defendants shall have no involvement in the formulation, drafting, or approval of the Compensation Protocol, except that the parties have agreed that injuries occurring in persons who started using or filled a prescription for Invokana Product(s) after the following dates (based on addition of relevant warning language to a Dear Health Care Professional Letter or Product Monograph) will not qualify for compensation: for acute kidney injury claims, after January 25, 2016; for diabetic ketoacidosis claims, after May 31, 2016; and for limb loss claims, after September 6, 2017. Notwithstanding the foregoing, the Compensation Protocol may provide compensation where the injury occurred within three (3) months after the relevant date above in a person (i) who started using an Invokana Product at least 30 days before such date and (ii) who used it continuously from such date to the time of the injury without having either attended his or her prescribing physician or had their prescription renewed otherwise. Subject to the foregoing, Class Counsel may consult with the Defendants and/or Defendants' Counsel to formulate the Compensation Protocol at Class Counsel's sole discretion.

(2) Upon approval by the Courts, the Compensation Protocol will be provided to the Claims Administrator for use in determining the amount each Class Member may be entitled to by way of recovery from the Net Settlement Proceeds.

4.4 Claims and Claimants

(1) Class Members and Provincial Health Insurers shall be eligible for the relief provided for in this Settlement Agreement and the Compensation Protocol, subject to their terms.

4.5 *Cy Près* Distribution

(1) Any *de minimus* funds remaining after distribution of the Net Settlement Proceeds pursuant to the Compensation Protocol, whether as a result of failure of Class Members to make claims or as a result of cheques having become stale dated and/or such other forms of payment as may be made to Settling Claimants and which may otherwise expire without having been claimed, shall

be distributed to an organization to benefit diabetic health and research, as proposed by Class Counsel and the Defendants and approved by the Court.

(2) The Act respecting the Fonds d'aide aux actions collectives, CQLR c F-3.2.0.1.1 will apply to the portion of any remaining balance, if any, attributable to Class Members resident in Quebec.

4.6 Distribution of the Settlement Amount

(1) On or after the Effective Date, the Claims Administrator shall distribute the Settlement Amount to the Settling Claimants and Provincial Health Insurers in accordance with the Compensation Protocol, after payment of the following from the Settlement Amount:

- (a) 10% of the Settlement Amount will be allocated to the Provincial Health Care Recovery Fund;
- (b) Class Counsel Legal Fees, as approved by the Courts;
- (c) all of the costs and expenses reasonably and actually incurred in connection with the provision of Settlement Approval Notice in accordance with the Notice Plan;
- (d) any remaining Claims Administration Costs, including the professional fees of the Claims Administrator; and
- (e) any taxes required by law to be paid to any governmental authority.

(2) Payments made to the Provincial Health Insurers from the Provincial Health Care Recovery Fund shall be in full and final satisfaction of all Provincial Health Insurer Rights of Recovery they may have in relation to Settling Claimants' use of Invokana Product(s) pursuant to the legislation of each jurisdiction, whether insured services were already provided or are yet to be provided to Settling Claimants.

(3) In order to receive a payment, a Provincial Health Insurer must execute the Provincial Health Insurer Release.

SECTION 5 - TERMINATION

5.1 General

(1) Termination rights are as follows:

(a) The Defendants shall have the right to terminate this Settlement Agreement in the event that:

- (i) the Opt Out Threshold is exceeded;
- (ii) any of the Provincial Health Insurers do not both confirm their approval of this Settlement Agreement and provide the statutorily required consents and approvals, and Provincial Health Insurer Release; or
- (iii) the Dismissal Order is denied and, following appeal, the denial of the Dismissal Order becomes a Final Order;

(b) Each of the Parties shall have the right to terminate this Settlement Agreement in the event that:

- (i) any Settlement Approval Order is denied and, following appeal, the denial of the Settlement Approval Order becomes a Final Order;
- (ii) any Settlement Approval Order is entered but reversed on appeal and the reversal becomes a Final Order; or
- (iii) any Court approves this Settlement Agreement in a materially modified form that is not agreed to by both the Parties.

(2) Any order, ruling or determination made (or rejected) by the Courts with respect to the Compensation Protocol (other than the qualification end dates in sub paragraph 4.3(1) above) or Class Counsel Legal Fees shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

(3) In all cases, failure of the Defendant to pay the Settlement Amount in accordance with this Settlement Agreement shall be grounds to terminate the Settlement Agreement.

(4) To exercise a right of termination, the terminating party shall deliver a written notice of termination to counsel for the other party within 30 days of the event giving rise to the right to terminate. Upon delivery of such a written notice, this Settlement Agreement shall be terminated and, except as provided for in sections 5.2 and 5.3, it shall be null and void and have no further force or effect, shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

5.2 Effect of Termination

(1) In the event this Settlement Agreement is terminated in accordance with its terms:

- (a) it shall be null and void and shall have no force or effect, and the Parties shall not be bound by its terms, except as specifically provided in this Settlement Agreement;
- (b) any order approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and everyone shall be estopped from asserting otherwise;
- (c) all funds in the Trust Account (including accrued interest) shall be returned to Defendants' Counsel within 10 days after the date of termination and no further deposits shall be made into the Trust Account.
- (d) all negotiations, statements and proceedings relating to this Settlement Agreement shall be deemed to be without prejudice to the rights of the Parties, and shall not be used as evidence or otherwise in any litigation;
- (e) the Defendants shall reimburse Class Counsel for the Non-Refundable Expenses, if, and only if, the Defendants elect to terminate pursuant to Paragraph 5.1(1)(a) or Subparagraph 5.1(1)(b)(iii); and
- (f) the Parties shall be returned to the position they were in immediately before the Settlement Agreement was executed in respect of all of the Proceedings.

5.3 Survival

(1) Notwithstanding section 5.2(1) of this Settlement Agreement, if this Settlement Agreement is terminated, the provisions of this section, and sections 2.6, 3.2, 5, 7.1 and 7.2, and the definitions applicable thereto of this Settlement Agreement, shall survive termination and shall continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of interpreting these sections of this Settlement Agreement, but for no other purposes.

5.4 Accounting

(1) If this Settlement Agreement is terminated after the Settlement Amount has been paid pursuant to section 4.1(1), Class Counsel shall immediately return the Settlement Amount to the Defendants less the Defendants' portion of Non Refundable Expenses and account to the Court and the Parties for all payments made from the Trust Account in respect of such Expenses by no later than fifteen (15) days after such termination.

5.5 Termination Orders

(1) If this Settlement Agreement is terminated, Class Counsel shall, within thirty (30) days after termination, apply to the Courts, on notice to the Claims Administrator, for an order:

- (a) declaring this Settlement Agreement null and void and of no force or effect except for the provisions of those sections listed in section 5.3(1) of this Settlement Agreement;
- (b) providing that any funds paid by the Defendants under the terms of this Agreement, other than those related to Defendants' portion of the Non-Refundable Expenses, shall be returned to Defendants by wire transfer within fifteen (15) days; and
- (c) setting aside the Certification and Hearing Notice Orders and the Settlement Approval Orders made in accordance with the terms of this Settlement Agreement.

(2) Subject to section 5.5(2) of this Settlement Agreement, the Parties shall consent to the orders sought in any motion made pursuant to section 5.5(1) of this Settlement Agreement.

(3) If there is any dispute about the termination of this Settlement Agreement, the Ontario Court shall determine any dispute by motion on notice to the Parties.

SECTION 6 - OPT OUT PROVISIONS

6.1 Opting Out

(1) Persons who have been prescribed Invokana Product(s) at any time on or before the date of the Certification and Hearing Notice Orders, and persons who by virtue of a personal relationship to one or more of such persons would have claims for common law or statutory damages, may exclude themselves from the Class.

(2) Persons described in section 6.1(1) above may exclude themselves from the Class by submitting a complete and signed Opt Out Form to the Claims Administrator in accordance with the Certification and Hearing Notice Orders, by the Opt Out Deadline. Under article 580 of the *Code of Civil Procedure* of Quebec, a class member eligible to opt out pursuant to section 6.1(1), who does not discontinue an originating application filed in Quebec having the same subject matter as the Quebec Proceeding before the time for opting out has expired, is deemed to have opted out.

(3) In the event that an Opt Out seeks to retain Class Counsel for any purpose related to the Proceedings, Class Counsel hereby agree to refuse to represent the Opt Out.

6.2 Opt Out Report

(1) The Claims Administrator shall provide Defendants' Counsel with a report advising as to the number of Opt Outs pursuant to section 6.1(2), the reasons for their opting out and details of the Opt Out's individual claim, if known, and a copy of all information provided, including the Opt Out Form, within thirty (30) days of the Opt Out Deadline. The Settlement Approval Hearings will be scheduled on dates that fall after such report is provided.

6.3 Defendants' Rights Reserved

(1) The Defendants reserve all of their legal rights and defences with respect to any Opt Outs.

SECTION 7 - EFFECT OF SETTLEMENT

7.1 No Admission of Liability

(1) The Plaintiffs and the Released Parties expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions, orders and proceedings associated with this Settlement Agreement, shall not be deemed, construed or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Released Parties, or of the truth of any of the claims or allegations contained in the Proceedings or any other pleading filed by the Plaintiffs. Further, this Settlement Agreement shall not be deemed, construed or interpreted to be any admission or evidence of satisfaction of any of the criteria for certification of a class proceeding in respect of any contested certification motion that may be brought absent this Settlement Agreement.

7.2 Agreement Not Evidence

(1) The Parties agree that, whether or not it is terminated, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a pending or future proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, or as otherwise required by law.

7.3 No Further Litigation

(1) Except with respect to the enforcement or administration of this Settlement Agreement, neither the Plaintiffs nor Class Counsel (whether directly or via local counsel in any Canadian Province or Territory) may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any person which relates to or arises from the Released Claims. Moreover, subject to the other terms of this Settlement Agreement, the Plaintiffs and Class Counsel (whether directly or via local counsel in any Canadian Province or

Territory) may not divulge to anyone for any purpose any information obtained in the course of the Proceedings or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available (so long as the information does not become publicly available through a breach of this section) or unless ordered to do so by a court of competent jurisdiction.

SECTION 8 - RELEASES AND DISMISSALS

8.1 Exclusive Remedy

(1) This Settlement Agreement shall be the exclusive remedy for all claims by or through Class Members respecting their use of Invokana Product(s).

(2) On the Effective Date, each Class Member, whether or not he or she submits a claim or otherwise receives compensation, shall be deemed by this Settlement Agreement to have completely and unconditionally released, forever discharged, and acquitted the Released Parties from the Released Claims.

(3) Each Class Member, whether or not he/she/they submits a claim or otherwise receives a Claim Amount, will be forever barred and enjoined from continuing, commencing, instituting, prosecuting, seeking to claim or recovering any compensation of any nature or kind in any action, litigation, investigation, or other proceeding in any other forum, directly, representatively or derivatively, or as a class member, asserting against any of the Defendants any claims that relate to or constitute any Released Claims covered by this Settlement Agreement.

8.2 Third-Party Contribution or Indemnity Claims

(1) Class Members who commence or continue litigation against any person or entity who may make a claim for contribution and/or indemnity against any Released Party, shall limit the value and right of recovery of such claim against such person or entity to the quantum of damages, interest and costs apportioned against such person or entity severally and not jointly with any Released Party. Such Class Members will make best efforts to have any third party or other claims made against Released Parties for contribution and/or indemnity in respect of such litigation dismissed, at their expense, and hereby consent to any motion brought by a Released Party seeking dismissal of such a claim against it with costs payable by the Class Member to the Released Party.

(2) In the event that litigation commenced or continued by a Class Member who has not opted-out of the Proceedings results in a claim over or judgment against any or all of the Defendants and/or any other Released Party to pay any amount to any party, such Class Member shall then fully hold harmless, reimburse and indemnify the Defendants and/or other Released Parties for the full amount of such claim over or judgment, together with any interest, and counsel fees and disbursements incurred by Defendants and/or Released Parties in defence of such claims.

(3) To the extent that the provision of benefits to any Settling Claimant under this Settlement Agreement may give rise to a claim or potential claim for subrogation or reimbursement against Defendants and/or Released Parties by any person or entity other than a Provincial Health Insurer, the Settling Claimant with respect to whom such claim or potential claim relates shall be responsible for resolving such claim or potential claim prior to receiving any benefits under this Settlement Agreement.

(4) To the extent that any such claim for subrogation or reimbursement is asserted against Defendants and/or Released Parties by any person or entity other than a Provincial Health Insurer notwithstanding this provision, such Claimant shall then fully hold harmless, reimburse and indemnify the Defendants or Released Parties for the full amount of such claims, together with any interest, and counsel fees and disbursements incurred by Defendants or Released Parties in the defence of such claims.

SECTION 9 - SUBMITTING CLAIMS

(1) Claims shall be submitted by Class Members in the manner contemplated by the Compensation Protocol, or in any other manner approved by the Court.

SECTION 10 - LIMITATION DEFENCE

(1) Nothing in this Settlement Agreement shall constitute or be deemed to constitute a waiver by the Defendants or Released Parties of defences based on statutes of limitation or repose, prescription periods or any other limitation or prescription defence with respect to any Opt Out, or other person.

SECTION 11 - AMENDMENTS TO THE SETTLEMENT AGREEMENT

(1) The Parties may amend this Settlement Agreement in writing, by consent and upon approval of the Courts.

SECTION 12 - LEGAL FEES AND DISBURSEMENTS

12.1 Fee Approval

(1) Class Counsel shall bring a motion to the Courts for the determination of Class Counsel Legal Fees to be paid from the Settlement Amount.

(2) The approval of the Settlement Agreement is not contingent on the outcome of any motion regarding Class Counsel Legal Fees.

