



COUR SUPÉRIEURE DU QUÉBEC

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PAR COURRIEL

Montréal, le 28 février 2020

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OBJET : Daniel MacDuff et al
c.
Vacances Sunwing Inc. et al
C.S.M. : 500-06-000845-178

Maîtres,

Vu le protocole de l'instance du 26 février 2020 et considérant le consentement des parties, le Tribunal entérine ce protocole, ordonne aux parties de s'y conformer et prolonge la date de la mise en état du dossier au 22 octobre 2020.

Veillez agréer, Maîtres, l'expression de mes salutations distinguées.

Lukasz Granosik, j.c.s.

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CANADA
Province of Québec
District: Montreal

SUPERIOR COURT
Class Action Division

File No.: 500-06000845-178

DANIEL MACDUFF

Plaintiff

v.

SUNWING VACATONS INC.

Defendant

and

SUNWING AIRLINES INC.

Defendant

CASE PROTOCOL
Superior Court of Québec, Montréal Division
(article 148 of the Code of Civil Procedure)

1.	Nature of the dispute: Class Action – Consumer Protection Act	
2.	Value of the subject matter of the dispute: undetermined at this time	
3.	Latest date on which the application was served on all the parties:	May 18, 2018
4.	All the parties are requesting a stay of the proceeding in order to allow them to negotiate an out-of-court agreement (C.C.P., a. 156): Duration: (where applicable, indicate a maximum stay of 3 months) If the application is allowed by the Court, the proceeding will therefore be stayed until:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> 1 month <input type="checkbox"/> 2 months <input type="checkbox"/> 3 months
5.	Before filing judicial proceedings, did the parties consider private prevention and resolution processes (C.C.P. a. 1, 3 rd para. and a. 148)? If so, did the parties participate in a private prevention and resolution process before filing judicial proceedings? A settlement conference: <input type="checkbox"/> will be requested <input type="checkbox"/> is probable <input type="checkbox"/> is possible <input checked="" type="checkbox"/> is out of the question	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6.	All the parties are requesting an extension of the time limit for trial readiness (C.C.P., a. 173):	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 3 months

Duration: (where applicable, indicate an additional time limit of 9 months maximum)	<input type="checkbox"/> 6 months <input checked="" type="checkbox"/> 9 months
If the Court allows the application, the six-month time limit will be extended until:	22 octobre 2020

PRELIMINARY EXCEPTIONS	
7. Declinatory exceptions	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing
8. <input type="checkbox"/> Referral to competent court or dismissal (C.C.P., a. 167)	
9. <input type="checkbox"/> Other exception (with a reference to the C.C.P. article):	
10. Submitted by (enter the name of the party):	

11. Exceptions to dismiss	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing
12. <input type="checkbox"/> Dismissal (C.C.P., a. 168):	
13. Submitted by (enter the name of the party):	

14. Other preliminary exceptions	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing
15. <input type="checkbox"/> Clarifications regarding (C.C.P., a. 169):	
16. <input type="checkbox"/> Disclosure of documents (C.C.P., a. 169):	
17. <input type="checkbox"/> Striking of immaterial allegations (C.C.P., a. 169):	
18. <input type="checkbox"/> Requirement to provide suretyship (C.C.P., a. 492):	
19. <input type="checkbox"/> Other exception (indicate its nature):	
20. Submitted by (enter the name of the party):	

21. Application under article 51 C.C.P.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing
22. <input type="checkbox"/> Application under article 51 C.C.P.	
23. Submitted by (enter the name of the party):	

OTHER PROCEEDINGS	
24. Safeguard measures (C.C.P., a. 169 1st para.):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing
25. <input type="checkbox"/> Application for safeguard measures	
26. Submitted by (enter the name of the party):	

27. Other incidental procedures	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing
28. <input type="checkbox"/> Amendment of a pleading	
29. <input type="checkbox"/> Determination of an issue of law	

