

Court File No.: CV-24-000 98326-00CP

ONTARIO  
SUPERIOR COURT OF JUSTICE



BETWEEN:

**CHENGWEN REN**

Plaintiff

– and –

**BAUSCH HEALTH COMPANIES, INC., JOSEPH PAPA, and THOMAS APPIO**

Defendants

Proceeding under the *Class Proceedings Act, 1992*

**STATEMENT OF CLAIM**

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

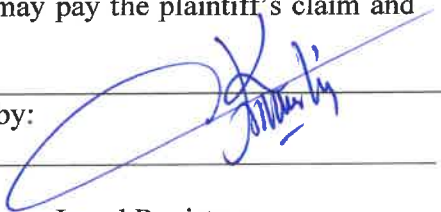
IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyers or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFFS' CLAIM, and \$5,000.00 for costs, within the time for serving and filing your statement of defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

Date Issued: DEC 23 2024	Issued by:  _____ Local Registrar
	<i>Address of Court Office:</i> Superior Court of Justice 161 Elgin Street, 2 <sup>nd</sup> . Floor Ottawa, Ontario K2P 2K1

**TO:**

**BAUSCH HEALTH COMPANIES, INC.**  
**LEGAL DEPARTMENT**  
2150 St. Elzear Blvd. West  
Laval, Quebec H7L 4A8  
(514) 744-6792

## DEFINED TERMS

1. In addition to the terms defined in ss. 1(1) and 138.1 of the *Securities Act*, R.S.O. 1990, c. S. 5, and elsewhere herein, the following capitalized terms used throughout this Statement of Claim have the meanings indicated below:

- (a) “**BHC**” means Bausch Health Companies, Inc;
- (b) “**B+L**” means Bausch + Lomb (Vision Care, Surgical and Pharmaceuticals), which was spun-out from BHC in May 2022;
- (c) “**Class (OSA Statutory)**” means all beneficial owner entities and persons, other than Excluded Persons, who acquired BHC’s common shares during the Class Period and who held some or all of those common shares until after the release of at least one of the Public Corrective Disclosures;
- (d) “**Class (Common Law)**” means all Canadian beneficial owner entities and persons, other than Excluded Persons, who acquired BHC’s common shares and who held some or all of those common shares until after the release of at least one of the Public Corrective Disclosures;
- (e) “**Class Period**” means April 2, 2020 through May 2, 2024;
- (f) “**Excluded Persons**” means the Defendant’s board members, executives, family members and business partners during the Class Periods as well as any member of the pending U.S. Proceeding;
- (g) “**New Jersey Declaratory Judgment Lawsuit**” means *GMO Trust, et al. v. Bausch Health Companies Inc.*, No. SOM-C-12010-22 Superior Court of New Jersey, Chancery Division);

- (h) “**Opt-Out Litigation**” means the investors that opted out of the *Valeant Securities Litigation* to pursue their individual claims against BHC because they were unsatisfied with the value of the Valeant Securities Litigation Settlement:

*Canadian Opt-Out Litigation*

- BlackRock Asset Management Canada Limited (Court No. 500-11-054155-185);
- BlackRock Asset Management Canada Limited (Court No. 500-17-103749-183);
- California State Teachers’ Retirement System (Court No. 500-11-055722-181);
- California State Teachers’ Retirement System (Court No. 500-17-106044-186);
- The Bank of Korea (Court No. 21-006589666-0000);
- The Canada Life Assurance Company (Court No. 21-006589666-0000);
- GIC Private Ltd. (Court No. 21-006589666-0000);
- MEAG Munich ERGO Kapitalanlagegesellschaft MbH (Court No. 21-006589666-0000).

