

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-

0600 1326-244

(Class Action)
SUPERIOR COURT

ELIJAH AMAR, having his domicile at 6135
David Lewis, City of Côte-Saint-Luc and
District of Montreal, Quebec, H3X 4A4

Applicant

v.

THE UPPER DECK COMPANY, legal person
having its head office at 5830 El Camino Real,
Carlsbad, California, 92008, U.S.A.

and

PANINI AMERICA, INC., legal person having
its head office at 5325 FAA Boulevard
Suite 100, Irving, Texas, 75061, U.S.A.

and

THE TOPPS COMPANY, INC., legal person
having its head office at 1 Whitehall Street,
New York, New York, 10004-2109, U.S.A.

Defendants

APPLICATION TO AUTHORIZE A CLASS ACTION
(ARTICLES 571 AND FOLLOWING C.C.P.)

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

I. INTRODUCTION

1. The Applicant wishes to institute a class action on behalf of the following class and subclass, of which he is a member, namely:

All persons in Quebec and Canada who purchased any sports cards from Upper Deck, Panini or Topps containing the term "memorabilia" on the packaging; or any other class to be determined by the Court. (hereinafter the "Memorabilia Card Class")	Toutes les personnes au Québec et au Canada qui ont acheté des cartes de sport de Upper Deck, Panini ou Topps contenant le terme "memorabilia" sur l'emballage ; ou tout autre groupe à être déterminé par le Tribunal. (ci-après le « Groupe des cartes collectibles »)
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2. The Applicant is a consumer within the meaning of Quebec's *Consumer Protection Act* (the "**CPA**") and Canada's *Competition Act*;
3. The Defendants are merchants who are global leaders in the sports trading card industry. Combined, the Defendants sell billions of dollars' worth of cards, including to consumers in Quebec and Canada (both via authorized retailers in Quebec and via the Defendants' respective websites);
4. When Class Members purchase cards from the Defendants' respective websites, the contracts are deemed to be entered into in Quebec under section 54.2 of the *Quebec Consumer Protection Act* ("**CPA**"). The Defendants' activities are governed by the CPA, the Civil Code of Quebec and the *Competition Act*, among other legislation;

The Applicant

5. As a child, Applicant was gifted a large collection of over 4000 cards from his uncle. In the middle of May 2024, Applicant viewed the Netflix series *King of Collectibles: The Golden Touch*, which discusses sports memorabilia but more specifically the value of a "Lebron James Triple Logoman" card valued above \$1,500,000 that features three patches from three different game-worn Lebron James jerseys;
6. Knowing that he possesses patch cards, Applicant re-entered the sports memorabilia collection space to see if he could profit and otherwise take pleasure from his card collection;
7. Applicant then began purchasing cards on his own in late May from online stores, hobby shops as well as private sellers;
8. Specifically, it was the word memorabilia used on the packaging of Defendants that attracted Applicant into purchasing sports cards, in order to collect memorabilia from his favorite athletes;
9. While in the hobby store, contemplating the purchase of sports cards, Applicant noticed that the word memorabilia is used by Defendants (**Exhibit P-6**) regularly;

10. Applicant also realized that Defendants regularly use the term "game worn jersey cards";
11. It is obvious that Defendants consider "game worn jersey cards" as memorabilia, as on the back of such a card they write "enjoy your memorabilia card!" (**Exhibit P-6**)
12. Thus, Applicant as any other reasonable consumer would have, makes a direct link between "game worn jersey cards" and memorabilia due to this practice;
13. Applicant submits that he now realizes that this practice is misleading and inciting consumers into purchasing such cards under false pretences;
14. In mid-July, Applicant became doubtful of the authenticity of the patch cards since the wording on the back of the cards was elusive and seemingly misleading;
15. For further clarity, a patch card relevant to the present application means any form of material featured on a sports card, sold by Defendants and advertised as being legitimate sports memorabilia;
16. Examples of such cards can be found below in **Exhibit P-1**;
17. The prices of the boxes that these cards range between around \$30.00 USD (Blaster box) to around \$1700.00 USD (Hobby box), the whole can be seen as **Exhibit P-2**;
18. Applicant conducted some personal research on the variety of disclaimers included on patch cards and concluded that these cards are in fact not sports memorabilia, but just random fragments of material described as memorabilia;
19. Applicant maintains that the misleading information about the patch cards being memorabilia creates an inflated value to those designated cards and in turn Defendants benefit from the revenues of individuals purchasing these cards in hope of getting their desired card;

