

CV-15-10842-CLA

Court File No. CV-11-438382-00CL



**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE)
JUSTICE McEWEN)

THURSDAY, THE 2ND
DAY OF JULY, 2015

B E T W E E N:

(Court Seal)

REINER SCHENK

Plaintiff

and

VALEANT PHARMACEUTICALS INTERNATIONAL, INC., VALEANT
INTERNATIONAL (BARBADOS) SRL, EUGENE MELNYK, TRIMEL
PHARMACEUTICALS CORPORATION, TRIMEL BIOPHARMA INC.,
TRIMEL BIOPHARMA HOLDINGS INC. and TRIMEL BIOPHARMA SRL

Defendants

and

EUGENE MELNYK, TRIMEL PHARMACEUTICALS CORPORATION,
TRIMEL BIOPHARMA HOLDINGS INC., TRIMEL BIOPHARAMA SRL,
PAUL MAES and MAES PHARMCONSULT SPRL

Third Parties

ORDER

THIS MOTION, made by the Plaintiff for an Order approving the terms of a litigation funding agreement entered into with Redress Solutions PLC (the "Funding Agreement"), and this Cross-Motion, made by the Valeant Defendants for an Order requiring the Plaintiff to pay security

for costs into Court in the amount of \$455,000, were heard on April 8, 2015 and further submissions were heard this day at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1E6;

ON READING the materials filed by the Plaintiff and the Defendants for the motion heard on April 8, 2015 and upon reading the supplementary materials filed by the Plaintiff for the motion returnable on July 2, 2015 delivered after the release of the Reasons of this Honourable Court on June 8, 2015, and upon the consent of the Plaintiff and the Defendants to the form of the order;

1. **THIS COURT ORDERS** that:

Security for Costs

- (a) One of Redress Solutions PLC (“Redress”), or the Plaintiff, as the case may be, shall pay into Court the following amounts as security for the Defendants’ costs of this proceeding, on the dates specified:
 - (i) \$175,000 within 30 days of the issuance of this Order; and
 - (ii) an additional \$175,000 within 30 days of the action being set down for trial;
- (b) Each of the amounts specified in (b) shall be paid into court in the form of cash, certified cheque, or money order, or the posting by Redress or the Plaintiff of an irrevocable letter of credit in a form acceptable to the Defendants and their counsel, and also to the Accountant of the Superior Court of Justice or in an alternative form of security as approved by this Honourable Court;

- (c) Counsel for the Plaintiff shall notify counsel for the Defendants forthwith upon the posting of security in accordance with the terms of this Order;
- (d) If Redress or the Plaintiff fail to provide security in accordance with the terms of this Order the Defendants or any of them are at liberty to bring a motion on short notice to have the action stayed or dismissed;
- (e) Redress submits and attorns to the jurisdiction of the Ontario Superior Court of Justice for all purposes related to this litigation, including in relation to the enforcement of any costs order made in favour of the Defendants or any of them;
- (f) Amounts posted pursuant to this Order shall be paid out to the Defendants in accordance with Rule 72.03 of the *Rules of Civil Procedure*, or as ordered by this Court;
- (g) The Defendants or any of them shall be at liberty to seek to vary this Order at any time to increase the amount of security required to be posted by Redress or the Plaintiff;
- (h) Nothing in this Order shall be interpreted as limiting the ability of the Defendants or any of them to seek to enforce any costs award against either the Plaintiff or Redress;

Funding Agreement

- (i) The Funding Agreement attached as Exhibit "B to the Affidavit of Karen Phung sworn June 15, 2015 is hereby approved subject to the following:

- (i) "any 'Offer' communicated to the Funder pursuant to section 24 of the Funding Agreement shall be kept confidential and shall not be disclosed to any person other than any insurer or legal advisor of the Funder;
- (ii) to the extent any evidence obtained from the Defendants is provided to Redress pursuant to the Funding Agreement, then Redress shall maintain the confidentiality of such evidence and be bound by Rule 30.1.01 of the *Rules of Civil Procedure* and shall be deemed to be a party for the purposes of that Rule. To the extent Redress provides such evidence to its insurer or legal advisor the insurer or legal advisors shall similarly be bound by the same terms of confidentiality and be bound Rule 30.1.01.
- (iii) The Plaintiff shall notify the Defendant upon any revision or the termination of the Funding Agreement.

2. THIS COURT ORDERS that there shall be no costs of this motion.



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