

Court File No. CV-19-615862-00CL
Court File No. CV-19-616077-00CL
Court File No. CV-19-616779-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **JTI-MACDONALD CORP.**

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **IMPERIAL TOBACCO CANADA LIMITED**
AND **IMPERIAL TOBACCO COMPANY LIMITED**

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **ROTHMANS, BENSON & HEDGES INC.**

Applicants

MOTION RECORD

**(QCAPs' Motion for Injunctive Relief - Returnable on
December 9, 2024)**

December 8, 2024

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Létourneau (**Quebec Class Action
Plaintiffs**)

TO :

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Montreal, Quebec

H2Y 2W2

Email : agrass@actislaw.org

-and-

Actis Law Group

500 Place d'Armes, Suite 1800

Montreal, Quebec

H2Y 2W2

-and-

THE COMMON SERVICE LIST

Court File No. CV-19-615862-00CL
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INDEX

Tab	Document
1	Notice of Motion dated December 8, 2024
2	Affidavit of André Lespérance dated December 8, 2024
	Appendix "A" - November 21, 2024 Infoletter to the QCAP Mailing List
	Appendix "B" – Print-Outs, in English and French, from the Actis Website on December 7, 2024
	Appendix "C" – Extract of the Professional Conduct of Lawyers, CQLR c B-1, r 3.1, - articles 119, 120 and 129
	Appendix "D" – Email from Mr. Pierre Boivin to Ms. Andrea Grass on December 5, 2024 at 5:31 pm, together with an English translation thereof and the response from Ms Grass on December 6, 2024 at 12:29 pm.
	Appendix "E" - <i>Moushoom v. Canada (Attorney General)</i> , 2022 FC 1212.
3	Draft Order for Interlocutory Injunctive Relief

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NOTICE OF MOTION

(QCAPs' Motion for Injunctive Relief)

TAKE NOTICE that the Quebec Class Action Plaintiffs¹ will make a motion before the Honourable Chief Justice Morawetz on December 9, 2024 at 4pm.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference, detail of which shall be provided by the Monitors.

THE MOTION IS FOR an Order substantially in the form included at Tab 3 of the Motion Record:

¹ Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Affidavit of André Lespérance dated December 8, 2024 (the "**Lespérance Affidavit**") or in the CCAA Plans. The Quebec Class Action Plaintiffs are also referred to as the QCAPs.

1. abridging the time for service of the Notice of Motion and Motion Record and, if necessary, validating service thereof;
2. declaring that all defined terms used in this Order have the meanings ascribed to them in the Lespérance Affidavit or in the CCAA Plans;
3. ordering that the request for interlocutory injunctive relief is justified, QCAPs having shown a clear right to the relief sought, that serious and irreparable harm will result if the order is not granted, that the balance of inconvenience weighs in their favour and that the requested relief is urgent;
4. ordering that the interlocutory injunctive relief granted pursuant to the order to be rendered shall remain in effect until the Sanction Order is rendered or until any such later date if this Order is thereafter extended or made permanent;
5. ordering that Actis Law Group and/or its principal, Ms. Andrea Grass (collectively “**Actis Law Group**”) immediately take down and remove:
 - a. the web-pages entitled “Canadian Tobacco Class Action Settlement Representation”, found at the following link: <https://actislaw.org/class-actions/canadian-tobacco-class-action-settlement-representation>; and its French language equivalent, “Représentation au règlement canadien de l’actions collectives sur le tabac”, found at the following link: <https://actislaw.org/actions-collectives/representation-au-reglement-canadien-de-laction-collective-sur-le-tabac>; and
 - b. any other pages or websites in which they have any involvement whatsoever containing communications or other information relating to the Quebec Class Actions and/or the claims and distribution processes under the CCAA Plans, including the Quebec Class Action Administration Plan, for the purpose of soliciting any Tobacco-Victims including class members in the Quebec Class Actions (“**Quebec Class Members**”) for representation

or to provide any other services to them in connection with their Tobacco Claims;

(collectively the “**Actis Website**”)

6. ordering Actis Law Group to cease and desist from soliciting, communicating with, approaching, entering into retainer agreements with, and/or providing information or advice to any Tobacco-Victims, including Quebec Class Members, in connection with the CCAA Plans, including the Quebec Class Action Administration Plan and/or any compensation due thereunder;
7. ordering Actis Law Group to provide Quebec Class Council with the list of all Persons who signed up or provided information through the Actis Website or otherwise, including all contact and other information obtained and/or collected by them (the “**Actis List**”) by December 10, 2024 at 3 pm;
8. ordering Actis Law Group to destroy all copies of the Actis List in their possession, whether in electronic or paper form, and to provide Quebec Class Counsel with an affidavit confirming such destruction and that no information in connection therewith has been retained by them, by no later than December 10, 2024 at 5 pm;
9. dispensing the Quebec Class Action Plaintiffs from the requirement to provide an undertaking as to damages in respect of the Order sought; and
10. ordering any other relief that the Court considers just and appropriate in the circumstances.

THE GROUNDS FOR THE MOTION ARE:

Background

11. Quebec Class Counsel have been representing the Quebec Class Members for over 26 years in the context of the Quebec Class Actions and for nearly six years in the context of these CCAA Proceedings.

12. In accordance with the Meeting Order issued by the CCAA Court on October 31, 2024, Quebec Class Counsel have been appointed as sole proxy for all Quebec Class Action Plaintiffs, and pursuant to the judgments in the Quebec Class Actions (as well as in the Quebec Class Action Administration Plan) as sole legal representatives of the Quebec Class Members.
13. The CCAA Plans provide that an amount of \$4.25 billion will be allocated to the QCAPs, of which \$4.19 billion is to be paid in settlement of the *Blais* Class Action (eligible Quebec Class Members diagnosed with a Tobacco-Related Disease) and \$131 million is to be contributed by the QCAPs and allocated to the Cy-Près Foundation in settlement of the *Létourneau* Class Action.
14. The CCAA Plans further provide that the amounts allocated to the *Blais* Class Members will be distributed pursuant to the Quebec Class Action Administration Plan.
15. The Quebec Class Action Administration Plan was designed with simplicity in mind, in order to make it easy for *Blais* Class Members to complete the Claim Forms and submit proofs of claim for consideration and approval by the Claims Administrator.
16. Quebec Class Counsel shall continue to represent Quebec Class Members throughout the duration of the claims process and, more particularly, have mandated Raymond Chabot to assist *Blais* Class Members through every step of the claims and distribution process.
17. As appears from the CCAA Plan, the fees of Raymond Chabot are to be paid from the Quebec Class Counsel Fee (approval of which will be sought at the end of the Sanction Hearing), such that *Blais* Class Members will not pay any additional amounts to obtain assistance from Quebec Class Counsel or Raymond Chabot in connection with asserting claims and obtaining compensation under the Quebec Class Action Administration Plan.

The Actis Website

18. On December 5, 2024, Mr. André Lespérance, one of the Quebec Class Counsel lawyers, first became aware of the existence of the Actis Website.
19. As appears from the Actis Website, print-outs of which are attached to the Lespérance Affidavit as **Appendix “B”**:
 - a. Actis Law Group falsely purports to be responsible for the Quebec Class Actions (which are the only class actions ever authorized in Canada against the Tobacco Companies in respect of Tobacco-Related Diseases and the only class actions ever filed in Quebec against the Tobacco Companies), stating that they are “*representing persons who are smokers or former smokers of tobacco cigarettes.*”
 - b. Actis Law Group falsely implies that Quebec Class Members must sign up with Actis Law Group in order to participate in the Quebec Class Actions:

Join for Legal Representation

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.

-and-

There are no fees or costs associated with joining this class action.

