

CANADA

PROVINCE OF QUEBEC
DISTRICT OF SAINT-FRANÇOIS

(Class Action)
SUPERIOR COURT

NO: 450-06-000001-176

CAROLE OUELLET

Applicant

v.

BELL CANADA

Defendant

CONSOLIDATED APPLICATION TO: (I) AUTHORIZE A CLASS ACTION FOR SETTLEMENT PURPOSES; (II) MODIFY THE CLASS DESCRIPTION; (III) APPROVE NOTICES TO CLASS MEMBERS OF A SETTLEMENT APPROVAL HEARING; AND (IV) APPOINT THE CLAIMS ADMINISTRATOR
(Arts. 25, 49, 576, 579, 581, 588 al. 2 and 590 C.C.P.)

TO THE HONOURABLE SYLVAIN PROVENCHER J.S.C., DESIGNATED JUDGE IN THE PRESENT CASE, THE APPLICANT SUBMITS THE FOLLOWING:

I. PROCEDURAL CONTEXT

1. On July 2, 2021, Applicant filed a Re-Amended Application to Authorize a Class Action against Defendant (hereinafter "**Bell Canada**") for authorization to institute a class action and be appointed Representative Plaintiff of the following class:

Class: All natural and legal persons in Canada who received a collect call processed by Bell Canada since September 25, 2014.	Groupe : Toutes les personnes physiques et morales au Canada qui ont reçu un appel à frais virés traité par Bell Canada depuis le 25 septembre 2014.
Subclass: All natural and legal persons in Canada who, since September 25, 2014, received a collect call processed by Bell Canada and were charged an amount greater than \$1.00.	Sous-groupe : Toutes les personnes physiques et morales au Canada qui ont reçu un appel à frais virés traité par Bell Canada depuis le 25 septembre 2014 et qui ont payé plus que 1.00 \$ pour cet appel à frais virés.

2. Applicant notably alleged that Bell Canada acted in violation of section 12 of the *Consumer Protection Act* by not disclosing the rates for collect calls to the person receiving (and paying for) the call and that their collect call rates were abusive;
3. The authorization hearing was scheduled for May 2-3, 2022;
4. On April 26, 2022, the Superior Court of Justice of Ontario dismissed a proposed class action containing similar allegations as in the present case, concluding that the claims in that case should have been brought before the CRTC (*Fareau v. Bell Canada*, 2022 ONSC 2479, under appeal);
5. On April 29, 2022, the parties informed the Court that they reached a settlement in principle, as it appears from the Court record;
6. The parties have finalized their settlement agreement, which they wish to present to the Court for approval. However, before the Court can approve the settlement, the Class Members must be advised that a hearing will take place on the matter;

II. PROPOSED SETTLEMENT

7. The Applicant and Bell Canada have reached a settlement agreement, as it appears from a copy of the proposed settlement filed herewith as **Exhibit R-1**;
8. The settlement has a total value of \$1 million (Exhibit R-1, clause 1.19) and this amount will be distributed on a pro rata basis among the Class Members who file timely claims, after deduction of class counsel fees and other disbursements, costs and expenses to administer the settlement estimated at \$90,000.00 plus taxes;

III. OBJECT OF THIS APPLICATION

9. The parties are asking this Court to:
 - a) modify the class and subclass definitions pursuant to art. 588 al. 2;
 - b) authorize the proposed class action for settlement purposes only;
 - c) appoint the Applicant as Representative Plaintiff of the Class for settlement purposes only;
 - d) approve the form, content and method of dissemination of the pre-approval notices to Class Members, including the opt-out deadline; and
 - e) appoint the claims administrator.

IV. Modification of the Class Definition

10. The parties are asking the Court for permission to modify the class definition pursuant to article 588 al. 2 CCP as provided for at clause 1.17 of the settlement:

