



No. S095493
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DENNIS JONES and SUSAN WILKINSON

Plaintiffs

AND:

ZIMMER GMBH, ZIMMER, INC., and
ZIMMER OF CANADA LIMITED

Defendants

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

NOTICE OF APPLICATION

Name of Applicant: The Representative Plaintiff

To: The Defendants

TAKE NOTICE that this application will be made by the Applicant to the Honourable Mr. Justice Bowden at the courthouse at 800 Smithe Street, in the City of Vancouver, in the Province of British Columbia, on Tuesday, June 28, 2016, at 10 a.m., for the orders set out in Part 1 below.

Part 1: ORDERS SOUGHT

1. An order pursuant to s. 35(1) of the *Class Proceedings Act* approving a proposed settlement agreement and addendum (the "Settlement Agreement") in this certified class action, with the approval order being in substantially the form attached at Schedule C to the Settlement Agreement;
2. An order pursuant to ss. 20(1) and 35(5) of the *Class Proceedings Act* for publication of notice of the settlement with the content of such notice substantially as set out in Schedule H of

the Settlement Agreement and the manner of distribution substantially as provided by Schedule K of the Settlement Agreement;

3. An order pursuant to s. 33(1) of the *Class Proceedings Act* appointing Crawford Class Action Services as claims administrator to oversee distribution of the settlement;
4. An order pursuant to s. 38 of the *Class Proceedings Act* approving class counsel fees and disbursements;
5. An order pursuant to s. 12 of the *Class Proceedings Act* approving payment of a modest honourarium to the representative plaintiff in recognition of her service to the class.

Part 2 and 3: FACTUAL and LEGAL BASIS

1. These matters will be addressed in written submissions to be filed by the Representative Plaintiff.

Part 4: MATERIAL TO BE RELIED ON

1. The affidavit #1 of Anita Vergis, sworn April 20 , 2016;
2. The affidavit #2 of Susan Gwen Wilkinson, sworn April 20, 2016
3. The affidavit #1 of Dr. Thomas Turgeon, sworn April 8, 2015
4. The pleadings and proceedings herein; and
5. Such further and other material as counsel may advise and this Honourable Court may permit.

The Applicant estimates that the application will take 2 hours.

- This matter is within the jurisdiction of a master.
 This matter is not within the jurisdiction of a master.

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must within 5 business days after service of this notice of application or, if this application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application of response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of the this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: June 15, 2016



Signature of lawyer for applicant
Klein Lawyers
Barristers & Solicitors
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Vancouver, BC V6H 3V9
P: 604-874-7171/F: 604-874-7180

To be completed by the court only:

Order made

in the terms request in paragraphs of Part 1 of this notice of application

With the following variations and additional terms:

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.....
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Date:

.....

Signature of Judge Master

Appendix

[The following information is provided for data collection purposes only and is of no legal effect.]

THIS APPLICATION INVOLVES THE FOLLOWING:

[Check the box(es) below for the application type(s) included in this application.]

- discovery: comply with demand for documents
- discovery: production of additional documents
- other matters concerning document discovery
- extend oral discovery
- other matter concerning oral discovery
- amend pleadings
- add/change parties
- summary judgment
- summary trial
- Service
- Mediation
- Adjournments
- proceedings at trial
- case plan orders: amend
- case plan orders: other

Experts
Other