

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action Division)
S U P E R I O R C O U R T

No: 500-06-000709-143

“Les personnes ayant acheté des défenderesses Ameublements Tanguay inc., Meubles Léon Itée, Brault & Martineau inc., Corbeil Électrique inc. Glentel Inc., une garantie prolongée, après le 30 juin 2010, à la suite de la représentation à l'effet que si elles n'achetaient pas cette garantie supplémentaire et qu'un bris survenait après l'expiration de la garantie d'un an du manufacturier, elles devraient assumer le coût des réparations ou du remplacement”

The Class

and

FRANÇOIS ROUTHIER

Representative

v.

AMEUBLEMENTS TANGUAY INC.

and

MEUBLES LÉON LTÉE

and

GROUPE BMTIC INC.

and

GLENTEL INC.

Defendants

S T A T E M E N T O F D E F E N C E
GLENTEL INC.

IN RESPONSE TO THE MODIFIED MOTION TO INSTITUTE PROCEEDINGS AS A CLASS ACTION, THE DEFENDANT GLENTEL INC. STATES AS FOLLOWS:

I. INTRODUCTION

1. The Modified Motion to Institute Proceedings as a Class Action (the “**Claim**”) against the Defendant Glentel Inc. (“**Glentel**”) is unfounded in fact and at law and cannot give rise to the conclusions sought:
 - a) Glentel has not engaged into misrepresentations toward its clients, thus warranting the dismissal of the Claim;
 - b) In the alternative, class membership and the common issues cannot be adjudicated on a class-wide basis, thus warranting the dismissal of the Claim;

II. THE PLAINTIFFS’ ALLEGATIONS

2. With regard to paragraphs 1 to 5 of the Claim, the judgment rendered by the Honourable Pierre Nolle, S.C.J., on September 9, 2016 authorizing the exercise of this class action (the “**Judgment**”) speaks for itself, all else not in conformity therewith being strictly denied, and for further answer thereto Glentel denies any liability whatsoever arising from the Judgment and state that the common issues identified in the Judgment are incapable of any common analysis or resolution;
3. With regard to paragraph 6 of the Claim, Glentel acknowledges the admission that the Class only comprises “consumers” within the meaning of the *Consumer Protection Act* (“**CPA**”), but otherwise denies that it engaged into misrepresentations in the sale of additional warranties to its clients;
4. With regard to paragraph 7 of the Claim, Glentel is aware that the sale of additional warranties in the province of Quebec is captured by the *CPA*, to whichever merchant this statute applies;
5. With regard to paragraph 8 of the Claim, Glentel admits selling additional warranties to its clients, but otherwise denies that it engaged into misrepresentations in the sale of additional warranties to its clients;
6. Glentel ignores the content of paragraphs 9 to 13 of the Claim;
7. With regard to paragraphs 14 and 15 of the Claim, Glentel admits that it is specialized in the sale of wireless telephones and accessories, that it operates under different corporate names and that it has sold additional warranties to Ms. Dominique Beaulieu, but otherwise denies that it engaged into misrepresentations in the sale of additional warranties to its clients, and further denies that additional warranties are offered on all products and accessories Glentel offers for sale;
8. Glentel ignores the content of paragraphs 16 to 85 of the Claim;