(3) Class Counsel shall not be precluded from making additional motions to the Courts for expenses incurred as a result of implementing the terms of this Settlement Agreement. All such amounts awarded shall be paid from the Settlement Amount.

(4) The Released Parties hereby acknowledge and agree that they are not parties to the motions concerning the approval of Class Counsel Legal Fees, they will have no involvement in the approval process to determine the amount of Class Counsel Legal Fees and they will not take any position or make any submissions concerning Class Counsel Legal Fees.

SECTION 13 - CLAIMS ADMINISTRATOR

13.1 Appointment of Claims Administrator

(1) The Parties will jointly propose a Claims Administrator to be appointed by the Court for the purpose of processing and classifying claims and paying claims as provided in this Settlement Agreement and under the authority of the Courts. The Claims Administrator shall follow the Compensation Protocol.

(2) The Claims Administrator shall be bilingual (French/English).

13.2 Investment Guidelines

- (1) The Claims Administrator shall invest all funds in its possession under this Settlement Agreement in the classes of securities provided in section 26 of the *Trustee Act*, RSO 1990, c. T 23.
- (2) All fees and costs of any custodian holding and/or investing such funds shall be paid out of the income of such funds and shall not be the responsibility of Defendants.
- (3) All taxes due and owing on investment proceeds shall be paid by the Claims Administrator from the settlement funds.

13.3 Confidentiality Obligations

- (1) The Claims Administrator and any person appointed by the Claims Administrator to assist in the processing of claims must sign and adhere to a confidentiality statement by which they agree to keep confidential any information concerning Class Members, and the Claims Administrator shall institute procedures to ensure that the identity of all Class Members, and all information regarding their claims and submissions, will be kept confidential and not be provided to persons except as may otherwise be provided in this Settlement Agreement or as may be required by law.
- (2) The Claims Administrator shall be subject to removal by the Court for cause. In the event of such removal, any successor Claims Administrator shall be identified and appointed as set forth in section 13.1(1).

SECTION 14 - MISCELLANEOUS PROVISIONS

14.1 Negotiated Agreement

- (1) This Settlement Agreement is the product of arm's length negotiations between Class Counsel, counsel for the Defendants, and/or parties represented by counsel. No Party shall be deemed to be the drafter of this Settlement Agreement or any provisions hereof. No presumption shall be deemed to exist in favor of or against any Party as a result of the preparation or negotiation of this Settlement Agreement.

(2) This Settlement Agreement shall be binding on the Parties regardless of any change in the law that might occur after the date each Party signed this Settlement Agreement.

14.2 Entire Agreement

(1) This Settlement Agreement, including its recitals and exhibits, as well as other documents expressly referred to and defined herein (e.g. the Hearing Notice, Hearing Notice Plan, Certification and Hearing Notice Orders, Settlement Approval Orders, Dismissal Order, and Provincial Health Insurer Release) constitutes the entire agreement by and among the Parties with regard to the subject matter of this Settlement Agreement and, on the Effective Date, shall supersede any previous agreements and understandings between the Parties with respect to the subject matter of this Settlement Agreement, except as expressly agreed in writing by the Parties after execution of this agreement.

14.3 Counterparts

(1) This Settlement Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

(2) Each of the signatories hereto warrant and represent that they are authorized to enter into this Settlement Agreement on behalf of the Parties on whose behalf this Settlement Agreement has been executed.

14.4 Class Member Notification

(1) All communications from the Claims Administrator to Class Members may be made by regular mail and/or email to such person's last mailing address and/or email address provided by such person to the Claims Administrator.

14.5 Governing Law

(1) This Settlement Agreement shall be governed by and interpreted pursuant to the laws of Ontario and, with respect to the Quebec Class, the laws of Quebec.

14.6 Currency

(1) All dollar amounts referred to in this Agreement are expressed in Canadian dollars.

14.7 Dates

(1) Dates referred to in this Settlement Agreement may be altered with the written consent of the Parties and, as necessary, with the approval of the Court.

14.8 Party Notification

(1) Any notification, request, instruction or other document to be given by any Party to any other Party to this Settlement Agreement (other than class notification) shall be in writing and shall be addressed as follows:

(a) If to: THE PLAINTIFFS and/or CLASS COUNSEL,

E.F. Anthony Merchant, Q.C.
Merchant Law Group LLP
100-2401 Saskatchewan Drive
Regina, Saskatchewan S4P 4H8
Tel.: (306) 359-7777
Fax: (306) 522-3299
Email: tmerchant@merchantlaw.com

Charles M. Wright
Siskinds LLP
680 Waterloo Street
London, ON N6A 3V8
Tel.: (519) 672-2121
Fax: (519) 672-6065
Email: charles.wright@siskinds.com

(b) If to: THE DEFENDANTS and/or DEFENDANTS' COUNSEL,

Gordon McKee
Blake, Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto ON M5L 1A9
Tel.: (416) 863-2400
Fax: (416) 863-2653
email: gordon.mckee@blakes.com

14.9 French Translation

- (1) Class Counsel shall prepare a French translation of all notices and forms required for participation in the Settlement.
- (2) In case of any ambiguity or dispute about interpretation, the English version of all documents is official and shall prevail.

14.10 English Language Clause

- (1) Les parties ont convenu que cette Entente soit rédigée en anglais.

14.11 Motions for Directions

- (1) Class Counsel or the Defendants may apply to the Courts for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.
- (2) All motions contemplated by this Settlement Agreement shall be on notice to the Plaintiffs and Defendants, as applicable.

14.12 Acknowledgements

- (1) Each of the Parties hereby affirms and acknowledges that:
 - (a) He, she, they or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
 - (b) The terms of this Settlement Agreement and the effects thereof have been fully explained to him, her, them or the Party's representative by his, her or its counsel;
 - (c) He, she, they or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
 - (d) No Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms

of the Settlement Agreement, with respect to the first Party's decision to execute the Settlement Agreement.

14.13 Communications Regarding this Settlement

(1) The Parties agree that no public statements shall be made by them regarding these Proceedings or their settlement that are in any way inconsistent with the terms of the Settlement Agreement. In particular, the Parties agree that any public statements they make regarding these Proceedings will indicate that the settlement has been negotiated and agreed by the parties and approved by the Court without any admissions or findings of liability or wrongdoing and without any admissions or conclusions as to the truth of any of the facts alleged in the Proceedings, all of which are specifically denied.

14.14 Authorized Signatures

(1) Each of the undersigned represents that he, she or they is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

14.15 Date of Execution

(1) The Parties have executed the Settlement Agreement as of the date on the cover page.

CLASS COUNSEL

Dated: November 12, 2021



Name: Evatt Merchant
MERCHANT LAW GROUP
Class Counsel

Dated: November 29, 2021



Name: Erika Provencher
SISKINDS DESMEULES AVOCATS
Class Counsel

CLASS COUNSEL

Dated: November 10, 2021



Name: Jill McCartney
SISKINDS LLP
Class Counsel

JANSSEN PHARMACEUTICALS, INC.,
JANSSEN ORTHO LLC, and
JOHNSON & JOHNSON

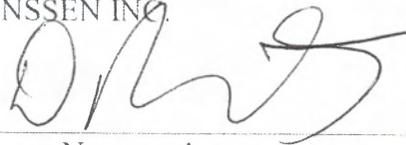
Dated: November 15, 2021



Marc Larkins
I have authority to bind the corporations

JANSSEN INC.

Dated: 16 NOVEMBER, 2021



Darren Noseworthy
I have authority to bind the corporation

Dated: Nov 16, 2021

JOHNSON & JOHNSON INC.



Heather Mullen
I have authority to bind the corporation

SCHEDULE "A": CERTIFICATION AND HEARING NOTICE ORDERS

COURT FILE NUMBER: Q.B.G. 2809 OF 2015

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE: REGINA

PLAINTIFF(S): RONALD ALLEN FIDDLER

DEFENDANT(S): JANSSEN INC., JANSSEN PHARMACEUTICALS INC.,
JANSSEN ORTHO LLC, JOHNSON & JOHNSON, and
JOHNSON & JOHNSON INC.

Brought under *The Class Actions Act*

ORDER

Before The Honourable Justice G.G. Mitchell in chambers this *th day of ●, 2021

THIS APPLICATION made by the Saskatchewan Plaintiffs for an order conditionally certifying this proceeding as a class proceeding for the purpose of implementing a national settlement agreement dated ● (the "Settlement Agreement"), and for an order approving the Certification and Hearing Notices, and the Hearing Notice Plan, was made before The Honourable Justice Mitchell, this ●th day of ●, 2021.

UPON BEING ADVISED that, subject to Court approval, the Plaintiffs and the Defendants have entered into the proposed Settlement Agreement attached hereto as Schedule "A", and that the Defendants have consented to the terms of this Order;

THE COURT ORDERS THAT:

1. The Settlement Agreement in its entirety is incorporated by reference in this Order. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.

Certification

2. The Saskatchewan Proceeding is certified as a class proceeding for settlement purposes only.

3. The Saskatchewan Class is certified as follows:
 - i. All persons resident in Saskatchewan (at the time of Certification Order), who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Saskatchewan at any time on or before the date of the certification order; and
 - ii. All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
4. Ronald Allen Fiddler is hereby appointed as the representative plaintiffs for the Saskatchewan Class.
5. The causes of action asserted on behalf of the Saskatchewan Class, are set out in the Statement of Claim herein and include, among others, negligence, breach of duty to warn, waiver of tort and breach of the *Consumer Protection Act*. The relief sought by the Saskatchewan Class is set forth in the Statement of Claim herein and includes general, special, punitive, aggravated and exemplary damages, accounting and disgorgement of profits, damages pursuant to the *Family Law Act*, pre-judgment interest, and costs.
6. The common issue in the Saskatchewan Proceeding for settlement purposes is: Did the Defendants breach a duty to warn of the risk of diabetic ketoacidosis, acute kidney injuries, and/or lower limb loss?

Notices

7. The long, abridged and press release form of the Hearing Notice are hereby approved substantially in the form attached to this Order as Schedules “B” to “D”.
8. The Hearing Notice Plan is hereby approved substantially in the form attached to this Order as Schedule “E” and that the Hearing Notice shall be disseminated in accordance with the Hearing Notice Plan.
9. The Hearing Notice Plan constitutes fair and reasonable notice to the class of the settlement Approval Hearing.

Claims Administrator

10. Triology Class Action Services is hereby appointed as the Claims Administrator.

11. The Claims Administrator shall execute its obligations as set out in the Settlement Agreement. The Defendants shall have no liability whatsoever relating to the administration of the Settlement Agreement. This includes all aspects of the administration, including, without limitation, any distribution or investment of the Settlement Amount paid by the Claims Administrator or Class Counsel.

Opt Outs

12. The Opt Out Form is approved substantially in the form attached to this Order as Schedule “F”.
13. The Opt Out Deadline to opt-out of this Saskatchewan Proceeding is set for a date that is sixty (60) days after the date on which the Hearing Notice is first published.
14. A member of the Saskatchewan Class may opt-out of this Saskatchewan Proceeding by sending a complete Opt Out Form to the Claims Administer by the Opt Out Deadline.
15. If a member of the Saskatchewan Class opts-out of this Saskatchewan Proceeding, all related Family Class Members will be deemed to have opted-out of the Saskatchewan Proceeding.
16. No person may opt-out a Class Member who is a minor or a person who is otherwise under a legal disability without leave of the court after notice to the office of the Children’s Lawyer or the Public Guardian and Trustee, as the case may be.
17. No Class Member may opt-out of the Saskatchewan Proceeding after the Opt Out Deadline.
18. Within thirty (30) days of the Opt Out Deadline, Class Counsel shall provide to the Defendants a report containing the names of each person who has validly and timely opted out of the proceeding and a summary of the information delivered by such persons in accordance with the Settlement Agreement.

Objections

19. The motion for settlement approval in this proceeding shall be heard on [**date**] at the [**Place**], or at such other place and time or on such other terms, as this Court may direct in light of COVID-19 protocols.

20. The Approval Hearing will be conducted: to determine whether the Settlement Agreement is fair, reasonable, and in the best interests of the Saskatchewan Class and therefore is finally approved pursuant to section 38 of the *Class Actions Act*, S.S. 2001, c.C-12.01; to enter an order of dismissal of this proceeding with prejudice and without costs; to approve the releases as specified at section 8 of the Settlement Agreement; and to rule on such other matters as the Court may deem appropriate.
21. A Class Member may object to the approval of the Settlement by sending a written objection by pre-paid mail, courier, or email to Class Counsel in accordance with the Settlement Agreement. Objections must be received before 5:00 p.m. E.S.T. time five (5) days before the date of the Approval Hearing.
22. A Class Member who wishes to object to the Settlement Approval Orders must state in their objection:
 - i. The full name, current mailing address, telephone number, and email address of the person who is objecting;
 - ii. A brief statement of the nature and reasons for the objection;
 - iii. A declaration that the person believes they are a member of the Class and the reason for that belief; and
 - iv. Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.
23. This Order is contingent upon parallel orders being made by the Superior Court of Quebec in *Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.* Court File No. 500-06-000906-186 and the Superior Court of Justice of Ontario in *Raymond Duck v Janssen Inc., Janssen Pharmaceuticals, Inc., Johnson & Johnson, and Johnson & Johnson Inc.*; commenced Court File No.CV-18-00000570-00CP and the terms of this Order shall not be effective unless and until such orders are made by the Quebec Court and the Ontario Court.
24. In the event the Settlement Agreement is not approved by the Courts, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, then the Settlement Agreement shall become null and void pursuant to its terms, and the within

Order certifying this Saskatchewan Proceeding for settlement purposes is hereby set aside, without further Order of this Court.

