

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE) THURSDAY, THE 5TH DAY OF
JUSTICE PERELL) DECEMBER, 2019

B E T W E E N:

MISUZU SUKENAGA

Plaintiff

and

VALEANT PHARMACEUTICALS INTERNATIONAL, INC.,
J. MICHAEL PEARSON, HOWARD B. SCHILLER, ROBERT L. ROSIELLO and
PRICEWATERHOUSECOOPERS LLP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**ORDER
(Dismissal, Amendment and Discontinuance)**

THIS MOTION made by the plaintiffs for an order granting leave to amend the Statements of Claim in Court File No. CV-15-541082-00CP and CV-15-540567-00CP, dismissing this action against PricewaterhouseCoopers LLP and discontinuing this action against Valeant Pharmaceuticals International, Inc., J. Michael Pearson, Robert L. Rosiello, and Howard B. Schiller, was heard on December 5, 2019 at Osgoode Hall, 130 Queen Street West, Toronto, Ontario.

1. **THIS COURT ORDERS** that this action be and hereby is dismissed, with prejudice and without costs, against PricewaterhouseCoopers LLP.

2. **THIS COURT ORDERS** that leave is granted to file the attached amended Statement of Claim.

3. **THIS COURT ORDERS** that this action be and hereby is discontinued, without prejudice and without costs, against Valeant Pharmaceuticals International, Inc., J. Michael Pearson, Robert L. Rosiello, and Howard B. Schiller.

Perell, J.

The Honourable Justice Paul Perell

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

MISUZU SUKENAGA

Plaintiff

and

VALEANT PHARMACEUTICALS INTERNATIONAL, INC., J. MICHAEL
PEARONS, HOWARD B. SCHILLER and ROBERT L. ROSIELLO, and
PRICEWATERHOUSECOOPERS LLP

Defendants

Proceeding under the *Class Proceedings Act, 1992*

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyers or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$5,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the

court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____
Local Registrar

Address of Court Office:

393 University Avenue, 10th Floor
Toronto, ON M5G 1E6

TO:
VALEANT PHARMACEUTICALS
INTERNATIONAL INC.
2150 St. Elzéar Blvd. West
Laval, Quebec, Canada
H7L 4A8

AND TO:
J. MICHAEL PEARSONS
2150 St. Elzéar Blvd. West
Laval, Quebec, Canada
H7L 4A8

AND TO:
HOWARD B. SCHILLER
2150 St. Elzéar Blvd. West
Laval, Quebec, Canada
H7L 4A8

AND TO:
ROBERT L. ROSIELLO
2150 St. Elzéar Blvd. West
Laval, Quebec, Canada
H7L 4A8

~~AND TO:
PRICEWATERHOUSECOOPERS LLP
400 Campus Drive
Florham Park, New Jersey 07932
United States of America~~

DEFINED TERMS

1. In addition to the terms defined in ss. 1(1) and 138.1 of the *Securities Act*, R.S.O. 1990, c. S. 5, and elsewhere herein, the following terms used throughout this Statement of Claim have the meanings indicated below:

- (a) “AIF” means Annual Information Form, as defined in NI 51-102;
- (b) “AMF” means the Autorité des marchés financiers, Quebec’s government body responsible for securities regulation;
- (c) “Annual 2014” means Valeant’s fiscal year ended December 31, 2014;
- (d) “Class” or “Class Members” means all persons, other than Excluded Persons, who acquired Valeant’s common shares during the Class Period, including on the TSX and who held some or all of those shares at the close of trading on October 20th 2015;
- (e) “Class Period” means the period from and including February 27, 2012 to and including October 20, 2015;
- (f) “CJA” means the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (g) “Company” means Valeant;
- (h) “CPA” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6, as amended;
- (i) “CSA” means the Canadian Securities Administrators;
- (j) “Defendants” means Valeant, and the Individual Defendants ~~and PWC~~;

- (k) “Pearson” means J. Michael Pearson, Valeant’s President and Chief Executive Officer;
- (l) “EBITDA” means earnings before interest, taxes, depreciation, and amortization; a financial ratio for measuring a company’s operating performance and profitability;
- (m) “Equivalent Securities Acts” means, collectively, the *Securities Act*, R.S.A. 2000, c. S-4, as amended; the *Securities Act*, R.S.B.C. 1996, c 418, as amended; *The Securities Act*, C.C.S.M. c. S50, as amended; the *Securities Act*, S.N.B. 2004, c. S-5.5, as amended; the *Securities Act*, R.S.N.L. 1990, c S-13, as amended; the *Securities Act*, S.N.W.T. 2008, c. 10, as amended; the *Securities Act*, R.S.N.S. 1989, c. 418, as amended; the *Securities Act*, S Nu 2008, c. 12, as amended; the *Securities Act*, R.S.P.E.I. 1988, c S-3.1, as amended; the *Securities Act*, R.S.Q. c V-1.1, as amended; *The Securities Act, 1988*, S.S. 1988-89, c. S-42.2, as amended; and the *Securities Act*, S.Y. 2007, c. 16, as amended;
- (n) “Excluded Persons” means Valeant’s ~~and PWC’s~~ subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns, and any member of the Individual Defendants’ families and any entity in which any of them has or had during the Class Period any legal or de facto controlling interest;
- (o) “GAAP” means Generally Accepted Accounting Principles in the United States of America;

