

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

No: 500-06-001347-240

DAN GRIGORESCU

Plaintiff

vs.

9199-4467 QUÉBEC INC.

Defendant

**APPLICATION FOR AUTHORIZATION TO ADDUCE RELEVANT EVIDENCE
(Art. 574 CCP)**

**TO THE HONOURABLE CATHERINE PICHÉ OF THE SUPERIOR COURT, ACTING
AS THE DESIGNATED JUDGE IN THE PRESENT CASE, THE DEFENDANT 9199-
4467 QUÉBEC INC. RESPECTFULLY SUBMITS AS FOLLOWS:**

I. INTRODUCTION

1. The Defendant 9199-4467 Québec Inc. ("**Earth Rated**") hereby seeks the authorization of this Honourable Court to adduce relevant evidence pursuant to article 574, paragraph 3 of the *Code of Civil Procedure*, RLRQ c. C-25.01 ("**CCP**").
2. More specifically, Earth Rated seeks authorization to adduce as relevant evidence a Sworn Statement of Lisa Miller and its Annexes A to P dated April 30th, 2025, a copy of which is filed herewith as **Exhibit ER-1** (the "**Sworn Statement**").
3. As further detailed below, the Sworn Statement is relevant and necessary for the Court's analysis of the authorization criteria pursuant to article 575 CCP, and more specifically whether the Plaintiff has demonstrated an arguable case pursuant to 575(2) CCP, as it serves to correct, clarify and complete certain false, incomplete and ambiguous allegations advanced by the Plaintiff.

II. THE AUTHORIZATION APPLICATION

4. On December 19, 2024, the Plaintiff Dan Grigorescu filed an *Application to Authorize the Bringing of a Class Action & to Appoint the Plaintiff as Representative Plaintiff* (the "**Authorization Application**") against Earth Rated, on behalf of the following proposed class (the "**Proposed Class**") :

- “All persons residing in Canada who have purchased Earth Rated Certified Compostable Poop Bags or any other group to be determined by the Court.

Alternately (or as a subclass)

- All persons residing in Quebec who have purchased Earth Rated Certified Compostable Poop Bags or any other group to be determined by the Court.”

5. The Authorization Application alleges that the Earth Rated Certified Compostable Poop Bags (the “**Earth Rated Products**”) are falsely and prominently marketed, packaged, labelled, sold and/or represented as “certified compostable”, when in reality neither the intended contents of the bags, nor the bags themselves, regardless of the contents, are capable of being composted in Quebec or in the majority of cities in Canada.
6. According to the Authorization Application, Earth Rated engaged in unfair, false, misleading, or deceptive acts or practices regarding the manufacturing, importing, distributing, marketing, advertising, promoting, packaging, labelling, selling and/or representing the Earth Rated Products as compostable throughout Canada.
7. As a result of Earth Rated’s alleged faults, the Plaintiff seeks compensatory and punitive damages in an amount to be determined, on behalf of the Proposed Class as well as an injunctive remedy.

III. THE RELEVANCE OF THE SWORN STATEMENT

8. Earth Rated seeks this Honourable Court’s permission to file the Sworn Statement and its annexes in order to correct, clarify and complete several false, incomplete and ambiguous allegations advanced in the Authorization Application.

A. *The Acceptance of the Earth Rated Products by Composting Facilities*

9. The Authorization Application contains several general, vague and/or erroneous allegations regarding the acceptability of the Earth Rated Products by composting facilities in the province of Quebec and across Canada.
10. Namely, the Authorization Application alleges that “none of the compost facilities in the province of Quebec, accept the bags for composting and none of them accept pet litter”, while also noting that the composting facility in Sherbrooke does accept animal feces, but not compostable plastics, such as the Earth Rated Products (see para. 4 of the Authorization Application).
11. As for the rest of the provinces and territories of Canada, the Authorization Application alleges that “there are some that accept the Earth Rated Products and some that accept the intended contents, but the majority of the composting facilities in the country do not” (see para. 5 of the Authorization Application).

12. The Sworn Statement and its Annexes A to D serve to correct and complete these false assertions, by demonstrating that:
 - Numerous composting facilities in the province of Quebec, including the one serving the city of Sherbrooke, do accept pet waste and certified compostable bags such as the Earth Rated Products, contrary to the Plaintiff's allegations;
 - Numerous additional composting facilities in the province of Quebec also accept certified compostable bags such as the Earth Rated Products, while they may not accept pet waste;
 - Numerous composting facilities in the rest of the provinces and territories of Canada do accept certified compostable bags such as the Earth Rated Products, with and without pet waste.

