


This is Exhibit J referred to in the affidavit of Annelis K. Thorsen, sworn before me, this 23rd day of September, 2004.


A Commissioner for Taking Affidavits, etc.

RETAINER AGREEMENT

September 15, 2004

Preamble

WHEREAS I, SHEILA WILSON, have retained and employed the law firm of *Rochon Genova LLP* as my solicitors and authorized them to institute a Class Action pursuant to the *Class Proceedings Act, 1992*, which named myself as Representative Plaintiff on behalf of a class of persons who suffered injuries as a result of ingesting the drugs known as Ponderal and/or Redux and others who appear to be entitled to damages in accordance with the definition of the class as described in the operative Statement of Claim, and to take such actions and conduct such proceedings as they considered necessary or proper for the conduct of the proceeding;

AND WHEREAS in accordance with two previous retainer agreements dated November 19, 1998 and February 7, 2001, this litigation was pursued on a contingency basis such that fees, reasonable disbursements and applicable taxes would be payable only in the event of success in the class proceeding;

AND WHEREAS the *Class Proceedings Act, 1992* defines "success in a class proceeding" as follows:

- a) judgment on the common issues in favour of some or all class members; and
- b) a settlement that benefits one or more class members.

AND WHEREAS the parties to this litigation have signed a Settlement Agreement in settlement of this matter;

AND WHEREAS a total settlement of \$40 million has been made available to class members plus administration and notice costs, such compensation to be distributed in accordance with provisions of the Compensation Grid, and Medical

Conditions List and that as part of the Settlement Agreement the Defendants will contribute \$3,000,000.00 towards Class Counsel's partial indemnity costs and \$1,000,000.00 towards disbursements;

AND WHEREAS I am advised that Class Counsel have received costs during the course of the proceeding in the amount of approximately \$626,000.00, inclusive of G.S.T. and disbursements;

AND WHEREAS I have been apprised of the fees application being advanced by *Rochon Genova* LLP and in that I am supportive of the fees and disbursements being sought by *Rochon Genova* LLP and *Lieff Cabraser Heimann & Bernstein LLP*;

NOW THEREFORE, I voluntarily enter into this revised Retainer Agreement on the following terms:

Retainer

1. In addition to the partial indemnity costs contribution discussed above, *Rochon Genova LLP* shall, at the fees approval hearing on October 19, 2004, seek a fee in the amount of \$10,000,000 plus applicable taxes and outstanding disbursements not fully covered by the partial indemnity costs contribution of \$1,000,000.00;
2. Thereafter, following the expiry of the claims period *Rochon Genova* may seek a further \$5,000,000.00 plus applicable taxes if it appears that funds remain available in the Settlement Fund or the Additional Settlement Fund.
3. Both the \$10,000,000.00 claimed by Class Counsel upon approval of the settlement and the potential for a further fees application of up to

\$5,000,000.00, are inclusive of amounts claimed by *Lieff Cabraser Heimann & Bernstein* and British Columbia subclass counsel.

4. *Rochon Genova LLP* will make application to the Court for the time expended by me, the Representative Plaintiff in this matter, and will seek to obtain compensation for me for my time and expenses incurred in acting as Representative Plaintiff. This amount will be in addition to any damages awarded to myself as Representative Plaintiff under the terms of the Settlement Agreement.
5. This Retainer Agreement, and any fees awarded pursuant to the Retainer Agreement, shall be subject to approval of the Court.
6. Notwithstanding the foregoing, if I terminate, at my initiative, this Retainer Agreement and/or retain a different solicitor in this class proceeding, I hereby acknowledge that *Rochon Genova LLP* will then render an account for hours worked to date, reasonable disbursements and G.S.T., which account will be paid forthwith by me, or alternatively, will be the subject of protection of my new counsel, said protection to be satisfactory to *Rochon Genova LLP*. In the event the account is not paid forthwith and is instead protected by my new counsel, it shall be a first charge on any judgment or settlement funds pursuant to s. 32(3) of the *Class Proceedings Act* and shall rank ahead of any fees and reasonable disbursements chargeable by my new counsel. I shall not be personally liable to pay any account rendered by *Rochon Genova LLP* in the event that I retain new counsel and my new counsel:
 - a) agrees to protect *Rochon Genova LLP's* account as a first charge on any proceeds; and
 - b) pursues the matter to judgment, regardless of the outcome.

7. I understand that *Rochon Genova LLP* will conduct meaningful consultations with the Representative Plaintiff before accepting any settlement or pursuing an appeal of the trial verdict.
8. I understand that in the event that I, the Representative Plaintiff, die prior to the completion of this matter, it is proposed that my estate continue in my place. In the event that the estate is unable or unwilling to continue as Representative Plaintiff, arrangements could be made to substitute another individual to act as Representative Plaintiff. In the event that the estate is unwilling to continue, then the estate will be liable for the account as detailed in paragraph 5. If, however, the action is unable to proceed due to the unavailability of a substitute Representative Plaintiff as described in s. 2(1) and s. 2(2) of the *Class Proceedings Act*, then I will not be liable for an account as detailed in paragraph 5, or any other costs.
9. This Retainer Agreement replaces any previous Retainer Agreement which I may have executed.

Dated at Toronto, Ontario, this 15th day of September, 2004.

R. Wilson
Witness

Sheila Wilson
Sheila Wilson