

COUR SUPÉRIEURE

CANADA
PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL

N° : 500-06-000513-107

DATE : 17 MARS 2015

SOUS LA PRÉSIDENTE DE : L'HONORABLE ANDRÉ ROY, J.C.S.

UNION DES CONSOMMATEURS
Demanderesse/Représentante

et

MICHAEL SILAS
Personne désignée

c.

AIR CANADA
Défenderesse

JUGEMENT APPROUVANT L'AVIS AUX MEMBRES RECTIFIÉ
(art. 1005 et 1006 C.p.c.)

JR1338

[1] **Considérant** que le 3 mars 2015, le Tribunal a notamment approuvé le texte français de l'avis aux membres intégral et abrégé;

[2] **Considérant** qu'à la même date, le Tribunal a ordonné à la demanderesse de transmettre dans un délai de trente (30) jours du jugement, aux procureurs de la défenderesse et au Tribunal, la traduction en langue anglaise des avis aux membres, et

ce, dans le but de permettre au Tribunal de l'approuver et d'en assurer la publication et la diffusion;

[3] **Considérant** que le 10 mars 2015, les procureurs de la demanderesse ont transmis aux procureurs de la défenderesse pour commentaires la traduction en langue anglaise de l'avis aux membres intégral et abrégé;

[4] **Considérant** que le 11 mars 2015, les procureurs de la défenderesse ont fait part aux procureurs de la demanderesse et au Tribunal de leurs commentaires et suggestions de corrections;

[5] **Considérant** que le 12 mars 2015, le Tribunal a été informé de la teneur de la version en langue anglaise de l'avis aux membres faisant l'objet d'un accord entre les procureurs des parties;

[6] **Considérant** qu'il y a lieu d'approuver cette version en langue anglaise de l'avis aux membres et d'en ordonner la publication dans le journal THE GAZETTE;

[7] **Considérant** que cette publication aura pour conséquence de repousser le délai d'exclusion pour les membres au 1^{er} juin 2015;

[8] **Considérant** qu'il y a également lieu de computer à compter de la date du jugement rectifié le délai au cours duquel la défenderesse devra faire parvenir l'information mentionnée au paragraphe [51] du jugement du 3 mars 2015;

POUR CES MOTIFS, LE TRIBUNAL :

[9] **APPROUVE** le texte anglais de l'avis aux membres abrégé de même que le texte anglais de l'avis aux membres intégral qui apparaissent en annexe du jugement;

[10] **ORDONNE** que l'avis aux membres intégral en langue anglaise, en plus d'être disponible au greffe de la Cour supérieure et au registre des recours collectifs, soit accessible au moins jusqu'au 1^{er} mai 2015 sur le site *Internet* des procureurs de la demanderesse;

[11] **ORDONNE** que le texte anglais de l'avis aux membres abrégé soit publié et diffusé de la façon suivante :

- a) par sa publication un samedi, dans la section « NOUVELLES » du journal THE GAZETTE, et ce, dans un délai de trente (30) jours du jugement rectifié;

- b) par l'envoi par la défenderesse par courriel de l'avis abrégé en anglais à chacun des membres du groupe à sa dernière adresse connue avec la mention « *Notice of a class action* »;

[12] **PRÉCISE** que le délai d'exclusion pour les membres expirera le 1^{er} juin 2015;

[13] **ORDONNE** à la défenderesse de faire parvenir au Tribunal l'information visée au paragraphe [51] du jugement du 3 mars 2015 dans un délai de trente (30) jours du jugement rectifié;

[14] **LE TOUT**, frais à suivre.



ANDRÉ ROY, J.C.S.

M^e François Lebeau
M^e Mathieu Charest-Beaudry
UNTERBERG, LABELLE, LEBEAU, AVOCATS
Procureurs de la demanderesse
et de la personne désignée

M^e Marc-André Landry
M^e Simon Seida
BLAKE CASSELS & GRAYDON
Procureurs de la défenderesse

Date d'audience : 25 février 2015

Mis en délibéré le : 25 février 2015

ANNEXES

CLASS ACTION: UNION DES CONSOMMATEURS VERSUS AIR CANADA

INCOMPLETE PRICES ADVERTISED

On March 7, 2014, the Quebec Court of Appeal authorized a class action against Air Canada who is alleged to have advertised airplane ticket prices on its website in contravention of the Consumer Protection Act.

