

(Class Action)
Superior Court

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-06-000754-156

DATE: FEBRUARY 6th, 2018

PRESENT: THE HONORABLE KIRKLAND CASGRAIN, J.S.C.

STEVE ABIHSIRA

Applicant

v.

STUBHUB, INC.

EBAY, INC.

VIVID SEATS, LLC.

SEATGEEK, INC.

FANXCHANGE LIMITED

TICKETNETWORK, INC.

RAZORGATOR, INC.

TICKETCITY, INC.

UBERSEAT

TICKETMASTER CANADA LTD.

TICKETMASTER CANADA ULC

TICKETMASTER CANADA HOLDINGS ULC

TICKETMASTER LLC

TNOW ENTERTAINMENT GROUP, INC.

VIAGOGO AG

Defendants

CORRECTED JUDGMENT

(on a consolidated application for authorization to institute a class action against ticketmaster canada ltd., ticketmaster canada ulc, ticketmaster canada holdings ulc, ticketmaster llc and tnow entertainment group, inc., for settlement purposes and for approval of notices to class members of a settlement approval hearing)

[1] **CONSIDERING** the *3rd Re-Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* filed by Applicant on February 20th, 2017 against Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc. and others on behalf of the following proposed Class (the "**Class Members**"):

Class:

Every consumer, pursuant to the terms of Quebec's Consumer Protection Act ("**CPA**"), residing in Quebec at the time of purchase, who since August 28th, 2012 (the "**Class Period**"), while physically located in Quebec, has purchased from any of the Respondents at least one "**Ticket**" (as defined in section 236.1 CPA as meaning any document or instrument that upon presentation gives the ticket holder a right of entry to a show, sporting event, cultural event, exhibition or any other kind of entertainment) either:

- (a) at a price above that announced by the vendor authorized to sell the Tickets by the producer of the event; and/or,
- (b) who paid a price higher than the price advertised by Respondents on their respective websites and/or mobile applications (at the first step), excluding the Quebec sales tax or the Goods and Services Tax;



[2] **CONSIDERING** the transaction executed between the Applicant and Defendants Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc. on December 15, 2017 and December 19th, 2017 filed as Exhibit TMR-1 (the "**Settlement Agreement**");

[3] **CONSIDERING** the *Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing* (the "**Consolidated Application**");

[4] **CONSIDERING** that pursuant to the Consolidated Application, the Applicant is asking the Court to authorize the class action against Defendants Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC,

Ticketmaster LLC and TNOW Entertainment Group, Inc. for settlement purposes only and to approve notices informing the Class Members that the Settlement Agreement will be submitted to the Court for approval;

- [5] **CONSIDERING** the proposed French and English versions of the pre-approval notice filed respectively *en liasse* as Exhibit TMR-2A in support of the Consolidated Application;
- [6] **CONSIDERING** the submissions of counsel for the Applicant and counsel for the Defendants Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc. who consents to the Consolidated Application;
- [7] **CONSIDERING** that the criteria set out in article 575 of the *Code of Civil Procedure* to authorize a class action are applied with flexibility when the authorization of the class action is sought for settlement purposes¹;
- [8] **CONSIDERING** that the Court is of the opinion that the four criteria set out in article 575 of the *Code of Civil Procedure* to authorize a class action are met at this stage, namely that:
- (1) the claims of the members of the class raise identical, similar or related issues of law or fact;
 - (2) the facts alleged appear to justify the conclusions sought;
 - (3) the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and
 - (4) the class member appointed as representative plaintiff is in a position to properly represent the class members.
- [9] **CONSIDERING** articles 575, 576, 579, 580, 581 and 590 of the *Code of Civil Procedure*;

FOR THESE REASONS, THE COURT:

- [2] **GRANTS** the *Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing*;
- [3] **AUTHORIZES** Applicant, for the purpose of settlement against Defendants Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc., to amend as follows the Class description in the "3rd Re-Amended Application to

¹ *Dupuis c. Polyone Canada inc.*, 2016 QCCS 2561 (CanLII), par. 9.

Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff:

In English:

All consumers within the meaning of the CPA residing in Quebec at the time of purchase who between June 23rd, 2013 and May 24, 2017 purchased, for an event in the province of Quebec, while physically located in Quebec, at least one (1) Ticket with the use of a computer or mobile device through either the www.ticketmaster.ca website or using one of the Settling Defendants' mobile applications, on the primary market;

In French:

Tout consommateur au sens de la Loi sur la Protection du Consommateur, résidant et physiquement présent au Québec au moment de l'achat qui, entre le 23 juin 2013 et le 24 mai 2017 ont effectué l'achat d'au moins un (1) Billet sur le marché primaire, pour un évènement tenu dans la province de Québec au moyen d'un ordinateur ou d'un appareil mobile, soit sur le site web www.ticketmaster.ca ou par l'entremise de l'une des applications mobiles des Défendeurs partie au Règlement.

[4] **AUTHORIZES** the bringing of a class action against Defendants Ticketmaster Canada Ltd., Ticketmaster Canada ULC, Ticketmaster Canada Holdings ULC, Ticketmaster LLC and TNOW Entertainment Group, Inc. for settlement purposes only;

[5] **APPOINTS** Applicant Steve Abihira the status of Representative Plaintiff of the persons included in the group hereinafter described:

In English:

All consumers within the meaning of the CPA residing in Quebec at the time of purchase who between June 23rd, 2013 and May 24, 2017 purchased, for an event in the province of Quebec, while physically located in Quebec, at least one (1) Ticket with the use of a computer or mobile device through either the www.ticketmaster.ca website or using one of the Settling Defendants' mobile applications, on the primary market;

In French:

Tout consommateur au sens de la Loi sur la Protection du

Consommateur, résidant et physiquement présent au Québec au moment de l'achat qui, entre le 23 juin 2013 et le 24 mai 2017 ont effectué l'achat d'au moins un (1) Billet sur le marché primaire, pour un évènement tenu dans la province de Québec au moyen d'un ordinateur ou d'un appareil mobile, soit sur le site web www.ticketmaster.ca ou par l'entremise de l'une des applications mobiles des Défendeurs partie au Règlement.

- [6] **IDENTIFIES** the principal question of fact and law to be treated collectively as the following:
- During the Class Period, did Ticketmaster's alleged practice violate paragraph c of section 224 of the *CPA*, and, if so, are Class Members entitled to compensation?
- [7] **APPROVES** the form and content of the pre-approval notice to Class Members, in its French and English version (**Exhibit TMR-2A**);
- [8] **ORDERS** Collectiva Inc. to notify by email the pre-approval notice (**Exhibit TMR-2A**) directly to each Class Member, no later than fifteen (15) days after the judgment on the present application is rendered by the Court;
- [9] **DECLARES** that Class Members who wish to object to Court approval of the Settlement Agreement must do so in the manner provided for in the pre-approval notice (**Exhibit TMR-2A**), on or before March 9th, 2018;
- [10] **DECLARES** that Class Members who wish to opt-out from the class action and the settlements thereof may do so by delivering a written notice confirming their intention to opt-out of this class action, in the manner provided for in the pre-approval notice (**Exhibit TMR-2A**), on or before March 9th, 2018;
- [11] **DECLARES** that all Class Members that have not requested their exclusion be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;
- [12] **APPOINTS** Collectiva Inc. as the Settlement Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement Agreement;
- [13] **ORDERS** the Ticketmaster Defendants to provide the Settlement Administrator such personal information regarding the Class Members as is necessary to implement the Settlement Agreement;
- [14] **ORDERS** that all nominative or personal information provided to the Settlement Administrator regarding a Class Member shall be deemed to be confidential and shall not be disclosed to any other Class Member or third party or used for any purpose other than for Class Counsel and/or Defendants' Counsel to satisfy themselves that the Settlement has been properly administered, except with the

authorization of the Court or with the written consent of the Class Member;

[15] **SCHEDULES** the hearing date for the Application for Approval of the Settlement Agreement filed as Exhibit TMR-1 and of Class Counsel Fees on March 14th, 2018 at 09h00 in room 2.08 of the Montréal courthouse;

[16] **WITHOUT COSTS.**



Kirkland Casgrain, J.C.S.

Mtre Joey Zukran
LPC Avocats
Attorney for the Applicant

Mtre Marie-Louise Delisle, Woods LLP
Attorneys for Ticketmaster Canada Ltd.,
Ticketmaster Canada ULC,
Ticketmaster Canada Holdings ULC, and
TNOW Entertainment Group, Inc.

Mtre Christopher Richter, Torys Law Firm LLP
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