

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)

NO: 500-06-000843-173

GIOVANNI PAQUIN

Representative Plaintiff

-VS-

PROCUREURE GÉNÉRALE DU QUÉBEC /
ATTORNEY GENERAL OF QUEBEC

Defendant

**APPLICATION FOR APPROVAL OF NOTICES TO
CLASS MEMBERS OF A SETTLEMENT APPROVAL HEARING
AND TO APPOINT A CLAIMS ADMINISTRATOR**
(Articles 25, 49, 579, 580, 581 and 590 C.C.P.)

**TO THE HONOURABLE KAREN M. ROGERS OF THE SUPERIOR COURT OF QUEBEC,
ACTING AS THE DESIGNATED JUDGE IN THE PRESENT CLASS ACTION, THE
REPRESENTATIVE PLAINTIFF SUBMITS THE FOLLOWING:**

I. INTRODUCTION

1. On August 21, 2018, the Court authorized this class action and appointed Mr. Paquin as the Representative Plaintiff of the following group:

English:

All residents, who at any time since March 21, 2015, resided within 350 meters of that section of the Saint-Jacques Street, (including the Saint-Jacques overpass), which runs West to East, intersecting the West perimeter of Girouard Avenue in the City of Montreal, Borough of Notre-Dame-de-Grace, and the East perimeter of Decarie Boulevard in the same Borough.

French (unofficial translation):

« Toutes les personnes physiques, qui, à un moment donné depuis le 21 mars 2015, ont résidé à moins de 350 mètres

de la section de la rue Saint-Jacques, incluant le pont d'étagement, qui s'étend de l'intersection avec l'avenue Girouard à l'ouest jusqu'à l'intersection avec le boulevard Décarie à l'est, dans la ville de Montréal, arrondissement de Notre-Dame-de-Grace » (traduction).

(hereinafter the "**Class**")

2. The parties eventually entered into serious settlement negotiations and asked the Court to suspend the publication of notices to Class members until the details of the settlement were finalized and the Court granted their request;
3. The parties have now finalized their agreement to settle the present matter, as it appears from a copy of the Settlement filed herewith as **Exhibit T-1**;
4. However, before the Court can approve the Settlement, the members of the Class must be advised that a hearing will take place on the matter;

II. OBJECT OF THIS APPLICATION

5. The Parties are asking this Court to:
 - a) approve the form and content of the pre-approval notice to Class members, including the objection and opt-out deadlines;
 - b) appoint Velvet Payments Inc. as the Claims Administrator pursuant to the terms of the Settlement.

III. NOTICE TO CLASS MEMBERS

6. The proposed pre-approval notice, filed herewith in its French and English versions as **Exhibit T-2** (see also Annex 3.1 of the Settlement, Exhibit T-1), has a specific purpose to inform the Class Members of the following, in conformity with articles 579 and 590 CCP:
 - a) the judgment authorizing the class action, the definition of the Class, as well as the district in which the class action is to proceed;
 - b) the existence of the Settlement and the fact that it will be submitted to the Court for approval, specifying the date and place of the approval hearing;
 - c) the nature of the settlement, including the compensation offered to Class members and the payment of the Class counsel fees;
 - d) the contact information of the Representative Plaintiff's lawyers;

- e) the consequences and effects of the approval of the Settlement by the Court with respect to the release and discharge of the Defendant from Class Members;
 - f) the possibility for the Class members to make objections or other representations at the hearing for the approval of the Settlement;
 - g) the right of Class Members to opt-out of the class action and the time limit for doing so;
7. The Parties have agreed that the pre-approval notices required pursuant to articles 579 and 590 C.C.P. will be disseminated pursuant to the publication plan provided for at paragraph 18 and Annex 4 of the Settlement (Exhibit T-1) within 30 days of the judgment to be rendered herein, namely as follows:
- a) Les Avocats du demandeur ou l'Administrateur des réclamations feront publier, sur une page complète, la version française et anglaise de l'Avis de pré-approbation dans le journal montréalais *The Suburban*;
 - b) La PGQ affichera une version française et anglaise de l'Avis de pré-approbation sur le site internet dédié au projet Turcot, accessible à l'adresse <https://www.turcot.transports.gouv.qc.ca/fr/projet/documentation/Pages/default.aspx> et ce, jusqu'à la date de l'audition sur la demande d'approbation;
 - c) Les Avocats du demandeur afficheront une version française et anglaise de l'Avis de pré-approbation sur le site www.lpclex.com et ce, jusqu'à la date de l'audition sur la demande d'approbation;
 - d) Les Avocats du demandeur feront parvenir par courriel une version française et anglaise de l'Avis de pré-approbation à tous les membres potentiels du groupe qui se sont inscrits sur le site Web des Avocats du demandeur jusqu'à la date d'approbation de l'Avis de pré-approbation;
 - e) L'Administrateur des réclamations affichera une version française et anglaise de l'Avis de pré-approbation sur le site internet dédié à la présente Action collective qu'il aura créé et ce, jusqu'à la date de l'audition sur la demande d'approbation;
8. Notice in *The Suburban* is appropriate in the circumstances, given that it is a well-known newspaper distributed in the geographical area where Class members reside, as it appears from **Exhibit T-3**;
9. The parties therefore request that this Court approve the form and content of the pre-approval notice (Exhibit T-2), in both its English and French versions, and its proposed modes of distribution;

10. The parties request that this Court set the time limit for Class members to file objections to Court approval of the Settlement at thirty (30) days after the date on which the pre-approval notice is published in the Suburban newspaper;
11. The parties request that this Court set the time limit for Class members to opt-out of the class action at thirty (30) days after the pre-approval notice is published in the Suburban newspaper;

IV. THE APPOINTMENT OF THE CLAIMS ADMINISTRATOR

12. In order to effect publication of the notices and then to process and transmit the compensation provided for under the Settlement, it will be necessary for the Court to appoint a Claims Administrator;
13. Velvet Payments Inc. has agreed to act as Claims Administrator pursuant to the Settlement and is prepared to faithfully abide by the terms of the Settlement acting in that capacity, subject to the supervision of the Court;
14. The parties respectfully ask the Court to appoint Velvet Payments Inc. as the Claims Administrator;
15. The present application is in the interests of justice and of the Class members, and respects the principle of proportionality.

