# SUPERIOR COURT

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-06-000660-130

DATE: FEBRUARY 19, 2018

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**IN THE PRESENCE OF THE HONOURABLE PEPITA G. CAPRIOLO, S.C.J.**

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**RAHIM**
-and-
**RHIA BASNET**
Petitioners
v.
**THE MINISTER OF IMMIGRATION, DIVERSITY AND INCLUSION**
-and-
**THE GOVERNMENT OF QUEBEC** both represented by **THE ATTORNEY GENERAL OF QUEBEC**
Respondents

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## JUDGMENT

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[1] The court is seized of an application for authorization of a class action.

[2] Three distinct groups claim to have been affected by Respondent Minister's actions in 2013 and 2017.

[3] The first group applied for a certificate of selection as skilled workers under the Quebec Immigration regime prior to August 1, 2013. Their applications were affected by a retroactive change to the criteria and weighting applicable to language proficiency on that date despite the clear written undertaking by the Minister that:

> *« Nous traiterons votre demande de certificat de sélection selon la règlementation en vigueur au moment où vous la déposerez. »*
>
> *"Your application for a selection certificate will be processed based on regulations in effect when it was submitted."* [1]

[4] In fact, the applications were analysed on the basis of the new criteria and the members of the first proposed group claim that they were rejected because of this change. They ask for the reimbursement of the fee paid at the time of filing their application.

[5] The second proposed group is identical to the first, except that its members never received the Minister's undertaking. Their claim is also for the reimbursement of the fee paid.

[6] In 2017, the Minister again retroactively amended existing regulations altering the weight applicable to certain factors considered in the analysis of skilled workers' applications for selection certificates.

[7] The third proposed group is comprised of those individuals whose applications became doomed to failure as a result of the 2017 amendments. Like the previous two groups, they ask for the reimbursement of the application fee.

[8] In their *Re-amended motion for authorization*, Petitioners invoke three causes of action against the Minister and the Government:

1. Unjust enrichment;
2. Breach of contract;
3. Extra-contractual liability.

[9] At the hearing on the authorization, Petitioners withdrew their argument on contractual liability.

## ADMISSION

[10] Respondents admit that there on valid grounds to authorize the class action against the first group, but only on the basis of extra-contractual liability and not unjust enrichment.

## GENERAL CRITERIA OF AUTHORIZATION

[11] The authorization stage of a class action is a procedural filtering mechanism. The requirements are to be interpreted broadly in order to favour access to justice. In *Vivendi*, the Supreme Court of Canada has set the threshold for authorization:

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1 Exhibit R-3.

> "The judge's function at the authorization stage is one of screening motions to ensure that defendants do not have to defend against untenable claims on the merits. However, the law does not impose an onerous burden on the applicant at this stage, as he or she need only establish a "prima facie case", or an "arguable case. Thus, all the judge must do is decide whether the applicant has shown that the four criteria of art. 1003 C.C.P. are met. If the answer is yes, the class action will be authorized. The Superior Court will then consider the merits of the case." [2]

[12] The Court underlined the importance of limiting the scope of the authorization hearing to a procedural analysis: "*The judge must not deal with the merits of the case, as they are to be considered only after the motion for authorization is granted.*" [3]

## THE CRITERIA OF ARTICLE 575 C.P.C.

[13] The Code of Civil procedure sets out four different criteria that must be met in order to authorize a class action:

> "**575**. The court authorizes the class action and appoints the class member it designates as representative plaintiff if it is of the opinion 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."

[14] Respondents do not specifically contest that criteria 3) and 4) are met in the present instance.

[15] Their main argument against the class action proceeding for the second and third proposed groups rests on the Minister's immunity from liability when adopting regulations that she is entitled, by law, to adopt.

[16] This argument misrepresents Petitioners' position. In fact, Petitioners at no time claim that the Minister is at fault for amending the weighting regulations. What is claimed is that she committed a fault in not giving the opportunity to the applicants to withdraw their applications and receive the reimbursement of the application fee when she decided to apply the new regulations retroactively:

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2 *Vivendi Canada Inc.* v. *Dell'Aniello*, 2014 SCC 1, par. 37.
3 *Ibid.*, par. 37.