<p>1) All natural persons in Quebec who have received and paid the charges associated with one or more local or long distance collect calls processed by Bell Canada between September 25, 2014 and September 30, 2022 inclusively, other than calls made from provincial correctional facilities located in the Province of Ontario using the Offender Telephone Management System (OTMS). et</p> <p>2) All legal persons in Quebec who have received and paid the charges associated with one or more local or long distance collect calls processed by Bell Canada between September 25, 2014 and September 30, 2022 inclusively, other than calls made from provincial correctional facilities located in the Province of Ontario using the Offender Telephone Management System (OTMS), and who did not invoice the charges to a third party (such as, but not limited to, a client, an organization or legal aid).</p>	<p>1) Toutes les personnes physiques au Québec qui ont reçu et payé les frais associés à un ou plusieurs appels locaux ou interurbains à frais virés traités par Bell Canada entre le 25 septembre 2014 et le 30 septembre 2022 inclusivement, à l'exception des appels effectués à partir de prisons provinciales situées dans la province de l'Ontario au moyen du Offender Telephone Management System (OTMS). and</p> <p>2) Toutes les personnes morales au Québec qui ont reçu et payé les frais associés à un ou plusieurs appels locaux ou interurbains à frais virés traités par Bell Canada entre le 25 septembre 2014 et le 30 septembre 2022 inclusivement, à l'exception des appels effectués à partir de prisons provinciales situées dans la province de l'Ontario au moyen du Offender Telephone Management System (OTMS), et qui n'ont pas facturé les frais à un tiers (par exemple, mais sans s'y limiter, un client, une organisation ou l'aide juridique).</p>
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11. The modified definition includes the “end date” (*date de fermeture*) of September 30, 2022, so that the Class Period is defined as provided for at clause 1.22 of the settlement;
12. This modified class definition is provided for in the settlement and is part of the compromise made by the parties in order to resolve the dispute. As this class action has not yet been authorized, the modified class description respects the criteria of articles 206, 585 and 588 al. 2 CCP;

V. AUTHORIZATION FOR SETTLEMENT PURPOSES ONLY AGAINST BELL CANADA

13. The Applicant requests that this Court authorize the class action for settlement purposes only against Bell Canada, on behalf of the modified class reproduced at paragraph 10 above;
14. Bell Canada consents to the authorization of the present case as a class proceeding for the purposes of settlement only, subject to the terms of the Settlement Agreement and approval of same by this Honourable Court;
15. Where a defendant consents to the authorization of a class action for settlement purposes, the criteria set forth at article 575 CCP must nonetheless be met. However, the analysis of the criteria must be conducted in a flexible manner, i.e. *avec souplesse*, taking into account the settlement;

VI. APPOINTMENT OF REPRESENTATIVE PLAINTIFF

16. The Applicant is fairly and adequately protecting and representing the interests of the Class Members;
17. The Applicant does not have any conflicts of interest with the other Class Members;

VII. NOTICE TO CLASS MEMBERS

18. As indicated at para. 6 above, prior to the Applicant presenting the settlement for approval and prior to the Court being able to approve the settlement, the Class Members must be notified that a settlement hearing is taking place;
19. The proposed pre-approval notice to Class Members is included as Schedule A to the settlement;
20. It is respectfully submitted that this pre-approval notice is in conformity with articles 579 and 590 CCP, as it informs the Class Members, in simplified language, of the following:
 - a) the judgment authorizing the class action for the sole purposes of the settlement and the definition of the Class;
 - b) the principal issue raised by the class action;
 - c) the existence of the settlement and the fact that it will be submitted to the Court for approval, specifying the date and place of the approval hearing;
 - d) the nature of the settlement, including the compensation offered to Class Members and the payment of class counsel fees;

- e) the contact information of the Representative Plaintiff's lawyer, as well as the district in which the class action is to proceed;
 - f) the consequences and effects of the approval of the settlement by the Court with respect to the release and discharge of Bell Canada from all Class Members;
 - g) the possibility for the Class Members to make objections or other representations at the hearing for the approval of the settlement;
 - h) the right of Class Members to opt-out of the class action;
 - i) that Class Members have the right to seek intervenor status in the class action;
21. The parties have agreed that the pre-approval notice required pursuant to articles 579 and 590 CCP will notably be published in major newspapers pursuant to clause 4.3 of the settlement, and that these are effective methods in the circumstances which have previously been approved by this Court;
22. Class counsel will also send an email to all potential Class Members who signed up to be kept informed of developments of this case on its bilingual website dedicated to the present class action: <https://lpclex.com/fr/bellcollect/>;
23. The parties therefore request that this Court approve the form and content of the pre-approval notice, in both its English and French version, and the proposed modes of publication;
24. The parties request that this Court set the time limit for Class Members to file objections to Court approval of the settlement at thirty (30) days after the last date on which the pre-approval notice is published in the newspapers;
25. The parties request that this Court set the time limit for Class Members to opt-out of the class action at thirty (30) days after the last date on which the pre-approval notice is published in the newspapers;

VIII. APPOINTMENT OF THE CLAIMS ADMINISTRATOR

26. In order to effect publication of the notices and then to process and transmit the claim forms and compensation provided for under the Settlement, it will be necessary for the Court to appoint a Claims Administrator;
27. Velvet Payments Inc. has agreed to act as Claims Administrator pursuant to the Settlement and is prepared to faithfully abide by the terms of the Settlement acting in that capacity, subject to the supervision of the Court;
28. The parties respectfully ask the Court to appoint Velvet Payments Inc. as the Claims Administrator.

