C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

(Class Action)
S U P E R I O R C O U R T

NO: 500-06-000835-161

RIVKA MOSCOWITZ

Applicant

-vs-

ATTORNEY GENERAL OF QUÉBEC

Defendant

RE-AMENDED APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF
(ARTICLES 571 AND FOLLOWING C.C.P)

TO THE HONORABLE SILVANA CONTE OF THE SUPERIOR COURT, ACTING AS THE DESIGNATED JUDGE IN THE PRESENT CASE, YOUR APPLICANT STATES AS FOLLOWS:

I. THE CLASS

1. Applicant wishes to institute a class action on behalf of the following class of which she is a member, namely:

> **Class:**
>
> All natural and legal persons who, since the inception of the photo radar and red-light camera systems in the province of Quebec on August 19th, 2009 (the "**Class Period**"), were issued a statement of offence involving a photo radar and/or a red-light camera in the province of Quebec;
>
> (hereinafter referred to as the "**Class**");
>
> or any other Class to be determined by the Court;

1.1 For clarity, the Attorney General of Québec is called as sole Defendant herein given that the present Application pertains to the rights and obligations of the

Government pursuant to article 96 of the *Code of Civil Procedure* and that it represents *La Sûreté du Québec* (hereinafter the "**SQ**"), *Le Bureau des Infractions et Amendes* (hereinafter the "**BIA**") and the *Director of Criminal and Penal Prosecutions* (hereinafter the "**DCPP**"), all of whom appear not to have a juridical personality;

II. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (SECTION 575 C.C.P.):

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT

2. Invoking the rule against hearsay evidence and claiming that Defendant and its representatives acted maliciously, negligently and unlawfully, Applicant seeks damages in the amount of **$137.00**, representing the sum paid to the BIA on December 7th, 2016, Applicant disclosing her Transaction Receipt #000207386955 as **Exhibit P-1**;

3. Towards the end of August or early September 2016, Applicant received a document titled "*Rapport d'infraction général*" (hereinafter "**Offence Report**") and her statement of offence, Applicant disclosing **Exhibit P-2**;

4. The Offence Report, Exhibit P-2, was drafted, prepared and signed off by the Sûreté du Québec, DSRIP Service du Contrôle automatisé de la circulation;

5. According to the Offence Report, Exhibit P-2, Applicant was accused of driving 125 kilometers per hour in a 100 kilometers per hour zone, in violation of article 328 of Quebec's *Highway Safety Code*, C-24.2;

6. The Offence Report, Exhibit P-2, shows a picture of what appears to be the Applicant's vehicle and further indicates that the Applicant was accused of speeding with the use of a photo radar (brand name: Robot, Model: TraffiStar SR 590, identification number: MTQ002025) manufactured by Robot Visual Systems;

7. Applicant was unpleasantly surprised and stressed when she received the Offence Report, Exhibit P-2;

8. Although the Applicant was not driving at the speed indicated on the Offence Report, Exhibit P-2, she and her husband decided that it would be more economical and practical to simply pay the fine of $137.00, instead of wasting money on a lawyer (which would cost more than the $137.00 fine) to defend herself and spending a day at court;

9. The Applicant paid her fine of $137.00 to the BIA on December 7th, 2016, Exhibit P-1;

10. On December 9th, 2016, the Applicant learnt that a judgment had recently been rendered by the Court of Quebec (*Directeur des poursuites criminelles et pénales c. Bove*, 2016 QCCQ 13829) essentially invalidating proof obtained by the SQ and the DCPP with the use of photo radars and dismissing the photo evidence as hearsay;

11. The judgment rendered by the Honourable Serge Cimon, Presiding Justice of the Peace, on November 28th, 2016, and not appealed, provides *inter alia* that:

> **[54]** Cela dit, le Tribunal déplore que la Sûreté du Québec ait mis en place un système de confectionnement de rapports d'infraction basé essentiellement sur une preuve par ouï-dire, et ce, **en totale contravention des exigences édictées par l'article 62 Cpp**.
>
> **[55]** Or, celles-ci sont claires. Les auteurs Gilles Létourneau et Guy Cournoyer rappellent d'ailleurs que c'est précisément afin d'éviter l'introduction d'une preuve par ouï-dire, que l'article 62 Cpp fixe comme condition d'admissibilité en preuve d'un rapport d'infraction, qu'il porte une attestation par l'agent d'application de la loi, qu'il a lui-même constaté les faits qui y sont mentionnés [citation omise]. Autrement dit, l'article 62 Cpp permet l'introduction en preuve d'un rapport d'infraction pour tenir lieu du témoignage d'un agent de la paix pour les faits que ce dernier a lui-même constatés, non pas pour ceux dont il est informé par un témoin [citation omise]. **Un rapport d'infraction n'est pas un raccourci magique permettant à son auteur de ne pas respecter les exigences élémentaires des règles de preuve**.
>
> **[56] Le Tribunal est également perplexe que le BIA ait autorisé ou toléré qu'un tel système soit mis en place**, d'autant plus que les amendes prévues et auxquelles les justiciables se trouvent confrontés sont substantielles [citation omise]. En l'espèce, la défenderesse risquait une peine de 1 160 $. **Ceci explique sûrement pourquoi certains n'hésitent pas à associer le système des photoradars à une « vache à lait » utilisée pour générer des revenus** [citation omise].
>
> **[57]** Le BIA, un organisme gouvernemental relevant du ministère de la Justice, **se devait d'être vigilant, d'autant plus qu'il est reconnu depuis longtemps que la vitesse d'un véhicule automobile captée par un cinémomètre photographique est prima facie du ouï-dire**, à moins que la fiabilité et l'exactitude de l'appareil soient démontrées [citation omise].
>
> [our emphasis underlined in bold].

12. The Offence Report issued to Applicant by the SQ and the evidence used by the SQ and the DCPP against the Applicant were, by all accounts, against the law;

12.1 It appears that the agent ("*Premier Agent Attestation*") checking off section "E" on

the attestation of the Offence Report was not in fact the agent that had "*personnellement constaté les faits mentionnés en…*" […];

12.2 It appears that the agent falsely attested to facts on the Offence Report and abridged police report, which, in the present case, is the equivalent of providing false testimony resulting in the conviction of an accused;

13. Moreover, the BIA should have never accepted the Applicant's payment and guilty plea in light of the inadmissible evidence she was presented with and which unfairly convinced her to pay, even more so because the Applicant's guilty plea and payment came 9 days following the decision in *Bove*, in which the Court warned:

> **[59]** Cependant, à la suite du présent jugement, le poursuivant est maintenant formellement informé que la preuve dont il dispose pour les poursuites concernant les cinémomètres photographiques fixes repose sur une preuve déficiente.
>
> **[60]** À l'avenir, les défendeurs pourront, en toute légitimité, s'adresser au Tribunal pour demander que le poursuivant soit condamné aux frais si ce dernier persiste à déposer une preuve qu'il sait illégale.
>
> **[61]** D'autant plus que les défendeurs auront dû perdre des heures de travail, retenir les services d'un avocat ou dû exiger la présence de l'agent ayant signé le rapport d'infraction, pour se défendre.

14. In light of the above, the action taken by the DCPP, the SQ and the BIA against the Applicant was malicious;

14.1 Aggravating the matter is that the DCPP was well aware that the evidence used for the hundreds of thousands of statements of offence they issued since 2009 was illegal, Applicant disclosing the December 2nd, 2016 La Presse article titled "*Radars photo: des failles connues depuis un par la Couronne*", by Philippe Teisceira-Lessard as **Exhibit P-8**;

14.2 Prior to the decision rendered in *Bove*, whenever an accused was about to raise the "hearsay argument", the DCPP would withdraw the statement of offence before a decision would be rendered (just as they attempted unsuccessfully in *Bove*). The reason for the DCPP withdrawing the statements of offence in such situations is so that the Defendant's illegal system would not be exposed, and this according to an email written by Mtre Geneviève Laporte of the DCPP in December 2015, where she admits "*Il n'y a donc pas eu de dommage pouvant affecter d'autres dossiers*", Exhibit P-8;

14.3 In December 2015, Mtre Laporte further confirmed in her email that the DCPP was fully aware that the evidence it was presenting against Class members was illegal, as it appears from an excerpt of her email from Exhibit P-8:

> *"Il s'avère donc qu'à même le constat d'infraction, la poursuite n'a pas de preuve de signalisation puisque [le signataire du constat], qui est le seul à attester la présence de signalisation, n'est pas en mesure de le faire !!!"*

14.4 Indeed, a few days later, Mtre Laporte's email was forwarded by her boss, Mtre Steeve Larivière (Chief Prosecutor), to the Crown prosecutors concerned, along with his following order: "*business as usual*" in cases where the defense doesn't raise the argument that the hearsay evidence is inadmissible, Exhibit P-8;