- (p) “Individual Defendants” means J. Michael Pearson, Howard B. Schiller, and Robert L. Rosiello;
- (q) “MD&A” means Management’s Discussion and Analysis, as defined in NI 51-102. Under NI 51-120, an MD&A is required to be on Form 51-102F1, and is a narrative explanation, through the eyes of management, of how a reporting issuer performed during the period covered by the financial statements, and of the reporting issuer’s financial condition and future prospects;
- (r) “NI 51-102” means the CSA’s National Instrument 51-102 – Continuous Disclosure Obligations, as amended;
- (s) “NI 52-109” means the CSA’s National Instrument 52-109 – Certification of Disclosure in Issuers’ Annual and Interim Filings, as amended;
- (t) “NYSE” means the New York Stock Exchange;
- (u) “OSA” means the *Securities Act*, R.S.O. 1990 c. S.5, as amended;
- (v) “Pearson” means Defendant J. Michael Pearson, who is and was at all relevant times Valeant’s Chief Executive Officer (CEO);
- (w) “Philidor” means Philidor Rx Services, a specialty pharmacy dealing in Valeant’s products and a VIE whose financials Valeant consolidates under its own;
- (x) “Plaintiff” means Misuzu Sukenaga.

- (y) “PWC” means ~~Defendant PricewaterhouseCoopers LLP, a limited liability partnership, which is a member of PWC International Cooperative, a Swiss Verein,~~ which acts as Valeant’s Independent Registered Public Accounting Firm;
- (z) “Rosiello” means Defendant Robert L. Rosiello, Valeant’s Chief Financial Officer (CFO) since July 2015 and an Executive Vice President of the Company.
- (aa) “Q1”, “Q2”, “Q3”, and “Q4” mean, respectively, the three months ended March 31, June 30, September 30 and December 31;
- (bb) “Schiller” means Defendant Howard B. Schiller, Valeant’s Chief Financial Officer (CFO) and Executive Vice President until June 30, 2015, and current member of Valeant’s Board of Directors;
- (cc) “SEDAR” means the CSA’s System for Electronic Document Analysis and Retrieval;
- (dd) “SEC” means the Securities and Exchange Commission, the agency of the United States federal government responsible for overseeing securities markets;
- (ee) “TSX” means the Toronto Stock Exchange;
- (ff) “Valeant” means Defendant Valeant Pharmaceuticals International, Inc.;
- (gg) “VIE” means Variable Interest Entity;

RELIEF CLAIMED

2. The Plaintiff, on her own behalf and on behalf of the Class, claims:

- (a) An order, pursuant to section 138.8 of the *OSA* and the comparable provisions of in the Equivalent Securities Acts, granting leave to proceed with the right of action pleaded under section 138.3 of the *OSA*;
- (b) An order pursuant to the *CPA* certifying this action as a class proceeding and appointing Misuzu Sukenaga as representative plaintiff;
- ~~(c) A declaration that PWC negligently failed to conduct a proper audit and made negligent misrepresentations by expressing an unqualified opinion in relation to Valeant's consolidated financial statements for FYE 2014, when PWC knew or ought to have known that Valeant's financial statements did not adequately disclose or report its relationships with VIEs and its revenue recognition policies with respect to same.~~
- (d) A declaration that Valeant and the Individual Defendants breached s. 75 of the *OSA* and the comparable provisions in the Equivalent Securities Acts;
- (e) A declaration that the Company is vicariously liable for the misrepresentations communicated by the Individual Defendants;
- (f) A declaration, regarding the facts and circumstances herein, that the doctrines of special circumstances and/or fraudulent concealment apply to extend the applicable limitation periods set out in sections 138(b) and 138.14 of the *OSA* and the comparable provisions in the Equivalent Securities Acts;
- (g) A declaration, regarding the facts and circumstances herein, that the misrepresentations described herein constituted continuing misrepresentations,

such that the limitation provisions applicable to these claims do not apply during the Class Period;

- (h) A declaration that the Defendants are liable for the misrepresentations throughout the Class Period alleged pursuant to s.138.3 of the *OSA* and the comparable provisions in the Equivalent Securities Acts, and for negligent misrepresentation;
- (i) Damages as the court finds appropriate at the trial of the common issues pursuant to the statutory right of action under section 138.3 of the *OSA* and the comparable provisions of the Equivalent Securities Acts, or, in the alternative, in an amount determined by reference to the statutory procedure set out in s. 138.5 of the *OSA*, or such other sum as this Honourable Court may find appropriate at the trial of the common issues;
- (j) Pre-judgment and post-judgement interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (k) Costs of this action and the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes; and
- (l) Such further and other relief as to this Honourable Court may seem just.

