

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL

(“Class Action”)  
SUPERIOR COURT

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**Theo Vecera**

residing at 10339 rue Thomas-Paine, Montreal,  
H1C 0C3

and

**John Brandone,**

residing at 10315 Thomas-Paine, Montreal,  
H1C 0B6

Applicants

-vs-

**Sanimax LOM Inc.**

9900 boul. Maurice Duplessis, Rivieres-des-Prairies,  
Montreal, Quebec H1C 1G1

and

**Sanimax EEI Inc.**

2001, av. De la Rotonde  
Levis, Quebec G6X 2L9

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE  
A CLASS ACTION, TO OBTAIN THE STATUS OF REPRESENTATIVES and  
INJUNCTION**

(Articles 509 ff and 571 ff., *C.C.P.*)

(Articles 913, 976, 1457 and 1465 *C.C.Q.*)

(Arts. 19-21 *Environment Quality Act* (ch. Q-2))

(Sections 11, 22 and 23 *Regulation respecting Biomedical Waste* (ch. Q-2 R-12))

(Preamble, Articles 1 and 2 of *An Act to Affirm the Collective Nature of Water Resources and to  
Promote better Governance of Water and Associated Environments* c. C-62)

(Arts. 1, 7, 46.1 and 49 *Charter of Human Rights and Freedoms* (C-12))

## **APPLICANTS RESPECTFULLY SUBMIT:**

1. Applicants Theo Vecera and John Brandone, wish to institute a class action on behalf of the persons forming part of this class, of which the Applicants are members:

All persons, physical or moral (with less than 50 employees in the 12 months) including owners, tenants or subtenants of immovable property, residing in Riviere des Prairies, Levis, and St-Hyacinthe, Quebec within three and a third (3.33) kilometers of Defendant Sanimax LOM inc.'s meat rendering facilities located at 9900 boul. Maurice Duplessis, Riviere des Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis since January 4, 2019;

## **THE PARTIES:**

2. At all relevant times, Applicant Theo Vecera has resided and intends to remain at his residence which is located within Plaintiffs' proposed class area depicted in **Exhibit R-2A**. Applicant Vecera is a Québec resident.

3. At all relevant times, Applicant John Brandone has resided and intends to remain at his residence which is located within Plaintiffs' proposed class area depicted in **Exhibit R-2A**. Applicant Brandone is a Québec resident.

4. Defendant Sanimax LOM Inc. is a Québec incorporated company whose activities are directed coordinated and controlled from its headquarters in Riviere des Prairies Montréal. The Defendant's principal place of business is in Riviere des Prairies Montréal. It owns and operates three (3) meat rendering facilities in Quebec, located at 9900 boul. Maurice Duplessis, Riviere des Prairies (**Exhibit R-2A**), 6320 boul. Laurier est., Ste-Hyacinthe (**Exhibit R-2C**), and 2001 ave. de Rotunde, Levis (**Exhibit R-2B**), which are the subject of the present Application;

5. Defendant Sanimax EEI Inc. owns and operates numerous trucks on the property of Sanimax LOM Inc's Montreal facility and is the principal transporter for and stores the primary materials necessary for the activities of Sanimax LOM Inc.;

6. Defendant Sanimax LOM Inc., through its agents and predecessors, constructed, operates and/or maintains the meat rendering facilities located in Riviere-des-Prairies, St.-Hyacinthe, and Levy, Québec, at the locations identified herein;

## **JURISDICTION AND VENUE:**

7. The Superior Court of Montréal, Class Action division, has jurisdiction over this Collective Action because there are more than one hundred five thousand (135,000) class members located within a three and one third kilometer radius of Defendants' facilities and operations as appears from Exhibits R-2A, R-2B, R-2C. The value of the claim exceeds one hundred (\$100) million

dollars exclusive of interest and costs. Montréal Superior Court has jurisdiction because the vast majority of the acts and omissions giving rise to Applicants' claims took place in this district, the vast majority of class members reside in Montreal, and as Defendant Sanimax LOM inc.'s principal place of business, and Sanimax EEI inc.'s elected domicile, are at 9900 Boul. Maurice Duplessis, in Riviere des Prairies, Montreal.

## GENERAL ALLEGATIONS

8. Defendant Sanimax LOM inc. conducts animal rendering and waste oil processing operations where it collects oily coproducts, purifies them and turns them into animal feed pet food, soap and industrial chemicals;
9. Defendants' meat production waste is "animal and anatomical waste consisting of carcasses, body parts and organs" and therefore biomedical waste as defined by the *Regulation respecting biomedical waste* ch. Q-2 R-12. Defendants are in regular and repeated breach of (i) Section 11 of the *Regulation* as they allow biomedical waste to be discharged into a sewer system (ii) Section 22 as the animal waste is not shipped in "sealed leak proof containers" and are not "kept refrigerated at less than 4°C." as none of the transport vehicles observed by Applicants are refrigerated, and (iii) Section 23 as identification of biomedical waste labels are not affixed by the shipper to the outside of each biomedical waste container, as none of the transport trucks observed by Applicants are so identified;
10. Applicants' properties have been repeatedly and continue to be, physically invaded by noxious odours, which are unreasonable and intolerable in a residential setting;
11. These intolerable noxious odours which enter Applicants' and class members' properties originate from the Defendants' facilities and operations located at 9900 boul. Maurice Duplessis, Riviere-des-Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis, and from the transport of meat waste emitting fetid decomposing liquids and solids, off gassing and leaching into streets, sewers and the environment from uncovered and/or unsealed transport vehicles;
12. Defendants' facilities and operations have a long and well-documented history of failing to control odorous emissions, including but not limited to the following:
  - A. There have been continuous unreasonable and excessive odour emissions and pollution emanating from Defendants' meat rendering facilities and operations as appears in photos and videos shown in videos **Exhibit R-3, R-4, R-5**;
  - B. On November 1 2019 the Sanimax SOS committee met with Mayoress Valerie Plante to apprise her of the concern of citizens as a result of Defendants' pollution as appears from **Exhibits R-16A**;
  - C. On August 16 2016 Applicant Theo Vicera wrote to MP Pablo Rodriguez on behalf of "Sanimax SOS" and the RDP Citizens Movement Council as appears from **Exhibit R-16B**;

