S-196308

ACTION NO.
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

SAMARA BUNSKO

PLAINTIFF

AND

ALLERGAN INC., ALLERGAN USA INC., AND ALLERGAN PLC

DEFENDANTS

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

NOTICE OF CIVIL CLAIM

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

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

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

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

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

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

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

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

Time for response to civil claim

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

(a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

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

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

1. This action concerns the Allergan Inc. medical products Allergan breast implants, of both the smooth and textured type (collectively, "Allergan Breast Implants").

2. The Plaintiff, Samara Bunsko (the "Plaintiff"), has an address for delivery of 820 – 980 Howe Street, in the City of Vancouver, in the Province of British Columbia. The Plaintiff has been implanted with Allergan Breast Implants of the textured type ("Allergan Textured Implants") and subsequently experienced serious illnesses as a result of these breast implants. The Plaintiff brings this action on her own behalf and on behalf of a proposed class of similarly situated persons who had Allergan Breast Implants in Canada, to be further defined in the Plaintiff's application for class certification.

3. The Defendant, Allergan Inc. (hereinafter, "Allergan"), formerly known as Inamed Corporation, has a head office address of 500 – 85 Enterprise Boulevard, Markham, ON, L6G 0B5. Their local office is Gowling WLG Pacific Corporate Services Inc., 2300 – Bentall 5 – 550 Burrard Street, Vancouver, V6C 2B5.

4. The Defendant, Allergan USA Inc. (hereinafter, "Allergan USA"), has a head office address of 5 Giralda Farms, Madison, New Jersey, USA 07940.

5. The Defendant, Allergan PLC (hereinafter, "Allergan PLC"), has a head office address of Clonshaugh Business and Technology Park, Coolock, Dublin, Ireland, D17 E400.

6. At all material times, each of the Defendants hereinabove was the agent, servant, employee, partner, alter ego, aider and abettor, co-conspirator and/or joint venturer of each of the remaining Defendants named herein and were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, and/or joint venture, and each Defendant has ratified and approved the acts of each of the remaining Defendants.

7. At all material times, the Defendants, or any of them, designed, manufactured, and distributed Allergan Breast Implants for sale in Canada and worldwide.

8. Allergan Breast Implants are for use in both breast augmentation and breast reconstruction.

Europe

9. On or about December 17, 2018, Allergan Textured Implants lost its "CE mark" (a mark certifying the safety of certain products licenced for sale in the European Union).

10. On or about December 18, 2018, France's *National Agency for the Safety of Medicines and Health Products – L'Agence nationale de sécurité du médicament et des produits de santé* issued a safety recall of the Allergan Textured Implants currently in stock in hospitals and clinics.

11. As of December 18, 2018, Allergan cannot sell its textured implants in the European Union; however, despite knowing the serious safety risks associated with its products, Allergan continues to sell its textured implants to class members in Canada.

12. Due to the risks related to Allergan Breast Implants, doctors worldwide are being advised to use smooth implants instead of textured implants.

Canada

13. On or about November 24, 2017, Health Canada issued a safety notice about breast implants, including products by the Defendant Allergan. This safety notice advised that there have been reports of breast implant-associated anaplastic large cell lymphoma ("BIA-ALCL").

14. The information on the Health Canada website regarding this safety notice included the following:

> As defined by the World Health Organization (WHO), BIA-ALCL is a rare type of non-Hodgkin lymphoma that can develop next to the implant. It usually presents as an accumulation of seroma fluid between the implant itself and the surrounding fibrous capsule.
>
> [...]
>
> The etiology of BIA-ALCL remains unclear, and areas of ongoing research include chronic inflammation, bacterial contamination (role of biofilm), severe capsular contracture and trauma to the breast.

15. On or about April 4, 2019, Health Canada announced its intent to suspend the licences for Allergan Biocell breast implants as a precautionary measure due to the developmental risk of BIA-ALCL. This advisory has informed that Health Canada has met with various international groups on the issue and will continue to monitor and review all available scientific and clinical information regarding the safety of textured breast implants.

