

2019

C.A. No. 485656

**NOVA SCOTIA COURT OF APPEAL**

**BETWEEN:**

**ORGANIGRAM HOLDINGS INC. AND ORGANIGRAM INC.**

**APPELLANTS**



**DAWN RAE DOWNTON**

**RESPONDENT**

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**CONSENT ORDER  
LEAVE TO APPEAL**

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**BEFORE THE HONOURABLE JUSTICE ELIZABETH VAN DEN EYNDEN IN COURT OF  
APPEAL TELECHAMBERS:**

**UPON** Organigram Holdings Inc. and Organigram Inc., the Appellants, filing a Notice of Application for Leave to Appeal and Notice of Appeal in This Honourable Court on March 1, 2019 from the decision rendered by The Honourable Justice Ann E. Smith on January 18, 2019 ("Decision") and the Order for Certification entered by The Honourable Justice Ann E. Smith on February 14, 2019 in the proceedings in the Supreme Court of Nova Scotia under the *Class Proceedings Act*, S.N.S. 2007, c. 28 showing Court File Reference: Hfx No. 460984 ("Order");

**AND UPON** hearing Daniel Wallace on behalf of the Appellants and Madeleine Carter on behalf of the Respondent in Court of Appeal Telechambers on Wednesday, March 20, 2019;


**AND UPON** seeing the consent of the Parties hereto;

**IT IS ORDERED:**


(1) Pursuant to subsection 39(3) of the *Class Proceedings Act*, leave is granted allowing the Appellants to file an appeal to This Honourable Court from the Order on the following issues:


- (1) In her consideration of paragraph 7(1)(c) of the *Class Proceedings Act*, the Chambers judge erred in law and principle by finding that the plaintiff demonstrated a workable methodology for demonstrating that the recalled product can cause adverse health effects on a class-wide basis;
- (2) In her consideration of paragraph 7(1)(a) of the *Class Proceedings Act*, the Chambers judge erred in law by finding that the Statement of Claim discloses a cause of action for negligent design, development and testing, negligent distribution, marketing and sale, breach of the *Competition Act*, R.S.C. 1985, c. C-34 and unjust enrichment;
- (3) In her consideration of paragraph 7(1)(d) of the *Class Proceedings Act*, the Chambers judge erred in law in finding that a class action is the preferable procedure for the fair and efficient resolution of the dispute.;

DATED at Halifax, Nova Scotia, this 20<sup>th</sup> day of March, 2019.

  
Registrar (Deputy)

CONSENTED TO:

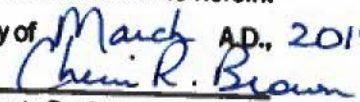
  
Jane O'Neill, Q.C. / Daniel Wallace  
Counsel for the Appellants

  
Raymond F. Wagner, Q.C. / Madeline Carter  
Counsel for the Respondent

**Cherri Brown**  
Deputy Registrar  
Nova Scotia Court of Appeal

IN THE NOVA SCOTIA  
COURT OF APPEAL

I hereby certify that the foregoing document,  
identified by the Seal of the Court, is a true  
copy of the original document on file herein.

Dated the 20<sup>th</sup> day of March A.D., 2019  
  
Deputy Registrar