> "***120.*** *The reality is that no reasonable person would apply for a CSQ knowing that they are ineligible to receive one because they do not or cannot achieve the number of points required for selection according to the Selection Regulation. Thus, had group members known their CSQ applications would be doomed to failure, this Court can assume that they would never have applied for a CSQ and paid a filing fee in the first place. But the Minister's actions deprived them of that choice.*
>
> ***121.*** *The Minister should have informed all CSQ applicants who had already submitted applications that had not yet reached preliminary processing of the impending regulatory amendments, both in 2013 and 2017. She should then have given applicants a choice: continue to have their application processed, or withdraw the application and receive a reimbursement of fees.*
>
> ***122.*** *Her failure to do so constitutes a civil fault.*" [4]

[17] Whether in fact, the applications became «doomed to failure» after the enactment of the new regulations and whether it was even possible for the applicants to calculate their points before deciding to apply are questions of fact, which can only be resolved at a hearing on the merits.

[18] Similarly, the debate on the extent of the Minister's alleged bad faith will have to take place in court. There are sufficient indications in the *Re-amended motion* that a finding of bad faith is not impossible:

> "***61.14.*** *The Minister [...] appeared to have recognized the injustice of keeping the application fees in the context of the 2013 amendments, yet [...] had offered to return them to only a miniscule subset of applicants;*
>
> ***62.*** *Indeed, the Minister had [...] indicated that applicants for a certificate of selection in the skilled worker category who had filed their applications between July 8 and August 16, 2013 could elect to have their applications returned to them and the application fees reimbursed, so long as they requested same by September 16, 2013, the whole as appears from the form letter from the Minister dated August 26 2013 communicated in support hereof as* **Exhibit R-22**;" [5]

[19] This argument applies equally to members of all three proposed groups.

[20] As for Respondents' argument that a claim based on unjust enrichment cannot lie in the present instance "*because the Minister was allowed by law and regulation to charge a fee*", the Court finds this to be a circuitous argument.

[21] Article 1493 C.C.Q. sets out the requirements for a claim in unjust enrichment to succeed:

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4 Petitioners' Argument Plan, January 26, 2018.

5 See also Exhibit R-2: Transcription of the in-court examination of Pascale de Latrémoille-Bernier, representative of the Minister in a related case.

> **1493.** A person who is enriched at the expense of another shall, to the extent of his enrichment, indemnify the other for the latter's correlative impoverishment, if there is no justification for the enrichment or the impoverishment.

[22] If the Minister acted in bad faith by not offering the reimbursement of the application fee, her keeping the fee cannot be based on a legal justification. In order to dismiss the claim in unjust enrichment, the court will have to determine first whether the Minister acted lawfully or not.

[23] It is therefore premature to reject the argument as «indefensible», as it would be required if it were to be dismissed at the stage of authorization.

[24] As for the existence of a common question to be answered for all three groups, one must remember that *"the threshold that must be met to find that there are common questions is a low one"* [6].

[25] The Court of Appeal has gone so far as to say that the possibility of ensuing "mini-trials" at the recovery stage is not a hindrance to the existence of a common question which could advance the debate:

> « [23] Il est fort possible que la détermination des questions communes ne constitue pas une résolution complète du litige, mais qu'elle donne plutôt lieu à des petits procès à l'étape du règlement individuel des réclamations. Cela ne fait pas obstacle à un recours collectif. Le professeur Lafond, précité, écrit aux pages 88-89 :
>
>> L'existence de différences entre les réclamations des membres et l'éventuelle nécessité pour chacun de prouver les dommages personnels subis ne font plus obstacles au recours collectif. Comme l'énonce avec pragmatisme un magistrat : " Advenant une condamnation pécuniaire, il faudrait tout au plus s'astreindre à d'inévitables travaux comptables". » [7]

[26] In this instance, the common questions that relate to all members are whether the Minister has retained an unjust enrichment at the detriment of the members of the third group and whether she has committed a fault that has caused them a financial damage to the members of the three groups.