PAR CES MOTIFS, PLAISE AU TRIBUNAL :	FOR THESE REASONS, MAY IT PLEASE THE COURT TO:
[1] APPROUVER la forme et le contenu de l'avis de pré-approbation aux membres du groupe, dans sa version française et anglaise (annexe 3.1 de la Transaction (pièce T-1));	[1] APPROVE the form and content of the pre-approval notice to Class members in its French and English version (Annex 3.1 of the Settlement (Exhibit T-1));
[2] DÉSIGNER Velvet Payments Inc. à titre d'Administrateur des réclamations afin de s'acquitter des tâches qui lui incombent en vertu de la Transaction;	[2] APPOINT Velvet Payments Inc. as the Claims Administrator for the purposes of accomplishing the tasks that devolve to it pursuant to the Settlement;
[3] ORDONNER aux parties et l'Administrateur des réclamations de diffuser les avis de pré-approbation conformément au plan de publication prévu au paragraphe 18 de la Transaction et à l'annexe 4 de celle-ci (pièce T-1), dans les 30 jours suivant le jugement qui sera rendu par les présentes;	[3] ORDER the parties and the Claims Administrator to disseminate the pre-approval notices pursuant to the publication plan provided for at paragraph 18 of the Settlement and Annex 4 thereof (Exhibit T-1), within 30 days of the judgment to be rendered herein;

<p>[4] DÉCLARER que les membres du groupe qui souhaitent s'objecter à l'approbation par le tribunal de la Transaction doivent le faire de la manière prévue dans l'avis de pré-approbation (annexe 3.1 de la Transaction (pièce T-1)), dans les trente (30) jours suivant la date à laquelle l'avis de pré-approbation est publié dans le journal <i>The Suburban</i>;</p>	<p>[4] DECLARE that Class members who wish to object to Court approval of the Settlement must do so in the manner provided for in the pre-approval notice (Annex 3.1 of the Settlement (Exhibit T-1)), within thirty (30) days after the date on which the pre-approval notice is published in <i>The Suburban</i> newspaper;</p>
<p>[5] DÉCLARER que les membres du groupe qui souhaitent s'exclure de l'action collective et de son règlement peuvent le faire en remettant un avis écrit confirmant leur intention de s'exclure de la présente action collective, de la manière prévue dans l'avis de pré-approbation (annexe 3.1 de la Transaction (pièce T-1)), dans les trente (30) jours suivant la date à laquelle l'avis de pré-approbation est publié dans le journal <i>The Suburban</i>;</p>	<p>[5] DECLARE that Class members who wish to opt-out from 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 (Annex 3.1 of the Settlement (Exhibit T-1)), within thirty (30) days after the date on which the pre-approval notice is published in <i>The Suburban</i> newspaper;</p>
<p>[6] DÉCLARER que tous les membres du groupe qui n'ont pas demandé leur exclusion seront liés par tout jugement à rendre sur l'action collective de la manière prévue par la loi;</p>	<p>[6] DECLARE that all Class members that have not requested their exclusion be bound by any judgement to be rendered on the class action in the manner provided for by the law;</p>
<p>[7] FIXER la date d'audience pour l'approbation de la Transaction déposée comme pièce T-1 à une date et une heure à déterminer, dans une salle à déterminer du palais de justice de Montréal;</p>	<p>[7] SCHEDULE the hearing date for approval of the Settlement filed as Exhibit T-1 on a date and time to be determined, in a room to be determined of the Montreal courthouse;</p>
<p>[8] LE TOUT, sans frais de justice.</p>	<p>[8] THE WHOLE, without legal costs.</p>

Montreal, June 11, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Per: Mtre Joey Zukran

Attorney for Representative Plaintiff

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action)

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ATTORNEY GENERAL OF QUEBEC

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LIST OF EXHIBITS

- Exhibit T-1:** Copy of the Settlement;
- Exhibit T-2:** Copy of the proposed pre-approval notice for the Suburban;
- Exhibit T-3:** Copy of *The Suburban* media kit (2019).

Montreal, June 11, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Per: Me Joey Zukran

Attorney for Representative Plaintiff

NOTICE OF PRESENTATION

TO: Me Maryse Loranger
Me Emilie Fay-Carlos
Bernard, Roy (Justice – Québec)
bernardroy@justice.gouv.qc.ca
Attorneys for the Attorney General of Quebec

TAKE NOTICE that the present *Application for Approval of Notice to Class Members of a Settlement Approval Hearing and to Appoint a Claims Administrator* shall be presented for adjudication before the Honourable Karen M. Rogers, J.S.C., on **a date, time and manner** to be determined by the Court.

Montreal, June 11, 2020

(s) LPC Avocat Inc.

LPC AVOCAT INC.

Per: Mtre. Joey Zukran

Attorney for Representative Plaintiff

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