- D. All of the class members are neighbors within the meaning of Art. 976 C.C.Q. and have suffered abnormal, excessive, and unreasonable neighbourhood annoyance from repeated odour pollution and traffic problems;
- E. The Defendants are in flagrant breach of (i) their Certificate of Authorization to operate rendering facilities and trucking permits, (ii) the *Environment Quality Act*, (c. Q-2) articles 19.1 to 21; (iii) the *Regulation Respecting Biomedical Waste*, (iv) Nuisance Bylaws of the City of Montreal, City of Levis, Town of Ste-Hyacinthe and City of Laval produced as **Exhibits 12A-D**; (v) the Preamble, Articles 1 and 2 of *An Act to Affirm the Collective Nature of Water Resources and to Promote better Governance of Water and Associated Environments* c. C-62;
- F. Defendants, well aware of the risks of such odour and water contamination, intentionally, willfully and negligently failed to protect residents from the deleterious cumulative effects those emissions;
- G. The odour emissions have become far more significant in the last three (3) years as appears from the list of complaints in Riviere des Prairies attached as **Exhibit R-6** and **Exhibits R-7A, R-7B, R-7C, R-7D, R-7E** as further confirmed by the La Press newspaper article attached herewith as **Exhibit R-9G** and by CBC article attached herewith as **Exhibit R-9F**;
- H. In Rivière-des-Prairies trucks carrying meat waste sit in long lines, idled on Maurice Duplessis Blvd. outside the Defendant Sanmax LOM's facility, fetid meat waste decomposing, off gassing and liquids leaching into the environment from uncovered and/or unsealed transport vehicles. This creates an additional unreasonable and intolerable traffic problem for residents as Maurice Duplessis Boulevard is reduced to one lane. Maurice Duplessis Blvd. entrance is exclusively used by Defendants despite there being a second entrance to the facility on 7th street, which is not used by Defendants, likely because there is no weigh station at that entrance;
- I. Defendants have been repeatedly fined and taken to court in penal proceedings by the City of Montréal as appears from **Exhibit R-10**. Given their extensive history of pollution by meat production waste from meat rendering and emissions of resulting noxious odours and liquids, it is clear that Defendants' pollution described herein is intentional and in bad faith. Applicant Theo Vecera says that in about 2017 the City stopped giving tickets as it was constantly in Court. Vecera says that although the tickets stopped, the pollution did not. Mr. Vecera is frustrated by the decision of the City to stop issuing tickets despite the ongoing pollution problem as it gives the false impression that the pollution has ceased;
- J. Defendant has been the subject of similar class action proceedings on 3 occasions, one in Green Bay, Wisconsin, another in St. Paul, Minnesota (as shown in **Exhibits R-15A, B**), and the 3<sup>rd</sup> in Montréal Québec, as appears from **Exhibits R-9A, C, D** and **E**;

- K. Defendants “appropriated air and water” in contravention of Art. 913 *C.C.Q.*, in breach of the public’s right to clean air and water, “surface water and ground water in their natural state”, pursuant to Preamble, Articles 1 and 2 of *An Act to Affirm the Collective Nature of Water Resources and to Promote better Governance of Water and Associated Environments* c. C-62, section 46.1 of the *Charter of Human Rights and Freedoms*, section 19.1 of the *Environment Quality Act* and the Public Trust;
- L. Defendant Sanimax LOM Inc. have released water contaminated with Ammoniacal Nitrogen, in quantities up to 15 times the legal norms of 45mg/l which causes chronic toxicity and other affects on aquatic life, and also complicates the treatment of drinking water as appears from **Exhibit R-8**;
- M. Total Kjeldahl Nitrogen (TKN, a parameter used to measure organic nitrogen and ammonia) is exceeded in Defendant Sanimax LOM inc.’s wastewater, which has contributed to methemoglobinemia in infants (blue baby syndrome) as appears from **Exhibit R-8**;
- N. The Defendants are liable pursuant to section 20 of the Quebec *Environment Quality Act* [Q-2], for emission of odor and chemical “contaminants” as defined by the *LQE* into air and water;
- O. Defendants’ meat production waste is biomedical waste within the meaning of the *Regulation respecting biomedical waste* (Ch. Q-2, R.12);
- P. Defendants fail to stop biomedical waste from meat processing, escaping transport vehicles, including those operated by Defendant Sanimax EEI inc. Decomposing blood, biological fluids, oil and biological waste off gas, leak and fall from trucks, as shown in **Exhibits R-1A, E, F, G, J, K, and M** (photos). Defendants’ transport vehicles have birds, mostly seagulls, feasting on them, as shown in **Exhibits R-5** (video November 3, 2020) **Exhibits R-1B, C and D** (photos), indicating these trucks are not properly covered as shown in **Exhibits R-1N, H, I, L** (photos), sealed and refrigerated, and nowhere indicate they carry biological waste;
- Q. This intentionally faulty and grossly negligent rendering and transportation of meat production waste is a biosecurity concern as vehicles transfer disease-causing agents. Without biosecurity protocols in place there is disease transmission.
- R. Defendants’ vehicles and containers are not “transported and stored in a closed system” and therefore do not comply with article 6.06 of *Montreal Bylaw 90*. They should also have a barrier to prevent leakage of liquids and construction that facilitates effective cleaning and sanitation and sealed;
- S. Scavengers including birds, wild animals and vermin feed on diseased waste and transmit pathogens to pets and humans. Contaminated waste infects the food chain through the rendering process and meat waste transport. Defendants’ emissions and their failure to

curtail them, pollute of air, soil, and water including “surface water and groundwater in their natural state”;

