

SUPERIOR COURT
(Class Actions)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N° : 500-06-001135-215

DATE : May 18, 2022

PRESIDING: THE HONORABLE DONALD BISSON J.S.C.

(JB4644)

MOHAMAD DAVARINIA
Plaintiff

v.

XEBEC ADSORPTION INC., et al.
Defendants

JUDGEMENT

(On Motion for leave to re-amend the Motion for Authorization to institute a class action)

[1] On October 5, 2021, Plaintiff Mohamad Davarinia filed an “Application for permission to amend the application for authorization to institute a class action and to bring a statutory misrepresentation claim pursuant to Section 225.4 of the *Québec Securities Act*” by way of the Amended Application for Authorization Motion (“Amended Application for Authorization”). The Defendants did not contest the amendments sought by way of the Amended Application for Authorization.

[2] On November 9, 2021, by email, the Court permitted the amendments sought by way of the Amended Application for Authorization, noting that the Court would accordingly render a formal judgement at the first opportunity that may arise in the future.

[3] On December 10, 2021, the Respondents brought a joint application to depose the Plaintiff/proposed Representative Plaintiffs, Mr. Mohamad Davarinia, Ms. Lucia Trgovcevic, Mr. Maurice Leclair and Mr. Evert Schuringa.

[4] On April 25, 2022, the parties advised the Court that, in the interests of achieving efficiencies in the conduct of this class proceeding, they had reached an agreement to possibly resolve the Defendants' joint application to depose the Plaintiffs/proposed Representative Plaintiffs. As part of this agreement, the Plaintiff/proposed Representative Plaintiffs would bring an application to remove Mr. Mohamad Davarinia and Ms. Lucia Trgovcevic as proposed representative plaintiffs in this proceeding.

[5] On May 13, 2022, the Plaintiffs accordingly brought the present application for permission to file the Re-Amended the Application for Authorization (Exhibit R-1) ("Re-Amended Application for Authorization").

[6] The Respondents do not contest the filing of the Re-Amended Application for Authorization.

[7] The Court is of the opinion that the modifications sought in October 2021 and in May 2022 respect the criteria¹ of Art. 206 of the *Code of Civil Procedure* ("CCP") and that the discontinuances sought respects the criteria of Art. 585 CCP², without costs and without the need for a formal notice.

WHEREFORE, THE COURT:

[8] **ALLOWS** Plaintiffs to amend the "Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Section 225.4 of the *Québec Securities Act*", as set forth in the in the "Amended Application for Authorization Motion of October 5, 2021" and in the "Re-Amended Application for Authorization to Institute a Class Action and to Bring a Statutory Misrepresentation Claim Pursuant to Section 225.4 of the *Québec Securities Act*", Exhibit R-1;

[9] **ALLOWS** Mohamad Davarinia to discontinue, without judicial costs and without notice, his personal action herein and to withdraw as Plaintiff, reserving all of his rights and recourses against the Defendants as a Class Member herein;

[10] **ALLOWS** Lucia Trgovcevic to discontinue, without judicial costs and without notice, her personal action herein and to withdraw as Plaintiff, reserving all of her rights and recourses against the Defendants as a Class Member herein;

[11] **THE WHOLE**, without judicial costs.


HONORABLE DONALD BISSON, J.S.C.

¹ See *Hazan c. Micron Technology inc.*, 2021 QCCS 847, par. 11 à 14; *Conseil pour la protection des malades c. Centre intégré universitaire de santé et de services sociaux de la Montérégie-Centre*, 2020 QCCS 2869, par. 26 à 28; *Daunais c. Honda Canada inc.*, 2021 QCCS 78, par. 4; *Association pour la protection automobile (APA) c. Banque de Nouvelle-Écosse*, 2022 QCCS 935, par. 60.

² *École communautaire Belz c. Bernard*, 2021 QCCA 905, par. 8.

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Hearing date: May 13, 2022 (on file)