25. There shall be no costs of this motion.

ISSUED at Regina, Saskatchewan, this _____ day of ●, 2021.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

The Estate of Raymond Duck

Plaintiff

- and -

JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JOHNSON & JOHNSON
INC., JOHNSON & JOHNSON

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(Certification and Hearing Notice Approval)

THIS MOTION made by the Ontario Plaintiff for an order conditionally certifying this proceeding as a class proceeding for the purpose of implementing a national settlement agreement dated • (the “Settlement Agreement”), and for an order approving the Certification and Hearing Notices, and the Hearing Notice Plan, was made before The Honourable Justice Leitch, this •th day of •, 2021.

UPON BEING ADVISED that, subject to Court approval, the Plaintiffs and the Defendants have entered into the proposed Settlement Agreement attached hereto as Schedule “A”, and that the Defendants have consented to the terms of this Order;

THE COURT ORDERS THAT:

1. The Settlement Agreement in its entirety is incorporated by reference in this Order. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.

Certification

2. The Ontario Proceeding is certified as a class proceeding for settlement purposes only.
3. The Ontario Class is certified as follows:
 - i. All persons resident in Canada (at the time of Certification Order), with the exception of Saskatchewan Class Members and Quebec Class Members, who were prescribed and used Invokana, Invokamet, and/or Invokamet XR in Canada at any time on or before the date of the certification order; and
 - ii. All persons, with the exception of Saskatchewan Class Members and Quebec Class Members, who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages;
4. The Estate of Raymond Duck is hereby appointed as the representative plaintiff for the Ontario Class.
5. The nature of the claims asserted on behalf of the Ontario Class, are set out in the Statement of Claim herein and include, among others, negligence, misrepresentation, breach of duty to warn and breach of the *Food and Drugs Act*. The relief sought by the Ontario Class is set forth in the Statement of Claim herein and includes various declarations, pecuniary, special, non-pecuniary, punitive, aggravated and exemplary damages, accounting and disgorgement of profits, damages pursuant to the *Family Law Act*, pre-judgment interest, and costs.
6. The common issue in the Ontario Proceeding for settlement purposes is: Did the Defendants breach a duty to warn of the risk of diabetic ketoacidosis, acute kidney injuries, and/or lower limb loss?

Notices

7. The long, abridged and press release form of the Hearing Notice are hereby approved substantially in the forms attached to this Order as Schedules “B” to “D”.

8. The Hearing Notice Plan is hereby approved substantially in the form attached to this Order as Schedule “E” and that the Hearing Notice shall be disseminated in accordance with the Hearing Notice Plan.
9. The Hearing Notice Plan constitutes fair and reasonable notice to the class of the settlement Approval Hearing.

Claims Administrator

10. [] is hereby appointed as the Claims Administrator.
11. The Claims Administrator shall execute its obligations as set out in the Settlement Agreement. The Defendants shall have no liability whatsoever relating to the administration of the Settlement Agreement. This includes all aspects of the administration, including, without limitation, any distribution or investment of the Settlement Amount paid by the Claims Administrator or Class Counsel.

Opt Outs

12. The Opt Out Form is approved substantially in the form attached to this Order as Schedule “F”.
13. The Opt Out Deadline to opt-out of this Ontario Proceeding is set for a date that is sixty (60) days after the date on which the Hearing Notice is first published.
14. A member of the Ontario Class may opt-out of this Ontario Proceeding by sending a complete Opt Out Form to the Claims Administer by the Opt Out Deadline.
15. If a member of the Ontario Class opts-out of this Ontario Proceeding, all related Family Class Members will be deemed to have opted-out of the Ontario Proceeding.
16. No person may opt-out a Class Member who is a minor or a person who is otherwise under a legal disability without leave of the court after notice to the office of the Children’s Lawyer or the Public Guardian and Trustee, as the case may be.
17. No Class Member may opt-out of the Ontario Proceeding after the Opt Out Deadline.

18. Within thirty (30) days of the Opt Out Deadline, Class Counsel shall provide to the Defendants a report containing the names of each person who has validly and timely opted out of the proceeding and a summary of the information delivered by such persons in accordance with the Settlement Agreement.

Objections

19. The motion for settlement approval in this proceeding shall be heard on [date] at the Courthouse, 361 University Avenue in Toronto, Ontario, or at such other place and time or on such other terms, as this Court may direct in light of COVID-19 protocols.
20. The Approval Hearing will be conducted to determine whether the Settlement Agreement is fair, reasonable, and in the best interest of Class Members in accordance with the *Class Proceedings Act*, 1992, SO 1992, c 6.
21. A Class Member may object to the approval of the Settlement by sending a written objection by pre-paid mail, courier, or email to Class Counsel in accordance with the Settlement Agreement. Objections must be received before 5:00 p.m. Toronto time five (5) days before the date of the Approval Hearing.
22. A Class Member who wishes to object to the Settlement Approval Orders must state in their objection:
 - i. The full name, current mailing address, telephone number, and email address of the person who is objecting;
 - ii. A brief statement of the nature and reasons for the objection;
 - iii. A declaration that the person believes they are a member of the Class and the reason for that belief; and
 - iv. Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number, and email address of counsel.
23. This Order is contingent upon parallel orders being made by the Superior Court of Quebec in *Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc.* Court File No. 500-06-000906-186 and the Court of Queen's Bench for Saskatchewan in *Ronald Allen Fiddler*

v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc., Court File Number Q.B.G. 2809 of 2015 and the terms of this Order shall not be effective unless and until such orders are made by the Quebec Court and the Saskatchewan Court.

24. In the event the Settlement Agreement is not approved by the Courts, is terminated in accordance with its terms, or otherwise fails to take effect for any reason, then the Settlement Agreement shall become null and void pursuant to its terms, and the within Order certifying this Ontario Proceeding for settlement purposes is hereby set aside, without further Order of this Court.
25. There shall be no costs of this motion.

ISSUED at London, Ontario, this • day of •, 2021.

The Honourable Justice Leitch

SUPERIOR COURT
(Class Actions Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

N° : 500-06-000906-186

DATE : ●2021

PRESIDING: THE HONOURABLE DONALD BISSON, J.C.S.

STEVEN VARNAI
and
JOANNE GIROUX
Applicants

v.

JANSSEN INC.
and
JANSSEN PHARMACEUTICALS INC.
and
JANSSEN ORTHO LLC.
and
JOHNSON & JOHNSON INC.
and
JOHNSON & JOHNSON
Defendants

**JUDGMENT ON AN APPLICATION FOR AUTHORIZATION OF A CLASS ACTION FOR
SETTLEMENT PURPOSES ONLY AND FOR HEARING NOTICE APPROVAL**

- [1] **WHEREAS** the parties are involved in a dispute of the nature of a class action;
- [2] **WHEREAS** a national settlement agreement dated ● was reached between the Applicants and the Defendants (the “**Settlement Agreement**”);
- [3] **WHEREAS** the Applicants ask the Court to:
- a) authorize the class action for settlement purposes only;
 - b) grant Steven Varnai and Joanne Giroux the status of representative plaintiffs for the purposes of the settlement;
 - c) appoint ● as Claims Administrator;
 - d) substantially approve the form and the content of the notices to inform the Quebec Class, among other things, that a hearing will be held on the approval of the Settlement Agreement;
 - e) approve the Hearing Notice and Hearing Notice Plan;
 - f) set a date for the settlement Approval Hearing; and
 - g) approve a method and a time period to opt out of members of the Quebec Class.
- [4] **CONSIDERING** the application under review;
- [5] **CONSIDERING** the absence of contestation;
- [6] **CONSIDERING** articles 575, 576, 579, 581 and 590 of the *Code of Civil Procedure*;
- [7] **UPON REVIEW**, the application should be granted;

FOR THESE REASONS, THE COURT:

- [8] **GRANTS** the application;
- [9] **DECLARES** that the Settlement Agreement, attached as Schedule “A” to this order, is incorporated in its entirety by reference in this order;
- [10] **DECLARES** that the definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this order;

Authorization

- [11] **AUTHORIZES** this action as a class action for settlement purposes only;
- [12] **ORDERS** that the Quebec Class is certified as follows:

(I) ALL PERSONS RESIDENT IN QUEBEC (AT THE TIME OF THE AUTHORIZATION ORDER), WHO WERE PRESCRIBED AND USED INVOKANA, INVOKAMET, AND/OR INVOKAMET XR IN QUEBEC AT ANY TIME ON OR BEFORE THE DATE OF THE AUTHORIZATION ORDER; AND

(ii) All persons resident in Quebec (at the time of the authorization order), who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

- [13] **APPOINTS** Steven Varnai and Joanne Giroux as representative plaintiffs of the Quebec Class;
- [14] **IDENTIFIES**, for settlement purposes, the common issue for the Quebec Class as:

Did the Defendants breach a duty to warn of the risk of diabetic ketoacidosis, acute kidney injuries, and/or lower limb loss?

Notices

[15] **APPROVES** substantially the form and content of the long, abridged and press release form of the Hearing Notice, in English and in French, attached as Schedule “B” to this order;

[16] **APPROVES** the Hearing Notice Plan, attached as Schedule “C” to this order and **ORDERS** that the Hearing Notice be disseminated in accordance with the Hearing Notice Plan;

[17] **DECLARES** that the Hearing Notice Plan constitutes fair and reasonable notice of the Approval Hearing to Class Members;

Claims Administrator

[18] **APPOINTS** ● as Claims Administrator;

[19] **DECLARES** that the Claims Administrator shall execute its obligations as set out in the Settlement and that the Defendants shall have no liability whatsoever relating to the administration of the Settlement Agreement. This includes all aspects of the administration, including, without limitation, any distribution or investment of the Settlement Amount paid by the Claims Administrator or Class Counsel;

Opt Outs

[20] **APPROVES** the Opt Out Form substantially in the form attached to this Order as Schedule “D”;

[21] **DECLARES** that the deadline to opt out of this Quebec Proceeding is sixty (60) days after the date on which the Hearing Notice is first published;

[22] **DECLARES** that a member of the Quebec Class may opt-out of this Quebec Proceeding by sending a complete Opt Out Form to the Claims Administrator by the Opt Out Deadline;

[23] **DECLARES** that if a member of the Quebec Class opts-out of this Quebec Proceeding, all related Family Class Members will be deemed to have opted-out of the Quebec Proceeding;

[24] **DECLARES** that no Class Member may opt-out of the Quebec Proceeding after the Opt Out Deadline;

Objections

[25] **DECLARES** that a member of the Quebec Class may object to the approval of the Settlement Approval Orders by sending a written objection by pre-paid mail, courier, or email to Class Counsel in accordance with the Settlement Agreement;

[26] **DECLARES** that the objections must be received before 5:00 p.m., Toronto time, five (5) days before the date of the Approval Hearing;

[27] **DECLARES** that a member of the Quebec Class who wishes to object must state in their objection:

- a) The full name, current mailing address, telephone number, and email address of the person who is objecting;
- b) A brief statement of the nature and reasons for the objection;
- c) A declaration that the person believes they are a member of the Quebec Class and the reason for that belief; and

- d) Whether the person intends to appear at the Approval Hearing or intends to appear by counsel, and, if by counsel, the name, address, telephone number and email address of counsel.

[28] **DECLARES** that in the event the Settlement Agreement referenced in this order is not approved by the Courts in Saskatchewan and Ontario, then the Settlement Agreement shall become null and void pursuant to its terms, and the within order authorizing this class action for settlement purposes is hereby set aside, without further order of this Court;

[29] **SETS** the date for the hearing of the motion for settlement approval in this proceeding as ● 2021, at the Montréal courthouse, at ●;

[30] **THE WHOLE** without costs.

DONALD BISSON, J.C.S.

Me Karim Diallo
Me Erika Provencher
SISKINDS, DESMEULES, AVOCATS

Lawyers for the Applicants

Me Marianne Ignacz
INF LLP
Lawyers for the Defendants

Schedule A: Settlement Agreement
Schedule B: Hearing Notice (long, abridged and press release form)
Schedule C: Hearing Notice Plan
Schedule D: Opt Out Form

SCHEDULE “B”: LONG, ABRIDGED AND PRESS RELEASE FORM OF HEARING NOTICE

NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT OF INVOKANA® INVOKAMET® INVOKAMET XR® LITIGATION

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

This Notice contains a summary of some of the terms of the Settlement Agreement. All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTICE OF CERTIFICATION FOR SETTLEMENT PURPOSES

A Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. This notice advises you that as a part of the settlement process, the following lawsuits (the “**Proceedings**”) have been certified/authorized as class actions for settlement purposes: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen’s Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186.

These three Proceedings raised various allegations against the Defendants and sought damages on behalf of Canadians for harm and injuries which were allegedly related to the use of Invokana®, Invokamet®, and Invokamet XR®. The Defendants deny the allegations made in the Proceedings, make no admission as to the truth of these allegations and deny any wrongdoing.

The allegations made by the Plaintiffs have not been proven in Court and should not be considered in any way to be medical advice.

This Notice advises you of the certification/authorization of the Proceedings as class actions for the purpose of implementing the national Settlement Agreement (the “Settlement”) and of the hearings that will be held to decide whether the Settlement should be approved. You may attend the Settlement approval hearings. You can review the originating proceedings, the certification/authorization Orders, as well as the Settlement Agreement and related documents at the settlement website: <http://www.invokanacanadasettlement.com/> or you can contact the Court appointed Claims Administrator, Trilogy Class Action Services, at the address listed below.

WHO IS INCLUDED?