NATURE OF THIS ACTION

3. This securities class action relates to Valeant publishing core documents and making other statements during the Class Period, including in the Company's financial statements and during the Class Period, that omitted to disclose:

- (a) The Company's receipt of letters from the SEC in May of 2012, in respect of accounting for allowance for "inventory obsolescence" compared to "cost of goods sold," and charges "to other accounts" as related to obsolete inventory, and accounting for disclosures for its acquisitions of Dermik, Ortho Dermatologics, Elidel/Xerese, Zovirax and PharmaSwiss, as compared to its acquisitions of iNova and AB Sanitas.
- (b) The Company's purchase of an option to purchase Philidor for \$100 Million in December 2014 under which the Company can purchase Philidor for \$0.00 within 10 years from the date of purchase, and appurtenant failures to disclose its revenue recognition policies with respect to same;
- (c) That the Company's revenues as reported in its relevant financial statements were inaccurate as a result of the company inappropriately consolidating its revenues from various VIEs without disclosure; and
- (d) That the Company's inventory was misstated as a result of the Company recording sales to wholly owned entities as sales, and improperly shifting inventory off the company's books.
- (e) The Company's unlawful or questionable business practices under which the Company indirectly made sales of pharmaceuticals into states where the Company was not licensed to sell pharmaceuticals, including by "borrowing" NCPDP/NPI (Pharmaceutical License Identifiers) numbers from its VIE's or affiliates (both with and without permission from those entities) in the sale of Pharmaceuticals ("the Questionable Sales Practices").

4. Furthermore, as a result of Valeant's consolidation of Philidor's and other non-disclosed VIEs' financials into its balance sheet, and the improper recording in Valeant's financial statements of Valeant's inventory as a result of its improper recording of sales to its wholly owned entities or entities to which it had undisclosed interests, the Company's financial reporting did not comply with GAAP.

~~5. As Valeant's external auditor, PWC also had a duty to ensure that the Company's audited financial statements in the Class Period complied with GAAP, and, in particular with respect to revenue consolidation with respect to VIEs, but negligently failed to do so, and made a negligent misrepresentation by issuing an unqualified audit opinion.~~

6. The Plaintiff, and the other Class Members, acquired Valeant's common shares during the Class Period without knowledge that those statements were misleading, and held those securities until the end of the Class Period, suffering damages as a result.

7. Towards the end of the Class Period on October 19th, 2015, it was revealed by media reports and later confirmed by Valeant that the Company had a heretofore undisclosed relationship with Philidor, and further that it had a relationship directly or indirectly with R&O pharmacy.

8. During the Class Period, and as a result of Valeant's failure to disclose these relationships, its Questionable Sales Practices, and the fact that Philidor's and other undisclosed VIE's revenues were consolidated on Valeant's balance sheets, the Company's common shares traded as high as \$347.84 on the TSX and \$263.81 on the NYSE. Within hours of the disclosure, Valeant's common share price plummeted to as low as \$116.19 on the TSX and \$88.50 on the NYSE.

THE PLAINTIFF

9. During the Class Period, the Plaintiff, Misuzu Sukenaga, reviewed Valeant's Q3 2014 and annual 2014 financial statements and associated MD&A. In reliance on these disclosures, she purchased 100 of the Company's common shares on September 22, 2015 for \$29,156.95 and held all 100 of the shares at the close of the Class Period.

THE DEFENDANTS AND THEIR REGULATORY DISCLOSURE OBLIGATIONS

10. Valeant is a public company with its head office in the City of Laval, Quebec. It is a pharmaceutical sales company.

11. Valeant has been incorporated under the laws of British Columbia since 2013.

12. The AMF is Valeant's principal securities regulator in Canada. Valeant is a "reporting issuer" in every province of Canada.

13. During the Class Period, its common shares traded under the ticker symbol "VRX" on both the TSX and the NYSE.

14. Pursuant to NI 71-102, as a "SEC foreign issuer" in Ontario, Valeant was required throughout the Class Period to, *inter alia*, issue and file with SEDAR all annual, quarterly, current, and material change reports, as well as financial statements, AIFs, and MD&As filed with or furnished to the SEC.

INDIVIDUAL DEFENDANTS' ROLE IN DISCLOSURE

15. Each of the Individual Defendants knew, from the time that he accepted his position, that the Company was a reporting issuer and that in his role as a director and/or officer of the

Company, he would have direct responsibility for ensuring the accuracy of Valeant's disclosure documents.

16. The *OSA*, the Equivalent Securities Acts and certain National Instruments and Companion Policies promulgated thereunder imposed specific obligations on the Individual Defendants in the preparation of Valeant's continuous disclosure documents.

17. Applicable securities regulations required the Individual Defendants to review, approve and certify the accuracy of the company's financial statements and MD&A released during the Class Period (collectively the "Certifications").