- c. Actis Law Group asserts that they will charge for their services on a contingency basis, which they state means that they “*receive payment only if the class action is successful.*” However, Actis Law Group has no legal right to be paid anything based on the success of the Quebec Class Actions (in which they played no role whatsoever) and can only be purporting to

improperly charge Tobacco-Victims a portion of the compensation they are entitled to receive under the CCAA Plans.

20. The Actis Website and advertising contradicts the ongoing communications that Quebec Class Counsel have had with their clients in respect of the claims process under the Quebec Class Action Administration Plan.
21. The Actis Website also presents a misleading and inaccurate picture of the CCAA Plans and the process for asserting claims under the Quebec Class Action Administration Plan and the PCC Compensation Plan, which misleads and creates confusion for Tobacco-Victims.
22. In essence, the Actis Website is nothing other than an egregious predatory attempt to take advantage of vulnerable Tobacco-Victims and to induce them to sign up for unnecessary legal representation and to then charge such individuals for clearly unnecessary and useless legal “services”.
23. Such behavior of the part of Actis Law Group contravenes the *Code of Professional Conduct of Lawyers*, CQLR c B-1, r 3.1, and specifically articles 119, 120 and 129 thereof.

The Right to Injunctive Relief.

24. Actis Law Group are attempting to pass themselves off as Quebec Class Counsel and are attempting to intentionally mislead Tobacco-Victims to sign up with them for useless “representation” services in exchange for a share of their compensation.
25. Actis Law Group has no right to mislead Tobacco-Victims in this manner into believing that such law firm and lawyer have had any involvement whatsoever in the Quebec Class Actions or the settlements under the CCAA Plans.

26. Quebec Class Members, and indeed all members of the public, have the right to not be misled by legal professionals, and must be protected from predatory practices which bring the profession into disrepute.
27. The relief requested by the QCAPs in the Motion is required in order to prevent serious and irreparable harm to Tobacco-Victims and the claims administration processes contemplated under the CCAA Plans.
28. The Actis Website and the purported communication to Tobacco-Victims contained on that site constitute false and misleading attempts to lure individual victims to pay for legal services in order to participate in the distribution plans under the CCAA Plans, when such processes were specifically designed to not require claimants to pay any out-of-pocket costs for assistance.
29. As a result of such unlawful conduct, Quebec Class Members may be misled to sign up with Actis Law Group, instead of through the Quebec Class Action Website (www.recourstabac.ca), thereby depriving them from receiving crucial communications concerning the Quebec Class Actions and the Quebec Class Action Administration Plan.
30. Allowing this practice to continue would entice others to engage in similarly predatory behavior to the detriment of the Tobacco-Victims.
31. Given the QCAPs' clear and apparent right, and the egregious conduct of Actis Law Group, the balance of inconvenience does not need to be considered. However, even if it was, it would clearly favour the protection of rights of vulnerable persons to not be misled or exploited, over any purported right of a law firm to solicit clients in an unlawful and misleading manner.
32. Finally, the need for intervention is urgently required in order stop additional Tobacco Victims from being misled by the Actis Website and to prevent any other unlawful attempts to take advantage of Tobacco-Victims.

33. QCAPs are presently requesting that the Order remain in effect until the Sanction Order is rendered and will seek that such Order be made permanent thereafter.

Additional Grounds

34. The previous Orders granted in the CCAA Proceedings;
35. The *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 and the inherent and equitable jurisdiction of the Court;
36. The *Ontario Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
37. *Code of Professional Conduct of Lawyers*, CQLR c B-1, r 3.1, articles 119, 120 and 129.
38. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the Motion:

39. The Affidavit of André Lespérance dated December 8, 2024, including Appendices thereto.

December 8, 2024

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Lawyers for Conseil québécois sur le tabac et la
santé and Jean-Yves Blais and Cécilia
Létourneau (**Quebec Class Action Plaintiffs**)

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AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF ROTHMANS, BENSON & HEDGES INC.

**AFFIDAVIT OF ANDRÉ LESPÉRANCE
(sworn December 8, 2024)**

I, André Lespérance, of the City of Montreal, in the Province of Quebec, and having a place of business at 750 Côte de la Place d'Armes, Bureau 90, Montreal, Quebec, H2Y 2X8, MAKE OATH AND SAY:

1. I am a Partner at the law firm Trudel Johnston & Lespérance, one of the four law firms (the "**Quebec Class Counsel**") representing the class representatives (the "**Quebec Class Action Plaintiffs**" or "**QCAPs**") in two class action lawsuits¹ against JTI-MacDonald Corp. ("**JTIM**"), Imperial Tobacco Canada Ltd. ("**Imperial**" or "**ITL**") and Rothmans, Benson & Hedges Inc. ("**RBH**") (collectively the "**Tobacco Companies**") in the context of the present proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**") before the Ontario Superior Court of Justice (Commercial List) in Toronto (the "**CCAA Court**").
2. I swear this Affidavit in support of QCAPs' Motion for Injunctive Relief.

¹ The "**Quebec Class Actions**" comprising (i) *Cecilia Létourneau et al. v. Imperial Tobacco Canada Ltd., et al.* (500-06-000070-983, the "**Létourneau Class Action**") and (ii) *Jean-Yves Blais and the Conseil québécois sur le tabac v. Imperial Tobacco Canada Ltd., et al.* (500-06-000076-980, the "**Blais Class Action**").

3. I have knowledge of the matters to which I depose herein.
4. Unless otherwise defined herein, all defined terms used in the present affidavit have the meanings ascribed to them in the Mediator's and Monitors' Plans of Compromise and Arrangement dated October 17, 2024 in respect of each of the Applicants in these CCAA Proceedings (collectively the "**CCAA Plans**").

Background

5. Quebec Class Counsel have been representing the *Blais* Class Members and *Létourneau* Class Members (collectively, the "**Quebec Class Members**") for over 26 years in the context of the Quebec Class Actions, including for nearly six years in these CCAA Proceedings.
6. I am responsible for overseeing communications with Quebec Class Members, which includes the management of a dedicated website for the Quebec Class Actions, recourstabac.com, (the "**QCAP Website**"), and a mailing list of individuals who are potentially eligible *Blais* Class Members and/or who wish to be informed regarding the progress of the Quebec Class Actions (the "**Mailing List**").
7. The QCAP Website has been regularly maintained and updated since at least 2016 to contain important information about the status of the proceedings, and the Mailing List is utilized in order to communicate key events directly to such persons, including at each step of the CCAA Proceedings.
8. Following an extensive and complex mediation process, on October 17, 2024, the Court-Appointed Mediator and Monitors filed the CCAA Plans, which are intended to effect a global settlement of all Affected Claims against the Tobacco Companies, including the Claims of the QCAPs as determined in the Quebec Class Actions.
9. The CCAA Plans received significant media attention in the Quebec and Canadian press.
10. The CCAA Plans provide that an amount of \$4.25 billion will be allocated to the QCAPs, of which \$4.19 billion is to be paid in settlement of the *Blais* Class Action and \$131 million is to be contributed by the QCAPs and allocated to the Cy-Près Foundation in settlement of the *Létourneau* Class Action.
11. The CCAA Plans further provide that the amounts allocated to the *Blais* Class Members will be distributed pursuant to the Quebec Class Action Administration Plan.
12. As appears from the Quebec Class Action Administration Plan:
 - a. it was designed with simplicity in mind, in order to make it easy for *Blais* Class Members to complete the Claim Forms and submit proofs of claims for consideration and approval by the Claims Administrator;