14.5 The above constitutes, it is suggested, an admission on behalf of the DCPP as to its heretofore improper behaviour and establishes the fundamental facts underpinning the present application;

14.6 The Applicant believes that further evidentiary support for her allegations will come to light after a reasonable opportunity for discovery;

15. The Defendant and its representatives intentionally committed a fault and acted maliciously by: (i) mounting proof in penal proceedings that they should have known all along was inadmissible in a court of law; (ii) taking advantage of the fact that the Applicant - and others - will pay based on the fact that it is most often more expensive to hire an attorney to contest the statement of offence; and (iii) taking advantage of legal presumptions against the Applicant – and others – concerning photo radars and red light cameras;

15.1 On December 28th, 2016, DCPP spokesperson and attorney Me Jean-Pascal Boucher (hereinafter "**Me Boucher**") declared publicly to Jake Edmiston of the National that "*We will make sure the evidence will be admissible*", Applicant disclosing the article titled *Crown vows changes in photo-radar evidence after Quebec judge rejects $1,160 speeding ticket* as **Exhibit P-5**;

15.1.1 On December 29th, 2016, Me Boucher declared publicly to Emy-Jane Déry of the *Journal de Montréal* that "*Des ajustements seront apportés dans la présentation de la preuve pour s'assurer qu'elle sera admissible à la cour, soit au niveau documentaire ou testimonial*", Applicant disclosing the article titled *Plus d'aquittements possibles* as **Exhibit P-9**;

15.1.2 On June 23rd, 2017, Me Boucher declared publicly to Nicolas Lachance of Agence QMI that "*on s'adapte aux règles de droit. S'il y a des jugements qui viennent nous*

guider, on doit présenter la preuve qui est conforme à l'état du droit", Applicant disclosing the article titled *Les radars photo tournent au ralenti* as **Exhibit P-10**;

15.1.3 The Applicant notes, however, that the "*règles de droit*" referred to by Me Boucher have not changed by virtue of the decision rendered in *Bove*, but rather that Me Boucher's declarations constitute an acknowledgment and admission that the practices carried out by the Defendant and its agents were evidently both systemic and malicious. It is for this very reason that Me Boucher declares in the public sphere that there must a systemic change of practice to the Defendant's heretofore systemic violation of the rules governing hearsay evidence;

15.1.4 Applicant further highlights that Me Boucher admits that, since the inception of the system in 2009, the Defendant has been presenting the Court with evidence that is not "*conforme à l'état du droit*", Exhibit P-10;

15.2 Based on Me Boucher's multiple public declarations, it was apparent that the Defendant would not reimburse previously issued tickets to Applicant and Class members, despite the Defendant's admission of the illegality not only of the evidence, but also of the systemic nature of the use thereof;

15.2.1 Moreover, the Defendant and its agents engaged in faulty conduct by instituting and persisting a systemic method by which hearsay evidence was constantly fabricated during the course of each and every penal procedure, and this in violation of section 8(3) of the *Code of ethics of Québec police officers*, chapter P-13.1, r. 1;

15.2.2 On August 31st, 2017, former Minister of Transport Laurent Lessard confirmed to the public that the Defendant and its agents have since "*revu la procédure*" concerning the drafting and presentation of offence reports which would hereinafter conform to the law, Applicant disclosing the *Journal de Montréal* article titled *Les radars photo reprennent le rythme* as **Exhibit P-11**;

15.2.3 Mr. Lessard further confirmed that, since the decision in *Bove*, the Defendant brought the issuing of statements of offence based on photo radar and red-light cameras to a grinding halt, as evidenced by the fact that the number of statements of offence issued by Defendants after *Bove* dropped from 41,721 in November 2016 to the following abysmally low numbers in the ensuing months:

Month	**Statements of Offence Issued**
November, 2016	41 721
December, 2016	8311
January, 2017	3370
February, 2017	1973

March, 2017	293
April, 2017	274
May, 2017	309
June, 2017	269

15.2.4 These figures demonstrate that as of December 2016, the Defendant brought forth major changes to the way in which photo radar and red-light cameras infractions were investigated, mounted and prosecuted and that Defendant realized that its system was wholly inadequate;

15.2.5 On November 8th, 2017, André Fortin, the new Minister of Transport, admitted publicly the following, Applicant disclosing **Exhibit P-12**:

> "*Effectivement, le nombre de constats qui sont émis ont diminué parce qu'il y a des contraintes supplémentaires qui doivent être effectuée… On a des modifications à faire pour être capable de traiter davantage de constats qui sont émis*"

