

**NOTICE TO CLASS MEMBERS: CANADIAN REXULTI CLASS ACTION**

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**CANADIAN REXULTI® CLASS ACTION  
NOTICE OF AUTHORIZATION**

**To all persons in Canada who were prescribed and used REXULTI® from February 2017 and who developed Compulsive Behaviours and Impulse Control Disorders and the family members of such persons**

*Please read this notice carefully as it may affect your legal rights*

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**TAKE NOTICE** that on December 3, 2021, the Honourable Justice Suzanne Courchesne of the Superior Court of Québec authorized the bringing of a national class action against Otsuka Canada Pharmaceutical Inc. and Lundbeck Canada Inc. and appointed Mr. Michael Pohoresky and Mr. Harold Pohoresky as representative plaintiffs.

This class action will be brought in the district of Montréal.

For the purpose of this class action, the class representatives have elected domicile at his attorneys' offices located at:

Rochon Genova LLP  
Barristers • Avocats  
900-121 Richmond St. W.  
Tel: (416) 363-1867  
[contact@rochongenova.com](mailto:contact@rochongenova.com)

If you were prescribed and used REXULTI® **in Canada starting from February 2017**, you should read this notice carefully. Ignoring this notice will affect your legal rights.

**Action and  
Alleged Claims**

A class proceeding was authorized by the Superior Court of Québec on December 3, 2021 on behalf of individuals who were prescribed and ingested the drug REXULTI® during the Class Period, starting from February 16, 2017, and who developed one or more of the following Compulsive and who developed one or more of the following Compulsive Behaviours and Impulse Control Disorders: compulsive gambling, hypersexuality, binge eating, compulsive shopping and/or spending. The Defendants in the action are Otsuka Canada Pharmaceutical Inc. and

Lundbeck Canada Inc., the pharmaceutical companies responsible for the marketing, distribution, and sale of REXULTI® in Canada.

REXULTI® (brexpiprazole) is an atypical antipsychotic medication prescribed as treatment of schizophrenia and, since February 2019, as an adjunctive treatment for major depressive disorder. It was approved for sale in Canada in February 2017.

The lawsuit alleges that REXULTI® can cause Compulsive Behaviours and Impulse Control Disorders, including compulsive gambling, hypersexuality, compulsive shopping, and binge eating, and that the Defendants failed to adequately warn the Class Members and their physicians of this risk. It also alleges that the Defendants failed to conduct adequate research and testing in relation to those side effects and conspired to conceal the risks of these harmful side effects from the Class Members. It is alleged that the Defendants' failures and acts caused the Class Members harm.

The action seeks, among other things, damages for both personal injuries and financial loss as well as damages allegedly suffered by family members of individuals taking REXULTI®.

The Defendants deny these allegations, and the Superior Court has not yet ruled on the merits of the class action.

**This notice is about REXULTI® only.** The Canadian REXULTI® class action does not include claims against various other manufacturers and distributors of other psychiatric drugs.

If you do not know what psychiatric drug you have been prescribed, you should retrieve your medical and pharmacy records, which will list the drugs prescribed to you. If you need assistance retrieving your records, Class Counsel can help you. See below under "Class Counsel" for more information.

**The  
Authorization  
Decision**

The common issues to be resolved through this lawsuit are:

1. Does REXULTI® have the capacity to cause Compulsive Behaviours and Impulse Control Disorders or does its ingestion contribute to the development of, or exacerbate pre-existing, Compulsive Behaviours and Impulse Control Disorders?
2. the Defendants know or should they have known of the risks of Compulsive Behaviours associated with the use of REXULTI®? If so, when?