Upper Deck

20. Defendant The Upper Deck Company (hereinafter "**Upper Deck**") has its head office in Carlsbad, California. Upper Deck describes itself on its website (<http://www.upperdeck.com/Corporate/>) as a *Worldwide Sports and Entertainment Company*, Applicant communicating **Exhibit P-3**;

Panini

21. Defendant Panini America, Inc. (hereinafter "**Panini**") has its head office in Irving, Texas. Panini describes itself as "*the International brand leader within the world of sticker and trading card collectables with over 1000 collection launches each year*". On its website, <https://www.paniniamerica.net/>, Panini displays and sells sports cards, including from the NFL, NBA and UFC to name a few, Applicant

communicating **Exhibit P-4**;

22. Panini's website contains a "glossary" which defines the term "Memorabilia Card" as follows: *"A trading card that includes a piece of the athlete's equipment or authentic items related to the player. Examples include shoelaces, football gloves, and pieces of a basketball"*, Applicant disclosing **Exhibit P-5**;

Topps

23. Defendant The Topps Company, Inc. (hereinafter "**Topps**") has its head office in New York, New York. Topps describes itself as *"the iconic, preeminent leader in physical and digital collectibles... the company produces trading cards and collectibles, custom cards, memorabilia, sticker album collections and more related to iconic and pop culture brands such as Major League Baseball, Major League Soccer, Star Wars, Bundesliga, UEFA Champions League, World Wrestling Entertainment and Garbage Pail Kids"*;
24. Topps was acquired by Fanatics Collectibles in January 2022. According to Topps' LinkedIn page *"Fanatics Collectibles has also secured long-term, exclusive rights to design, manufacture and distribute trading cards for several additional sports properties, including NBA, NBPA and NFLPA, in the coming years"*. Fanatics Collectibles is not yet named as a defendant herein given that they have not yet began distributing the cards at issue, however Applicant reserves the right to name them herein should they perpetuate the prohibited practices;

II. THE ISSUES

A) The Memorabilia Card Class

25. When selling their sports cards, Upper Deck, Panini and Topps use the term "**memorabilia**" to advertise on their cards' boxes and individual packaging, Applicant disclosing pictures of the boxes and packages *en liasse* as **Exhibit P-6**;
26. As it appears from the images above (**Exhibit P-5**), the Defendants use the term "memorabilia" on their packaging to incite consumers to purchase their cards. There can be no debate that the general impression that the term "memorabilia" gives to the average consumer is that they are purchasing a piece of sports memorabilia;
27. The word "memorabilia" is defined by the Government of Canada as follows, Applicant communicating the extract of the Government of Canada's terminology and linguistic data bank as **Exhibit P-7**:

"Things worth remembering or recording, as a collection of anecdotes, accounts, etc., or of mementos, especially about one subject, event, etc."

28. The problem is that the "memorabilia" cards that the Defendants sell to consumers

are not related to a specific subject or event (such as being worn during a professional sporting game) and therefore do not meet the literal definition of the term “memorabilia” or even the general use of the term;

