

No. S2010053  
Vancouver Registry

In the Supreme Court of British Columbia

Between

GERALD STEWART

Plaintiff

and

LEO PHARMA INC. AND LEO PHARMA A/S

Defendants

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

**ORDER MADE AFTER APPLICATION**

BEFORE } THE HONOURABLE JUSTICE BRONGERS } Jan/15 /2025

ON THE APPLICATION of the plaintiff, Gerald Stewart, coming on for hearing at Vancouver, BC on January 15, 2025; and on hearing Jesse R. Kendall for the Plaintiff Gerald Stewart; and Danielle Royal for the Defendants LEO Pharma Inc. and LEO Pharma A/S,

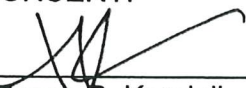
**AND ON READING** all materials filed and on hearing the submissions of counsel, and **BY CONSENT**;


THIS COURT ORDERS that:

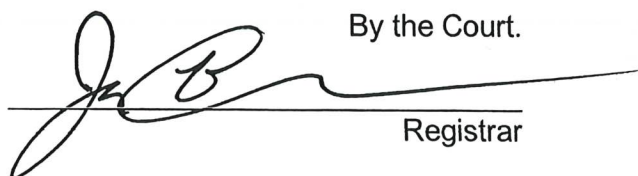
1. For the purposes of the Order, except to the extent that they are modified in this Order, the definitions set out in the settlement agreement dated September 16, 2024 ("**Settlement Agreement**"), and attached as **Schedule A** to this Order, apply to and are incorporated into this Order;
2. This BC Proceeding is certified as a class proceeding as against the Defendants for settlement purposes only;
3. The class is defined as: "all persons in Canada who purchased and/or used Picato between January 1, 2013 and the present date, other than Persons who validly opt-out before the Opt-Out Deadline" (the "**Class**" and "**Class Members**");
4. Gerald Stewart is appointed the representative plaintiff on behalf of the Class Members;

5. Rice Harbut Elliott LLP is appointed class counsel on behalf of the Class ("**Class Counsel**");
6. This BC Proceeding is certified on the basis that the following issue is common to the Class Members:
  - a. Did the Defendants owe a duty of care to the Class and if so, did the Defendants breach that duty of care?
7. Notice is approved in the form set out as Schedule "A" to the Settlement Agreement and attached as **Schedule B** to this Order; and
8. Notice will be disseminated by the following means:
  - a. The Notice will be published as advertisements on Facebook in English and French;
  - b. The Notice will be published and available on Class Counsel's website at the following link: [<https://rhelaw.com/class-action/picato-class-action-canada/>] in English and French;
  - c. The Notice will be delivered to all persons who have registered with Class Counsel to receive updates regarding the BC Proceeding prior to the Application for this Order; and
  - d. A press release will be published over Canada Newswire's Canadian Bilingual newswire in English and French.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of Jesse R. Kendall  
Lawyer for Class

  
\_\_\_\_\_  
Signature of Danielle Royal  
Lawyer for the Defendants LEO Pharma Inc and LEO Pharma A/S

  
\_\_\_\_\_  
By the Court.  
Registrar

**SCHEDULE A**  
**[Settlement Agreement]**

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

GERALD STEWART

PLAINTIFF

AND

LEO PHARMA INC. AND LEO PHARMA A/S

DEFENDANTS

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

SETTLEMENT AGREEMENT

Dated September 16<sup>th</sup>, 2024

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**RECITALS**

a) **WHEREAS** Gerald Stewart, in his capacity as plaintiff (the "Plaintiff"), and the defendants, LEO Pharma Inc. and LEO Pharma A/S (the "Defendants") (collectively,

the "Parties"), hereby enter into this Settlement Agreement (the "Settlement Agreement") providing for settlement of the proceeding described below, pursuant to the terms and conditions set forth below, subject to approval of the Court;

b) **AND WHEREAS** a proposed multi-jurisdictional class proceeding was commenced by the Plaintiff, in the Supreme Court of British Columbia, Court File Number No. S2010053 (the "BC Proceeding") against the Defendants pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50, in which it is alleged, among other things, that a certain alleged prescription medication ("Picato®") manufactured and distributed by the Defendants, was linked to an increased risk of skin cancer, which allegedly resulted in damage or loss to Class Members;

c) **AND WHEREAS** the Defendants do not admit, through the execution of this Settlement Agreement or otherwise, any of the allegations of wrongful conduct alleged in the BC Proceeding or at all, and otherwise deny all liability and assert that they have complete defences in respect of all aspects of the BC Proceeding;

d) **AND WHEREAS** the Plaintiff, Class Counsel and the Defendants agree that neither this Settlement Agreement nor any statement made in negotiation thereof shall be deemed or construed to be an admission by or evidence against the Defendants or evidence of the truth of any of the Plaintiff's allegations against the Defendants, which allegations are expressly denied by the Defendants;

e) **AND WHEREAS** despite their belief that they are not liable and that they have complete defences to the BC Proceeding, the Defendants have negotiated and entered into this Settlement Agreement to avoid the further expense, inconvenience and

distraction of burdensome litigation, and achieve a final and nation-wide resolution of all claims asserted or which could have been asserted against the Defendants by the Plaintiff and the Class in the BC Proceeding;

f) **AND WHEREAS** Counsel for the Defendants and Class Counsel have engaged in arm's length settlement discussions and negotiations, resulting in this Settlement Agreement;

g) **AND WHEREAS** as a result of these settlement discussions and negotiations, the Defendants and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Defendants and the Plaintiff, both individually and on behalf of the Class the Plaintiff seeks to represent, subject to approval of the Court;

h) **AND WHEREAS** Class Counsel, on their own behalf and on behalf of the Plaintiff, the proposed Class, and the Public Health Insurers, have reviewed and fully understand the terms of this Settlement Agreement, and based on their analysis of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expenses associated with prosecuting the BC Proceeding, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the proposed Class;

i) **AND WHEREAS** the Parties therefore wish to resolve the BC Proceeding on a national basis, without admission of liability;



