

CLASS ACTION'S OVERVIEW

In response to the ruling issued by the Québec Court of Appeal, cigarette manufacturers again **are looking to shirk their responsibilities for compensating victims of tobacco**. On **March 12, 2019**, Imperial Tobacco Canada sought shelter from its creditors by stating that it could not continue “the normal course of its business activities” without this protection. The tobacco company thus became the second industry giant to secure protection under the Companies’ Creditors Arrangement Act, after JTI-Macdonald filed for and obtained court protection against its creditors **on March 8**.

On **March 8, 2019**, a single judge of the Ontario Superior Court has suspended, without public hearing, the rights of tobacco victims that were recognized a week earlier by a unanimous bench of the Quebec Court of Appeal. Following an application by JTI-Macdonald to come under the protection of the Companies’ Creditors Arrangement Act, Justice Glenn Hainey of the Ontario Superior Court also allowed the three tobacco companies in this case to continue to pay billions of dollars in profits to their foreign subsidiaries. The **Quebec Council on Tobacco and Health and the tobacco victim lawyers vigorously denounce this denial of justice and intend to challenge this judgment in court**.

Remember that on **March 1, 2019**, five judges of the Quebec of Court of Appeal rendered a unanimous historic judgement of **almost \$14 billion** in favor of the 100,000 Quebec victims who are class members in the Blais class action and who have been diagnosed with lung cancer, throat cancer or emphysema.

The Appeal Court upheld the ruling of the Quebec Superior Court that the tobacco industry - Imperial Tobacco, Rothmans, Benson & Hedges and JTI-MacDonald - had **for more than 50 years systematically lied distorted the truth, minimized and trivialized the dangers of tobacco**.

The Appeal Court confirmed that the tobacco companies had collectively perfected a **program of disinformation aimed at undermining all information contrary to their interests**. The court also found that **the companies had intentionally and in bad faith created a false scientific controversy and used misleading publicity strategies with the goal of deceiving the public**.

Tobacco victims (or their estate) who believe they are entitled to compensation in this class action are invited to register online at recourstabac.com. If you are already registered in this class action, **you have nothing to do at the moment**. We will contact you by e-mail to inform you of the outcome.

EXTRACTS FROM THE SUMMARY OF THE QUEBEC COURT OF APPEAL JUDGMENT

Under common law and section 53 of the *Consumer Protection Act*

“Confirming the trial judge findings in this regard, the Court concludes that the appellants [the tobacco companies], acting in a concerted manner, **breached their duty to inform during the entire Class Period**. Their

breach was twofold: they **failed to provide information or adequate information to users on the safety defect inherent in their products**; and they **participated in a campaign of disinformation** by attacking the credibility of warnings, advice or explanations issued by others dealing with the dangers associated with smoking cigarettes.”

“The appellants [the tobacco companies] **have failed to acquit their burden to establish that**, at the relevant times, the **members of the classes knew of the safety defect in cigarettes or were in a position to know of or foresee the potential harm to which they were exposed by smoking.**”

“**The fact that a victim knew that the use of the product was dangerous is insufficient; such a person must have freely made an informed choice to assume the risk**, which pre-supposes a high degree of knowledge of the danger of harm and of the risk that harm will occur, as well as the willingness to assume them.”

Under The Consumer Protection Act (C.P.A.)

“The trial judge committed no reviewable error in concluding that the appellants were liable under ss. 219 and 228 C.P.A., **which prohibit a manufacturer from making false or misleading representations to a consumer** or to suppress information of an important fact when making a representation, the sanction for which is a recourse under s. 272 C.P.A.”

“Moreover, the trial judge did not err in awarding punitive damages pursuant to s. 272 C.P.A.”

Under the Charter of Human Rights and Freedoms

“The appellants [the tobacco companies] **breached the class members’ rights to life, personal security and inviolability of the person in an unlawful manner that also constituted a civil fault.**”

“Similarly, the trial judge’s conclusion that the **violation of class members’ rights was intentional** is also free from reviewable error.