

SUPERIOR COURT

(Class Action Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

COPIE CONFORME
Done par mail, JACS

No: 500-06-000843-173

DATE: October 15, 2020

BY THE HONOURABLE KAREN M. ROGERS, J.S.C.

GIOVANNI PAQUIN

Representative Plaintiff

v.

PROCUREUR GÉNÉRAL DU QUÉBEC / ATTORNEY GENERAL OF QUEBEC

Defendant

-and-

LPC AVOCAT INC.

Representative Plaintiff's Attorneys

JUDGMENT APPROVING THE CLASS ACTION SETTLEMENT AND CLASS COUNSEL FEES

[1] **CONSIDERING** that on August 21, 2018, the Court authorized the class action in the present file on behalf of the following group:¹

All residents, who at any time since March 21, 2015, resided within 350 meters of that section of the Saint-Jacques Street, (including the Saint-Jacques overpass), which runs West to

JR1825

¹ *Berdah c. Procureure générale du Québec / Attorney General of Quebec*, 2018 QCCS 4379.

East, intersecting the West perimeter of Girouard Avenue in the City of Montreal, Borough of Notre-Dame-de-Grâce, and the East perimeter of Decarie Boulevard in the same Borough.

[2] **CONSIDERING** that the Representative Plaintiff alleged that the ministère des Transports du Québec acted negligently and in violation of the rights of Class Members to peaceful enjoyment of their property;

[3] **CONSIDERING** that the Representative Plaintiff alleged that the noise and pollution from the repairs to the Turcot Project have caused Class Members abnormal inconveniences;

[4] **CONSIDERING** that the Defendant, the Attorney General of Quebec, has always denied any wrongdoing or having any liability;

[5] **CONSIDERING** the "Transaction réglant l'action collective" (the "**Transaction**") signed by the parties on October 6, 2020;

[6] **CONSIDERING** that on August 4, 2020, the Court approved the pre-approval notice program contemplated by the Transaction;

[7] **CONSIDERING** that the Representative Plaintiff, Giovanni Paquin, now brings before this Court an *Application to Approve a Class Action Settlement and for Approval of Class Counsel's Fees* (the "**Application for Approval**");

[8] **CONSIDERING** that the Transaction reached between the parties provides for the following notable benefits:

- a) Collective recovery in the form of a settlement fund in the amount of \$168,000 (clause 3);
- b) Compensation in the amount of \$85 per month per person before deductions for 2016 and \$55 per month per person before deductions for 2017 (clauses 13 and 14);
- c) A possible bonus in addition to the compensation above, depending on the take-up rate, up to a maximum of 10% of the gross individual compensation (clause 15);
- d) The compensation could be as much as \$1,167.96 per Class Member;

[9] **CONSIDERING** all the exhibits filed, including Giovanni Paquin's Affidavit and the Affidavit of Line Gamache (ingénieure en génie physique, spécialisée en acoustique, à la Direction de la planification et de la mobilité durable au sein du

Ministère des Transports), as well as Exhibits LG-1 to LG-4 in support of Ms. Gamache's Affidavit;

[10] **CONSIDERING** that the Court finds that the advantages of the Transaction outweigh its disadvantages and that the Transaction is in the best interest of Class Members and of justice, and respects the principle of proportionality;

[11] **CONSIDERING** the guiding principles² for determining whether a transaction should be approved and the Court's findings that:

- a) The legal arguments on whether the Attorney General of Quebec committed a fault and the consequences thereof, if any, are uncertain;
- b) The legal arguments on whether the Attorney General of Quebec is liable towards any of the Class Members are uncertain;
- c) The Attorney General of Quebec denies any liability or wrongdoing. Therefore, the parties would have entered into a contradictory and costly debate involving experts;
- d) The risks of Class Members obtaining no compensation, the expenses, complexity and duration of further litigation weigh in favour of approval;
- e) The Transaction was reached by experienced fully informed counsels after arm's length negotiations following the authorization of the class action;
- f) Following the dissemination and publication of the pre-approval notices, no Class Members have registered any objections to the Transaction, and five Class Members have filed a valid notice to be excluded from the class action;
- g) There is no reason to believe that the parties did not act in good faith or colluded;
- h) The compensation to each eligible Class Member in the amount of \$85 per month per person before deductions for 2016 and \$55 per month per person before deductions for 2017 is beneficial;
- i) The online claim's process is simple. Payments will be sent promptly by Interac e-transfer;
- j) The terms and conditions of the Transaction, including the amounts offered are fair, reasonable and adequate and worthy of approval.

