

# SUPERIOR COURT

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

No: 500-06-000660-130

DATE: June 19<sup>th</sup>, 2019

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**PRESIDING: THE HONOURABLE PEPITA G. CAPRIOLO, J.S.C.**

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**RAHIM**

- and -

**SYED MUHAMMAD ALI RIZVI**

Plaintiffs

v.

**THE MINISTER OF IMMIGRATION, DIVERSITY AND INCLUSION AND THE  
GOVERNMENT OF QUÉBEC, REPRESENTED BY THE ATTORNEY GENERAL OF  
QUÉBEC**

Defendant

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## JUDGMENT

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- [1] **CONSIDERING** that on February 19, 2018, the Court authorized a class action against the Minister of Immigration, Diversity and Inclusion (the "**Minister**") and the Government of Québec, represented by the Attorney General of Quebec (collectively, the "**Defendants**") for the following class of persons (the "**Authorization Judgment**"):

**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, 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 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, 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 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 the immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected;*

(collectively, "**Class Members**" or the "**Class**").

- [2] **CONSIDERING** that on September 26, 2018, the Court authorized a timetable for subsequent proceedings and fixed a ten-day trial scheduled to begin on March 18, 2019;
- [3] **CONSIDERING** that on January 25, 2019, the parties announced that they had reached a Settlement Agreement, **Exhibit R-1**;
- [4] **CONSIDERING** that on March 18, 2019, the Court approved the sending of a Notice of Proposed Settlement Approval Hearing to all eligible and potential class members, which was disseminated on or about April 10, 2019;

- [5] **CONSIDERING** that the parties now jointly apply to the Court for approval of the proposed Settlement Agreement;
- [6] **CONSIDERING** the probability of success were the action to proceed to trial; the amount and nature of discovery that has taken place; and the likely expense and length of time that would be required to obtain a final judgment on the matter;
- [7] **CONSIDERING** the terms and conditions of the Settlement Agreement; the recommendation of experienced attorneys that this Settlement Agreement be approved; the approval of the Settlement Agreement by the Representative Plaintiffs;
- [8] **CONSIDERING** the minimal number of objectors in a class of thousands; and the good faith of the parties, and absence of any collusion;
- [9] **CONSIDERING** the absence of contestation by the *Fonds d'aide aux actions collectives*;
- [10] **CONSIDERING** that the Court is of the view that the proposed Settlement Agreement in this case is in the best interest of the Class Members;
- [11] **CONSIDERING** also Class Counsel's Application for Approval of Class Counsel Fees;
- [12] **CONSIDERING** the amount of time Class Counsel have spent working on this litigation and the responsibilities they have assumed;
- [13] **CONSIDERING** the importance of the class action to the Class Members affected; the difficulty of the class action; the experience of Class Counsel both in immigration law and in class actions and suits involving the liability of the Crown; and the result obtained for the Class Members;
- [14] **CONSIDERING** that Class Counsel fees are not contested;
- [15] **CONSIDERING** Articles 590, 593 and 594 of the *Code of Civil Procedure*;
- [16] **CONSIDERING** the representations made by the Parties;

**FOR THOSE REASONS, THE COURT:**

**GRANTS** the *Application to Approve a Class Action Settlement and for Approval of Class Counsel's Fees*;

**DECLARES** that the Settlement Agreement at Exhibit R-1 (including its Preamble and its Schedules) (hereinafter the "**Settlement Agreement**") constitutes a transaction within the

meaning of Articles 2631 and following of the *Civil Code of Quebec*, as well as article 590 of the *Code of Civil Procedure*, binding all Parties to the Settlement Agreement and all Class Members who have not excluded themselves in a timely manner;

**APPROVES** the Settlement Agreement in accordance with Article 590 of the *Code of Civil Procedure*;

**DECLARES** that the Settlement Agreement is an integral part of the judgment to be rendered;

**ORDERS** the Parties to the Settlement Agreement and the Class Members, with the exception of those who have excluded themselves in a timely manner, to abide by the terms and conditions of the Settlement Agreement;

**APPROVES** the form and content of the Approval Notice to Class Members, in its French and English versions (Exhibit R-4);

**ORDERS** that the Approval Notice be posted on the Immigration Quebec website by the Minister of Immigration, Diversity and Inclusion, in both French and English until the end of the claims period, and that it be sent to the last email address provided by each Eligible Class Member, to the last physical address provided by any Eligible Class Member that does not have an email address, to the list of Quebec immigration lawyers found in Annex B of this Court's judgment authorizing the present class action, as well as to [cbancism@listserver.cba.org](mailto:cbancism@listserver.cba.org), within thirty (30) days of the present judgment;

**APPROVES** the payment of \$650,000.00 plus taxes in equal parts to the Representative Plaintiffs' attorneys, IMK LLP and Campbell Cohen LLP, towards professional fees, plus \$7,500.00 for judicial fees, the whole with applicable taxes in accordance with Clauses 13 and 14 of the Settlement Agreement;

**DECLARES** that the present class action against the Minister of Immigration, Diversity and Inclusiveness and the Government of Quebec is settled out of court;

**THE WHOLE** without costs.



PEPITA G. CAPRIOLO, j.c.s.

COPIE CERTIFIÉE CONFORME  
AU DOCUMENT DÉTENU PAR LA COUR

*Emmanuelle Bergeron, j.c.s.*  
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