WHO IS A CLASS MEMBER?

Briefly, the class action includes all consumers residing in Quebec who bought an airplane ticket on Air Canada's website between June 30, 2010 and February 8, 2012 and who paid a price higher than the one advertised on the first step of this website, regardless of whether the flight was operated by Air Canada, by a member carrier of Star Alliance or by any other air carrier with or without a code share arrangement.

WHAT IS THE GOAL OF THE CLASS ACTION?

The class action seeks to establish whether Air Canada required its clients to pay a price higher than the one advertised on its website in contravention of the Consumer Protection Act.

WHAT CAN YOU GET?

The Class Action seeks to obtain for class members the reimbursement of the fees illegally imposed plus punitive damages.

HOW TO EXCLUDE YOURSELF?

If you wish to exclude yourself from the class you must advise the Clerk of the

Superior Court of the district of Montreal by registered mail to 1 Notre Dame Street East, Montreal H2Y 1B6 **by no later than June 1st, 2015.**

The request for exclusion must be made in writing with reference to the class action identified by the court file number 500-06-000513-107.

In general, only those persons who wish to bring an individual action at their own expense have the interest to exclude themselves from a class action.

WHO REPRESENTS THE MEMBERS?

Union des Consommateurs has been designated by the court to represent the members of the class.

FOR FURTHER INFO

This notice is only a summary of the notice to members, the complete text of which may be found on the websites identified below. The judgment authorizing the class action and the motion to institute proceedings can also be found on the same websites. You may also contact Union des Consommateurs or their attorneys:

Union des consommateurs
www.uniondesconsommateurs.ca
Fax: (514) 521-0736
Telephone: (514) 521-6820

Unterberg, Labelle, Lebeau Avocats
www.recours-collectif.ca
Fax: (514) 937-6547
Telephone: (514) 934-0841

Register of Class Actions

<http://services.justice.gouv.qc.ca/dgsj/rcc/Acceuil/Acceuilé.aspx>

THIS TEXT HAS BEEN APPROVED BY THE COURT. IN THE EVENT OF A DISCREPANCY BETWEEN THIS SUMMARY NOTICE AND THE COMPLETE NOTICE, THE LATTER SHALL PREVAIL.

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(CLASS ACTION)
SUPERIOR COURT

No : 500-06-000513-107

UNION DES CONSOMMATEURS

Plaintiff/Representative

-and-

MICHAEL SILAS

Designated person

c.

AIR CANADA

Defendant

<p>NOTICE TO MEMBERS (Complete Text)</p>
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1. **TAKE NOTICE** that on March 7, 2014 a class action was authorized by judgment of the Honorable Judges Yves-Marie Morissette, Clement Gascon and Dominique Belanger of the Quebec Court of Appeal on behalf of all physical persons forming part of the group hereinafter described:

“Every consumer, pursuant to the terms of the Consumer Protection Act, residing in Quebec at the time of the purchase, having purchased an airplane ticket from Air Canada between June 30, 2010 and February 8, 2012 via Air Canada’s website and who paid a price higher than the price advertised by Air Canada on its website (at the first step), excluding GST, QST, amounts due pursuant to federal or provincial law requiring amounts to be collected from a consumer and remitted to a public authority, as well as optional costs, the whole regardless of whether the air transportation was carried out by Air Canada, Jazz, Rapidair

an air carrier member of Star Alliance or any other air carrier, with or without code sharing, notably:

- Continental Airlines
- United
- U.S. Airways
- Lufthansa
- Austrian
- Brussels Airlines
- Egyptair
- Scandinavian Airlines
- Swiss
- Lot Polish Airlines
- Singapore Airlines
- Thai
- All other air carriers members of Star Alliance
- British Midland International
- British Airways

hereinafter referred to as the “**Class**”.

2. The chief Justice has declared that the class action authorized by this judgment shall be exercised in the district of Montreal.