[12] **CONSIDERING** that Class Counsel claims an amount of \$56,100 plus applicable taxes in legal fees and an amount of \$3,500 inclusive of taxes in disbursements;

² *Halfon v. Moose International Inc.*, 2017 QCCS 4300, par. 22.

[13] **CONSIDERING** the role that the Court must play in determining the reasonableness of the fees claimed by Class Counsel;³

[14] **CONSIDERING** the mandate agreement signed by the Representative Plaintiff;

[15] **CONSIDERING** that, in the present matter, the fees requested by Class Counsel are fair and reasonable;

[16] **CONSIDERING** that the amount of \$3,500 (inclusive of taxes) claimed in disbursements is reasonable and justified;

[17] **CONSIDERING** article 590 of the *Code of Civil Procedure*;

PAR CES MOTIFS, LE TRIBUNAL :	FOR THESE REASONS, THE COURT:
[1] ACCUEILLE la demande du Représentant en approbation de la Transaction et pour approbation des honoraires des avocats du groupe;	[1] GRANTS the Representative Plaintiff's <i>Application to Approve a Class Action Settlement and for Approval of Class Counsel's Fees</i> ;
[2] DÉCLARE que les définitions contenues dans la Transaction s'appliquent et sont incorporées au présent jugement, et en conséquence en font partie intégrante, étant entendu que les définitions lient les parties à la transaction;	[2] DECLARES that the definitions set forth in the Transaction apply to and are incorporated into this judgment, and as a consequence shall form an integral part thereof, being understood that the definitions are binding on the parties to the Transaction;
[3] APPROUVE la « Transaction réglant l'action collective » conformément à l'article 590 du <i>Code de procédure civile du Québec</i> , et ORDONNE aux parties de s'y conformer;	[3] APPROVES the Transaction (the " <i>Transaction réglant l'action collective</i> ") as a transaction pursuant to article 590 of the <i>Code of Civil Procedure</i> , and ORDERS the parties to abide by it;
[4] DÉCLARE que la Transaction (incluant son préambule et ses annexes) est juste, raisonnable et qu'elle est dans le meilleur intérêt des Membres du Groupe et qu'elle constitue une transaction en vertu de l'article 2631 du <i>Code civil du Québec</i> , qui lie toutes les parties et tous les Membres du Groupe tel qu'énoncé aux présentes;	[4] DECLARES that the Transaction (including its Preamble and its Schedules) is fair, reasonable and in the best interest of the Class Members and constitutes a transaction pursuant to article 2631 of the <i>Civil Code of Quebec</i> , which is binding upon all parties and all Members Members at set forth herein;
[5] ORDONNE et DÉCLARE que le	[5] ORDERS and DECLARES that this

³ *Pellemans c. Lacroix*, 2011 QCCS 1345, par. 50-54.

présent jugement, incluant la Transaction réglant l'action collective, lie chaque Membre du Groupe;	judgment, including the Transaction, shall be binding on every Class Member;
[6] ORDONNE aux parties de diffuser les avis d'approbation (Annexe 3.2) conformément à la section 2 de l'Annexe 4 de la Transaction, afin d'informer les Membres du Groupe de l'approbation de la Transaction et du délai pour soumettre leurs réclamations;	[6] ORDERS the parties to disseminate the approval notices (Annex 3.2) pursuant to section 2 of Annex 4 of the Transaction, in order to inform the Class Members of the approval of the Transaction and of the delay to submit their claims;
[7] APPROUVE le paiement aux Avocats du Groupe de leurs honoraires extrajudiciaires et débours comme prévus au paragraphe 4 de la Transaction;	[7] APPROVES the payment to Class Counsel of its extrajudicial fees and disbursements as provided for at clause 4 of the Transaction;
[8] APPROUVE le paiement unique de 15 000 \$ plus TPS et TVQ, qui devra être affectée au paiement des honoraires et des dépenses de l'Administrateur des réclamations, conformément au paragraphe 6 de la Transaction;	[8] APPROVES the one-time payment of \$15,000 plus GST & QST, to be used towards payment of the Claims Administrator's fees and costs, pursuant to clause 6 of the Transaction;
[9] ORDONNE aux parties de faire rapport de l'exécution du jugement à l'expiration de la Période de distribution prévue au paragraphe 1r) de la Transaction;	[9] ORDERS the Parties, upon the expiry of the Distribution Period specified at clause 1r) of the Transaction, to render account of the execution of the judgment;
[10] LE TOUT , sans frais de justice.	[10] THE WHOLE , without legal costs.

Karen M Rogers
 KAREN M. ROGERS, J.S.C.

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Hearing date: October 15, 2020