j) **AND WHEREAS** the Parties consent to certification of the BC Proceeding as a class proceeding, and consent to the Class and to the Common Issue for Settlement Purposes and the Class Period in respect of the BC Proceeding solely for the purposes of implementing this Settlement Agreement and contingent on approval by the Court as provided for in this Settlement Agreement, on the express understanding that such certification shall be without prejudice to the respective rights of the Parties in the event this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason;

k) **AND WHEREAS** the Plaintiff and Defendants wish to fully and completely settle and resolve the claims advanced in the BC Proceeding as against the Releasees on the Effective Date pursuant to this Settlement Agreement;

l) **AND WHEREAS** the Plaintiff asserts that he is an adequate class representative for the Class he seeks to represent and will seek to be appointed as representative plaintiff for the Class;

m) **AND WHEREAS** for purposes of settlement only the Plaintiff consents to a dismissal of the BC Action against the Defendants;

n) **NOW THEREFORE**, in consideration of the covenants, agreements and releases set forth herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the BC Proceeding be settled and dismissed with prejudice as to the Defendants, all without costs as to the Plaintiff, the Class he seeks to represent, and the Defendants, subject to the approval of the Court, on the following terms and conditions:

## SECTION 1 – DEFINITIONS

1. The terms herein have the following definitions, including in the Recitals and Schedules hereto:
  - a) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes, and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.
  - b) **Certification and Notice Approval Hearing** means the hearing on the application before the Court for the certification of the BC Proceeding as a class action for settlement purposes and the approval of the form, content, and manner of dissemination of the Notice.
  - c) **BC Plaintiff** means in respect of the BC Proceeding, the named plaintiff, Gerald Stewart;
  - d) **BC Proceeding** means the proceeding commenced by the Plaintiff, Gerald Stewart, in the Supreme Court of British Columbia, Court File Number No. S2010053 (the "BC Proceeding") against LEO Pharma Inc. and LEO Pharma A/S., pursuant to the *Class Proceedings Act*, R.S.B.C. 1996, c. 50.
  - e) **Claim** means the claims of Class Members advanced in the BC Proceeding.
  - f) **Class** means all persons in Canada who purchased and/or used Picato® between January 1, 2013 and the present date, other than Persons who validly opt-out before the Opt-Out Deadline.
  - g) **Class Counsel** means Rice Harbut Elliott LLP.
  - h) **Class Counsel Disbursements** include the disbursements and applicable taxes incurred by Class Counsel in the prosecution of the BC Proceeding.
  - i) **Class Counsel Fees** means the fees of Class Counsel, and any applicable taxes or charges thereon.
  - j) **Class Members** means members of the Class.
  - k) **Class Period** means the period of time between January 1, 2013 and the present.
  - l) **Common Issue for Settlement Purposes** means the following: "Did the Defendants owe a duty of care to the Class and if so, did the Defendants breach that duty of care?"



- m) **Confidential Opt-Out Threshold** means the threshold agreed to by the Parties as set out in Schedule E, which Schedule shall be kept confidential and filed and maintained under seal in any filings in the Court.
- n) **Counsel for the Defendants** means Stikeman Elliott LLP.
- o) **Court** means the Supreme Court of British Columbia.
- p) **Cy-Près Amount** means the Settlement Amount less Administration Expenses, Class Counsel Fees, Class Counsel Disbursements and the Honorarium.
- q) **Cy-Près Payment** means a payment made to the Canadian Skin Cancer Foundation and the Law Foundation of British Columbia pursuant to Section 3.2 of this Settlement Agreement.
- r) **Date of Execution** means the date on which the Parties have executed this Settlement Agreement.
- s) **Defendants** means LEO Pharma Inc. and LEO Pharma A/S.
- t) **Effective Date** means the date when a Final Order has been received from the Court approving this Settlement Agreement.
- u) **Final Order** means a final order, judgment or equivalent decree entered by:  

the Court approving this Settlement Agreement pursuant to section 35 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50. In accordance with its terms, once the time to appeal such order has expired without any appeal being taken, if an appeal lies, or if the order is appealed, once there has been affirmation of the order upon a final disposition of all appeals.
- v) **Honorarium** means a payment of \$1,500.00 to the BC Plaintiff for his contributions as the representative plaintiff.
- w) **Notice** means the notice in the form attached hereto as Schedule A which informs potential class members of (1) the principle elements of the Settlement Agreement; (2) the certification of the BC Proceeding as a class proceeding as against the Defendants for settlement purposes; (3) the right to opt out of the BC Proceeding; (4) the right and procedure for Class Members to object to the Settlement (5) the date and time of the Settlement Approval Hearing; and (5) the date and time of hearing for court approval of Class Counsel Fees and Class Counsel Disbursements.
- x) **Notice Dissemination Plan** means the plan detailed in paragraph 8 of the Consent Certification and Notice Approval Order, attached as Schedule B describing how the Notice will be disseminated.

- y) **Objection and Notice of Intention to Appear** means an objection to the Settlement Agreement of a Class Member, and a statement of whether they intend to appear and make submissions at the Settlement Approval Hearing as set out in paragraphs 30 – 34.
- z) **Objection Deadline** means the date which is sixty (60) days after the date on which the Notice is first published, which is for the purpose of filing an Objection and Notice of Intention to Appear at the Settlement Approval Hearing.
- aa) **Opt-Out Deadline** means the date which is sixty (60) days after the date on which the Notice is first disseminated.
- bb) **Opt-Out Form** means a written confirmation of a Class Member to opt-out of this Proceeding as set out in paragraph 24.
- cc) **Party and Parties** means the Defendants and the Plaintiff.
- dd) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.
- ee) **Picato®** means the prescription medication Picato®, manufactured and distributed by the Defendants in Canada bearing the Drug Identification Number 2400987 and 2400995.
- ff) **Plaintiff** means the BC Plaintiff, Gerald Stewart.
- gg) **Public Health Insurers or PHIs** means any statutory Canadian, provincial or territorial health or medical care body, plan, commission or other entity (for example, the Minister of Health for British Columbia), which is specifically empowered by its respective enabling legislation to make subrogated claims to recover the costs of providing healthcare or other valid medical services to Class Members respecting Released Claims.
- hh) **Released Claims** means any and all manner of claims, demands, actions, suits, causes of action, whether class, individual or otherwise in nature, including assigned whenever incurred, liabilities of any nature whatsoever, whether personal or subrogated, damages of any kind including compensatory, special, punitive or other damages, including interest, costs, expenses, class administration expenses (including Administration Expenses), penalties, and lawyers' fees (including Class Counsel Fees and Class Counsel Disbursements), known or unknown, suspected or unsuspected, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, in law, under statute or in equity, that the Plaintiff or Class Members or any of them whether directly, indirectly, derivatively or in any



other capacity ever had, now have or hereafter can, shall, or may ever have, relating in any way to any conduct related to, arising from, or described in the BC Proceeding, including any and all subrogated claims of the PHIs.