9. With respect to paragraph 86 of the Claim, Exhibit P-19 speaks for itself, all else not in conformity therewith being strictly denied, and for further answer thereto Glentel states that Ms. Dominique Beaulieu received a credit of \$99.99 for her purchase corresponding to the price of the Protection Plan on her previous device that was reimbursed to her, as well as a credit equivalent to the Quebec Sales Tax (QST) following the negotiation that took place during the sale of her device;
10. Glentel denies as drafted paragraph 87 of the Claim, and for further answer thereto states that the manufacturer's warranty associated with the device purchased by Ms. Dominique Beaulieu was for a period of one year, and otherwise denies that it engaged into misrepresentations towards Ms. Dominique Beaulieu, the extent of which are unknown to Glentel;
11. With regard to paragraphs 88 and 89 of the Claim, Exhibits P-19 and P-20 speak for themselves, all else not in conformity therewith being strictly denied;
12. Glentel denies paragraphs 90 to 94 of the Claim, and for further answer thereto states that the duration of the manufacturer's warranty may vary on any given product, and denies having engaged into misrepresentations in the sale of additional warranties to its clients;
13. With regard to paragraph 95 of the Claim, Glentel states that the lifespan of any given product varies according to the characteristic of the product and its use;
14. Glentel denies paragraph 96 of the Claim, and for further answer thereto states that Ms. Renata Shiffman's affidavit and examination do not in any way confirm or substantiate the Plaintiff's contentions nor have the scope the Plaintiff purports to attribute to them;
15. Glentel denies paragraph 97 of the Claim, and for further answer thereto denies that it engaged into misrepresentations in the sale of additional warranties to its clients;
16. With regard to paragraph 98 of the Claim, sections 37 and 38 CPA speak for themselves, which have no bearing on the Claim;
17. Glentel denies paragraphs 104 to 109 of the Claim, and for further answer thereto denies that it engaged into misrepresentations in the sale of additional warranties to its clients;
18. Glentel ignores paragraph 110 of the Claim;
19. Glentel denies paragraphs 112 to 116 of the Claim, and for further answer thereto states that the duration of the manufacturer's warranty may vary on any given product, and denies having engaged into misrepresentations in the sale of additional warranties to its clients;
20. With regard to paragraph 117 of the Claim, Glentel denies having engaged into misrepresentations in the sale of additional warranties to its clients, and for further answer thereto states that it was summoned in this case for the first time on or about September 12, 2014, and that no one can claim or rely on the suspension of the prescription period to delay the beginning of the class period against it;

21. With respect to paragraphs 118 to 120 of the Claim, the sections cited speak for themselves, none of which were breached or infringed by Glentel;
22. Glentel denies paragraphs 121 and 122 of the Claim, and for further answer thereto denies having engaged into misrepresentations in the sale of additional warranties to its clients, and states that it is impossible to know the content or the nature of the representations made to any client in the selling an additional warranty allowing to assess class membership or whether misrepresentation occurred, which is denied, to substantiate a cause of action or to assess of the damages allegedly suffered by anyone, if any, which is also denied;
23. Glentel denies paragraph 123 of the Claim;

AND FOR FURTHER PLEA, GLENTEL SUBMITS THE FOLLOWING:

III. GLENTEL

24. Glentel is a telecommunications services reseller that offers wireless communication products and apparel operating under the following banners:
 - a) T Booth Wireless;
 - b) Wireless Wave;
 - c) Wireless Etc.;

IV. THE SALE OF GLENTEL'S PROTECTION PLANS

25. Before October 1, 2014, Glentel offered to its clients purchasing a device eligible for an additional protection to the manufacturer's base warranty a protection plan called "Premium Protection Plan" ("PPP"), which purpose was to extend the manufacturer's base warranty for a period of one year to cover repairs or replacement of the device of any component thereof under the same terms and conditions as the manufacturer's base warranty;
26. Since October 1, 2014, Glentel has been offering to its clients purchasing a device eligible for an additional protection to the manufacturer's base warranty a protection plan called "Mobile Protection Plan" or "Mobile Protection Plan +" ("MPP" or "MPP+"), which purpose is to extend the manufacturer's base warranty (or extend the duration of the AppleCare service, if applicable) to cover repairs or replacement of the device of any component thereof under the same terms and conditions as the manufacturer's base warranty, as well as to provide to protect the device against malfunctions, accidental damages (physical or liquid), loss and/or theft, depending on the option chosen by Glentel's client;
27. At all relevant times hereto, Glentel has developed and required from its employees to implement and comply with the following process after the client has made the decision to purchased an eligible device for the offering and selling of a "Premium Protection Plan", a "Mobile Protection Plan" or a "Mobile Protection Plan +":
 - a) Inform the client of the existence of the manufacturer's base warranty and its length;
 - b) Inform the client of the existence of the legal warranty;