16. On or about May 28, 2019, Health Canada issued a suspension of Allergan's licences for its Biocell breast implants after a safety review concluded that the rate of BIA-ALCL is significantly higher in those with macro-textured breast implants compared to other implants. The affected products include the following:

- Natrelle saline-filled breast implants (textured)
- Natrelle 410 Truform silicone-filled breast implants
- Natrelle silicone-filled breast implants – Biocell round

- Natrelle Inspira Truform 1 (responsive) breast implant (textured shell)
- Natrelle Inspira Truform 2 (soft touch) breast implant (textured shell)

17. On a product insert data sheet for NATRELLE saline-filled breast implants, the "Device Description" is as follows:

> NATRELLE Saline-Filled Breast Implants are constructed from Room Temperature Vulcanized (RTV) silicone elastomer, made of polydimethylsiloxane. The device is inflated to the desired size with sterile isotonic saline before implantation. Each implant is supplied sterile with a disposable fill tube and reflux valve.

18. On a product insert data sheet for NATRELLE silicone-filled breast implants, the "Device Description" is as follows:

> The gel-filled breast implants in the NATRELLE Collection are constructed with barrier shell technology resulting in a low diffusion silicone elastomer shell and are filled with TruForm gel. TruForm is the specially formulated, premium quality gel used in the NATRELLE Collection. TruForm 1 is a soft cohesive gel that is responsive to movement with a shape that is influenced by the surrounding breast tissue, TruForm 2 is a slightly firmer, form stable cohesive gel that retains a natural feel while helping to create the desired shape for more predictable long-term control, and TruForm 3 is a form stable cohesive gel developed specifically for anatomical implants with a firmer feel for the ultimate shape control providing predictable aesthetic results over time.
>
> The Collection includes TruForm 1 (formerly known as Cohesive) Gel-Filled Breast Implants, TruForm 2 (formerly known as Soft Touch) Gel-Filled Breast Implants, TruForm 3 (formerly known as Highly Cohesive) Gel-Filled Breast Implants, and INSPIRA (implants that are filled to about 95% volume with TruForm 1 or TruForm 2 gel). All styles consist of a shell, a patch, and silicone gel fill and are dry-heat sterilized.

19. Data sheets for both the NATRELLE Saline-Filled Breast Implant and the NATRELLE Silicone-Filled Breast Implant provide the following as "Indications":

> NATRELLE Saline-Filled Breast Implants are indicated for females for the following:
>
> - **Breast augmentation for women at least 18 years old.** Breast augmentation includes primary breast augmentation to increase the breast size, as well as revision surgery to correct or improve the result of a primary breast augmentation surgery.
> - **Breast reconstruction.** Breast reconstruction includes primary reconstruction to replace breast tissue that has been removed due to cancer or trauma or that has failed to develop properly due to a severe breast abnormality. Breast reconstruction also includes revision surgery to correct or improve the result of a primary breast reconstruction surgery.
>
> NATRELLE Silicone-Filled Breast Implants are indicated for females for the following:

- **Breast augmentation for women at least 22 years old.** Breast augmentation includes primary breast augmentation to increase the breast size, as well as revision surgery to correct or improve the result of a primary breast augmentation surgery.

- **Breast reconstruction.** Breast reconstruction includes primary reconstruction to replace breast tissue that has been removed due to cancer or trauma or that has failed to develop properly due to a severe breast abnormality. Breast reconstruction also includes revision surgery to correct or improve the result of a primary breast reconstruction surgery.

20. The following is provided in the NATRELLE Saline-Filled Breast Implant Data Sheet under "Adverse Events":

> Potential adverse events that may occur with saline-filled breast implant surgery include: reoperation, pain, wrinkling, asymmetry, implant palpability/visibility, implant removal, capsular contracture, changes in nipple and breast sensation, implant displacement/migration, implant deflation, scarring, infection, hematoma/seroma, breastfeeding complications, implant extrusion, necrosis, delayed wound healing, breast tissue atrophy/chest wall deformity, calcium deposits, and lymphadenopathy.

21. The following is provided in the NATRELLE Saline-Filled Breast Implant Data Sheet under "Other Reported Conditions":

> There have been reports in the literature of other conditions in women with breast implants. Many of these conditions have been studied to evaluate their potential association with breast implants. No cause-and-effect relationship has been established between breast implants and the conditions listed below. Furthermore, there is the possibility of risks, yet unknown, which in the future could be determined to be associated with breast implants. It should also be noted that the cited references include data from augmentation and/or reconstruction patients, as well as from a variety of manufacturers and implant models.
>
> - ***Connective Tissue Disease (CTD)***
>
> Concern over the association of breast implants to the development of autoimmune or connective tissue diseases, such as lupus, scleroderma, or rheumatoid arthritis, was raised because of cases reported in the literature with small numbers of women with implants. A review of several large epidemiological studies of women with and without implants indicates that these diseases are no more common in women with implants than those in women without implants.
>
> - ***Cancer***
>
> Published studies indicate that breast cancer is no more common in women with implants than those without implants. A large, long-term follow-up found no significant increases in the risk rates for a wide variety of cancers, including stomach cancer, leukemia, and lymphoma.
>
> Based on information reported to FDA and found in medical literature, a possible association has been identified between breast implants and the rare development of anaplastic large

cell lymphoma (ALCL), a type of non-Hodgkin's lymphoma. Women with breast implants may have a very small but increased risk of developing ALCL in the fluid or scar capsule adjacent to the implant.