3. Did the fail to conduct adequate clinical trials and studies about the increased risk of Compulsive Behaviours and Impulse Control Disorders associated with the use of REXULTI® prior to and after introducing REXULTI® to the Canadian market? If so, does this failure constitute a civil wrong?
4. Did the Defendants have a duty to adequately warn the Petitioner Michael Pohoresky, the Class Members and/or their physicians of the risks of Compulsive Behaviours and Impulse Control Disorders associated with the use of REXULTI®? If so, did they fail to fully discharge this duty? Did the Defendants knowingly and recklessly misrepresent such risk to Class Members?
5. Did the Defendants conspire to conceal the risks associated with the use of REXULTI® from the Plaintiff Michael Pohoresky and the Class Members, and if so, for how long, and what harm was caused to the Class Members by this conspiracy?
6. If the Defendants are found to have committed one or more civil wrongs, have this or these wrongs caused a prejudice to the Petitioner and the Class Members? If so, what compensatory, moral and financial damages are they entitled to recover from the Defendants and are the Defendants solidarily liable in that respect?
7. Can causality be determined on a collective basis and, if so, can Class Members rely on a presumption to establish causation?
8. Are the Defendants and the Class Members entitled to claim aggravated, special and/or punitive damages from the Defendants, and if so, what is the amount of such damages?

The Plaintiffs are seeking an affirmative answer to each of these questions. Specifically, the conclusions sought with respect to these questions are:

**GRANT** the class action of Plaintiffs and the Class Members against the Defendants;

**DECLARE** that the Defendants failed to warn the Plaintiff Michael Pohoresky and the Class Members and/or made misrepresentations about REXULTI® 's propensity to cause, materially contribute to, or exacerbate Compulsive Behaviours and Impulse Control Disorders;

**CONDEMN** the Defendants solidarily to pay to Plaintiffs and the Class Members the total damages awarded by the court for their physical, psychological, financial and moral damages incurred as well as for loss of income and past and future care costs, with interest at the legal rate and additional indemnity pursuant to [Article 1619](#) of the [Civil Code of Québec](#), as of and from the date of service;

**CONDEMN** the Defendants to pay to the Plaintiffs and the Class Members punitive damages in an amount determined by the Court, with interest and additional indemnity pursuant to [Article 1619](#) of the [Civil Code of Québec](#), as of and from the date of service;

**ORDER** the collective recovery of damages of the Class Members;

**CONDEMN** the Defendants solidarily to pay such other amounts and grant the Class Members such further relief as this Honourable Court may determine as being just and proper; and

**THE WHOLE** with costs, including the costs of all exhibits, expert fees and publication notices.

Authorization is a procedural step that defines the form of the litigation, allowing it to be pursued on behalf of the Class Members. The authorization order allows the action to proceed to trial as a class action on behalf of a “Class,” or group of people, that could include you.

**THIS NOTICE DOES NOT MEAN THAT THE COURT HAS DECIDED ON THE LIKELIHOOD OF RECOVERY ON THE PART OF ANY CLASS MEMBER, OR AS TO THE MERITS OF THE CLAIMS OR DEFENCES ASSERTED BY EITHER SIDE.**

**Are You a Class Member?**

The Canadian REXULTI® Class Action includes two different classes:

- 1) All persons who reside or have resided in Canada who were prescribed and ingested the drug REXULTI® during the Class Period, starting from February 16, 2017, and who thereafter developed one or more of the following Compulsive Behaviours and Impulse Control Disorders:
  - compulsive gambling;
  - hypersexuality;
  - binge eating;
  - compulsive shopping and/or spending; and
  
- 2) the family members, dependents, heirs and estates of such persons.

Class Members are represented by the Court-appointed representative plaintiffs: Michael Pohoresky and Harold Pohoresky.

**How can I participate in the class action?**

If you were prescribed and ingested REXULTI® anytime after February 2017 you are automatically included in the action and do not need to do anything at this time. You do not need to take any further action to join this class action. As a Class Member, you will not be responsible for legal costs if a class action is dismissed.

If a judgment or settlement is reached, Class Members may be entitled to share in the amount of any award or settlement recovered. There may be a process by which Class Members will have to prove their individual damages and injuries to be entitled to compensation. For this reason, you should preserve any records you have regarding your use of REXULTI® and your Compulsive Behaviours or Impulse Control Disorders associated with the use of REXULTI®, including: medical, pharmacy, and gambling records.

