



COALITION QUÉBÉCOISE
POUR LE CONTRÔLE DU TABAC

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NEWS RELEASE

Tobacco Manufacturers Granted Another 6-months Extension for Litigation Negotiations:

Three-and-a-half years following their class-action victory over cigarette manufacturers, Quebec victims are faced with provincial governments that seem more interested in cashing-in than in honouring their responsibility to prevent future harm

Montreal, September 30, 2022 — On Wednesday, tobacco companies [asked](#) an **Ontario court** for an additional [six-month](#) extension under the **Companies' Creditors Arrangement Act (CCAA)**. This would be the ninth (9th) renewal of the [March 8, 2019](#), court order allowing Canada's three largest cigarette manufacturers to settle, as part of one single process, all pending legal actions and related penalties they are facing. Contrary to the previous hearings, lawyers representing the **Quebec class-action victims** [asked the court](#) to limit the extension to three months rather than the six months claimed by the tobacco companies. The **Canadian Cancer Society** supported the **Quebec class action plaintiffs'** request while none of the provincial governments nor any other party opposed the industry's request. Yesterday, **Justice McEwen** agreed with the former and [extended](#) the stay by another six months (to March 31, 2023).

New motion for the creation of a fund

Echoing an [earlier motion](#) made by the **Canadian Cancer Society** which was [denied](#) by the court (which nevertheless granted them observer status), the **Heart and Stroke Foundation** is [petitioning](#) the court to grant it creditor status, arguing that it will represent future tobacco consumers. Stating that much of the financing of negotiated agreements ([paragraphs 7, 9 and 10](#)) will rest on future tobacco consumers, **Heart and Stroke** argues that the "harm that will inevitably befall them" could be mitigated by allocating a portion of the available amounts to the creation of an anti-tobacco fund. **Heart and Stroke** goes on to detail how the fund would be administered by entities unrelated to cigarette manufacturers or governments ([paragraph 12](#)).

"While the presence of health stakeholders at the negotiation table would constitute a positive development, prioritizing the creation of an anti-tobacco fund would likely enable governments to wrap an aura of good intentions around a profoundly flawed settlement. The top priority should be to focus on beneficial health outcomes so as to minimize the number of future victims rather than financial gain," explains **Flory Doucas, spokesperson for the Quebec Coalition for Tobacco Control**. *"Why prioritize a protracted fight aimed at reducing tobacco consumption when bold and effective measures could be incorporated directly into an agreement?"*

Meanwhile, 670 victims have died

Lawyers representing the **Quebec** victims [confirmed](#) that no fewer than 670 of those registered in the class action have died since March 2019. None of these victims will see a penny of what **Quebec's** highest court ruled is theirs, nor the numerous other victims calling the lawyers to say they are in their last days. These Quebecers are part of the class action because they suffered from lung or throat cancer or from emphysema.

“Why are the provincial governments not objecting to the repeated stays granted to cigarette manufacturers? Could it be because with each passing day the pot increases?” asks the Ms Doucas.

Beneficial health outcomes that go beyond short-term financial gain

A 2020 [economic study](#) carried out by **H. Krueger and Associates Inc.*** confirms the relevance, cost effectiveness and validity of a different approach that would give [priority to non-financial outcomes](#). The research estimates that the **province of Quebec** would save \$22.2 billion while **Ontario’s** savings would amount to \$26.1 billion if cigarette makers were forced to reduce tobacco consumption to less than 5% by 2035, the target of [Canada’s Tobacco Strategy](#). Such a reduction would mean 641,000 and 990,000 fewer smokers in **Quebec** and **Ontario** respectively, *“which would represent a huge victory for public health”*.

“An agreement that would force major cigarette producers to meet interim and final targets for reduced tobacco use instead of a financial settlement for the provinces and for an anti-tobacco fund would constitute an ethical approach that would save lives and would not depend on future customers to pay for the amounts awarded. Negotiations should aim first and foremost at reducing tobacco use,” states **Ms. Doucas**, adding that the largest portion of the amounts currently on the table should be awarded to the **Quebec victims** who have prevailed following a twenty-year-long court-case.

Ontario and Quebec governments remain silent

These recommendations have been submitted to all provincial governments including **Ontario** and **Quebec** by way of several letters, including these sent on [September 4, 2020](#), and [September 8, 2020](#) respectively. There has been no noticeable reaction on their part. Yet by acting jointly, the two largest creditors (as a result of their medicare cost recovery lawsuits), **Ontario** and **Quebec** could force a settlement.

“Although the current context may enhance the attractiveness of financial gain for governments and especially for the private sector lawyers that are representing eight provinces on a contingency fee basis, we must not lose sight of the historic and unique opportunity enabling provincial governments to impose game-changing transformations on the tobacco industry. Indeed, if Ontario and Quebec were on board, the court could act as a mediator to dictate structural measures that could spell the beginning of the end of this deadly industry. In fact, [71% of Canadians](#) are in favour of seeing their province ‘take advantage of this litigation to force cigarette companies to gradually eliminate tobacco consumption in Canada.’”

“Governments have a duty to facilitate justice for victims and to protect future generations against avoidable health risks. We also need to remind ourselves that it’s not in the interest of any consumer, regardless of the product, to allow governments to shirk away from these responsibilities,” concludes **Ms. Doucas**.

It is worth repeating that that this saga originated with the [Quebec’s Superior Court](#) ruling that forced Canada’s three largest cigarette producers to pay over \$15 billion in moral and punitive damages for the harm and prejudice they caused to **Quebec** victims and that, [in the words of the court](#), “an award of punitive damages is based primarily on the principle of deterrence and is intended to discourage the repetition of similar conduct both by the wrongdoer and in society” [par.1034].

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* H. Krueger & Associates Inc. is a firm located in Greater Vancouver. Its president is Dr. Hans Krueger, an epidemiologist, a healthcare economist and an adjunct professor at the UBC School of Population and Public Health. The company has been providing advisory, modelling and other services to federal and provincial health agencies as well as to NGOs across the country.