

C A N A D A

PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

NO: 500-06-001072-202

SUPERIOR COURT  
(Class Actions)

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**JANIE DESJARDINS,** [REDACTED]  
[REDACTED]

Applicant

-vs-

**INTERNET REFERRAL SERVICES, LLC  
(D.B.A. TICKETS-CENTER.COM),** having its  
head office at 16192 Coastal Hwy, Lewes,  
Delaware, 19958, U.S.A.

and

**STUBHUB CANADA LTD.** legal person  
having its head office at 240 Richmond Street  
West, Suite 4-113, Toronto, Ontario, M5V  
1V6

and

**STUBHUB INC.** legal person having its head  
office at 199 Fremont Street, 4<sup>th</sup> Floor, San  
Francisco, California, 94105, U.S.A.

and

**TICKETMASTER CANADA LP,** limited  
partnership having an establishment at 7001  
Saint-Laurent boulevard, Montreal, District of  
Montreal, Quebec, H2S 3E3

and

**TICKETMASTER CANADA HOLDINGS  
ULC,** limited partnership having an  
establishment at 7001 Saint-Laurent  
boulevard, Montreal, District of Montreal,  
Quebec, H2S 3E3

and

**TICKETMASTER CANADA ULC**, legal person having an establishment at 7001 Saint-Laurent boulevard, Montreal, District of Montreal, Quebec, H2S 3E3

and

**TICKETMASTER LLC**, legal person having a place of business at 9348 Civic Center Drive, Beverly Hills, California, 90210, U.S.A.

and

**LIVE NATION ENTERTAINMENT, INC.**, legal person having a place of business at 9348 Civic Center Drive, Beverly Hills, California, 90210, U.S.A.

and

**LIVE NATION CANADA, INC.** legal person having its head office at 3<sup>rd</sup> Fl-40 Hanna Avenue, Toronto, Ontario, M6K 0C3

and

**VIVID SEATS LLC**, legal person having its principal office at 111 North Canal Street, Suite 800, Chicago, Illinois, 60606, U.S.A.

and

**TICKETNETWORK, INC.**, legal person having its head office at 75 Gerber road east, South Windsor, Connecticut, 06074, U.S.A.

Defendants

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**APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS ACTION AND TO  
APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF  
(ARTICLES 571 AND FOLLOWING C.C.P.)**

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**TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES:**

1. The Applicant seeks authorization to institute a class action on behalf of the following class of which she is a member, namely:

**Class:**

All persons who entered into a distance contract relating to a resale ticket with any of the Defendants, whose event was cancelled and who did not receive a refund before the new scheduled date of the event (if applicable), since June 6, 2018 (the “Class Period”).

(hereinafter referred to as the “**Class**”)

or any other Class to be determined by the Court;

2. On June 6, 2018, section 54.9.1 of Quebec’s *Consumer Protection Act* (“CPA”) came into force. This public order provision provides the following:

**54.9.1.** In addition to the cases provided for in sections 54.8 and 54.9, in the case of a distance contract relating to a resale ticket, the consumer may cancel the contract

(a) at any time after the date on which the event to which the ticket grants admission is cancelled, but before, if applicable, the new scheduled date of the event;

3. The Defendants are all merchants operating websites, mobile applications and call centers where consumers – while physically in the province of Quebec – can purchase tickets on the secondary market (i.e. resale tickets) for events held in Quebec and elsewhere around the world;
4. The Ticketmaster and Live Nation Defendants operate websites, mobile applications and call centers where consumers can purchase tickets both on the primary and secondary markets for events held both in the province of Quebec and elsewhere. For this group of Defendants, this action only concerns the sale of their “Fan-to-Fan Resale” tickets (which relate to the resale of tickets between fans on the secondary market, but in which Ticketmaster hides the identity of the buyer and seller from each other and earns a significant commission from this sale);
5. During the Class period, all of the Defendants entered into distance contracts with Class members relating to a resale ticket and refused to reimburse the Class members after their event was cancelled but before the new scheduled date of the event (if at all);