If the Settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Certification/authorization Orders for the purposes of settlement have been granted for the following Classes:

Ontario Class: (i) All persons resident in Canada as of [DATE OF CERTIFICATION], with exception of Saskatchewan Class Members and Quebec Class Members, who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) All persons, with exception of Saskatchewan Class Members and Quebec Class Members, who by

virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Saskatchewan Class: (i) All persons resident in Saskatchewan as of [DATE OF CERTIFICATION] who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Saskatchewan at any time on or before the date of [DATE OF CERTIFICATION]; and (ii) All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Quebec Class: (i) All persons resident in Quebec as of [DATE OF AUTHORIZATION] who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Quebec at any time on or before the date of [DATE OF AUTHORIZATION]; and (ii) All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

WHAT IS THE PROPOSED SETTLEMENT?

The Settlement provides for the creation of a \$1.5 million (CDN) settlement fund which will be used to pay the costs of notice and administration, compensation for approved claimants, the claims of provincial health insurers, and class counsel legal fees.

Payments to approved claimants will be made to Class Members who show that they experienced one or more of the medical conditions described below within the specified timeframes. Each medical condition will be assigned points by the Claims Administrator subject to various eligibility criteria. Net settlement proceeds will be allocated among the approved claimants in proportion to the cumulative points they are awarded under the Compensation Protocol. The Compensation Protocol can be found here: [LINK]. Not all Class Members will be eligible for compensation.

The types of medical conditions that may qualify Class Members for compensation include acute kidney injury, diabetic ketoacidosis, and lower limb loss. You may be eligible for compensation under the Compensation Protocol if you began using or filled a prescription for Invokana®, Invokamet® or Invokamet XR® prior to the dates below and experienced the relevant medical conditions prior to the dates below:

- for acute kidney injury, January 25, 2016;
- for diabetic ketoacidosis, May 31, 2016; and
- for lower limb loss, September 6, 2017.

You may also be eligible for compensation if you experienced the relevant medical conditions listed above within three (3) months after the corresponding dates above if (i) you started using Invokana®, Invokamet® or Invokamet XR® at least 30 days before said dates, and (ii) you used it continuously from that date to the time of the medical condition, without having either attended your prescribing physician or had your prescription renewed.

Compensation will also be paid to eligible Class Members estates. 10% of the Settlement Amount will be allocated to a Provincial Health Care Recovery Fund for the recovery of costs of insured health or medical services by the Provincial Health Insurers.

If the Settlement is approved, Class Counsel will make an application for class counsel legal fees of \$● to be paid from the Settlement Amount. Approval of the Settlement is not contingent on the outcome of any application regarding class counsel legal fees.

Any undistributed balance of the settlement amount as determined by the Claims Administrator will be donated, *cy près* to an organization(s) to benefit diabetic health and research, as approved by the Courts and advised by Class Counsel, subject to any amounts payable to the *Fonds d'aide aux actions collective*.

RIGHT TO PARTICIPATE OR OPT OUT

If you are a Class Member and wish to participate in the Settlement, you do not need to do anything at this time. Class Members who do not opt out will be bound by the Settlement and the releases in it and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided for in the Settlement to advance their claims.

If you are a Class Member and you do not wish to participate in the Settlement, then you must opt out. Opt Out Forms are available at <http://www.invokanacanadasettlement.com/> or by contacting Trilogy Class Action Services at the address below. The deadline to opt out of the Settlement and the Proceedings is **[INSERT DATE]**. By opting out, you are choosing:

- (1) **not** to take part in the Settlement;
- (2) **not** to participate in any way in the Proceedings, AND
- (3) **not** to participate in any benefits arising from the Settlement or the Proceedings.

If you are a member of the Quebec Class and have filed an individual lawsuit against Janssen Inc., Janssen Pharmaceuticals Inc., Janssen Ortho LLC, Johnson & Johnson and/or Johnson & Johnson Inc. regarding the same subject matter at this class action and you do not discontinue your individual action before **[INSERT DATE]**, you will be deemed to have opted out of this class action.

Class Members **who opt out** will not be bound by the Settlement or the releases in the Settlement but will also not be entitled to share in any of the proceeds that may become available to Class Members as part of the Settlement.

The Proceedings will be dismissed as part of the Settlement. There will be no further opportunity to opt out of the Settlement or the Proceedings.

Members of the Quebec Class who wish to opt out must send their completed Opt Our Form to Clerk of the Superior Court of Quebec at the following address:

Clerk of the Superior Court of Quebec – Montreal Courthouse
1, Notre-Dame Street East
Montreal (Quebec) H2Y 1B6
Court File No.: 500-06-000906-186

SETTLEMENT APPROVAL HEARINGS

In order for the Settlement to become effective, it must be approved by the Courts of Ontario, Saskatchewan, and Quebec. The Courts must be satisfied that the Settlement is fair, reasonable, and in the best interest of the Class Members. The dates for the Settlement approval hearings have been scheduled as follows:

- (1) Ontario Class Members: **[INSERT DATE & TIME]** at the Ontario Superior Court of Justice, 80 Dundas Street, London, Ontario.
- (2) Saskatchewan Class Members: **[INSERT DATE & TIME]** at the Court of Queen's Bench, 2425 Victoria Avenue, Regina, Saskatchewan.
- (3) Quebec Class Members: **[INSERT DATE & TIME]** at the Superior Court of Québec, 1, rue Notre-Dame Est, Montréal, Québec.

If any of the Settlement approval hearings are adjourned and/or if the hearings are to be held virtually, details will be posted on the settlement website, <http://www.invokanacanadasettlement.com/>

In the event that the Settlement Agreement is not approved by each of the Courts in a form agreed to by the parties to the Proceedings, the Settlement Agreement shall terminate and its terms shall no longer be binding on Class Members. In that case, all parties shall be restored to their pre-Settlement Agreement positions and the certification/authorization orders shall be set aside.

OBJECTING TO THE PROPOSED SETTLEMENT AND OPPORTUNITY TO APPEAR

If you wish to object to the proposed Settlement, you must submit a written objection no later than **[INSERT DATE]**.

Your written objection must be sent to the Claims Administrator by no later than **[INSERT DATE]** at the address listed below in this Notice. The Claims Administrator will file copies of all objections with the Courts.

You may also attend the hearings on the dates noted above, and if you have submitted a written objection, you may request to make oral submissions to the Court(s).

NOTICE OF SETTLEMENT APPROVAL

If the proposed Settlement is approved by the Courts, a notice of approval will be published on **[WEBSITE]** and otherwise made available as ordered by the Court. Class Members will have a limited amount of time to submit a claim for compensation. If the proposed Settlement is approved, a downloadable version of the claim package will be made available online at <http://www.invokanacanadasettlement.com/> or, alternatively, a claim package can be requested from the Claims Administrator by e-mail at: **[EMAIL]**, by telephone at **[TELEPHONE]**, or by regular mail at the address listed below. If you intend to submit a claim under the proposed Settlement, you must do so on or before the expiry of the claim period, which will be posted on the settlement website: <http://www.invokanacanadasettlement.com/>

WHO REPRESENTS ME? CLASS COUNSEL ARE:

Siskinds LLP

680 Waterloo Street
London, Ontario, N6A 3V8
Tel.: (519) 672-2121
Fax: (519) 672-6065
Madeline A. McKinnon
Email: madeline.mckinnon@siskinds.com

Siskinds Desmeules, Avocats

43 rue Buade
Bureau 320
Quebec City (QC) G1R 4A2
Tel.: (418) 694-2009
Fax: (418) 694-0281
Erika Provencher
Email: erika.provencher@siskindsdesmeules.com

Merchant Law Group LLP

100-2401 Saskatchewan Drive
Regina, Saskatchewan, S4P 4H8
Tel.: (306) 359-7777
Fax: (306) 522-3299
E.F. Anthony Merchant, Q.C.
Email: tmerchant@merchantlaw.com

LEGAL FEES

At the Settlement approval hearings, Class Counsel will request approval for payment of their fees, disbursements, and applicable taxes. Class Counsel has pursued this lawsuit on a contingency basis of ●% and will seek approval from the Courts for class counsel legal fees of \$● in accordance with the

terms of their retainer agreements with the representative plaintiffs. Individual Class Members may be responsible for legal fees incurred in advancing their claims under the Settlement, in accordance with any retainer agreements they may have entered into.

FOR MORE INFORMATION:

For more information on the status of the approval hearings or on how to opt out of the Settlement, comment or object to the Settlement, or to view the Settlement Agreement, visit <http://www.invokanacanadasettlement.com/> which will be periodically updated with information on the Settlement approval process and the Proceedings.

This Notice is a summary of the Settlement. You should consult the Settlement Agreement at the settlement website: <http://www.invokanacanadasettlement.com/> or contact Class Counsel or Trilogy Class Action Services for specific details as to your rights and obligations under the Settlement.

If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement Agreement and related documents in both English and French, please visit the settlement website at <http://www.invokanacanadasettlement.com/> or contact the Claims Administrator at:

Trilogy Class Action Services

Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE PROCEEDINGS.

This Notice has been approved by the Ontario Superior Court of Justice, the Court of Queen's Bench for Saskatchewan, and the Superior Court of Quebec

**NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT OF INVOKANA® INVOKAMET®
INVOKAMET XR® LITIGATION**

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

A Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. This notice advises you that as a part of the settlement process, the following lawsuits have been certified/authorized as class actions for settlement purposes: Estate of *Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen's Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186 (the "Proceedings").

Hearings to approve the settlement have been scheduled for [DATES].

If the settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages (the "Class"). To determine whether you may be eligible to receive compensation, visit <http://www.invokanacanadasettlement.com/>.

If you qualify as a member of the Class and wish to participate in the settlement, you do not need to do anything at this time. If the settlement is approved by the Courts mentioned above, another notice will be published and additional information will be provided on how to make a claim for benefits pursuant to the settlement.

If you qualify as a member of the Class and you do not wish to participate in the settlement, then you must opt out by completing an Opt Out Form and submitting it to Trilogy Class Action Services. Members of the Quebec Class who wish to opt out must send their completed Opt Our Form to Clerk of the Superior Court of Quebec - Montreal Courthouse by mail. Class Members who do not opt out will be bound by the Settlement and the releases in it, if it is approved, and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided for in the Settlement to advance their claims. The deadline to opt out of the settlement and the Proceedings is [INSERT DATE].

If you wish to remain a member of the Class but object to the proposed Settlement, you must submit a written objection no later than [INSERT DATE].

CONTACT

This is an abbreviated notice. For the complete notice, including information on benefits that may be available through the settlement, a copy of the settlement agreement, how to participate in the settlement approval hearings, the Opt Out Form, information on how to object to the approval of the settlement agreement, and all other related information is available at <http://www.invokanacanadasettlement.com/> or by contacting:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

Please do not call the Defendants or the Courts about these Proceedings.

This Notice has been approved by the Ontario Superior Court of Justice, the Court of Queen's Bench for Saskatchewan, and the Superior Court of Quebec.

Siskinds LLP, Merchant Law Group LLP and Siskinds Desmeules Advocates Announce the Certification and Issue The Notice of Certification and Proposed Settlement of Invokana[®], Invokamet[®], and/or Invokamet XR[®] Class Action Litigation

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

LONDON, REGINA, QUEBEC CITY: Madeline A. McKinnon of Siskinds LLP, E.F. Anthony Merchant Q.C. of Merchant Law Group, and Karim Diallo of Siskinds Desmeules Advocates announce that a Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana[®], Invokamet[®], and Invokamet XR[®]. As a part of the settlement process, the following lawsuits have been certified/authorized as class actions for settlement purposes: Estate of *Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen's Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186.

Hearings to approve the settlement have been scheduled for [DATES].

If the settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana[®], Invokamet[®], and/or Invokamet XR[®] in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages (the "Class").

To determine whether you may be eligible to receive compensation, visit <http://www.invokanacanadasettlement.com/>.

If you qualify as a member of the Class and wish to participate in the settlement, you do not need to do anything at this time. If the settlement is approved by the Courts mentioned above, another notice will be published, and additional information will be provided on how to make a claim.

If you qualify as a Class Member and you do not wish to participate in the settlement, then you must opt out by completing an Opt Out Form and submitting it to Trilogly Class Action Services. Members of the Quebec Class who wish to opt out must send their completed Opt Out Form to the Clerk of the Superior Court of Quebec - Montreal Courthouse by mail. Class Members who do not opt out will be bound by the Settlement and the releases in it, if it is approved, and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided to advance their claims. The deadline to opt out of the settlement and the Proceedings is [INSERT DATE].

If you wish to remain a Class Member but object to the settlement, you must submit a written objection no later than [INSERT DATE].

CONTACT

This is an abbreviated notice. For the complete notice, including information on benefits that may be available through the settlement, a copy of the Settlement Agreement, how to participate in the settlement approval hearings, the Opt Out Form, information on how to object to the approval of the Settlement Agreement, and all other related information is available at <http://www.invokanacanadasettlement.com/>, or by contacting:

Trilogly Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0

Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@triloglyclassactions.ca

Please do not call the Defendants or the Courts about these Proceedings.