*U.S. Opt-Out Litigation*

- T. Rowe Price Growth Stock Fund, Inc. (Case No. 16-cv-5034);
- T. Rowe Price Global Equity Fund. (Case No. 16-cv-6127);
- Principal Funds, Inc. (Case No. 16-cv-6128);
- BloombergSen Partners Fund LP (Case No. 16-cv-7212);
- Discovery Global Citizens Master Fund, Ltd. (Case No. 16-cv-7321);
- MSD Torchlight Partners, L.P. (Case No. 16-cv-7324);
- BlueMountain Foinaven Master Fund, L.P. (Case No. 16-cv-7328);
- Incline Global Master LP (Case No. 16-cv-7494);
- VALIC Company I (Case No. 16-cv-7496);
- Janus Aspen Series (Case No. 16-cv-7497);
- Okumus Opportunistic Value Fund, LTD (Case No. 17-cv-6513);
- Lord Abbett Short Duration Income Fund(Case No. 17-cv-6365);
- Pentwater Equity Opportunities Master Fund LTD (Case No. 17-cv-7552);
- Public Employees’ Retirement System of Mississippi (Case No. 17-cv-7625);
- The Boeing Company Employee Retirement Plans Master Trust (Case No. 17-cv-7636);
- State Board of Administration of Florida (Case No. 17-cv-12808);
- The Regents of the University of California (Case No. 17-cv-13488);
- GMO Trust (Case No. 18-cv-0089);
- Första AP Fonden (Case No. 17-cv-12088);
- New York City Employees’ Retirement System (Case No. 18-cv-0032);
- Hound Partners Offshore Fund (Case No. 18-cv-08705);

- Blackrock Global Allocation Fund, Inc. (Case No. 18-cv-0343);
- Commonwealth Global Shares Fund 1 (Case No. 18-cv-0383);
- Bharat Ahuja (Case No. 18-cv-0846);
- Brahman Capital Corp. (Case No. 18-cv-0893);
- The Prudential Insurance Company of America (Case No. 18-cv-01223);
- Senzar Healthcare Master Fund LP (Case No. 18-cv-02286);
- 2012 Dynasty UC LLC (Case No. 18-cv-08595);
- Catalyst Dynamic Alpha Fund (Case No. 18-cv-12673);
- Northwestern Mutual Life Insurance Co. (Case No. 18-cv-15286);
- Bahaa Aly, et al. (Case No. 18-cv-17393);
- Office of the Treasurer as Trustee Connecticut Retirement Plans (Case No. 19-cv-18473);
- Delaware Public Employees' Retirement System (Case No. 19-cv-18475);
- Maverick Neutral Levered Fund (Case No. 20-cv-02190);
- Templeton (Case No. 20-cv-05478);
- USAA Mutual Funds Trust, et al. (Case No. 20-cv-07462);
- GIC Private Ltd. (Case No. 20-cv-07460).

- (i) “**Valeant Securities Litigation**” and “**Valeant Securities Litigation Settlement**” means the shareholder class actions identified as *Catucci c. Valeant Pharmaceuticals International Inc.*, No. 500-06-000783-163, and *Laura Potter, et al. v. Valeant Pharmaceuticals International, Inc.*, U.S. Federal District Court for the District of New Jersey, 15-cv-07658.

## CAUSES OF ACTION

2. The causes of action asserted by the Plaintiff, on behalf of himself and the Classes in this proceeding, are:

- (a) Common law secondary market misrepresentations with two alternative elections of damages; and,
- (b) If Part XXIII.1, s. 138.8 of the *OSA* is granted, statutory secondary market negligent misrepresentations, pursuant to Part XXIII.1, s. 138.3 of the *OSA*.

## RELIEF CLAIMED

3. The Plaintiff claims on his own behalf and on behalf of the members of the Classes, subject to further disclosures and discovery:

- (a) a declaration that BHC is a “responsible issuer” as defined within the *OSA*;
- (b) a declaration that the impugned documents released by the Defendants contained misrepresentations related to the Company’s business, operations and finances because the documents omitted material facts;
- (c) an order pursuant to s. 5 of the *CPA* certifying this action as a class proceeding and appointing him as the representative plaintiff for the Classes advancing the causes of action identified herein;
- (d) subject to common law and Part XXIII.1 of the *OSA*, damages in a sum to be determined, or such other sum as this Court finds appropriate at the trial of the common issues or at a reference or references;
- (e) an order directing a reference or giving such other directions as may be necessary to determine issues not determined in the trial of the common issues;
- (f) prejudgment and post-judgment interest, compounded, or pursuant to ss. 128 and 129 of the *CJA*;
- (g) costs of this action, plus, pursuant to s. 26(9) of the *CPA*, the costs of administering the plan of distribution of the recovery in this action; and
- (h) such further and other relief that this Honourable Court deems just.

