

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 Action)

N° : 500-06-000888-178

JAMES GOVAN

Plaintiff

v.

LOBLAW COMPANIES LIMITED and al.

Defendants

and

PERSON X

Voluntary Intervenor

DECLARATION OF VOLUNTARY INTERVENTION FOR CONSERVATORY PURPOSES
(art. 185, 186 *Code of Civil Procedure*)

IN SUPPORT OF ITS INTERVENTION, THE VOLUNTARY INTERVENOR, PERSON X, RESPECTFULLY SUBMITS:

1. On August 2017, the Competition Bureau (the “**Bureau**”) commenced an inquiry to investigate allegations in connection with a price-fixing conspiracy to fix the wholesale and retail price of fresh commercial bread in Canada.
2. On October 26, 30 and 31 and November 1, 2017, the Bureau made *ex parte* applications for search warrants against various persons, as wholesalers and retailers, on the basis of four (4) Information to Obtain (the “**ITOs**”).
3. Person X was named as allegedly indirectly involved in said price-fixing conspiracy, but Person X was not targeted by any search warrants and no criminal charges have been laid against it.
4. To protect its anonymity in the context of the Bureau’s investigations and for all other related matters, Person X successfully brought an “innocent person” application pursuant to Section 487.3 (2) (a) (iii) of the *Criminal Code* (the “**Application**”).
5. Specifically, on May 30, 2018, an order prohibiting, among other things, the publication of specific information in the ITOs that directly or indirectly reveal Person X’s identity was granted by Madam Justice Ratushny, as appears from the decision rendered by the Ontario Superior Court of justice and the subsequent orders issued in this respect (collectively, the “**Orders**”), **Exhibit R-1, en liasse**.

6. More particularly, these Orders further provide that:
 1. *All materials filed on the Innocent Person Application (Court File 17-13302) by all parties (including Applicant, Respondent, and Interveners) and sealed by Order of this Court dated January 26, 2018, and March 22, 2018, shall remain sealed in the Court File, and there shall be no publication of the materials filed on the Application, nor shall there be any disclosure to the public of the content of any documents filed on the Application, subject to paragraph 2 below.*
 2. *A redacted set of the Application materials (the “Redacted Application Materials”), attached to this Order as Appendix A, shall be placed in the public court file. There shall be no prohibition on publication or public access to the Redacted Application Materials attached as Appendix A[.]*
7. These Orders were justified on the basis that the disclosure of Person X's identity would prejudice its interest as an innocent person and the irreversible risk regarding its reputation and the impact that may occur on its family.
8. These Orders met the *Dagenais-Mentuck* test such that the relevant information in the ITO about the investigation was disclosed, while the redactions protected the identity of Person X.
9. At this point, Person X's identity has not been publicly released and is still being protected.
10. On December 19, 2019, a class action was authorized reaching financial compensation for the damages suffered as a result of the alleged grocery stores' anti-competitive activities.
11. In the context of the class action, Wal-Mart, Giant Tiger, Metro and Sobeys (the “**Other Retailer Defendants**”) proposed, on March 10, 2020, a draft case protocol requesting, in item 51 of the latter, that “Defendant(s) will provide all documents in their possession referred to in ITO (Exhibit P-13)”.
12. The Other Retailer Defendants' request raises serious concerns regarding Person X, given that the scope of their request might result in the divulgation of Person X's identity and the violation of the Orders, as explained in Mtre Karine Chênevert's letter dated March 8, 2021, **Exhibit R-2**.
13. On March 17, 2021, Justice Gagnon ordered a Case Management Conference, which was subsequently scheduled for April 23, 2021, as appears from the Court docket.
14. On the same day, Person X confirmed to Justice Gagnon its concerns regarding the Other Retailer Defendants' request, as appears from the undersigned attorneys' letter dated March 17, 2021, **Exhibit R-3**.

