

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

CASE PROTOCOL PROPOSAL
Superior Court of Québec, Montréal 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.	<p>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):</p> <p>Duration: (where applicable, indicate a maximum stay of 3 months)</p> <p>If the application is allowed by the Court, the proceeding will therefore be stayed until:</p>	<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.	All the parties undertake to hold a settlement conference. (C.C.P., aa. 148(2) and 161 to 165)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

6.	All the parties are requesting an extension of the time limit for trial readiness (C.C.P., a. 173): Duration: (where applicable, indicate an additional time limit of 9 months maximum) If the Court allows the application, the six-month time limit will be extended until:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> 3 months <input type="checkbox"/> 6 months <input type="checkbox"/> 9 months May 31, 2023
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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 type="checkbox"/> YES <input type="checkbox"/> NO
		Deadline for filing
25.	<input type="checkbox"/> Application for safeguard measures	
26.	Submitted by (enter the name of the party):	

27.	Other incidental procedures	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		Deadline for filing

28.	<input checked="" type="checkbox"/> Amendment of a pleading	Amendments of proceedings are expected throughout the case, and will be made subject to the ordinary rules.
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>A written defence is required due to the complexity of the facts in dispute, which (as authorized by the Court) relate to an 18-year period and involve multiple parties. It is expected that the initial defence will be amended as needed prior to trial.</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 checked="" type="checkbox"/> YES <input type="checkbox"/> NO Deadline for filing: May 30, 2021

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
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	- 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.	<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 defendants (not more than one per area or matter of expertise) (C.C.P., a. 232): (indicate number, nature and need for each expert opinion) - An expert economic opinion in respect of common issues (c) and (d), above.	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
	Deadline for filing an expert opinion for defendant:	April 2023 (est.)
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 May 30, 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 June 30, 2022	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 June 30, 2022	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of the Canada Bread Company Defendants with knowledge of the matters in dispute	On or before June 30, 2022	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 June 30, 2022	5 hours	Virtual or Counsel's office
	Given name, surname	Date	Time	Place
	Representative of Metro Defendants with knowledge of the matters in dispute	On or before June 30, 2022	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	June 30, 2022	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	June 30, 2022	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, in the 20 days 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):			
	Defendants' list of documents to be provided by Plaintiff	April 30, 2021		
	Given name, surname	Documents		
	Plaintiff's list of documents to be provided by Defendants	May 30, 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 defendant	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	30 days after receipt of the stenographic notes
58.	Deadline for disclosure of all the undertakings made during the pre-trial examinations for the defendant	120 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	One month before 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 per defendant (including expert opinions): Evaluation of legal costs for other parties (including expert opinions): 	\$ 400,000 \$ 1,000,000 \$

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 March 8, 2021

On March 8, 2021

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On March 8, 2021

On March 8, 2021

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On March 8, 2021

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De: Angers, Nathalie
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À: 'jzukran@lpclex.com'; 'robert.torralbo@blakes.com'; 'simon.seida@blakes.com'; 'Yves Martineau'; 'krenno@renvath.com'; 'mvathilakis@renvath.com'; 'Girard, Julie'; 'eric.lefebvre@nortonrosefulbright.com'; Rodrigo, Nick
Cc: Chênevert, Karine
Objet: NOTIFICATION: Case Protocol Proposal of the Loblaw and Weston Defendants - Govan vs. Loblaws & al - 500-06-000888-178
Pièces jointes: Case Protocol Proposal of the Loblaw and Weston Defendants.pdf

NOTIFICATION BY ELECTRONIC COURIER TRANSMISSION SLIP (ARTICLE 134 C.P.C.)

DATE:

Montréal, March 18, 2021

SENDER:

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COURT FILE NUMBER AND NATURE OF THE NOTIFIED DOCUMENT:

Record number: 500-06-000888-178
Parties: Govan v. Loblaw Companies Limited et als.
Nature of the document: **Case Protocol Proposal of the Loblaw and Weston Defendants**

Number of pages: **-9-**
(attachments only)



Nathalie Angers

Adjointe à la pratique pour / Practice Assistant for Karine Chênevert,
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Borden Ladner Gervais S.E.N.C.R.L., S.R.L.

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Borden Ladner Gervais LLP

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SUPERIOR COURT
(Class action)

DISTRICT OF MONTRÉAL
No.: 500-06-000888-178

JAMES GOVAN

Representative Plaintiff

v.

LOBLAW COMPANIES LIMITED et als.

Defendants

**CASE PROTOCOL PROPOSAL OF THE
LOBLAW AND WESTON DEFENDANTS
(Art. 148 C.C.P.)**

Nature: Damages

ORIGINAL

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