

Superior Court
(Class Action Division)

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO.: 500-06-001026-190

DATE: APRIL 12, 2022

PRESENT: THE HONOURABLE LUKASZ GRANOSIK, J.S.C.

SHAY ABICIDAN

Representative Plaintiff

v.

TURO INC.

Defendant

and

LPC AVOCAT INC.

Representative Plaintiff's Attorneys

**JUDGMENT APPROVING THE CLASS ACTION SETTLEMENT AND CLASS
COUNSEL FEES**

- [1] **CONSIDERING** that on November 5, 2021, the Court: (i) authorized the class action for settlement purposes against the Defendant Turo Inc. ("Turo"); (ii) approved the notice program, including the opt-out and objection deadlines; and (iii) scheduled the approval hearing for April 12, 2022 in the present file on behalf of the following group:¹

¹ *Abicidan c. Turo inc.*, 2021 QCCS 4641.

<p>Tous les consommateurs en vertu de la <i>Loi sur la protection du consommateur</i> du Québec qui, du 4 novembre 2016 au 31 mars 2021, alors qu'ils se trouvaient dans la province du Québec, à des fins autres que pour affaires, ont effectué une réservation de véhicule pour n'importe où dans le monde en utilisant le site Web ou l'application mobile de Turo et qui ont payé un prix supérieur au prix initialement annoncé par Turo à la première étape (excluant la TVQ ou la TPS).</p>	<p>All consumers pursuant to Quebec's <i>Consumer Protection Act</i>, who, from November 4, 2016 until March 31, 2021, while located in the province of Quebec, for a purpose other than business, made a vehicle booking for anywhere in the world using Turo's website or mobile application and who paid a price higher than the price initially advertised by Turo at the first step (excluding the QST or the GST).</p>
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- [2] **CONSIDERING** that the Representative Plaintiff alleged that Turo violated consumer protection laws by charging a price higher than the price initially advertised at the first step (excluding the QST or the GST);
- [3] **CONSIDERING** that Turo has always denied any wrongdoing or having any liability;
- [4] **CONSIDERING** the Settlement Agreement signed respectively by the parties on September 23 and 27, 2021 filed as Exhibit T-1;
- [5] **CONSIDERING** that on November 5, 2021, the Court approved the notice program contemplated by the Settlement Agreement;
- [6] **CONSIDERING** the affidavit of Cedric Mathieu, Vice-President and Head of Turo Canada, confirming that the notices were sent according to the Court's judgment;
- [7] **CONSIDERING** that the Representative Plaintiff 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 Settlement Agreement reached between the parties provides for the following notable benefits:
- a) Compensation in the amount of a \$16.50 Settlement Credit (net) that will be issued directly to each Class Member (section 12);
 - b) The total value of the Settlement Agreement, including Class Counsel Fees and administration costs (assumed internally by Turo) is \$760,688.00;
 - c) The Settlement has a "guaranteed value" of \$760,688.00 because the agreement provides that the value of any unused Settlement Credit after expiry will be paid to the Fonds d'aide des actions collectives and then to a charity (sections 18 and 19);
 - d) The \$16.50 Settlement Credit will be deposited directly in the Settlement

Class Members' account to be used toward a future vehicle booking on Turo's website or mobile application.

- e) The amount of \$16.50 compares favourably with the average Trip Fee charged per booking by Turo (this data was provided to Class Counsel confidentially and is provided to the Court under seal in a manner that safeguards the confidential nature of the information). For example, in the Plaintiff's case, the service fee was \$6.10 per day for 3 days, for a total of \$18.30, as alleged at paragraphs 22 and 23 of the Authorization Application and Exhibit P-4 in support thereof;
- f) There is no need for any of the Class Members to produce invoices or a proof of purchase, or to do anything at all in order to receive the compensation;
- g) The term "**Eligible Account**" is defined at section 1(q) of the Settlement Agreement as an:

"account used by a Class Member as a Guest to effectuate a vehicle booking during the Class Period through Defendant's website or mobile application that satisfies at least two (2) out of the three (3) following conditions as identified by the Defendant:

- a) the Guest's most recent login at the time of a vehicle booking was effectuated using a Quebec IP address,
- b) the Guest who requested the vehicle booking has a Quebec driver's licence as per the information that was provided to the Defendant, or
- c) the Guest who requested the vehicle booking resides in the province of Quebec as per the contact information that was provided to the Defendant..."