*This Notice has been approved by the Ontario Superior Court of Justice,
the Court of Queen's Bench for Saskatchewan, and the Superior Court of Quebec*

SCHEDULE “C”: NOTICE PLAN

NOTICE PLAN

All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. The Hearing Notice and the Settlement Approval Notice (together the “Notices”) shall be disseminated as follows:

1. The Notices (long form) will be sent by email or direct mail by Class Counsel to any person who has requested it or who has inquired about the Proceedings or who has registered to receive updates through Class Counsel’s websites. Where the person is located in Quebec (or otherwise specifically requests), the Notices will be sent in English and French;
2. The Notices (long form) will be sent by email to each of the Provincial Health Insurers by Class Counsel;
3. The Notices (long form) will be posted by Class Counsel, in English and French, on their websites;
4. The Notices (long form) will be posted by the Claims Administrator, in English and French, on the designated website www.invokanacanadasettlement.com;
5. A national press release, in a form to be agreed upon by the Defendants, will be issued in English and French;
6. The Notices (short form, ¼ page) will be published once, in the weekend edition of the following newspapers:
 - a. The National Post (English);
 - b. Le Journal de Montreal (French);
 - c. Regina Leader Post (English);
 - d. Saskatoon Star Phoenix (English);
 - e. St. John’s Telegram (English);

- f. Telegraph Journal (English); and
 - g. Halifax Chronicle Herald (English);
7. Digital Banner Notices (digital display banner ads), in a form to be agreed upon by the Defendants, will be available for ten (10) business days on the following digital news outlets:
- a. The National Post and their other media properties of the Postmedia Network (in English); and
 - b. La Presse (in French).

SCHEDULE "D": OPT-OUT FORM

OPT OUT FORM INVOKANA CLASS ACTIONS

Complete and return this Opt-Out Form by no later than **[DATE]**, ONLY IF YOU DO **NOT** WISH TO PARTICIPATE IN THE INVOKANA CLASS ACTIONS.

For the purposes of this Opt Out Form, the following definitions apply:

"Settlement" means the settlement agreement made as between the Plaintiffs and the Defendants, a copy of which is available at: <http://www.invokanacanadasettlement.com/>

"Invokana Class Actions" means the following actions: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-0000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen's Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186

Consequences of Opting Out

By completing and returning this Opt Out Form as set out below, you are choosing:

- 1) **not** to take part in the Settlement,
- 2) **not** to participate in any way in the Class Actions, AND
- 3) **not** to participate in any benefits arising from the Settlement or the Class Actions.

If you complete this Opt Out Form you will not be bound by the Settlement or the release in the Settlement, but you will also not be entitled to share in any of the proceeds that may become available to Class Members as part of the Settlement.

In order to be effective, this form must be fully completed and sent to the Claims Administrator at the address set out below and must be received or postmarked no later than **[DATE]**. Opt Out Forms received or postmarked after **[DATE]** will not be accepted. For more information on the Settlement Agreement and the Invokana Class Actions, please visit <http://www.invokanacanadasettlement.com/>

Your name: _____ (required)

Your address: _____ (required)

Province in which you purchased, ingested, used, or acquired your Invokana[®], Invokamet[®], and/or Invokamet XR[®] prescription: _____ (required)

Your telephone number: (____) ____-____ (required)

Your email address: _____ (optional)

Declaration:

I wish to opt out of the Settlement and the Invokana Class Actions. I understand that by submitting this Opt-Out Form I will not receive any benefits under the Settlement but will not be bound by the Settlement.

Signature

Date

Return completed Opt-Out Form to Trilogy Class Action Services by mail or email:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
inquiry@trilogyclassactions.ca

For Quebec Class Members the completed Opt Out Form may also be returned directly to the Superior Court of Quebec at the Montreal Courthouse

SCHEDULE “E”: SETTLEMENT APPROVAL ORDERS

COURT FILE NUMBER: Q.B.G. 2809 OF 2015

COURT OF QUEEN’S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE: REGINA

PLAINTIFF(S): **RONALD ALLEN FIDDLER**

DEFENDANT(S): **JANSSEN INC., JANSSEN PHARMACEUTICALS INC.,
JANSSEN ORTHO LLC, JOHNSON & JOHNSON, and
JOHNSON & JOHNSON INC.**

Brought under *The Class Actions Act*

ORDER

Before the Honourable Justice G.G. Mitchell in chambers this *th day of ●, 2021

THIS APPLICATION made by the Plaintiffs for an Order approving a national settlement was heard this day in ●.

UPON READING the materials filed, including the Settlement Agreement dated [date] 2021 (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants [and any objectors/ or reading submissions of any objectors], fair and adequate notice of this hearing having been provided to Class Members in accordance with the Certification and Hearing Notice Order of this Court dated [insert], 2021, and upon being advised that the parties consent to this Order.

THIS COURT ORDERS THAT:

Settlement Approval

1. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.
2. In the event of a conflict between the terms of this Order and the Settlement Agreement, the terms of this Order shall prevail.

3. All provisions of the Settlement Agreement (including its Preamble & Recitals and Definitions) form part of this Order and are binding upon the Class Members who did not opt-out of this action in accordance with the Certification and Hearing Notice Order dated •, including those persons who are mentally incapable, Class Counsel, the Provincial Health Insurers, and the Defendants.
4. The settlement of this action, as set out in the Settlement Agreement, is fair and reasonable and in the best interests of Class Members and is hereby approved pursuant to section 38 *The Class Actions Act*, S.S. 2001, c.C-12.01, and shall be implemented and enforced in accordance with its terms.

Notice and Notice Plan

5. The form and content of the Settlement Approval Notice (long, abridged and press release form) substantially in the form attached to this Order as Schedule “A” is hereby approved.
6. The form and content of the Settlement Approval Notice Plan substantially in the form attached to this Order as Schedule “B” is hereby approved.

Release and Dismissal

7. The releases provided at section [8] of the Settlement Agreement are approved and will take effect upon the Effective Date.
8. The Settlement Agreement and this Order are binding upon Class Members, whether or not such Class Members receive or claim compensation, including persons who are minors or are mentally incapable, and the need for service or notice of this or any further or subsequent steps in these proceedings on the Public Guardian and Trustee, as well as all other requirements in *The Public Guardian and Trustee Act* and rules 2-14 to 2-22 of the Rules, are hereby dispensed with.
9. Upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Released Parties from the Released Claims.

10. Upon the Effective Date, each Class Member shall be deemed to have consented to the dismissal of any other action or proceeding he or she may have commenced asserting Released Claims as against the Released Parties, without costs and with prejudice.
11. Upon the Effective Date, Class Members shall not institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Released Party, or against any other person that is entitled to claim contribution or indemnity from any Released Party, in respect of any Released Claim.
12. The Parties may, without further notice to the Class or further Order of the Court, amend, modify or expand the terms and provisions of the Settlement Agreement by written agreement provided any such changes are consistent with this Order and do not limit the rights of Class Members under the Settlement Agreement.
13. Neither the Settlement Agreement (including all terms thereof), nor its performance and implementation, shall be construed as any admission by the Defendants, including but not limited as to: (1) the validity of any claim, theory, or fact; (2) any liability, fault, or responsibility; or (3) the existence, cause, or extent of any damages or losses alleged or suffered by any Class Member.
14. Other than that which has been provided in the Settlement Agreement, no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement.
15. The approval of the Settlement Agreement is contingent upon certain events arising in respect of the Defendants in proceedings:
 - i. Raymond Duck v Janssen Inc., Janssen Pharmaceuticals, Inc., Johnson & Johnson, and Johnson & Johnson Inc.; commenced in the Toronto office of the Superior Court of Justice of Ontario under Court File No.CV-18-00000570-00CP; and
 - ii. Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc., Court File No. 500-06-000906-186, before the Superior Court of Quebec,

and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Ontario and Quebec Courts and the proceedings in Ontario and Quebec are dismissed. If such orders or dispositions are not secured in Ontario and Quebec, this Order shall be null and void without prejudice to the rights of the Parties to proceed with the Saskatchewan Proceeding and any agreement between the Parties incorporated into this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

16. This Order shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms or otherwise fails to take effect for any reason.
17. On notice to the Court but without further order of the Court, the parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.
18. For purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Parties acknowledge and attorn to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.
19. Upon the Effective Date, this Saskatchewan Proceeding is hereby dismissed against the Defendants, without costs and with prejudice, and such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

ISSUED at Regina, Saskatchewan, this _____ day of ●, 2021.

(Deputy) Local R

Before the The Honourable Justice G.G. Mitchell in chambers this *th day of ●, 2021

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

The Estate of Raymond Duck

Plaintiff

- and -

JANSSEN INC., JANSSEN PHARMACEUTICALS INC., JOHNSON & JOHNSON INC.,
JOHNSON & JOHNSON

Defendants

Proceeding under the *Class Proceedings Act, 1992*

ORDER

(Settlement Approval)

Before the The Honourable Justice Leitch in chambers this •th day of •, 2021

THIS MOTION made by the Plaintiffs for an Order approving a national settlement was heard this day in London, Ontario.

UPON READING the materials filed, including the Settlement Agreement dated [date] 2021 (the “Settlement Agreement”), and on hearing the submissions of counsel for the Plaintiffs and counsel for the Defendants [**and any objectors/ or reading submissions of any objectors**], fair and adequate notice of this hearing having been provided to Class Members in accordance with the Certification and Hearing Notice Order of this Court dated [insert], 2021, and upon being advised that the parties consent to this Order.

THIS COURT ORDERS THAT:

Settlement Approval

1. The definitions in the Settlement Agreement are incorporated into and shall be applied in interpreting this Order.
2. In the event of a conflict between the terms of this Order and the Settlement Agreement, the terms of this Order shall prevail.
3. All provisions of the Settlement Agreement (including its Preamble & Recitals and Definitions) form part of this Order and are binding upon the Class Members who did not opt-out of this action in accordance with the Certification and Hearing Notice Order dated •, including those persons who are mentally incapable, Class Counsel, the Provincial Health Insurers, and the Defendants.
4. The settlement of this action, as set out in the Settlement Agreement, is fair and reasonable and in the best interests of Class Members and is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992*, and shall be implemented and enforced in accordance with its terms.

Notice and Notice Plan

5. The form and content of the Settlement Approval Notice (long, abridged and press release form) substantially in the form attached to this Order as Schedule “A” is hereby approved.
6. The form and content of the Settlement Approval Notice Plan substantially in the form attached to this Order as Schedule “B” is hereby approved.

Release and Dismissal

7. The releases provided at section [8] of the Settlement Agreement are approved and will take effect upon the Effective Date.
8. The Settlement Agreement and this Order are binding upon Class Members, whether or not such Class Members receive or claim compensation, including persons who are minors

or are mentally incapable, and the requirements of Rules 7.04(1) and 7.04(8) of the Rules of Civil Procedure, RRO 1990, Reg 194 are dispensed with in respect of the Action.

9. Upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Released Parties from the Released Claims.
10. Upon the Effective Date, each Class Member shall be deemed to have consented to the dismissal of any other action or proceeding he or she may have commenced asserting Released Claims as against the Released Parties, without costs and with prejudice.
11. Upon the Effective Date, Class Members shall not institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Released Party, or against any other person that is entitled to claim contribution or indemnity from any Released Party, in respect of any Released Claim.
12. The Parties may, without further notice to the Class or further Order of the Court, amend, modify or expand the terms and provisions of the Settlement Agreement by written agreement provided any such changes are consistent with this Order and do not limit the rights of Class Members under the Settlement Agreement.
13. Neither the Settlement Agreement (including all terms thereof), nor its performance and implementation, shall be construed as any admission by the Defendants, including but not limited as to: (1) the validity of any claim, theory, or fact; (2) any liability, fault, or responsibility; or (3) the existence, cause, or extent of any damages or losses alleged or suffered by any Class Member.
14. Other than that which has been provided in the Settlement Agreement, no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement.
15. The approval of the Settlement Agreement is contingent upon certain events arising in respect of the Defendants in proceedings:

i. Ronald Allen Fiddler v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc., Court File Number Q.B.G. 2809 of 2015, before the Court of Queen's Bench for Saskatchewan; and

ii. Steven Varnai and Joanne Giroux v Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc., Court File No. 500-06-000906-186, before the Superior Court of Quebec,

and the terms of this Order shall not be effective unless and until the Settlement Agreement is approved by the Saskatchewan and Quebec Courts and the proceedings in Saskatchewan and Quebec are dismissed. If such orders or dispositions are not secured in Saskatchewan and Quebec, this Order shall be null and void without prejudice to the rights of the Parties to proceed with the Ontario Proceeding and any agreement between the Parties incorporated into this Order shall be deemed in any subsequent proceedings to have been made without prejudice.

16. This Order shall be declared null and void in the event that the Settlement Agreement is terminated in accordance with its terms or otherwise fails to take effect for any reason.
17. For purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Parties acknowledge and attorn to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.
18. On notice to the Court but without further order of the Court, the parties to the Settlement Agreement may agree to reasonable extensions of time to carry out any provisions of the Settlement Agreement.
19. Upon the Effective Date, this Ontario Proceeding is hereby dismissed against the Defendants, without costs and with prejudice, and such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

ISSUED at London, Ontario, this _____ day of •, 2021.

SUPERIOR COURT
(Class Actions Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

N° : 500-06-000906-186

DATE : ●2021

PRESIDING: THE HONOURABLE DONALD BISSON, J.C.S.

STEVEN VARNAI
and
JOANNE GIROUX
Applicants

v.