- ii) **Releasees** means, jointly and severally, individually and collectively, the Defendants and each of their past and present, direct and indirect parents, subsidiaries, affiliates, partners, insurers, and all other Persons, partnerships or corporations with whom any of the foregoing have been, or are now, affiliated, and each of their respective past and present officers, directors, employees, agents, stockholders, attorneys, servants, representatives, and the predecessors, successors, heirs, executors, administrators and assigns of any of the foregoing;
  - (i) any and all suppliers of components, materials, services, and technology used in the manufacture of Picato® including the labelling and packaging thereof, and their respective affiliates, divisions, parents, predecessors, subsidiaries, successors, and trustees, and each of their respective agents, directors, employees, insurers, lawyers, officers, and current and former shareholders;
  - (ii) all distributors of Picato® including wholesale distributors, private label distributors, retail distributors, hospitals and clinics;
  - (iii) any other person against whom the Class Members could attempt to assert any claim, liability, or right to payment arising out of or related in any way to the packaging of Picato®, whether as a joint tortfeasor or otherwise, under any theory of law or equity; and
  - (iv) any past, present or future officer, director, shareholder, subsidiary, employee, agent, servant, attorney, predecessor, trustee, successor or assignee of any of the above.
- jj) **Releasors** means, jointly and severally, individually, and collectively, the Plaintiff and the Class Members, and all of their respective heirs, executors, trustees, assigns, administrators, attorneys, representatives, partners, and insurers, and their predecessors, successors, heirs, executors, trustees, and assignees including the PHIs.
- kk) **Representative Plaintiff** means Gerald Stewart.
- ll) **Settlement Agreement** means this agreement, including the recitals, and schedules.
- mm) **Settlement Approval Hearing** means the hearing at which the Parties seek the Final Order and approval of Class Counsel Fees and Class Counsel Disbursements.
- nn) **Settlement Amount** means the all-inclusive amount of CAD \$437,678.24.

- oo) **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, if appointed, for the benefit of the Class Members or the Defendants, as provided for in this Settlement Agreement.

## **SECTION 2 – SETTLEMENT APPROVAL**

### **2.1 Best Efforts**

2. Upon the execution of the Settlement Agreement, Class Counsel shall use their best efforts to implement its terms and to secure the prompt, complete and final dismissal, with prejudice, of the BC Proceeding against the Defendants, without costs to the Defendants.

### **2.2 Application Seeking Certification and Approval of Notice**

3. As soon as practicable after the Date of Execution, the Plaintiff shall bring an application before the Court, for orders certifying the BC Proceeding for settlement purposes only and approving the Notice.

4. The order certifying the BC Proceeding for settlement purposes and approving the Notice and certifying the BC Proceeding shall be substantially in the form attached as Schedule B.

### **2.3 Application Seeking Approval of the Settlement Agreement**

5. The Plaintiff shall make best efforts to bring an application before the Court for an order approving this Settlement Agreement within thirty (30) days after the expiration of the Opt-Out Deadline and Objection Deadline or as soon as practicable thereafter.

6. The order approving this Settlement Agreement shall be substantially in the form attached as Schedule C.

#### **2.4 Pre-Application Confidentiality**

7. Until the date on which the BC Proceeding is certified for settlement purposes and Notice is approved, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior 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.

#### **2.5 Settlement Agreement Effective**

8. This Settlement Agreement shall only become final and binding on the Effective Date.

### **SECTION 3 – SETTLEMENT BENEFITS**

#### **3.1 Applicable Currency**

9. All dollar amounts set forth in the Settlement Agreement are expressed in Canadian currency.

#### **3.2 Distribution of the Settlement Amount**

10. Pursuant to the terms and conditions of the Settlement Agreement, the Defendants shall pay the Settlement Amount to settle all Claims relating to the BC Proceeding. After deduction of the Honorarium, Class Counsel Fees, Class Counsel Disbursements and



Administration Expenses, the remainder of the Settlement Amount will be distributed via *cy-près* distribution as follows: 50% to the Canadian Skin Cancer Foundation for use in the GoSafe Sun safety program to raise awareness for youth about the prevention and early detection of skin cancer, and 50% to the Law Foundation of British Columbia.

11. Within thirty (30) days of receipt of the order approving the Notice and certifying the BC Proceeding for settlement purposes, the Defendants shall forward an initial installment of the Settlement Amount in the amount of CDN \$25,000, to Class Counsel, for deposit into the Trust Account, in respect to all costs of Notice. Should the total costs of Notice exceed this amount, such costs additional costs shall be treated as an Administration Expense.

12. Within thirty (30) days after the Effective Date, the Defendants shall pay the balance of the Settlement Amount, in the amount of \$412,678.24.

13. Payment of the amounts abovementioned shall be made by wire transfer to Class Counsel. Class Counsel will provide, in writing, the following information necessary to complete the wire transfer: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

14. Within twenty (20) days of receipt of Class Counsel's receipt of the full Settlement Amount and after deduction of the Class Counsel Fees, Class Counsel Disbursements and Administration Expenses, Class Counsel shall pay by cheque the Honorarium to the BC Plaintiff and the *Cy-Près* Amount to the Canadian Skin Cancer Foundation and the Law Foundation of British Columbia;

15. The Parties agree that the Defendants shall not be liable for or be a proper party to any dispute related to any alleged harm or injury suffered by any Class Member by reason of the use or alleged misuse of funds administered under the Settlement Agreement, or of any erroneous disbursement(s) or other action taken, or failure to act, with respect to such funds.