15.2.6 According to the Minister of Transport, it appears that as of November 8th, 2017, the Defendant has yet to make the modifications required to ensure the legality of the evidence that it presents against Class members (it is for this reason that the Applicant does not provide an end date to the Class Period in the Class description defined at paragraph 1 above and in the conclusions below);

15.2.7 For the abovementioned reasons, Applicant's damages are a direct and proximate result of the Defendant's misconduct;

15.3 There are precedents in other Canadian jurisdictions where governments have compensated its citizens after public confidence was affected as a result of issues with the use of photo radars:

a) In 2011, the Alberta government cancelled approximately 140,000 tickets issued by photo radars during a 15-month period and compensated Albertans close to $13 million in fines, Applicant disclosing of a copy of the January 24th, 2011, Globe and Mail article titled *Alberta to refund $13M in speeding fines; photo-radar network in doubt* as **Exhibit P-6**;

b) In 2014, the City of Winnipeg cancelled more than 2,500 photo radar tickets and issued refunds to its citizens totalling approximately $1 million because of errors on tickets issued by photo radar, Applicant disclosing a copy of the July 30th, 2014, CBC News article titled *$1M in photo radar fines in Winnipeg refunded due to error* as **Exhibit P-7**;

16. In these circumstances, Applicant's claim for compensatory damages against the Defendant for her pecuniary and moral damages is justified and practicable;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

17. All Class members are persons who have been charged with an offence involving the use of photo radars and/or red-light cameras;

17.1 All Class members were issued an Offence Report that contained a false attestation/testimony by one of the Defendant's agents;

18. Defendant and its agents failed to abide by the rules of conduct incumbent on them according to usage and the law vis-à-vis all Class members;

19. Defendant and its agents' failure caused prejudice to all Class members;

20. All Class members were inconvenienced as result of Defendant's failure, whether they were acquitted, found guilty or pled guilty for said offences;

21. The Offence Reports issued to all Class Members by Defendant's agents and the evidence used involving photo radars and/or red light cameras by Defendant's agents against all Class members were against the law;

22. In this case, the legal and factual backgrounds at issue are common to all the Class members, notably whether the use by Defendant and its agents of evidence obtained by photo radars and/or red-light cameras and the profiting therefrom is unlawful (notably in violation of article 62 of the *Code of Penal Procedure* and the rule against hearsay) and whether it is malicious and in bad faith;

23. The claims of every Class member are founded on very similar facts to the Applicant's claim;

24. By reason of the unlawful conduct of Defendant and its agents, Applicant and Class members have suffered damages, which they may collectively claim against the Defendant;

25. The damages sustained by the Class members flow, in each instance, from a common nucleus of operative facts, which occur from the moment the agent […] provides a false attestation on the Offence Report, to the moment that Class members receive the Offence Report informing them that they have been issued a statement of offence involving a photo radar and/or red-light camera;

26. All of the damages to the Class members are a direct and proximate result of the

Defendant's and its agents' misconduct, maliciousness and bad faith with respect to the use of hearsay evidence, which they ought to have known was inadmissible in court;

27. In taking the foregoing into account, all Class members are justified in claiming the sums which they paid to the Defendant, compensation for their troubles and inconveniences, in addition to moral damages […];

28. Individual questions, if any, pale by comparison to the numerous common questions that are significant to the outcome of the present Application;

29. **The questions of fact and law raised and the recourse sought by this Application are identical with respect to each Class member, namely:**

a) Did the Defendant and its agents commit a fault and, if so, are Class members entitled to damages?

b) Was Defendant and its agents malicious, willfully blind and/or negligent with respect to its legal obligations, notably under article 1457 of the *Civil Code of Quebec*?

c) to m) […];

C) THE COMPOSITION OF THE CLASS

30. 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;

31. According to an access to information document published on the website of the *Ministère de la Justice* titled "*Radars photographiques et caméras aux feux rouges* : *Constats signifiés entre le 19 août 2009 et le 30 novembre 2016 inclusivement* (*Speed cameras and red light cameras: tickets issued between August 19, 2009 and November 30, 2016*)", there have been **876,989** statements of offence issued in the province of Quebec as of November 30th, 2016, involving photo radars and red light cameras, Applicant disclosing the document as **Exhibit P-3**;

32. The document published by the *Ministère de la Justice*, Exhibit P-3, further confirms that a total of **$115,719,584.00** has been issued in fines by Defendants with the use of photo radars and/or red-light cameras from August 19th, 2009 to November 30th, 2016;