6. This class action seeks the cancellation of the distance contracts on behalf of all Class members pursuant to section 54.9.1 CPA and the reimbursement of the amounts they paid to the Defendants, as well as punitive damages;

**I. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFF (SECTION 575 C.C.P.):**

**A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT:**

7. On April 20, 2019, the Applicant purchased tickets from the website www.tickets-center.com (which is owned and operated by Defendant Internet Referral Services LLC) to the Francis Cabrel concert, initially scheduled for June 22, 2020, at the National Arts Centre in Ontario, Applicant disclosing her purchase confirmation as **Exhibit P-1**;
8. The Applicant made the purchase from her computer online on the www.tickets-center.com website, while she was at her house in Gatineau, in the province of Quebec;
9. The tickets she purchased were “resale tickets”, as it appears from clause 1 of the terms of sale listed on the tickets-center.com website disclosed herewith as **Exhibit P-2**;
10. On February 15, 2020, the Applicant received an email from orders@tickets-center.com advising her that the event was rescheduled to June 16, 2020, as it appears from **Exhibit P-3**;
11. On February 28, 2020 and on March 5, 2020, the Applicant called the phone number listed in the emails sent to her by Tickets-Center.com (1-800-361-7978) and asked them to cancel her purchase and for a full refund. Applicant discloses herewith *en liasse* the customer service emails she received saying “*Thank you for your call!*” as proof that these calls were placed on these dates as **Exhibit P-4**;
12. On both occasions when she called, Tickets-Center.com refused to cancel the contract or to reimburse the Applicant, contrary to s. 54.9.1 CPA;
13. It is worth emphasizing that both of these refusals to cancel the contract and refund the Applicant were before COVID-19 essentially shut down most of North America and therefore was always the Defendants’ policy and unrelated to the pandemic;
14. On May 6, 2020, the Applicant received an email from orders@tickets-center.com advising her that her event was cancelled once again and reschedule for June 21, 2021 (which is more than 1-year after the previously scheduled date), as it appears from **Exhibit P-5**;
15. The law provides that the Applicant must be reimbursed and the Defendant

Internet Referral Services (d.b.a. Tickets-Center.com) has failed to fulfil this obligation imposed on it by the CPA. Given this failure to comply with s. 54.9.1, the Applicant hereby requests that the contract be annulled pursuant to s. 272 f) and for an amount to be determined in punitive damages, also pursuant to s. 272;

**B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:**

16. During the Class period, all of the Defendants violate s. 54.9.1 CPA by not allowing Quebec consumers to cancel their contracts and giving them refunds when an event was cancelled or rescheduled;
17. Applicant discloses herewith *en liasse* as **Exhibit P-6** the documentation confirming that all of the Defendants violated s. 54.9.1 CPA by refusing to refund consumers;
18. Class members wishing to cancel their purchase of resale tickets have already notified each of the Defendants named herein of their desire to cancel the contract (this notice may have come in the form of an email or online chat with each Defendant). The Defendants chose not to cancel the contracts after receiving such notice from the Class members, as their policies not to reimburse customers is systemic. It is therefore apparent that the Defendants' policies are the same whether 100% of Class members sent a notice or only a single Class member sent a notice: no cancellation of the contract and no refunds;
19. As for the Ticketmaster and Live Nation Defendants, they updated their policy to supposedly give consumers the opportunity to obtain a refund once the new date of their cancelled (or rescheduled) event is known, but this policy is still contrary to s. 54.9.1 CPA. In fact, Ticketmaster even refuses to let Quebec consumers dispute the charges on their credit cards and puts up a fight with the credit card companies so that Quebec consumers are denied their legal right to a chargeback pursuant to s. 54.15 CPA. The Ticketmaster and Live Nation Defendants should be condemned to punitive damages for this clearly intentional and ill-spirited breach of the CPA;
20. The recourses of the Class members raise identical, similar or related questions of fact or law, namely:
  - a) Did the Defendants violate s. 54.9.1 CPA?
  - b) If so, are the Class members entitled to cancel their contracts or claim damages and in what amount?
  - c) Are Class members entitled to punitive damages pursuant to section 272 CPA?
21. All Class members are in the same position as the Applicant vis-à-vis the Defendants they contracted with;