15. Person X intends to intervene in this file for conservatory purposes in order:
- (i) To make representations during the next Case Management Conference scheduled for April 23, 2021;
 - (ii) To protect its substantial and legitimate interests pertaining to its anonymity, directly or indirectly, and confirm the protections afforded by the Orders;
 - (iii) To limit the scope of the information requested by the Other Retailer Defendants in their draft case protocol considering the above.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

AUTHORIZE Person X to participate in the Case Management Conference to be held on April 23, 2021;

AUTHORIZE Person X to make representations regarding the information requested by the Other Retailer Defendants;

AUTHORIZE Person X, if necessary, to file an *Application for Confidentiality Order* in order to protect its substantial and legitimate interest to preserve its anonymity, directly or indirectly, and confirm the protections afforded by the Orders;

AUTHORIZE Person X, if necessary, to file an *Application for a Safeguard Order* seeking the appropriate orders to preserve its anonymity, directly or indirectly, and confirm the protections afforded by the Orders;

THE WHOLE, without costs, except in the event of opposition by one of the parties.

Montreal, March 30, 2021



LCM ATTORNEYS INC.

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M^e Joël Larouche

Attorneys for Person X

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Our file: 71229.1

Widernia Vargas

De: Widernia Vargas
Envoyé: March 30, 2021 11:36 AM
À: Me Karine Chênevert; Russell, Robert S.; Joey Zukran (jzukran@lpclex.com); Mercier, Barbara; eric.lefevre@nortonrosefulbright.com; flalani@dwpv.com; gboudreausimard@stikeman.com; jgirard@dwpv.com; mvathilakis@renvath.com; nrodrigo@dwpv.com; robert.torrallbo@blakes.com; simon.seida@blakes.com; krenno@renvath.com; Charbonneau, Robert E.; 'dominic.dupoy@nortonrosefulbright.com'; 'litsa.kriaris@blakes.com'; ymartineau@stikeman.com; Akman, Davit; Caracciolo, Gary; Mr. Scott K. Fenton B. A. LL. B.
Cc: Joël Larouche; Bernard Amyot
Objet: 71229.1 - NOTIFICATION: Declaration of voluntary intervention for conservatory purposes - Govan v. Loblaw et al [LCM-ACTIVE.FID153897]
Pièces jointes: 2021-03-30 - Declaration of voluntary intervention for conservatory purposes (1).pdf; R-1.pdf; R-2.pdf; R-3.pdf

BORDEREAU D'ENVOI / TRANSMISSION SHEET

Notification par Courriel (Art. 133 et 134 C.p.c.) /
Notification by Email (Art. 133 and 134 C.C.P.)

Date : March 30, 2021	Heure / Time : Voir l'entête du courriel / See email header
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EXPÉDITEUR / FROM :

Nom / Name	Me Bernard Amyot, Ad. E. – Me Joël Larouche		
Adresse courriel	bamyot@lcm.ca – jlacourche@lcm.ca		
Téléphone / Phone	514 375.2679 (BA) 514 312-0340 (JL)	Télécopieur / Fax	514 905.2001

DESTINATAIRE(S) / TO :

Nom / Name	Cabinet / Firm	Courriel pour notification / Notification email address
Me Karine Chênevert	Borden Ladner Gervais	kchenevert@blg.com
Me Robert S. Russell		RRussell@blg.com
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Me Yves Martineau		
Me Michael Emmanuel Vathilakis Me Karim Renno	Renno Vathilakis Inc.	mvathilakis@renvath.com krenno@renvath.com
Me Robert Torralbo Me Simon Seida Me Litsa Kriaris	Blakes, Cassels & Graydon	robert.torralbo@blakes.com simon.seida@blakes.com litsa.kriaris@blakes.com
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Me Barbara Mercier Me Gary Caracciolo	Public Prosecution Service of Canada	Barbara.Mercier@ppsc-sppc.gc.ca Gary.Caracciolo@ppsc-sppc.gc.ca

NATURE DU DOCUMENT NOTIFIÉ / NATURE OF THE DOCUMENT NOTIFIED	
<i>Numéro de Cour / Court Number:</i>	500-06-000888-178
<i>Nom des parties / Name of parties:</i>	Govan v. Loblaws et al
<i>Nature du document / Nature of document:</i>	Declaration of voluntary intervention for conservatory purpose and Exhibits R-1 to R-3
<i>Format du fichier (PDF, JPEG, WAV, XLS ou autre):</i>	PDF

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I CERTIFY THAT I HAVE CARRIED OUT THE EMAIL TRANSMISSION DESCRIBED IN THIS SHEET.**