[27] The specific issues as the quantum of individual damages or impoverishment are to be addressed at the merits. The determination of whether any one applicant is a member of one of the groups will remain to be decided only at the recovery stage.

[28] Respondents have not argued that the composition of the class is such that the general rules of mandate could be more easily applied than the class action procedure. Indeed, it would be nonsensical to pretend otherwise: there maybe more than 60,000 applicants included in the three proposed groups [8] Moreover, these applicants reside, by

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6 *Vivendi*, prev., note 2, par. 72.
7 *Collectif de défense des droits de la Montérégie* c. *Brouard* - 2011 QCCA 826, par. 23.
8 Exhibits R-25 and R-34.

definition of their very status, outside of Quebec and the courts have already decided that the rules of joint mandate cannot apply when the members are dispersed even only across Quebec. [9]

[29] Lastly, the individual pursuit of a claim in damages of approximately $1000 per applicant would be practically impossible given the costs of travel to be heard in a Québec Court. The only possible means to advance these claims is the procedural vehicle of a class action.

[30] As there is no contestation that Rahim and Rhia Basnet are appropriate representative plaintiffs and that they have expressed their willingness and determination to see the action through to its conclusion and as their individual claims fairly represent the fact situations at the basis of this class action, the court concludes that they fulfill the criteria to be named representatives of the plaintiffs in these procedures.

## CONCLUSION

[31] The proposed class action fulfills all the criteria of article 575 C.C.P. and must therefore be authorized to proceed to a determination on the merits.

## FOR THESE REASONS, THE COURT:

[32] **GRANTS** the Petitioners' Motion for Authorization of a Class Action and to Be Designated as Representatives;

[33] **AUTHORIZES** the institution of a class action as follows:

(a) An action in unjust enrichment for restitution of the fees the Minister of Immigration, Diversity and Inclusion collected from the Group Members in regards to their applications for a selection certificate in the skilled worker category filed prior to July 8, 2013, or in regards to applications doomed to failure by the 2017 amendments.

(b) Alternately, an action in extra-contractual liability, for the fees incurred by the Proposed Group Members in regards to their applications for a selection certificate in the skilled worker category filed prior to July 8, 2013, or in regards to applications doomed to failure by the 2017 amendments.

[34] **DESIGNATES** Petitioner Rahim as representative of the following groups:

**Group 1**: *All individuals who filed an application with the Ministère de l'Immigration et des Communautés culturelles du Québec for a selection certificate in the "skilled worker" category prior to July 8, 2013; whose application had not reached the preliminary processing stage as of August 1, 2013; whose application included form A-1520-AA or A-1520-AF containing the phrase "Your application for a*

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9 *Adams* c. *Banque Amex du Canada*, 2006 QCCS 5358, par. 27-28.

*selection certificate will be processed based on regulations in effect when it was submitted" or similar language; and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the August 1, 2013 amendments to immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected.*

**Group 2**: *All individuals who filed an application with the Ministère de l'Immigration et des Communautés culturelles du Québec for a selection certificate in the "skilled worker" category prior to July 8, 2013; whose application had not reached the preliminary processing stage as of August 1, 2013; and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the August 1, 2013 amendments to immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected.*

[35] **DESIGNATES** Petitioner Rhia Basnet as representative of the following group:

**Group 3**: *All individuals who filed an application with the Ministère de l'Immigration, Diversité et Inclusion Québec for a selection certificate in the "skilled worker" category, whose application had not reached the preliminary processing stage as of March 8, 2017; and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the March 8, 2017 amendments to immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected.*

[36] **IDENTIFIES** the principal questions of fact and law to be dealt with collectively as follows:

(a) Should the Minister be condemned to reimburse the fees collected for the applications of the Group Members who do not opt out of the proposed class action?

And, in particular:

(b) Were the Proposed Group Members impoverished, and the Minister enriched, in the amount of the application fees paid, the whole without juridical reason?

(c) What is the amount of the Proposed Group Members' impoverishment and the Minister's enrichment?

(d) Alternately, did the Minister commit an extra-contractual fault and act in bad faith?