ALCL has been reported globally in patients with an implant history that includes Allergan's and other manufacturers' breast implants.

You should consider the possibility of ALCL when you have a patient with late onset, persistent peri-implant seroma. In some cases, patients presented with capsular contracture or masses adjacent to the breast implant. When testing for ALCL, collect fresh seroma fluid and representative portions of the capsule, and send for pathology tests to rule out ALCL. If your patient is diagnosed with peri-implant ALCL, develop an individualized treatment plan in coordination with a multi-disciplinary care team. Because of the small number of cases worldwide, there is no defined consensus treatment regimen for peri-implant ALCL.

22. The following is provided in the NATRELLE Silicone-Filled Data Sheet under "Possible Adverse Events":

Potential adverse events that may occur with silicone gel-filled breast implant surgery include: implant rupture, capsular contracture, reoperation, implant removal, pain, changes in nipple and breast sensation, infection, scarring asymmetry, wrinkling, implant displacement/migration, implant palpability/visibility, breastfeeding complications, hematoma/seroma, implant extrusion, necrosis, delayed wound healing, breast tissue atrophy/chest wall deformity, calcium deposits, and lymphadenopathy.

23. The following is provided in the NATRELLE Silicone-Filled Data Sheet under "Other Reported Conditions":

There have been reports in the literature of other conditions in women with silicone gel-filled breast implants. Many of these conditions have been studied to evaluate their potential association with breast implants. No cause and effect relationship has been established between breast implants and the conditions listed in Table 5. Furthermore, there is the possibility of risks, yet unknown, which in the future could be determined to be associated with breast implants. It should also be noted that the cited references include data from augmentation and/or reconstruction patients, as well as from a variety of manufacturers and implant models.

Table 5: Other Reported Conditions

Connective Tissue Disease (CTD)
Potential Conditions
• Connective tissue diseases include diseases such as lupus, scleroderma, rheumatoid arthritis, and fibromyalgia
• There have been a number of published epidemiological studies which have looked at whether having a breast implant is associated with having a typical or defined connective tissue disease
• The most recent of these concluded that the weight of the evidence did not support a causal

association between implants and definite or atypical CTD. The study size needed to conclusively rule out a small risk of connective tissue disease among women with silicone gel-filled implants would need to be very large. The published studies taken together show that breast implants are not significantly associated with a risk of developing a typical or defined connective tissue disease. These studies do not distinguish between women with intact and ruptured implants. Only one study evaluated specific connective tissue disease diagnoses and symptoms in women with silent ruptured versus intact implants, but the study was too small to rule out a small risk

Signs and Symptoms

- Literature reports have also been made associating silicone breast implants with various rheumatological signs and symptoms such as fatigue, exhaustion, joint pain and swelling, muscle pain and cramping, tingling, numbness, weakness, and skin rashes
- Scientific expert panels and literature reports have found no evidence of a consistent pattern of signs and symptoms in women with silicone breast implants
- Having these rheumatological signs and symptoms does not necessarily mean that a patient has a connective tissue disease; however, you should advise your patient that she may experience these signs and symptoms after undergoing breast implantation
- If a patient has an increase in these signs or symptoms, you should refer your patient to a rheumatologist to determine whether these signs or symptoms are due to a connective tissue disorder or autoimmune disease

Cancer

Breast Cancer

- Reports in the medical literature indicate that patients with breast implants are not at a greater risk than those without breast implants for developing breast cancer
- Reports have suggested that breast implants may interfere with or delay breast cancer detection by mammography and/or biopsy; however, other reports in the published medical literature indicate that breast implants neither significantly delay breast cancer detection nor adversely affect cancer survival of women with breast implants
- A large follow-up study reported no evidence of an association between breast implants and cancer, and even showed a decreased incidence of breast cancer compared to the general population

