

(Class Action)
SUPERIOR COURT

C A N A D A
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-06-000798-161

DATE: July 13, 2017

PRESIDING: THE HONOURABLE JUSTICE STÉPHANE SANSEFAÇON, J.C.S.

STÉPHANIE J. BENABU

Applicant

v.

VIDÉOTRON S.E.N.C.

and

TELUS COMMUNICATIONS COMPANY

and

TELUS COMMUNICATIONS INC.

and

SHAW MEDIA INC.

and

AMAZON.COM LLC ET ALS.

Defendants

**JUDGMENT TO DISCONTINUE THE PUTATIVE CLASS ACTION
AGAINST TELUS COMMUNICATIONS COMPANY, TELUS COMMUNICATIONS INC.,
SHAW MEDIA INC. AND AMAZON.COM LLC**

500-06-000798-161

- [1] On July 4th, 2016, Applicant Stéphanie J. Benabu filed an *Application to authorize the bringing of the class action and to be appointed the status of representative Plaintiff* seeking to represent the following class:

“Class:

Every consumer, pursuant to the terms of Quebec’s Consumer Protection Act (“CPA”), who since July 4th, 2013 (the “Class Period”), was provided services or goods at a reduced price (the “Reduced Price”), for a fixed period (the “Fixed Period”), by any of the Defendants, and who, after the Fixed Period, was required to send a notice to any of the Defendants indicating that he/she does not wish to obtain the services or goods at the regular price (the “Regular Price”);

(hereinafter referred to as the “Class”)

Subclass:

Every consumer, pursuant to the terms of Quebec’s Consumer Protection Act (“CPA”), who since July 4th, 2013 (the “Class Period”), was provided services or goods free of charge, for a fixed period (the “Fixed Period”), by any of the Defendants, and who, after the Fixed Period, was required to send a notice to any of the Defendants indicating that he/she does not wish to obtain the services or goods at the regular price (the “Regular Price”);

(hereinafter referred to as “Subclass”)

or any other Class to be determined by the Court;”

- [2] On or about June 23, 2017, the Applicant filed three separate Applications for authorization to discontinue the putative class action against Telus Communications Company, Telus Communications Inc., Shaw Media Inc. and Amazon.com LLC (Arts. 213 and 585 C.C.P.);
- [3] The reasons alleged in the above-mentioned *Application for authorization to discontinue against Defendants Telus Communications Company and Telus Communications Inc.* are:
- a. Google Inc. is one of the Defendants in the Applicant’s proposed class action, as it appears from the Court record, as well as from Exhibit P-31;
 - b. Given that the service described in Exhibit P-17 is provided by Google Inc., for a price determined by Google Inc., it appears that the presence of the Telus Defendants is not required, as these claims will be pursued against Google Inc;
- [4] The reason alleged in the above-mentioned *Application for authorization to discontinue against Defendant Shaw Media Inc.* is:
- a. Applicant learnt that as of July 4th, 2016, the Quebec enterprise register (CIDREQ)

500-06-000798-161

had not yet been updated to show that Shaw Media Inc. was no longer a partner forming part of Defendant Shomi Partnership, as was alleged at paragraph 153 of the Authorization Application;

- [5] The reasons alleged in the above-mentioned *Application for authorization to discontinue the putative class action against Amazon.com LLC* are:
- a. Applicant Benabu's cause of action and that of the putative class members against Defendant Amazon.com LLC ("Amazon") calls into question the alleged free trial offered by Amazon to Quebec residents to its Amazon Prime Program during the Class Period;
 - b. It is alleged at paragraph 147 of the Application for Authorization that "*at some point around 2014-2015 it [Amazon] ceased providing free trial offers to Quebec residents..., Applicant disclosing Exhibit P-26*";
 - c. Moreover, it is stated at paragraph 148 of the Application for Authorization that Amazon "*now adheres to the CPA by offering the free month as a bonus of sort*";
 - d. On or about December 6, 2016, Amazon filed a *Motion for leave to adduce relevant evidence* (the "Motion") as it appears from the Court record;
 - e. As per this Motion, Amazon has demonstrated to Applicant and Applicant's Counsel that it had never changed its Amazon Prime offer for Quebec residents during the entire Class Period and that it has always offered a 13-month Amazon Prime membership whereby the first 30 days were at no charge to Quebec residents;
 - f. In support of its Motion, Amazon filed the documentary evidence identified as Exhibits A-1 to A-3 which refute the allegations made by Applicant in the Application for Authorization, including the allegations at paragraphs 147 and 149;
- [6] Based on the above, it is not in the Applicant's best interest nor in the best interest of the putative class members and in the interest of justice to continue the Application for Authorization against Defendant Amazon.com LLC;
- [7] Defendants Telus Communications Company, Telus Communications Inc., Shaw Media Inc. and Amazon.com LLC do not contest the present *Application for authorization to discontinue the putative class action*, without costs;
- [8] Counsel for Applicant agrees to publish the present judgment on its website www.lpclex.com;
- [9] The Court finds the discontinuances to be in the interest of justice;

FOR THESE REASONS, THE COURT:

- [10] **GRANTS** the Applicant's Applications for authorization to discontinue the putative class action against Telus Communications Company, Telus Communications Inc., Shaw Media Inc. and Amazon.com LLC;
- [11] **AUTHORIZES** the Applicant to file discontinuances in favor of Telus Communications Company, Telus Communications Inc., Shaw Media Inc. and Amazon.com LLC within ten (10) days following the date of the present judgment;
- [12] **ORDERS** the publication of the present judgment on the website www.lpclex.com;
- [13] Without costs.



JUSTICE STÉPHANE SANSSAÇON, J.C.S.

Mtre Joey Zukran
LPC Avocat Inc.
Attorney for Applicant

Mtre Paule Hamelin
Gowling WLG (Canada), S.E.N.C.R.L.
Attorneys for Defendant Amazon.com LLC

Mtre Yves Martineau
Mtre Matthew Angelus
Stikeman Elliott, s.e.n.c.r.l.
Attorneys for Telus Communications Company and Telus Communications Inc.