In this respect, for the purpose of reaching a settlement Turo was prepared to recognize the residence of the Class Members as declared when they made their bookings during the Class Period subject to the connecting factors described above. Turo has agreed to consider (for purposes of settlement) that the Class Members were physically located in Quebec when the bookings were made subject to the connecting factors described above. As a result, the parties will avoid a complex debate concerning the application of Quebec law to the Class Members' claims, and the Class Members will not have to provide individual proof of their place of residence and physical location at the time of making their bookings (whether or not this would have been required remains a question that would have been debated at the merits).

- h) An advantage for the Class Members is that the Settlement Credits will be added to their accounts and ready to be used on any future vehicle booking on Turo's website or mobile application for thirty-six (36) months. The

Settlement Credit is transferable by way of a one-time transfer to another Registered Guest;

- i) In order to maximize the participation rate, the Settlement provides that approximately ten (10), twenty-two (22) and thirty-four (34) months after the deposit date of the Settlement Credits, the Defendant shall send a bilingual reminder email (French and English) to all Settlement Class Members who have not used their Settlement Credits (section 16);
- j) Section 8 of the Settlement Agreement provides that Turo must - and already has - implemented a business practice change to its mobile and desktop transaction process pursuant to which the price of a vehicle booking announced to a Quebec Resident at the first step of said process will be equal or higher than the price ultimately paid, except for taxes and optional costs or services (such as post-trip cleaning fees, prepaid fuel services etc.) (“all-in”)². For greater clarity, the all-in price must include all amounts the consumer will have to pay to book the vehicle, including mandatory service fees that are not optional.

[9] **CONSIDERING** all the exhibits filed, including the Affidavit of the Representative Plaintiff;

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

[11] **CONSIDERING** the guiding principles³ for determining whether a transaction should be approved and the Court’s findings that:

- a) The legal arguments on whether Turo committed a fault and the consequences thereof, if any, are uncertain;
- b) The legal arguments on whether Turo is liable towards any of the Class Members are uncertain;
- c) The fact that it is a tripartite relationship between the consumer, the host and Turo, as Turo does not own the vehicles it advertises on its online platform which, according to Turo, complexifies the matter;
- d) Turo denies any liability or wrongdoing. Therefore, the parties would have entered into a contradictory and costly debate involving experts;
- e) The risks of Class Members obtaining no compensation, the expenses, complexity and duration of further litigation weigh in favour of approval;

² Exhibit T-5.

³ *Halfon v. Moose International Inc*, 2017 QCCS 4300, para. 22.

- f) The settlement was reached by experienced fully informed counsels after arm’s length negotiations following the authorization of the class action;
- g) Following the dissemination and publication of the notices, no Class Members have registered any objections to the Settlement Agreement, and one Class Member has filed a valid notice to be excluded⁴ from the class action;
- h) There is no reason to believe that the parties did not act in good faith or colluded;
- i) The compensation to each eligible Settlement Class Member in the amount of a \$16.50 Credit (net) is beneficial;
- j) The Settlement Credit will be automatically issued directly into each Settlement Class Member’s Turo account;
- k) The terms and conditions of the Settlement Agreement, including the amounts offered are fair, reasonable and adequate and worthy of approval.