## NATURE OF THIS ACTION

4. BHC is the successor company to Valeant Pharmaceuticals International, Inc. (“Valeant”). During the mid-2010’s, Valeant was subject to numerous securities fraud investigations relating to accounting irregularities by the U.S. Attorney’s Office for the Southern District of New York, Securities and Exchange Commission in the United States, and the Autorité des Marchés Financiers in Quebec. It was also the target of shareholder class actions in Canada and the United States.

5. On November 16, 2020 (Quebec) and January 31, 2021 (United States), and only after substantial discovery of records and examinations, as well as expert evidence relating to the measure of damages to investors, Valeant received court orders for final approval to settle shareholder class action litigation in Canada and the United States, identified as *Catucci c. Valeant Pharmaceuticals International Inc.* and *Laura Potter, et al. v. Valeant Pharmaceuticals International, Inc.*, for over USD \$1.2 billion dollars (i.e., the *Valeant Securities Litigation Settlement*).

6. At this time, BHC was aware of the identification of the investors that chose to opt-out of the *Valeant Securities Litigation Settlement* (the “opt-out investors”) to continue to seek heightened damages from BHC in amounts equal to or greater than BHC’s market capitalization (excluding its then subsidiaries that it was then seeking to spin-out of BHC).

7. Based upon the opt-out forms submitted in the *Valeant Securities Litigation Settlement* and its knowledge of the range of per-share damages learned from the class actions, BHC knew, or was negligent in not recognizing, that the opt-out investors’ damages equaled approximately the value of BHC’s goodwill (excluding B+L which it was spinning out of BHC), or approximately 100% of its available cash.

8. This information was not generally publicly available, if at all, but BHC knew these material facts as well as the strengths of the claims against it because it had spent years litigating the *Valeant Securities Litigation* and had already lost multiple motions to dismiss those class actions, which were based upon substantial amounts of documentary and testimony given under oath.

9. Despite all this information, including this the contingent financial exposure of this opt-out investors' litigation exceeding USD \$4 billion dollars (and which range BHC could have determined by simply reviewing the expert reports in the *Valeant Securities Litigation* and the opt-out investors' opt-out forms), BHC released statements within its core and non-core documents that while there were some lingering opt-outs claims from the *Valeant Securities Litigation Settlement*, their claims were not a material risk to BHC.

10. As the Class Period evolved, BHC began including an increasing number of material facts about these opt-out investors and their litigation became public (e.g., the identification of the investors, that motions to dismiss the claims were denied, and that there were motions to dismiss the investors' claims in the *New Jersey Declaratory Judgment Lawsuit* in order to leave BHC financially unable to finance the opt-out investors' claims, etc.).

11. Commencing April 3, 2023, there were a number of statements that corrected BHC's original statements to the markets that opt-out investors' litigation (and BHC's attempt to spin-out B+L may have been fraudulently conducted) were insignificant/non-material:

(a) On **April 3, 2023**, the motion to dismiss the *New Jersey Declaratory Judgment Lawsuit* was denied which more accurately exposed BHC's financial risks to the Opt-Out Litigation. BHC's share price on when BHC published this information the TSX dropped from \$10.00 to \$8.00; and



(b) On **May 2, 2024**, it was announced that BHC's summary judgement motion in the U.S. Opt-Out Litigation was denied and, thereby, more accurately exposed BHC's financial risks to the Opt-Out Litigation. BHC's share price on the TSX dropped from \$12.03 to \$9.74, within several trading days of this news.

12. The Plaintiff and putative Classes suffered a foreseeable economic loss from the market impact of the Public Corrective Disclosures.

#### **THE PLAINTIFF**

13. The Plaintiff is located in the City of Ottawa, Ontario, Canada. On August 12, 2020, December 10, 2020, January 29, 2021, February 10, 2021, March 23, 2021, May 4, 2021, and May 27, 2024, and in relying upon the Company's core and non-core documents to make investment decisions to purchase *and hold* BHC's securities listed on the TSX, had he known of the potential cost of the opt-out litigation exposure he would not have purchased BHC's securities on these dates.