29. In brief, by using the word memorabilia on their packaging, the Defendants lead consumers to believe that they are in fact getting a piece of sports memorabilia, which is not the case;
30. The Defendants’ use of the word “memorabilia” on its sports card packaging is nothing more than a marketing tactic;
31. Applicant has compiled a list of the Defendants’ *after* the package is purchased and opened – which prove that the Defendants’ “memorabilia” representation is false and misleading, as it appears from the list communicated above (**Exhibit P-1**), which include the following disclosures (in English only):
 - Congratulations! You have received a Corey Perry Jersey trading card from the Upper Deck Company. On the front of this card is an authentic piece of a jersey worn by Corey Perry **in a photo shoot**.
 - The enclosed officially licensed material is **not associated** with any specific player, game, or event.
 - The enclosed piece of authentic memorabilia is **not from any specific game or event**.
32. The Supreme Court of Canada has already rejected the concept of “bon dol” (harmless fraud) in Quebec law (*Richard v. Time Inc.*, 2012 SCC 8, par. 121). Therefore, the Defendants cannot “correct” a misleading representation on the packaging of the card (which is what the consumer sees prior to contracting) by inserting a disclosure on the cards contained inside the pack (which the consumer can only see after paying for and purchasing the box or pack);
33. The cards advertised and sold by the Defendants as “memorabilia” are neither “*worth remembering*” nor “*mementos about a subject or event*” and are, in fact, just pieces of fabric sold at an artificially inflated premium in bad faith;
34. By advertising certain patch cards as “memorabilia”, Defendants give Class Members the false impression that those cards are better, more limited and more valuable than the “Regular” cards, thereby enabling Defendants to charge a premium based on these false representations;
35. Quebec’s CPA provides:

218. To determine whether or not a representation constitutes a prohibited practice, the general impression it gives,	218. Pour déterminer si une représentation constitue une pratique interdite, il faut tenir compte de
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and, as the case may be, the literal meaning of the terms used therein must be taken into account.	l'impression générale qu'elle donne et, s'il y a lieu, du sens littéral des termes qui y sont employés.
219. No merchant, manufacturer or advertiser may, by any means whatever, make false or misleading representations to a consumer.	219. Aucun commerçant, fabricant ou publicitaire ne peut, par quelque moyen que ce soit, faire une représentation fausse ou trompeuse à un consommateur.
228. No merchant, manufacturer or advertiser may fail to mention an important fact in any representation made to a consumer.	228. Aucun commerçant, fabricant ou publicitaire ne peut, dans une représentation qu'il fait à un consommateur, passer sous silence un fait important.
239. No merchant, manufacturer or advertiser may, by any means whatever, (a) distort the meaning of any information, opinion or testimony; ...	239. Aucun commerçant, fabricant ou publicitaire ne peut, par quelque moyen que ce soit: a) déformer le sens d'une information, d'une opinion ou d'un témoignage; ...

36. There is therefore no doubt that Defendants misleadingly use the term "memorabilia" and distort its meaning when it markets and sells its tickets to Class Members;
37. However, a patch card classified as memorabilia should in fact be a piece of sports memorabilia and the Defendants should use the following declaration:

"On the front of this card is an authentic piece of a jersey worn by (player name) in an official NHL/MLB/NFL game and is authenticated by an official representative of Defendants"
38. Given that the CPA is of public order and that Defendants intentionally misleads consumers for their own financial gain, the damages to Class Members, in this case, is the aggregate of the premium price paid for the patch cards, the whole to be quantified on the merits in addition to their claim for punitive damages;
39. The Applicant hereby calls upon the Defendants to preserve all data relevant to the present action;
40. It is safe for Applicant to assume that Defendants have generated gross sales in the millions of dollars while continuing to engage in this prohibited practice;
41. Therefore, the purpose of this class action is to obtain:

- a) an injunction ordering the Defendants to modify their advertising and to cease the prohibited business practice;
- b) compensation in the amounts overcharged by the Defendants for the patch cards;
- c) punitive damages for Class Members;

III. PATCH CARDS IN RECENT MEDIA

- 42. This issue has been exposed in the media and unfortunately such as Plaintiff, are not aware of the false advertising;
- 43. For example, this article from Rookie Collector highlights significant issues with "player-worn" material cards in the sports card market. It argues that these cards, which feature memorabilia briefly worn by players, often lack authenticity and are considerably less valuable than "game-worn" cards that contain items used in actual games.
- 44. The prevalence of player-worn materials has diluted the market for genuine game-used memorabilia and has raised doubts about the authenticity of the connection between the player and the material featured on the card, Applicant disclosing **Exhibit P-8**;
- 45. Additionally, this article from Beckett News discusses how the NFL Players Rookie Premiere event reveals the inauthenticity of patch cards. Players wear numerous jerseys for memorabilia, and social media posts showing this process undermine the perceived rarity and authenticity of these cards. Seeing players like Mark Ingram don multiple jerseys at once diminishes the value of so-called "rare" patch cards;
- 46. Despite this, the NFL, and Defendants continue to use these practices due to cost savings and the need for instant gratification among collectors. This transparency, while connecting players with fans, exposes the flawed nature of event-worn memorabilia, Applicant disclosing **Exhibit P-9**;