18. Additionally, applicable securities regulations require that the board of directors of a reporting issuer approve each set of financial statements and MD&A released by an issuer prior to the release of those documents. As such, the Individual Defendants, each of whom was a director and/or officer of Valeant during the Class Period, was required to approve and certify each set of financial statements and MD&A prior to its release.

19. Each Individual Defendant was aware of and accepted these obligations, as applicable, in assuming his position as a director and/or officer of the Company.

20. With respect to the Company's Annual Reports on Form 10K, the Certifications included statements that the documents do "not contain any untrue statement of a material fact or omit to state a material fact necessary to make the Statements made, in light of the circumstances under which such statements were made, not misleading".

21. With respect to the Company's interim filings, including interim MD&A, the Certifications included statements that the documents do "not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make a

statement not misleading in light of the circumstances under which it was made".

22. During the Class Period, Pearson was (and continues to be) Valeant's Chief Executive Officer. As a senior officer of Valeant, Pearson had actual, implied or ostensible authority to act and speak on behalf of Valeant in making, or authorizing the making of, the statements containing misrepresentations during the Class Period.

23. For the beginning of the Class Period, Schiller was Valeant's Chief Financial Officer. As a senior officer of Valeant, Schiller had actual, implied or ostensible authority to act and speak on behalf of Valeant in making, or authorizing the making of, the statements containing misrepresentations during the Class Period.

24. During the latter portion of the Class Period, Roseillo was (and continues to be) Valeant's Chief Financial Officer. As a senior officer of Valeant, Rosiello had actual, implied or ostensible authority to act and speak on behalf of Valeant in making, or authorizing the making of, the statements containing misrepresentations during the Class Period.

25. Pursuant to applicable securities regulations, each of the Individual Defendants, Pearson as Chief Executive Officer during the Class Period, and Schiller and Rosiello, as Chief Financial Officers during the Class Period, were required to and did at the relevant times approve and certify the Company's annual and quarterly MD&As and financial statements as well as the Company's AIFs (and all documents incorporated into the AIFs).

26. As particularized elsewhere herein, the Company's disclosure documents issued during the Class Period contained misrepresentations. Accordingly, the Certifications given by Pearson and Schiller/Rosiello were false and were themselves misrepresentations.

27. During the Class Period, PWC was Valeant's external auditor. ~~On February 25, 2015, it consented to Valeant publishing the Independent Auditor's Report associated with the~~

~~Company's Annual 2014 consolidated financial statements, wherein PWC gave an unqualified opinion.~~

BACKGROUND

28. Valeant is a specialty pharmaceutical and medical device company that develops, manufactures, and markets a range of branded, generic, and branded generic pharmaceuticals, over-the-counter products, and medical devices such as contact lenses, intraocular lenses, ophthalmic surgical equipment, and aesthetics devices. Valeant utilizes two operating and reportable segments: (a) Developed Markets; and (b) Emerging Markets.

29. The Company states that its strategy is to focus on “core geographies and therapeutic classes that offer attractive growth opportunities while maintaining our lower selling, general and administrative cost model and decentralized operating structure.” It also states that a “critical element” of its strategy is “business development” through acquisitions.

30. Valeant grows its revenues by acquiring pharmaceutical companies with existing, approved drugs, and then raising the prices for the sale of those drugs and reducing R&D costs in those companies to boost profits.

31. Over the last five years, Valeant completed more than \$30 billion in acquisitions, including the purchase of Bausch & Lomb Inc. in 2013 and the purchase of Salix Pharmaceuticals, Ltd. (“Salix”) in 2015.

32. The Company's revenues skyrocketed as did the Company's stock price, which climbed from \$48.01 per share on February 27, 2015 to as high as \$347.84 on August 6, 2015, an increase of more than 624%.

33. Yet questions surrounding the company's profits and filings were raised as early as

May 2012 by the SEC. However, the SEC letters and subsequent communications were not disclosed on SEDAR.

34. More recently, on September 28, 2015, the Company issued a press release announcing that it had distributed a letter to its employees relating to recent changes in the price of Valeant stock to address concern that Valeant's "business model and strategy is dependent upon large price increases in our U.S. pharmaceutical business" and "[c]oncern around our exposure to U.S. government drug price reimbursement."

35. However, the Company's second quarter 2015 financial results filed on Form 10-Q with the SEC stated that Valeant's growth in the United States and other developed markets "was driven primarily by price," not by increased volume. Accordingly the Press Release of September 28th 2015, contained a misrepresentation with respect to the underlying fundamentals of the Company's future revenue prospects.

36. After the market closed on October 14, 2015, Valeant issued a press release revealing that it "recently received" subpoenas from both the U.S. Attorney's Office for the District of Massachusetts and the U.S. Attorney's Office for the Southern District of New York. The Company stated that "most of the materials requested by the subpoenas relate to documents with respect to our patient assistance programs, and also include requests relating to financial support provided by the company for patients, distribution of the company's products, information provided to the Centers for Medicare and Medicaid Services, and pricing decisions."