B. The Packaging of the Earth Rated Products

13. The Sworn Statement and its Annexes E to P further serve to complete and correct certain incomplete allegations of the Authorization Application.
14. Indeed, under paragraph 2 of the Authorization Application, the Plaintiff only reproduces the front panel of the 120 count and 225 count of the Earth Rated Products, neglecting to include the other five panels of each packaging.
15. Yet, several allegations in the Authorization Application relate to the packaging, labelling, marketing, representation, and sale of the Earth Rated Products (see for example paragraphs 3, 6, and 17 to 25 of the Authorization Application).
16. The Sworn Statement serves to complete these allegations by producing all six panels of the packaging in which the Earth Rated Products targeted by the Plaintiff's claim are packaged.
17. Both the 120 count and 225 count packaging of the Earth Rated Products clearly indicate that the products themselves are compostable, but that some municipalities may not accept them or may not accept pet waste. As appears from Annexes E to P, the packaging states the following:
 - "for collection in municipal programs, where approved";
 - "for disposal in municipal composting facilities, verify that pet waste is accepted, as such facilities may not exist in your area".
18. The Sworn Statement and the supporting annexes thus serve to contradict, complete and correct the otherwise vague, incomplete and/or erroneous allegations of the Authorization Application by providing the Court with the complete and correct factual matrix regarding the allegations advanced by the Plaintiff, which will assist this Honourable Court in its analysis of the authorization

criteria, and specifically in its determination of whether the Plaintiff has established an arguable case pursuant to article 575 (2) CCP.

19. The present Application is well founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Application to Adduce Relevant Evidence;

AUTHORIZE the Defendant 9199-4467 Québec Inc. to file a Sworn Statement of Lisa Miller and its Annexes A to P dated April 30, 2025, a copy of which is filed herewith as **Exhibit ER-1**;

THE WHOLE with legal costs.

Montréal, this April 30, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP

Attorneys for Defendant 9199-4467 Québec Inc.

800 Victoria Square, Suite 3500
P.O. Box 242
Montréal, Quebec H3C 0B4
Fax number: +1 514 397 7600

Mtre Noah Boudreau

Phone number: +1 514 394 4521
Email: nboudreau@fasken.com

Mtre Mirna Kaddis

Phone number: +1 514 397 7484
Email: mkaddis@fasken.com

Mtre Marie-Eve Labonté

Phone number: +1 514 397 5297
Email: mlabonte@fasken.com

NOTICE OF PRESENTATION

ADDRESSEE(S):

Me Andrea Grass
Actis Law Group Inc.
Counsel for Plaintiffg
500 Place d'Armes, Suite 1800
Montreal, Québec, H2Y 2W
Phone: 514 495 5249
agrass@actislaw.org

TAKE NOTICE that the present *Application for Authorization to Adduce Relevant Evidence* will be presented for adjudication before the honourable justice Catherine Piché S.C.J. of the Superior Court, sitting in civil practice division for the district of Montréal on May 27, 2025, at 9:00am, at the Montréal courthouse, located at 1 Notre-Dame Street East, Montréal, Quebec, H2Y 1B6, in a room to be determined or by videoconference in a virtual room to be determined.

DO GOVERN YOURSELVES ACCORDINGLY.

Montréal, this April 30, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP
Attorneys for Defendant 9199-4467 Québec
Inc.

800 Victoria Square, Suite 3500
P.O. Box 242
Montréal, Quebec H3C 0B4
Fax number: +1 514 397 7600

Mtre Noah Boudreau
Phone number: +1 514 394 4521
Email: nboudreau@fasken.com

Mtre Mirna Kaddis
Phone number: +1 514 397 7484
Email: mkaddis@fasken.com

Mtre Marie-Eve Labonté
Phone number: +1 514 397 5297
Email: mlabonte@fasken.com

C A N A D A

**PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL**

**SUPERIOR COURT
(Class Actions)**

No: 500-06-001347-240

DAN GRIGORESCU

Plaintiff

vs.

9199-4467 QUÉBEC INC.

Defendant

LIST OF EXHIBITS

Exhibit ER-1: Sworn Statement of Lisa Miller and its Annexes A to P dated April 30, 2025.