- T. Birds feast on the exposed viscera and other biological waste in the open vehicles and cause contamination on adjacent properties and residential areas;
- U. Defendants’ noxious odours cause extreme physical and psychological symptoms well below toxic levels. The psychological effect of the exposures creates high levels of stress in cases of repeated exposure, more so during COVID as residents have a greater desire to leave the house, as indicated in **Exhibit R-14**. Such stress leads to physical manifestations including hypertension through repeated blood pressure elevations, depressive reaction, nausea, vomiting, breathing difficulties, sleep loss and loss of appetite;
- V. Having received municipal environmental infractions from the City of Montreal in excess of \$858,000 dollars (**Exhibits R-8 and R-10**), been the subject, as of September 2021, of 4,973 complaints to the City of Montreal, and by October 18, 2021, 46% of all environmental complaints to the City of Montreal in 2021 as indicated in **Exhibit R-9G**, Defendants’ reprehensible and dangerous conduct *must* be deemed and presumed to be “unlawful and intentional”;
- W. Defendant’s repeated faults (Art. 1457 C.C.Q.), cause continuing bodily injury, psychological, moral and material injury including health damages and stress, more so during COVID, for which reparation is due;
- X. These meat rendering facilities and transport vehicles are controlled by Defendants, the guardians of the meat processing waste. The meat processing waste autonomously decomposes, emitting foetid odours into the atmosphere and biomedical liquids, pathogens and decomposing substances onto roads, into sewers, and waters including “surface water and groundwater in their natural state”;
- Y. Defendants are liable under the regime of 1465 C.C.Q. for the prejudice caused by the autonomous acts of meat waste under their control. Defendants exercise real power and control over the waste and are guardians of it. The waste is an autonomous thing, as not directed by a person, and, while decomposing, emits gases, liquids and solids which cause prejudice to the members as well as to the environment. The meat waste is active, in the sense of autonomous things, since it moved to the Applicants' and members properties and to the environment;
- Z. As guardians of the meat waste, Defendants are obliged to prevent it from causing harm to others, including by autonomous acts, by sealing, containing and refrigerating the meat waste and incorporating “state of the art” safeguards to stop it from being emitted to the surrounding area. Defendants failed to take all reasonable steps to do so and are consequently presumed liable;
- AA. The Applicants and members’ rights to personal security and inviolability (section 1) and to live in a healthful environment (section 46.1) pursuant to Articles 1, 7 and 46.1

of the *Charter of Human Rights and Freedoms* (C-12) have been breached by the waste from animal rendering, noxious odors and fetid liquids and solids caused thereby described herein. Pursuant to Article 49 of the *Charter of Human Rights and Freedoms* (C-12) Applicants and members may obtain the cessation of such interference, and compensation for the moral and material prejudice resulting therefrom. As this is unlawful and intentional interference, punitive damages should be awarded;

BB. The class members are entirely justified in having the damages immediately curtailed. The injunctive relief set out herein is warranted, in the public interest, and in the interest of future generations, especially considering the precautionary principle, as the damage alleged herein is impossible to reverse and becomes worse over time. The specific injunctive relief sought includes but is not limited to (i) Defendant Sanimax LOM should install and maintain "state of the art" technology to properly control its emissions of noxious odors. Current failures include, but are not limited to the facility's ozone generation system, odor abatement equipment, air filters, and raw material intake and/or storage systems; (ii) Defendant Sanimax LOM Inc. should build an airtight garage with filters to control odor during offloading of trucks; (iii) Defendants' transport containers and trucks should be sealed, have a barrier to prevent leakage of liquids and solids, construction that facilitates effective cleaning and sanitation, sealing the meat waste to minimize the emission of noxious odours, and must be refrigerated to 4°C and properly identified as carrying biomedical waste. (iv) Defendants must refrain from reducing Blvd. Maurice Duplessis to one lane due to idled truck traffic;

CC. It is in the interest of justice, proportionality, fairness and the precautionary principle that collective recovery and the amount to be awarded each individual member be assessed using an average determined for each zone or sub-group;

13. The facts giving rise to the personal claim of The Representatives are as follows:

Applicant Theo Vecera says:

- A. He has been a resident of RDP since 1980;
- B. During the first two years at their Thomas-Paine home they occasionally smelled odours. They had a "feeling" that this may be coming from Sanimax;
- C. In the summer of 2012, he met with some neighbours who started up a facebook page called "Rivière des Prairie Clean Air Community". His current facebook page, "RDP Neighbourhood Watch" has 8,300 members;
- D. He joined the neighbours in leading and managing the facebook page, later renamed "Sanimax SOS RDP" as it was an "SOS" situation for them;
- E. They began to talk and gather citizens to share experiences. The Sanimax page "Sanimax SOS RDP" continued to grow and became the voice of the citizens' frustrations and concerns. He says they also had "trolls/Sanimax employees" on the page who continuously blamed them for moving "right beside Sanimax";
- F. He and Mr. Robert Molinaro joined the Sanimax Vigilance committee (a combination of Sanimax employees, city and government officials and residents) to find a

common ground, to understand what Sanimax does and to promote a collaboration between Sanimax and the growing homes in the area;

