

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-06-001233-234

(Class Action)
SUPERIOR COURT

RANDY SEARS



Applicant

v.

EMILE BENAMOR, having his principal place of business at 808 Berri, in the City and District of Montréal, Province of Québec, H2Y 3E7

and

TARIQ HASAN, having his principal place of business at 4612 Chem. du Bois-Franc, in the City and District of Saint-Laurent, Province of Québec, QC H4S 1A7

and

AIRBNB IRELAND UC, legal person having a principal establishment at The Watermark Building, South Lotts Road, Ringsend, Dublin 4, Ireland

and

AIRBNB CANADA INC. legal person having its elected domicile at 26E-1501 av. McGill College in the City and District of Montréal, Province of Québec, H3A3N9

and

AIRBNB, INC. legal person having a principal establishment at 888 Brannan Street, 4th floor, San Francisco, CA 94103, Unites States of America

and

AIRBNB PAYMENTS UK LTD., legal person having a principal establishment at 40 Compton Street, London, EC1V 0AP, United Kingdom

Solidary Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND
TO
APPOINT THE STATUS OF REPRESENTATIVES PLAINTIFFS
(Articles 571 C.C.P. and following)**

TO ONE OF THE HONOURABLE JUSTICES OF THE QUEBEC SUPERIOR COURT,
SITTING IN AND FOR THE DISTRICT OF MONTREAL, THE APPLICANT STATES AS
FOLLOWS:

1. INTRODUCTION

- 1.1 On March 16, 2023, a deadly fire broke out at a 3-story apartment building located at 224 Place d'Youville, in the Old Montreal neighbourhood (hereinafter referred to as "the building");
- 1.2 Built in 1903, the building is located at the corner of Rue du Port and Place d'Youville and has another address, 135 Rue du Port;

- 1.3 The building is comprised of 14 residential units and one non-residential unit (as per the Extrait du rôle d'évaluation foncière 2023-2024-2025 for 224 Place D'Youville attached herein as **Exhibit P-1**);
- 1.4 Several of the units in the building were being rented as Airbnbs in an area not authorized by the city of Montréal for this use;
- 1.5 According to a March 28, 2023 report by Global News, seven victims died in the fire. Montreal police Inspector David Shone told reporters: *"In total, there were 22 people inside the building when the fire broke out, he said - six escaped unharmed and nine were treated for injuries. He said firefighters rescued six people with ladders, adding that one person jumped from a second-storey window"*. A copy of the written article published by Global News on March 28, 2023 is produced herein as **Exhibit P-2**;
- 1.6 The article further stated that *"those killed in the fire included a long-term resident of the heritage building as well as people who had booked accommodation on short-term rental sites such as Airbnb, which are illegal to use in the part of Montreal where the building is located"* (see **Exhibit P-2**);
- 1.7 CBC News interviewed Joseph Brockman, an individual who spent a weekend in a small apartment in the building in August 2022 which he booked through Airbnb. According to Mr. Brockman there were no windows in his unit, the apartment had a single exit, the front door, and the air conditioning unit pumped air into the building's hallway. "I literally said to my friend, 'this is a freaking fire trap,'" (A copy of the written article published by CBC News on March 25, 2023 is produced herein as **Exhibit P-3**);
- 1.8 According to the March 25, 2023 CBC News report, former tenant Buster Fraum who lived in the building in 2021 reported that there were no functional smoke detectors during his stay nor were there any emergency exit signs in the halls;
- 1.9 On March 24, 2023, Airbnb announced it would be taking down Airbnb listings in Québec that did not have the proper permits;
- 1.10 The present class action seeks redress and compensation for the events described below:

2. THE PARTIES

- 2.1 The Applicant is the father of Nathan Sears, a young man who was killed in the building fire on March 16, 2023;
- 2.2 Defendant Emile Benamor is the owner of the building (as per **Exhibit P-1**); he is a lawyer with a restricted permit and owner of other buildings across the island of Montréal;
- 2.3 Defendant Tariq Hasan is an entrepreneur who was renting multiple units in the building and then renting them out on Airbnb at the time of the building caught fire;
- 2.4 Airbnb is a merchant within the Consumer Protection Act, offering a service which allows you to list and book accommodations;
- 2.5 Defendant Airbnb Canada Inc. is the marketing group for Airbnb;
- 2.6 Defendant Airbnb Ireland UC is a legal person established under the laws of Ireland which operates the Airbnb.ca website;
- 2.7 The Airbnb.ca homepage advertises "*We verify personal profiles and listings to make sharing easy, enjoyable, and safe for millions of Hosts and travellers worldwide*" (Airbnb Canada website, retrieved on March 31, 2023 attached herein as **Exhibit P-4**);
- 2.8 Defendant Airbnb Inc. is a duly incorporated company having its principle place of business in San Francisco, California. It operates the Airbnb.com website and mobile applications for Americans;
- 2.9 Defendant Airbnb Payments UK govern the payment services conducted through or in connection with the Airbnb Platform;
- 2.10 Defendants Airbnb Canada Inc., Airbnb Ireland UC, Airbnb Inc. and Airbnb Payments UK (hereinafter collectively referred to as "Defendant Airbnb"),

3. **THE APPLICANT WISHES TO INSTITUTE A CLASS ACTION ON BEHALF OF THE CLASSES OF PERSONS HEREINAFTER DESCRIBED:**

- A. All individuals inside the building on March 16, 2023 when the fire broke out.
- B. The estates of the individuals who passed away on March 16, 2023.
- C. The family members of individuals in subparagraphs A.

(Hereinafter referred to as the "Class")

Or any other Class to be determined by the Court.

4. **THE APPLICANT'S PERSONAL CLAIM AGAINST THE DEFENDANTS IS BASED ON THE FOLLOWING FACTS:**

- 4.1 Nathan Sears was a 35-year-old academic from Toronto who holds a PhD in political science;
- 4.2 He was a husband, son and brother;
- 4.3 On March 16, 2023 he was in Montreal for the International Studies Association conference;
- 4.4 Nathan Sears was staying in an Airbnb inside the building when it caught fire;
- 4.5 He was one of the seven victims who died in the fire;

5. **NEGLIGENCE OF THE DEFENDANTS**

Defendant Emile Benamor

- 5.1 He failed and neglected in his obligation to ensure that the rental units in the building complied with the rules and regulations pertaining to minimum standards for health, safety, housing and maintenance;

- 5.2 He failed and neglected to ensure that the building and the rental units met municipal property standards, zoning bylaws, fire safety regulations and local building codes;
- 5.3 He failed and neglected to comply with the obligations required by law with regards to the safety, and sanitation of the building;
- 5.4 He failed and neglected to ensure that the building conformed with norms of safety and security provided by the *Régie du bâtiment*;
- 5.5 He failed and neglected to ensure that each apartment had a window;
- 5.6 He failed and neglected to ensure that each apartment was equipped with a properly functioning smoke detector;
- 5.7 He failed and neglected to provide clear escape route in the event of a fire.
- 5.8 He failed and neglected to carry out the necessary maintenance and repairs to the building;
- 5.9 He allowed the operation of illegal Airbnbs in the building;
- 5.10 He knew or ought to have known that the city did not allow short-term rentals in the area;
- 5.11 He was aware of the Airbnb rentals in the building and he failed and neglected to try to stop them from being rented out;
- 5.12 He is negligent for failing in his duty to ensure the safety and well-being of his tenants, residents and guests and for placing them at significant risk of personal injury and even death;
- 5.13 He acted without due regard for the health and safety of his tenants, residents and guests in the building;

Defendant Tarik Hassan

- 5.14 Tarik Hassan is negligent for operating illegal short-term rentals in the building;
- 5.15 He knew or ought to have known that short-term rentals were not permitted in the area;
- 5.16 He failed and neglected in his obligation to ensure that the rental units in the building he listed on Airbnb complied with the rules and regulations pertaining to minimum standards for health, safety, housing and maintenance;
- 5.17 He failed and neglected to ensure that the rental units in the building he listed on Airbnb met municipal property standards, zoning bylaws, fire safety regulations and local building codes;
- 5.18 He is negligent for failing in his duty to ensure the safety and well-being of the other tenants, residents and guests in the building and for placing them at significant risk of personal injury and even death;
- 5.19 He acted without due regard for the health and safety of the other tenants, residents and guests in the building;