- c) Read the following statement to the customer:
“The Law provides a guarantee on the property you buy or rent: it must be usable for its normal intended use for a reasonable period of time.”
 - d) Give the client a legal warranty notice and ask the client to initial a copy, as appears from the legal warranty notice used by Glentel, **Exhibit DG-1**;
 - e) Upon request, inform the client on how to obtain additional details on the manufacturer’s based warranty and any other information;
 - f) Thereafter, introduce the "Premium Protection Plan", the "Mobile Protection Plan" or the "Mobile Protection Plan +" to the client;
28. This process for the offering and selling of a "Premium Protection Plan", a "Mobile Protection Plan" or a "Mobile Protection Plan +", which compliance is mandatory, is part of Glentel’s initial training of all its employees working at a retail location, and is refreshed during any meeting, training and any other team activity thereafter;

V. THE ABSENCE OF GLENTEL’S LIABILITY

A. No Cause of Action Against Glentel

29. Glentel has not represented and does not represent to its clients that, if they do not purchase a "Premium Protection Plan", a "Mobile Protection Plan" or a "Mobile Protection Plan +" and a breakage occurs to the product after the expiry of the manufacturer's base warranty, he/she will have to bear the cost of repairing or replacing the product, nor does Glentel has engaged into misrepresentations of any kind towards its clients;

B. In the Alternative, No Right to the Conclusions Sought

30. In the alternative, in the event that a Glentel employee would not have complied with Glentel's requirements in the offering and selling of a "Premium Protection Plan", a "Mobile Protection Plan" or a "Mobile Protection Plan +", which is denied, it is not possible to determine:
- a) What representations would have been made by such an employee;
 - b) To which client what representation would have been made by such an employee;
31. This entails the following consequences:
- a) It is not possible to determine which client belongs in the Class, if any;
 - b) It is not possible to adjudicate the common issues on a class-wide basis;

33. In addition, it is also not possible to assess or adjudicate any of the following on a class-wide basis:
- a) Whether the representations that might have been made by an employee who would not have complied with Glentel's requirements in the sale of a protection plan, which is denied, affected the client's decision to purchase the protection plan;
 - b) Whether a client to whom representations not complying with Glentel's requirements in the offering and selling of a protection plan would have been made, which is denied, is entitled to the reduction of his/her obligations or to restitution if he/she has benefited and claimed under the protection plan;
 - c) Whether a client to whom representations not complying with Glentel's requirements in the offering and selling of a protection plan would have been made, which is denied, and who has received a refund of a previous protection plan is entitled to the reduction of his/her obligations or to restitution;

VI. CONCLUSION

34. In light of the foregoing, the Claim against Glentel is ill-founded and ought to be dismissed.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the Statement of Defence of Glentel Inc.;

DISMISS the Modified Motion to Institute Proceedings as a Class Action;

WITH LEGAL COSTS.

Montreal, this 17th day of January 2020

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SUPERIOR COURT (Class Action Division)

District of MONTREAL

« Les personnes ayant acheté des défenderesses Ameublements Tanguay inc., Meubles Léon Itée, Brault & Martineau inc., Corbeil Électrique inc. Glentel Inc., une garantie prolongée, après le 30 juin 2010, à la suite de la représentation à l'effet que si elles n'achetaient pas cette garantie supplémentaire et qu'un bris survenait après l'expiration de la garantie d'un an du manufacturier, elles devraient assumer le coût des réparations ou du remplacement »

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**STATEMENT OF DEFENCE AND
EXHIBIT DG-1
GLENTEL INC.**

ORIGINAL



LANGLOIS

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