(i) If so, what is the amount of damages suffered by the Proposed Group Members as a direct result of the Minister's faults?

(e) In all cases, can the aggregate amount of the fees to be reimbursed be awarded on a collective basis?

[37] **IDENTIFIES** the conclusions sought by the Petitioners with respect to such questions as follows:

1. ***GRANT*** *the Petitioners' action against Respondent;*

2. ***CONDEMN*** *the Respondent to pay to each Group Member who have not opted out of the class action an amount equivalent to the fees paid for their applications for a selection certificate in the skilled worker category filed prior to July 8, 2013, or the fees paid for applications doomed to failure by the 2017 amendments;*

3. ***ORDER*** *the collective recovery of all amounts to be paid by the Respondent to the Group Members;*

4. ***THE WHOLE*** *with costs, including the costs of publication of notices.*

[38] **DECLARES** that any Group Member who has not requested exclusion from the Group be bound by any judgment to be rendered on the class action, in accordance with the Code of Civil Procedure;

[39] **FIXES** the time limit for exclusion at sixty (60) days from the notice to Group Members;

[40] **ORDERS** that a Notice to the Group Members in the form found in Annex A of this judgment be posted on the Immigration Quebec website and emailed by the Minister of Immigration Diversity and Inclusion, in both French and English, to the last email address provided by each Group Member, to the list of Quebec Immigration lawyers found in the attached Annex B as well as to cbancism@listserver.cba.org within sixty (60) days of the present judgment;

[41] **ORDERS** the Respondents to assume the publication and emailing costs of the Notice to Group Members;

[42] **DECLARES** that the undersigned remains seized of the class action;

**THE WHOLE** with costs to follow suit.

THE HONOURABLE PEPITA G. CAPRIOLO, S.C.J.

**Me Catherine McKenzie**
IMK S.E.N.C.R.L./IMK L.L.P.

**Me Olga Redko**
IMK S.E.N.C.R.L./IMK L.L.P.

**Me Maria Braker**
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**Me Elsa Kelly-Rhéaume**
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**Me Rima Kayssi**
Ministère de la justice (DGAJLAJ)
Attorneys for the Respondents

Dates of hearing: January 30 and 31, 2018

**ANNEX A**

**CLASS ACTION AGAINST THE MINISTRY OF IMMIGRATION, DIVERSITY AND INCLUSIVENESS of Quebec (THE "*MIDI*")**

**C.C.M. 500-06-000660-130**

**Notice OF CLASS ACTION AUTHORIZATION**

**Read this notice carefully as it may affect your legal rights.**

If you applied to immigrate to Québec in the "skilled worker" class between 2009 and March 2017, you may be a member of the class action that was authorized by Justice Pepita G. Capriolo of the Superior Court of Québec on February 19, 2018 for the following groups of persons (the "**Class Members**"):

**Group 1**

All individuals who filed an application with the *Ministère de l'Immigration et des Communautés culturelles du Québec* for a selection certificate in the "skilled worker" category prior to July 8, 2013:

- Whose application had not reached the preliminary processing stage as of August 1, 2013;
- Whose application included form A-1520-AA or A-1520-AF containing the phrase "Your application for a selection certificate will be processed based on regulations in effect when it was submitted" or similar language; and
- Whose application has been or will be refused by the Minister because, due to the retroactive application of August 1, 2013 amendments to the *Regulation respecting the weighting applicable to the selection of foreign nationals*, CSLR I-0.2, r.2., the individuals no longer accumulated enough points to pass preliminary processing or to be selected.

**Group 2**

All individuals who filed an application with the *Ministère de l'Immigration et des Communautés culturelles du Québec* for a selection certificate in the "skilled worker" category prior to July 8, 2013:

- Whose application had not reached the preliminary processing stage as of August 1, 2013; and
- Whose application has been or will be refused by the Minister because, due to the retroactive application of the August 1, 2013 amendments to the Regulation respecting the weighting applicable to the selection of

foreign nationals, CSLR I-0.2, r.2., the individuals no longer cumulated enough points to pass preliminary processing or to be selected.