Defendant Airbnb

- 5.20 They failed and neglected to properly verify the Airbnb units available for rent in the building and ensure that they were safe and secure for guests;
- 5.21 They permitted unauthorized Airbnb listings, not registered with the Quebec government and therefore, illegal.
- 5.22 They knew or ought to have known that Quebecers operating short-term rentals were required by the Province of Québec to have a registration number provided by the municipality and they were negligent for failing to require proof of permits;
- 5.23 They are negligent for failing in their duty to ensure the safety and well-being of Airbnb guests in the building and for placing them at significant risk of personal injury and even death;
- 5.24 They acted without due regard for the health and safety of the Airbnb guests;

6. DAMAGES

6.1 In light of the foregoing, the following damages may be claimed solidarily against the Defendants:

- a) compensatory damages, in an amount to be determined, on account of the damages suffered; and
- b) punitive damages, in the amount of \$22,000,000.00, for the unlawful interference with the Class members' rights to personal security and dignity under the *Charter of Human Rights and Freedoms* (sections 1 and 49 of the Charter):
 - a. Punitive damages have a preventive objective, that is, to discourage the repetition of such undesirable conduct;
 - b. The Defendants knew or ought to have known that the rental units in the building were not safe and constituted a serious risk to the health and safety of tenants and Airbnb guests;
 - c. The Defendants' violations were grossly negligent and dangerous;
 - d. Through its behavior, the Defendants demonstrated that they were more concerned with generating income for themselves than about ensuring the safety and health of the Class members;
 - e. In these circumstances, Applicant's claim for punitive damages is justified;

7. THE PERSONAL CLAIMS OF EACH OF THE MEMBERS OF THE CLASS AGAINST THE DEFENDANTS ARE BASED ON THE FOLLOWING FACTS:

7.1 All individuals were either inside the building on March 16, 2023 or they are the heirs and/or family members of said individuals; they have all been personally affected by the events in question;

- 7.2 Each Member of the Class shall be entitled to make a claim for damages for bodily, moral and/or material injuries suffered, as a result of the recalled lot of reagents, as well as for punitive damages, if applicable;
8. **THE COMPOSITION OF THE CLASS MAKES IT DIFFICULT OR IMPRACTICABLE TO APPLY THE RULES FOR MANDATES TO TAKE PART IN JUDICIAL PROCEEDINGS ON BEHALF OF OTHERS OR FOR CONSOLIDATION OF PROCEEDINGS:**
- 8.1 The Applicant is unaware of how many persons were affected by the March 16, 2023 fire, nor all of their identities;
- 8.2 At least 22 people were inside the building and they presumably all have family members were have also been affected by the events;
- 8.4 It would therefore be impracticable to obtain mandates or consolidate proceedings in the present matter;
- 8.5 Furthermore a class action is an appropriate procedural vehicle to give access to justice to and obtain compensation from the Defendants' fault and negligence which has had consequences for many individuals;
- 8.6 The legal issue of whether the Defendants breached their legal obligations towards all members of the class is best dealt with by one judge in a single legal proceeding in order to avoid a multitude of proceedings that would encumber the legal system and potentially lead to contradictory judgements;
9. **THE IDENTICAL, SIMILAR OR RELATED QUESTIONS OF LAW OR OF FACT BETWEEN EACH MEMBER OF THE CLASS AND THE APPLICANT, WHICH APPLICANT WISHES TO HAVE DECIDED BY THIS CLASS ACTION ARE:**
- 9.1 Were the Defendants negligent for failing to ensure that the rental units in the building complied with the rules and regulations pertaining to minimum standards for health, safety, housing and maintenance;
- 9.2 Were the Defendants negligent for failing to ensure that the building and the rental units met municipal property standards, zoning bylaws, fire safety regulations and local building codes;