16. Class Counsel hereby indemnifies, defends and holds harmless the Defendants and their respective directors, officers and employees from and against any harm or injury suffered by reason of the use, misuse, erroneous disbursement or other action or failure to act by Class Counsel in respect of the Settlement Amount or monies in the Trust Account not strictly in accordance with the provisions of this Settlement Agreement or any order of the Court.

17. 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.

18. Class Counsel shall maintain the Trust Account as provided for in this Settlement Agreement.

19. Class Counsel shall not pay out all or any part of the monies 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 Defendants.

### **3.3 Taxes and Interest**

20. All interest earned in the Trust Account shall accrue to the benefit of the Class and become and remain part of the Trust Account.

21. The Plaintiff and Class Counsel shall bear all risks related to investment of the funds in the Trust Account.

22. All taxes payable on any interest which accrues on funds in the Trust Account shall be paid from the Trust Account. Class Counsel shall be solely responsible to fulfill all tax reporting and payment requirements arising from the amounts 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 in the Trust Account, shall be paid from the Trust Account.

23. The Defendants shall have no responsibility to make any filings related to the Trust Account and will have no responsibility to pay any taxes on any income earned or pay any taxes on the monies 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 in the Trust Account or otherwise shall be paid to the Defendants, who in such case, shall be responsible for the payment of all taxes on such interest not previously paid by Class Counsel.

#### **SECTION 4 – OPTING-OUT AND OBJECTIONS**

##### **4.1 Opt-Out Procedure**

24. Class Counsel will seek approval from the Court of the following opt-out process as part of the order certifying the BC Proceeding as a class proceeding for settlement purposes:

- a) Persons seeking to opt-out of the BC Proceeding must do so by sending a written election to opt-out signed by the Person or the Person's designee, by pre-paid mail, courier, fax or email to Class Counsel at an address to be identified in the Notice.



- b) An election to opt-out sent by mail or courier will only be valid if it is postmarked on or before the Opt-Out Deadline to the designated address in the Notice. Where the postmark is not visible or legible, the election to opt-out shall be deemed to have been postmarked four (4) business days prior to the date that it is received by Class Counsel. Where the opt-out election is sent by email or facsimile, it must be received on or before the Opt-Out Deadline.
- c) The written election to opt-out in the form attached as Schedule D must be signed by the Class Member and must contain the following information in order to be valid:
  - i. the Class Member's full name, current address, and telephone number;
  - ii. a statement to the effect that the Class Member wishes to be excluded from the BC Proceeding; and
  - iii. the reason for opting out of the BC Proceeding.
- d) Any person who validly opts out of the BC Proceeding shall be excluded from the BC Proceeding and Class, and shall no longer participate or have the opportunity to participate in the BC Proceeding.
- e) Any Class Member who does not validly opt out of the BC Proceeding in the manner and time prescribed above, shall be deemed to have elected to participate in the Proceeding and no further right to opt out of the BC Proceeding will be provided in the future.

25. Within seven (7) days of the Opt-Out Deadline, Class Counsel will provide to the Defendants and Class Counsel a report containing the names and province of residence of each proposed Class Member who has validly and timely opted-out of the BC Proceeding, the reason for the opt-out, if known, and a summary of the information delivered.

26. If any potential Class Member states in their opt-out election that they intend to commence litigation against the Defendants, Class Counsel shall forward their written opt-out election to the Defendants.

27. With respect to any person who validly opts out of the BC Proceeding, the Defendants reserve all of their legal rights and defences.

28. Class Counsel shall not act for any Class Member who validly opts out of the BC Proceeding against the Defendants in any proceeding that relates to the same or similar subject matter as the BC Proceeding.

29. The BC Plaintiff through Class Counsel expressly waives all rights to opt out of the BC Proceeding.

#### **4.2 Objection Procedure**

30. A Class Member may object to the approval of the Settlement Agreement by sending a written objection by pre-paid mail, courier, fax, or email to the Class Counsel. Class Counsel is required to forward all objections to the Defendants within five (5) business days after receiving an objection.

31. Objections must be received before 5:00pm PST on or before the Objection Deadline.

32. A Class Member who wishes to object to the approval of the Settlement Agreement shall state in their objection:

- a) The full name, current mailing address, fax number, 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 Class and the reason for that belief; and
- d) Whether the person intends to appear at the Settlement Approval Hearing or intends to appear by counsel, and if by counsel, the name, address, telephone number, fax number, and email address of counsel.



33. Within fourteen (14) days of the Objection Deadline, Class Counsel will report to the Court, with a copy to Counsel for the Defendants and Class Counsel, the names of persons who objected and copies of any objections.

34. A Class Member who opts out shall not be entitled to submit a written objection or appear to be heard at the Settlement Approval Hearing.

## **SECTION 5 – TERMINATION OF SETTLEMENT AGREEMENT**

### **5.1 Right of Termination**

35. The Defendants shall have the right, in their sole discretion, to terminate this Settlement Agreement if:

- a) The Court declines to certify the BC Proceeding for the purposes of the Settlement Agreement;
- b) Any order dismissing the BC Proceeding does not become a Final Order;
- c) The Court declines to approve this Settlement Agreement or any term or part thereof deemed material by the Defendants;
- d) The Court approves this Settlement Agreement including the Schedules thereto in a materially modified form;
- e) The Court issues a settlement approval order that is materially inconsistent with the terms of the Settlement Agreement or not substantially in the form attached to this Settlement Agreement as Schedule C;
- f) Any order approving this Settlement Agreement made by the Court does not become a Final Order; or
- g) The number of opt-outs received exceeds the Confidential Opt-Out Threshold.

36. To exercise a right of termination, the Defendants shall deliver a written notice of termination to Class Counsel. Upon delivery of such a written notice, the Settlement Agreement is terminated, this Settlement Agreement shall be null and void and have no

further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation or in any other way for any reason.

37. Any order, ruling or determination made or rejected by the Court with respect to Class Counsel Fees or Class Counsel Disbursements 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.