Anaplastic Large Cell Lymphoma

- Based on information reported to FDA and found in medical literature, a possible association has been identified between breast implants and the rare development of anaplastic large cell lymphoma (ALCL), a type of non-Hodgkin's lymphoma. Women with breast implants may have a very small but increased risk of developing ALCL in the fluid or scar capsule adjacent to the implant

- ALCL has been reported globally in patients with an implant history that includes Allergan's and other manufacturers' breast implants
- You should consider the possibility of ALCL when you have a patient with late onset, persistent pen-implant seroma. In some cases, patients presented with capsular contracture or masses adjacent to the breast implant. When testing for ALCL, collect fresh seroma fluid and representative portions of the capsule, and send for pathology tests to rule out ALCL. If your patient is diagnosed with pen-implant ALCL, develop an individualized treatment plan in coordination with a multi-disciplinary care team. Because of tile small number of cases worldwide, there is no defined consensus treatment regimen for pen-implant ALCL
- For more complete and up-to-date Information on FDA's analysis and review of the ALCL in patients with breast implants please visit: **http://www.fda.gov/MedicalDevices/ProductsandMedicalProcedures/ImplantsandProsthetics/Breastlmplants/ucm239995.htm**

24. In addition to BIA-ALCL, women who underwent breast augmentation or breast reconstruction with Allergan Breast Implants have reported experiencing symptoms associated with autoimmune disorders, including:

- Fibromyalgia;
- Nausea;
- Cognitive dysfunction;
- Skin rashes;
- Chronic fatigue;
- Chronic pain;
- Abnormal thyroid levels;
- Irregular heart rate;
- Inflammation;
- Gastrointestinal or digestive issues;
- Blood clots;
- Bruising;
- Headaches;
- Joint and muscle pain;
- Hair loss; and

- Such further symptoms that may be proven at trial.

(collectively, "Breast Implant Illness")

25. The symptoms associated with Breast Implant Illness have been reported by both women who have sustained implant rupture and by women who have not sustained implant rupture.

26. The Defendants, either directly or through a wholly-owned subsidiary, agent or affiliate, or surgeon, manufactured, marketed, and sold hundreds of millions of dollars' worth of breast implants throughout the world, including within the province of British Columbia.

27. The Defendants have been a leading breast implant manufacturer and also distribute their breast implants to clinics, hospitals, and plastic surgeons, who ultimately operate and implant them in consumers' bodies, including the Plaintiff.

28. The Plaintiff brings this action against the Defendants, and each of them, based on their defective manufacturing of Allergan Breast Implants; their failure to comply with the essential conditions of the Health Canada licence in conducting insufficient testing for the purposes of disclosure of the risks of their products; and their failure to adequately warn women of the risks associated with their products.

The Plaintiff Samara Bunsko

29. The Plaintiff had breast augmentation surgery on August 20, 2015 in Langley, British Columbia. Her implants are from the Defendant Allergan's line of breast implants and were of the Natrelle 410 cohesive gel silicone textured type.

30. As a result of the defective nature of the Allergan Textured Implants, the Plaintiff has sustained damages including, but not limited to, the following:

a. Alopecia (hair loss);

b. Abnormal thyroid levels;

c. Hormonal imbalances;

d. Autoimmune issues;

e. Irregular menstrual cycle;

f. Headaches and migraines;

g. Vertigo;

h. Adult acne;

i. Knee pain;

j. Back pain;

k. Hip pain;

l. Pineal gland cyst;

m. Ovarian cyst rupture;

n. Inflammation;

o. Dry eyes;

p. Dry throat and mouth;

q. Sore scalp;

r. Dizziness;

s. Radiating pain in breasts and rib cage;

t. Tight air bubble pain in right breast;

u. Weight issues;

v. Such other injuries as shall be proven at trial,

all of which injuries have caused and continue to cause the Plaintiff pain, suffering, loss of enjoyment of life, permanent physical disability, loss of earnings, past and prospective, loss of income earning capacity, loss of opportunity to earn income and loss of housekeeping capacity, past and prospective.

31. On or about November 2018, the Plaintiff discovered that her symptoms may be related to her breast implants. Prior to this time, the Plaintiff's health concerns were extensively investigated but no medical professional had reported a link between her symptoms and the Allergan Breast Implants.

32. On or about April 24, 2019, the Plaintiff underwent explant surgery of her Allergan Textured Implants in Abbotsford, British Columbia. Upon explant, the Plaintiff discovered that her right implant was discoloured due to a possible leak.