<p>PAR CES MOTIFS, PLAISE AU TRIBUNAL :</p>	<p>FOR THESE REASONS, MAY IT PLEASE THE COURT TO:</p>
<p>[1] ACCUEILLIR la présente demande;</p>	<p>GRANT the present application;</p>
<p>[2] DÉCLARER qu'aux fins du présent jugement, les définitions énoncées dans l'Entente de règlement (pièce R-1) s'appliquent et sont intégrées au présent jugement;</p>	<p>DECLARE that for the purposes of the present judgement, the definitions in the Settlement Agreement (Exhibit R-1) apply and are integrated in the present judgment;</p>
<p>[3] AUTORISER l'exercice de l'action collective contre la défenderesse Bell Canada aux seules fins de règlement, au nom du groupe modifié suivant :</p> <p>Toutes les personnes physiques au Québec qui ont reçu et payé les frais associés à un ou plusieurs appels locaux ou interurbains à frais virés traités par Bell Canada entre le 25 septembre 2014 et le 30 septembre 2022 inclusivement, à l'exception des appels effectués à partir de prisons provinciales situées dans la province de l'Ontario au moyen du Offender Telephone Management System (OTMS).</p> <p>et</p> <p>Toutes les personnes morales au Québec qui ont reçu et payé les frais associés à un ou plusieurs appels locaux ou interurbains à frais virés traités par Bell Canada entre le 25 septembre 2014 et le 30 septembre 2022 inclusivement, à l'exception des appels effectués à partir de prisons provinciales situées dans la province de l'Ontario au moyen du Offender Telephone Management System (OTMS), et qui n'ont pas facturé les frais à un tiers (par exemple, mais sans s'y limiter, un client, une organisation ou l'aide juridique).</p>	<p>AUTHORIZE the bringing of a class action against the Defendant, Bell Canada, for settlement purposes only, on behalf of the following modified Class:</p> <p>All natural persons in Quebec who have received and paid the charges associated with one or more local or long distance collect calls processed by Bell Canada between September 25, 2014 and September 30, 2022 inclusively, other than calls made from provincial correctional facilities located in the Province of Ontario using the Offender Telephone Management System (OTMS).</p> <p>and</p> <p>All legal persons in Quebec who have received and paid the charges associated with one or more local or long distance collect calls processed by Bell Canada between September 25, 2014 and September 30, 2022 inclusively, other than calls made from provincial correctional facilities located in the Province of Ontario using the Offender Telephone Management System (OTMS), and who did not invoice the charges to a third party (such as, but not limited to, a client, an organization or legal aid).</p>
<p>[4] DÉSIGNER et ATTRIBUER à la demanderesse Carole Ouellet le statut de représentante aux seules fins du règlement;</p>	<p>APPOINT Carole Ouellet the status of Representative Plaintiff for settlement purposes only;</p>

<p>[5] IDENTIFIER aux fins de règlement uniquement, la question commune suivante à traiter collectivement :</p> <p>a) Au cours de la période visée par l'action collective, les tarifs facturés par Bell Canada pour les appels à frais virés étaient-ils abusifs et, le cas échéant, quel est le remède approprié ?</p>	<p>IDENTIFY for the purposes of settlement only, the common question to be dealt with collectively as follows:</p> <p>a) During the class period, were the rates charged by Bell Canada for collect calls abusive and, if so, what is the appropriate remedy?</p>
<p>[6] ORDONNER que le jugement soit déclaré nul et sans effet si la Transaction est résiliée conformément à ses dispositions ou n'est pas approuvée par la Cour. Dans un tel cas, les Parties se réservent tous les droits de plaider leur cause respective lorsque l'audition sur l'autorisation de l'Action collective sera tenue en vertu des articles 574 et 575 du Code de procédure civile;</p>	<p>ORDER that the judgment be declared null and without effect if the Transaction is terminated pursuant to its provisions or it is not approved by the Court. In such case, the Parties reserve all rights to argue their respective cases at the hearing to be held to authorize the Class Action pursuant to sections 574 and 575 of the Code of Civil Procedure;</p>
<p>[7] APPROUVER le plan de notification (clause 4.3 de la Transaction) et la forme et le contenu de l'avis de préapprobation aux Membres du groupe, dans ses versions française et anglaise (Annexe A à la Transaction);</p>	<p>APPROVE the notice plan (clause 4.3 of the Settlement) and the form and content of the Pre-Approval Notice to Class Members in its French and English versions (Schedule A to the Settlement);</p>
<p>[8] ORDONNER que l'avis de préapprobation (Annexe A à Transaction) soit publié comme suit, conformément à la clause 4.3 de la Transaction :</p> <p>a) pendant une journée, un samedi, dans The Gazette, Le Journal de Montréal, le Journal de Québec et La Presse en format 1/4 de page ou son équivalent numérique;</p> <p>b) sur le Registre des actions collectives de la Cour supérieure du Québec;</p> <p>c) sur le site web des Avocats des Membres (https://lpclex.com/fr/bellcollect/);</p>	<p>ORDER that the pre-approval notice (Schedule A to the Settlement) be published as follows in conformity with clause 4.3 of the Settlement:</p> <p>a) for one day, on a Saturday, in The Gazette, Le Journal de Montréal, Le Journal de Québec and La Presse in 1/4 of a page format or its digital equivalent;</p> <p>b) in the Superior Court of Québec Registry of class actions;</p> <p>c) on Class Counsel's website (https://lpclex.com/bellcollect/);</p> <p>d) on the Claims Administrator's website;</p>