## **5.2 If Settlement Agreement is Terminated**

38. If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- a) the Settlement Agreement shall be null and void and have no further effect, shall not be binding on the Parties and shall not be used as evidence or otherwise in any litigation;
- b) no application to certify the BC Proceeding as a class proceeding on the basis of this Settlement Agreement, or to approve this Settlement Agreement, which has not been heard or decided, shall proceed;
- c) the Parties will cooperate in seeking to have any order certifying the BC Proceeding as a class proceeding on the basis of this Settlement Agreement set aside and declared null and void and of no force or effect, and any party shall be estopped from relying on any such order;
- d) any prior certification of the BC Proceeding as a class proceeding on the basis of this Settlement Agreement, including the definitions of the Settlement Classes and the Common Issue for Settlement Purposes pursuant to this Settlement Agreement, shall be without prejudice to any position that any of the Parties or Defendants may later take on any issue in the BC Proceeding, or any subsequent proceedings; and
- e) within ten (10) days of such termination having occurred, Class Counsel shall make reasonable efforts to destroy all documents or other materials provided by the Defendants and/or Counsel for the Defendants under this Settlement Agreement or containing or reflecting information derived from such documents or other materials received from the Defendants and/or Counsel for the Defendants and, to the extent Class Counsel has disclosed any documents or information provided by the Defendants and/or Counsel

for the Defendants to any other Person, shall make reasonable efforts to recover and destroy such documents or information. Class Counsel shall provide Counsel for the Defendants with a written certification by Class Counsel of such destruction. Nothing contained in this paragraph shall be construed to require Class Counsel to destroy any of their work product. However, any documents or information provided by the Defendants and/or Counsel for the Defendants, or received from the Defendants and/or Counsel for the Defendants in connection with this Settlement Agreement, may not be disclosed to any Person in any manner or used, directly or indirectly, by Class Counsel or any other Person in any way for any reason, without the express prior written permission of the relevant Defendant(s). Class Counsel shall take appropriate steps and precautions to ensure and maintain the confidentiality of such documents, information and any work product of Class Counsel derived from such documents or information.

### **5.3 Return of the Settlement Amounts Following Termination**

39. If the Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, Class Counsel shall, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, return to the Defendants the amount the Defendants paid to Class Counsel pursuant to Section 3, plus all accrued interest thereon, and less any costs of Notice incurred, if applicable.

### **5.4 Survival of the Provisions After Termination**

40. If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of paragraphs **18, 21, 22, 23, 38, 39, 40, 58, 59 and 66** and the definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The definitions and Schedules shall survive only for the limited purpose of the interpretation of paragraphs **18, 21, 22, 23, 38, 39, 40, 53, 59 and 66** within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.



## **SECTION 6 – RELEASES, DISCONTINUANCE AND DISMISSAL**

### **6.1 Release of Releasees**

41. Upon the Effective Date, and in consideration of the payment of the Settlement Amount and for other valuable consideration set forth in this Settlement Agreement, the Releasers shall forever and absolutely release and forever discharge the Releasees from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have. And for the consideration provided herein, the Releasers agree not to make any claim or take or continue any proceedings arising out of or relating to the subject matter of the Released Claims against any other person, corporation or entity (including, without limitation, any health care professionals, health care providers, or health care facilities) which might claim damages and/or contribution and indemnity and/or other relief under the provisions of the *Negligence Act*, the *Business Practices and Consumer Protection Act*, or other comparable provincial legislation and any amendments thereto, the common law, Québec civil law, or any other statute, for any relief whatsoever, including relief of a monetary, declaratory or injunctive nature, from one or more of the Releasees.

42. The Plaintiff and Class Members acknowledge that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true regarding the subject matter of the Settlement Agreement, and it is their intention to release fully, finally and forever all Released Claims and, in furtherance of such intention, this release shall be and remain in effect notwithstanding the discovery or existence of additional or different facts.

43. Without limiting any other provisions herein, each Class Member, will be deemed by this Settlement Agreement completely and unconditionally to have released and forever discharged the Releasees from any and all Released Claims.

44. Each Class Member, will be forever barred and enjoined from continuing, commencing, instituting or prosecuting any action, litigation, investigation or other proceeding in any court of law or equity, arbitration, tribunal, proceeding, governmental forum, administrative forum or any other forum, directly, representatively or derivatively, asserting against any of the Defendants or Releasees any claims that relate to or constitute any Released Claims.

## **6.2 Covenant Not to Sue**

45. Upon the Effective Date, and notwithstanding paragraphs 43 through 47, for any Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasers do not release the Releasees but instead the Releasers covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

## **6.3 No Further Claims**

46. Upon the Effective Date, each of the Releasers and Class Counsel shall not then or thereafter 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 Releasee, or any other person who may claim contribution or indemnity or other claims over relief from any



Releasee, in respect of any Released Claim. For greater certainty and without limiting the generality of the foregoing, each of the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

47. In the event that litigation, commenced or continued by any Class Member against another person, or by another person against a Class Member, arising out of or in any way relating to the Released Claims, results in a claim over or judgment against the Defendants, that Class Member shall fully hold harmless, reimburse, and indemnify the Defendants for such amount.

#### **6.4 Dismissal of the BC Proceeding**

48. Upon the Effective Date, Class Counsel will take steps to effect the dismissal of the BC Proceeding with prejudice, and without costs against the Defendants.

49. Upon the Effective Date, each Class Member shall be deemed to irrevocably consent to the dismissal of the BC Proceeding, without costs and with prejudice against the Defendants.

#### **6.5 Material Term**

50. The releases, covenants, discontinuances, dismissals, and granting of consent contemplated in this Section 6 shall be considered a material term of the Settlement Agreement and without limiting the rights of termination in this Settlement Agreement, the failure of any Court to approve the releases, covenants, discontinuances, dismissals, and granting of consent contemplated herein shall give rise to a right of termination pursuant to Section 5 of the Settlement Agreement.

## **SECTION 7 – EFFECT OF SETTLEMENT**

### **7.1 No Admission of Liability**

51. The Plaintiff and the Defendants expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason.

52. 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, any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement (including the certification of the BC Proceeding as against the Defendants for settlement purposes), 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 whatsoever by the Defendants, or of the truth of any of the claims or allegations contained in the BC Proceeding against the Defendants and cannot be used for any purpose whatsoever in any subsequent proceeding relating to the matters in issue.