G. He says that Defendants' meat waste transport vehicles sit idle on Maurice Duplessis blvd., improperly sealed, unrefrigerated and not identified as transporting biomedical waste, which off gas and release noxious odor and cause traffic problems as they close one lane of that boulevard to traffic;

H. In the summer of 2020, having been confined for at least three (3) months due to COVID, Riviere-des-Prairies residents were particularly unreasonably annoyed by odor as, finally able to spend time out of their homes, they were unable to enjoy their property due to fetid odors and were further "imprisoned", by putrid smells emanating from Defendant Sanimax LOM's rendering plant, as appears from the June 26, 2020 La Presse article "Enfermés à cause des odeurs nauséabondes d'une usine", **Exhibit R-14**. Many residents had to cancel St. Jean Baptiste celebrations and some children, including his four (4) children, refused to swim in their pools, despite the heat. In these circumstances, the stress and psychological damage due to the odor was more acute;

I. He is genuinely concerned for himself and his family by the odours. The smells were nauseating, "stuck on you" and he regularly showers when exposed, had to hold his breath and was forced indoors;

J. When the smell occurs children playing outside are forced to go inside. A vibrant street quickly became a quiet street;

K. He becomes constantly angry and anxious when coming home from work, wondering when he parks his car if he would smell the fetid odor, the uncertainty being a constant stress;

L. Weekends are worse as there is always a concern of enjoying his backyard, pool especially inviting friends and family over. It is constant stress. When the Sanimax odor "hits you", he becomes angry often as he and his family are prisoners of this private company. About half of the times there was a strong smell he had to lie down and catch his breath and slow his heart rate down as he takes Lipitor for his heart. He says that in the last three (3) years the offensive odour occurs from October to April approximately once per week, and from May to September approximately three times a week;

M. He is constantly concerned that he will suffer a heart attack or stroke from the constant stress that Sanimax brings to his life and the anger of feeling hopeless that he cannot protect his family. This is accelerated in the spring, summer and fall. His quality of life has been diminished because of Sanimax;

N. He rarely invites people to their house. They go to other people's homes because one does not know when the odours will come;

O. He says that in 2021 almost 50% of all environmental complaints in Montreal were about Sanimax, as indicated in **Exhibit R-9G**;

P. Sanimax has taken many quality moments and time away from his family which has caused distress in his personal and family responsibilities (He has four children and both he and his wife work full time);

Q. He is angry that they are treated as second class citizens where his personal health, environment and community is being compromised by private corporations that seem to be working above the law;

R. He says it is not normal that a private corporation has nearly a million dollars in fines that they refuse to pay. It makes no sense to him, and he says it angers his community;



- S. He has, in the last three (3) years when the offensive odour occurs from October to April approximately once per week, and from May to September approximately three times a week, had sleepless nights;
- T. He is prone to outbursts as a result of the ongoing stress;
- U. Defendants' odour has caused marital problems as he and his wife disagree how to address these problems;
- V. He has visibly aged, gained weight and his hair has turned grey in the past three years, as a result of stress due to the constant uncertainty of whether there will be noxious odours when he returns to his home and mental health has been negatively affected;
- W. His health has been compromised because of this ongoing battle with Sanimax;
- X. He says the Sanimax odours, for the last three years, have increased in intensity and frequency;
- Y. On average for the last three years, he has personally smelled the odours from his house two or three times per week. This can range from 1 minute to a few hours;
- Z. These odours can strike them at any time. In the morning, afternoon, early evening or late evening. They are unpredictable because of the wind factor, trucks waiting outside to be processed and because of the lack of infrastructure, lack of empathy and poor management by Sanimax;
- AA. These odours have also occurred on the weekends;
- BB. These odours have also occurred on St. Jean Baptiste weekend and other statutory holidays (hence, the protest and various news articles and fines by the City);
- CC. These odours and/or biomedical waste have been the most intolerable between April and September;
- DD. In the past two years, the odours have been present all year long. He has smelled them as well in December 2020 and 2021;
- EE. These odours are unreasonable and intolerable. The odours give the sensation of "sticking to your body", of feeling nauseous and lingers with you mentally even when they are gone. Approximately twice a month, he showered when experiencing odours that remained for a long period of time;
- FF. These odours, many times, forced them to be prisoners in their home. They must close all their windows so the odour would not enter their home. Approximately once a week from May to August they must turn off the air conditioner to avoid the odour;
- GG. Because of this constant and unpredictable nature of the odour he has suffered increased and continuous daily stress, including mood swings, as he does not know when the odours would come on any given day;
- HH. Increased and continuous anxiety in planning family events and enjoying their home outdoors. Would they have to cancel or move everything inside?
- II. Increased and continuous frustration and visible anger that they were treated as second class citizens with no resolution in sight.
- JJ. Increased tension in their family as they debate moving out of their home;
- KK. He constantly worries about his health and that of his wife and children. The odours make the children physically sick. It makes his wife feel that she needs to vomit.

