

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action)
SUPERIOR COURT

NO: 500-06-001121-215

9343-4678 QUEBEC INC. (d.b.a.
Restaurant Déli Boyz)

Applicant

-VS-

UBER CANADA INC.
and
UBER B.V.
and
UBER PORTIER B.V.
and
DOORDASH, INC.
and
DOORDASH TECHNOLOGIES CANADA
INC.
and
JUST EAT CANADA INC. (d.b.a.
SkipTheDishes Restaurant Services Inc.)
and
SKIPTHEDISHES RESTAURANT SERVIC-
ES INC.

Defendants

APPLICATION FOR SPECIAL MODE OF SERVICE TO DEFENDANTS
UBER B.V. AND UBER PORTIER B.V.
(Arts. 112, 572 al. 1 and 494 C.C.P.)

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

1. On January 8, 2021, the Applicant filed an *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* (the “**Application**”) against several Defendants in the food delivery business, well known under the names Uber Eats, DoorDash and SkipTheDishes;

2. On January 11, 2021, the Applicant filed its Amended Application and then served both the amended and the original Applications on 5 of the 7 Defendants;
3. The purpose of the present application is to obtain permission to serve the remaining two Defendants, Uber B.V. and Uber Portier B.V., by special mode of service;
4. To date, all other Defendants have filed their answers, including Defendant Uber Canada Inc., who is represented by the law firm McCarthy Tétrault, as it appears from its Answer dated January 29, 2021, in the Court record;
5. According to the Agreement between the Applicant and Uber Portier B.V., this Defendant has both a physical address and an email address for service. Exhibit P-6 communicated in support of the Application stipulates the following:

13. Notice. Any and all notices permitted or required to be given hereunder shall be sent to the address listed below, or such other address as may be provided, and deemed duly given: (a) upon actual delivery, if delivery is by hand; or (b) one (1) day after being sent by overnight courier, charges prepaid. Notices to Uber should be provided to Uber Portier B.V., Attn: Legal – Transactions, Vijzelstraat, 68-78, 4th floor, 1017 HL Amsterdam, The Netherlands, with a copy to transactionslegalnotices@uber.com.

6. The Applicant's counsel hired the bailiff *Paquette huissiers de justice* to serve the three Uber entities to the email address listed above and was informed that "l'arrêté no. 4267" of the Chief Justice of Quebec only allows service by email to the Canadian Uber entity, not to the two Dutch entities, and that service to the Dutch entities according to the Hague Service Convention would take approximately 3 months, as it appears from the email received by the bailiff on January 14, 2021, communicated herewith as **Exhibit A-1**;
7. It would be difficult, costly and disproportionately long (i.e. 3 months) for the Applicant to proceed with the service of its Applications without authorization from the Court to serve the Application to the two Dutch entities by email to the addresses transactionslegalnotices@uber.com and notification@mccarthy.ca, or alternatively by Fedex, with proof of service and delivery confirmation;
8. All three Uber entities are related and it is almost certain that the law firm of McCarthy Tétrault will represent the two Dutch entities as well;
9. For example, in the active class action file no. 500-06-000902-185, Uber Canada Inc., Uber B.V. and Uber Portier B.V. are all represented by McCarthy Tétrault, as it appears from **Exhibit A-2**;
10. Another example is in class action file no. 500-06-000782-165, where Uber

Canada Inc. and Uber B.V. are also represented by McCarthy Tétrault;

11. It is therefore certain that the Defendants Uber B.V. and Uber Portier B.V. already have knowledge of the Application, as Uber Canada Inc. has filed its answer;
12. Uber Canada Inc. does not contest the present application for special mode of service;
13. It is worth emphasizing that authorization of service by registered mail (Fedex being requested in this case) is permitted by article 10a) of the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (which is referred to at art. 494 al. 1 C.C.P.) and which provides as follows:
 10. Provided the State of destination does not object, the present Convention shall not interfere with –
 - a) the freedom to send judicial documents, by postal channels, directly to persons abroad,
14. The Netherlands does not object to paragraph a) of article 10 of the *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*, as it appears from page 3 of **Exhibit A-3** (available online at: <https://www.hcch.net/en/states/authorities/details3/?aid=37>);
15. In light of all of the above, and in particular given the office closures caused by COVID-19 and that Uber's contract provides an email address for service of legal proceedings, it is appropriate to authorize service by email in this case;
16. In the alternative to service via email, authorization to serve Defendants Uber B.V. and Uber Portier B.V. by Fedex with proof of delivery is requested (see *Basal c. Allergan PLC & Others*, [2019 QCCS 469](#));
17. The head office for Uber B.V. and Uber Portier B.V. appears to be different from the address listed in Exhibit P-6 for service, causing additional complications for service by postal channels, namely: Mr. Treublaan 7, 1097 DP Amsterdam, The Netherlands;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

AUTHORIZE the Applicant to serve its *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* and its *Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*, upon the Defendants Uber B.V. and Uber Portier B.V., via *Paquette huissiers de justice*, to the email

addresses transactionslegalnotices@uber.com and notification@mccarthy.ca;

ALTERNATELY,

AUTHORIZE the Applicant to serve its *Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff* and its *Amended Application to Authorize the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*, upon the Defendants Uber B.V. and Uber Portier B.V., by Fedex, with proof of delivery, to the address: Mr. Treublaan 7, 1097 DP Amsterdam, The Netherlands;

AUTHORIZE the Applicant to file a copy of the Fedex proof of delivery confirmation to Uber B.V. and Uber Portier B.V. as proof of service of the said proceedings, if required;

THE WHOLE, without costs.

Montreal, February 8, 2021

(s) LPC Avocat Inc.

LPC AVOCAT INC.

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Counsel for Applicant

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**UBER CANADA INC.
ET ALS.**

Defendants

LIST OF EXHIBITS

- Exhibit A-1:** Copy of email from Paquette huissiers dated January 14, 2021;
- Exhibit A-2:** Copy of the answer filed by Uber Canada Inc., Uber B.V. and Uber Portier B.V. in file no. 500-06-000902-185;
- Exhibit A-3:** Copy of document titled "Netherlands - Central Authority (Art. 2) & practical information", available online at the Hague Conference website: <https://www.hcch.net/en/states/authorities/details3/?aid=37>;

Montreal, February 8, 2021

(s) LPC Avocat Inc.

LPC AVOCAT INC.

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Counsel for Applicant

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(Arts. 112, 572 al. 1 and 494 C.C.P.)

ORIGINAL

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