

Court File No. 99-CV-181819 [Toronto]

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

KEVAN DRADY AND KATHRYN ANNE TAYLOR

Plaintiffs

and

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY
THE MINISTER OF HEALTH, THE ATTORNEY GENERAL FOR CANADA**

Defendant

Proceeding under the *Class Proceedings Act, 1992*

RESPONSE TO DEMAND FOR PARTICULARS

The Defendant responds to the Plaintiffs' Demand for Particulars of the Statement of Defence of the Attorney General of Canada, as follows:

1. With respect to paragraph 20 :

- a. The manufacturers of devices that may have been used in the TMJ, now known to Health Canada, are listed in paragraph 80 of the Statement of Defence. The last known contact particulars from the MDB records are:

Vitck Inc.	3143 Yellowstone Blvd., Houston, Texas 77054
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Promotus SA	Route de Divonne 48, CH-1260 Nyon, Vaud Switzerland
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Genatis Biofunctional Tech SA	(same as above)
Dow Corning Corp.	Midland, Michigan, 48640
Xomed	4444 Cincinnati, Ohio, 45242
Medical Engineering Corporation (Surgitek)	3037 Mt. Pleasant St., Racine Wisconsin, 53404
McGhan Medical Corporation	700 Ward Drive, Santa Barbara, CA 93111-2936
Heyer Schulte Corporation	600 Pine Avenue, Goleta, California 93017
Downs Surgical Canada Ltd.	261 Davenport Rd. Toronto, M5N 1K3
TMJ Implants Inc.	17301 West Colfax Ave., Suite 135, Golden, Colorado 80401

- b. Lists of device names and information are evidence, properly sought at examination for discovery.

2. **With respect to paragraph 22:**

- a. Facts pertaining to the regulatory status of the products alleged to have been implanted in the representative plaintiffs, are set out at paragraphs 88 to 120 of the Statement of Defence.

To the extent this demand requires details beyond those facts pleaded, it is a request for evidence, properly sought at examination for discovery.

- b. As above.

3. **With respect to paragraph 76,** the demand requests evidence properly sought at examination for discovery.

4. **With respect to paragraphs 77 and 80,** see particulars given at number 1, above.

5. **With respect to paragraph 78,** the following is a list of the distributors that may have imported and distributed TMJ devices in Canada, now known to

Health Canada, as well as last known contact addresses:

Instrumentarium (Vitek/Promotus products)	B.P. 120, Terrebonne, PQ, J6W 3L5
Dow Corning Silicones Inter-America Ltd.	1 Tippet Road, Downsview, Ontario, M3H 2V1
Dow Corning Canada Inc.	6747 Campobello Rd. Mississauga Ontario
MacNichol & Associates (M.E.C. products)	181 Willowdale Avenue, Willowdale, Ontario
Bryant Medical Products Inc. (M.E.C. products)	2222 South Sheridan Way, Mississauga, Ontario L5J 2M4
Heyer- Schulte, Division of McGaw Ltd.	536 Gordon Baker Road, Willowdale, Ontario M2H 3B4
Downs Surgical Canada Ltd. (Xomed products)	261 Davenport Road Toronto, Ontario M5N 1K3
Zimmer of Canada Ltd. Xomed/Surgitek Division	2323 Argenitia Road Mississauga, Ontario L5N 5N3
3M Canada Inc., Medical Surgical Div. (McGhan products)	P.O. Box 5757 London, Ontario N6A 4 T 1
Sel Win Products Ltd. (M.E.C. products)	2182 West Twelfth St. , Vancouver 9, B.C.
Peggy Medical Ltd. (McGhan products)	244 Lakewood Dr. Oakwood, Ontario L6K 1B2

Laperriere Medical (McGhan products)

9231 Therese-
Casgrain, Anjou,
Quebec H1J 2E3

6. **With respect to paragraph 81:**
 - a. This demand requests evidence, properly sought on examination for discovery;
 - b. This demand requests evidence, properly sought on examination for discovery;
 - c. Please see numbers 1 and 5, above, for names and contact information for manufacturers and distributors of TMJ devices.
7. **With respect to paragraph 84:**
 - a. This demand requests evidence, properly sought on examination for discovery;
 - b. This demand requests evidence, properly sought on examination for discovery.
8. **With respect to paragraph 89:** This demand requests evidence, properly sought on examination for discovery.
9. **With respect to paragraph 91:** This demand requests evidence, properly sought on examination for discovery.
10. **With respect to paragraph 111:** This demand requests evidence, properly sought on examination for discovery.
11. **With respect to paragraph 112:** This demand requests evidence properly sought on examination for discovery.
12. **With respect to paragraph 170:** This demand requests evidence properly sought on examination for discovery.
13. **With respect to paragraph 171:** This demand requests evidence properly sought on examination for discovery.
14. **With respect to paragraph 172:** The particulars of other litigation in which the plaintiffs have participated, claims they have made and monies they have received, are known to them. The pleadings in those proceedings are within the possession of the plaintiffs or a matter of public record.
15. **With respect to paragraph 205:** This demand requests evidence properly sought on examination for discovery.

- 16. **With respect to paragraph 213:** This demand requests evidence properly sought on examination for discovery.
- 17. **With respect to paragraph 214:** This demand requests evidence properly sought on examination for discovery.
- 18. **With respect to paragraph 240:** This demand request evidence properly sought on examination for discovery.

5 October 2004

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