<p>d) sur le site web de l'Administrateur des réclamations;</p> <p>e) par les Avocats des Membres qui enverront une copie de l'Avis aux Membres du groupe par courriel aux Membres du groupe qui se sont inscrits sur leur site web pour être tenus au courant des développements du dossier, jusqu'à la date du jugement autorisant l'Action collective uniquement aux fins du Règlement.</p>	<p>e) by Class Counsel sending a copy of the Notice to Members by email to the potential Class Members who signed up on its website to be kept informed about developments in this case up until the date of the judgment authorizing the Class Action for the purpose of the Settlement.</p>
<p>[9] NOMMER en tant qu'Administrateur du Règlement Paiements Velvet inc. afin de s'acquitter des tâches qui lui incombent en vertu de la Transaction;</p>	<p>APPOINT Velvet Payments Inc. as Settlement Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement Agreement;</p>
<p>[10] DÉCLARER que les Membres du groupe qui souhaitent s'objecter à l'approbation par le Tribunal de la Transaction doivent le faire de la manière prévue dans l'avis de pré-approbation avant une date à déterminer par le Tribunal;</p>	<p>DECLARE 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 by a date to be determined by the Court;</p>
<p>[11] DÉCLARER que les Membres du groupe qui souhaitent s'exclure de l'action collective et de son règlement peuvent le faire en remettant un avis écrit confirmant leur intention de s'exclure de la présente action collective, de la manière prévue dans l'avis de préapprobation avant une date à déterminer par le Tribunal;</p>	<p>DECLARE that Class Members who wish to opt out of the Class Action and the Settlement 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, by a date to be determined by the Court;</p>
<p>[12] DÉCLARER que tous les Membres du groupe qui n'ont pas demandé leur exclusion seront liés par tout jugement à rendre sur l'action collective de la manière prévue par la loi;</p>	<p>DECLARE that all Class Members that have not opted out be bound by any judgement to be rendered on the Class Action in the manner provided for by the law;</p>
<p>[13] FIXER la date d'audience pour l'approbation de la Transaction déposée comme pièce R-1 à une date et une heure qui seront déterminées par le Tribunal;</p>	<p>SCHEDULE the hearing date for approval of the Settlement Agreement filed as Exhibit R-1 on a date and time to be determined by the Court;</p>
<p>[14] ORDONNER que la date et l'heure pour la tenue de l'audience d'approbation</p>	<p>ORDER that the date and time of the settlement approval hearing shall be set forth</p>

du règlement soient indiquées dans l'avis de préapprobation, bien qu'elles puissent être reportées par le Tribunal sans autre avis aux Membres du groupe autre que l'avis qui sera affiché sur le site des avocats des Membres https://lpclex.com/fr/bellcollect/ ;	in the Pre-Approval Notice, but may be adjourned by the Court without further notice to the Class Members, other than such notice as may be posted on Class Counsel's website https://lpclex.com/bellcollect/ ;
[15] LE TOUT , sans frais de justice.	THE WHOLE , without costs.

Montreal, October 13, 2022

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Me Joey Zukran

276, rue St-Jacques, bureau 801

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PROVINCE OF QUEBEC
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(Class Action)
SUPERIOR COURT

NO: 450-06-000001-176

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LIST OF EXHIBITS

Exhibit R-1: Copy of proposed Settlement between the parties

Montreal, October 13, 2022

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LPC AVOCAT INC.

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NOTICE OF PRESENTATION

TO: Me Emmanuelle Rolland / Me Camille Pichette

Audren Rolland

erolland@audrenrolland.com / cpichette@audrenrolland.com

Counsel for Bell Canada

TAKE NOTICE that the attached Application shall be presented for adjudication before the Honourable Sylvain Provencher, J.S.C., **on a date and time to be determined**, at the Sherbrooke Courthouse, situated at 375 Rue King O, Sherbrooke, Quebec, J1H 6B9, in a room to be determined by the Court.

Montreal, October 13, 2022

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Me Joey Zukran

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ORIGINAL

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