

**C A N A D A**

**PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL**

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

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**NO: 500-06-000824-165**

**ANTONIO BRAMANTE**

Representative Plaintiff

-vs-

**LES RESTAURANTS MCDONALD DU  
CANADA LIMITÉE**

Defendant

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**APPLICATION FOR APPROVAL OF NOTICES TO CLASS MEMBERS OF A  
SETTLEMENT APPROVAL HEARING  
(Articles 25, 49, 580, 581 and 590 C.C.P.)**

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**TO THE HONOURABLE THOMAS M. DAVIS OF THE SUPERIOR COURT OF  
QUEBEC, ACTING AS THE DESIGNATED JUDGE IN THE PRESENT CASE, THE  
REPRESENTATIVE PLAINTIFF SUBMITS THE FOLLOWING:**

**I. PROCEDURAL CONTEXT**

1. On November 14, 2018, the Court authorized this class action and appointed Mr. Bramante the Representative Plaintiff on behalf of the following group:

English:

Every consumer pursuant to the Québec Consumer Protection Act who, since November 15<sup>th</sup>, 2013 purchased in Québec for a child under 13 years of age then present inside a McDonald's restaurant, a toy or Happy Meal, during an advertising campaign directed at children taking place inside the restaurant.

French:

Tout consommateur au sens de la Loi sur la protection du consommateur du Québec qui, depuis le 15 novembre 2013, a acheté au Québec pour un enfant de moins de 13 ans alors présent dans un

restaurant McDonald, un jouet ou un Joyeux festin, durant une campagne publicitaire destinée aux enfants à l'intérieur de tel magasin.

(hereinafter the “**Class**”)

2. On January 17, 2019 the Court approved the notice plan to Class Members, as it appears from the Court record;
3. On or around February 12, 2019 the Representative Plaintiff filed his Originating Application instituting a class action on behalf of the Class authorized by the Court;
4. The Originating Application alleges, *inter alia*, that McDonald’s Restaurants of Canada Limited (“**McDonald’s**”) violated section 248 of the *Consumer Protection Act* (“**CPA**”) by displaying toys in its restaurants in Quebec;
5. McDonald’s has always taken the position that the toy/book displays in its restaurants are permitted by section 90 of the *Regulation respecting the Application of the Consumer Protection Act*, and therefore it denies that it has violated section 248 CPA as alleged by the Representative Plaintiff;
6. From approximately April 1, 2019 to April 30, 2019 McDonald’s published the notices in conformity with the Court’s January 17, 2019 order;
7. No Class Members excluded themselves from the class action;
8. On November 25, 2019, the Representative Plaintiff and McDonald’s signed a Term Sheet of Settlement with the understanding that they would sign a longer form settlement agreement thereafter;
9. On January 7 and 8, 2020, the Parties signed the Settlement Agreement, a copy of which is communicated herewith *en liasse* with the non-official French translation as **Exhibit M-1**;

## **II. OBJECT OF THIS APPLICATION**

10. The parties are asking this Court to approve the form, content and mode of dissemination of the Pre-Approval Notice to Class Members, including the opt-out and objection deadlines, a copy of which is communicated herewith as **Exhibit M-2** (the “**Pre-Approval Notice**”);

## **III. NOTICE TO CLASS MEMBERS**

11. The Parties intend to file a joint application for the approval of the Settlement Agreement;

12. However, before the Court can approve the Settlement Agreement, the Class Members must be advised that a hearing will take place on the matter;
13. The proposed Pre-Approval Notice to Class Members, filed herewith in its French and English versions, *en liasse*, as **Exhibit M-2**, has a specific purpose to inform the Class Members of the following, in conformity with article 590 of the *Code of civil procedure* (“**CCP**”):
  - a) the existence of the Settlement Agreement and the fact that it will be submitted to the Court for approval, specifying the date and place of the approval hearing;
  - b) the nature of the settlement, including the compensation and the payment of the Class Counsel fees;
  - c) the contact information of the Representative Plaintiff’s lawyer and of the Defendant’s lawyer;
  - d) the consequences and effects of the approval of the Settlement Agreement by the Court with respect to the release and discharge of McDonald’s from Class Members;
  - e) the possibility for the Class Members to make objections or other representations at the hearing for the approval of the Settlement Agreement; and
  - f) the right of Class Members to opt-out of the class action.
14. The parties have agreed that the Pre-Approval Notice required pursuant to articles 581 and 590 CCP will be disseminated in a similar manner as approved by this Court on January 17, 2019 (*Bramante c. Restaurants McDonald du Canada limitée*, 2019 QCCS 1258), as detailed at paragraph 6 of the Settlement Agreement:
  - a) McDonald’s will post the Pre-Approval Notice in all of its restaurants in Quebec, and on the McDonald’s website and McDonald’s Facebook page, beginning on a date between April 1 to April 15, 2020 and for thirty (30) days after posting, or on such other later date as determined by the Court;
  - b) Class Counsel will post the Pre-Approval Notice on its website and Facebook page and will also email a copy of the Pre-Approval Notice to each of the potential Class Members that have registered on Class Counsel’s website, within thirty (30) days of the judgment rendered herein or on the date fixed by the Court for the sending of such a notice; and
  - c) The Pre-Approval Notice will be posted on the Quebec Registry of Class Actions.
15. The Parties therefore request that this Court approve the form, content and mode of dissemination of the Pre-Approval Notice, in both its English and French versions;

16. The parties request that this Court set the time limit for Class Members to file objections to Court approval of the Settlement Agreement to June 15, 2020;
17. The parties request that this Court set the time limit for Class Members to opt-out of the class action to June 15, 2020;
18. The present application is in the interests of justice and of the Class Members;