Montréal, this April 30, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP
Attorneys for Defendant 9199-4467 Québec Inc.

800 Victoria Square, Suite 3500
P.O. Box 242
Montréal, Quebec H3C 0B4
Fax number: +1 514 397 7600

Mtre Noah Boudreau
Phone number: +1 514 394 4521
Email: nboudreau@fasken.com

Mtre Mirna Kaddis
Phone number: +1 514 397 7484
Email: mkaddis@fasken.com

Mtre Marie-Eve Labonté
Phone number: +1 514 397 5297
Email: mlabonte@fasken.com

Marie Joan Lai Kwan

De: Marie Joan Lai Kwan
Envoyé: 2 mai 2025 13:15
À: Me Andrea Grass
Cc: Noah Boudreau; Mirna Kaddis; Marie-Eve Labonté
Objet: Notification - Dan Grigorescu vs. 9199-4467 Québec inc. - 500-06-001347-240 - Notre réf. : 289300.00240 [FMD-CANADA.FID13510522]
Pièces jointes: 2025-04-30 Application for Authorization to Adduce Relevant Evidence.pdf

NOTIFICATION PAR MOYEN TECHNOLOGIQUE

Fasken Martineau DuMoulin S.E.N.C.R.L., s.r.l.
(Art. 133 - 134 du *Code de procédure civile*, RLRQ c. C-25.01)

Parties : Dan Grigorescu vs. 9199-4467 Québec inc.
Cour : Cour supérieure
District judiciaire : Montréal
Localité : Montréal
Numéro de cour : 500-06-001347-240

Expéditeur :	Mirna Kaddis +1 514 397 7484 mkaddis@fasken.com Notre réf. : 289300.00240	Fasken Martineau DuMoulin 800, rue du Square-Victoria, bureau 3500 Montréal (Québec) H3C 0B4 Télécopieur : +1 514 397 7600
---------------------	--	--

Destinataire(s) :	Me Andrea Grass	Actis Law Group Inc.	agrass@actislaw.org
--------------------------	-----------------	----------------------	---------------------

Document(s) notifié(s) :

Titre du document	Type	Nb pages	Taille
Application for Authorization to Adduce Relevant Evidence	PDF	8	386KB
Exhibit ER-1	PDF One-Drive	 Exhibit ER-1	

Veuillez communiquer avec l'expéditeur en cas de difficultés techniques avec les documents.

Marie Joan Lai Kwan

Legal Assistant / Adjointe juridique to / de Me Vincent Cérat Lagana, Me
Frédéric Legendre, Me Mirna kaddis & Me Claudie Fréchette

T +1 514 397 4315
mlai@fasken.com | www.fasken.com/en

FASKEN

Fasken Martineau DuMoulin LLP

800, rue du Square-Victoria, bureau 3500, Montréal, Québec H3C 0B4

This email contains privileged or confidential information and is intended only for the named recipients. If you have received this email in error or are not a named recipient, please notify the sender and destroy the email. A detailed statement of the terms of use can be found at the following address: <https://www.fasken.com/en/terms-of-use-email/>.

Ce message contient des renseignements confidentiels ou privilégiés et est destiné seulement à la personne à qui il est adressé. Si vous avez reçu ce courriel par erreur, S.V.P. le retourner à l'expéditeur et le détruire. Une version détaillée des modalités et conditions d'utilisation se retrouve à l'adresse suivante : <https://www.fasken.com/fr/terms-of-use-email/>.

N° : 500-06-001347-240

PROVINCE OF QUEBEC
SUPERIOR COURT
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

DAN GRIGORESCU

Plaintiff

vs.

9199-4467 QUÉBEC INC.

Defendant

22328/289300.00240

BF1339

**APPLICATION FOR AUTHORIZATION TO
ADDUCE RELEVANT EVIDENCE, NOTICE
OF PRESENTATION, LIST OF EXHIBITS
AND EXHIBIT ER-1**

ORIGINAL

Fasken Martineau DuMoulin LLP

800 Victoria Square, Suite 3500
Montréal, Quebec H3C 0B4

Me Noah Boudreau Tél. +1 514 394 4521
nboudreau@fasken.com Fax. +1 514 397 7600

Me Mirna Kaddis Tél. +1 514 397 7484
mkaddis@fasken.com Fax. +1 514 397 7600

Me Marie-Eve Labonté Tél. +1 514 397 5297
mlabonte@fasken.com Fax. +1 514 397 7600