IV. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION (S. 575 CCP):

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT:

- 47. The Applicant is a consumer within the meaning of the CPA and the *Competition Act*;
- 48. Applicant is a sports card collector as can be seen in paragraphs 5 and following;
- 49. The fault that Defendants are accused of here is objective and statutory (*Apple Canada inc. c. Badaoui*, 2021 QCCA 432, par. 45). As it concerns the general impression that the term "memorabilia" gives, the Supreme Court has already

decided that, once sued under the CPA, the analysis as to whether this term is misleading is also an objective one (*Richard v. Time*, 2012 SCC 8, paras. 49, 50, 75 and 116-118);

50. Defendant's complete disregard for consumers' rights and to its own obligations under the CPA is in and of itself an important reason for this Court to enforce measures that will punish them, as well as deter and dissuade others from engaging in similar reprehensible conduct to the detriment of Quebec and Canadian consumers;
51. The reality is that Defendants have likely generated millions of dollars in profits by engaging in this prohibited practice – to the detriment of consumers;
52. Punitive damages have a preventive objective, that is, to discourage the repetition of such undesirable conduct;
53. Defendant's violations are intentional and calculated;
54. The Applicant is accordingly entitled to claim and does hereby claim on behalf of Class members from Defendant's \$300.00 per member on account of punitive damages;
55. Defendant's patrimonial situation is so significant that the foregoing amount requested in punitive damages is appropriate in the circumstances;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

56. The questions of fact and law raised and the recourse sought by this Application are identical with respect to each member of the Class, namely:
 - a) Are Defendant's uses of the term "memorabilia" false and misleading?
 - b) Do Defendants violate s. 219, 228 or 239(a) CPA?
 - c) Do Defendants violate s. 52 of the *Competition Act*?
 - d) Do Defendants act in bad faith?
 - e) If there has been a violation of one or more of these provisions, can the Class Members claim compensatory and punitive damages from Defendants? If so, in what amounts?
 - f) Should an injunctive remedy be ordered to prohibit Defendant from continuing to perpetrate the unfair, deceitful and illegal practices?
57. The claims of every Class Member are founded on very similar facts to the Applicant's claim since, as mentioned above, the question as to whether Defendants

comply with the law or not is objective and statutory, and does not vary between one consumer to another (*Apple Canada inc. c. Badaoui*, 2021 QCCA 432, para. 45; *Richard v. Time*, 2012 SCC 8, paras. 49, 50, 75 and 116-118);

58. By reason of the Defendants' unlawful conduct, the Applicant and every Class Member have suffered damages, which they may collectively claim against Defendants;

C) THE COMPOSITION OF THE CLASS

59. 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;
60. Class Members include consumers in Quebec and Canada who purchased sports cards with the word "memorabilia" on the packaging from Defendants;
61. The Applicant is aware that Defendants have an important number of customers in Quebec and Canada. While he is unaware of the total number, he estimates that it is likely in the hundreds of thousands;
62. Class Members are numerous and are dispersed across the country;
63. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;
64. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS

65. The Applicant requests that he be appointed the status of representative plaintiff for the following main reasons:
- a) He is a member of the Class and has a personal interest in seeking the conclusions that he proposes herein;
 - b) He is competent, in that he has the potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) His interests are not antagonistic to those of other Class members;
66. The Applicant adds that he participated in the drafting of the present application and has reviewed the exhibits;
67. He is taking this action to obtain compensation and also to denounce this

widespread problem causing ongoing prejudice to his fellow Class Members, who at the end of the day, are hard-working Quebec and Canadian citizens who want to enjoy their sports card collection, without having to be misled about what their cards are;