- b. the primary method pursuant to which diagnosis of a Tobacco-Related Disease will be confirmed in the Quebec Class Action Administration Plan is through Official Confirmations, which are to be obtained by the Claims Administrator directly from the Quebec Cancer Registry and/or MED-Echo database. Accordingly, it will not be necessary for most individual claimants to obtain or submit medical records in order to prove their claims; and
 - c. In respect of succession claims, clear directions have been provided, including fill-in-the blank affidavits, and a checklist of required documents.
13. Quebec Class Counsel will continue to represent the Quebec Class Members throughout the claims and distribution process and, more particularly, have mandated the class action division of Raymond Chabot (known as **Proactio**), to assist *Blais* Class Members through every step of the claims process.
14. As appears from the CCAA Plans (section 14.9 (g)), the fees of Raymond Chabot are to be paid from the Quebec Class Counsel Fee (approval of which will be sought at the end of the Sanction Hearing), such that *Blais* Class Members will not pay any additional amounts to obtain the assistance from Quebec Class Counsel or Raymond Chabot in connection with asserting claims and obtaining compensation under the Quebec Class Action Administration Plan.
15. We have been regularly communicating with Quebec Class Members via the Mailing List, in order to answer pertinent questions they have been asking, including in connection with the Quebec Class Action Administration Plan. By way of example only, on November 21, 2024, the following message was sent to all individuals on the Mailing List confirming to them that assistance will be available to help our clients file their claims:

Did you know that? You don't need a lawyer to file a claim.

We have a team assisting class counsel to help you every step of the way.

If you have any questions, even of a legal nature, Proactio will contact class counsel to obtain the appropriate advice for you.

In addition, Proactio will have notaries on hand to answer any questions you may have about estates.

There is no cost to you for the advice of class counsel and notaries as well as the support of Proactio. Stay tuned to our emails for more information and advice.

A copy of this message is attached as **Appendix "A"**.

The Actis Website

16. On December 5, 2024, I was informed by Raymond Chabot that they had been advised by a potential class member of the existence of a website hosted by Actis Law Group, and its principal, Ms. Andrea Grass (collectively, “**Actis Law Group**”) purporting to provide settlement representation for the “Canadian Tobacco Class Action”, print-outs of which are included in **Appendix “B”** hereto (the “**Actis Website**”).
17. As appears from the Actis Website:

- a. Actis Law Group falsely purports to be responsible for the Quebec Class Actions (which are the only class actions ever authorized in Canada against the Tobacco Companies in respect of Tobacco-Related Diseases and the only class actions ever filed in Quebec against the Tobacco Companies), stating that they are “*representing persons who are smokers or former smokers of tobacco cigarettes.*”
- b. Actis Law Group falsely implies that Quebec Class Members must sign up with Actis Law Group in order to participate in the Quebec Class Actions:

Join for Legal Representation

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.

-and-

There are no fees or costs associated with joining this class action.

- c. Actis Law Group asserts that they will charge for their services on a contingency basis, which they assert means that they “*receive payment only if the class action is successful.*” However, Actis Law Group has no legal right to be paid anything based on the success of the Quebec Class Actions (in which they played no role whatsoever) and can only be purporting to improperly charge Tobacco-Victims a portion of the compensation they are entitled to receive under the CCAA Plans.
18. The Actis Website and advertising contradicts the communications that Quebec Class Counsel have had on a continuous basis with their clients in respect of the claims process under the Quebec Class Action Administration Plan.
19. The Actis Website also presents a misleading and inaccurate picture of the CCAA Plans and the process for asserting claims under the Quebec Class Action

Administration Plan and the PCC Compensation Plan, which misleads and creates confusion for Tobacco-Victims.

20. By way of example, Actis Law Group suggests that \$32.5 billion will be available for distribution to smokers and former smokers when, in fact, a total of \$7.639 billion has been allocated under the CCAA Plans to indemnify Tobacco Victims, including the *Blais* Class Members, the Pan-Canadian Claimants and the Cy-Pres Foundation.
21. The Actis Website also does not mention the complete eligibility criteria for compensation under the two compensation plans nor does it mention the role that Raymond Chabot and Quebec Class Counsel will play to assist potential *Blais* Class Members in the claims process (or the corresponding role of Epiq in connection with the PCC Administration Plan).
22. In essence, the Actis Website is nothing other than an egregious predatory attempt to take advantage of vulnerable Tobacco-Victims and to induce them to sign up for unnecessary legal representation and to then charge such individuals for clearly unnecessary and useless legal “services”.
23. Such behavior of the part of Actis Law Group, and Ms. Andrea Grass, contravenes the Quebec Code of Professional Conduct of Lawyers, CQLR c B-1, r 3.1, and specifically articles 119, 120 and 129 thereof, extracts of which are contained in **Appendix “C”**.

Demand to Actis Law Group and Reply

24. Immediately after being advised of the existence of the Actis Website, Quebec Class Counsel, through Mr. Pierre Boivin, contacted Actis Law Group demanding *inter alia* that the Actis Website be removed immediately. A copy of this email sent on December 5, 2024 at 5:31 pm, together with an English translation thereof, is attached hereto as **Appendix “D”**.
25. The response of Ms. Andrea Grass on December 6, 2024, at 12:29 pm, is also included in Appendix “D”.
26. Although Ms. Grass “agreed” to take down the Actis Website “for the time being”, she stated that they may choose to republish at a future date, and failed to acknowledge the wrongdoing on her part in connection with her efforts to solicit Quebec Class Members. Her response also fails to address the harm already caused as a result of her actions.
27. On the contrary, Ms. Grass defends her actions, implying future communications to Tobacco-Victims (who she, tellingly, does not offer to cease communicating with) will continue, thereby perpetuating the damage already caused.
28. Moreover, despite having agreed to take down the Actis Website, at the time of execution of this Affidavit (December 8 at 3 p.m.), the Actis Website has still not been taken down.

29. Notably, this is not the first time that Ms. Andrea Grass has been involved in the improper solicitation of vulnerable class members already represented by other counsel.
30. In the judgment rendered in the case of *Moushoom v. Canada (Attorney General)*, 2022 FC 1212, attached as **Appendix “E”**, similar actions on the part of the firm Ms. Grass used to work at caused the Federal Court to issue the following order in order to protect class members:

THIS COURT ORDERS that:

- 1. no legal professionals, other than class counsel appointed by this Court, the Plaintiff, Assembly of First Nations, or the Court-appointed administrator, Deloitte LLP, shall publish a communication to class members relating to these class proceedings without the Court’s prior approval obtained on motion made on notice to the parties in these class proceedings; and*
- 2. the websites of the Consumer Law Group and any other such websites containing communications to class members relating to these class proceedings shall be removed upon service of this Order, pending the disposition by the Court of the Plaintiffs’ Motion for relief in the week of November 21, 2022, unless such communications are approved by the Court on motion made on notice to the parties in these class proceedings.*

The Right to Injunctive Relief.

31. Actis Law Group are attempting to pass themselves off as Quebec Class Counsel and are attempting to intentionally mislead Tobacco-Victims to sign up with them for useless “representation” services in exchange for a share of their compensation.
32. Actis Law Group has no right to mislead Tobacco-Victims in this manner into believing that they have had any involvement whatsoever in the Quebec Class Actions or the settlements under the CCAA Plans. Quebec Class Counsel are the only attorneys of record in the Quebec Class Actions and have been representing the Quebec Class Members since 1998 and throughout the CCAA Proceedings.
33. Quebec Class Members, and indeed all members of the public, have the right to not be misled by legal professionals, and must be protected from predatory practices which bring the profession into disrepute.
34. The relief requested by the QCAPs in the Motion is required in order to prevent serious and irreparable harm to Tobacco-Victims and the claims administration processes contemplated under the CCAA Plans.
35. The Actis Website and the communication to Quebec Class Members contained on that site constitute false and misleading attempts to lure individual victims to pay for legal services in order to participate in the distributions under the CCAA

Plans, when such process was specifically designed to not require individual claimants to pay any out of pocket costs for assistance.


