

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL
LOCALITY OF MONTRÉAL

SUPERIOR COURT
(Class Actions)

No: 500-06-001257-233

NOURIT ESTRADE

Applicant

v.

WAL-MART CANADA CORP.

Defendant

**APPLICATION BY WAL-MART CANADA CORP. FOR AUTHORIZATION TO
ADDUCE RELEVANT EVIDENCE**
(Art. 574 CCP)

**TO THE HONOURABLE MARIE-CHRISTINE HIVON 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 a sworn statement of Kashturi Ramsuchit, Senior Analyst (Tax) at Wal-Mart, dated June 18, 2025, communicated as **Exhibit WM-1** hereto (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 the questions of fact and law to be treated collectively pursuant to article 575(1) CCP and 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 August 16, 2023, the Applicant Nourit Estrade filed an *Application to Authorize the Bringing of a Class Action* against Wal-Mart (the "**Authorization Application**"), on behalf of the following proposed class (the "**Proposed Class**"):

“All consumers in Canada who purchased Perrier carbonated water from Wal-Mart and who paid a price higher than the price advertised (excluding sales tax).”

5. The Authorization Application alleges breaches by Wal-Mart of provisions of the *Consumer Protection Act* (“**CPA**”), of the *Order in Council respecting the Policy on accurate pricing for merchants who use optical scanner technology* (the “**Accurate Pricing Policy**”), of the *Scanner Price Accuracy Voluntary Code* (the “**Code**”) and of the *Competition Act*, in connection with the improper collection of a \$0.05 beverage deposit fee (the “**Fee**”) in its stores on the sale of cases of Perrier carbonated water cans and bottles.
6. As a result of Wal-Mart’s alleged faults, the Applicant seeks, on behalf of the Proposed Class, compensatory damages pursuant to the CPA and the *Competition Act*, statutory damages pursuant to the Accurate Pricing Policy or the Code, punitive damages, as well as injunctive relief forcing Wal-Mart to cease perpetuating the illegal practice.

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 improper collection of the Fee in its Quebec stores, by demonstrating that:
 - Between June 23, 2023 and August 31, 2023 (the “**Period**”), Wal-Mart improperly collected the Fee in its Quebec stores on the sale of cases of Perrier carbonated water cans and bottles for ten Stock Keeping Units (SKUs), each sold at a price of \$8.37;
 - During the Period, Wal-Mart collected the Fee on 22,588 cases of 8 cans and on 1,515 cases of 6 bottles, for a total of \$9,489.70 (the “**Fees**”);
 - The Fees were remitted to Boissons Gazeuses Environnement;
 - Once the error was brought to Wal-Mart’s attention, it took timely corrective action, and the issue was fully rectified by August 31, 2023 in all its Quebec stores; and
 - The beverage deposit fees were properly collected in all other Canadian provinces where such fees were applicable under the relevant regulations.
8. This evidence is relevant in determining whether the Applicant has established an arguable case against Wal-Mart pursuant to article 575(2) CCP and in narrowing the questions of fact and law to be treated collectively pursuant to article 575(1) CCP, if the class action is authorized.

9. More specifically, the evidence Wal-Mart wishes to submit will serve to correct and contradict the allegations that Wal-Mart intentionally and in bad faith charged the Fee to its customers, and that it continues to do so with impunity (paragraphs 2, 3, 17, 43, 45, and 50 of the Authorization Application).
10. This evidence will also serve to correct and complete the allegations regarding the Stock Keeping Units (SKUs) for which the Fee was improperly collected (paragraphs 14-15 of the Authorization Application), and the period during which the Fee was collected.
11. If the class action is authorized, the Sworn Statement will also serve to narrow and limit the questions to be treated collectively in the course of the class action.
12. Namely, the Sworn Statement will serve to establish that the injunctive relief sought in the Authorization Application is unfounded because it has become moot, since Wal-Mart rectified the situation regarding the Fee as of August 31, 2023.
13. Lastly, this evidence will be useful in narrowing down the scope of the Proposed Class to become a Quebec-only class, insofar as the Fee was improperly collected exclusively in its stores within the province of Québec, and the Proposed Class is currently national in scope.
14. The Sworn Statement is thus relevant and useful and complies with the requirements of articles 9, 18 and 19 of the CCP.
15. In light of the above, Wal-Mart respectfully submits that it is in the interests of the parties and of justice that the Sworn Statement 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 the questions of fact and law to be treated collectively pursuant to article 575(1) CCP, and its assessment of whether the Applicant has established an arguable case pursuant to article 575(2) CCP.
16. 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 the sworn statement of Kashturi Ramsuchit dated June 18, 2025, communicated as Exhibit WM-1 hereto;

THE WHOLE with legal costs.