37. On October 15, 2015, the price of Valeant stock dropped by \$12.35 per share, or 5.4%, to close at \$216.73 on unusually high trading volume of nearly 1.2 million shares.

RELEVANT COMPANY FILINGS IN THE CLASS PERIOD.

38. On February 29, 2012, Valeant filed its MD&A and audited financial statements for the fourth quarter and full year ended December 31, 2011.
39. On February 28, 2013, Valeant filed its MD&A and audited financial statements for the fourth quarter and full year ended December 31, 2012.
40. On August 7, 2013, Valeant filed its MD&A and interim financial statements for the second quarter ended June 30, 2013.
41. On February 28, 2014, Valeant filed its MD&A and audited financial statements for the fourth quarter and full year ended December 31, 2013.
42. On February 22, 2015, the Company issued a press release reporting its fourth quarter and full year 2014 financial results.
- ~~43. On February 25, 2015, the Company filed its MD&A and audited financial statements for the fourth quarter and full year ended December 31 2014. These filings were audited by Defendant PWC and certified by Defendants Pearson and Schillar.~~
44. On April 30, 2015, the Company filed its MD&A and interim financials for the quarter ended March 31, 2015. These interim filings were certified by Defendants Pearson and Schiller.
45. On July 27, 2015, the Company filed its MD&A and interim financials for the quarter ended June 30, 2015. These interim filings were certified by Defendants Pearson and Rosiello.
46. On October 26, 2015, the Company filed its MD&A and interim financials for the quarter ended September 30, 2015. These interim filings were certified by Defendants Pearson and Rosiello.

AFFIRMATIVE REPRESENTATIONS

47. The Company and PWC made affirmative Representations in the class period in the Core Documents referenced above that other than as disclosed as non – GAAP Measures, the financial measures reported in the Class Period were in accordance with GAAP.

48. PWC represented in its Audit Letter to Shareholders released on February 25th 2015 that

~~“In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of income (loss), comprehensive income (loss), shareholders’ equity, and cash flows present fairly, in all material respects, the financial position of Valeant Pharmaceuticals International, Inc. and its subsidiaries (the “Company”) at December 31, 2014 and December 31, 2013, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2014 in conformity with accounting principles generally accepted in the United States of America.”~~

49. The Company’s 2014 Annual Report released on February 25th 2015 stated that:

To supplement the financial measures prepared in accordance with U.S. generally accepted accounting principles (GAAP), the Company uses non-GAAP financial measures that exclude certain items, such as amortization of inventory step-up, amortization of alliance product assets & property, plant and equipment step up, stock-based compensation step-up, contingent consideration fair value adjustments, restructuring, acquisition-related and other costs, In-process research and development, impairments and other charges (“IPR&D”), legal settlements outside the ordinary course of business, the impact of currency fluctuations, amortization and other non-cash charges, amortization including intangible asset impairments and write-down of deferred financing costs, debt discounts and ASC 470-20 (FSP APB 14-1) interest, loss on extinguishment of debt, (gain) loss on assets sold/held for sale/impairment, net, (gain) loss on investments, net, and adjusts tax expense to cash taxes. Management uses non-GAAP financial measures internally for strategic decision making, forecasting future results and evaluating current performance. By disclosing non-GAAP financial measures, management intends to provide investors with a meaningful, consistent comparison of the Company’s core operating results and trends for the periods presented. Non-GAAP financial measures are not prepared in accordance with GAAP. Therefore, the information is not necessarily comparable to other companies and should be considered as a supplement to, not a substitute for, or superior to, the corresponding measures calculated in accordance with GAAP. Reconciliations of the non-GAAP financial measures contained herein to the comparable GAAP financial measures can be found in

our press release dated February 22, 2015, which can be found, along with reconciliations of other historical non-GAAP financials, at www.valeant.com.

50. The clear implication of the above statements in the 2014 Annual Report and similar statements in each of the other core documents referenced above, is that other than those that are clearly delineated as a NON GAAP measure, all financial measures in the Company's financial statements are prepared in accordance with GAAP.

The Disclosures

51. On October 19, 2015, an article by the New York Times first revealed Valeant's relationship to a heretofore undisclosed specialty pharmacy, Philidor RX Services.

52. That New York Times article further disclosed that:

- (a) Valeant uses Philidor to keep prices high for its dermatology products;
- (b) Philidor was denied a license to sell in California as a result of the California commission finding that Philidor had not truthfully identified its owners on the pharmacy application.

53. On that same date, Valeant reported its third quarter 2015 financial results and hosted an earnings conference call.

54. During the call the Company confirmed that it did indeed have a business relationship with Philidor and other unnamed specialty pharmacies and disclosed that:

- (a) Some of its drugs for which it had recently increased prices had drawn regulatory scrutiny;

- (b) The company had not previously disclosed its relationships with specialty pharmacies such as Philidor because it viewed such relationships as a competitive advantage that it wanted to keep secret from competitors;
- (c) The Company viewed its relationship with Philidor as a competitive advantage; despite not having disclosed the existence of Philidor prior to this call.