**Group 3**

All individuals who filed an application with the *Ministère de l'Immigration, de la Diversité et de l'Inclusion du Québec* for a selection certificate in the "skilled worker" category:

- Whose application had not reached the preliminary processing stage as of March 8, 2017; and
- Whose application has been or will be refused by the Minister because, due to the retroactive application of the March 8, 2017 amendments to the Regulation respecting the weighting applicable to the selection of foreign nationals, CSLR I-0.2, r.2., the individuals no longer cumulated enough points to pass preliminary processing or to be selected.

**PURPOSE OF THIS NOTICE**

On August 23, 2016, Rahim (the "**Class Representative**") instituted proceedings in the Superior Court of Quebec (the "**Court**") seeking permission to bring a class action against the Minister on behalf of the Class (the "**Application for Authorization**"). On May 16, 2017, the Application for Authorization was amended to add Rhia Basnet as Class Representative for Group 3.

The Application for Authorization alleges that the Minister was unjustly enriched, acted in bad faith and abused her rights contrary to the provisions of the *Civil Code of Québec* by failing to offer a reimbursement of application fees paid by those individuals whose CSQ applications became doomed to fail as a result of the application of August 1, 2013 and March 8, 2017 amendments to the *Regulation respecting the weighting applicable to the selection of foreign nationals*, CSLR I-0.2, r.2. Mr. Rahim and Ms. Basnet seek reimbursement of application fees for all Class Members.

On February 19, 2018, the Court authorized the Class Representatives to institute a class action in the judicial District of Montréal on behalf of the Class Members, and identified the following principal issues to be dealt with collectively:

(a) Should the Minister be condemned to reimburse the fees collected for the applications of the Group Members who do not opt out of the proposed class action?

And, in particular:

(b) Were the Group Members impoverished, and the Minister enriched, in the amount of the application fees paid, the whole without juridical reason?

(c) What is the amount of the Group Members' impoverishment and the Minister's enrichment?

(d) Alternately, did the Minister commit an extra-contractual fault and act in bad faith?

i. If so, what is the amount of damages suffered by the Group Members as a direct result of the Minister's faults?

(e) In all cases, can the aggregate amount of the fees to be reimbursed be awarded on a collective basis?

The conclusions sought in relation to these questions are as follows:

I. **GRANT** the Petitioners' action against Respondent;

II. **CONDEMN** the Respondent to pay to each Group Member who have not opted out of the class action an amount equivalent to the fees paid for their applications for a selection certificate in the skilled worker category filed prior to July 8, 2013, or the fees paid for applications doomed to failure by the 2017 amendments;

III. **ORDER** the collective recovery of all amounts to be paid by the Respondent to the Group Members;

**THE WHOLE** with costs, including the costs of publication of notices.

**OPTING OUT OF THE CLASS ACTION**

If you wish to remain a Class Member in the class action, you have nothing to do.

If you wish to opt out of the class action, you must advise the clerk of the Superior Court for the District of Montreal **within 60 days of receiving this notice** by registered mail to 1 Notre-Dame Street East, Montreal, Quebec, H2Y 1B6. If you elect to opt out, you will not be eligible for any of the benefits of an eventual judgment on the merits.

Any Class Member who does not opt out before the deadline will be bound by judgments to follow in the class action, including any final judgment on the merits.

This means that if the action against the Minister is ultimately successful, you may be entitled to reimbursement of the fees you paid to file an application for a CSQ. If the action against the Minister is unsuccessful, you will not be able to bring or maintain your own individual claim against the Minister in relation to the matters alleged in these proceedings.

All class members have the right to seek intervenor status in the class action. However, no class member other than the representative plaintiffs or an intervenor may be required to pay legal costs arising from the class action.