Montréal, this June 18, 2025

Fasken Martineau DuMoulin LLP

Fasken Martineau DuMoulin LLP

Attorneys for Defendant Wal-Mart Canada Corp.

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(Class Actions)**

No: 500-06-001257-233

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Applicant

v.

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Defendant

NOTICE OF PRESENTATION

ADDRESSEE(S):

Me Joey Zukran

LPC AVOCATS

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TAKE NOTICE that the present *Application for Authorization to Adduce Relevant Evidence* will be presented for adjudication before the honourable justice Marie-Christine Hivon 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 June 18, 2025

Fasken Martineau DuMoulin LLP

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Attorneys for Defendant Wal-Mart Canada Corp.

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LIST OF EXHIBITS

Exhibit WM-1

Sworn Statement of Kashturi Ramsuchit dated June 18, 2025.

Montréal, this June 18, 2025

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SWORN STATEMENT OF KASHTURI RAMSUCHIT

I, the undersigned, Kashturi Ramsuchit, Senior Analyst (Tax) 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 have been employed by Wal-Mart since October 2003 and I have occupied the role of Senior Analyst (Tax) since July 2021.
2. I am providing this affidavit in the context of the *Application to Authorize the Bringing of a Class Action* brought by the Applicant Nourit Estrade in Court docket number 500-06-001257-233.
3. Between June 23, 2023 and August 31, 2023 (the "**Period**"), Wal-Mart improperly collected a \$0.05 beverage deposit fee (the "**Fee**") in its Quebec stores on the sale of cases of Perrier carbonated water cans and bottles for ten Stock Keeping Units (SKUs) each sold at a price of \$8.37, namely SKUs number 5500020278, 5500020294, 5500020393, 5500020396, 5500020399, 5500020402, 5500020405, 5500020408, 5500020411 and 5500020670 (collectively, the "**Affected SKUs**").
4. All of the Affected SKUs were sold in cases of 8 cans, with the exception of SKU 5500020670, which was sold in cases of 6 bottles.
5. During the Period, Wal-Mart collected the Fee on 22,588 cases of 8 cans and on 1,515 cases of 6 bottles, for a total of \$9,489.70 (the "**Fees**").
6. The Fees were remitted to Boissons Gazeuses Environnement.
7. Once the error was brought to its attention, Wal-Mart took timely corrective action, and the issue was fully rectified by August 31, 2023 in all its Quebec stores.

8. The beverage deposit fees were properly collected in all other Canadian provinces where such fees were applicable under the relevant regulations.
9. To the best of my knowledge, all of the facts alleged herein are true.

AND I HAVE SIGNED :

DocuSigned by:

Kashturi Ramsuchit

53E9052C48D145D...

KASHTURI RAMSUCHIT

Declared under oath before me, by
technological means (Microsoft TEAMS),
in Montréal, on June 18, 2025

DS

DocuSigned by:

Marie Joan Lai Kwan

3E2A3B11F77E45F...



Commissioner for Oaths for Québec

De: Marie Joan Lai Kwan
Envoyé: 20 juin 2025 12:23
À: Me Joey Zukran
Cc: Noah Boudreau; Mirna Kaddis; Marie-Eve Labonté
Objet: Notification - Nourit Estrade v. Wal-Mart Canada Corp - 500-06-001257-233 - Notre réf. : 261302.00258 [FMD-CANADA.FID12686437]
Pièces jointes: 314555298_v(1)_2025-06-18 Application for Authorization to Adduce Relevant Evidence.pdf

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 : Nourit Estrade v. Wal-Mart Canada Corp
Cour : Cour supérieure
District judiciaire : Montréal
Localité : Montréal
Numéro de cour : 500-06-001257-233

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Document(s) notifié(s) :

Titre du document	Type	Nb pages	Taille
2025-06-18 Application by Wal-Mart Canada Corp for Authorization to Adduce Relevant Evidence	PDF	10	945KB

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

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Defendant

16989/ 261302.00258

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

ORIGINAL

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