C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

No: 500-06-001341-243

SARAH MCCONNELL

Applicant

vs.

WONDER BRANDS INC.

and

LOBLAWS INC.

and

WAL-MART CANADA CORP.

Defendants

APPLICATION BY WAL-MART CANADA CORP. 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 WAL-MART CANADA CORP. RESPECTFULLY SUBMITS AS FOLLOWS:

I. INTRODUCTION

1. The Defendant Wal-Mart Canada Corp. ("**Wal-Mart**") 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, Wal-Mart seeks authorization to adduce as relevant evidence an executed sworn statement substantially similar to the draft sworn statement communicated as **Exhibit WM-1** hereto, along with its Annex A attached in support thereof (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 Applicant has demonstrated an arguable case pursuant to

575(2) CCP, as it serves to correct, clarify and complete certain false and incomplete allegations advanced by the Applicant.

II. THE AUTHORIZATION APPLICATION

4. On or about November 8, 2024, the Applicant Sarah McConnell (the "**Applicant**") filed an application to authorize the bringing of a class action against Wal-Mart, Wonder Brands Inc. ("**WB**") and Loblaws Inc. (the "**Authorization Application**"), on behalf of the following proposed class (the "**Proposed Class**") :

> *"Tous les consommateurs ayant acheté depuis le 8 novembre 2021 les divers pains de marque Country Harvest, D'Italiano, Giant Value, Le Choix du Président, Sans nom et Wonder, qui ont fait l'objet d'un rappel le 4 novembre 2024 en raison de la présence possible de morceaux de métal.*
>
> *Ou tout autre groupe qui sera déterminé par la Cour."*

5. The Authorization Application alleges breaches of provisions of the *Consumer Protection Act* and of the *Civil Code of Quebec* by the Defendants in connection with the distribution and the sale of bread products that were subject to a recall due to the possible presence of foreign materials (the "**Recall**").

6. As a result of the Defendants' alleged faults, the Applicant seeks, on behalf of the Proposed Class, compensatory damages in an amount equivalent to the amount paid for the purchase of the bread, plus applicable taxes, as well as punitive damages in an amount to be determined.

III. THE RELEVANCE OF THE SWORN STATEMENT

7. Wal-Mart seeks this Honourable Court's permission to file the Sworn Statement in order to provide the factual context surrounding the Recall and the actions taken by Wal-Mart, by demonstrating that:

- Wal-Mart sells bread distributed by WB under the brands Country Harvest, D'Italiano, Wonder and Great Value;
- Wal-Mart received on October 25, 2024 a notice that WB issued a recall;
- The Recall only affected specific batches of products (the "**Recalled Products**");
- Wal-Mart removed all the Recalled Products from the shelves of its stores by the end of the day on October 28, 2024; and
- Wal-Mart has provided refunds to anyone who provided proof of purchase of Recalled Products.

8. This evidence is relevant in assessing whether the Applicant has established an arguable case against Wal-Mart pursuant to article 575(2) CCP.

9. The evidence Wal-Mart wishes to submit will serve to correct and contradict notably the allegations that Wal-Mart adopted a lax and passive attitude, and a behavior marked by ignorance, carelessness, and serious negligence regarding the Proposed Class's rights with regard to the sale of the Recalled Products and the subsequent Recall (see para. 30 of the Authorization Application).

10. The Sworn Statement will also serve to correct and contradict the allegations that Wal-Mart continued to sell the Recalled Products after the Recall was issued by the Canadian Food Inspection Agency on November 4, 2024 (see para. 33 of the Authorization Application).

11. The Sworn Statement is relevant and useful and complies with the requirements of articles 9, 18 and 19 of the CCP.

12. In light of the above, Wal-Malt respectfully submits that it is in the interests of the parties and of justice that the Sworn Statement and its supporting annex be introduced into the Court record and be considered by this Honourable Court in the context of its analysis of the authorization criteria, and specifically in its determination of whether the Applicant has established an arguable case pursuant to article 575 (2) CCP.

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

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Application for Authorization to Adduce Relevant Evidence;

AUTHORIZE the Defendant Wal-Mart Canada Corp. to file an executed sworn statement substantially similar to the draft sworn statement, communicated as **Exhibit WM-1** hereto, along with its Annex A attached in support thereof, within 30 days of the judgment on the present Application;

THE WHOLE with legal costs.

Montréal, this May 30, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP
Attorneys for Defendant Wal-Mart Canada Corp.

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NOTICE OF PRESENTATION

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TAKE NOTICE that the present *Application By Wal-Mart Canada Corp. 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, at a time to be determined 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 May 30, 2025

Fasken Martineau DuMoulin LLP

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Attorneys for Defendant Wal-Mart Canada Corp.

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Defendants

LIST OF EXHIBITS

Exhibit WM-1: Draft Sworn Statement of Katherine Di Tommaso and its Annex A.

Montréal, this May 30, 2025

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Fasken Martineau DuMoulin LLP
Attorneys for Defendant Wal-Mart Canada Corp.

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EXHIBIT
WM-1

C A N A D A

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LOCALITY OF MONTRÉAL

SUPERIOR COURT
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No: 500-06-001341-243

SARAH MCCONNELL

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SWORN STATEMENT OF KATHERINE DI TOMMASO

I, the undersigned, Katherine Di Tommaso, Senior Director at Wal-Mart Canada Corp. ("**Wal-Mart**"), having my current professional address at 1940 Argentia Road, Mississauga, Ontario, L5N 1P9, do solemnly declare:

1. I am the Senior Director (Specialty Compliance and Ethics) at Wal-Mart.

2. I have been employed by Wal-Mart since October 2003. I have knowledge of the facts set forth herein.

3. I am providing this affidavit in the context of the Application for authorization to institute a class action brought by the Plaintiff Sarah McConnell in Court docket number 500-06-001341-243.