- 36. As a result of such unlawful conduct, Quebec Class Members may be misled to sign up with Actis Law Group, instead of through the QCAP Website, thereby depriving them of receiving crucial communications concerning the Quebec Class Action and the Quebec Class Action Administration Plans.
- 37. Allowing this practice to continue would furthermore entice others to engage in similarly predatory behavior to the detriment of Tobacco-Victims.
- 38. Given the QCAPs' clear and apparent right, and the egregious conduct of Actis Law Group, the balance of inconvenience does not need to be considered. However, even if it was, it would clearly favour the protection of rights of vulnerable Tobacco-Victims to not be misled or exploited, over any purported right of a law firm to solicit clients in an unlawful and misleading manner.
- 39. Finally, the need for intervention is urgently required in order to prevent any additional Tobacco-Victims from being misled by the Actis Website.

AND I HAVE SIGNED:



André Lespérance

Solemnly declared before me at Montreal,
Province of Quebec, this 8th day of December 2024



Commissioner of Oaths for Quebec



**THIS IS APPENDIX "A"
TO THE AFFIDAVIT OF ANDRÉ LESPÉRANCE
(December 8, 2024)**

NOVEMBER 21, 2024 INFOLETTER TO THE QCAP MAILING LIST

**SWORN BEFORE ME BY VIDEOCONFERENCE
THIS 8th DAY OF DECEMBER 2024**

Bouthillette



Commissioner of Oaths for Quebec



Tobacco Class Action

Hello,

Did you know that? **You don't need a lawyer to file a claim.**

We have a team assisting class counsel to help you every step of the way.

If you have any questions, even of a legal nature, Proactio will contact class counsel to obtain the appropriate advice for you.

In addition, Proactio will have notaries on hand to answer any questions you may have about estates.

There is no cost to you for the advice of class counsel and notaries as well as the support of Proactio.

Stay tuned to our emails for more information and advice,

Yours sincerely,

Proactio for the Trudel Johnston & Lespérance team

Phone : 1 888 880-1844

Email : tabac@proactio.ca | Website : recourstabac.com

proactio

A service of
Raymond Chabot

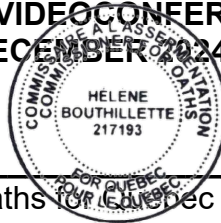
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**THIS IS APPENDIX "B"
TO THE AFFIDAVIT OF ANDRÉ LESPÉRANCE
(December 8, 2024)**

**PRINT-OUTS, IN ENGLISH AND FRENCH, FROM THE ACTIS WEBSITE ON
DECEMBER 7, 2024**

**SWORN BEFORE ME BY VIDEOCONFERENCE
THIS 8th DAY OF DECEMBER 2024**



Commissioner of Oaths for Quebec

Canadian Tobacco Class Action Settlement Representation



ACTIS LAW GROUP is representing persons who are smokers or former smokers of tobacco cigarettes.

There is a proposed settlement for persons who smoked cigarettes between January 1, 1950 and November 20, 1998 and who were diagnosed with either Lung Cancer, Throat Cancer or Emphysema/Chronic obstructive pulmonary disease (COPD).

Tobacco firms have agreed to pay \$32.5 billion in a proposed Canadian settlement.

If you are a surviving family member of someone who meets the above criteria, please register on their behalf.

The following brands of cigarettes are those at issue:

Accord
B&H
Belmont
Belvedere
Camel
Cameo
Craven "A"
Craven "M"
du Maurier
Dunhill
Export
LD
Macdonald
Mark Ten
Matinee
Medallion
More
North American Spirit
Number 7

Peter Jackson
Players
Rothmans
Vantage
Viscount
Winston
Accord KF
Avanti/Light
B&H 100 Del.UL.LT/MEN
B&H 100 F
B&H 100 F Menthol
B&H Light Menthol
B&H Lights
B&H Special KF
B&H Special Lights KF
Belmont KF
Belvedere Extra Mild
Cameo Extra Mild
Craven "A" Special
Craven "M" KF
Craven "M" Special
Craven "A" Light
Craven "A" Ultra Light/Mild
du Maurier Extra Light
du Maurier Light
du Maurier Special
du Maurier Ultra Light
Dunhill KF
Export "A"
Export "A" Lights
Export "A" Medium
Export "A" Extra Light
Export "A" Special Edition
Export "A" Ultra Light
Export Mild
Export Plain
John Player's Special
Macdonald Menthol
Mark Ten Filter
Matinee Extra Mild
Matinee Slims/Menthol
Matinee Special/Menthol
Number 7 Lights
Peter Jackson Extra Light KF
Player's Extra Light
Player's Filter
Player's Light
Player's Medium
Player's Plain
Rothmans Extra Light
Rothmans KF
Rothmans Light
Rothmans Special
Rothmans UL LT KF
Select Special/Ultra Mild/Menthol
Vantage KF

Vantage Light/Menthol
 Viscount #1 KF
 Viscount Extra Mild/Menthol

Join for legal representation.

IF YOU WOULD LIKE TO PARTICIPATE IN THE CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW. Please note that providing your information does not create any financial obligation for you. There are no fees or costs associated with joining this class action. Our law firm operates on a contingency fee basis, meaning that we receive payment only if the class action is successful. All information transmitted is confidential and Actis Law Group will protect it against unauthorized use, publication or disclosure.

IMPORTANT: Click the « Follow » button to get important updates on this Class Action.

fb @ActisLaw < <https://www.facebook.com/actislaw>>

Like 7

Follow @ActisLaw

TO JOIN THIS CLASS ACTION OR TO SIMPLY GET MORE INFORMATION, PLEASE COMPLETE THE FORM BELOW.

First Name*

Last Name*

Email*

Address

City

Province*

Country

Postal Code

Telephone

Please describe your damages

You agree to receive email from actislaw.org and have accepted our Terms & Conditions.

Please note that providing your information creates no financial obligation for you. You are not charged any fee or cost for joining this class action. Our law firm is paid a contingency fee from the compensation recovered, only if the class action is successful. All information contained in this transmission is confidential and Actis Law Group agrees to protect this information against unauthorized use, publication or disclosure.

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SUBMIT



Providing your information does not create any financial obligation for you. There are no fees or costs associated with joining this class action. Our law firm operates on a contingency fee basis, meaning that we receive payment only if the class action is successful. All information transmitted is confidential and Actis Law Group will protect it against unauthorized use, publication or disclosure.

Actis Law Group – Class Actions
500 Place d'Armes, Suite 1800
Montreal, Quebec
H2Y 2W2
T: 514-495-5249
info@actislaw.org
actislaw.org

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Représentation au règlement canadien de l'actions collectives sur le tabac



GROUPE DE DROIT ACTIS représente des personnes qui sont des fumeurs ou d'anciens fumeurs de cigarettes de tabac.

Une proposition de règlement concerne les personnes qui ont fumé des cigarettes entre le 1er janvier 1950 et le 20 novembre 1998 et qui ont été diagnostiquées avec un cancer du poumon, un cancer de la gorge ou un emphysème/une maladie pulmonaire obstructive chronique (MPOC).

Les fabricants de tabac ont accepté de payer 32,5 milliards de dollars dans le cadre d'une proposition de règlement au Canada.

Si vous êtes un membre survivant de la famille d'une personne répondant aux critères ci-dessus, vous veuillez vous inscrire aussi.

