

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTREAL

No: 500-06-001091-202

SUPERIOR COURT
(Class Actions)

9391-2186 QUÉBEC INC. DBA RESTAURANT L'ACADÉMIE CRESCENT, represented in continuance of suit by **GROUPE SERPONE INC.**, *es qualités* Trustee to the estate of 9391-2186 Quebec inc. following the assignment in bankruptcy made by 9391-2386 Quebec inc.

Applicant

vs.

AVIVA INSURANCE COMPANY OF CANADA

-and-

EVEREST INSURANCE COMPANY OF CANADA

-and-

SOVEREIGN INSURANCE (LA SOUVERAINE COMPAGNIE D'ASSURANCE GÉNÉRALE)

-and-

HDI GLOBAL SPECIALTY SE

Defendants

APPLICATION TO AMEND THE APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION AND TO OBTAIN THE STATUS OF REPRESENTATIVE PLAINTIFF
(Art. 585 C.C.P.)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES:

1. On August 28, 2020, 9391-2186 Québec Inc. (hereafter "**9391**") instituted an *Application for authorization to institute a class action and to obtain the status of representative plaintiff* (hereafter "**Original Application to Authorize**") against Aviva Insurance Company of Canada, Everest Insurance Company of Canada, Sovereign Insurance and HDI Global Specialty SE (hereafter the "**Defendants**").

2. On January 15, 2024, 9391 filed a notice of assignment under section 49 of the Bankruptcy and Insolvency Act in the court number 500-11-62737-230.
3. Groupe Serpone Inc. (hereafter "**Trustee**") was appointed trustee of the assets of 9391 on January 15, 2024.
4. The Trustee, after being apprised of the Application to Authorize on May 1, 2024, has decided to take over the proceeding and exercise all of the rights and obligations of 9391 in the class action, including acting as representative of the group and of its members.
5. The notice of the continuation of the proceedings by the Trustee was notified to the Defendants on Thursday, May 2nd, 2024.
6. Certain amendments were required to be made to the Original Application to Authorize as a result of the Trustee's continuance of suit but also to perfect certain important allegations contained in the Original Application.
7. Additionally, based on the recent class action certification decisions in Ontario relating to similar issues of business interruption insurance denial, it was deemed necessary to amend the Original Application to Authorize to particularize the group of class members involved in the present class action and clarify the common questions raised in the proceeding pursuant to the insurance policies subject to such.
8. The undersigned also felt it necessary to render the conclusions of the Original Application to Authorize more particularized and objective.
9. The amendments are necessary in that they provide further clarification to the Court as to the precise scope of the class action and ensure the participation of all covered class members.
10. This Application for leave to amend the proceeding is well founded in fact and in law.

Montréal, May 6, 2024

SPIEGEL SOHMER INC.



Per: **M^{TRE} LAURENT DEBRUN**

M^{TRE} ANNA VILLANI

Attorneys for Applicant in continuation of
suit, Groupe Serpone inc., trustee to 9391-
2386 Quebec inc.

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Our reference: 732268-1002



**AFFIDAVIT OF GEORGE P. TZIGAS,
REPRESENTATIVE OF GROUPE SERPONE INC**

I, the undersigned, George P. Tzicas, trustee in the bankruptcy of 9391-2186 Québec Inc., representative of Groupe Serpone inc., having its place of business at 6452, Jean Talon Est, Saint-Leonard, Québec, solemnly declare the following:

1. All the facts alleged in the present application are true and to my knowledge.

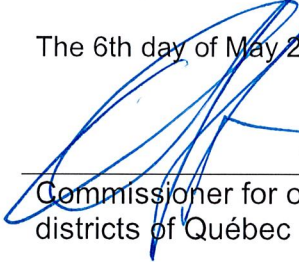
AND I HAVE SIGNED:



GEORGE P. TZICAS
(representative of Groupe Serpone Inc.)

Solemnly affirmed before in Montréal,

The 6th day of May 2024.



Commissioner for oaths for the judicial
districts of Québec



From: Veronica Torres-Hernandez
Sent: May 7, 2024 10:55 AM
To: vincent.rochette@nortonrosefulbright.com; EAzran@stikeman.com
Cc: Me Laurent Debrun; Me Anna Villani
Subject: NOTIFICATION: 500-06-001091-202 / GROUPE SERPONE INC., ès qualités de syndic à la faillite de 9391-2386 Quebec c. Aviva et al. / APPLICATION TO AMEND THE APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION (WITH AFFIDAVIT)
Attachments: 2024-05-06 - Application to amend - Académie.pdf

C A N A D A

PROVINCE DE QUÉBEC
DISTRICT DE Montréal

No : 500-06-001091-202

COUR SUPÉRIEURE
(Chambre des actions collectives)

**9391-2186 QUÉBEC INC. f.a.s.r.s.. RESTAURANT
L'ACADÉMIE CRESCENT**

Demanderesse

-et-

**GROUPE SERPONE INC., ès qualités de syndic à
la faillite de 9391-2386 Quebec inc.**

Demanderesse en reprise d'instance

c.

**AVIVA, COMPAGNIE D'ASSURANCE DU
CANADA**

-et-

**LA COMPAGNIE D'ASSURANCE EVEREST DU
CANADA**

-et-

**LA SOUVERAINE COMPAGNIE D'ASSURANCE
GÉNÉRALE**

-et-

HDI GLOBAL SPECIALTY SE

Défenderesses

**BORDEREAU DE TRANSMISSION POUR
NOTIFICATION PAR COURRIEL**
(Articles 133 et 134 C.p.c.)

EXPÉDITEUR :



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Me Laurent Debrun
Notre dossier : 732268-01002

NOTIFICATION EFFECTUÉE À :

Me Eric Azran,
EAzran@stikeman.com
Me Vincent Rochette,
vincent.rochette@nortonrosefulbright.com

NOM DES ÉTUDES:

STIKEMAN ELLIOTT, LLP
NORTON ROSE FULBRIGHT

NATURE DU DOCUMENT NOTIFIÉ :

**APPLICATION TO AMEND THE APPLICATION FOR
AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS OF REPRESENTATIVE
PLAINTIFF (Art. 585 C.C.P.) (with Affidavit)**

NOMBRE DE PAGES DU DOCUMENT NOTIFIÉ :

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NO : 500-06-001091-202

**COUR SUPÉRIEURE
PROVINCE DE QUÉBEC
DISTRICT DE MONTREAL**

**GROUPE SERPONE INC., es qualités Trustee to the
estate of 9391-2186 Quebec inc. following the
assignment in bankruptcy made by 9391-2386 Quebec
inc.**

Demanderesse

-c.-

**AVIVA INSURANCE COMPANY OF CANADA et al.
Défenderesses**

**APPLICATION TO AMEND THE APPLICATION FOR
AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS OF REPRESENTATIVE
PLAINTIFF (Art. 585 C.C.P.)**

ORIGINAL

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