- 9.3 Were the Defendants negligent for permitting unauthorized, illegal Airbnb listings;
- 9.4 Were the Defendants negligent for failing to ensure the safety and well-being of tenants, residents and guests in the building and for placing them at significant risk of personal injury and even death;
- 9.5 Are the Defendants liable to compensate the members of the class for damages suffered?
- 9.6 If so, what is the amount of damages?
- 9.7 Are the Defendants liable to the Class members for breach of rights guaranteed by the *Charter of Human Rights and Freedoms*?
10. THE QUESTIONS OF LAW OR OF FACT WHICH ARE PARTICULAR TO EACH OF THE MEMBERS OF THE CLASS ARE:
- 10.1 The only question that is particular to each member of the class is the quantum to which he or she is entitled;
11. THE NATURE OF THE RECOURSE WHICH THE APPLICANT WISHES TO EXERCISE ON BEHALF OF THE MEMBERS OF THE CLASS IS:
- 11.1 An action in damages;
12. THE CONCLUSIONS SOUGHT BY APPLICANT AGAINST THE DEFENDANTS ARE AS FOLLOWS:
- GRANT** the Class Action against the Defendants;
- CONDEMN** the Defendants to pay to the Applicant compensatory damages, in an amount to be determined, on account of the damages suffered and punitive damages, in an amount to be determined;
- THE WHOLE** with interest and the additional indemnity provided by law;
- CONDEMN** the Defendants to any further relief as may be just and proper;

THE WHOLE with legal costs, including the costs of all exhibits, reports, expertise and publication of notices.

13. APPLICANT REQUESTS THAT HE BE ASCRIBED THE STATUS OF REPRESENTATIVE.

14. APPLICANT IS IN A POSITION TO REPRESENT THE MEMBERS OF THE CLASS ADEQUATELY FOR THE FOLLOWING REASONS:

14.1 The Applicant is a member of the Class; he is the father of Nathan Sears who was killed in the building fire on March 16, 2023;

14.2 The Applicant is ready and available to manage and direct the present action in the interest of the members of the Class that he wishes to represent and is determined to lead the class until final resolution of the matter;

14.3 He has gathered and provided to the undersigned attorneys numerous documents, and has researched the present matter;

14.4 He has the motivation and interest to seek redress for the injustices suffered by Class members;

14.5 He has no conflict and is willing and capable of acting in the present matter;

14.6 He has cooperated fully with the undersigned attorneys and is prepared and willing to fully represent and protect the rights of Class members;

14.7 Applicant decided to institute a class action instead of an individual action, in order to advance and protect the rights of all Class members instead of those of his alone;

14.8 Applicant is committed to communicating with other members of the Class about this matter;

15. APPLICANT SUGGESTS THAT THE CLASS ACTION BE BROUGHT BEFORE THE SUPERIOR COURT FOR THE DISTRICT OF MONTRÉAL FOR THE FOLLOWING REASONS:

15.1 The majority of the Defendants are located in the district of Montréal;

- 15.2 A great number of the members of the Class reside in the juridical district of Montreal or surrounding areas;
- 15.3 The Applicant's attorneys practice their profession in the judicial district of Montréal;
- 15.4 The present application is well founded in fact and law.

WHEREFORE THE APPLICANT PRAYS THAT BY JUDGMENT TO BE RENDERED HEREIN, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present Application;

AUTHORIZE the institution of the Class action;

GRANT the status of representative to Applicant Randy Sears for the purpose of instituting the said Class action for the benefit of the following groups of persons, namely:

- A. All individuals inside the building on March 16, 2023 when the fire broke out.
- B. The estates of the individuals who passed away on March 16, 2023.
- C. The family members of individuals in subparagraphs A.

Or any other Class to be determined by the Court.

IDENTIFY the principal questions of law and of fact to be dealt with collectively as follows:

- a) Were the Défendants negligent for failing to ensure that the rental units in the building complied with the rules and regulations pertaining to minimum standards for health, safety, housing and maintenance;
- b) Were the Defendants negligent for failing to ensure that the building and the rental units met municipal property standards, zoning bylaws, fire safety regulations and local building codes;

- c) Were the Defendants negligent for permitting unauthorized, illegal Airbnb listings;
- d) Were the Defendants negligent for failing to ensure the safety and well-being of tenants, residents and guests in the building and for placing them at significant risk of personal injury and even death;
- e) Are the Defendants liable to compensate the members of the class for damages suffered?
- f) If so what is the amount of damages?
- g) Are the Defendants liable to the Class members for breach of rights guaranteed by the *Charter of Human Rights and Freedoms*?