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Widernia Vargas

Adjointe juridique/Legal assistant

T 514.375.2685

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RAPPORT DE PREUVE (NOTIFICATION)



Sujet Declaration of voluntary intervention for conservatory purposes with Exhibits R-1 to R-3
Généré le mardi le 30 mars 2021, à 12:02
de rapport **A169518R317540**

Document(s) notifié(s)

Nom du fichier	Pages	Intégrité du document
2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf		(SHA256 checksum): 8ffcea62b3e9e9ff67308c9ba1dafdad3651379a3ec521386a0fb1d1ee070917
r-2.pdf		(SHA256 checksum): 537597487f9a3dfef26d853d60117777ad7d89f2643b934d9b045e83294042c1
r-3.pdf		(SHA256 checksum): 8d63ecd00243fb23b0633fba3ae34e9cade805ba8e664a041eb4809e5d399bfb
r-1.pdf		(SHA256 checksum): 825f772d68a526f93e93f70945c38bf56054a9b2b64ea23c1f358b91c67f1ab7

Message

Bonjour Me Barbara Mercier, vous êtes par la présente notifié(e) du message qui suit et des document(s) ci-joint(s). Cette communication contient un rapport de preuve qui peut être téléchargé en cliquant sur le bouton Rapport de Preuve.

Hello Me Barbara Mercier, you are hereby notified of the following message and the attached document(s). This communication contains a proof report which can be downloaded by clicking on the button Proof Report.

Envoyé par

Nom	Widernia Vargas
Courriel	wvargas@lcm.ca

Envoyé à

Nom	Me Barbara Mercier
Courriel	barbara.mercier@ppsc-sppc.gc.ca

Preuve de transmission

Date & heure	30 mars 21 - 11:59
Statut	Message transmis au destinataire avec succès
SMTP	250 2.0.0 12UFxv6Q015412-12UFxv6S015412 Message accepted for delivery

RAPPORT DE PREUVE (NOTIFICATION)



Sujet Declaration of voluntary intervention for conservatory purposes with Exhibits R-1 to R-3
Généré le mardi le 30 mars 2021, à 12:02
de rapport **A169518R317541**

Document(s) notifié(s)

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r-3.pdf		(SHA256 checksum): 8d63ecd00243fb23b0633fba3ae34e9cade805ba8e664a041eb4809e5d399bfb
r-1.pdf		(SHA256 checksum): 825f772d68a526f93e93f70945c38bf56054a9b2b64ea23c1f358b91c67f1ab7

Message

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Envoyé par

Nom	Widernia Vargas
Courriel	wvargas@lcm.ca

Envoyé à

Nom	Me Gary Caracciolo
Courriel	gary.caracciolo@ppsc-sppc.gc.ca

Preuve de transmission

Date & heure	30 mars 21 - 12:00
Statut	Message transmis au destinataire avec succès
SMTP	250 2.0.0 12UFxvbm015408-12UFxvbo015408 Message accepted for delivery

RAPPORT DE PREUVE (NOTIFICATION)



Sujet Declaration of voluntary intervention for conservatory purposes with Exhibits R-1 to R-3
Généré le mardi le 30 mars 2021, à 12:02
de rapport **A169518R317542**

Document(s) notifié(s)

Nom du fichier	Pages	Intégrité du document
2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf		(SHA256 checksum): 8ffcea62b3e9e9ff67308c9ba1dafdad3651379a3ec521386a0fb1d1ee070917
r-2.pdf		(SHA256 checksum): 537597487f9a3dfef26d853d60117777ad7d89f2643b934d9b045e83294042c1
r-3.pdf		(SHA256 checksum): 8d63ecd00243fb23b0633fba3ae34e9cade805ba8e664a041eb4809e5d399bfb
r-1.pdf		(SHA256 checksum): 825f772d68a526f93e93f70945c38bf56054a9b2b64ea23c1f358b91c67f1ab7

Message

Bonjour Me Karim Renno, vous êtes par la présente notifié(e) du message qui suit et des document(s) ci-joint(s). Cette communication contient un rapport de preuve qui peut être téléchargé en cliquant sur le bouton Rapport de Preuve.

Hello Me Karim Renno, you are hereby notified of the following message and the attached document(s). This communication contains a proof report which can be downloaded by clicking on the button Proof Report.

