

CLASS ACTION CERTIFIED OVER COLD-FX® ADVERTISING

Toronto, September 28, 2023 – Toronto law firm Tyr LLP announced today that the Ontario Superior Court of Justice has certified a class action against Bausch Health, Canada Inc. and its affiliate Valeant Canada LP (together, the “**Defendants**”). Bausch + Lomb now distributes COLD-FX® in Canada.

This class action alleges that the Defendants have made false, misleading, deceptive, or unconscionable advertising claims to consumers in respect of the following Cold-FX® products: Cold-FX® (regular and extra strength), Cold-FX® Daily Support (regular, chewable, and extra strength), Cold-FX® First Signs, Cold-FX® First Signs Nighttime, and Cold-FX® Daily Defence (regular and extra strength) (collectively, the “**Cold-FX® Products**”).

Among the advertisements at issue are statements that the Cold-FX® Products are: “proven by science”; “clinically proven”; contain “clinically proven ingredients”; or have a “clinically proven formula” to help (i) reduce the frequency, duration, and severity of cold and flu symptoms and (ii) increase the proportion of natural killer cells and T-helper cells to boost the immune system. These claims largely form the basis of the allegations in this class action that the Defendants have breached provincial consumer protection legislation, the federal *Competition Act*, and the federal *Food and Drugs Act*.

The certified class includes all persons in Canada who purchased one or more of the Cold-FX® Products between January 1, 2017 and September 28, 2023.

The class action seeks reimbursement (in full or in part) of the amounts paid by Canadian consumers to purchase Cold-FX® Products or a return of the profits the Defendants have gained in selling Cold-FX® Products between January 1, 2017 and September 28, 2023. The class action also seeks to prevent the Defendants from continuing to make the allegedly unlawful Cold-FX® advertising claims.

The Defendants deny that they have made any false, misleading or deceptive statements in relation to COLD-FX® Products and deny that they have breached any of the legislation referred to. No decision on the merits of the allegations has been made by the Court and the Defendants are defending the certified class action. The allegations will be determined at a future trial.

Additional information about this case, including the Court’s Reasons for Decision (Certification) are available at <https://class-actions.tyrllp.com/cold-fx-class-action.html>.

Lead counsel prosecuting this lawsuit on behalf of the class are Sean R. Campbell and James D. Bunting.

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