Les marques de cigarettes suivantes sont celles qui sont en cause :

Accord
B&H
Belmont
Belvedere
Camel
Cameo
Craven « A »
Craven « M »
Du Maurier
Dunhill
Export
LD
Macdonald
Mark Ten
Matinée
Medallion

More
North American Spirit
Number 7
Peter Jackson
Player's
Rothmans
Vantage
Viscount
Winston
Accord KF
Avanti/Légère
B&H 100 Del.UL.LT/MEN
B&H 100 F
B&H 100 F Menthol
B&H Légère Menthol
B&H Légères
B&H Special KF
B&H Spéciale Légères KF
Belmont KF
Belvedere Extra Douce
Cameo Extra Douce
Craven « A » Spéciale
Craven « M » KF
Craven « M » Spéciale
Craven « A » Légère
Craven « A » Ultra Légère/Douce
du Maurier Ultra Légère
du Maurier Légère
du Maurier Spéciale
du Maurier Ultra Légère
Dunhill KF
Export « A »
Export « A » Lights
Export « A » Medium
Export « A » Extra Légère
Export « A » Édition Spéciale
Export « A » Ultra Légère
Export Douce
Export Pleine
John Player's Spéciale
Macdonald Menthol
Mark Ten Filtre
Matinée Extra Douce
Matinée Slims/Menthol
Matinée Spéciale/Menthol
Number 7 Légères
Peter Jackson Extra Légère KF
Player's Extra Légère
Player's Filtre
Player's Légère
Player's Medium
Player's Pleine
Rothmans Extra Légère
Rothmans KF
Rothmans Légère
Rothmans Spéciale
Rothmans UL LT KF
Select Spéciale/Ultra Douce/Menthol

Vantage KF
Vantage Légère/Menthol
Viscomte #1 KF
Viscount Extra Douce/Menthol

Rejoignez-nous pour bénéficier d'une représentation juridique.

SI VOUS SOUHAITEZ PARTICIPER À CETTE ACTION COLLECTIVE OU TOUT SIMPLEMENT OBTENIR PLUS D'INFORMATIONS, VEUILLEZ COMPLÉTER LE FORMULAIRE CI-DESSOUS. Veuillez noter que la communication de vos coordonnées n'entraîne aucune obligation financière pour vous. Il n'y a pas de frais ou de coûts associés à la participation à cette action collective. Notre cabinet d'avocats travaille sur la base d'honoraires conditionnels, ce qui signifie que nous ne sommes payés que si l'action collective est couronnée de succès. Toutes les informations transmises sont confidentielles et Actis Law Group les protégera contre toute utilisation, publication ou divulgation non autorisée.

IMPORTANT : Cliquez sur le bouton « Suivre » pour obtenir des mises à jour importantes sur cette action collective sur vos medias sociaux.

fb @ActisLaw < <https://www.facebook.com/actislaw> >

Like 7

Suivre @ActisLaw

POUR VOUS JOINDRE À CETTE ACTION COLLECTIVE OU TOUT SIMPLEMENT POUR EN SAVOIR PLUS, S'IL VOUS PLAÎT REMPLISSEZ LE FORMULAIRE CI-DESSOUS.

Prénom*

Nom de famille*

Courriel*

Adresse

Ville

Province*

Pays

Code postale

Telephone

Please describe your damages

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La communication de vos coordonnées n'entraîne aucune obligation financière pour vous. Il n'y a pas de frais ou de coûts associés à la participation à cette action collective. Notre cabinet d'avocats travaille sur la base d'honoraires conditionnels, ce qui signifie que nous ne sommes payés que si l'action collective est couronnée de succès. Toutes les informations transmises sont confidentielles et Groupe de droit Actis les protégera contre toute utilisation, publication ou divulgation non autorisée.

Groupe de droit Actis – Actions Collectives
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H2Y 2W2
T: 514-495-5249
info@actislaw.org
actislaw.org

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**THIS IS APPENDIX "C"
TO THE AFFIDAVIT OF ANDRÉ LESPÉRANCE
(December 8, 2024)**

**EXTRACT OF THE PROFESSIONAL CONDUCT OF LAWYERS, CQLR C B-1, R 3.1,
- ARTICLES 119, 120 AND 129**

**SWORN BEFORE ME BY VIDEOCONFERENCE
THIS 8th DAY OF DECEMBER 2024**

H. Bouthillette



Commissioner of Oaths for Quebec

Updated to 1 August 2024

chapter B-1, r. 3.1

Code of Professional Conduct of Lawyers

Act respecting the Barreau du Québec

(chapter B-1, s. 4).

Professional Code

(chapter C-26, ss. 87 and 89).

PREAMBLE

WHEREAS a lawyer is a servant of justice;

WHEREAS the practice of the profession of lawyer is based on the following values and principles which a lawyer must take into consideration in all circumstances:

- (1) compliance with legal provisions and preservation of the rule of law;
- (2) access to justice;
- (3) respect for individuals and protection of their fundamental rights, including the right to be free from discrimination and harassment;
- (4) integrity, independence and competence;
- (5) loyalty to clients as well as protection of their legitimate interests and the confidentiality of information concerning them;
- (6) collaboration in the sound administration of justice and support for the authority of the courts;
- (7) respect for the honour and dignity of the profession;
- (8) respect for members of the profession as well as all other persons with whom the lawyer collaborates when engaging in his professional activities; and
- (9) consideration for the social context within which the law evolves.

O.C. 129-2015, preamble.

TITLE I

PRELIMINARY PROVISIONS

1. This code sets out general and specific duties a lawyer owes to the public, to clients, to the administration of justice and to the profession.

O.C. 129-2015, s. 1.

2. This code applies to every lawyer, regardless of the manner in which he engages in his professional activities. This code also applies, with the necessary modifications, to every lawyer acting in respect of a recourse or dispute that concerns him personally.

It applies in addition to any other rule of professional conduct related to the exercise, by the lawyer, of any other activity, in particular, a job, a function, an office or the operation of an enterprise.

This code does not apply to acts performed by a lawyer who is a member of an administrative tribunal while exercising an adjudicative function conferred by statute.

O.C. 129-2015, s. 2.

3. In this code:

(1) “client” includes any person or organization, as the case may be, to whom the lawyer renders or undertakes to render professional services; this term also means a person who consults a lawyer and has reasonable grounds to believe that a lawyer-client relationship exists;

(2) “firm” includes any person who engages in his professional activities or any group of persons comprised of several lawyers or of at least one lawyer and one other professional referred to in the Professional Code ([chapter C-26](#)) or a person referred to in Schedule A of the Regulation respecting the practice of the profession of advocate within a limited liability partnership or joint-stock company and in multidisciplinaryity ([chapter B-1, r. 9](#)) who engage in their professional activities together or represent themselves as doing so;

(3) “mandate” includes any contract pursuant to which a lawyer acts on behalf of a client;

(4) “tribunal” includes a court of justice as well as any person or other body that exercises an adjudicative function.

O.C. 129-2015, s. 3; O.C. 1102-2020, s. 1.

TITLE II

RULES OF PROFESSIONAL CONDUCT

CHAPTER I

GENERAL DUTIES

DIVISION I

GENERAL RULES

4. A lawyer must act with honour, dignity, integrity, respect, moderation and courtesy.

O.C. 129-2015, s. 4.

4.1. When engaging in his professional activities, a lawyer refrains from any discrimination based on a ground mentioned in section 10 of the Charter of human rights and freedoms ([chapter C-12](#)) or from any form of harassment.

O.C. 1102-2020, s. 2.

5. A lawyer must take reasonable measures to ensure that every person who collaborates with him when he engages in his professional activities and, where applicable, every firm within which he engages in such activities, complies with the Act respecting the Barreau du Québec (chapter B-1), the Professional Code (chapter C-26) and the regulations adopted thereunder.