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

1. **APPROVE** the form, content and mode of dissemination of the Pre-Approval Notice to Class Members, in its French and English versions (**Exhibit M-2**);
2. **ORDER** the publication of the notices to Class Members, annexed to the present judgment, by no later than of April 15, 2020, as follows:
  - a) All McDonald's restaurants in Quebec will post the Pre-Approval Notice in English and French (Exhibit M-2) on the front entrance for 30 days. If the restaurant does not have a front entrance, for example in a food court or inside a store (i.e. Walmart), the notice will be placed in a similar place, for example on the wall near the cash registers if such a location is available. This notice will contain a QR code allowing consumers to directly access the full version of the Settlement Agreement;
  - b) McDonald's will add a link on the desktop and mobile versions of the English and French version of the [mcdonalds.ca](https://www.mcdonalds.ca) home page which reads "Notice: Class Action Settlement". This link will redirect directly to <https://www.lpclex.com/Mcdonalds> in English and to <https://www.lpclex.com/fr/Mcdonalds> in French. These links will remain on the McDonald's Canada website for 30 days;
  - c) McDonald's will post the following message on its Facebook page in English and French: "A settlement has been reached in the class action against McDonald's Canada. McDonald's Canada denies the claim. For more information or to opt-out or object go to: <https://www.lpclex.com/Mcdonalds>. French translation and url is <https://www.lpclex.com/fr/Mcdonalds>. / Un règlement a été conclu dans l'action collective contre McDonald Canada. McDonald Canada nie le bien-fondé de la réclamation. Pour de plus amples informations ou pour vous exclure ou pour s'objecter à l'action collective, visitez le lien suivant: <https://www.lpclex.com/fr/Mcdonalds>. La version anglaise est disponible sur <https://www.lpclex.com/Mcdonalds>;

This message will also include a graphic with the words NOTICE / AVIS. The message will remain on McDonald's Canada's Facebook page for 30 days;

- d) Class Counsel will post the Pre-Approval Notice on its website and its Facebook page; and
  - e) Class Counsel will email a copy of the Pre-Approval Notice to each of the potential Class Members that have registered on Class Counsel's website to date, within thirty (30) days of the judgment rendered herein.
3. **DECLARE** that Class Members who wish to object to Court approval of the Settlement Agreement must do so in the manner provided for in the Pre-Approval Notice, on or before **June 15, 2020**;
  4. **DECLARE** that Class Members who wish to opt-out of 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 Pre-Approval Notice, on or before **June 15, 2020**;
  5. **DECLARE** that all Class Members that have not requested their exclusion be bound by any judgement to be rendered in the present Class Action in the manner provided for by the law;
  6. **SCHEDULE** the hearing date for the Application for Approval of the Settlement Agreement and of Class Counsel Fees on June 18, 2020, at 9:30 a.m. in room 2.08 of the Montreal Courthouse;
  7. **THE WHOLE** without legal costs.

Montreal, January 10, 2020

*(s) LPC Avocat Inc.*

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**LPC AVOCAT INC.**

Per: Mtre. Joey Zukran

Attorney for Representative Plaintiff

C A N A D A

PROVINCE OF QUÉBEC  
DISTRICT OF MONTRÉAL

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

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NO: 500-06-000824-165

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Representative Plaintiff

-vs-

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Defendant

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**LIST OF EXHIBITS**

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- Exhibit M-1:** *En liasse*, copies of the Settlement Agreement executed between the parties on January 7 and 8, 2020 and the non-official French translation;
- Exhibit M-2:** Copies of the proposed Pre-Approval Notices to Class Members in English and French.

Montreal, January 10, 2020

*(s) LPC Avocat Inc.*

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**LPC AVOCAT INC.**

Per: Me Joey Zukran

Attorney for Representative Plaintiff

## NOTICE OF PRESENTATION

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**TO:** Mes Catherine McKenzie and Doug Mitchell  
IMK LLP  
[cmckenzie@imk.ca](mailto:cmckenzie@imk.ca); [dmitchell@imk.ca](mailto:dmitchell@imk.ca)  
**Attorneys for McDonald's Restaurants of Canada Limited**

Me Frikia Belogbi  
**Fonds d'aide aux actions collectives**  
[frikia.belogbi@justice.gouv.qc.ca](mailto:frikia.belogbi@justice.gouv.qc.ca)

**TAKE NOTICE** that the present *Application for Approval of Notice to Class Members of a Settlement Approval Hearing* shall be presented for adjudication before the Honourable Thomas M. Davis, J.S.C., on **January 15, 2020 at 8:30 a.m.**, at the Montreal Courthouse, situated at 1 Notre-Dame Street East, Montréal (Quebec), H2Y 1B6, in a room to be determined by the Court.

Montreal, January 10, 2020

*(s) LPC Avocat Inc.*

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**LPC AVOCAT INC.**

Per: Mtre. Joey Zukran

Attorney for Representative Plaintiff

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(Class Action)  
SUPERIOR COURT  
DISTRICT OF MONTREAL

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**ANTONIO BRAMANTE**

*Representative Plaintiff*

vs.

**LES RESTAURANTS MCDONALD DU  
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*Defendant*

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**APPLICATION FOR APPROVAL OF NOTICES TO CLASS  
MEMBERS OF A SETTLEMENT APPROVAL HEARING**  
(Articles 25, 49, 580, 581 and 590 C.C.P.)

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**ORIGINAL**

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**N/D: JZ-126**

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