14. The Plaintiff:

- (a) has disclosed a cause of action for common law negligent misrepresentations seeking damages for (i) purchasing shares at artificially high prices during Class Period; and (ii) being misled into holding shares of BHC when BHC faced a known litigation liability until after the date that the Defendants' released statements that correctively disclosed the material facts about the litigation liability;
- (b) in good-faith believes that there are more than several similarly situated investors like him, i.e., that purchased BHC's shares at artificially high prices and/or held said shares during a period prior to the release of the Public Corrective Disclosures;

- (c) in good-faith believes that he shares the same common issues as other similarly situated investors;
- (d) in good-faith believes that a class proceeding would be the preferable procedure for the resolution of the common issues, and specifically, for the Canadian, causes of action advanced herein; and
- (e) in good-faith retained Class Counsel who are experienced in Canadian and U.S. shareholder class action litigation that can adequately represent him and the putative members of the Classes, can produce the same type of Litigation Plan in other similar shareholder class actions; and does not believe that there are any conflicts of interest with the putative members of the Classes.

#### **THE DEFENDANT**

##### ***Bausch Health Companies, Inc.***

15. Bausch Health Companies Inc. (f/k/a, Valeant Pharmaceuticals International Inc.) is a global diversified pharmaceutical company that develops, manufactures and markets a range of products primarily in gastroenterology, hepatology, neurology, dermatology, medical aesthetic devices, international pharmaceuticals and eye health, through its controlling interest in Bausch + Lomb. BHC's common shares, which have a CUSIP identifier number 91911K, were listed under the ticker symbols: (a) NYSE: "BHC", (b) TSX: "BHC"; and (c) numerous alternative exchanges in Europe.

##### ***Directors and Officers***

16. Joseph Papa was BHC's former Chief Executive Officer and he signed the impugned core documents up to May 2022, and made numerous impugned non-core statements.

17. Thomas Appio, became BHC's Chief Executive Officer after Mr. Papa and he too signed the impugned core documents up to May 2022, and made numerous impugned non-core statements.

#### **THE TOTAL MIX OF INFORMATION AND PUBLIC CORRECTIVE DISCLOSURES**

18. Prior to the Class Period, BHC reported that it had settled with court orders the *Valeant Securities Litigation Settlement* in Canada and the United States for over USD \$1.2 billion dollars:

(a) On August 6, 2020, BHC reported, "We had to get through all these legacy issues that were part of what we faced as a company... The class action lawsuit, both in United States and Canada, the SEC, Philidor accounting. Great news is that those [class actions] are now behind us.... We resolved those legacy legal issues;" and

(b) On March 9, 2021, BHC reported, "That's behind us as so-called risk,... So we're in good shape with that,..." and downplayed the opt-out investor litigation, "we still have a couple of opt outs that we have to work our way through."

19. As alleged herein, BHC's above statements were negligently made because they omitted material facts to allow investors to make their own decisions about the risks associated with investing in BCH, i.e., the quantum of damages and all the identification of the opt-out investors, that claims had merit because BHC was previously unsuccessful in getting the *Valeant Securities Litigation* class actions dismissed, and that a court denied BHC's motion to dismiss the *New Jersey Declaratory Judgment Lawsuit* (i.e., underscoring the strength and size of the opt-out investors' litigation).

20. On **August 6, 2020**, BHC announced its intention to spin-out B+L into an independent publicly traded entity.

21. On **November 3, 2020**, BHC released its 3Q MD&A/financial statements and with respect to the opt-out actions it reported that:

*U.S. Opt-out Securities Litigation*

- There were 30 opt out lawsuits filed against it in the U.S. Federal District Court for the District of New Jersey;
- Identification of the investors' names but not damages being sought.

*Canadian Securities Litigation (Ontario and Quebec)*

- On April 12 and June 18, 2018, BlackRock Asset Management Canada served two opt-out pleadings against BHC;
- On February 15, 2019, California State Teachers' Retirement System served an opt-out pleading against BHC.