O.C. 129-2015, s. 112.

113. A lawyer must cooperate with all participants in the justice system so as to ensure the sound administration of justice.

He must act in accordance with the requirements of good faith and avoid all purely dilatory procedures, including resorting to a procedure with the sole purpose of harming another person.

O.C. 129-2015, s. 113.

DIVISION II

DUTIES TO THE TRIBUNAL

114. When a lawyer's presence is required, he must attend or be represented before the tribunal, unless he is prevented from doing so for reasons beyond his control. He must give the earliest possible notice thereof to his client, the tribunal and the parties concerned.

O.C. 129-2015, s. 114.

115. A lawyer must not encourage a client, witness or other person to do or say anything which he could not do or say himself in respect of a judge, tribunal, member of a tribunal or any other participant in the justice system.

O.C. 129-2015, s. 115.

116. A lawyer must not mislead or attempt to mislead the tribunal.

O.C. 129-2015, s. 116.

117. A lawyer must not suppress evidence which he or the client is obliged to preserve, disclose or produce, or participate in the fabrication of evidence he should know is false.

Moreover, he must not directly or indirectly unduly retain, steal, conceal, falsify, mutilate or destroy an exhibit from the record of a tribunal or an item of evidence.

O.C. 129-2015, s. 117.

118. A lawyer must not, directly or indirectly, act in such a manner that allows a person to avoid a tribunal's order.

O.C. 129-2015, s. 118.

DIVISION III

DUTIES TO A PARTY OR THE PARTY'S LAWYER

119. A lawyer must not act in such a manner as to mislead a party or the party's lawyer, or in such a manner as to abuse their good faith.

O.C. 129-2015, s. 119.

120. A lawyer must not communicate in a matter with a person whom he knows to be represented by a lawyer, except in the presence or with the consent of that lawyer or unless he is authorized to do so by law. In the event of an unsolicited or accidental communication, the

lawyer must promptly inform the person's lawyer of the circumstances and content of the communication.

Subject to the first paragraph, a lawyer may seek information from any potential witness, but he must disclose the interests of the person for whom he is acting.

O.C. 129-2015, s. 120.

121. When a lawyer acts in a case pending before a tribunal, he must not communicate directly as regards the case, outside the tribunal, with the judge or a member of the tribunal, except:

(1) in writing, if he promptly gives a copy to the opposite party filing the summons or an answer to the summons, or to his lawyer; or

(2) orally, after having given reasonable notice to the opposite party filing the summons or an answer to the summons, or to his lawyer.

O.C. 129-2015, s. 121; I.N. 2016-01-01 (NCCP).

DIVISION IV **DUTIES REGARDING WITNESSES**

122. A lawyer must not knowingly permit a witness or party to present himself in a false or misleading manner or to impersonate another person.

O.C. 129-2015, s. 122.

123. A lawyer must not, directly or indirectly, pay or offer to pay compensation to a witness or offer the witness any other benefit which is conditional upon the content of his testimony or the outcome of the matter.

However, a lawyer may agree to pay:

(1) reasonable expenses incurred by a witness to appear or testify;

(2) reasonable compensation to a witness for loss of time in appearing or testifying; or

(3) reasonable fees for the professional services of an expert witness.

O.C. 129-2015, s. 123.

DIVISION V **DUTIES REGARDING MEMBERS OF A JURY PANEL OR JURORS**

124. A lawyer who acts in a criminal matter must not, before the trial, communicate with or cause another person to communicate with anyone that the lawyer knows to be on the jury panel for that trial.

O.C. 129-2015, s. 124.

125. The lawyer must promptly disclose to the judge or the lawyer of the other party any information to the effect that a juror or a person on a jury panel:

(1) has or may have an interest in the outcome of the case;

(2) knows or is connected in any manner with the presiding judge, any of the lawyers or any of the parties; or

(3) knows or is connected in any manner with any person who has appeared or is expected to appear as a witness.

O.C. 129-2015, s. 125.

126. A lawyer must promptly disclose to the tribunal any information that the lawyer believes reveals misconduct by a member of a jury panel or by a juror.

O.C. 129-2015, s. 126.

127. Except as permitted by law, a lawyer who acts in a matter must not communicate with or cause another person to communicate with any member of the jury during the trial.

O.C. 129-2015, s. 127.

128. A lawyer must not have any discussion after trial with a member of the jury about its deliberations.

O.C. 129-2015, s. 128.

CHAPTER IV

DUTIES TO THE PROFESSION

DIVISION I

GENERAL RULES

129. A lawyer must contribute to preserving the honour, dignity and reputation of his profession and to maintaining the public's confidence in the profession.

O.C. 129-2015, s. 129.

130. A lawyer must, to the extent it is possible for him, contribute to the development of education and information for the public relating to the field in which he practises.

O.C. 129-2015, s. 130.

131. A lawyer must, to the extent it is possible for him, assist in the development of his profession through the exchange of his knowledge and experience with other lawyers, students and articling students and through his participation in courses and professional training periods.

O.C. 129-2015, s. 131.

132. A lawyer must collaborate with other lawyers in the interests of clients and the sound administration of justice.

He must therefore avoid any unfair practice or any conduct towards another lawyer which could abuse the other lawyer's good faith or trust. He must also avoid criticizing, in an unrestrained or unfounded manner, his competence or conduct, the quality of his services or his fees.

O.C. 129-2015, s. 132.

**THIS IS APPENDIX "D"
TO THE AFFIDAVIT OF ANDRÉ LESPÉRANCE
(December 8, 2024)**

**EMAIL FROM MR. PIERRE BOIVIN TO MS. ANDREA GRASS ON DECEMBER 5,
2024 AT 5:31 PM, TOGETHER WITH AN ENGLISH TRANSLATION THEREOF AND
THE RESPONSE FROM MS GRASS ON DECEMBER 6, 2024 AT 12:29 PM.**

**SWORN BEFORE ME BY VIDEO CONFERENCE
THIS 8th DAY OF DECEMBER 2024**

H. Bouthillette



Commissioner of Oaths for Quebec

De : Andrea Grass <agress@actislaw.org>

Envoyé : Friday, December 6, 2024 12:29:06 PM

À : Pierre Boivin <Pboivin@kklex.com>

Cc : André Lespérance <andre@tjl.quebec>; Gordon Kugler <Gkugler@kklex.com>

Objet : RE: Mise en demeure : Rlement canadien de l'action collective sur le tabac

****Courriel de l'externe****

Dear Colleague,

Receipt is acknowledged of your email of yesterday at 5:31 pm.

There is indeed a website entitled "Canadian Tobacco Class Action Settlement Representation" where potential Class Members can choose to engage Actis Law Group for representation in the Settlement. While some standard language on the website could be clearer, it is a legitimate offering.

From past experience, we know that a lot of people value representation and need it, particularly so in cases where documentation is required, such as the present one. If the approved Settlement Agreement proves that there is no need for representation, we will simply direct eligible individuals to the claims website. In addition, we will tell them that our services are not required so that they can have the option to submit their claims on their own.

We do not believe that anything illegal has occurred. It is entirely lawful for Class Members to choose representation, and it's unclear why this has caused concern on your part. Perhaps, it is related to my prior involvement with the First Nations matter in which my terminated association with CLG had been offering representation.

That matter was distinct, involving vulnerable individuals with many mechanisms in place to help them with their claims. Unless legal help is also included in the present matter, there is no reason why Class Members in this case cannot legitimately choose to be represented by counsel of their choice in the context of the settlement.

I suspect that your email stems from a misunderstanding, as there is no urgency or justification for your document demands within such a short time frame. Though I confirm that no documents exist as this was simply an early step to gauge interest in legal representation, which is, of course, a fundamental right.

