

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

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

NO: 500-06-001000-195

IAN SCHARF

Applicant

-vs-

COMMISSION SCOLAIRE LESTER B.
PEARSON

ET ALS.

Defendants

**APPLICATION FOR PERMISSION TO DISCONTINUE THE PUTATIVE CLASS
ACTION AGAINST ALL DEFENDANTS
(ARTICLES 206, 213 AND 585 C.C.P.)**

**TO THE HONOURABLE CHANTAL CHATELAIN, J.S.C., COORDINATING JUDGE OF
THE CLASS ACTION DIVISION, YOUR APPLICANT STATES AS FOLLOWS:**

I. INTRODUCTION

1. On May 13, 2019, the Applicant filed his *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* against the Defendants, 69 schoolboards (the “**Application**”);
2. The Applicant alleged that it was illegal for the Defendants to charge parents/guardians for specialized programs referred to as “Projets Pédagogiques Particuliers” (hereinafter “**PPP**”);

II. GROUND FOR PERMISSION TO DISCONTINUE

3. On February 11, 2020, the Honourable Justice Carl Lachance, J.S.C., dismissed the Applicant’s application to revoke the judgment approving the settlement in Court file no. 150-06-000007-138 (*Marcil c. Commission scolaire de la Jonquière*, 2020 QCCS 412);
4. The consequence of this judgment is that the PPPs were covered under the transaction and release in Court file no. 150-06-000007-138;

5. Mr. Scharf did not and will not seek leave to appeal this judgment;
6. As a result, the Applicant concedes that the criteria of article 575 C.C.P. cannot be satisfied with respect to any of the Defendants and that a discontinuance is appropriate;
7. The Applicant therefore requests that the Court allow him to discontinue against all of the Defendants, which all of the Defendants accept without costs;
8. Putative class members will not be prejudiced if this present Application for discontinuance is granted, since the prescription has been suspended since the date of filing of the Application, per article 2908 C.C.Q.;
9. Additionally, the Applicant has not signed and will not sign any release or discharge in favour of any of the Defendants concerned by the discontinuance;
10. The discontinuance for which authorization is being requested is more fully set out in the "Discontinuance", enclosed herewith as **Annex R-1**;
11. The Applicant agrees to file a public notice of discontinuance as follows:
 - a) by filing it to the Class Action Registry; and
 - b) by posting it on Class Counsel's website www.lpclex.com for 6 months.
12. The Applicant submits that no additional notice should be required, given that: (i) the Court does not order a public notice when it dismisses an authorization application; and (ii) it has become obvious following the judgment in Court file no. 150-06-000007-138 (*Marcil c. Commission scolaire de la Jonquière*, 2020 QCCS 412) that the Applicant's authorization application would have been dismissed.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the Applicant to discontinue the action against all 69 Defendants, as requested in the discontinuance enclosed herewith as Annex R-1, without costs;

ORDER the Applicant to ensure that a copy of the discontinuance be published as follows:

(a) on the Class Action Registry; and

(b) on Class Counsel's website www.lpclex.com for 6 months.

ORDER the Applicant to file said discontinuance within ten (10) days following the date of the judgment to be rendered on the present Application;

THE WHOLE without legal costs.

Montreal, June 22, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Attorney for Applicant

ANNEX R-1

CANADA

**PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

NO: 500-06-001000-195

**SUPERIOR COURT
(Class Actions)**

IAN SCHARF

Applicant

-vs-

**COMMISSION SCOLAIRE LESTER B.
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Defendants

DISCONTINUANCE
(art. 213 C.C.P.)

The Applicant, Ian Scharf, through his counsel, discontinues the whole of the judicial application against all 69 of the Defendants, all of whom who accept the discontinuance without costs.

Montreal, , 2020

LPC AVOCAT INC.
Attorney for Applicant

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(Class Action)
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