### **7.2 Agreement not Evidence**

53. The Parties agree that, whether or not it 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 and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement (including the certification of the BC Proceeding against the Defendants for settlement purposes), 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 proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

### **7.3 No Further Litigation**

54. No Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, 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 against the Defendants which relates to or arises from the Released Claims, except if the BC Proceeding is not certified, the continuation of the claims asserted in such Proceedings on an individual basis or otherwise. Moreover, Class Counsel or anyone currently or hereafter employed by or a partner with Class Counsel may not divulge to anyone for any purpose any information obtained in the course of the BC Proceeding or the negotiation and preparation of this Settlement Agreement, except to the extent such information was, is or becomes otherwise publicly available or unless ordered to do so by a court.

55. This section shall be inoperative to the extent that it requires any lawyer who is a member of the Law Society of British Columbia to breach his or her obligations under s. 3.2-10 of the Law Society of British Columbia's *Code of Professional Conduct* by refraining from participation or involvement in any claim or action in a British Columbia Court.

## **SECTION 8 – CERTIFICATION FOR SETTLEMENT ONLY**



### **8.1 Certification Solely for the Purposes of Settlement**

56. The Parties agree that the BC Proceeding shall be certified as a class proceeding as against the Defendants solely for purposes of settlement of the BC Proceeding and the approval of this Settlement Agreement by the Court.

57. The Plaintiff agrees that, in the motion for certification of the BC Proceeding as a class proceeding for settlement purposes and for the approval of this Settlement Agreement, the only common issue that they will seek to define is the Common Issue for Settlement Purposes and the only class that they will assert is the Class.

## **SECTION 9 – NOTICES TO SETTLEMENT CLASS**

### **9.1 Notices Required**

58. Class Members shall be given a single Notice in the form attached as Schedule B of: (i) the certification of the BC Proceeding as a class proceeding as against the Defendants for settlement purposes; (ii) the right to opt out of the BC Proceeding and Objection and Notice of Intention to Appear at the Settlement Approval Hearing; (iii) the hearing at which the Court will be asked to approve the Settlement Agreement; and (iv) if they are brought with the hearings to approve the Settlement Agreement, the hearings to approve Class Counsel Fees and Class Counsel Disbursements.

59. If this Settlement Agreement is not approved, is terminated, or otherwise fails to take effect, the Class Members shall be given notice of such event.

### **9.2 Form and Distribution of Notices**

60. The Notices described in the above paragraphs shall be in a form attached as Schedule B, and approved by the Court.

61. The Notices shall be disseminated by a method agreed upon by the Parties and approved by the Court.

**SECTION 10 – CLASS COUNSEL FEES, DISBURSEMENTS AND ADMINISTRATION EXPENSES**

**10.1 Responsibility for Fees, Disbursements and Taxes**

62. The Defendants shall not be liable for any Class Counsel Fees, Class Counsel Disbursements, or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiffs or Class Members, or any lien of any Person on any payment to any Class Member.

**10.2 Court Approval for Class Counsel Fees and Disbursements**

63. Class Counsel may seek the Courts' approval to pay Class Counsel Disbursements and Class Counsel Fees contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Disbursements and Class Counsel Fees shall be reimbursed and paid solely out of the Trust Account after the Effective Date. Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date. No other Class Counsel Disbursements or Class Counsel Fees shall be paid from the Trust Account prior to the Effective Date.

**SECTION 11 – MISCELLANEOUS**

**11.1 Authorship**

64. The Settlement Agreement shall be deemed to have been mutually prepared by the Parties and shall not be construed against any of them solely by reason of authorship.

#### **11.2 Public Comments**

65. The Parties and their respective counsel agree that when publicly commenting on the Claims that have been settled pursuant to the Settlement Agreement, they shall, amongst other things:

- a) inform the inquirer that all Claims have been settled pursuant to the Settlement Agreement and to the satisfaction of the Parties;
- b) inform the inquirer that the settlement of the Claims, which are subject to the Settlement Agreement, is fair, reasonable, and in the best interests of the Class;
- c) decline to comment in a manner that would cast the conduct of any party in a negative light, or reveal anything expressed, either orally or in writing, during settlement negotiations; and
- d) inform the inquirer the Settlement Agreement is not to be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability whatsoever by the Defendants, or of the truth of any of the claims or allegations contained in the BC Proceeding against the Defendants.

#### **11.3 Motions for Direction**

66. Class Counsel or the Defendants may apply to the Court as may be required for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

67. All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

#### **11.4 Headings, etc.**

68. In this Settlement Agreement:



- a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and
- b) the terms "this Settlement Agreement," "hereof," "hereunder," "herein," and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

### **11.5 Computation of Time**

69. In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- b) only in the case where the time for doing an act expires on a holiday as "holiday" is defined in the *Supreme Court Civil Rules*, BC Reg 168/2009, the act may be done on the next day that is not a holiday.

### **11.6 Ongoing Jurisdiction**

70. The Court shall maintain jurisdiction with respect to implementation, administration, interpretation and enforcement of the terms of this Settlement Agreement, and the Plaintiff, Class Members, and Defendants attorn to the jurisdiction of the Court for such purposes. The provision shall not be used by any entity, whether or not a party to these proceedings, in an effort to establish any of the alleged facts, the jurisdiction of the Canadian courts over any foreign party, or the certification of any other proceedings in any province of Canada.

### **11.7 Governing Law**

71. This Settlement Agreement shall be governed by and construed and interpreted exclusively in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein.

#### **11.8 Entire Agreement**

72. This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

#### **11.9 Amendments**

73. This Settlement Agreement may not be modified or amended except in writing and on consent of all Parties hereto, and any such modification or amendment must be approved by the Court.

#### **11.10 Binding Effect**

74. This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendants, the Releasers, the Releasees and all of their successors and assigns, in all jurisdictions in Canada. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by the Plaintiff shall be binding upon all Releasers and each and every covenant and agreement made herein by the Defendants shall be binding upon all of the Releasees in all jurisdictions of Canada.

#### **11.11 Counterparts**

75. This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

#### **11.12 Negotiated Agreement**

76. This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

#### **11.13 Language**

77. The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English.

#### **11.14 Recitals**

78. The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

#### **11.15 Schedules**



79. The schedules annexed hereto form part of this Settlement Agreement.

#### **11.16 Acknowledgements**

80. Each of the Parties hereby affirms and acknowledges that:

- a) he, she 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 or the Party's representative by his, her or its counsel;
- c) he, she 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 this Settlement Agreement.

