

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

NO: 500-06-000888-178

SUPERIOR COURT
(Class Action)

JAMES GOVAN

Representative Plaintiff

vs.

LOBLAW COMPANIES LIMITED
and
LOBLAWS INC.
and
GEORGE WESTON LIMITED
and
WESTON FOOD DISTRIBUTION INC.
and
WESTON FOODS (CANADA) INC.
and
METRO INC.
and
SOBEYS QUEBEC INC.
and
SOBEYS CAPITAL INCORPORATED
and
SOBEYS INC.
and
WAL-MART CANADA CORP.
and
CANADA BREAD COMPANY, LIMITED
and
GIANT TIGER STORES LIMITED

Defendants

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

1.	Nature of the dispute:	Price-Fixing Class Action
2.	Value of the subject matter of the dispute:	N/A
3.	Latest date on which the application was served on all the parties:	March 25, 2020
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.	<p>Before filing judicial proceedings, did the parties consider private prevention and resolution processes (C.C.P. a. 1, 3rd para. and a. 148)?</p> <p>If so, did the parties participate in a private prevention and resolution process before filing judicial proceedings?</p> <p>A settlement conference: <input type="checkbox"/> will be requested <input type="checkbox"/> is probable <input checked="" type="checkbox"/> is possible <input type="checkbox"/> is out of the question</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
6.	<p>All the parties are requesting an extension of the time limit for trial readiness (C.C.P., a. 173):</p> <p>Duration: (where applicable, indicate an additional time limit of 9 months maximum)</p> <p>If the Court allows the application, the six-month time limit will be extended until:</p>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input checked="" type="checkbox"/> 9 months March 31, 2022

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 checked="" 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 checked="" type="checkbox"/> YES <input type="checkbox"/> NO
		Deadline for filing
25.	<input checked="" type="checkbox"/> Application to Stay and for Safeguard Measures	November 30, 2020
26.	Submitted by (enter the name of the party): Wal-Mart Canada Corp., Metro Inc., Sobeys Québec Inc., Sobeys Capital Incorporated, Sobeys Inc. and Giant Tiger Stores Limited	

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>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 type="checkbox"/> YES <input type="checkbox"/> NO Deadline for filing:

34.	The defendant intends to file a cross-application	<input type="checkbox"/> YES <input 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>Common Questions:</p> <p>(a) Did the Defendants conspire, coalesce, or enter into any agreement or arrangement that unduly restricts competition in the sale of packaged bread and, if so, during what period did this cartel have its effects on Class members?</p> <p>(b) Does the participation of the Defendants in the cartel constitute a fault triggering their solidary liability to Class members?</p> <p>(c) Has the effect of the cartel been an increase in the price paid in Québec for the purchase of the packaged bread sold by Defendants and, if so, does the increase constitute a damage for each Class member?</p> <p>(d) What is the total amount of damages suffered by all Class members?</p> <p>(e) Is the Defendants' solidary liability triggered with respect to the following costs incurred or to be incurred on behalf of class members :</p> <ul style="list-style-type: none"> - The costs of investigation; - The extrajudicial fees of counsel for the Applicant, Plaintiff and Class members; and - The extrajudicial disbursements by counsel for the Applicant, Plaintiff and Class members? 	
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38.	Third person intervention or impleading (C.C.P., aa. 151 and 158(4))	<input type="checkbox"/> YES <input checked="" 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)): Too complex and disputed	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing joint expert opinion:	–
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) - The computation of damages as a result of the Defendants having conspired, coalesced, or entered into any agreement or arrangement that unduly restricts competition in the sale of packaged bread. Reserve right to reply to defence experts with current or new experts	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing an expert opinion for plaintiff:	120 days following receipt of all documents and undertakings of Defendants
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) -	<input type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing an expert opinion for defendant:	–
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)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
	Deadline for filing an expert opinion for third person or impleaded person:	–

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):		<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
47.	Number of examinations before defence		1
48.	Number of examinations after defence		7
49.	Name of persons to be examined for the plaintiff:		
	James Govan	On or before February 26, 2021	2 hours
	Virtual or Class Counsel's office		
	Given name, surname	Date	Time
			Place

50.	Name of persons to be examined for the defendants:			
	Representative of the Loblaw Defendants with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of the Weston Defendants with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of the Metro Defendants with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of the Sobeys Defendants with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of Wal-Mart Canada Corp. with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of Canada Bread Company with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of Giant Tiger Stores with knowledge of the matters in dispute	On or before May 15, 2021	5 hours	Virtual or Counsel's office
Given name, surname	Date	Time	Place	
51.	In order to avoid service of a subpoena, the parties agree that, preceding a pre-trial examination, the examining party 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):			
	Plaintiff's list of documents to be provided	January 29, 2021		
	Given name, surname	Date		
	Defendants' list of documents to be provided	March 15, 2021		
	Given name, surname	Documents		
52.	Deadline for filing transcripts for the plaintiff (C.C.P., a. 227)			10 days before deadline for trial readiness
53.	Deadline for filing transcripts for the defendant (C.C.P., a. 227)			10 days before deadline for trial readiness
54.	Deadline for filing transcripts for the impleaded person (C.C.P., a. 227)			N/A

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 for the plaintiff	45 days after receipt of the stenographic notes
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 for the defendants	45 days after receipt of the stenographic notes
57.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the plaintiff	20 days after receipt of the stenographic notes
58.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the defendants	20 days after receipt of the stenographic notes

EXHIBITS		
	Exhibits and other evidence (C.C.P., aa. 145 and 158)	Deadline
59.	Filing of exhibits for the plaintiff	Deadline for trial readiness
60.	Filing of exhibits for the defendant	Deadline for trial readiness
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	
65.	Filing of affidavits for defendant	

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): 	\$ 400,000 \$ \$

67.	Methods of notification the parties intend to use (C.C.P., aa. 109 to 140 and 148(9)): Email	
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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 December 16 , 2020

(s) LPC Avocat Inc.

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On December , 2020

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500-06-000888-178

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

JAMES GOVAN

Representative Plaintiff

vs.

**LOBLAW COMPANIES LIMITED
ET ALS.**

Defendants

**CASE PROTOCOL PROPOSAL
(Art. 148 C.C.P.)**

ORIGINAL

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N/D: JZ-170