In the spirit of maintaining good relations with Kugler Kandestin and, as a good faith measure, I will have the webpage taken down for the time being, though it may not be possible within your 3.5-hour business day window due to the need for third-party action. I will confirm its removal by the end of the business day on Monday, December 9, 2024 (though it could be before). However, we may choose to re-publish our webpage at a future date.

Rest assured; no harm has come to any Class Member as a result of Actis Law Group's offer, instead we have provided valuable information regarding the Settlement and eligibility.

Lastly, your reference to "recidivism" was inappropriate. It implies the First Nations case situation was illegal, which it was not, and it suggests something unlawful is happening now, which is also not the case.

Yours truly,

Andrea

Andrea Grass, B.C.L., LL.B., Esq., BComm

Attorney • Avocate

agress@actislaw.org

Actis

Actis Law Group - Class Actions

Groupe de droit Actis – Actions collectives

500 Place d'Armes, Suite 1800

Montreal, Quebec

H2Y 2W2

T: [514-495-5249](tel:514-495-5249) x945

actislaw.org

This e-mail may contain confidential or privileged information. If you are not the intended recipient, please notify us immediately. Thank you.
Ce courriel pourrait contenir des renseignements confidentiels ou privilégiés. Si vous n'êtes pas le véritable destinataire, veuillez nous en aviser immédiatement. Merci.

From: Pierre Boivin <Pboivin@kklex.com>
Sent: December 5, 2024 5:31 PM
To: Andrea Grass <agrass@actislaw.org>
Cc: André Lespérance <andre@tjl.quebec>; Gordon Kugler <Gkugler@kklex.com>
Subject: Mise en demeure : Rlement canadien de l'action collective sur le tabac

Me Grass,

Nous représentons les membres des actions collectives visant « *les personnes qui ont fumé des cigarettes entre le 1er janvier 1950 et le 20 novembre 1998 et qui ont été diagnostiquées avec un cancer du poumon, un cancer de la gorge ou un emphysème/une maladie pulmonaire obstructive chronique (MPOC)* » (ci-après les « **Membres** »).

Nous sommes informés que GROUPE DE DROIT ACTIS héberge une page Web incitant les Membres à s'inscrire auprès d'elle pour se « *joindre à cette action collective* » :

<https://actislaw.org/class-actions/canadian-tobacco-class-action-settlement-representation>

Cette sollicitation est clairement illégale et vous êtes par les présentes mise en demeure de retirer cette page (dans sa version française et anglaise) et de vous abstenir de faire toute sollicitation auprès des Membres et ce, de quelques manières que ce soit, le tout, d'ici demain, le 6 décembre 2024, à 12h30 à défaut de quoi, nous prendrons toutes les mesures légales appropriées sans autre avis ni délai pour que cette sollicitation totalement illégale - et qui cause un tort irréparable aux Membres – ne cesse.

Nous requérons également que vous nous fassiez parvenir, dans ce même délai, tous les documents et informations que votre firme a obtenu des Membres suite à cette sollicitation illégale, en plus de nous confirmer n'en avoir gardé aucune copie.

Ce procédé de la part de votre firme n'est pas sans rappeler ce qui avait été tenté sans succès dans le dossier des Premières Nations et qui a fait l'objet d'une Ordonnance d'injonction intérimaire (ci-jointe), puis permanente. Vous vous rappellerez sans aucun doute qu'au paragraphe 3 du "INTERIM ORDER AND REASONS" rendu par l'honorable juge McDonald de la Cour Fédérale, il est mentionné que « CLG was served with the Motion and filed an Affidavit of Andrea Grass sworn on August 16, 2022. CLG also filed a letter dated August 16, 2022, agreeing to the interim Order. ».

Ceci rend d'autant plus inacceptable la présente sollicitation de la part de votre firme qui s'apparente à une récidive, rendant la chose encore plus aggravante de votre part.

VEUILLEZ-VOUS GOUVERNER EN CONSÉQUENCE

Pierre Boivin

Associé / Partner
514-878-2861 ext. 103
Ou 514-360-8881
pboivin@kklex.com

KuglerKandestin

Kugler Kandestin S.E.N.C.R.L. / LLP
Avocats • Lawyers
1, Place Ville-Marie, Suite 1170
Montréal, QC H3B 2A7
Canada
Tél. : 514-878-2861
Fax : 514-875-8424
www.kklex.com

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Actis KuglerKandestin

Translation of Notice sent to Me Andrea Grass by Me Pierre Boivin of Kugler Kandestin LLP

December 5, 2024 @5:31 pm

Me Grass,

We represent the members of the class actions involving “persons who smoked cigarettes between January 1, 1950, and November 20, 1998 and who were diagnosed with lung cancer, throat cancer or emphysema/chronic obstructive pulmonary disease (COPD)” (hereafter, the “Members”).

We are advised that ACTIS LAW GROUP hosts a web page inciting Members to register with it to “join this class action”.

[LINK HERE]

This solicitation is clearly illegal and you are hereby put on notice to withdraw or remove this page (in its French and English version) and refrain from all solicitation of the Members in any manner whatsoever, the whole by tomorrow, December 6, 2024 at 12:30 pm, failing which we will take all appropriate legal means without further notice or delay to for this completely illegal solicitation-which causes irreparable harm to Members-to cease.

We also require that you send us, within the same delay, all documents and information that your firm has obtained from Members following the illegal solicitation, and further confirm that you’ve kept no copies of same.

This manner of proceeding on the part of your firm is reminiscent of what had been attempted without success in the First Nations file which was the subject of an Interim (attached), and then Permanent Order. You will no doubt recall that at paragraph 3 of the “INTERIM ORDER AND REASONS” rendered by the Honorable Justice McDonald of the Federal Court, it is mentioned that “CLG was served with the Motion and filed an Affidavit of Andrea Grass sworn on August 16, 2022. CLG also filed a letter dated August 16, 2022, agreeing to the interim Order.”

This makes the current solicitation by your firm, which amounts to a repeat offence, all the more unacceptable, rendering the whole especially aggravating on your part.

DO GOVERN YOURSELVES ACCORDINGLY.

**THIS IS APPENDIX "E"
TO THE AFFIDAVIT OF ANDRÉ LESPÉRANCE
(December 8, 2024)**

MOUSHOOM V. CANADA (ATTORNEY GENERAL), 2022 FC 1212

**SWORN BEFORE ME BY VIDEO CONFERENCE
THIS 8th DAY OF DECEMBER 2024**

H. Bouthillette



Commissioner of Oaths for Quebec

Federal Court



Cour fédérale

Date: 20220818

Docket: T-402-19

T-141-20

T-1120-21

Citation: 2022 FC 1212

Ottawa, Ontario, August 18, 2022

PRESENT: Madam Justice McDonald

CLASS PROCEEDINGS

Docket: T-402-19

BETWEEN:

**XAVIER MOUSHOOM, JEREMY MEAWASIGE (by his
litigation guardian, Jonavon Joseph Meawasige),
JONAVON JOSEPH MEAWASIGE**

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

Docket: T-141-20

BETWEEN:

**ASSEMBLY OF FIRST NATIONS,
ASHLEY DAWN LOUISE BACH,**

**KAREN OSACHOFF, MELISSA WALTERSON,
NOAH BUFFALO-JACKSON by his Litigation
Guardian, Carolyn Buffalo, CAROLYN BUFFALO, and
DICK EUGENE JACKSON also known as
RICHARD JACKSON**

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

Docket: T-1120-21

BETWEEN:

**ASSEMBLY OF FIRST NATIONS and
ZACHEUS JOSEPH TROUT**

Plaintiffs

and

THE ATTORNEY GENERAL OF CANADA

Defendant

INTERIM ORDER AND REASONS

[1] On this Motion, filed August 15, 2022, the Plaintiffs seek an interim Order against non-parties as follows:

- (i) an interim and interlocutory Order that no legal professionals, other than class counsel appointed by this Court, the Plaintiff Assembly of First Nations [AFN], or the Court-appointed administrator, Deloitte LLP, publish a communication to class members relating to these class proceedings without the Court's prior approval obtained on motion made on notice to the parties in these class proceedings; and
- (ii) an interim and interlocutory Order that the websites of the Consumer Law Group [CLG] and any other such websites containing communications to class members relating to these class proceedings be removed upon service of the Court's Order herein, pending the disposition by the Court of the Plaintiffs' Motion for relief in the week of November 21, 2022, unless such communications are approved by the Court on motion made on notice to the parties in these class proceedings.