30.	<input type="checkbox"/> Declaration of disqualification	
31.	<input type="checkbox"/> Other (indicate its nature):	
32.	Submitted by (enter the name of the party):	

DEFENCE		
33.	<p>Under article 171 C.C.P., the case is subject to the rules of oral defence. Despite this, all the parties are applying for authorization from the Court for the case to be subject to the rules of written defence, on the following grounds (C.C.P., aa. 148(5) and 171) (indicate the grounds):</p> <p>The Defence is already filed.</p> <p>In the absence of an application for authorization for a written defence, the defendant must state the grounds by oral defence (C.C.P., aa. 154 and 170 2nd para.) (indicate the grounds):</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

34.	The defendant intends to file a cross-application.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
35.	Deadline for filing the cross-application	
36.	Deadline for filing the defence to cross-application	

37.	<p>Issues in dispute (C.C.P., a. 148):</p> <p>a. Les Défenderesses ont-elles contrevenu au Titre II de la Loi sur la protection du consommateur, à savoir :</p> <p>i. Les Défenderesses sont-elles allées à l'encontre des articles 219, 220(a) et/ou 221(a) en décrivant et en promouvant leur service en utilisant le mot « champagne » sans toutefois servir de champagne?</p> <p>ii. Les Défenderesses sont-elles allées à l'encontre de l'article 222(f) en décrivant et en promouvant leur service en utilisant le mot « champagne » et en servant plutôt des boissons alcooliques provenant d'une région autre que de la région géographique de Champagne?</p> <p>iii. Les Défenderesses sont-elles allées à l'encontre de l'article 228 en ne mentionnant pas aux Membres du groupe que leur service ne comprenait pas de champagne?</p> <p>b. Les Défenderesses ont-elles contrevenu au Titre I de la Loi sur la protection du consommateur, à savoir :</p> <p>i. Les Défenderesses sont-elles allées à l'encontre des articles 40, 41, 42, et/ou 43 en décrivant et en promouvant leur service en utilisant le mot « champagne » sans toutefois servir de champagne?</p> <p>c. Les Membres du groupe ont-ils droit à une compensation des Défenderesses, consistant à :</p> <p>ii. une réduction de leur obligation;</p> <p>iii. des dommages moraux;</p> <p>iv. un montant en dommages punitifs par Membre du groupe; et/ou</p> <p>v. l'intérêt et indemnité additionnelle prévue par le Code civil du Québec sur ces montants, à compter de la date d'achat des forfaits ou des billets d'avion?</p> <p>d. Les Membres du groupe peuvent-ils bénéficier de la présomption absolue de préjudice de l'article 272 de la Loi sur la protection du consommateur ainsi que de la présomption de dol de l'article 253 de la Loi sur la protection du consommateur ?</p>
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38.	Third person intervention or impleading (C.C.P., aa. 151 and 158(4))	<input type="checkbox"/> YES <input type="checkbox"/> NO
39.	Deadline for the intervention or impleading of a third person	

EXPERT OPINIONS

40.	Joint expert opinion (C.C.P. a. 232) Nature of and need for joint expert opinion: Reasons for refusing joint expert opinion (C.C.P., a. 148(4)): Deadline for filing joint expert opinion:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
41.	Expert opinion for the plaintiff (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion) Véronique Rivest, expertise portant sur le champagne Dr. Ruth Corbin, contre-expertise portant sur le sondage Léger produit par la partie défenderesse ainsi que sur « l'expertise complémentaire d'analyse conjointe » annoncée par Sunwing. Deadline for filing an expert opinion for plaintiff:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO 1 ^{er} juillet 2020 pour la contre-expertise de Dr. Ruth Corbin
42.	Expert opinion for the defendant (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion) Léger Marketing, expertise par sondage relative au terme champagne (déjà produite). Léger Marketing, expertise complémentaire d'analyse conjointe. Deadline for filing an expert opinion for defendant:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO 10 avril 2020 pour l'expertise complémentaire d'analyse conjointe
43.	Expert opinion for third person or impleaded person (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion) Deadline for filing an expert opinion for third person or impleaded person:	<input type="checkbox"/> YES <input type="checkbox"/> NO