68. He is taking this action so that he and all Class Members can be compensated, to force Defendants to modify its practice and to hold them accountable;

V. DAMAGES

69. Defendants have breached several obligations imposed on it by consumer protection legislation in Québec, notably Quebec's CPA, including ss. 219, 228 and 239(a), 228, thus rendering sections 253 and 272 applicable. They have also violated s. 52 of the *Competition Act*;
70. In light of the foregoing, the following may be claimed collectively against the Defendants:
- a) compensatory damages in the aggregate amount to be determined at trial;
 - b) punitive damages of \$300.00 per Class member for the intentional breach of obligations imposed on the Defendants pursuant to s. 272 CPA and the common law; and
 - c) injunctive relief.

VI. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

71. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages and for injunctive relief;
72. The conclusions that the Applicant wishes to introduce by way of an originating application are:
- 1. **GRANT** the Representative Plaintiff's action against the Defendants;
 - 2. **ORDER** the Defendants to cease perpetrating the unfair, deceitful and illegal practices;
 - 3. **CONDEMN** the Defendants, solidarily, to pay to the Representative Plaintiff and the Class Members an amount to be determined in compensatory damages, and **ORDER** the collective recovery of these sums;
 - 4. **CONDEMN** the Defendants, solidarily, to pay to the Class Members \$300.00 each in punitive damages, and **ORDER** collective recovery of these sums;
 - 5. **CONDEMN** the Defendants, solidarily, to pay interest and the additional

indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

6. **ORDER** the Defendants, solidarily, to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;
7. **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
8. **CONDEMN** the Defendants to bear the costs of the present action including the cost of notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;
9. **RENDER** any other order that this Honourable Court shall determine;

VII. JURISDICTION

73. The Applicant requests that this class action be exercised before the Superior Court in the district of Montreal, notably because he is a consumer and resides in this district.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

1. **GRANT** the present Application;
2. **AUTHORIZE** the bringing of a class action in the form of an originating application in damages and injunctive relief;
3. **APPOINT** the Applicant the status of representative plaintiff of the persons included in the Class herein described as:

All persons in Canada who purchased any sports cards from Upper Deck, Panini or Topps containing the term "memorabilia" on the packaging; or any other class to be determined by the Court. (hereinafter the "Memorabilia Card Class")	Toutes les personnes au Canada qui ont acheté des cartes de sport de Upper Deck, Panini ou Topps contenant le terme "memorabilia" sur l'emballage ; ou tout autre groupe à être déterminé par le Tribunal. (ci-après le « Groupe des cartes collectibles »)
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4. **IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Are Defendant's uses of the term "memorabilia" false and misleading?
 - b) Do Defendants violate s. 219, 228 or 239(a) CPA?
 - c) Do Defendants violate s. 52 of the *Competition Act*?
 - d) Do Defendants act in bad faith?
 - e) If there has been a violation of one or more of these provisions, can the Class Members claim compensatory and punitive damages from Defendants? If so, in what amounts?
 - f) Should an injunctive remedy be ordered to prohibit Defendant from continuing to perpetrate the unfair, deceitful and illegal practices?
5. **IDENTIFY** the conclusions sought by the class action to be instituted as being the following:
1. **GRANT** the Representative Plaintiff's action against the Defendants;
 2. **ORDER** the Defendants to cease perpetrating the unfair, deceitful and illegal practices;
 3. **CONDEMN** the Defendants, solidarily, to pay to the Representative Plaintiff and the Class Members an amount to be determined in compensatory damages, and **ORDER** the collective recovery of these sums;
 4. **CONDEMN** the Defendants, solidarily, to pay to the Class Members \$300.00 each in punitive damages, and **ORDER** collective recovery of these sums;
 5. **CONDEMN** the Defendants, solidarily, to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;
 6. **ORDER** the Defendants, solidarily, to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;
 7. **ORDER** that the claims of individual Class Members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
 8. **CONDEMN** the Defendants to bear the costs of the present action including the cost of notices, the cost of management of claims and the

costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

9. **RENDER** any other order that this Honourable Court shall determine;
6. **DECLARE** that all members of the Class that have not requested their exclusion, be bound by any judgment to be rendered on the class action to be instituted in the manner provided for by the law;
7. **FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notices to Class members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;
8. **ORDER** the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgment to be rendered herein by e-mail to each Class member, to their last known e-mail address, with the subject line "Notice of a Class Action";
9. **THE WHOLE** with costs including publication fees.