Applicant John Brandone says:

- A. Since we purchased our home on Thomas Paine in 2010 the odor of Sanimax only gets worse every year. On average, in the last three (3) years we experience it 3-4 times per week especially during the summer months;
  - B. Sometimes the smell is so strong it's nauseating, it smells like chicken that had been rotting away on your counter for days;
  - C. We are even deprived from using our pool during the summer because of this awful smell. We personally have invested a lot of money so that we can enjoy our backyard, but it seems almost impossible due to the situation getting worse especially in the past three (3) years;
  - D. Just as an example it's happened numerous times when cutting the grass I have to stop and go in the house to wait for the smell to pass;
  - E. We even had to cancel our St Jean Baptiste Barbecue in 2020 because the smell was extremely bad for the whole weekend, and their excuse for this was that there were many trucks waiting to be processed in the scorching heat;
  - F. Having guests or enjoying a family meal outdoors has become an embarrassing situation and because of this we are often forced to stay indoors;
  - G. I have also witnessed while driving, the streets littered with carcasses and Sanimax trucks uncovered with animal carcasses sticking out;
  - H. Not only has it affected us mentally and emotionally, causing a great deal of stress, this stress was amplified during the past two (2) years during COVID as we were stuck inside and when we were finally able to leave the house we were forced back in by smell;
  - I. It has also brought on financial implications because we are now obliged to disclose this serious environmental nuisance to potential buyers of our home thus reducing the value of our home;
14. The Defendants have failed to (i) install and maintain "state of the art" technology to properly control their emissions of noxious odors, foetid liquids and solid pollutants including ozone generation systems, odor abatement equipment, and raw material intake and/or storage. (ii) Defendant LOM Inc.'s garage is not airtight and is lacking filters to minimize emission of noxious odors; (iii) Defendants' meat waste transport vehicles are not airtight, leakproof, or refrigerated to 4°C and are not properly labelled as carrying biomedical waste; (iv) Defendants are responsible for reducing Blvd. Maurice-Duplessis to one lane due to idled truck traffic;

**CLASS MEMBERS' CLAIMS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES  
OF LAW OR FACT (575 (1))**

15. The identical, similar or related questions of law or fact between each member of the class and the Defendants which Applicants wish to have decided by the class action are:

- A. Whether the class should be defined as:
- All persons, physical or moral (with less than 50 employees in the 12 months) including owners, tenants or subtenants of immovable property, residing in Riviere des Prairies, Levis, and St-Hyacinthe, Quebec within three and a third (3.33) kilometers of Defendant Sanimax LOM inc.'s meat rendering facilities located at 9900 boul. Maurice Duplessis, Riviere des Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis since January 4, 2019;
- B. Do Defendants' Québec meat rendering facilities and meat waste trucking operations meet applicable provincial, and municipal laws, regulations, and bylaws?
- C. Whether the pollution described herein contravenes Art. 20 *in fine* E.Q.A.;
- D. Whether the pollutants resulting from Defendants' operations constitute "contaminants", "pollutants" and/or biomedical waste within the meaning of Art. 1 of the E.Q.A. and the *Regulation Respecting Biomedical Waste*?
- E. Whether the pollutants resulting from Defendants' operations are in breach of the Municipal Bylaws of Montreal, Laval, Levis and Ste-Hyacinthe?
- F. Whether Defendants' repeated emissions constitute a neighbourhood annoyance within the meaning of Article 976 C.C.Q. as it exceeds that which is reasonable and tolerable in a residential environment?
- G. Whether the unreasonable annoyance, inconvenience, discomfort, and/or stress that were suffered by each of the members of the class were caused by Defendants' emissions?
- H. Whether Defendants are liable for the autonomous acts of things under their control?
- I. Are the Representatives and the class members entitled to claim the sum of \$500 per person per month of the noxious and/or foetid odours?
- J. Whether Defendants' pollution caused increased stress for the class members?
- K. Did Defendants' emissions breach the Representatives and class member's "rights to life, personal security and to live in a healthy environment where biodiversity is preserved"?
- L. Were Defendants' emissions unlawful and intentional?
- M. Are the Representatives and the physical class members entitled to claim the sum of \$600 per person for moral damages?

- N. Are the Representatives and the class members entitled to claim the sum of \$700 per person in punitive and/or exemplary damages?
- O. Whether and how Defendant Sanimax LOM Inc. intentionally, recklessly, willfully, wantonly, maliciously, grossly and negligently failed to construct, maintain and operate the facility;
- P. Which steps Defendants have and have not taken in order to control emissions through the construction, maintenance and operation of its Quebec rendering facilities and meat waste trucking operations?
- Q. Whether and to what extent the Defendants' emissions were dispersed over the class area?
- R. Are Applicants and Class members entitled to injunctive relief, and if so, which relief?

**COMPOSITION OF THE CLASS RECOMMENDS A CLASS ACTION (ART. 575 (3))**

16. The composition of the class makes the application of articles 91 or 143 of the *Code of Civil Procedure* difficult or impractical because:

- A. The number of physical persons affected, at least 135,000, makes it impossible for these persons to meet together and negotiate a specific mandate in virtue of which they might name a mandatary, or act as plaintiffs together in the same case, as contemplated by Arts. 91 or 143 C.C.P. as well as the fact that some of them are under the age of 18;
- B. It would be highly impracticable, costly, uneconomical, unjust, and inconsistent with the rule of proportionality, if not entirely impossible for each of the persons herein identified as class members to pursue an individual action, in particular given their economic and physical circumstances;
- C. All the members of the class are affected in the same or a very similar manner, although to different degrees, by the behavior of the Defendants, and their interests will be better protected in a class action where the Court will have broad powers to protect the rights of absent parties than they would be if a few of these parties took individual actions;
- D. Class action proceedings are the most effective, efficient and appropriate legal proceedings available to ensure that each of the Class members' rights are duly protected and preserved both now and in the future, in particular as concerns environmental matters as noted in *Comité d'Environnement de la Baie Inc. c. Société d'Électrolyse et de Chimie Alcan Ltée.*, 1990 CanLii 3338 (QCCA), [1990] R.J.Q. 665 where the Quebec Court of Appeal stated that class actions suits are by far the most appropriate manner of litigating environmental claims given the large number of victims and the exceptional cost of such litigation;

- E. Moreover, due to the significant experts' costs associated with the litigation of this matter, it is in the best interests of each of the members of the Class, and of Justice, that the institution of a class action be authorized.