#### **11.17 Authorized Signatures**

81. Each of the undersigned represents that he or she 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.

#### **11.18 Notice**

82. Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another Party, such notice, communication or document shall be provided by email, facsimile or letter by overnight delivery to the representatives for the Party to whom notice is being provided, as identified below:

**For the Plaintiff and for Class Counsel in the BC Proceeding:**

Anthony Leoni  
Jesse Kendal

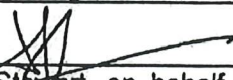
**Rice Harbut Elliott LLP**  
Injury Trial Lawyers  
Suite #820 – 980 Howe Street  
Vancouver, BC V6Z 0C8  
Tel: 604-682-3771  
Fax: 604-682-0587  
Email: [aleonl@rhelaw.com](mailto:aleonl@rhelaw.com)

**For the Defendants, LEO Pharma Inc and LEO Pharma A/S:**

Danielle Royal  
Sinziana Hennig  
Ritika Rai  
**Stikeman Elliott LLP**  
Barristers & Solicitors  
5300 Commerce Court West  
199 Bay Street  
Toronto, Canada M5L 1B9  
Tel: 416-859-5500  
Fax: 416 947 0866  
Email: [droyal@stikeman.com](mailto:droyal@stikeman.com)

**PLAINTIFFS AND CLASS COUNSEL:**

Name of Authorized Signatory: Jesse Kendall for Gerald Stewart

Signature of Authorized Signatory:   
Gerald Stewart, on behalf of himself and the Class

Name of Authorized Signatory: Jesse Kendall

Signature of Authorized Signatory:   
Rice Harbut Elliott LLP

**LEO Pharma Inc./LEO Pharma A/S**

Name of Authorized Signatory: Danielle Royal

Signature of Authorized Signatory:   
Stikeman Elliott LLP

## Schedule A

### NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

#### WERE YOU PRESCRIBED AND DID YOU PURCHASE AND USE PICATO® IN CANADA BETWEEN JANUARY 1, 2013 AND THE PRESENT DAY?

#### YOUR LEGAL RIGHTS MAY BE AFFECTED

A class action settlement has been reached in *Stewart v. LEO Pharma Inc. et al*, S.C.B.C. No. S2010053 (the "Claim").

The British Columbia Supreme Court has certified the class action for the purposes of implementing the proposed settlement. The settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing or fault by any of the Defendants. The proposed settlement is subject to Court approval.

The defendants are LEO Pharma Inc and LEO Pharma A/S.

#### What are the proceedings about?

The Claim alleges causes of action regarding the topical prescription medication Picato® (distributed by the Defendants in Canada for the treatment of actinic keratosis) including negligence, breaches of consumer protection legislation and breaches of the *Competition Act*. The allegations in the Claim have not been proven and the Defendants deny the allegations.

#### Who are in the Class and affected by the settlement?

The Class consists of "all persons in Canada who purchased and/or used Picato® in Canada between January 1, 2013 and the present".

The Court has appointed Gerald Stewart as Representative Plaintiff. Class Counsel is Rice Harbut Elliott LLP.

#### What are the terms of the settlement?

The settlement provides for an all-inclusive payment of \$437,678.24 CDN by the Defendants in exchange for a release by the Class and public health insurers of all matters relating to the Claim. The settlement funds, after deduction of Class Counsel Fees, disbursements, Administration Expenses, and Honorarium, will be donated as follows: 50% to the Canadian Skin Cancer Foundation for use in the GoSafe Sun safety program to raise awareness about the prevention and early detection of skin cancer, and 50% to the Law Foundation of British Columbia.

The full settlement terms and court documents are available at the following link: [www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada)

#### Will I receive compensation from this settlement?

No monetary compensation will be provided to Class Members in this settlement. The settlement funds, after deduction of Class Counsel Fees, disbursements and Administration Expenses, and



Honorarium will be distributed via *cy pres* donation to the above-noted organizations and no amounts will be paid to individual Class Members.

**What are the fee arrangements?**

Under the terms of their retainer agreement with the representative plaintiff, Class Counsel will seek approval of a fee of 30% of the Settlement Amount, after reimbursement for disbursements, applicable taxes, Administration Expenses, and the Honorarium of \$1,500 to the representative plaintiff.

**How do I participate?**

**If you want to be a member of this class, you do not need to do anything.** You are automatically included as a member of the Class, unless you opt out.

**What if I do NOT want to participate?**

If you do not want to participate in the class action, you may exclude yourself ("opt-out"). In order to opt out, you must complete and sign an opt out form and deliver it to Class Counsel by mail, courier, or email no later than xxxx, 2024. The opt-out form is available at [www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada).

The opt-out form must be emailed to [nbeauprefulton@rhelaw.com](mailto:nbeauprefulton@rhelaw.com), or mailed or couriered to:

Rice Harbut Elliott LLP  
820-980 Howe Street  
Vancouver, BC, V6Z 0C8  
Canada  
Attention: Anthony Leoni

**Objections**

All members of the Class who have not opted-out have the right to let the Court know of any objection they have to the approval of the Settlement Agreement, *cy-pres* donation, Class Counsel fees, disbursements, Administration Expenses or Honorarium to the representative plaintiff by delivering a letter or written objection to Class Counsel on or before xxxxx, 2024. If a Class Member wishes to object, the following information must be included in the letter or written objection delivered to Class Counsel:

- (a) The objector's full name, current mailing address, telephone number and email address;
- (b) A brief statement of the nature and reasons for the objection;
- (c) Confirmation that the objector is a member of the Class;
- (d) Whether the objector intends to appear at the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer; and
- (e) A statement that the foregoing information is true and correct.

### **Settlement Approval Hearing**

A hearing will be held on xxx, 2024 to seek approval of the Settlement Agreement by the Court. The hearing will take place at 800 Smithe Street, Vancouver, B.C., before the Honourable Mr. Justice Brongers.

**For more information or a copy of the Settlement Agreement, go to the following website:**  
[www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada)

You may also contact Class Counsel at [nbeauprefulton@rhelaw.com](mailto:nbeauprefulton@rhelaw.com) or via mail at the address above.