22. The Applicant's and the Class members' damages are a direct and proximate result of the Defendants' failures to respect s. 54.9.1 CPA;
23. As such, all Class members have a common interest both in proving that there was a breach by the Defendants and in claiming the aggregate of the amounts that they are entitled to under the law;

### **C) THE COMPOSITION OF THE CLASS**

24. 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;
25. There are thousands of "resale" tickets listed on each of the Defendants' websites to events in Quebec and elsewhere;
26. The Applicant conservatively estimates the number of persons included in the Class is in the thousands during the Class Period;
27. The names and addresses of all persons included in the Class are not known to the Applicant, however, are all in the possession of the Defendants since Class members must provide their information (including an email address) before purchasing resale tickets from the Defendants;
28. Class members are very numerous and are dispersed across the province and Canada;
29. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class member to obtain mandates and to join them in one action;
30. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

### **D) THE CLASS MEMBER REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFF IS IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS**

31. The Applicant requests that she be appointed the status of representative plaintiff for the following main reasons:
  - a) She is a member of the Class and has a personal interest in seeking the conclusions that he proposes herein;
  - b) She is competent, in that he has the potential to be the mandatary of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;

- c) Her interests are not antagonistic to those of other Class members;
32. Additionally, the Applicant respectfully adds that:
- a) She contacted and mandated her attorneys to file the present application for the sole purpose of having her rights, as well as the rights of other Class members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of the Defendants' failure to respect the law;
  - b) She has the time, energy, will and determination to assume all the responsibilities incumbent upon her in order to diligently carry out the action;
  - c) She cooperates and will continue to fully cooperate with her attorneys, who have experience in consumer protection-related class actions;
  - d) She understands the nature of the action;

## **II. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

33. The action that the Applicant wishes to institute on behalf of the members of the Class is an action in damages and in nullity of contract;
34. The conclusions that the Applicant wishes to introduce by way of an originating application are:

**ALLOW** the class action of the Representative Plaintiff and the members of the Class against the Defendants;

**ANNUL** the contract between the Representative Plaintiff and the Defendant Internet Referral Services, LLC (d.b.a. tickets-center.com), as well as **ANNUL** the contracts between each of the Class members and of the Defendants they contracted with and whose policy refused to allow the cancellation of said contracts;

**CONDEMN** the Defendants to pay the Representative Plaintiff and the Class members the amounts that they paid for their resale tickets to an event that was cancelled and **ORDER** that this condemnation be subject to collective recovery;

**CONDEMN** the Defendants to pay the Representative Plaintiff and Class members punitive damages in an amount to be determined and **ORDER** that this condemnation be subject to collective recovery;

**CONDEMN** the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;

**ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

**ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants to bear the costs of the present action including the cost of exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

35. The interests of justice favour that this Application be granted in accordance with its conclusions.

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

**AUTHORIZE** the bringing of a class action in the form of an originating application in damages;

**APPOINT** the Applicant the status of Representative Plaintiff of the persons included in the Class herein described as:

**Class:**

All persons who entered into a distance contract relating to a resale ticket with any of the Defendants, whose event was cancelled and who did not receive a refund before the new scheduled date of the event (if applicable), since June 6, 2018 (the "Class Period").

or any other Class to be determined by the Court;

**IDENTIFY** the principle questions of fact and law to be treated collectively as the following:

- a) Did the Defendants violate s. 54.9.1 CPA?
- b) If so, are the Class members entitled to cancel their contracts or claim damages and in what amount?
- c) Are Class members entitled to punitive damages pursuant to section 272 CPA?

**IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

**ALLOW** the class action of the Representative Plaintiff and the members of the Class against the Defendants;



**ANNUL** the contract between the Representative Plaintiff and the Defendant Internet Referral Services, LLC (d.b.a. tickets-center.com), as well as **ANNUL** the contracts between each of the Class members and of the Defendants they contracted with and whose policy refused to allow the cancellation of said contracts;

**CONDEMN** the Defendants to pay the Representative Plaintiff and the Class members the amounts that they paid for their resale tickets to an event that was cancelled and **ORDER** that this condemnation be subject to collective recovery;

**CONDEMN** the Defendants to pay the Representative Plaintiff and Class members punitive damages in an amount to be determined and **ORDER** that this condemnation be subject to collective recovery;

**CONDEMN** the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the Application to authorize a class action and **ORDER** that this condemnation be subject to collective recovery;

**ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

**ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants to bear the costs of the present action including the cost of exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

**DECLARE** that all members of the Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;

**FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;

**ORDER** the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the "News" sections of the Saturday editions of La Presse, the Journal de Montréal and the Montreal Gazette;

**ORDER** the Defendants to send an Abbreviated Notice by e-mail to each Class

member, to their last known e-mail address, with the subject line "Notice of a Class Action";

**RENDER** any other order that this Honourable Court shall determine;

**THE WHOLE** with costs including publication fees.

Montreal, May 29, 2020

*(s) LPC Avocat inc.*

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**LPC AVOCAT INC.**

Mtre Joey Zukran

Attorney for the Applicant

276 Saint-Jacques Street, Suite 801

Montréal, Québec, H2Y 1N3

Telephone: (514) 379-1572

Telecopier: (514) 221-4441

Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**SUMMONS**  
(ARTICLES 145 AND FOLLOWING C.C.P)

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**Filing of a judicial application**

Take notice that the Applicant has filed this Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff in the office of the **Superior Court** in the judicial district of **Montreal**.

**Defendant's answer**

You must answer the application in writing, personally or through a lawyer, at the courthouse of Montreal situated at 1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6, within 15 days of service of the Application or, if you have no domicile, residence or establishment in Québec, within 30 days. The answer must be notified to the Applicant's lawyer or, if the Applicant is not represented, to the Applicant.

**Failure to answer**

If you fail to answer within the time limit of 15 or 30 days, as applicable, a default judgement may be rendered against you without further notice and you may, according to the circumstances, be required to pay the legal costs.

**Content of answer**

In your answer, you must state your intention to:

- negotiate a settlement;
- propose mediation to resolve the dispute;
- defend the application and, in the cases required by the Code, cooperate with the Applicant in preparing the case protocol that is to govern the conduct of the proceeding. The protocol must be filed with the court office in the district specified above within 45 days after service of the summons or, in family matters or if you have no domicile, residence or establishment in Québec, within 3 months after service;
- propose a settlement conference.

The answer to the summons must include your contact information and, if you are represented by a lawyer, the lawyer's name and contact information.

**Change of judicial district**

You may ask the court to refer the originating Application to the district of your domicile or residence, or of your elected domicile or the district designated by an agreement with the plaintiff.

If the application pertains to an employment contract, consumer contract or insurance contract, or to the exercise of a hypothecary right on an immovable serving as your main residence, and if you are the employee, consumer, insured person, beneficiary of the insurance contract or hypothecary debtor, you may ask for a referral to the district of your domicile or residence or the district where the immovable is situated or the loss occurred. The request must be filed with the special clerk of the district of territorial jurisdiction after it has been notified to the other parties and to the office of the court already seized of the originating application.

### **Transfer of application to Small Claims Division**

If you qualify to act as a plaintiff under the rules governing the recovery of small claims, you may also contact the clerk of the court to request that the application be processed according to those rules. If you make this request, the plaintiff's legal costs will not exceed those prescribed for the recovery of small claims.

### **Calling to a case management conference**

Within 20 days after the case protocol mentioned above is filed, the court may call you to a case management conference to ensure the orderly progress of the proceeding. Failing this, the protocol is presumed to be accepted.