## CONCLUSIONS SOUGHT

17. The conclusions sought by the Applicants are:

**AUTHORIZE** a Collective Action against Defendants for the following group:

All persons, physical or moral (with less than 50 employees in the 12 months) including owners, tenants or subtenants of immovable property, residing in Riviere des Prairies, Levis, and St-Hyacinthe, Quebec within three and a third (3.33) kilometers of Defendant Sanimax LOM inc.'s meat rendering facilities located at 9900 boul. Maurice Duplessis, Riviere des Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis since January 4, 2019

**ATTRIBUTE** to Theo Vecera and John Brandone the status of Representatives to prosecute this Collective Action on behalf of the Class;

**CONDEMN** the Defendants solidarily to pay each member average \$500 per month of noxious odour;

**CONDEMN** the Defendants solidarily to pay each member \$600 for moral damages including stress and inconvenience;

**CONDEMN** the Defendants to pay each member \$700 for punitive and/or exemplary damages pursuant to article 49 of the *Charter*;

**CONDEMN** Defendants solidarily to pay interest at the legal rate and the special indemnity provided for by law on all sums awarded from the date of service of the present Application.

**ORDER** Defendants to pay all publication costs;

**ORDER** the collective recovery of said damages; and

**AUTHORIZE** the distribution of the balance in equal amounts between the members of the class;

**ORDER** the Defendants to take, within 3 months, all measures necessary to ensure that further pollution described herein does not occur;

**ORDER** injunctive relief to have (i) Sanimax LOM Inc.'s three (3) rendering facilities retrofitted to install and maintain "state of the art" technology to properly control its emissions of noxious odors. Such improvements include but are not limited to the facilities' ozone generation system, odor abatement equipment, and raw material intake and/or storage systems; (ii) Sanimax LOM inc. build airtight garages and install filters to minimize the emission of noxious odours; (iii) Defendants' meat waste transport vehicles be airtight, leakproof, refrigerated to 4°C and properly labelled as carrying biomedical waste. (iv) Defendants refrain from reducing Blvd. Maurice-Duplessis to one lane due to idled truck traffic;

**DECLARE** that any member who has not requested his or her exclusion from the group be bound by any judgment to be rendered on the class action, in accordance with the law;

**FIX** the delay for exclusion at thirty (30) days following the Notice to Members, and that at the expiry members of the group who have not requested exclusion be bound by any judgment;

**ORDER** the publication at any date convenient to this Honourable Court of a Notice to Members in the Le Journal de Montréal, The Montreal Gazette, or any other appropriate newspaper or publication and further **ORDER** all costs of publication be borne by Defendant;

**REFER** the present record to the Chief Justice of this Honourable Court so that he or she may determine the district in which the class action is to be brought;

**ORDER** that should the class action be in another district, the clerk of the Court, upon receiving the decision of the Chief Justice, transmit the present record to the clerk of the district designated.

**THE WHOLE** with costs.

**MAKE ANY OTHER ORDER** this Honourable Court deems appropriate.

**THE CLASS MEMBERS APPOINTED AS REPRESENTATIVE PLAINTIFF'S ARE IN A POSITION TO PROPERLY REPRESENT THE CLASS (ART 575 (4))**

18. The Applicants request that they be ascribed the status of Representatives.
19. The Applicant John Brandone is in a position to faithfully and properly represent the members, for the following reasons:

- A. He lives in a neighbourhood directly affected by the meat waste contamination and resulting pollution described herein and has been a victim of the pollution for over three years;
  - B. He has taken numerous steps to acquaint himself with the nature of the problems created as a result of the contamination and is informed on the impacts and consequences of this activity as it affected those in the neighbourhood identified under the description of class presented above;
  - C. He has, for at least three years, been involved with the community most affected by Defendants' pollution, discussing in great detail the meat waste contamination with class members and also gathered information on the nature of the various harm and inconvenience suffered by those persons;
  - D. He possesses all the personal, moral and intellectual qualities to see this class action through to its final resolution and will act for the benefit of the members of the class;
  - E. He has acquainted himself with the concerns of each of the Affiants and has been present and involved at every stage of the proceedings;
  - F. He has no conflict of interest with the class members;
20. The Applicant Theo Vecera is in a position to faithfully and properly represent the members of the class, for the following reasons:
- A. He lives in a neighbourhood directly affected by the meat waste contamination and resulting odour described herein and has been a victim of the pollution for over three years;
  - B. He has taken numerous steps to acquaint himself with the nature of the problems created as a result of the contamination and is informed on the impacts and consequences of this activity as it affected those in the neighbourhood identified under the description of class presented above;
  - C. He has organized and informed class members as concerns the pollution alleged herein;
  - D. He possesses all the personal, moral and intellectual qualities to see this class action through to its final resolution and will act for the benefit of the members of the class;
  - E. He has acquainted herself with the concerns of each of the Affiants and has been present and involved at every stage of the proceedings;
  - F. He has no conflict of interest with the class members;