55. On October 21st Citron Research disclosed that according to a Southern Investigative Report Foundation report:

- (a) Philidor and R&O are the same company with the same management;
- (b) Valeant has a network of captive “phantom” pharmacies through which it makes sales to customers in U.S. states for which it does not have approval to sell in.

56. It was further disclosed that Valeant was using a secretive relationship with Philidor to store inventory and recording those transactions as sales.

57. It was further alleged that the Company had similar relationships with other pharmacies and that it was improperly booking sales to controlled entities as sales, and improperly removing inventory held by such entities from its own inventory.

MARKET REACTION

58. The market reacted swiftly to the disclosures in the Citron report. On October 21, 2015, trading in Valeant shares was halted on a circuit breaker because of the rapid price decline after Citron published its report on its website.

59. When trading resumed, Valeant shares fell nearly 40%, at which point trading was

again suspended. After dropping down nearly \$75 per share in intra-day trading, Valeant shares closed down over 19%, or \$36.64 per share, on highly abnormal trading volume of more than 3.1 million shares, paring losses as the Company issued a denial of the charges in the Citron report.

60. After the market closed on October 21, 2015, Philidor issued a press release disclosing that it did indeed have a contractual relationship with “affiliated pharmacies,” including R&O, and stating that Philidor “does not currently have a direct equity ownership in R&O Pharmacy or the affiliated pharmacies, but does have a contractual right to acquire the pharmacies now or in the future subject to regulatory approval.”

61. The following day, the price of Valeant shares dropped again after an analyst who had advised buying the stock for more than two years downgraded the shares, citing questions about Valeant’s close ties to specialty pharmacies that distribute its drugs.

THE MISREPRESENTATIONS IN THE COMPANY’S FILINGS

62. The true facts, which were known by Defendants but concealed from the investing public during the Class Period, were as follows:

- (a) The Defendants received letters from the SEC in May 2012 questioning the company’s accounting methods;
- (b) Defendants’ Class Period statements omitted disclosure of key aspects of the Company’s business, specifically the Company’s relationship with a network of specialty pharmacies utilized to boost the sales of the Company’s high- priced drugs;
- (c) Valeant’s undisclosed use of specialty pharmacies as set forth herein left it subject to increased regulatory risks that investors were unable to account for;

(d) Without the use of specialty pharmacies, Valeant's financial performance would have been negatively impacted;

(e) Without the use of specialty pharmacies, Valeant's Class Period financial guidance would have been negatively impacted; and

(f) As a result of the foregoing, Defendants' statements regarding the Company's financial performance and expected earnings were false and misleading and lacked a reasonable basis when made, and did not comply with GAAP.

(g) As a result of Valeant's consolidation of Philidor's and other non-disclosed VIE's revenues into its balance sheet, and the improper recording in Valeant's financial statements of Valeant's inventory as a result of its improperly recording of sales to its wholly owned entities or entities to which it had undisclosed interests, the Company's financial reporting did not comply with GAAP.

(h) The Company was engaged in the Questionable Sales Practices which when disclosed would be scrutinized and potentially make the Company liable to large fines and or other penalties and costs;

(i) As a result of the potential for fines and or penalties associated with the Questionable Sales Practices, the Company had undisclosed contingent liabilities, allowances for which were not made on the Company's financial statements, and accordingly the Company's financial statements in the Class Period did not comply with GAAP;

(j) The Company's Questionable Sales Practices may be the subject of cease and desist orders, or other regulatory orders prohibiting the continuation of the Questionable Sales Practices, and as a result the Company's revenues and profits were unlikely to continue at the same pace after disclosure;

63. As a result of Defendants' false statements and omissions, Valeant's stock traded at artificially inflated prices during the Class Period. After the above revelations were revealed to the market, however, the price of Valeant's stock declined significantly as the artificial inflation was removed.

64. The threshold for materiality with respect to a Company's obligation to disclose an M&A purchase is material if omitting or misstating could influence that users make on the basis of the financial information of a specific reporting entity.

65. The Company's option to purchase Philidor should have been disclosed because the nature of the Company's purchase of the option to acquire Philidor pursuant to which the Company paid \$100,000,000.00 up front, and could acquire the Philidor for \$0.00, is sufficiently strange that it would have naturally led to questions in respect of Philidor, its role in the sales of Valeant Pharmaceuticals, and would have affected a reasonable person's decision as to whether or not to acquire the Securities.

STATUTORY SECONDARY MARKET LIABILITY

66. The Plaintiff, on her own behalf and on behalf of the Class Members, pleads that during the Class Period the Company released "core documents" as well as other documents, as described above, which contained misrepresentations as defined in section 1(1) of the *OSA* and the comparable provisions of Equivalent Securities Acts.

67. Each of the Individual Defendants was a director and/or officer of the Company when the documents were released. The Individual Defendants authorized, permitted, or acquiesced in the release of the documents while knowing the documents contained the misrepresentations alleged herein.