### **Exhibits supporting the application**

In support of the Application for Authorization to Institute a Class Action and to Appoint the Status of Representative Plaintiff, the Applicant intends to use the following exhibits:

**Exhibit P-1:** Copy of Applicant's purchase confirmation dated April 20, 2019;

**Exhibit P-2:** Copy of the Terms of sale on Tickets-center.com;

**Exhibit P-3:** Copy of email dated February 15, 2020, sent to Applicant;

**Exhibit P-4:** *En liasse*, copies of emails dated February 28, 2020 and March 5, 2020, sent to Applicant;

**Exhibit P-5:** Copy of email dated May 6, 2020, sent to Applicant;

**Exhibit P-6:** *En liasse*, documentation confirming violations of 54.9.1 CPA by each of the Defendants;

These exhibits are available on request.

## Notice of presentation of an application

If the application is an application in the course of a proceeding or an application under Book III, V, excepting an application in family matters mentioned in article 409, or VI of the Code, the establishment of a case protocol is not required; however, the application must be accompanied by a notice stating the date and time it is to be presented.

Montreal, May 29, 2020

*(s) LPC Avocat inc.*

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**LPC AVOCAT INC.**

Mtre Joey Zukran

Attorney for the Applicant

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Email: [jzukran@lpclex.com](mailto:jzukran@lpclex.com)

**NOTICE OF PRESENTATION**  
(articles 146 and 574 al. 2 N.C.P.C.)

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**TO: INTERNET REFERRAL SERVICES, LLC**  
**(D.B.A. TICKETS-CENTER.COM)**  
16192 COASTAL HWY  
LEWES, DELAWARE, 19958, U.S.A.

**STUBHUB CANADA LTD.**  
240 RICHMOND STREET WEST, SUITE 4-113  
TORONTO, ONTARIO, M5V 1V6

**STUBHUB INC.**  
199 FREMONT STREET, 4<sup>TH</sup> FLOOR  
SAN FRANCISCO, CALIFORNIA, 94105, U.S.A.

**TICKETMASTER CANADA LP**  
7001 SAINT-LAURENT BOULEVARD  
MONTREAL, QUEBEC, H2S 3E3

**TICKETMASTER CANADA HOLDINGS ULC**  
7001 SAINT-LAURENT BOULEVARD  
MONTREAL, QUEBEC, H2S 3E3

**TICKETMASTER CANADA ULC**  
7001 SAINT-LAURENT BOULEVARD  
MONTREAL, QUEBEC, H2S 3E3

**TICKETMASTER LLC**  
9348 CIVIC CENTER DRIVE  
BEVERLY HILLS, CALIFORNIA, 90210, U.S.A.

**LIVE NATION ENTERTAINMENT, INC.**  
9348 CIVIC CENTER DRIVE  
BEVERLY HILLS, CALIFORNIA, 90210, U.S.A.

**LIVE NATION CANADA, INC.**  
3<sup>RD</sup> FL-40 HANNA AVENUE  
TORONTO, ONTARIO, M6K 0C3

**VIVID SEATS LLC**  
111 NORTH CANAL STREET, SUITE 800  
CHICAGO, ILLINOIS, 60606, U.S.A.

**TICKETNETWORK, INC.**  
75 GERBER ROAD EAST  
SOUTH WINDSOR, CONNECTICUT, 06074, U.S.A.

**Defendants**

**TAKE NOTICE** that Applicant's *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* will be presented before the Superior Court at **1 Rue Notre-Dame E, Montréal, Quebec, H2Y 1B6**, on the date set by the coordinator of the Class Action chamber.

**GOVERN YOURSELVES ACCORDINGLY.**

Montreal, May 29, 2020

*(s) LPC Avocat inc.*

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**LPC AVOCAT INC.**

Mtre Joey Zukran

Attorney for the Applicant

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500-06-001072-202

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(Class Action)  
SUPERIOR COURT  
DISTRICT OF MONTREAL

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JANIE DESJARDINS

*Applicant*

-VS.-

INTERNET REFERRAL SERVICES, LLC  
(D.B.A. TICKETS-CENTER.COM)

*Defendants*

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ET ALS.

APPLICATION TO AUTHORIZE THE BRINGING OF A  
CLASS ACTION AND TO APPOINT THE STATUS OF  
REPRESENTATIVE PLAINTIFF  
(ARTICLES 571 AND FOLLOWING C.C.P.)

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**COPY**

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**BL 6059**

**N/D: JZ-215**

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