21. The Applicants request that the class action be brought before the Superior Court of the District of Montreal for the following reasons:
- A. The Defendant's Sanimax LOM Inc's head office is located in the district of Rivieres-des-Prairies, Montreal, Quebec as is the elected domicile of Sanimax EEI Inc.;
  - B. The pollution complained of that caused the harm suffered by Applicant and the other class members was carried out in the Province of Québec and the vast majority of the class members reside in Montreal;
  - C. The Applicants as well as the majority of members of the class which they represent, reside in Montreal, Québec;
  - D. There exists no better suited forum or district to render justice in the present dispute;

**WHEREFORE, APPLICANT PRAY THIS HONOURABLE COURT TO:**

**AUTHORIZE** a Collective Action against Defendants for the following group:

All persons, physical or moral (with less than 50 employees in the 12 months) including owners, tenants or subtenants of immovable property, residing in Riviere des Prairies, Levis, and St-Hyacinthe, Quebec within three and a third (3.33) kilometers of Defendant Sanimax LOM inc.'s meat rendering facilities located at 9900 boul. Maurice Duplessis, Riviere des Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis since January 4, 2019

**ATTRIBUTE** to Theo Vecera and John Brandone the status of Representatives to prosecute this Collective Action on behalf of the Class;

**CONDEMN** the Defendants solidarily to pay each member average \$500 per month of noxious odour;

**CONDEMN** the Defendants solidarily to pay each member \$600 for moral damages including stress and inconvenience;

**CONDEMN** the Defendants to pay each member \$700 for punitive and/or exemplary damages pursuant to article 49 of the *Charter*;

**CONDEMN** Defendants solidarily to pay interest at the legal rate and the special indemnity provided for by law on all sums awarded from the date of service of the present Application.

**ORDER** Defendants to pay all publication costs;



**ORDER** the collective recovery of said damages; and

**AUTHORIZE** the distribution of the balance in equal amounts between the members of the class;

**ORDER** the Defendants to take, within 3 months, all measures necessary to ensure that further pollution described herein does not occur;

**ORDER** injunctive relief to have (i) Sanimax LOM Inc.'s three (3) rendering facilities retrofitted to install and maintain "state of the art" technology to properly control its emissions of noxious odors. Such improvements include but are not limited to the facilities' ozone generation system, odor abatement equipment, and raw material intake and/or storage systems; (ii) Sanimax LOM inc. build airtight garages and install filters to minimize the emission of noxious odours; (iii) Defendants' meat waste transport vehicles be airtight, leakproof, refrigerated to 4°C and properly labelled as carrying biomedical waste. (iv) Defendants refrain from reducing Blvd. Maurice-Duplessis to one lane due to idled truck traffic;

**DECLARE** that any member who has not requested his or her exclusion from the group be bound by any judgment to be rendered on the class action, in accordance with the law;

**FIX** the delay for exclusion at thirty (30) days following the Notice to Members, and that at the expiry members of the group who have not requested exclusion be bound by any judgment;

**ORDER** the publication at any date convenient to this Honourable Court of a Notice to Members in the Le Journal de Montréal, The Montreal Gazette, or any other appropriate newspaper or publication and further **ORDER** all costs of publication be borne by Defendant;

**REFER** the present record to the Chief Justice of this Honourable Court so that he or she may determine the district in which the class action is to be brought;

**ORDER** that should the class action be in another district, the clerk of the Court, upon receiving the decision of the Chief Justice, transmit the present record to the clerk of the district designated.

**THE WHOLE** with costs.

**MAKE ANY OTHER ORDER** this Honourable Court deems appropriate.

**IDENTIFY** as follows the principal questions of fact and of law to be treated collectively in the class action proceedings:

A. Whether the class should be defined as:

All persons, physical or moral (with less than 50 employees in the 12 months) including owners, tenants or subtenants of immovable property, residing in Riviere des Prairies, Levis, and St-Hyacinthe, Quebec within three and a third (3.33) kilometers of Defendant Sanimax LOM inc.'s meat rendering facilities located at 9900 boul. Maurice Duplessis, Riviere des Prairies, 6320 boul. Laurier est., Ste-Hyacinthe, and 2001 ave. de Rotunde, Levis since January 4, 2019;

- B. Do Defendants' Québec meat rendering facilities and meat waste trucking operations meet applicable provincial, and municipal laws, regulations, and bylaws?
- C. Whether the pollution described herein contravenes Art. 20 *in fine* E.Q.A;
- D. Whether the pollutants resulting from Defendants' operations constitute "contaminants", "pollutants" and/or biomedical waste within the meaning of Art. 1 of the E.Q.A. and the *Regulation Respecting Biomedical Waste*?
- E. Whether the pollutants resulting from Defendants' operations are in breach of the Municipal Bylaws of Montreal, Laval, Levis and Ste-Hyacinthe?
- F. Whether Defendants' repeated emissions constitute a neighbourhood annoyance within the meaning of Article 976 C.C.Q. as it exceeds that which is reasonable and tolerable in a residential environment?
- G. Whether the unreasonable annoyance, inconvenience, discomfort, and/or stress that were suffered by each of the members of the class were caused by Defendants' emissions?
- H. Whether Defendants are liable for the autonomous acts of things under their control?
- I. Are the Representatives and the class members entitled to claim the sum of \$500 per person per month of the noxious and/or foetid odours?
- J. Whether Defendants' pollution caused increased stress for the class members?
- K. Did Defendants' emissions breach the Representatives and class member's "rights to life, personal security and to live in a healthy environment where biodiversity is preserved"?
- L. Were Defendants' emissions unlawful and intentional?