22. This core document negligently omitted material fact that BHC had already known the identification of all the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

23. On **February 24, 2021**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its F/2020 MD&A and financial statements and with respect to the opt-out actions it reported:

*U.S. Opt-out Securities Litigation*

- There were 25 opt out lawsuits filed against it in the U.S. Federal District Court for the District of New Jersey;
- Identification of the investors' names but not damages being sought.

*Canadian Securities Litigation (Ontario and Quebec)*

- BHC did not provide any additional information to the market.

24. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

25. On **May 4, 2021**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its Q1 2021 MD&A and financial statements and with respect to the opt-out actions it reported:

*U.S. Opt-out Securities Litigation*

- There were 25 opt out lawsuits filed against it in the U.S. Federal District Court for the District of New Jersey;
- Identification of the investors' names but not damages being sought.

*Canadian Securities Litigation (Ontario and Quebec)*

- BHC did not provide any additional information to the market.

26. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

27. On **November 2, 2021**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 3Q 2021 MD&A and financial statements and with respect to the opt-out actions it reported:

*U.S. Opt-out Securities Litigation*

- There were 25 opt out lawsuits filed against it in the U.S. Federal District Court for the District of New Jersey;
- While BHC identified the opt-out investors' identifications, it continued to omit the quantum of damages being sought.

*Canadian Securities Litigation (Ontario and Quebec)*

- On March 17, 2021, four additional opt-out investors issued claims against BHC in Ontario, but only The Bank of Korea was identified, the disclosure omitting the identification of the 3 other opt-out investors and that they were seeking general damages of \$250 million and aggravated damages in the amount of \$150 million;

- BHC continued to omit the quantum of damages being sought in the Quebec opt-out investors' litigation.

28. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

29. On **February 23, 2022**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its F/2021 audit financial statements and MD&A and with respect to the opt-out actions it reported:

#### *LEGAL PROCEEDINGS*

- Accrued current loss contingencies of \$1.89 billion related to matters which the Company believes a potential resolution or settlement is both probable and reasonable;

#### *U.S. Opt-out Securities Litigation*

- There were 21 opt out lawsuits filed against it in the U.S. Federal District Court for the District of New Jersey;

- While BHC identified the opt-out investors' identifications, it continued to omit the quantum of damages sought.

#### *Canadian Securities Litigation (Ontario and Quebec)*

- On March 17, 2021, four additional opt-out investors issued claims against BHC in Ontario, but only The Bank of Korea was identified, the disclosure omitting the identification of the 3 other opt-out investors and that they were seeking general damages of \$250 million and aggravated damages in the amount of \$150 million;

- BHC continued to omit the quantum of damages sought in the Quebec opt-out investors' litigation.

30. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars, including that \$1.89 billion was negligently assigned or reported to the markets and members of the Class.

31. On May 10, 2022, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 1Q 2022 MD&A and financial statements and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

On March 24, 2022, the Company and Bausch + Lomb were named in a declaratory judgment action in the Superior Court of New Jersey, Somerset County, Chancery Division, brought by certain individual investors in the Company's common shares and debt securities who are also maintaining individual securities fraud claims against the Company and certain current or former officers and directors as part of the U.S. Securities Litigation. This newly filed action seeks a declaratory judgment that the transfer of the Company assets to Bausch + Lomb would constitute a voidable transfer under New Jersey's Uniform Voidable Transactions Act and that Bausch + Lomb would become liable for damages awarded against the Company in the individual opt-out actions. The declaratory judgment action alleges that a transfer of assets from the Company to Bausch + Lomb would leave the Company with inadequate financial resources to satisfy these plaintiffs' alleged securities fraud damages in the underlying individual opt-out actions.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

32. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

33. On the corresponding investor conference call, BHC's former Chairman and Chief Executive Officer Joseph Papa negligently stated that BHC disagreed with media reports relating

to the potential financial risk of the opt-out litigation, i.e., that the value of the claims far exceed the cost of the *Valeant Securities Litigation Settlement*.

34. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

35. On **August 9, 2022**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 2Q MD&A and financial statements and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

- No additional material facts were disclosed.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

36. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

37. On the corresponding investor conference call, BHC's former Chairman and Chief Executive Officer Joseph Papa negligently stated that BHC disagreed with media reports relating to the potential financial risk of the opt-out litigation, i.e., that the value of the claims far exceeded the cost of the *Valeant Securities Litigation Settlement*.



38. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

39. On **November 3, 2022**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 3Q MD&A and financial statements and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

- No additional material facts were disclosed.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

40. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

41. On the corresponding investor conference call, BHC's former Chairman and Chief Executive Officer Joseph Papa negligently stated that BHC disagreed with media reports relating to the potential financial risk of the opt-out litigation, i.e., that the value of the claims far exceeded the cost of the *Valeant Securities Litigation Settlement*.

42. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal

views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

43. On **May 2, 2023**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 1Q 2023 MD&A and financial statements and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

This action seeks a declaratory judgment that alleged transfers of certain Company assets to Bausch + Lomb would constitute a voidable transfer under the New Jersey Voidable Transactions Act and that Bausch + Lomb would be liable for damages, if any, awarded against the Company in the individual opt-out actions. The declaratory judgment action alleges that the future potential separation of Bausch + Lomb from the Company by distribution of Bausch + Lomb stock to the Company's shareholders would leave the Company with inadequate financial resources to satisfy these plaintiffs' alleged securities fraud damages in the underlying individual opt-out actions.

On April 3, 2023, the court issued a decision granting in part and denying in part the motion to dismiss.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

And, multiple sources

- BHC's motion to dismiss the *New Jersey Declaratory Judgment Action* was denied.

44. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

45. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal

views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

46. As a direct and foreseeable result of this news about the *New Jersey Declaratory Judgment Lawsuit*, BHC share price dropped from \$10.00 to \$8.00.

47. On **August 3, 2023**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 2Q MD&A and financial statements and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

- No additional material facts were disclosed.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

48. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

49. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

50. On **November 2, 2023**, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its 3Q MD&A and financial statement and with respect to the opt-out actions it reported:

*New Jersey Declaratory Judgment Litigation*

- No additional material facts were disclosed.

*U.S. Opt-out Securities Litigation*

- No additional material facts were disclosed.

*Canadian Securities Litigation*

- No additional material facts were disclosed.

51. This core document negligently omitted material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars.

52. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

53. On the corresponding investor conference call, BHC's former Chairman and Chief Executive Officer Joseph Papa negligently stated that BHC disagreed with media reports relating to the potential financial risk of the opt-out litigation, i.e., that the value of the claims far exceeded the cost of the *Valeant Securities Litigation Settlement*.

54. BHC and its representatives made a decision or negligently omitted not to disclose the quantum of shares purchased by the opt-out investors, their demanded damages, or BHC's internal views of the scope of damages from its own economists against the opt-out litigants' pleadings and opt-out forms from the *Valeant Securities Litigation Settlement*.

55. On May 2, 2024, BHC updated the total mix of information to the market about its Litigation Liabilities by releasing its IQ 2024 MD&A and financial statements and with respect to the opt-out actions it reported, generally, the material facts:

*New Jersey Declaratory Judgment Litigation*

- No additional material facts were disclosed.

*U.S. Securities Litigation - Opt-Out Litigation*

- On January 2, 2024, the District Court issued decisions affirming in part and overruling in part the Special Master's recommendations and granting partial summary judgment in favor of defendants on additional subparts of their defenses. On January 16, 2024, Plaintiffs filed a motion requesting that the Court reconsider a portion of its January 2, 2024 decisions. No defendants have been fully dismissed from the opt-out actions as a result of the District Court's decisions. On April 22, 2024, the Court issued an order that the GMO Trust case will be the first of the opt-out cases to be tried, and setting the GMO Trust case for a trial to begin on September 4, 2024. (Emphasis added)

*Canadian Securities Litigation*

- No additional material facts were disclosed.

56. This core document disclosed material facts that BHC had already known the identification of the opt-out investors and the number of shares they were seeking damages for, and that those damages exceeded USD \$4 billion dollars, and that during 2016 through March 2021, opt-out plaintiffs had issued pleadings in Ontario and Quebec as well as the U.S. Federal District for the District of New Jersey.