33. Following the explant procedure, the Plaintiff's symptoms have improved but not fully resolved.

34. The Plaintiff would not have undergone breast augmentation had she been provided with accurate information and/or warnings with respect to the possible complications of implantation with Allergan Breast Implants.

Part 2: RELIEF SOUGHT

35. The Plaintiff claims, on her own behalf, and on behalf of a class of similarly situated persons residing in Canada, as follows:

a. An order certifying this action as a class proceeding and appointing the Plaintiff as the representative Plaintiff under the *Class Proceedings Act*;

b. General damages;

c. Special damages;

d. Punitive damages;

e. Relief pursuant to the *Business Practices and Consumer Protection Act,* S.B.C. 2004, c. 2;

f. Recovery of health care costs incurred by the Ministry of Health Services on their behalf pursuant to the *Health Care Cost Recovery Act*, S.B.C. 2008, c. 27, and comparable legislation in the other provinces and territories;

g. Costs;

h. Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and

i. Such further and other relief this Honourable Court may deem just.

Part 3: LEGAL BASIS

Negligence and Failure to Warn

36. As the manufacturers, marketers, developers, distributors, labelers and/or importers of Allergan Breast Implants, the Defendants were in such a close and proximate relationship to the Plaintiff, and other class members, as to owe them a duty of care. They caused the breast implants to be introduced into the stream of commerce in Canada, and they knew that any damages or adverse effects related to the breast implants would cause foreseeable injury to the Plaintiff and class members.

37. The Defendants, and each of them, owed a duty to the Plaintiff and class members to exercise reasonable care when designing, testing, manufacturing, marketing, labelling, promoting, and selling Allergan Breast Implants.

38. The Defendants, and each of them, owed a duty of care to the Plaintiff and class members to ensure that Allergan Breast Implants were safe and effective for their intended use. Particulars of the Defendants' negligence include:

a. Failing to ensure that Allergan Breast Implants were manufactured to product standards;

b. Employing inadequately trained personnel in the design and/or manufacturing of Allergan Breast Implants;

c. Downplaying or under-reporting serious side effects and harmful complications of Allergan Breast Implants;

d. Placing Allergan Breast Implants on the market when they knew or ought to have known that this product has potential risks that outweighed their potential benefits;

e. Manufacturing and/or marketing a product that they know, or ought to have known, had an unreasonably high risk of causing illnesses, including BIA-ALCL and Breast Implant Illness;

f. Failing to warn, or appropriately warn, of the risk of illnesses, including BIA-ALCL and Breast Implant Illness, associated with Allergan Breast Implants;

g. Failing to supervise, or appropriately supervise as indirect sellers, the representations made to patients by surgeons and/or clinics, regarding the risk of illnesses, including BIA-ALCL and Breast Implant Illness, associated with Allergan Breast Implants;

h. Failing to implement a timely recall of Allergan Breast Implants once the risk of illnesses, including BIA-ALCL and Breast Implant Illness, were known to them;

i. Manufacturing and/or marketing a product that was not fit for the purpose for which it was intended;

j. Failing to manufacture and/or market a product in a good and workmanlike manner and in accordance with generally accepted standards; and

k. Such further and other particulars of negligence as will be alleged at trial.

Toxic Tort

39. The Defendants knew, or alternatively through the exercise of reasonable diligence ought to have known, that Allergan Breast Implants contained Toxins including arsenic, antimony, platinum, barium, cobalt, mercury, nickel, copper, zinc, chromium, titanium, vanadium, selenium, tin, and molybdenum.

40. The Defendants knew, or alternatively through the exercise of reasonable diligence ought to have known, that the introduction of the Toxins in a human body could result in injury, including Breast Implant Illness.

41. The Defendants are liable for physiological harm, emotional harm, and costs associated with medical monitoring for the Plaintiff who learned that they she has been exposed to the Toxins as a result of the Defendants' distribution of Allergan Breast Implants.

Business Practices and Consumer Protection Act

42. The Defendants' solicitations, offers, advertisements, promotions, sales and supply of Allergan Breast Implants for purposes of augmentation and reconstruction by the Plaintiff and by class members were "consumer transactions" within the meaning of the *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2 ("BPCPA"). With respect to those

transactions, the Plaintiff and class members who purchased Allergan Breast Implants are "consumers" and the Defendants were "suppliers" within the meaning of the BPCPA.