**ADDITIONAL INFORMATION AND QUESTIONS**

For any questions concerning the Authorization Order and the process that will follow, please communicate with the Class Representative's counsel:

Me Olga Redko
oredko@imk.ca
IMK LLP
3500 De Maisonneuve Boulevard West
Suite 1400
Montréal, Québec H3Z 3C1
T: 514 934-7743 | F: 514 935-2999

**THIS NOTICE WAS AUTHORIZED BY THE HONOURABLE PEPITA G. CAPRIOLO, S.C.J.**

**ACTION COLLECTIVE CONTRE Le MINISTÈRE DE L'IMMIGRATION, DE LA DIVERSITÉ ET DE L'INCLUSION (LE « MIDI »)**

**C.C.M. 500-06-000660-130**

**AVIS D'AUTORISATION D'UNE ACTION COLLECTIVE (« recours collectif »)**

**Lisez cet avis de manière attentive, car il peut affecter vos droits.**

Si vous avez déposé une demande d'immigration au Québec dans le cadre du Programme régulier des travailleurs qualifiés entre 2009 et mars 2017, vous pourriez être membre d'une action collective qui a été autorisée par l'honorable Pepita G. Capriolo de la Cour supérieure du Québec le 19 février 2018 pour les groupes suivants (les « **Membres du groupe** »):

**Groupe 1**

Toutes les personnes ayant déposé une demande de certificat de sélection du Québec (ci-après « demande de CSQ ») auprès du *Ministère de l'Immigration et des Communautés culturelles du Québec* dans la catégorie « travailleur qualifié » avant le 8 juillet 2013:

- Dont la demande de CSQ ne s'est pas rendue à l'étape de l'examen préliminaire en date du 1er août 2013;
- Dont la demande de CSQ comprenant le formulaire A-1520-AA ou A-1520-AF contenait la phrase « Nous traiterons votre demande de certificat de sélection selon la réglementation en vigueur au moment où vous la déposerez » ou une phrase similaire; et
- Dont la demande a été ou sera refusée par la Ministre, car en raison de l'application rétroactive des modifications apportées au *Règlement sur la pondération applicable à la sélection des ressortissants étrangers*, RLRQ c I-0.2, r. 2 le 1er août 2013, ces personnes n'accumulaient plus suffisamment de points pour passer l'étape préliminaire ou pour être sélectionnées.

**Groupe 2**

Toutes les personnes ayant déposé une demande de CSQ auprès du *Ministère de l'Immigration et des Communautés culturelles du Québec* dans la catégorie « travailleur qualifié » avant le 8 juillet 2013:

- Dont la demande de CSQ ne s'est pas rendue à l'étape de l'examen préliminaire en date du 1er août 2013; et
- Dont la demande a été ou sera refusée par la Ministre, car en raison de l'application rétroactive des modifications apportées au Règlement sur la

pondération applicable à la sélection des ressortissants étrangers, RLRQ c I-0.2, r. 2 le 1er août 2013, ces personnes n'accumulaient plus suffisamment de points pour passer l'étape préliminaire ou pour être sélectionnées.

**Groupe 3**

Toutes les personnes ayant déposé une demande de CSQ auprès du *Ministère de l'Immigration, de la Diversité et de l'Inclusion du Québec* dans la catégorie « travailleur qualifié »:

- Dont la demande de CSQ ne s'est pas rendue à l'étape de l'examen préliminaire en date du 8 mars 2017; et

- Dont la demande a été ou sera refusée par la Ministre, car en raison de l'application rétroactive des modifications apportées au Règlement sur la pondération applicable à la sélection des ressortissants étrangers, RLRQ c I-0.2, r. 2 le 8 mars 2017, ces personnes n'accumulaient plus suffisamment de points pour passer l'étape préliminaire ou pour être sélectionnées.

**L'OBJET DE CET AVIS**

Le 23 août 2016, Rahim (le « **Représentant** ») a déposé une demande auprès de la Cour supérieure du Québec (le « **Tribunal** ») demandant l'autorisation du Tribunal d'instituer une action collective à l'encontre de la Ministre au nom du Groupe (la « **Demande d'autorisation** »). Le 16 mai 2017, la Demande d'autorisation a été modifiée afin d'ajouter Rhia Basnet comme Représentante du Groupe 3.

