

# SUPERIOR COURT

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

N° : 500-06-001233-234

DATE : September 26, 2023

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IN THE PRESENCE OF THE HONORABLE DONALD BISSON, J.S.C. (JB4644)

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**RANDY SEARS**  
Applicant

c.  
**EMILE BENAMOR**  
**TARIQ HASAN**  
**AIRBNB IRELAND UC**  
**AIRBNB CANADA INC.**  
**AIRBNB, INC.**  
**AIRBNB PAYMENTS UK LTD.**  
Defendants

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## JUDGMENT

(On the Application for Permission to Discontinue against all Defendants)

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[1] **CONSIDERING** the Application for *Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff* (the “Application”) filed by the Applicant on March 31, 2023, against Defendants relating to the fire that broke out on March 16, 2023 (the “Fire”) at the building located at 224 Place d’Youville in Old Montreal (the “Building”), on behalf of the following proposed class:

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

(Hereinafter defined as the “Class”)

Or any other Class to be determined by the Court.

- [2] **CONSIDERING** the proposed class action is for damages;
- [3] **CONSIDERING** the *Application for Permission to Discontinue against all Defendants* (the “Application for Discontinuance”) filed by the Applicant and the sworn declaration of M<sup>re</sup> Annette Lefebvre dated September 13, 2023, as well as the sworn declaration of the Applicant Mr. Randy Sears dated September 13, 2023;
- [4] **CONSIDERING** Art. 585 of the *Code of Civil Procedure* and the requirement that a discontinuance before authorization has to be authorized by the Court;
- [5] **CONSIDERING** the criteria for discontinuance provided for by the decision of the Court of Appeal in *École communautaire Belz c. Bernard*<sup>1</sup>;
- [6] **CONSIDERING** that the Applicant’s lawyers have been in contact with 20 out of the 22 Putative Class Members (including families of victims affected by the Fire) and have obtained individual mandates from 18 of them, as alleged in the Application for Discontinuance;
- [7] **CONSIDERING** the allegations of the Application for Discontinuance with respect to the reasons individual mandates were not obtained from the other 4 Putative Class Members;
- [8] **CONSIDERING** that, given the small size of the proposed class, the known identities of the 22 victims, and the fact that individual mandates from almost all of the Putative Class Members were obtained, the criteria set out in article 575(3) of the C.C.P. is not met;
- [9] **CONSIDERING** that the discontinuance of the proposed class action does not negatively affect the interests of any Putative Class Members who still have their rights to pursue the Defendants through joint or individual lawsuits should they choose to do so and that 18 of them have in fact already instructed the Applicant’s lawyers to proceed with such a procedural vehicle;
- [10] **CONSIDERING** that neither the Applicant, Putative Class Members or the Applicant’s lawyers have received any payment in exchange or conditional to seeking the discontinuance of the Application;
- [11] **CONSIDERING** that the Application for Discontinuance does not undermine the integrity of the justice in any way;
- [12] **CONSIDERING** that the Applicant’s lawyers have already advised 19 out of the 22 Putative Class Members that the Applicant seeks to discontinue the Application and that there is no objection from any of them, that the family of one of the victims is

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<sup>1</sup> 2021 QCCA 905, para. 8.

represented by separate counsel and intends to file its own individual action;

[13] **CONSIDERING** the undertaking of IVAC to communicate the Applicant's lawyers contact information to the other 2 known victims;

[14] **CONSIDERING** that no other form of notice to putative members is required;

[15] **CONSIDERING** that no funding was obtained from the "Fonds d'aide aux actions collectives" and therefore that it does not need to be involved in the matter of the present judgment;


[16] **CONSIDERING** that the Application for Discontinuance is well founded;

**FOR THESE REASONS, THE COURT:**

[17] **GRANTS** the Application for Permission to Discontinue against all Defendants;

[18] **GRANTS** leave to the Applicant to file the Discontinuance of the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff within ten days of the present judgment;

[19] **THE WHOLE**, without legal costs.

  
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DONALD BISSON, J.C.S.

M<sup>re</sup> Annette Lefebvre and M<sup>re</sup> Melissa Lonn  
ANNETTE LEFEBVRE AVOCATS  
Attorneys for Plaintiff

M<sup>e</sup> David Banon  
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M<sup>re</sup> Bertrand Delorme Larouche  
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M<sup>re</sup> Sylvie Rodrigue, Ad.E. and M<sup>re</sup> Corina Manole  
TORYS LAW FIRM LLP  
Attorneys for Defendants Airbnb Ireland UC, Airbnb Canada Inc., Airbnb, Inc. and  
Airbnb Payments UK Ltd.

Hearing Date: September 14, 2023 (On file)