C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N^{o}: 500-06-000953-188

SUPERIOR COURT
(Class Action)

YVON MILLIARD

Plaintiff

v.

KRAFT HEINZ CANADA ULC

Defendant

APPLICATION FOR AN EXTENSION OF THE TIME LIMIT FOR TRIAL READINESS

BY THE DEFENDANT

(Art. 158(7) C.C.P.)

IN SUPPORT OF ITS APPLICATION, THE DEFENDANT SUBMITS THE FOLLOWING:

1. On November 12, 2020, Plaintiff served its originating application upon the Defenfant.

2. On March 11, 2021, the parties filed a duly completed case protocol into the court record, setting the time limit for trial readiness to October 29, 2021.

3. During the course of a hearing held on February 3, 2022, this Honorable Court extended the time limit for trial readiness to October 31, 2022.

4. On October 31, 2022, Plaintiff filed an application seeking an extension of the time limit for trial readiness with a view of obtaining additional time for his actuarial expert to complete his report.

5. By way of a judgment rendered on November 2, 2022, the extension sought by Plaintiff was granted and the time limit for trial readiness was extended until January 31, 2022.

6. For the reasons expressed herein, Defendant hereby requests that this Honorable Court extend the time limit for trial readiness until May 1, 2023.

7. As at the present date, Plaintiff has yet to communicate or file his expert report pertaining to the valuation of his claim.

8. In fact, on December 21, 2022, Plaintiff's counsel requested additional documentation, being a copy of the actuarial evaluation report for the purpose of financing the pension fund (the "**Evaluation Report**"), as appears from a copy of Plaintiff's counsel's email dated December 21, 2022 communicated herewith as **Exhibit R-1**.

9. On January 18, 2023, the undersigned counsel requested clarity as regards the relevance of the Evaluation Report for the purpose of calculating the value of the bridge benefit to which Plaintiff claims entitlement, as appears from an email dated January 18, 2023 communicated herewith as **Exhibit R-2**.

10. Much to the surprise of the undersigned counsel, on January 18 and 20, 2023, Plaintiff's counsel confirmed that their expert calculated the actuarial value of the bridge benefit under the assumption that the plan would have continued until January 1, 2024 and that 2 additional issues remained to be calculated:

    a) the applicable legal interest; and

    b) the value of the benefits under the assumption that the termination date was January 1, 2024;

    as appears from emails from Plaintiff's counsel dated January 18 and 20, 2023 communicated herewith as **Exhibit R-3**.

11. Plaintiff's counsel's emails (Exhibit R-3) raises the following issues, which render the extension of the time limit for trial readiness inevitable, and which were expressly brought to Plaintiff's attention by way of an email dated January 20, 2023 communicated herewith as **Exhibit R-4**, including:

    a) The cause of action, as authorized by this Honorable Court, is based on Plaintiff's alleged right to a bridge benefit as a result of the termination of the pension plan as at December 31, 2016 and not January 1, 2024. Such a material transformation of Plaintiff's cause of action would require an amendment to Plaintiff's originating application, an amendment Plaintiff's counsel has already confirmed having no intention of filing;

b) Defendant has yet to see Plaintiff's expert's report and therefore cannot accept to waive its right to filing a counter-expertise in relation thereto. Furthermore, although Plaintiff's counsel claims the parties' experts are "essentially in agreement" as to the valuation of the claim, the comments made by Plaintiff's counsel in its emails, Exhibit R-3, raise serious doubts that such is truly the case, thus justifying the need for a meeting of experts prior to setting this case down for trial;

c) Even in the event the valuation of the present claim was to be prepared under the assumption that the pension plan would have been terminated on January 1, 2024, which is expressly denied, the Evaluation Report would reveal no new information Plaintiff doesn't already have via the documents already provided during the discovery process; and

d) Should Plaintiff still intend to have a representative of Retraite Québec testify at trial, such evidence could only be adduced if Plaintiff's originating application was amended in such regard.

12. In light of the foregoing, it will not be possible for the parties to set the case down for trial by January 31, 2023.

13. Defendant hereby seeks to extend the time limit for trial readiness to May 1, 2023.

14. The extension sought is reasonable and necessary given the circumstances.

15. This application is well-founded in facts and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT :

TO GRANT this application;

TO EXTEND the time limit for trial readiness to May 1, 2023;

THE WHOLE, without costs, except in the event of contestation.

Montréal, January 31, 2023

Blake, Cassels & Graydon L.L.P.

BLAKE, CASSELS & GRAYDON LLP
M^tre Claude Marseille, Ad. E.
M^tre Ariane Bisaillon
M^tre Eric Stachecki
Attorneys for the Defendant
1 Place Ville Marie, suite 3000
Montréal (Québec) H3B 4N8
claude.marseille@blakes.com
Tel. : 514-982-5089
ariane.bisaillon@blakes.com
Tel. : 514-982-4137
eric.stachecki@blakes.com
Tel. : 514-982-4101
Fax : 514-982-4099