68. The Individual Defendants failed to conduct and did not cause to be conducted a reasonable investigation, and had reasonable grounds to believe that the Company had filed documents and had made public oral statements containing the misrepresentations.

69. The Company is a reporting issuer within the meaning of the *OSA* and the Equivalent Securities Acts.

70. With respect to the Certifications, the Individual Defendants permitted, authorized or acquiesced in the release of the Certifications, and knew that the Certifications contained the misrepresentations that are alleged above to have been contained therein or, in the alternative, deliberately avoided acquiring such knowledge or, in the alternative, were guilty of gross misconduct in connection with the release of the Certifications.

71. With respect to the core documents, non-core documents and public oral statements (collectively the "Representations"), the individual Defendants permitted, authorized or acquiesced in the release of the Representations, and knew that the Representations contained the misrepresentations that are alleged above to have been contained therein or, in the alternative, deliberately avoided acquiring such knowledge or, in the alternative, were guilty of gross misconduct in connection with the release of the Representations.

72. Pursuant to section 138.3(1) of the *OSA* and the comparable provisions of the Equivalent Securities Acts, the Individual Defendants are liable in respect of the misrepresentations alleged to be contained in the Certifications.

73. On the basis of the foregoing, the Plaintiffs plead that the Defendants are liable to Class under Part XXIII.1 of the *OSA* and the comparable provisions of the Equivalent Securities Acts.

74. Furthermore, the Defendants fraudulently concealed and/or continued to make the misrepresentations from the beginning of the Class Period.

75. The Plaintiff asserts the statutory causes of action found in Part XXIII.1 of the *OSA* and, if required, the comparable provisions of the Equivalent Securities Acts.

76. Valeant's Annual 2014 financial statements, 2015 quarterly financial statements, and associated MD&As are core documents within the meaning of Part XXIII.1 of the *OSA*. Valeant is a reporting issuer, and PWC is an expert within the meaning of the *OSA*.

77. Valeant released continuous disclosure documents when it knew or ought to have known that they contained misrepresentations of material facts or failed to disclose material facts that were required to be stated or that were necessary to make such statements not misleading in light of the circumstances in which they were made.

78. Valeant knew, at the time the above referenced documents were released, or the failure to make timely disclosure was made, that the documents contained misrepresentations or that there were undisclosed material changes, or in the alternative it deliberately avoided acquiring such knowledge.

THE RELATIONSHIP BETWEEN VALEANT'S DISCLOSURES AND THE PRICE OF ITS COMMON SHARES

79. The Defendants were aware at all material times of the effect of Valeant's disclosure documents on the price of its publicly traded common shares. The Defendants intended that the Class Members, including the Plaintiff, would rely upon these disclosures, which they did to their detriment.

80. The disclosure documents referred to herein were filed on SEDAR and thereby became immediately available to and were reproduced for inspection for the benefits of the Plaintiff, the other Class Members, the public, financial analysts and the financial press through the Internet and financial publications.

81. The Company routinely transmitted the documents referred to herein to the financial press, financial analysts and certain prospective and existing shareholders of Valeant.

82. Valeant regularly communicated with public investors and financial analysts via established market communication mechanisms, including through regular dissemination of news releases on newswire services and through teleconferences with investors and analysts.

83. Valeant was the subject of analysts' reports that incorporated the information in the disclosure documents referred to herein, with the effect that any recommendations in such reports during the Class Period were based, in whole or in part, upon the disclosure documents referred to above.

84. During the Class Period, Valeant's common shares were traded on the NYSE and the TSX, which are highly efficient and automated markets. The price at which the Company's common shares traded incorporated material information about the Company's business operations.

DAMAGES

85. As a result of the conduct of the Defendants as alleged, the Plaintiff and the other Class Members suffered losses and damages as a result of acquiring Valeant's common shares during the Class Period at artificially inflated prices and holding some or all of those common shares after October 20th, 2015.

86. The Plaintiff and the other Class Members also suffered losses and damages as a result of acquiring Valeant's common shares prior to the Class Period and holding some or all of those shares after the end of the Class Period.

87. Therefore, the Defendants are liable to pay damages to the Plaintiff and the other Class Members, pursuant to the *OSA* and the Equivalent Securities Acts, or at common law.

~~88. Further or in the alternative, PWC is liable to make restitution to those Class Members who purchased Valeant's common shares following the release of the Company's Annual 2014 audited financial statements in an amount equal to the professional fees received by PWC in performing its audit.~~

89. The Plaintiff and the other Class Members are also entitled to recover as damages, or costs in accordance with the *CPA*, the costs of administering the plan to distribute the recovery in this action.

FACTS RELATING TO FRAUDULENT CONCEALMENT

90. Throughout the period wherein the Defendants were misstating their financial statements and revenue numbers based on inappropriate accounting policies that did not comply with GAAP, they knew that the SEC had raised questions with the Company regarding those policies, yet the Defendants failed to disclose to the market these policies and the SEC questions regarding same.