4. Wal-Mart sells various brands of bread in its retail stores, namely Country Harvest, D'Italiano, Wonder and Great Value, the latter being its home brand supplied by Wonder Brands Inc. ("**WB**").

5. On October 25, 2024, I received notice that WB had issued a letter of recall for certain products. This was a voluntary recall for potential foreign materials in specific products (the "**Recall**"), as appears from a letter sent by WB dated October

25, 2024 (the “**Letter**”) communicated in support of this Sworn Statement as Annex A.

6. The Letter (Annex A) provided the affected lot code numbers appearing on the bread clip used to attach the bag, also referred to as the "kwik lok".

7. The recalled batches were # NO 03 KR, NO 04 KR, NO 07 KR, NO 08 KR, NO 09 KR (the “**Recalled Products**”).

8. By the end of the day on October 28, 2024, all products sold by Wal-Mart that were subject of the Recall were removed from the shelves and were unavailable for purchase at Wal-Mart stores.

9. Refunds were provided to anyone who provided proof of purchase of Recalled Products.

10. To the best of my knowledge, all of the facts alleged herein are true.

AND I HAVE SIGNED :

Katherine Di Tommaso

Declared under oath before me, by technological means (Microsoft TEAMS), in Montréal, on [●], 2025

Commissioner for Oaths for Québec

Annex A

Wonder Brands Inc.
1495 Queensway Drive
Etobicoke, ON
M8Z 1T3

Date: October 25 2024

Attention: Walmart Notification

Subject: **Wonder Brands Inc ISSUES VOLUNTARY RECALL FOR POTENTIAL FOREIGN MATERIALS IN THE PRODUCTS IN THE ATTACHED LIST**

We are writing to inform you about an important update regarding a recent product recall. This recall pertains exclusively to the specific product and lot code as per the attached list. The affected products are packaged in a, printed plastic bag affixed with a kwik lok on the end. The recalled batch is marked with **lot code # NO 03 KR, NO 04 KR, NO 07 KR, NO 08 KR, NO 09 KR** identified on the kwik lok.

Please note that this recall is limited to **lot code # NO 03 KR, NO 04 KR, NO 07 KR, NO 08 KR, NO 09 KR** of the **products and stores identified in the attached list**. We want to reassure you that all other lot numbers and products have been deemed safe and compliant with all safety and quality standards. Your safety and satisfaction are our top priorities, and we are confident that the products we have produced for you meet our stringent quality standards. **We are currently in the process of pulling the full inventory list of products and will send separately when complete, but we wanted to give you a heads up on the recall to begin pulling the affected product based on the Kwik lok information**.

The recall is **VOLUNTARY** initiated by Wonder Brands Inc after our supplier of Salt - Compass Minerals Wonderbrands Inc on October 25, 2024, informed us, they have initiated a recall on **5000795 – F&C Superior Hy Grade YPS Salt Tote 100kg** as a result of potential foreign material. We have since ceased operation with the affected lots and resumed production with salt from an alternate supplier. Our production has only used one of the lots in question as per the Recall Notification from the supplier which we've attached for your reference.

Wonder Brands Inc takes all food safety matters to the utmost importance and rest assured that we are doing all we can to provide above-standard quality products. We will continue to evaluate our procedures and implement/modify if additional work instructions are required. Our top priority remains the safety and satisfaction of our customers. We apologize for any inconvenience this situation may cause and appreciate your understanding and cooperation.

If you have any questions or need further assistance, please do not hesitate to contact our Customer Care team at customercare@wonderbrands.com or our **Recall Coordinator Christa Lovelock at 416-571-8304**

Marie Joan Lai Kwan

De: Marie Joan Lai Kwan
Envoyé: 30 mai 2025 13:43
À: Mtre Jimmy Ernst Jr. Laguë Lambert; Mtre Benjamin W. Polifort; Mtre. Loran-Antuan King; Mtre. Sylvie Rodrigue, Ad.E.; Mtre Anne Merminod; Mtre Éric Azran
Cc: Mirna Kaddis; Noah Boudreau; Marie-Eve Labonté
Objet: Notification - Sarah McConnell vs. Wonder Brands Inc. et als. - 500-06-001341-243 - Our ref. : 261302.00291 [FMD-CANADA.FID13466503]
Pièces jointes: 2025-05-30 Application by Wal-Mart to adduce evidence.pdf

Suivi:

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Marie-Eve Labonté	Remis: 2025-05-30 13:43
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NOTIFICATION BY TECHNOLOGICAL MEANS

Fasken Martineau DuMoulin LLP
(Art. 133 - 134 of the *Code of Civil Procedure*, CQLR c. C-25.01)

Parties : Sarah McConnell vs. Wonder Brands Inc. et als.
Court: Superior Court
Judicial District: Montréal
Locality: Montréal
Court Number: 500-06-001341-243

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Notified document(s):

Document's Title	Type	Nb pages	Size

Application by Wal-Mart Canada Corp for Authorization to Adduce Relevant Evidence	PDF	11	1MB

Please contact the sender if you have any technical problems with the documents.

Marie Joan Lai Kwan

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/335010.00001 **BF1339**

APPLICATION BY WAL-MART CANADA CORP FOR AUTHORIZATION TO ADDUCE RELEVANT EVIDENCE, NOTICE OF PRESENTATION, LIST OF EXHIBITS AND EXHIBIT WM-1

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