JANSSEN INC.
and
JANSSEN PHARMACEUTICALS INC.
and
JANSSEN ORTHO LLC.
and
JOHNSON & JOHNSON INC.
and
JOHNSON & JOHNSON
Defendants

**JUDGEMENT ON AN APPLICATION FOR CLASS ACTION
SETTLEMENT APPROVAL**

[1] **WHEREAS** the parties are involved in a dispute of the nature of a class action;

[2] **WHEREAS** a national settlement agreement dated ● was reached between the Applicants and the Defendants (the “**Settlement Agreement**”);

[3] **WHEREAS** the Applicants have asked the Court to approve the Settlement Agreement and the notices to members to announce its approval;

[4] **CONSIDERING** the order rendered on ● by which the Court authorized the class action for settlement purposes, and approved and ordered the publication of Hearing Notices to Class Members;

[5] **CONSIDERING** that notices to Class Members were disseminated in a timely manner in French and English;

[6] **CONSIDERING** that no objection to the Settlement Approval Orders was received before the expiry of the deadline set for objecting;

[7] **CONSIDERING** that no member of the Quebec Class has appeared before this Court to oppose to the approval of the settlement;

[8] **CONSIDERING** that the Opt Out Deadline was ● and no Class Member exercised his or her right to opt-out;

[9] **CONSIDERING** article 590 of the *Code of Civil Procedure*;

[10] **CONSIDERING** the application has been duly notified to the Fonds d’aide aux actions collectives [who does not oppose the application];

[11] **UPON REVIEW**, the application should be granted;

FOR THESE REASONS, THE COURT :

[12] **GRANTS** the application;

Settlement Approval

[13] **DECLARES** that for the purposes of this order, the definitions set out in the Settlement Agreement, attached as Schedule “A” to this order, are incorporated into and shall be applied in interpreting this order;

[14] **DECLARES** that the event of a conflict between the terms of this order and the Settlement Agreement, the terms of this order shall prevail;

[15] **DECLARES** that the Settlement Agreement is fair, reasonable and in the best interests of members of the Quebec Class and constitutes a transaction within the meaning of article 2631 of the *Civil Code of Québec*;

[16] **APPROVES** the Settlement Agreement in accordance with article 590 of the *Code of Civil Procedure* and **ORDERS** that it be implemented in accordance with its terms;

[17] **DECLARES** that all provisions of the Settlement Agreement (including its recitals and definitions) form part of this order and are binding upon the Class Members who did not opt-out of this action in accordance with the authorization and hearing notice order issued on ●, including

those persons who are mentally incapable, Class Counsel, the provincial health Insurers and the Defendants;

Notices

[18] **APPROVES** the Settlement Approval Notice (long, abridged and press release form) in English and French, substantially in the form attached to this Order as Schedule “B”

[19] **APPROVES** the form and content of the Settlement Approval Notice Plan substantially in the form attached to this Order as Schedule “C” and **ORDERS** that the dissemination of the notices to members be made in accordance with the Settlement Approval Notice Plan;

Release

[20] **DECLARES** that the release as provided at section 8 of the Settlement Agreement is approved and will take effect upon the Effective Date;

[21] **DECLARES** that the Settlement Agreement and this order are binding upon Class Members, whether or not such Class Members receive or claim compensation, including persons who are minors or are mentally incapable;

[22] **DECLARES** that upon the Effective Date, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Released Parties from the Released Claims;

[23] **DECLARES** that upon the Effective Date, each Class Member shall be deemed to have consented to the dismissal of any other action or proceeding he or she may have commenced in respect of the Released Claims as against the Released Parties, without costs and with prejudice;

[24] **DECLARES** that upon the Effective Date, each member of the Quebec Class who files a claim under the Settlement shall be deemed to have consented to the dismissal against the Released Parties of all other actions he or she commenced without costs and without prejudice, except those deemed excluded pursuant to article 580(2) of the *Code of Civil Procedure*;

[25] **DECLARES** that upon the Effective Date, Class Members shall not institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Released Party, or against any other person that is entitled to claim contribution or indemnity from any Released Party, in respect of any Released Claim;

[26] **DECLARES** that the parties may, without further notice to Class Members or further order of the Court, amend, modify or expand the terms and provisions of the Settlement Agreement by written agreement provided any such changes are consistent with this order and do not limit the rights of Class Members under the Settlement Agreement;

[27] **DECLARES** that neither the Settlement Agreement (including all terms thereof), nor its performance and implementation, shall be construed as any admission by the Defendants, including but not limited as to: (1) the validity of any claim, theory, or fact; (2) any liability, fault, or responsibility; or (3) the existence, cause, or extent of any damages or losses alleged or suffered by any Class Member;

[28] **TAKES NOTICE** that the Settlement Agreement is contingent upon Settlement Approval Orders being made by the Saskatchewan Court of Queen’s Bench and the Superior Court of

Justice of Ontario, and the Dismissal Order being made by the Superior Court of Justice of Ontario, and **ORDERS** that the terms of this order shall have no force or effect unless and until such judgments are rendered;

[29] **ORDERS** that this Order shall be null and void in the event the Settlement Agreement is terminated in accordance with its terms;

[30] **DECLARES** that upon the Effective Date, this Quebec Proceeding is hereby dismissed against the Defendants, without costs and with prejudice, and such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof;

[31] **THE WHOLE** without costs.

DONALD BISSON, J.C.S.

Me Karim Diallo
Me Erika Provencher
SISKINDS, DESMEULES, AVOCATS

Lawyers for the Applicants

Me Marianne Ignacz
INF LLP
Lawyers for the Defendants

Schedule A: Settlement Agreement

Schedule B: Settlement Approval Notice (long, abridged and press release form)

Schedule C: Settlement Approval Notice Plan

SCHEDULE “F”: LONG, ABRIDGED AND PRESS RELEASE FORM OF SETTLEMENT APPROVAL NOTICE

INVOKANA® INVOKAMET® INVOKAMET XR® LITIGATION: NOTICE OF SETTLEMENT APPROVAL

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

This Notice contains a summary of some of the terms of the Settlement Agreement. All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTICE OF SETTLEMENT APPROVAL

This is a notice for Class Members in the following Proceedings: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen’s Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186. The Proceedings raised various allegations against the Defendants and sought damages on behalf of Canadians for harm and injuries which were allegedly related to the use of Invokana®, Invokamet®, and Invokamet XR®. The Settlement of the Proceedings has been approved by the Courts.

WHO IS INCLUDED

The Settlement applies to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

SUMMARY OF THE SETTLEMENT

The Settlement provides for the payment of \$1,500,000, which will be used to pay approved claims, the related claims of the Provincial Health Insurers, the costs of notice and administering the settlement, and Class Counsel legal fees, disbursements, and applicable taxes.

The defendants deny all allegations and deny any wrongdoing or liability. The Court has not taken any position on the merits of the arguments of either the plaintiffs or the defendants, but has determined that the Settlement Agreement is fair, reasonable, and in the best interests of the Class Members. A term of the settlement is that the Proceedings will be dismissed or discontinued, which means that the lawsuit has come to an end, and there will be no trial.

PARTICIPATING IN THE SETTLEMENT

Class Members who satisfy the eligibility criteria set out in the Compensation Protocol may be entitled to benefits that will be calculated in accordance with the points system detailed in the Compensation Protocol.

Until all claims have been adjudicated it will not be possible to determine the exact value of the compensation that may be paid to eligible claimants.

The types of medical conditions that may qualify Class Members for compensation include acute kidney injury, diabetic ketoacidosis, and lower limb loss. You may be eligible for compensation under the Compensation Protocol if you began using or filled a prescription for Invokana®, Invokamet®, or Invokamet XR® prior to the dates below and experienced the relevant medical conditions prior to the dates below:

- for acute kidney injury, January 25, 2016;

- for diabetic ketoacidosis, May 31, 2016; and
- for lower limb loss, September 6, 2017.

You may also be eligible for compensation if you experienced the relevant medical conditions listed above within three (3) months after the corresponding dates above if (i) you started using Invokana®, Invokamet®, or Invokamet XR® at least 30 days before said dates, and (ii) you used it continuously from that date to the time of the medical condition, without having either attended your prescribing physician or had your prescription renewed.

Compensation will also be paid to eligible Class Members estates.

10% of the Settlement Amount will be allocated to a Provincial Health Care Recovery Fund for the recovery of costs of insured health or medical services by the Provincial Health Insurers.

Any undistributed balance of the settlement amount as determined by the Claims Administrator will be donated, *cy près* to an organization(s) to benefit diabetic health and research, as approved by the Courts and advised by Class Counsel, subject to any amounts payable to the *Fonds d'aide aux actions collective*.

MAKING A CLAIM

To make a claim under the Settlement, you must complete and submit a Claim Form (including the necessary supporting Injury Evidence and Prescription Evidence detailed in the Compensation Protocol) to the Claims Administrator before the **CLAIM DEADLINE**. **If you do NOT submit your Claim on time, you will not be eligible for any benefits under the Settlement Agreement.**

For further details on how claims will be evaluated, you should refer to the Compensation Protocol available at <http://www.invokanacanadasettlement.com/>.

The claim form requires that you provide medical records which can be time consuming to retrieve. **It is very important that you start this process as soon as possible, if you or your lawyer have not already done so.** You may wish to retain a lawyer to assist you in this process. You can retain Class Counsel or a lawyer of your choice.

LEGAL FEES

The Courts approved Class Counsel's legal fees in the amount of \$● plus applicable taxes and disbursements in the amount of \$● plus applicable taxes. Class Counsel were retained on a contingency basis and were responsible for funding all expenses incurred in pursuing this litigation.

FOR MORE INFORMATION:

If you have questions about the Settlement, or would like to obtain more information or copies of the Settlement Agreement, Compensation Protocol or other related documents, in English or French, please visit the settlement website at <http://www.invokanacanadasettlement.com/>, or contact the Claims Administrator or Class Counsel.

This Notice is a summary of the Settlement. You should consult the Settlement Agreement or contact Class Counsel or Trilogy Class Action Services for specific details as to your rights and obligations under the Settlement.

CLAIMS ADMINISTRATOR:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0

Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

CLASS COUNSEL:

Siskinds LLP	Siskinds Desmeules, Avocats	Merchant Law Group LLP
275 Dundas Street London, Ontario, N6A 3V8 Tel.: (519) 672-2121 Fax: (519) 672-6065 Madeline A. McKinnon madeline.mckinnon@siskinds.com	43 rue Buade, Bureau 320 Quebec City (QC) G1R 4A2 Tel.: (418) 694-2009 Fax: (418) 694-0281 Erika Provencher erika.provencher@siskindsdesmeules.com	100-2401 Saskatchewan Drive Regina, Saskatchewan, S4P 4H8 Tel.: (306) 359-7777 Fax: (306) 522-3299 E.F. Anthony Merchant, Q.C. tmerchant@merchantlaw.com

PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE PROCEEDINGS.

This Notice has been approved by the Ontario Superior Court of Justice, the Court of Queen's Bench for Saskatchewan, and the Superior Court of Quebec

INVOKANA® INVOKAMET® INVOKAMET XR® LITIGATION: NOTICE OF SETTLEMENT APPROVAL

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

A Canada-wide settlement has been reached in three class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. The Settlement of the Proceedings has been approved by the Courts. The Defendants deny all allegations and deny any wrongdoing or liability.

If you were prescribed Invokana®, Invokamet®, and Invokamet XR® at any time on or before **[DATE OF CERTIFICATION]** and subsequently experienced acute kidney injury, diabetic ketoacidosis, or lower limb loss, you may be entitled to compensation. The Settlement provides for the payment of \$1,500,000, which will be used to pay approved claims, the related claims of the Provincial Health Insurers, the costs of notice and administering the settlement, and Class Counsel legal fees, disbursements, and applicable taxes.

The Court has approved a Compensation Protocol that determines which Class Members are eligible for compensation and in what amount. For more information about how compensation is determined, you should review the long form Notice, Compensation Protocol, Settlement Agreement and related documents at <http://www.invokanacanadasettlement.com/>, or contact the Claims Administrator or Class Counsel listed below.

PARTICIPATING IN THE SETTLEMENT

To make a claim for compensation under the Settlement Agreement, you must complete and submit a Claim Form (including the necessary supporting Injury Evidence and Prescription Evidence detailed in the Compensation Protocol) to the Claims Administrator before **[CLAIM DEADLINE]**. **If you do NOT submit your Claim on time, you will not be eligible for any benefits under the Settlement Agreement.**

The claim form requires that you provide medical records which can be time consuming to retrieve. **It is very important that you start this process as soon as possible, if you or your lawyer have not already done so.** You may wish to retain a lawyer to assist you in this process. You can retain Class Counsel or a lawyer of your choice.

FOR MORE INFORMATION:

If you have questions about the Settlement and/or would like to obtain more information, please visit <http://www.invokanacanadasettlement.com/> or contact the Claims Administrator or Class Counsel.

Trilogy Class Action Services (Claims Administrator)

Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

Class Counsel		
Siskinds LLP	Siskinds Desmeules, Avocats	Merchant Law Group LLP
275 Dundas Street London, Ontario, N6A 3V8 Tel.: (519) 672-2121 Fax: (519) 672-6065	43 rue Buade, Bureau 320 Quebec City (QC) G1R 4A2 Tel.: (418) 694-2009 Fax: (418) 694-0281 Erika Provencher	100-2401 Saskatchewan Drive Regina, Saskatchewan, S4P 4H8 Tel.: (306) 359-7777 Fax: (306) 522-3299 E.F. Anthony Merchant, Q.C.

Madeline A. McKinnon madeline.mckinnon@siskinds.com	erika.provencher@siskindsdesmeules.com	tmerchant@merchantlaw.com
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Siskinds LLP, Merchant Law Group LLP and Siskinds Desmeules Advocates Announce the Settlement of the Invokana[®], Invokamet[®] and/or Invokana XL[®] Class Action Litigation

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

LONDON, REGINA, QUEBEC CITY: Madeline A. McKinnon of Siskinds LLP, E.F. Anthony Merchant Q.C. of Merchant Law Group, and Karim Diallo of Siskinds Desmeules Advocates announce that a Canada-wide settlement has been reached in three class actions relating to the prescription drugs Invokana[®], Invokamet[®], and Invokamet XR[®]. The Settlement of the Proceedings has been approved by the Courts. The Defendants deny all allegations and deny any wrongdoing or liability.