33. By all accounts, there are likely hundreds of thousands of people who are members

of the Class;

34. The names and addresses of all persons included in the Class are not known to the Applicant, but are all in the possession of the Defendant and its agents;

35. Class members are very numerous and are dispersed across the province, across Canada and elsewhere;

36. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;

36.1 These facts further demonstrate that individual appeals and/or judicial reviews would be inappropriate remedies in the circumstances, as they would massively clog up the legal system. As such, the award of damages equivalent to the amount of the fines collected is the appropriate and proportionate remedy;

37. In these circumstances, a class action in damages is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

38. Applicant requests that she be appointed the status of representative plaintiff;

39. Applicant is a member of the Class and has a personal interest in seeking the conclusions that she proposes herein;

39.1 Applicant is competent, in that she has the potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;

40. On **December 9th, 2016**, Applicant's husband read an article dated that day titled "*Photo radars to stay on Quebec roads despite court ruling tossing evidence*", Applicant disclosing **Exhibit P-4**;

41. Applicant's husband is a rabbi and read this news article, Exhibit P-4, at his synagogue, where he showed it to his attorney who was also there at that time;

42. Applicant's husband informed his attorney that his wife (the Applicant) had just paid $137.00 for a statement of offence involving a photo radar only two days prior and that the content of the news article (and judgment it reports on) confirmed his pretentions that something was not kosher with the Offence Report the Applicant was issued;

43. Applicant feels that the Defendant and its agents took advantage of her, as well as of others, by using the photo radar and/or red-light camera systems as *cash cows* and should be held accountable for its misconduct;

44. On or around **December 11th, 2016**, Applicant and her husband contacted their attorneys, who have a ticket contesting practice and have experience in class actions, and mandated them to take an action to recover all damages suffered by the Applicant and Class members flowing from the use of photo radars and/or red-light cameras;

45. The Applicant and her attorneys decided to wait until the expiry of the delay to appeal the Honourable Serge Cimon's November 28th, 2016 decision in *Directeur des poursuites criminelles et pénales c. Bove*, prior to filing the *Application to Authorize the Bringing of a Class Action*;

46. As for identifying other Class members, Applicant draws certain inferences from the situation, and this based on the data released by the *Ministère de la Justice,* Exhibit P-3. Applicant realizes that, by all accounts, there is a very important number (close to one million) of citizens that find themselves in an identical situation, and that it would not be useful for her to attempt to identify them given their sheer number. The Applicant has nonetheless identified over 100 individuals who have entered their contact information as potential Class Members on her attorneys' website;

47. Applicant has given the mandate to her attorneys to obtain all relevant information with respect to the present action and intends to keep informed of all developments;

48. Applicant, with the assistance of her attorneys, is ready and available to manage and direct the present action in the interest of the members of the Class that she wishes to represent and is determined to lead the present dossier until a final resolution of the matter, the whole for the benefit of the Class, as well as to dedicate the time necessary for the present action and to collaborate with her attorneys;

49. Applicant has the capacity and interest to fairly and adequately protect and represent the interest of the Class members;

50. Applicant is prepared to dedicate the time necessary for this action and to collaborate with other Class members and to keep them informed, notably via her Facebook account;

51. Applicant is in good faith and has instituted this action for the sole purpose of having her rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the misconduct of the Defendant and its agents and to put an end to

their unlawful behaviour;

51.1 Applicant has read the *Application to Authorize the Bringing of a Class Action* and its subsequent amendments, as well as the exhibits in support thereof, prior to giving her attorneys approval to file them;

52. Applicant understands the nature of the action;

53. Applicant's interests are not antagonistic to those of other Class members;

54. Applicant's interest and competence are such that the present class action could proceed fairly;

III. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

55. The action that the Applicant wishes to institute on behalf of the Class members is an action in damages […];

56. The conclusions that the Applicant wishes to introduce by way of an Originating Application are:

GRANT Plaintiff's action against Defendant on behalf of all the Class members;

[…]

CONDEMN the Defendant to pay Rivka Moscowitz the sum of **$137.00** in compensation of the pecuniary damages suffered, as well as moral damages in an amount to be determined;

CONDEMN the Defendant to pay to each Class member a sum to be determined in compensation of the pecuniary damages suffered, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the members of the Class moral damages, in an amount to be determined, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendant to bear the costs of the present action, including class counsel's professional fees and disbursements, 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;

RENDER any other order that this Honourable Court shall determine;