91. Further, in order to conceal the ties between Valeant and Philidor, Valeant employees would work directly in Philidor's offices using fictional names such as Peter Parker or Jack Reacher. These strange business practices were undertaken so it didn't appear Valeant was using Philidor to steer patients to the drug company's products."

92. As a result, the Plaintiffs and Class Members claim that the Defendant fraudulently concealed information as to the true state of affairs of the Company years after the Defendants knew or ought to have known that its financial and accounting policies were problematic and incorrect, and resulted in the company reporting higher revenues and lower inventories than were actually the case.

93. The Plaintiffs plead that the doctrine of fraudulent concealment applies to toll the three-year limitation periods in sections 138 and 138.14 of the *OSA*, and the comparable provisions of the Equivalent Securities Acts. The doctrine of fraudulent concealment applies to limitation periods not governed by the *Limitations Act, 2002*. The limitations periods in s.138 and s. 138.14 of the *OSA* are exempt from the jurisdiction of the *Limitations Act, 2002*, c. 24, Sched. B, s. 19(1). Further, there is no express statutory provision in the *OSA* that prohibits the application of the doctrine of fraudulent concealment.

FACTS RELATING TO DISCOVERABILITY

94. Further, the Plaintiff pleads and relies upon the doctrine of discoverability, which applies to toll both the three-year limitation periods in sections 138 and 138.14 of the *OSA* (and the comparable sections of the Equivalent Securities Acts) and the limitation period that applies to the common law claims. The corrective disclosures were only in the knowledge of the Defendants and could not have been known by the Plaintiffs and Class Members. Despite this, they failed to disclose to the market, which was relying on Company filings that unbeknownst to them concealed the policies underlying the Company's financial reporting.

VICARIOUS LIABILITY

95. The Company is vicariously liable for the acts and omissions of the Individual Defendants particularized herein.

96. At all material times, the Individual Defendants were officers and/or directors of the

Company.

97. As their acts and omissions are independently tortious, they are personally liable for same to the Plaintiffs and the other Class Members.

PROPORTIONATE LIABILITY

98. Notwithstanding anything to the contrary in this pleading, the Plaintiffs do not plead herein any claims against PwC and hereby abandon such claims. The Plaintiffs shall forfeit and shall not seek to recover against any of the Defendants any portion of the damages that the Court may find to be the responsibility of PwC or which the Defendants may claim they are entitled to receive by way of contribution or indemnity from PwC.

99. Notwithstanding the foregoing, the Defendants (which, for certainty, do not include PwC) are liable amongst themselves for the damages that the Court may find against them jointly and/or severally, in the ordinary course as may be found by the Court in light of the law and the facts.

RELEVANT LEGISLATION AND PLACE OF TRIAL

100. The Plaintiff pleads and relies upon the *CJA*, the *CPA*, NI 71-102, the *OSA*, and the Equivalent Securities Acts, all regulations thereunder and all amendments thereto.

101. The Plaintiff proposes that the trial of the certified common issues take place in the City of Toronto.

October 26, 2015
Amended _____, 2019

MORGANTI LEGAL
169 King Street East, 3rd Floor
Toronto, ON M5A

1J4

4091926.1

Andrew J. Morganti (LSUC# 57895E)
Eli Karp (LSUC# 54317P)
Tel: (647) 344-1900
amorganti@morgantilegal.com
ekarp@morgantilegal.com

Lawyers for Plaintiff

MISUZU SUKENAGA
Plaintiff

v. VALEANT PHARMACEUTICALS
INTERNATIONAL INC. et al
Defendants

Court File No. CV-15-540567-00CP

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDINGS COMMENCED AT TORONTO

STATEMENT OF CLAIM

MORGANTI LEGAL

169 King Street East, 3rd Floor
Toronto, ON M5A 1J4

Andrew J. Morganti (LSUC# 57895E)
Eli Karp (LSUC# 54317P)
Tel: (647) 344-1900
amorganti@morgantilegal.com
ekarp@morgantilegal.com

Lawyers for Plaintiff

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PROCEEDING COMMENCED AT TORONTO

Proceeding under the *Class Proceedings Act, 1992*

ORDER

KOSKIE MINSKY LLP
900-20 Queen Street West,
Toronto, ON M5H 3R3

Kirk Baert LS#: 309420
Tel: (416) 595-2092

Fax: (416) 204-2889

Jonathan Ptak LS#: 45773F

Tel: (416) 595-2149

Fax: (416) 204-2903

Garth Myers LS#: 62307G

Tel: (416) 595-2102

Fax: (416) 204-4924

SUTTS, STROSBURG LLP
600 – 251 Goyeau Street
Windsor, ON M9A 6V4

Jay Strosberg LS#: 45288F

Tel: (519) 561-6285

Fax: (519) 561-6203

ROCHON GENOVA LLP
Suite 900
121 Richmond Street West
Toronto, Ontario
M5H 2K1

Joel Rochon LS#: 28222Q

Tel: (416) 363-1867

Fax: (416) 363-0263

Lawyers for the Plaintiff