- M. Are the Representatives and the physical class members entitled to claim the sum of \$600 per person for moral damages?
- N. Are the Representatives and the class members entitled to claim the sum of \$700 per person in punitive and/or exemplary damages?
- O. Whether and how Defendant Sanimax LOM Inc. intentionally, recklessly, willfully, wantonly, maliciously, grossly and negligently failed to construct, maintain and operate the facility;
- S. Which steps Defendants have and have not taken in order to control emissions through the construction, maintenance and operation of its Quebec rendering facilities and meat waste trucking operations?
- T. Whether and to what extent the Defendants' emissions were dispersed over the class area?
- U. Are Applicants and Class members entitled to injunctive relief, and if so, which relief?

MONTREAL, this 4<sup>th</sup> day of January, 2022

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Charles O'Brien  
Lorax Litigation for Vecera, Brandone

NOTICE TO DEFENDANT  
(Art. 119 C.C.P.)

**TAKE NOTICE** that the Petitioner has filed this Application in the office of the Superior Court of the judicial district of Montreal.

To file an answer to this application, you must first file an Act of Representation, personally or by advocate, at the courthouse of Montreal, located at 1 Notre Dame Street East, Montreal, Quebec within 10 days of service of this motion.

If you fail to file an Act of Representation within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the 10-day period.

If you file an Act of Representation, the application will be presented before the Court **on a date and in a room to be determined** of the Courthouse. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding, unless you make a written agreement with the Plaintiffs' advocate on a timetable for the orderly progress of the proceeding.

In support of the Application, Petitioners allege the Exhibits, referred to in the links in the proceedings and provided on the attached USB key.

**Request for transfer of a small claim**

If the amount claimed by the Plaintiff does not exceed \$15,000 exclusive of interest and if you could have filed such an action in Small Claims Court, you may request of the clerk for the action to be disposed of pursuant to the rules of Book VIII, C. C. P. (R.S.Q., c. C-25). If you do not make such a request, you could be liable for costs.

Montreal, Quebec, this 4th day of January 2022.

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Charles O'Brien  
Lorax Litigation for Applicants

In support of the Application Seeking Authorization, Petitioners allege the following Exhibits, referred to in the links or available on request: *(provided on the attached USB key)*

**Exhibit R-1A:** Molinaro Jan 23 2020

**Exhibit R-1B:** Molinaro pic 2 June 14 2021

**Exhibit R-1C:** Molinaro pic 3 June 14 2021

**Exhibit R-1D:** Flocking birds  
**Exhibit R-1E:** Street contamination  
**Exhibit R-1F:** Sanimax accidental spill  
**Exhibit R-1G:** Intestines on grass picture November 3 2020  
**Exhibit R-1H:** Feb 2 2018  
**Exhibit R-1I:** Molinaro Aug 10 2019  
**Exhibit R-1J:** Molinaro May 23 2017  
**Exhibit R-1K:** Molinaro Jan 23 2020  
**Exhibit R-1L:** Sanimax truck Feb 20 2019  
**Exhibit R-1M:** Sanimax truck Aug 11 2020  
**Exhibit R-1N:** Feb 3 2018  
**Exhibit R-2:** Odour exposure simulation Maps;  
**Exhibit R-2A:** Population estimate Sanimax Levis  
**Exhibit R-2B:** Population estimate Sanimax Montreal  
**Exhibit R-2C:** Population estimate Sanimax Saint Hyacinth  
**Exhibit R-3:** Video Global News Aug 8 2019  
**Exhibit R-4:** Video CTV news Oct 24 2018  
**Exhibit R-5:** Video Sanimax visit November 3 2020  
**Exhibit R-6:** Sanimax - Plantes 1994-2021 - 16 sept 2021  
**Exhibit R-7A:** Facebook site against Sanimax  
**Exhibit R-7B:** Complaints 1  
**Exhibit R-7C:** Complaints 2  
**Exhibit R-7D:** Complaints 3  
**Exhibit R-7E:** Complaints 4  
**Exhibit R-8:** Injonction city for water pollution by Sanimax  
**Exhibit R-9A:** article Sanimax settlement Fox 11 January 6 2017  
**Exhibit R-9B:** article Sanimax de Lévis Actualite  
**Exhibit R-9C:** article Saint Paul Star Tribune March 17 2018  
**Exhibit R-9D:** article Saint Paul settlement June 17 2020  
**Exhibit R-9E:** article Animal rendering plant will pay Star Tribune June 25 2020  
**Exhibit R-9F:** article CBC Coderre Oct 13 2017  
**Exhibit R-9G:** article Lapresse Oct 18 2021  
**Exhibit R-10:** copies constats Sanimax  
**Exhibit R-11:** Regulation Respecting Biomedical Waste Q-2, R. 12  
**Exhibit R-12A:** 2001-10\_Rejets\_atmosphere  
**Exhibit R-12B:** Regl77 Saint Hyacinthe  
**Exhibit R-12C:** RV-2010-09-41 Levis  
**Exhibit R-12D:** reglement-l-12084 Laval  
**Exhibit R-13A:** Plumitif Raymond Francois vs Lomex Inc et all  
**Exhibit R-13B:** Raymond contre Lomex inc April 12 2013 decision of Mr Justice Roy

**Exhibit R-13C:** March 13 2012 transaction in regroupement des citoyens vs Alex Couture Inc

**Exhibit R-14:** Article Actualite

**Exhibit R-15A:** Minnesota class action March 12 2018

**Exhibit R-15B:** Minnesota Sanimax settlement June 3 2020

**Exhibit R-16A:** Sanimax SOS Committee Ms. Plante

**Exhibit R-16B:** Sanimax SOS document for Mr. Pablo Rodriguez