Envoyé par

Nom	Widernia Vargas
Courriel	wvargas@lcm.ca

Envoyé à

Nom	Me Karim Renno
Courriel	krenno@renvath.com

Preuve de transmission

Date & heure	30 mars 21 - 11:59
Statut	Message transmis au destinataire avec succès
SMTP	250 2.6.0 <60634afcb1750_1313945023a8@lexop-sidekiq-55b96fc664-rf2lz.mail> [InternalId=49808735741821, Hostname=DM5PR0101MB3065.prod.exchangelabs.com] 60124 bytes in 0.145, 404.612 KB/sec Queued mail for delivery

Détails d'ouverture

Date & heure	30 mars 21 - 12:00
Statut	Message ouvert par le destinataire avec succès

RAPPORT DE PREUVE (NOTIFICATION)



Sujet Declaration of voluntary intervention for conservatory purposes with Exhibits R-1 to R-3
Généré le mardi le 30 mars 2021, à 12:02
de rapport **A169518R317542**

Fil d'activité du courriel

A ouvert le portail de téléchargement pour le 2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf le mardi le 30 mars 2021, à 12:01

A ouvert le portail de téléchargement pour le 2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf le mardi le 30 mars 2021, à 12:01

A ouvert le portail de téléchargement pour le 2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf le mardi le 30 mars 2021, à 12:01

A ouvert le portail de téléchargement pour le 2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf le mardi le 30 mars 2021, à 12:01

RAPPORT DE PREUVE (NOTIFICATION)



Sujet Declaration of voluntary intervention for conservatory purposes with Exhibits R-1 to R-3
Généré le mardi le 30 mars 2021, à 12:02
de rapport **A169518R317543**

Document(s) notifié(s)

Nom du fichier	Pages	Intégrité du document
2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf		(SHA256 checksum): 8ffcea62b3e9e9ff67308c9ba1dafdad3651379a3ec521386a0fb1d1ee070917
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r-3.pdf		(SHA256 checksum): 8d63ecd00243fb23b0633fba3ae34e9cade805ba8e664a041eb4809e5d399bfb
r-1.pdf		(SHA256 checksum): 825f772d68a526f93e93f70945c38bf56054a9b2b64ea23c1f358b91c67f1ab7

Message

Bonjour Me Michael Emmanuel Vathilakis, vous êtes par la présente notifié(e) du message qui suit et des document(s) ci-joint(s). Cette communication contient un rapport de preuve qui peut être téléchargé en cliquant sur le bouton Rapport de Preuve.

Hello Me Michael Emmanuel Vathilakis, you are hereby notified of the following message and the attached document(s). This communication contains a proof report which can be downloaded by clicking on the button Proof Report.

Envoyé par

Nom	Widernia Vargas
Courriel	wvargas@lcm.ca

Envoyé à

Nom	Me Michael Emmanuel Vathilakis
Courriel	mvathilakis@renvath.com

Preuve de transmission

Date & heure	30 mars 21 - 12:00
Statut	Message transmis au destinataire avec succès
SMTP	250 2.6.0 <60634afd6616f_13b40c5032a5@lexop-sidekiq-55b96fc664-rf2lz.mail> [InternalId=5772436064944, Hostname=DM6PR01MB5643.prod.exchangelabs.com] 60381 bytes in 13.029, 4.526 KB/sec Queued mail for delivery

Détails d'ouverture

Date & heure	30 mars 21 - 12:01
Statut	Message ouvert par le destinataire avec succès

Fil d'activité du courriel

A ouvert le portail de téléchargement pour le 2021-03-30-declaration-of-voluntary-intervention-for-conservatory-purposes-1.pdf le mardi le 30 mars 2021, à 12:01

500-06-000888-178

SUPERIOR COURT (Class Action)
DISTRICT OF MONTREAL

JAMES GOVAN

Plaintiff

v.

LOBLAW COMPANIES LIMITED and al.

Defendants

and

PERSON X

Voluntary Intervenor

**DECLARATION OF VOLUNTARY
INTERVENTION FOR CONSERVATORY
PURPOSES WITH EXHIBITS R-1 TO R-3**

ORIGINAL

Code:BL5788

N/Réf.: 71229.1

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