This notice has been authorized by order of the British Columbia Supreme Court.

**SCHEDULE B**  
**[Notice of Proposed Settlement and Settlement Approval Hearing]**



## NOTICE OF PROPOSED SETTLEMENT AND SETTLEMENT APPROVAL HEARING

### WERE YOU PRESCRIBED AND DID YOU PURCHASE AND USE PICATO® IN CANADA BETWEEN JANUARY 1, 2013 AND THE PRESENT DAY?

#### YOUR LEGAL RIGHTS MAY BE AFFECTED

A class action settlement has been reached in *Stewart v. LEO Pharma Inc. et al*, S.C.B.C. No. S2010053 (the "Claim").

The British Columbia Supreme Court has certified the class action for the purposes of implementing the proposed settlement. The settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing or fault by any of the Defendants. The proposed settlement is subject to Court approval.

The defendants are LEO Pharma Inc and LEO Pharma A/S.

#### **What are the proceedings about?**

The Claim alleges causes of action regarding the topical prescription medication Picato® (distributed by the Defendants in Canada for the treatment of actinic keratosis) including negligence, breaches of consumer protection legislation and breaches of the *Competition Act*. The allegations in the Claim and have not been proven and the Defendants deny the allegations.

#### **Who are in the Class and affected by the settlement?**

The Class consists of "all persons in Canada who purchased and/or used Picato® in Canada between January 1, 2013 and the present".

The Court has appointed Gerald Stewart as Representative Plaintiff. Class Counsel is Rice Harbut Elliott LLP.

#### **What are the terms of the settlement?**

The settlement provides for an all-inclusive payment of **\$437,678.24 CDN** by the Defendants in exchange for a release by the Class and public health insurers of all matters relating to the Claim. The settlement funds, after deduction of Class Counsel Fees, disbursements, Administration Expenses, and Honorarium, will be donated as follows: 50% to the Canadian Skin Cancer Foundation for use in the GoSafe Sun safety program to raise awareness about the prevention and early detection of skin cancer, and 50% to the Law Foundation of British Columbia.

The full settlement terms and court documents are available at the following link: [www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada)

#### **Will I receive compensation from this settlement?**

No monetary compensation will be provided to Class Members in this settlement. The settlement funds, after deduction of Class Counsel Fees, disbursements and Administration Expenses, and

Honorarium will be distributed via *cy pres* donation to the above-noted organizations and no amounts will be paid to individual Class Members.

**What are the fee arrangements?**

Under the terms of their retainer agreement with the representative plaintiff, Class Counsel will seek approval of a fee of 30% of the Settlement Amount, after reimbursement for disbursements, applicable taxes, Administration Expenses, and the Honorarium of \$1,500 to the representative plaintiff.

**How do I participate?**

**If you want to be a member of this class, you do not need to do anything.** You are automatically included as a member of the Class, unless you opt out.

**What if I do NOT want to participate?**

If you do not want to participate in the class action, you may exclude yourself ("opt-out"). In order to opt out, you must complete and sign an opt out form and deliver it to Class Counsel by mail, courier, or email no later than **March 28, 2025**. The opt-out form is available at [www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada).

The opt-out form must be emailed to [nbeaupre-fulton@rhelaw.com](mailto:nbeaupre-fulton@rhelaw.com), or mailed or couriered to:

Rice Harbut Elliott LLP  
820-980 Howe Street  
Vancouver, BC, V6Z 0C8  
Canada  
Attention: Anthony Leoni

**Objections**

All members of the Class who have not opted-out have the right to let the Court know of any objection they have to the approval of the Settlement Agreement, *cy-pres* donation, Class Counsel fees, disbursements, Administration Expenses or Honorarium to the representative plaintiff by delivering a letter or written objection to Class Counsel on or before **March 28, 2025**. If a Class Member wishes to object, the following information must be included in the letter or written objection delivered to Class Counsel:

- (a) The objector's full name, current mailing address, telephone number and email address;
- (b) A brief statement of the nature and reasons for the objection;
- (c) Confirmation that the objector is a member of the Class;
- (d) Whether the objector intends to appear at the court hearing on their own behalf or through a lawyer, and if by a lawyer, the name, address, telephone number and email address of the lawyer; and
- (e) A statement that the foregoing information is true and correct.

### **Settlement Approval Hearing**

A hearing will be held **April 15, 2025** to seek approval of the Settlement Agreement by the Court. The hearing will take place at 800 Smithe Street, Vancouver, B.C., before the Honourable Mr. Justice Brongers.

**For more information or a copy of the Settlement Agreement**, go to the following website:  
[www.rhelaw.com/class-action/picato-class-action-canada](http://www.rhelaw.com/class-action/picato-class-action-canada)

You may also contact Class Counsel at [nbeaupre-fulton@rhelaw.com](mailto:nbeaupre-fulton@rhelaw.com) or via mail at the address above.

This notice has been authorized by order of the British Columbia Supreme Court.



File No. 16882

January 22, 2025

Supreme Court of British Columbia  
800 Smithe Street  
Vancouver, BC V6Z 2E1

**RECEIVED**

JAN 22 2025

**VANCOUVER LAW COURTS**

**Attention: Supreme Court Scheduling, Manager**

Dear Sirs/Mesdames:

**Re: Stewart v. Leo Pharma Inc et al, S2010053, Vancouver Registry**

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Please bring this correspondence to the attention of Mr. Justice Brongers who is the Judicial Management Justice in the above-noted action. The parties have agreed on the contents of this correspondence.

Further to the consent certification hearing on January 15, 2025 ("Hearing"), we write to advise that the Defendants in this action will not be making any application for a protective sealing order over any part of the Settlement Agreement, including the confidential opt-out threshold (Schedule E).

As such, as discussed at the Hearing, we kindly request that Justice approve the form of the order attached to this letter, which includes revised dates for class members to opt-out and a confirmed date for the Settlement Approval hearing, April 15, 2025.

All parties have reviewed this correspondence and approve its contents.

Yours truly,

**RICE HARBUT ELLIOTT LLP**



Per: Jesse R. Kendall

/s/

c.c. All counsel