43. The Defendants' conduct in their solicitations, offers, advertisements, promotions, sales and supply of Allergan Breast Implants had the capability, tendency or effect of deceiving or misleading consumers regarding the safety and efficacy of Allergan Breast Implants. The Defendants' conduct in their solicitations, offers, advertisements, promotions, sales and supply of Allergan Breast Implants were deceptive acts and practices contrary to s. 4 of the BPCPA. The Defendants' deceptive acts and practices included the failure to properly disclose all material facts regarding the risks of breast augmentation with the Allergan brand.

44. As indirect sellers of Allergan Breast Implants, the Defendants were aware, or ought by the exercise of reasonable diligence been aware, of misrepresentations made to patients by surgeons and/or clinics, which solicitations, offers, advertisements, promotions, sales and supply of Allergan Breast Implants were deceptive acts and practices contrary to s. 4 of the BPCPA. Said deceptive acts and practices, which the Defendants are vicariously liable for, included the failure to properly disclose all material facts regarding the risks of breast augmentation with the Defendants' brand.

45. As a result of the Defendants' deceptive acts and practices, the Plaintiff and class members have suffered loss and damages. The Plaintiff seeks injunctive relief and declaratory relief and damages and statutory compensation pursuant to ss. 171 and 172 of the BPCPA on her own behalf and on behalf of class members who purchased Allergan Breast Implants in Canada. Such relief includes the disgorgement of the profits or revenues received by the Defendants from the sale of Allergan Breast Implants in Canada.

46. The declaratory and injunctive relief sought by the Plaintiff in this case includes an order under s. 172 of the BPCPA that the Defendants advertise any judgment against them and that they properly inform consumers and their physicians of the risks of Allergan Breast Implants which includes sending a "Dear Doctor Letter" to alert physicians to this problem.

Causation and Damages

47. As a result of the Defendants' negligence and the Defendants' breach of the BPCPA, the Plaintiff and class members have suffered and will continue to suffer loss and damage. Such loss and damage was foreseeable by the Defendants. Particulars of the loss and damage suffered by the Plaintiff and class members which were caused or materially contributed to by the aforementioned acts of the Defendants include:

a. Personal injury;

b. Special damages for medical expenses and out-of-pocket expenses;

c. Loss of both past and prospective income; and

d. Cost of future care.

48. The conduct of the Defendants warrants a claim for punitive damages. They have conducted themselves in a high-handed, wanton, and reckless manner, and without regard to public safety.

49. This case raises issues of general deterrence. A punitive damage award in this case is necessary to express society's condemnation of conduct such as the Defendants', to advance public safety and to achieve the goal of both specific and general deterrence.

Health Care Cost Recovery

50. The Plaintiff and class members have a claim for the recovery of health care costs incurred on their behalf by the British Columbia Ministry of Health Services and by other provincial and territorial governments. The Plaintiff pleads the *Health Care Cost Recovery Act*, S.B.C. 2008, c. 27 and the comparable legislation from the other provinces and territories.

Jurisdiction

51. The Plaintiff relies on ss. 13, 7, and 10 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 and pleads that there is a real and substantial connection between the subject matter of this action and the Province of British Columbia for the following reasons:

a. The Defendants marketed and sold Allergan Breast Implants in Canada;

b. The Plaintiff resides in British Columbia; and

c. The Plaintiff's damages were sustained in British Columbia.

Form 11 (Rule4-5(2))

ENDORSEMENT ON ORIGINATING PLEADING OR PETITION

FOR SERVICE OUTSIDE BRITISH COLUMBIA

The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff has at all material times been a resident of British Columbia and have suffered loss in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiff pleads the *Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

Plaintiff's address for service:	**RICE HARBUT ELLIOTT LLP** Barristers and Solicitors 820 - 980 Howe Street Vancouver, BC V6Z 0C8
Fax number address for service (if any):	(604) 682-0587
E-mail address for service (if any):	Nil
Place of trial:	Vancouver
The address of the registry is:	800 Smithe Street, Vancouver

Date: 31/MAY/2019

Signature of ☒ plaintiff
☒ lawyer for plaintiff
Anthony Leoni

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A claim for negligence and failure to warn resulting in illnesses suffered by women with Allergan Breast Implants, with injury, loss and damages to the Plaintiffs and a class of similarly situated persons resident in Canada.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☒ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☒ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

Part 4:

1. *Class Proceedings Act*, R.S.B.C. 1996, c. 50;
2. *Health Care Costs Recovery Act*, S.B.C. 2008, c. 27;
3. *Business Practices and Consumer Protection Act*, S.B.C. 2004, c. 2.