If you were prescribed Invokana[®], Invokamet[®], and Invokamet XR[®] at any time on or before **[DATE OF CERTIFICATION]** and subsequently experienced acute kidney injury, diabetic ketoacidosis, or lower limb loss, you may be entitled to compensation. The Settlement provides for the payment of \$1,500,000, which will be used to pay approved claims, the related claims of the Provincial Health Insurers, the costs of notice and administering the settlement, and Class Counsel legal fees, disbursements, and applicable taxes.

The Court has approved a Compensation Protocol that determines which Class Members are eligible for compensation and in what amount. For more information about how compensation is determined, you should review the long-form Notice, Compensation Protocol, Settlement Agreement and related documents at <http://www.invokanacanadasettlement.com/>.

To make a claim for compensation under the Settlement Agreement, you must complete and submit a Claim Form (including the necessary supporting evidence detailed in the Compensation Protocol) to the Claims Administrator before **[CLAIM DEADLINE]**. **If you do NOT submit your Claim on time, you will not be eligible for any benefits under the Settlement Agreement.**

The claim form requires that you provide medical records which can be time consuming to retrieve. **It is very important that you start this process as soon as possible, if you or your lawyer have not already done so.** You may wish to retain a lawyer to assist you in this process. You can retain Class Counsel or a lawyer of your choice.

CONTACT

This is an abbreviated notice. For the complete notice, including information on benefits that may be available through the settlement, and to obtain a copy of the settlement agreement and Compensation Protocol visit <http://www.invokanacanadasettlement.com/> or contact:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0

Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

Please do not call the Defendants or the Courts about these Proceedings.

*This Notice has been approved by the Ontario Superior Court of Justice,
the Court of Queen's Bench for Saskatchewan, and the Superior Court of Quebec*

SCHEDULE “G”: LIST OF PROVINCIAL HEALTH INSURERS

Province/ Territory	Ministry / Department	Legislation	Right of Recovery
Nova Scotia	Minister of Health and Wellness Department of Health and Wellness	<i>Health Services and Insurance Act</i> , RSNS 1989, c 197	“cost of the care, services and benefits”
New Brunswick	Minister of Health Executive Council	<i>Medical Services Payment Act</i> , RSNB 1973, c M-7 <i>Health Services Act</i> , RSNB 2014, c 112	“entitled services”
Prince Edward Island	Minister of Health and Wellness	<i>Health Services Payment Act</i> , RSPEI 1988, c H-2 <i>Hospital and Diagnostic Services Insurance Act</i> , RSPEI 1988, c H-8	“basic health services” “insured services”
Newfoundland and Labrador	Minister of Health and Community Services	<i>Medical Care and Hospital Insurance Act</i> , SNL2016 cM-5.01	“insured services”
Ontario	Minister of Health and Minister of Long-Term Care	<i>Health Insurance Act</i> , RSO 1990 c H 6 <i>Home Care and Community Services Act 1994</i> , S.O., 1994, c.26	“insured services” “approved services”
Manitoba	Minister of Health, Seniors and Active Living	<i>Health Services Insurance Act</i> , CCSM, 2015 c H35	“insured services”
Saskatchewan	Minister of Health	<i>The Health Administration Act</i> , SS 2014, c E-13.1	“health services”
Quebec	Régie de l’assurance maladie du Québec	<i>Health Insurance Act</i> , 2017 CQLR c A-29	“insured services”

Province/ Territory	Ministry / Department	Legislation	Right of Recovery
		<i>Hospital Insurance Act</i> , CQLR c A-28	
Yukon	Minister of Health and Social Services	<i>Hospital Insurance Services Act</i> , RSY 2002, c 112 <i>Health Care Insurance Plan Act</i> , RSY 2002, c.107	“insured services” “insured health services”
Northwest Territories and Nunavut	Minister of Health and Social Services	<i>Hospital Insurance and Health and Social Services Administration Act</i> , RSNWT 1998, c T-3 <i>Medical Care Act</i> , R.S.N.W.T. 1988, c.M-8	“insured services”
Alberta	Minister of Health	<i>Crown’s Right of Recovery Act</i> , SA 2009, c C-35	“the Crown’s cost of health services”
British Columbia	Minister of Health	<i>Healthcare Costs Recovery Act</i> , SBC 2008 c. 27	“health care services”

SCHEDULE “H”: PROVINCIAL HEALTH INSURER CONSENT AND RELEASE

WHEREAS [province specific legislation] (the “**Act**”) permits a direct or subrogated claim (a “**Claim**”) for the recovery of the costs for [insured services or analogous term] that have been incurred in the past and that will probably be incurred in the future and as further described in the Act and its regulations (collectively [“**Insured Services or Analogous Term**”]);

AND WHEREAS proceedings were commenced in Saskatchewan, Ontario , and Quebec against Janssen Inc., Janssen Pharmaceuticals, Inc., Janssen Ortho LLC, Johnson & Johnson, and Johnson & Johnson Inc., (collectively, the “**Defendants**”) on behalf of proposed classes of Canadian residents who have been prescribed Invokana Product(s) (as defined in the Settlement Agreement) (the “**Proceedings**”);

AND WHEREAS pursuant to a Settlement Agreement dated ● (the “**Settlement Agreement**”) the Proceedings and all of the present and future claims of Class Members (as defined in the Settlement Agreement) for or relating in any way to Invokana Product(s) are to be fully resolved, on a national basis, without admission of liability;

AND WHEREAS the Provincial Health Insurer (as defined in the Settlement Agreement) hereby consents to the Settlement Agreement;

AND WHEREAS pursuant to the Settlement Agreement, Class Members will have an opportunity to submit individual claims for settlement benefits (the “**Settling Claimants**” as further defined in the Settlement Agreement);

IN CONSIDERATION OF the payments to be made from the Settlement Amount to the Provincial Health Insurer as good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the undersigned, ●, on behalf of the Provincial Health Insurer (hereinafter “**Releasor**”), release any and all manner of claims which a Provincial Health Insurer ever had, now has or hereafter can, shall or may have pursuant to provincial or territorial legislation that permits the recovery of healthcare costs or medical expenses from third parties, whether known or unknown, direct or indirect, subrogated or otherwise, relating in any way to the design, manufacture, sale, distribution, labelling, purchase and/or use of Invokana Product(s) in Class Members during the Class Period, including, without limitation and by way of example, all subrogated and/or direct claims in respect of Class Members that were or could have been brought for the cost of medical care and treatment provided to Class Members, as well as medical screening and monitoring, arising from the facts alleged in the Proceedings (as defined in the Settlement Agreement), against the Released Parties (as defined in the Settlement Agreement).

AND THE STATUTORILY DESIGNATED OFFICIAL FOR THE PROVINCIAL HEALTH INSURER REPRESENTS AND CONFIRMS that s/he has authority to bind the Releasor.

AND THE RELEASOR ACKNOWLEDGES and agrees that s/he has not been induced to execute this Release by reason of any representation or warranty of any nature or kind whatsoever and that there is no condition express or implied or collateral agreement affecting the said release.

AND FOR THE SAID CONSIDERATION the Releasor covenants and agrees not to make a claim or to commence or take proceedings against any of the Released Parties, including any person, firm, partnership, business or corporation who or which might claim contribution from, or to be indemnified by the Released Parties, in respect of those matters to which this release applies.

AND IT IS UNDERSTOOD that Released Parties, and each of them, do not admit any liability to the Releasor or others and that such liability is specifically and expressly denied.

IN WITNESS WHEREOF the Releasor ● has hereunto set his/her hand and seal this
day of _____, 2021.

Witness

Printed Name of Statutorily Designated
Official for the Provincial Health Insurer on
behalf of [Province]

Signature of Statutorily Designated Official for
the Provincial Health Insurer on behalf of
[Province]

Schedule "B"

**NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT OF INVOKANA® INVOKAMET®
INVOKAMET XR® LITIGATION**

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

A Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. This notice advises you that as a part of the settlement process, the following lawsuits have been certified/authorized as class actions for settlement purposes: Estate of *Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen's Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186 (the "Proceedings").

Hearings to approve the settlement have been scheduled for [DATES].

If the settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages (the "Class"). To determine whether you may be eligible to receive compensation, visit <http://www.invokanacanadasettlement.com/>.

If you qualify as a member of the Class and wish to participate in the settlement, you do not need to do anything at this time. If the settlement is approved by the Courts mentioned above, another notice will be published and additional information will be provided on how to make a claim for benefits pursuant to the settlement.

If you qualify as a member of the Class and you do not wish to participate in the settlement, then you must opt out by completing an Opt Out Form and submitting it to Trilogy Class Action Services. Members of the Quebec Class who wish to opt out must send their completed Opt Our Form to Clerk of the Superior Court of Quebec - Montreal Courthouse by mail. Class Members who do not opt out will be bound by the Settlement and the releases in it, if it is approved, and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided for in the Settlement to advance their claims. The deadline to opt out of the settlement and the Proceedings is [INSERT DATE].

If you wish to remain a member of the Class but object to the proposed Settlement, you must submit a written objection no later than [INSERT DATE].

CONTACT

This is an abbreviated notice. For the complete notice, including information on benefits that may be available through the settlement, a copy of the settlement agreement, how to participate in the settlement approval hearings, the Opt Out Form, information on how to object to the approval of the settlement agreement, and all other related information is available at <http://www.invokanacanadasettlement.com/> or by contacting:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

Please do not call the Defendants or the Courts about these Proceedings.

This Notice has been approved by the Ontario Superior Court of Justice, the Court of Queen's Bench for Saskatchewan, and the Superior Court of Québec

Schedule "C"

Siskinds LLP, Merchant Law Group LLP and Siskinds Desmeules Advocates Announce the Certification and Issue The Notice of Certification and Proposed Settlement of Invokana®, Invokamet® and/or Invokamet XR® Class Action Litigation

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

LONDON, REGINA, QUEBEC CITY: Charles M. Wright of Siskinds LLP, E.F. Anthony Merchant Q.C. of Merchant Law Group, and Karim Diallo of Siskinds Desmeules Advocates announce that a Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. As a part of the settlement process, the following lawsuits have been certified/authorized as class actions for settlement purposes: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-0000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen's Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186.

Hearings to approve the settlement have been scheduled for [DATES].

If the settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages (the "Class"). To determine whether you may be eligible to receive compensation, visit <http://www.invokanacanadasettlement.com/>.

If you qualify as a Class Member and wish to participate in the settlement, you do not need to do anything at this time. If the settlement is approved by the Courts mentioned above, another notice will be published, and additional information will be provided on how to make a claim.

If you qualify as a member of the class and you do not wish to participate in the settlement, then you must opt out by completing an Opt Out Form and submitting it to Trilogy Class Action Services. Members of the Quebec Class who wish to opt out must send their completed Opt Out Form to the Clerk of the Superior Court of Quebec - Montreal Courthouse by mail. Class Members who do not opt out will be bound by the Settlement and the releases in it, if it is approved, and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided to advance their claims. The deadline to opt out of the settlement and the Proceedings is [INSERT DATE].

If you wish to remain a Class Member but object to the Settlement, you must submit a written objection no later than [INSERT DATE].

CONTACT

This is an abbreviated notice. For the complete notice, including information on benefits that may be available through the settlement, a copy of the Settlement Agreement, how to participate in the settlement approval hearings, the Opt Out Form, information on how to object to the approval of the Settlement Agreement, and all other related information is available at <http://www.invokanacanadasettlement.com/> or by contacting:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0

Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

Please do not call the Defendants or the Courts about these Proceedings.

*This Notice has been approved by the Ontario Superior Court of Justice,
the Court of Queen's Bench for Saskatchewan, and the Superior Court of Québec*

Schedule "D"

**NOTICE OF CERTIFICATION AND PROPOSED SETTLEMENT OF INVOKANA® INVOKAMET®
INVOKAMET XR® LITIGATION**

PLEASE READ CAREFULLY. IGNORING THIS NOTICE WILL AFFECT YOUR LEGAL RIGHTS

This Notice contains a summary of some of the terms of the Settlement Agreement. All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

NOTICE OF CERTIFICATION FOR SETTLEMENT PURPOSES

A Canada-wide settlement has been reached in three proposed class actions relating to the prescription drugs Invokana®, Invokamet®, and Invokamet XR®. This notice advises you that as a part of the settlement process, the following lawsuits (the “**Proceedings**”) have been certified/authorized as class actions for settlement purposes: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen’s Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186.

These three Proceedings raised various allegations against the Defendants and sought damages on behalf of Canadians for harm and injuries which were allegedly related to the use of Invokana®, Invokamet®, and Invokamet XR®. The Defendants deny the allegations made in the Proceedings, make no admission as to the truth of these allegations and deny any wrongdoing.

The allegations made by the Plaintiffs have not been proven in Court and should not be considered in any way to be medical advice.

This Notice advises you of the certification/authorization of the Proceedings as class actions for the purpose of implementing the national Settlement Agreement (the “Settlement”) and of the hearings that will be held to decide whether the Settlement should be approved. You may attend the Settlement approval hearings. You can review the originating proceedings, the certification/authorization Orders, as well as the Settlement Agreement and related documents at the settlement website: <http://www.invokanacanadasettlement.com/> or you can contact the Court appointed Claims Administrator, Trilogy Class Action Services, at the address listed below.

WHO IS INCLUDED?

If the Settlement is approved, it will apply to: (i) all persons resident in Canada as of [DATE OF CERTIFICATION] who were prescribed Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) all persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Certification/authorization Orders for the purposes of settlement have been granted for the following Classes:

Ontario Class: (i) All persons resident in Canada as of [DATE OF CERTIFICATION], with exception of Saskatchewan Class Members and Quebec Class Members, who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Canada at any time on or before [DATE OF CERTIFICATION]; and (ii) All persons, with exception of Saskatchewan Class Members and Quebec Class Members, who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Saskatchewan Class: (i) All persons resident in Saskatchewan as of [DATE OF CERTIFICATION] who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Saskatchewan at any time on or before the date of [DATE OF CERTIFICATION]; and (ii) All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

Quebec Class: (i) All persons resident in Quebec as of [DATE OF AUTHORIZATION] who were prescribed and used Invokana®, Invokamet®, and/or Invokamet XR® in Quebec at any time on or before the date of [DATE OF AUTHORIZATION]; and (ii) All persons who by virtue of a personal relationship to one or more of such persons described in (i) above have claims for common law or statutory damages.