Montreal, August 8th 2024



A handwritten signature in dark ink, appearing to read 'Brook Legal Inc.', is written over a horizontal line.

BROOK LEGAL INC.

Me Daniel Brook

Attorney for the Applicant

3285 Cavendish Boulevard, Suite 440

Montréal, Québec, H4B 2L9

T: (514) 488-0236 / F: (514) 221-3502

Email: db@brooklegal.ca

SUMMONS
(ARTICLES 145 AND FOLLOWING C.C.P.)

Filing of a judicial application

Take notice that the Applicant has filed this *Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff* in the office of the Superior Court in the judicial district of **Montréal**.

Defendant's answer

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

Failure to answer

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

Content of answer

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 Applicant 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 applicant.

If the application pertains to an employment contract, consumer contract or insurance

contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

Transfer of application to Small Claims Division

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

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 for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff, the Applicant intends to use the following exhibits:

- Exhibit P-1:** Copy of a spreadsheet including photos of cards and disclosures;
- Exhibit P-2:** Copy of a spreadsheet of a variety card box sets and their prices;
- Exhibit P-3:** Copy of the "About Upper Deck" website page;
- Exhibit P-4:** Copy of Panini America landing page;
- Exhibit P-5:** Copy of "M" page in Panini America's glossary;
- Exhibit P-6:** Copy of photos of box sets featuring the word "memorabilia";
- Exhibit P-7:** Screen capture of the term "memorabilia" in the Government of Canada's terminology and linguistic data bank;
- Exhibit P-8:** Copy of Rookiecollector.com article titled "Why Player Worn Material Sucks in Sports Cards", dated May 20th, 2019;
- Exhibit P-9:** Copy of Beckett News article titled "Players' use of social media at NFL PLAYERS Rookie Premiere might change things for the hobby",

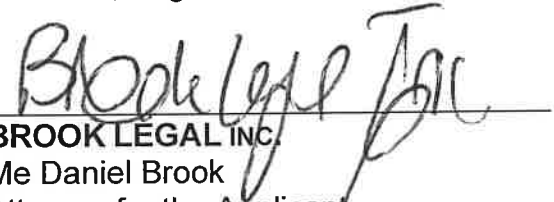
dated May 19th, 2011;

These exhibits are available on request.

Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montreal, August 8th 2024


BROOK LEGAL INC.
Me Daniel Brook
Attorney for the Applicant
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NOTICE OF PRESENTATION
(articles 146 and 574 al. 2 C.C.P.)

TO: THE UPPER DECK COMPANY
5830 El Camino Real
Carlsbad, California, 92008, U.S.A.

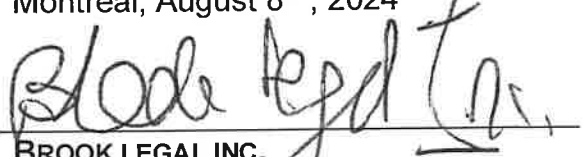
PANINI AMERICA, INC.
5325 FAA Boulevard, Suite 100
Irving, Texas, 75061, U.S.A.

THE TOPPS COMPANY, INC.
1 Whitehall Street
New York, New York, 10004-2109, U.S.A.

Defendants

TAKE NOTICE that Applicant's *Application to Authorize a Class Action* will be presented before the Superior Court of Montreal, situated at **1, Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date set by the coordinator of the Class Action chamber.

Montreal, August 8th, 2024



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500 -06-01326-244

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

ELIJAH AMAR

v.

Applicant

THE UPPER DECK COMPANY

and

PANINI AMERICA, INC.

and

THE TOPPS COMPANY, INC.

Defendants

APPLICATION TO AUTHORIZE A CLASS ACTION
(ARTICLES 571 AND FOLLOWING C.C.P.)

ORIGINAL

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