3. The address of the Plaintiff/Representative **Union des consommateurs** is:

6226, Saint-Hubert Street
Montreal (Quebec) H2S 2M2

The address of the Defendant **Air Canada** is:

7373, boulevard Côte Vertu West
Ville Saint-Laurent (Quebec) H4S 1Z3

4. The Status of Representative for this class action has been granted to:

Union des consommateurs
6226, Saint-Hubert street
Montreal (Quebec) H2S 2M2

5. The principal questions of fact and law to be treated with collectively are the following:
1. Is Air Canada subject to the Consumer Protection Act (*C.P.A.*) of Quebec (R.S.Q., c. P-40.1)?
 2. Did Air Canada contravene section 224 c) of the *C.P.A.*?
 3. In the affirmative, do the members of the Class have the right to claim payment of the following amounts from Air Canada?
 - a) Reimbursement of amounts (excluding GST, QST, amounts due pursuant to federal or provincial law requiring amounts to be collected from a consumer and remitted to a public authority, as well as optional costs [...]) which the members paid to obtain their airline ticket and which were not included in the advertised price?
 - b) Payment of an amount of \$100 as punitive damages.
 - c) Interest and the additional indemnity provided for by the *Civil Code of Quebec* for the above amounts, from the date of service of the motion to authorize a class action.
6. The conclusions sought in relation to these questions are the following:

GRANT the Union des Consommateur's and the Class members' class action against Air Canada;

CONDEMN Air Canada to pay to Michael Silas and to every member of the Class the amounts paid by them to obtain their airline tickets and which were not included in the advertised price (to the exclusion of Quebec sales tax (QST), Canada goods and services tax (GST), amounts Air Canada is required to collect directly from consumers pursuant to federal or provincial law for remittance to a public authority, as well as optional costs;

ORDER that the foregoing condemnation be subject to collective recovery;

CONDEMN Air Canada to pay to Michael Silas and to every member of the Class \$100, *à parfaire*, as punitive damages and ORDER the collective recovery of this condemnation;

CONDEMN Air Canada to pay to Michael Silas the amount of \$192.88, itemized as follows:

• Reimbursement of "Taxes, fees and supplementary charges":	\$92.88	
• Punitive Damages:	\$100	-----
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	Total	\$192.88

CONDEMN Air Canada to pay interest and the additional indemnity provided for in the *Civil Code of Quebec* on all of the above amounts and ORDER the collective recovery of this condemnation;

RENDER any other order that the Court may determine and which would be in the interest of the members of the Class;

THE WHOLE with costs, 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.

7. The class action to be exercised by the representative for the benefit of the members of the Class will be an action for the reimbursement of fees illegally imposed and for punitive damages.
8. Any member of the Class who has not requested his or her exclusion in the manner set out below will be bound by the judgment to be rendered in the class action.
9. The date after which a member may no longer be excluded without special permission has been fixed as **June 1st, 2015**.
10. A member who has not as yet brought a personal action may be excluded from the Class by advising the Clerk of the Superior Court of the district of Montreal by registered mail before the expiry of the delay for exclusion.
11. Any member of the Class who has brought an action which the final judgment in the class action would decide is deemed to be excluded from the Class if he or she does not discontinue the said action before the expiry of the delay for exclusion.
12. A member of the Class other than a Representative or an Intervenor cannot be condemned to pay the costs of the class action.

13. The Court may permit a member to intervene if it considers such intervention useful to the Group. An intervening member is bound to submit to an examination on discovery at the request of the Respondent. A member who does not intervene in the class action may not be required to submit to an examination on discovery unless the Court considers it necessary.

Montreal, **March 17, 2015**

**THE ATTORNEYS FOR THE PLAINTIFF/REPRESENTATIVE
UNION DES CONSOMMATEURS AND THE “DESIGNATED
PERSON” MICHAEL SILAS**

Me François Lebeau
UNTERBERG, LABELLE, LEBEAU AVOCATS
1980 Sherbrooke Street West, Suite 700
Montreal (Quebec) H3H 1E8

Fax: 514 937 6547
E-mail: contact@ullnet.com

THE PUBLICATION OF THIS NOTICE HAS BEEN APPROVED BY THE COURT