

C A N A D A
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
No: 500-06-000895-173

**SUPERIOR COURT
(Class Action)**

EMANUEL FARIAS

Representative

-VS-

**FEDERAL EXPRESS CANADA
CORPORATION**

Defendant

NOTICE TO MEMBERS: AUTHORIZATION OF A CLASS ACTION

IF, FROM SEPTEMBER 21, 2017, UNTIL DECEMBER 20, 2018, YOU BOUGHT GOODS ORIGINATING FROM A EUROPEAN UNION COUNTRY THAT HAVE BEEN DELIVERED BY FEDEX, THIS NOTICE MAY AFFECT YOUR RIGHTS.

1. Emanuel Farias has been authorized to institute a class action on behalf of the following Class (the "**Class**"):

All natural persons, legal persons established for a private interest, partnership and associations or other groups not endowed with judicial personality residing in Quebec who, from September 21, 2017, until December 20, 2018, were charged and paid customs duties and/or processing fees collected by Federal Express Canada Corporation in respect of the import of any goods originating from a European Union country or a beneficiary of the Canada-European Union Comprehensive Economic and Trade Agreement.

2. The following principal issues of fact or law will be dealt with collectively at the present stage of the class action:
 - a. Was/is FedEx entitled to charge and collect customs duties and/or processing fees from members of the Class who purchased goods originating from a European Union (**EU**) country or other beneficiary of the Canada-European Union Comprehensive Economic and Trade Agreement (**CETA**) after its coming into force?

- b. Did FedEx, in charging and collecting customs duties and/or processing fees from September 21, 2017, breach the terms of CETA and/or the obligations of the mandatory towards its mandator?
 - c. Is FedEx a merchant governed by the *Consumer Protection Act (CPA)*?
 - d. Are certain members of the Class consumers governed by the CPA?
 - e. Did FedEx fail to comply with the requirements of the CPA by charging and collecting from September 21, 2017, customs duties and processing fees from members of the Class who purchased goods originating from a EU country or other beneficiary of the CETA?
 - f. Are Plaintiff and the members of the Class entitled to recover the amounts so charged and paid to FedEx that were not yet reimbursed?
 - g. Is FedEx liable to pay punitive damages to consumer members of the Class and if so, what amount of punitive damages should FedEx be condemned to pay, collectively?
3. The Representative seeks the following conclusions in respect of the above issues:
- GRANT** the Class Action against the Defendant;
- CONDEMN** the Defendant to pay to the Plaintiff, for the benefit of the Class, all amounts owing to the Class, the whole with interest and the additional indemnity provided by law;
- CONDEMN** the Defendant to pay punitive damages in the minimum amount of \$20 million, *sauf à parfaire*, the whole with interest and the additional indemnity provided by law;
- ORDER** the collective recovery of the total amount of the claims herein;
- ORDER** that the claims of the members of the Class be the object of individual liquidation in accordance with Articles 599 to 601 CCP or, if impractical or inefficient, order the Defendant to perform any remedial measures that this Honourable Court deems to be in the interests of the members of the Class;
- CONDEMN** the Defendant to any further relief as may be just and proper;
- THE WHOLE** with legal costs, including the costs of all exhibits, reports, expertise and publication of notices.
4. The class action will proceed in the District of Montreal.

5. **All members of the Class are invited to communicate with the following attorneys for the Class, in order to obtain additional information in respect of the class action and in order to be informed of their rights. The communications will be confidential and free of charge:**

Me Sandra Mastrogiuseppe : smastrogiuseppe@kklex.com
Me Jérémie Longpré : jlongpre@kklex.com

Kugler Kandestin, LLP
1 Place Ville-Marie, Suite 1170
Montreal, Quebec, H3B 2A7
Tel. (514) 878-2861
Toll-free : 1-844-999-2861
Fax : (514) 875-8424

6. All members of the Class are automatically eligible to benefit from, and will be bound by, the class action, without needing to join.
7. **If you do not want to be bound by the class action, you must opt out of the Class, as follows:**
- a. If a member has not already instituted an individual action against Federal Express Canada Corporation, the member may opt out of the class action by notifying the clerk of the Superior Court of the district of Montreal pursuant to Article 580 of the *Code of Civil Procedure*. Thus, you can opt out of class action until August 31, 2020, in advising, by writing, the registry of the Superior Court of Quebec, District of Montreal, located at 1 Notre Dame St. East, Montreal, Quebec, H2Y 1B6, by registered mail. Your written opt-out notice must include the following information : (1) the class action Court file number (500-06-000895-173); (2) your name, your address and your phone number; (3) the following statement : “*I elect to opt out of the class action*” and (4) your signature.
- b. Any member of the Class who has already instituted an individual action against Federal Express Canada Corporation before a civil court which the final judgment of the present class action would otherwise determine, is deemed to have opted out of the present class action if he or she does not discontinue his or her individual action prior to the deadline to opt out.
8. A member may be granted intervenor status if the Court considers same to be useful to the Class.
9. No class member other than the class representative or an intervenor may be condemned to pay legal costs arising from the class action.

10. The class action has not ended, and a final judgment has not yet been rendered. A new notice will be published once a final judgment has been rendered in respect of this class action.
11. This notice is given pursuant to the *Code of Civil Procedure* of Quebec and by Order of the Court. It is a summary of the terms of the authorization judgment. If there is any conflict between the provisions of this notice and the terms of the authorization judgment, the authorization judgment shall prevail.

The present notice was authorized and approved by the Honourable Chantal Tremblay, J.C.S.