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

GRANT the Class Action against the Defendants;

CONDEMN the Defendants to pay to the Applicant compensatory damages, in an amount to be determined, on account of the damages suffered and punitive damages, in an amount to be determined;

THE WHOLE with interest and the additional indemnity provided by law;

CONDEMN the Defendants to any further relief as may be just and proper;

THE WHOLE with legal costs, including the costs of all exhibits, reports, expertise and publication of notices.

DECLARE that any member of the Class who has not requested his/her exclusion from the Class be bound by any judgment to be rendered on the Class action, in accordance with law;

FIX the delay for exclusion from the Class at sixty (60) days from the date of notice to the members, and at the expiry of such delay, the members of the Class who have not requested exclusion be bound by any such judgment;

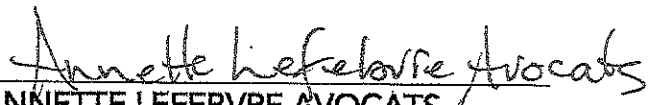
ORDER the Defendants to provide to Class counsel, in electronic form, a list containing the names and last known coordinates of all individuals who were inside the building when the fire broke out on March 16, 2023;

ORDER the Defendants to the publication of a notice to the members of the Class to be published in La Presse, Le Journal de Montréal, The Gazette, and Le Devoir;

REFER the record to the Chief Justice so that he may fix the district in which the Class action is to be brought and the Judge before whom it will be heard;

THE WHOLE with legal costs, including the costs of all publications of notices.

MONTRÉAL, March 31, 2023


ANNETTE LEFEBVRE AVOCATS
Attorneys for Applicant

ORIGINAL

SUMMONS

(Art. 145 and following C.C.P.)

Filing of a Judicial Application

Take notice that the Plaintiffs have filed this action or application in the office of the Superior Court of the judicial district of Montreal.

Defendant's answer

You must answer to the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Notre-Dame East, within 15 days of service of this application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the plaintiff's lawyer or, if the plaintiff is not represented, to the plaintiff.

Failure to answer

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgment may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the plaintiff in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

Change of judicial district

You may ask the court to refer the originating application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

Calling to a case management conference

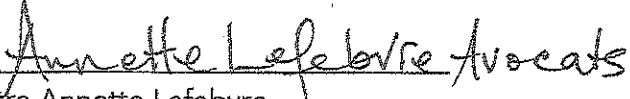
Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

Exhibits supporting the application

In support of the application, the Applicant intends to use the following exhibits:

EXHIBIT P-1:	Extrait du rôle d'évaluation foncière 2023-2024-2025 for 224 Place d'Youville
EXHIBIT P-2:	A copy of the written article published by Global News on March 28, 2023
EXHIBIT P-3:	A copy of the written article published by CBC News on March 25, 2023
EXHIBIT P-4:	Airbnb Canada website, retrieved on March 31, 2023

Montréal, March 31, 2023


M^{re} Annette Lefebvre

M^{re} Melissa Lonn

Class Counsel/Attorneys for Applicant

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NOTICE OF PRESENTATION
(Articles 146 and 574 al.2 C.P.C.)

TAKE NOTICE that the *Plaintiffs' Application for Authorization to Institute a Class Action and to Appoint a Representative Plaintiff* will be presented before one of the Honourable Judges of the Superior Court of Québec, at the Montreal courthouse, located at 1, rue Notre-Dame Est, in the City and District of Montréal, on the date set by the coordinator of the class actions chamber.

PLEASE GOVERN YOURSELF ACCORDINGLY.

Montréal, this March 31, 2023


Mtre Annette Lefebvre
Mtre Melissa Lonn
Class Counsel/Attorneys for Plaintiff
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No.:

COUR SUPERIOR COURT

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

RANDY SEARS [REDACTED]

Applicant

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**APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO
APPOINT THE STATUS OF
REPRESENTATIVE PLAINTIFF
(Articles 571 C.C.P.)**

ORIGINAL

Our file: 5336 BA 1201



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