EXAMINATIONS

44.	Pre-trial examination(s) by either party (C.C.P., aa. 148(3), 158(3) and 221)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
45.	Value of the subject matter of the dispute is less than \$100 000 (C.C.P., a. 229):	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

46.	The parties intend to submit their anticipated objections before pre-trial examination (C.C.P., a. 228):	1. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
47.	Number of examinations before defence	Deja fait
48.	Number of examinations after defence	1
49.	Name of persons to be examined for the plaintiff:	
	Jacqueline Grossman (en anglais)	27 avril 2020
	9:00 AM (durée: 5h)	Osler, Hoskin & Harcourt LLP 1000 De La Gauchetière West Suite 2100
	Given name, surname	Date
	Time	Place
	Given name, surname	Date
	Time	Place
50.	Name of persons to be examined for the defendant:	
	Déjà fait	
	Given name, surname	Date
	Time	Place
	Given name, surname	Date
	Time	Place
51.	In order to avoid service of a subpoena, the parties agree that, at the latest on March 16 2020, the plaintiff will disclose in writing to the other parties a detailed list of all the documents that must be in the possession of the party to be examined at the pre-trial examination. List the documents below if the parties are currently able to identify them (an appendix of all the documents may be enclosed with this protocol):	
	Given name, surname	Documents
	Given name, surname	Documents
52.	Deadline for filing transcripts for the plaintiff (C.C.P., a. 227)	30 jours après la réception des notes sténographiques
53.	Deadline for filing transcripts for the defendant (C.C.P., a. 227)	
54.	Deadline for filing transcripts for the impleaded person (C.C.P., a. 227)	
55.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations conducted by the plaintiff	30 jours après la réception des notes sténographiques
56.	Deadline for presenting the objections set forth in the second paragraph of article 228 C.C.P., which were raised during the pre-trial examinations conducted by the defendant	
57.	Deadline for disclosure of all the undertakings made during the pre-trial examinations conducted by the plaintiff	60 jours après l'interrogatoire

58.	Deadline for disclosure of all the undertakings made during the pre-trial examinations conducted by the defendant	
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EXHIBITS		
	Exhibits and other evidence (C.C.P., aa. 145 and 158)	Deadline
59.	Filing of exhibits for the plaintiff	1er septembre 2020
60.	Filing of exhibits for the defendant	1er octobre 2020
61.	Filing of exhibits for the third person, impleaded person or intervening person	
62.	List of exhibits admitted by plaintiff:	
63.	List of exhibits admitted by defendant:	
	Filing of affidavits in lieu of testimony	Deadline
64.	Filing of affidavits for plaintiff	1er août 2020
65.	Filing of affidavits for defendant	1er septembre 2020

OTHER		
66.	Legal costs (C.C.P., aa. 148 1st para., and 339) <ul style="list-style-type: none"> Evaluation of legal costs for plaintiff (including expert opinions): Evaluation of legal costs for defendant (including expert opinions): Evaluation of legal costs for other parties (including expert opinions): 	\$ 45 000 \$ 45 000 \$

67.	Methods of notification the parties intend to use (C.C.P., aa. 109 to 140 and 148(9)): Email in accordance with 134 CCP
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68.	Appointment of a lawyer to a minor or a person of full age considered incapable If yes, name of proposed lawyer:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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N.B. Non-compliance with this protocol may constitute a breach punished under articles 341 and 342 C.C.P.

On February 26, 2020

On February 26, 2020

Champlain Avocats

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Mtre Sébastien A. Paquette
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(given name, surname)
Plaintiff

On

Mtre.
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(Nom de l'étude)
(Adresse)
(Ville, province et code postal)
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