

(Class Action)
SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No : 500-06-000791-166

DATE : June 20, 2017

PRESIDED BY: THE HONOURABLE CHANTAL CHATELAIN, J.S.C.

OSHRAT HALFON

And

GABRIEL MALKA

Applicants

v.

MOOSE INTERNATIONAL INC.

Defendant

JUDGMENT

(Authorization to institute a class action and approval of notices to class members of a settlement approval hearing)

[1] *CONSIDERING* the Applicants' initial *Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff* and the exhibits alleged in support thereto;

[2] *CONSIDERING* the *Amended Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiffs* of November 17, 2016;

[3] CONSIDERING the transaction executed between the parties on May 30 and June 5, 2017 filed as Exhibit R-1 ("**Settlement Agreement**");

[4] CONSIDERING the *Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing* ("**Consolidated Application**");

[5] CONSIDERING that pursuant to the Consolidated Application, the Applicants are asking the Court to authorize the class action for settlement purposes and to approve notices informing the class members that the Settlement Agreement will be submitted to the Court for approval;

[6] CONSIDERING the submissions of counsel for the Applicants and counsel for the Defendant who consents to the Consolidated Application;

[7] CONSIDERING that the criteria set out in article 575 of the *Code of Civil Procedure* to authorize a class action are applied with flexibility when the authorization of the class action is sought for settlement purposes¹;

[8] CONSIDERING that the Court is of the opinion that the four criteria set out in article 575 of the *Code of Civil Procedure* to authorize a class action are met, namely that:

(1) the claims of the members of the class raise identical, similar or related issues of law or fact;

(2) the facts alleged appear to justify the conclusions sought;

(3) the composition of the class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings; and

(4) the class member appointed as representative plaintiff is in a position to properly represent the class members.

[9] CONSIDERING articles 575, 576, 579, 580, 581 and 590 of the *Code of Civil Procedure*;

[10] CONSIDERING that the Defendant has its head office and principal place of business in Québec and that the Court has jurisdiction with respect to class members located or domiciled outside of Quebec by virtue of article 3148 of the *Civil Code of Quebec*²;

¹ *Dupuis c. Polyone Canada inc.*, 2016 QCCS 2561, par. 9.

² *Brito c. Pfizer Canada inc.*, 2008 QCCS 2231, par. 103 à 105.

FOR THESE REASONS, THE COURT :

[11] **GRANTS** the *Consolidated Application for Authorization to Institute a Class Action for Settlement Purposes and for Approval of Notices to Class Members of a Settlement Approval Hearing*;

[12] **AUTHORIZES** Applicants to amend as follows the class description in the *Amended Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiffs*:

All consumers worldwide who have purchased before March 31, 2017 Moose Knuckles® clothing items, including but not limited to parkas, jackets, hats, boots, hoodies and sweaters which Defendant stated were "Made in Canada".

"Tous les consommateurs dans le monde entier qui ont acheté avant le 31 mars 2017 un vêtement de marque Moose Knuckles®, incluant sans limitation parkas, manteaux, chapeaux, bottes, pulls et chandails, identifiés par la Défenderesse comme étant « Fabriqué au Canada ».

[13] **AUTHORIZES** the bringing of a class action against the Defendant for settlement purposes;

[14] **APPOINTS** the Applicants Oshrat Halfon and Gabriel Malka the status of Representative Plaintiffs of the persons included in the group hereinafter described:

All consumers worldwide who have purchased before March 31, 2017 Moose Knuckles® clothing items, including but not limited to parkas, jackets, hats, boots, hoodies and sweaters which Defendant stated were "Made in Canada".

"Tous les consommateurs dans le monde entier qui ont acheté avant le 31 mars 2017 un vêtement de marque Moose Knuckles®, incluant sans limitation parkas, manteaux, chapeaux, bottes, pulls et chandails, identifiés par la Défenderesse comme étant « Fabriqué au Canada ».

[15] **IDENTIFIES** the principal questions of fact and law to be treated collectively as the following:

- a) Did Moose International Inc. conceal, or fail to mention an important fact in any of the representations it made to Group members concerning its Moose Knuckles parkas and products?
- b) Is Moose International Inc. responsible to pay compensatory, moral and/or punitive damages to Group members and in what amount?

[16] **APPROVES** the form and content of the English and French versions of the Notices to class members constituting Schedules A, B, C and D of the Settlement Agreement filed as Exhibit R-1, which Schedules are attached hereto for ease of reference;

[17] **ORDERS** the publication of the Notices constituting Schedules A, B, C and D of the Settlement Agreement R-1 within fifteen (15) days following the date of the present judgment, the whole in conformity with the Notice Plan detailed at paragraph 7 of the Consolidated Application;

[18] **DECLARES** that class members who wish to object to Court approval of the Settlement Agreement must do so in the manner provided for in the Notices constituting Schedules A, B, C and D of the Settlement Agreement filed as Exhibit R-1, on or before the forty-fifth (45th) day following the publication of said Notices;

[19] **DECLARES** that class members who wish to opt-out from the class action and the settlement thereof may do so by delivering a written notice confirming their intention to opt-out of this class action, in the manner provided for in the Notices constituting Schedules A, B, C and D of the Settlement Agreement R-1 on or before the forty-fifth (45th) day following the publication of said Notices;

[20] **DECLARES** that all class members that have not requested their exclusion be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;

[21] **SCHEDULES** the presentation of the Application for approval of the Settlement Agreement filed as Exhibit R-1 on September 5, 2017 at 09h00 in room 2.08 of the Montréal courthouse;

[22] **WITHOUT COSTS.**


CHANTAL CHATELAIN, J.S.C.

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Date of hearing : June 9, 2017