57. The interests of justice favour that this Application be granted in accordance with its conclusions;

IV. JURISDICTION

58. The Applicant suggests that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal, for the following reasons:

a) A great number of the Class members, including the Applicant, reside in the district of Montreal;

b) The Defendant and its agents all have establishments in the district of Montreal;

c) The Applicant's attorneys practice their profession in the district of Montreal;

V. PRESCRIPTION AND IMPOSSIBILITY TO ACT

59. Prescription should not run against Class members until the notices are disseminated (should the present class action be authorized), because it was impossible in fact for Class members to act;

60. Indeed, Class members could not have acted previously as they had no reason to doubt, prior to the judgment in *Bove* in November 2016 and the subsequent admissions made by the Defendant's various agents, that such fabrication of evidence was taking place, much less determine that this was happening on so large a scale. It would be unreasonable to expect that: (i) the average law-abiding citizen should suspect the Defendant of mounting such a scheme; and (ii) Class members could count on assigning a police officer having drafted the Offence report to come and testify the exact opposite of what said officer had sworn under oath;

61. In the present case, the Defendant's conduct (consisting of presenting hearsay evidence and then withdrawing a ticket whenever someone brought up the hearsay

argument so that the scheme can survive) misleads Class members and the courts have found that such conduct causes an impossibility to act;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an Originating Application in damages […];

APPOINT the Applicant the status of representative plaintiff of the persons included in the Class herein described as:

> **Class:**
>
> All natural and legal persons who, since the inception of the photo radar and red-light camera systems in the province of Quebec on August 19th, 2009 (the "**Class Period**"), were issued a statement of offence involving a photo radar and/or a red-light camera in the province of Quebec;
>
> (hereinafter referred to as the "**Class**")
>
> or any other Class to be determined by the Court;

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

a) Did the Defendant and its agents commit a fault and, if so, are Class members entitled to damages?

b) Was Defendant and its agents malicious, willfully blind and/or negligent with respect to its legal obligations, notably under article 1457 of the *Civil Code of Quebec*?

c) to m) […];

IDENTIFY the conclusions sought by the class action to be instituted as being the following:

> **GRANT** Plaintiff's action against Defendant on behalf of all the Class members;
>
> […]

CONDEMN the Defendant to pay Rivka Moscowitz the sum of **$137.00** in compensation of the pecuniary damages suffered, as well as moral damages in an amount to be determined;

CONDEMN the Defendant to pay to each Class member a sum to be determined in compensation of the pecuniary damages suffered, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay to each of the members of the Class moral damages, in an amount to be determined, and **ORDER** collective recovery of these sums;

CONDEMN the Defendant to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

ORDER the Defendant to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendant to bear the costs of the present action, including class counsel's professional fees and disbursements, 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;

RENDER any other order that this Honourable Court shall determine;

DECLARE that all members of the Class 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;

FIX the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;

ORDER the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the "News" sections of the Saturday editions of […] LE JOURNAL DE MONTRÉAL, and the MONTREAL GAZETTE;

ORDER that said notice be published on the Defendant and its agents' various websites, Facebook pages and Twitter accounts, in a conspicuous place, with a link stating "Notice of a Class Action Concerning Photo Radars and Red-Light Cameras – Avis d'une action collective concernant les photoradars et les caméras aux feux rouges";

ORDER that within sixty (60) days from the judgement to be rendered herein, said notice be visibly displayed in all S.A.A.Q. service centers, in visible frames on the S.A.A.Q. counters and in the client waiting areas, for a period of no less than thirty (30) days;

ORDER the Defendant to send an Abbreviated Notice by e-mail to each Class member, to their last known e-mail address, with the subject line "Notice of a Class Action – Avis d'une action collective";

RENDER any other order that this Honourable Court shall determine;

The whole with costs, including all publication and dissemination fees.

Montréal, December 7th, 2017

(s) Ticket Légal Inc.

TICKET LÉGAL INC.
Attorneys for Applicant

Nº: 500-06-000835-161

(Class Action)
SUPERIOR COURT
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

RIVKA MOSCOWITZ

Applicant

-vs-

ATTORNEY GENERAL OF QUÉBEC

Defendant

RE-AMENDED APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF

(ARTICLES 571 AND FOLLOWING C.C.P)

ORIGINAL

TICKET LÉGAL INC.
5800, boulevard Cavendish, Suite 411
Montréal (Québec) H4W 2T5
T: (514) 929-0542 • F: (514) 221-4123
E: admin@ticketlegal.com

ME JOEY ZUKRAN
CODE: AZ 00X4 N/D : 5555-34