**IF YOU DO NOTHING AND REMAIN A CLASS MEMBER, YOU ARE NOT REQUIRED TO PAY LEGAL COSTS OR OTHER EXPENSES.**

**Every Class Member who does not opt out of the class action will be bound by the terms of any judgment or settlement and will not be allowed to pursue an individual lawsuit against any of the Defendants.**

**Opting Out**

If you are a Class Member and do not want to participate in this class action, you must take steps to “opt out” of the lawsuit by **May 15, 2024**. If you opt out, **you will not be entitled to any compensation that may become available as part of the class action**, but you will be able to commence your own lawsuit or continue any lawsuit you have brought already. If you decide to opt out, you should be aware that any limitation periods applicable to your claim(s) will commence. If you opt out and wish to bring an individual lawsuit, you should seek independent legal advice.

If you would like to opt out, the deadline to do so is **May 15, 2024**. To opt out, you must complete, sign and deliver an Opt Out Form, available on the website of Class Counsel.

**This form must be received by the Clerk of the Superior Court of Quebec on or before May 15, 2024 at the following coordinates:**

**Clerk of the Superior Court of Québec  
Montreal Courthouse  
1, Notre-Dame Street East, Room 1.120  
Montreal (Quebec) H2Y 1B6  
Court file no. 500-06-000948-188**

After that date, you may no longer opt out of the class action, and will be bound by the result of any judgment, whether favourable or not, or settlement reached on behalf of the Class.

No person may opt out a minor or a mentally incapable member of the Class without permission of the court after providing notice to The Children's Lawyer and/or the Public Guardian and Trustee, as appropriate.

**What Happens Next?**

The class action will proceed to trial. If the action is successful, or settles before trial, Class Members may be entitled to compensation. If Class Members are entitled to compensation, the Court will order or approve of the way compensation is to be determined. If the action is not successful, that result will bind all Class Members. Class Members will be bound by any judgment or settlement agreement that is approved by the Court.

Regardless of the outcome, no Class Member will have to pay for any expenses or legal costs. The retainer agreements between the representative plaintiffs and Class Counsel provide that Class Counsel will pay for all disbursements and indemnify the representative plaintiffs for any adverse costs awards.

**How can I receive updates about the Class Action?**

If you wish to receive updates about the status of the Canadian REXULTI® class action, you may contact Class Counsel at any time at the phone number or email addresses provided below. You may also contact Class Counsel and request to be added to their database of Class Members so that formal updates in relation to the progress of the action are brought to your attention via phone or email:

Jon Sloan  
jsloan@rochongenova.com  
(416) 363-1867 x 2990  
1-800-462-3864 x 2990

**Class Counsel and Legal Fees**

If the action succeeds at trial or a settlement is reached, Class Counsel will be entitled to a contingency fee payment from the judgment or settlement funds. Any contingency fee payment to Class Counsel requires Court approval. The retainers between the representative plaintiffs and Class Counsel provide that Class Counsel will be paid a 30% contingency fee, plus applicable taxes and disbursements, subject to Court approval.

Class Members will receive further notices of any major steps in the litigation, including settlement. If the action is settled, Class Members will have an opportunity to "object" to both the settlement terms, including the

dollar value of the settlement, and Class Counsel's contingency fee if you do not think they are appropriate.

**How Do I Learn  
More?**

For more information on the REXULTI® class action visit the webpage of Class Counsel <https://www.rochongenova.com/Current-Class-Action-Cases/>

You can also learn more by contacting Class Counsel by phone. For assistance in English or French call: (416) 363-1867 or 1-800-462-3864. There is **no charge** to speak with Class Counsel to discuss the class action, have your questions answered, or to retrieve a copy of the opt out form or any related documents. Class Counsel are:

**ROCHON GENOVA LLP**

121 Richmond St. West  
Suite 900  
Toronto, ON, M5H 2K1

Joel P. Rochon  
Golnaz Nayerahmadi

[jrochon@rochongenova.com](mailto:jrochon@rochongenova.com)  
[gnayerahmadi@rochongenova.com](mailto:gnayerahmadi@rochongenova.com)

**The publication of this notice to Class Members has been approved and ordered by the Superior Court of Québec.**