[12] **CONSIDERING** that Class Counsel is asking the Court to approve the amount of \$172,800.00 plus taxes in extrajudicial fees and \$2,500 plus taxes in disbursements;

[13] **CONSIDERING** the role that the Court must play in determining the reasonableness of the fees claimed by Class Counsel;⁵

[14] **CONSIDERING** the mandate agreement signed by the Representative Plaintiff;⁶

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

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

PAR CES MOTIFS, LE TRIBUNAL :	FOR THESE REASONS, THE COURT:
[17] ACCUEILLE la demande du Représentant en approbation de la transaction avec Turo inc.;	GRANTS the Representative Plaintiff’s Application to Approve the Settlement Agreement with Turo Inc.;
[18] DÉCLARE que les définitions contenues dans la transaction s’appliquent et sont incorporées au présent jugement, et en conséquence en font partie intégrante,	DECLARES that the definitions set forth in the Settlement Agreement apply to and are incorporated into this judgment, and as a consequence shall form an integral part

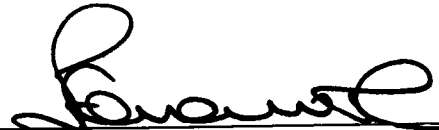
⁴ Exhibit T-3.

⁵ *Pellemans c. Lacroix*, 2011 QCCS 1345, paras. 50-54.

⁶ Exhibit T-6.

étant entendu que les définitions lient les parties à la transaction;	thereof, being understood that the definitions are binding on the parties to the Settlement Agreement;
[19] PREND ACTE de l'accord des parties selon lequel l'article 10 de la transaction est modifié de manière à ce que la Valeur du Règlement soit en fait de 760 688,00 \$;	TAKES ACT of agreement of the parties that section 10 of the Settlement Agreement is modified to read that the Settlement Value is in fact \$760,688.00;
[20] APPROUVE la transaction (« Settlement Agreement ») conformément à l'article 590 du <i>Code de procédure civile du Québec</i> , et ORDONNE aux parties de s'y conformer;	APPROVES the Settlement Agreement as a transaction pursuant to article 590 of the <i>Code of Civil Procedure</i> , and ORDERS the parties to abide by it;
[21] 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;	DECLARES that the Settlement Agreement (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 Class Members as set forth herein;
[22] ORDONNE et DÉCLARE que le présent jugement, incluant la transaction, lie chaque Membre du Groupe;	ORDERS and DECLARES that this judgment, including the Settlement Agreement, shall be binding on every Class Member;
[23] ORDONNE à Turo inc. de notifier par courriel à chaque Membre du groupe de Règlement l'Avis d'approbation de la transaction (annexes C et D à la transaction) dans un délai de quinze (15) Jours suivant la Date d'entrée en vigueur, afin de les informer de l'approbation de la transaction et de l'émission de leur Crédit aux fins de règlement;	ORDERS Turo Inc. to notify each Settlement Class Member by email, within fifteen (15) Days following the Effective Date, with the Notice of the Approval of the Settlement Agreement (Schedules C and D to Settlement Agreement), in order to inform them of the approval of the Settlement Agreement and the issuance of their Settlement Credit;
[24] APPROUVE le paiement aux Avocats du Groupe de leurs honoraires extrajudiciaires et débours tel que prévu aux paragraphe 43 de la transaction;	APPROVES the payment to Class Counsel of its extrajudicial fees and disbursements as provided for at section 43 of the Settlement Agreement;
[25] ORDONNE aux parties de faire rapport de l'exécution du jugement après	ORDERS the Parties, following the expiry of the time specified at section 19 of the

l'expiration du délai prévu au paragraphe 19 de la transaction;	Settlement Agreement, to render account of the execution of the judgment;
[26] RÉSERVE le droit du Fonds d'aide aux actions collectives de formuler une demande au Tribunal pour réclamer une partie de tout reliquat après que les montants aient été distribués aux membres du groupe conformément au paragraphe 19 de la transaction, le tout conformément à loi;	RESERVES the right of the Fonds d'aide aux actions collectives to apply to the Court to claim a portion of any amount remaining (reliquat) after the proceeds of the settlement have been distributed to class members pursuant to section 19 of the Settlement Agreement, the whole in accordance with law;
[27] LE TOUT , sans frais de justice.	THE WHOLE , without legal costs.



Lukasz Granosik, J.S.C.

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