La Demande d'autorisation allègue que la Ministre a été enrichie sans cause, a agi de mauvaise foi et a abusé de ses droits contrairement aux dispositions du *Code civil du Québec* en omettant d'offrir un remboursement des frais payés par les individus dont les demandes de CSQ sont devenues vouées à l'échec à cause de l'application des modifications du 1er août 2013 et du 8 mars 2017 au *Règlement sur la pondération applicable à la sélection des ressortissants étrangers*, RLRQ c I-0.2, r. 2. M. Rahim et Mme Basnet demandent le remboursement des frais payés par tous les Membres du groupe.

Le 19 février 2018 le Tribunal a autorisé les Représentants à instituer une action collective dans le District de Montréal au nom du Groupe et a identifié les principales questions qui seront traitées collectivement ainsi que les conclusions recherchées qui s'y rattachent comme suit :

(a) La Ministre devrait-elle être condamnée à rembourser les frais recueillis pour les demandes de CSQ des Membres du groupe qui ne se sont pas exclus de l'action collective?

Et, plus particulièrement :

(b) Les Membres du groupe et la Ministre ont-ils été respectivement appauvris et enrichis dans la proportion du montant des frais payés pour les demandes de CSQ, le tout sans aucune justification juridique?

(c) Quels sont les montants de l'appauvrissement des Membres du groupe et de l'enrichissement de la Ministre?

(d) À titre subsidiaire, la Ministre a-t-elle commis une faute extracontractuelle et agi de mauvaise foi?

i. Le cas échéant, quel est le montant des dommages encourus par les Membres du groupe en conséquence directe des fautes de la Ministre?

(e) Dans tous les cas, le montant global des frais qui doivent être remboursés peut-il être octroyé sur une base collective?

Les conclusions recherchées en lien avec ces questions sont les suivantes :

i. **ACCUEILLIR** l'action des Demandeurs contre l'Intimée;

ii. **CONDAMNER** l'Intimée à payer à chaque membre du Groupe qui ne s'est pas exclu de l'action collective un montant équivalent aux frais que ces membres ont payés pour déposer leurs demandes de CSQ dans la catégorie « travailleur qualifié » avant le 8 juillet 2013, ou les frais payés pour déposer les demandes qui sont devenues vouées à l'échec par l'effet des modifications de 2017;

iii. **ORDONNER** le recouvrement collectif des sommes dues aux Membres du groupe par l'Intimée;

**LE TOUT** avec dépens, y compris le coût de la publication des avis.

**EXCLUSION DE L'ACTION COLLECTIVE**

Si vous souhaitez demeurer membre du Groupe dans l'action collective, vous n'avez rien à faire.

Si vous souhaitez vous exclure de cette action collective, vous devez aviser le greffier de la Cour supérieure pour le District de Montréal **dans les 60 jours qui suivent la réception de cet avis**, par courrier recommandé au 1, rue Notre Dame Est, Montréal, Québec, H2Y 1B6. Si vous choisissez de vous exclure, vous ne serez pas admissible à tout bénéfice d'un jugement éventuel sur le fond.

Tout membre du Groupe qui ne s'exclut pas avant l'expiration du délai d'exclusion sera lié par tout jugement qui sera rendu dans l'action collective, y compris un jugement final au fond.

Ceci signifie que si les Représentants ont ultimement gain de cause contre le MIDI, vous auriez droit à un remboursement des frais que vous aurez payés pour déposer votre demande de CSQ. En cas d'échec de l'action collective, vous ne pourrez pas déposer ou maintenir une réclamation personnelle contre le MIDI par rapport aux allégations dans ces procédures.

Tous les Membres du groupe ont le droit de demander d'intervenir à l'action collective. Cependant, un membre qui n'est pas un Représentant ou un intervenant ne peut être appelé à payer les frais de justice de l'action collective.

**RENSEIGNEMENTS ADDITIONNELS ET QUESTIONS**

Pour toute question relative à l'Ordonnance d'autorisation ou pour le processus qui suivra, veuillez communiquer avec les avocats des Représentants :

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**CET AVIS A ÉTÉ AUTORISÉ PAR L'HONORABLE PEPITA G. CAPRIOLO, J.C.S.**

## ANNEX B

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