WHAT IS THE PROPOSED SETTLEMENT?

The Settlement provides for the creation of a \$1.5 million (CDN) settlement fund which will be used to pay the costs of notice and administration, compensation for approved claimants, the claims of provincial health insurers, and class counsel legal fees.

Payments to approved claimants will be made to Class Members who show that they experienced one or more of the medical conditions described below within the specified timeframes. Each medical condition will be assigned points by the Claims Administrator subject to various eligibility criteria. Net settlement proceeds will be allocated among the approved claimants in proportion to the cumulative points they are awarded under the Compensation Protocol. The Compensation Protocol can be found here: [LINK]. Not all Class Members will be eligible for compensation.

The types of medical conditions that may qualify Class Members for compensation include acute kidney injury, diabetic ketoacidosis, and lower limb loss. You may be eligible for compensation under the Compensation Protocol if you began using or filled a prescription for Invokana®, Invokamet® or Invokamet XR® prior to the dates below and experienced the relevant medical conditions prior to the dates below:

- for acute kidney injury, January 25, 2016;
- for diabetic ketoacidosis, May 31, 2016; and
- for lower limb loss, September 6, 2017.

You may also be eligible for compensation if you experienced the relevant medical conditions listed above within three (3) months after the corresponding dates above if (i) you started using Invokana®, Invokamet® or Invokamet XR® at least 30 days before said dates, and (ii) you used it continuously from that date to the time of the medical condition, without having either attended your prescribing physician or had your prescription renewed.

Compensation will also be paid to eligible Class Members estates. 10% of the Settlement Amount will be allocated to a Provincial Health Care Recovery Fund for the recovery of costs of insured health or medical services by the Provincial Health Insurers.

If the Settlement is approved, Class Counsel will make an application for class counsel legal fees of \$● to be paid from the Settlement Amount. Approval of the Settlement is not contingent on the outcome of any application regarding class counsel legal fees.

Any undistributed balance of the settlement amount as determined by the Claims Administrator will be donated, *cy près* to an organization(s) to benefit diabetic health and research, as approved by the Courts and advised by Class Counsel, subject to any amounts payable to the *Fonds d'aide aux actions collective*.

RIGHT TO PARTICIPATE OR OPT OUT

If you are a Class Member and wish to participate in the Settlement, you do not need to do anything at this time. Class Members who do not opt out will be bound by the Settlement and the releases in it and will be entitled to share in any of the benefits that may become available to them as Class Members, provided that they proceed within the timeframes provided for in the Settlement to advance their claims.

If you are a Class Member and you do not wish to participate in the Settlement, then you must opt out. Opt Out Forms are available at <http://www.invokanacanadasettlement.com/> or by contacting Trilogy Class Action Services at the address below. The deadline to opt out of the Settlement and the Proceedings is **[INSERT DATE]**. By opting out, you are choosing:

- (1) **not** to take part in the Settlement;
- (2) **not** to participate in any way in the Proceedings, AND
- (3) **not** to participate in any benefits arising from the Settlement or the Proceedings.

If you are a member of the Quebec Class and have filed an individual lawsuit against Janssen Inc., Janssen Pharmaceuticals Inc., Janssen Ortho LLC, Johnson & Johnson and/or Johnson & Johnson Inc. regarding the same subject matter at this class action and you do not discontinue your individual action before **[INSERT DATE]**, you will be deemed to have opted out of this class action.

Class Members **who opt out** will not be bound by the Settlement or the releases in the Settlement but will also not be entitled to share in any of the proceeds that may become available to Class Members as part of the Settlement.

The Proceedings will be dismissed as part of the Settlement. There will be no further opportunity to opt out of the Settlement or the Proceedings.

Members of the Quebec Class who wish to opt out must send their completed Opt Our Form to Clerk of the Superior Court of Quebec at the following address:

Clerk of the Superior Court of Quebec – Montreal Courthouse
1, Notre-Dame Street East
Montreal (Quebec) H2Y 1B6
Court File No.: 500-06-000906-186

SETTLEMENT APPROVAL HEARINGS

In order for the Settlement to become effective, it must be approved by the Courts of Ontario, Saskatchewan, and Quebec. The Courts must be satisfied that the Settlement is fair, reasonable, and in the best interest of the Class Members. The dates for the Settlement approval hearings have been scheduled as follows:

- (1) Ontario Class Members: **[INSERT DATE & TIME]** at the Ontario Superior Court of Justice, 80 Dundas Street, London, Ontario.
- (2) Saskatchewan Class Members: **[INSERT DATE & TIME]** at the Court of Queen's Bench, 2425 Victoria Avenue, Regina, Saskatchewan.
- (3) Quebec Class Members: **[INSERT DATE & TIME]** at the Superior Court of Québec, 1, rue Notre-Dame Est, Montréal, Québec.

If any of the Settlement approval hearings are adjourned and/or if the hearings are to be held virtually, details will be posted on the settlement website, <http://www.invokanacanadasettlement.com/>

In the event that the Settlement Agreement is not approved by each of the Courts in a form agreed to by the parties to the Proceedings, the Settlement Agreement shall terminate and its terms shall no longer be

binding on Class Members. In that case, all parties shall be restored to their pre-Settlement Agreement positions and the certification/authorization orders shall be set aside.

OBJECTING TO THE PROPOSED SETTLEMENT AND OPPORTUNITY TO APPEAR

If you wish to object to the proposed Settlement, you must submit a written objection no later than **[INSERT DATE]**.

Your written objection must be sent to the Claims Administrator by no later than **[INSERT DATE]** at the address listed below in this Notice. The Claims Administrator will file copies of all objections with the Courts.

You may also attend the hearings on the dates noted above, and if you have submitted a written objection, you may request to make oral submissions to the Court(s).

NOTICE OF SETTLEMENT APPROVAL

If the proposed Settlement is approved by the Courts, a notice of approval will be published on **[WEBSITE]** and otherwise made available as ordered by the Court. Class Members will have a limited amount of time to submit a claim for compensation. If the proposed Settlement is approved, a downloadable version of the claim package will be made available online at <http://www.invokanacanadasettlement.com/> or, alternatively, a claim package can be requested from the Claims Administrator by e-mail at: **[EMAIL]**, by telephone at **[TELEPHONE]**, or by regular mail at the address listed below. If you intend to submit a claim under the proposed Settlement, you must do so on or before the expiry of the claim period, which will be posted on the settlement website: <http://www.invokanacanadasettlement.com/>

WHO REPRESENTS ME? CLASS COUNSEL ARE:

Siskinds LLP

680 Waterloo Street
London, Ontario, N6A 3V8
Tel.: (519) 672-2121
Fax: (519) 672-6065
Charles M. Wright
Email: charles.wright@siskinds.com

Siskinds Desmeules, Avocats

43 rue Buade
Bureau 320
Quebec City (QC) G1R 4A2
Tel.: (418) 694-2009
Fax: (418) 694-0281
Erika Provencher
Email: erika.provencher@siskindsdesmeules.com

Merchant Law Group LLP

100-2401 Saskatchewan Drive
Regina, Saskatchewan, S4P 4H8
Tel.: (306) 359-7777
Fax: (306) 522-3299
E.F. Anthony Merchant, Q.C.
Email: tmerchant@merchantlaw.com

LEGAL FEES

At the Settlement approval hearings, Class Counsel will request approval for payment of their fees, disbursements, and applicable taxes. Class Counsel has pursued this lawsuit on a contingency basis of ●% and will seek approval from the Courts for class counsel legal fees of \$● in accordance with the terms of their retainer agreements with the representative plaintiffs. Individual Class Members may be responsible for legal fees incurred in advancing their claims under the Settlement, in accordance with any retainer agreements they may have entered into.

FOR MORE INFORMATION:

For more information on the status of the approval hearings or on how to opt out of the Settlement, comment or object to the Settlement, or to view the Settlement Agreement, visit <http://www.invokanacanadasettlement.com/> which will be periodically updated with information on the Settlement approval process and the Proceedings.

This Notice is a summary of the Settlement. You should consult the Settlement Agreement at the settlement website: <http://www.invokanacanadasettlement.com/> or contact Class Counsel or Trilogy Class Action Services for specific details as to your rights and obligations under the Settlement.

If you have questions about the Settlement and/or would like to obtain more information and/or copies of the Settlement Agreement and related documents in both English and French, please visit the settlement website at <http://www.invokanacanadasettlement.com/> or contact the Claims Administrator at:

Trilogy Class Action Services

Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
Tel: 1-877-400-1211
Fax: 1-416-342-1761
inquiry@trilogyclassactions.ca

PLEASE DO NOT CALL THE DEFENDANTS OR THE COURTS ABOUT THESE PROCEEDINGS.

This Notice has been approved by the Ontario Superior Court of Justice, the Court of Queen's Bench for Saskatchewan, and the Superior Court of Québec

Schedule "E"

NOTICE PLAN

All capitalized terms not otherwise defined have the meaning ascribed to them in the Settlement Agreement. The Hearing Notice and the Settlement Approval Notice (together the “Notices”) shall be disseminated as follows:

1. The Notices (long form) will be sent by email or direct mail by Class Counsel to any person who has requested it or who has inquired about the Proceedings or who has registered to receive updates through Class Counsel’s websites. Where the person is located in Quebec (or otherwise specifically requests), the Notices will be sent in English and French;
2. The Notices (long form) will be sent by email to each of the Provincial Health Insurers by Class Counsel;
3. The Notices (long form) will be posted by Class Counsel, in English and French, on their websites;
4. The Notices (long form) will be posted by the Claims Administrator, in English and French, on the designated website www.invokanacanadasettlement.com;
5. A national press release, in a form to be agreed upon by the Defendants, will be issued in English and French;
6. The Notices (short form, ¼ page) will be published once, in the weekend edition of the following newspapers:
 - a. The National Post (English);
 - b. Le Journal de Montreal (French);
 - c. Regina Leader Post (English);
 - d. Saskatoon Star Phoenix (English);
 - e. St. John’s Telegram (English);

- f. Telegraph Journal (English); and
 - g. Halifax Chronicle Herald (English);
7. Digital Banner Notices (digital display banner ads), in a form to be agreed upon by the Defendants, will be available for ten (10) business days on the following digital news outlets:
- a. The National Post and their other media properties of the Postmedia Network (in English); and
 - b. La Presse (in French).

Schedule "F"

**OPT OUT FORM
INVOKANA CLASS ACTIONS**

Complete and return this Opt-Out Form by no later than [DATE], ONLY IF YOU DO NOT WISH TO PARTICIPATE IN THE INVOKANA CLASS ACTIONS.

For the purposes of this Opt Out Form, the following definitions apply:

“**Settlement**” means the settlement agreement made as between the Plaintiffs and the Defendants, a copy of which is available at: <http://www.invokanacanadasettlement.com/>

“**Invokana Class Actions**” means the following actions: *Estate of Raymond Duck v Janssen Inc. et al.*, Ontario Superior Court of Justice (London) Court File No. CV-18-00000570-00CP; *Ronald Allen Fiddler v Janssen Inc. et al.*, Court of Queen’s Bench for Saskatchewan (Regina) Court File No. Q.B.G. 2809 of 2015; and *Steven Varnai and Joanne Giroux v Janssen Inc. et al.*, Superior Court of Quebec (District of Montreal – Class Actions) Court File No. 500-06-000906-186

Consequences of Opting Out

By completing and returning this Opt Out Form as set out below, you are choosing:

- 1) **not** to take part in the Settlement,
- 2) **not** to participate in any way in the Class Actions, AND
- 3) **not** to participate in any benefits arising from the Settlement or the Class Actions.

If you complete this Opt Out Form you will not be bound by the Settlement or the release in the Settlement, but you will also not be entitled to share in any of the proceeds that may become available to Class Members as part of the Settlement.

In order to be effective, this form must be fully completed and sent to the Claims Administrator at the address set out below and must be received or postmarked no later than [DATE]. Opt Out Forms received or postmarked after [DATE] will not be accepted. For more information on the Settlement Agreement and the Invokana Class Actions, please visit <http://www.invokanacanadasettlement.com/>

Your name: _____ (required)

Your address: _____ (required)

Province in which you purchased, ingested, used, or acquired your Invokana®, Invokamet®, and/or Invokamet XR® prescription: _____ (required)

Your telephone number: (____) ____-____ (required)

Your email address: _____ (optional)

Declaration:

I wish to opt out of the Settlement and the Invokana Class Actions. I understand that by submitting this Opt-Out Form I will not receive any benefits under the Settlement but will not be bound by the Settlement.

Signature

Date

Return completed Opt-Out Form to Trilogy Class Action Services by mail or email:

Trilogy Class Action Services
Invokana Class Action Settlement
117 Queen Street, PO Box 1000
Niagara-on-the-Lake, ON L0S 1J0
inquiry@trilogyclassactions.ca

For Quebec Class Members the completed Opt Out Form may also be returned directly to the Superior Court of Quebec at the Montreal Courthouse

THE ESTATE OF RAYMOND DUCK, by his Estate Trustee, Beverly Millikin
Plaintiff and JANSSEN INC., et al
Defendants

Court File No.: CV-18-00000570-CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at London

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Certification and Hearing Notice Approval)**

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