**COMMON LAW**

57. The directors of BHC had a special relationship with its investors, including the members of the Class because, among other reasons, the directors were voted into their position of authority and control at BHC by the investors and certain members of the Board and other executives consented to BHC publishing the impugned documents.

58. A duty of care was owed to the Class Members to ensure the impugned documents did not contain misrepresentations, including that the material facts reported therein that the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented and consistent with in accordance with the standards of the Public Company Accounting.

59. The Plaintiff relied upon the material fact statements within the Impugned Documents and in other related non-core documents/statements released on SEDAR and BHC's website in making a decision to purchase the Defendant's securities and to hold all of those securities until the release of the Public Corrective Disclosures.

60. It was reasonable for members of the Class to rely upon the Defendant's core documents in making decisions to invest and to believe that the price or value of the Defendant's securities would go up in price or values.

61. The impugned documents contain misrepresentations of material fact relating to the opt-out investors' litigation resulting in members of the Class taking on undisclosed risks about investing in BHC not knowing the corrective risks until after the release of the Public Corrective Disclosures (which information was known to BHC prior to the release of the Public Corrective Disclosures but negligently omitted from its core and non-core documents/disclosures).

62. The Defendant, i.e., through its directors and officers, breached the applicable standard of care as set out above by negligently monitoring the opt-out litigation, negligently reporting on the opt-out litigation, having the material facts but negligently reporting them within the impugned documents and statements by omitting material facts during the Class Period which were publicly corrected with the release of the Public Corrective Disclosures, to be determined during discovery,

negligently reporting the accuracy of BHC's financial statements and corresponding business operations and financials, and misrepresenting that the Company's financial statements could be relied upon.

63. The Plaintiff and members of the Class suffered a direct and foreseeable economic injury by purchasing the Defendant's securities at a time when the investment price and value was artificially inflated and holding all or some of the artificially priced securities until after the Defendant released the Public Corrective Disclosures.

#### **ONTARIO SECURITIES ACT**

64. BHC is a reporting and responsible issuer subject to the continuous disclosure requirements of the OSA.

65. Subject to s. 138.8 of the OSA and the three-year limitation of s. 138.14, the Plaintiff will advance the s. 138.3 of the OSA cause of action *nunc pro tunc* to today's date.

66. Subject to s. 138.5 of the OSA, the Plaintiff will seek damages.

#### **REAL AND SUBSTANTIAL CONNECTION WITH ONTARIO**

67. The Plaintiff pleads that this action has a real and substantial connection with Ontario and for the application of Ontario substantive and procedural laws on behalf of all Class Members for the following non-exhaustive reasons:

- (a) BHC is a responsible issuer in Ontario;
- (b) The Plaintiff and members of the Class are residents of Canada;
- (c) The Plaintiff and members of the Class purchased shares of BHC in Ontario.

**RELEVANT LEGISLATION, PLACE OF TRIAL AND JURY TRIAL**

68. The Plaintiff pleads and relies upon the *CJA, CPA, OBCA*, as well as the Ontario *Securities Act*.

69. The Plaintiff proposes that this action be tried in the City of Ottawa, in the Province of Ontario, as a proceeding under the *CPA*.

70. The Plaintiff may serve a jury notice.

**BERGER MONTAGUE (CANADA) PC**  
330 Bay Street, Suite 505  
Toronto, Ontario, M5H 2S8  
Tel: (647) 576-7840

**Andrew Morganti** (LSO#: 57895E)  
[amorganti@bm.net](mailto:amorganti@bm.net)

*Lawyer for the Plaintiff*



Court File No.: CU-24-98326-G

**CHENGWEN REN**  
Plaintiff

and

**BAUSCH HEALTH COMPANIES, INC. et al**  
Defendants

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**PROCEEDINGS COMMENCED AT OTTAWA**

**STATEMENT OF CLAIM**

**BERGER MONTAGUE (CANADA) PC**  
330 Bay Street, Suite 505  
Toronto, Ontario, M5H 2S8  
Tel: (647) 576-7840

**Andrew Morganti** (LSO# 57895E)  
[amorganti@bm.net](mailto:amorganti@bm.net)

*Lawyers for the Plaintiff*