[2] In support of their Motion, the Plaintiffs filed the following Affidavits:

- a. Affidavit of Janice Ciavaglia affirmed on August 15, 2022;
- b. Affidavits of Wenxin Yu affirmed on August 15, 2022;
- c. Affidavit of Kenneth Dennis Brady Dixon sworn on August 11, 2022; and
- d. Affidavit of Kim Blanchette sworn on August 15, 2022.

[3] CLG was served with the Motion and filed an Affidavit of Andrea Grass sworn on August 16, 2022. CLG also filed a letter dated August 16, 2022, agreeing to the interim Order.

I. Background

[4] By way of brief background, the underlying class proceedings relate to harms caused by the discriminatory provision of child and family services and essential services to First Nations' children. The class members are children and young adults who have experienced homelessness, substance misuse, disabilities, and encounters with the criminal justice system. The First Nations class members are described by AFN as "some of the most vulnerable individuals in Canadian society".

[5] The parties reached a Final Settlement Agreement (FSA) on June 30, 2022, which, if approved by the Court, will provide \$20 billion in compensation to the class members. The Court approval hearing for the FSA is scheduled for September 19, 2022.

[6] In advance of the FSA approval hearing, the Court approved the Notice Plan developed by class counsel to provide class members with detailed information relating to the FSA. This Notice is expected to be published by August 19, 2022.

[7] In the meantime, and prior to the FSA receiving Court approval, CLG, who are not class counsel and who have had no involvement in these proceedings, put information on two websites about the "settlement" and invited class members to "Join this Class Action". Their websites offer contingency fee retainers and request that class members provide personal information - including information about "damages or symptoms experienced".

[8] The Plaintiffs assert the CLG website communications contain misleading information about the class action, the potential settlement agreement, and the prospective claims process. On the CLG websites, there is no reference to or identification of class counsel. Further, the Plaintiffs allege the solicitation of retainer agreements and the request for information about damages or symptoms from class members is exploitative, re-traumatizing, and contrary to the various safeguards built into the FSA and the Notice Plan.

[9] At the hearing of this Motion, legal counsel for CLG confirmed the information relating to these class proceedings has been removed from their websites. A hearing to determine the extent to which non-class counsel may communicate and engage with class members regarding the claims process is set for November 21, 2022. In advance of that hearing, CLG advised the Court that it does not object to the interim Order sought by the Plaintiffs.

II. Issue

[10] The only issue is whether the Court should exercise its discretion and grant the interim Order.

III. Analysis

[11] The relief sought by the Plaintiffs falls within the Court's plenary jurisdiction to manage its own proceedings (*Dugré v Canada (Attorney General)*, 2021 FCA 8 at para 20).

[12] Furthermore, as noted in *Federal Courts Rules*, SOR/98-106, Rule 385(1)(a):

<p>Unless the Court directs otherwise, a case management judge or a prothonotary assigned under paragraph 383(c) shall deal with all matters that arise prior to the trial or hearing of a specially managed proceeding and may</p>	<p>Sauf directives contraires de la Cour, le juge responsable de la gestion de l’instance ou le protonotaire visé à l’alinéa 383c) tranche toutes les questions qui sont soulevées avant l’instruction de l’instance à gestion spéciale et peut :</p>
<p>(a) give any directions or make any orders that are necessary for the just, most expeditious and least expensive outcome of the proceeding;</p>	<p>a) donner toute directive ou rendre toute ordonnance nécessaires pour permettre d’apporter une solution au litige qui soit juste et la plus expéditive et économique possible;</p>

[13] The Affidavit of Janice Ciavaglia, the Chief Executive Officer of the AFN, speaks to how First Nations individuals have been exploited and re-traumatized in other class action settlements, such as the Indian Residential Schools Settlement Agreement (IRSSA). She states as follows at paragraphs 15 and 17 of her Affidavit:

15. The AFN and its class counsel have gone to great lengths to ensure that the claims process for this proposed settlement will minimize the risk of re-traumatization to complainants, be as accessible as possible and will not require lawyers to successfully submit a claim. There is no individualized assessment that requires a narrative-form explanation of the claimant’s circumstances or the harm suffered in order to establish an entitlement to compensation. Any additional compensation amounts are based upon objective factors. The settlement is designed in accordance with the lessons learned from the IRSSA compensation process, which were documented in a report from the National Centre for Truth and Reconciliation...

...

17. Thus, the Parties to the proposed settlement agreement negotiated a crucial component through the appointment of “navigators” which are to be funded by Canada. Navigators will offer community-based, culturally competent support in order to

assist claims members fill out the required documentation and submit a complete claim. This service will not cost anything to the Claimants and no portion of their compensation award will be affected. The involvement of lawyers foreign to the settlement and First Nations communities, acting as “form fillers” is unacceptable to the AFN and raises a serious risk of re-traumatization and revictimization. It may also dissuade some class members from engaging with the claims process at all, as a result of First Nations individuals’ past experiences and the legacy of the IRSSA implementation process.

[14] The issues that arose in other First Nations class action settlements are discussed in more detail in *Fontaine Estate v Canada*, [2014] MJ No 159 and *Fontaine v Canada (Attorney General)*, 2016 ONSC 5359.

[15] With respect to accuracy and reliability of the information on the CLG website, the Affidavit of Kenneth Dennis Brady Dixon is telling. Mr. Dixon is First Nations and states he was aware of the class proceedings and had contacted class counsel to discuss the case. However, when he saw the CLG advertisement, he believed this was how the compensation was being provided and that he needed to sign the CLG retainer in order to claim compensation. When his brother told him the retainer stated CLG would charge 25% of the compensation, he contacted class counsel again, only then learning that CLG was not associated with the class action.

[16] The Notice Plan provides as follows:

...The plan is designed to notify the class members of certification and the settlement approval hearing in a trauma-informed and culturally sensitive manner, and to provide them with the opportunity to see, read, or hear the notice of certification and settlement approval hearing, understand their rights, and respond if they so choose...

The notice plan seeks a proportionate, multi-faceted, culturally appropriate, relevant and trauma-informed approach to notice dissemination... [Footnotes omitted.]

[17] In keeping with the objectives of the Notice Plan, it is vital that the details of the proposed FSA are sensitively and accurately communicated to the members of the class. This will allow class members to make informed decisions about their rights and the claims process. Importantly, class members will be advised that they will not need to retain legal counsel in order to advance a claim.

[18] Therefore, until the Notice Plan has been communicated to class members, allowing non-class legal counsel to provide information on the proposed FSA in a manner that is outside the Court's purview poses a serious risk to the class proceedings.

[19] Based upon the foregoing and considering the applicable legal test from *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 (as cited in *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at para 25 [*Equustek*]), I am satisfied that:

- a. there is a serious issue to be tried considering the history of predatory activity on First Nations class action settlements;
- b. the class members will suffer irreparable harm if the Notice Plan is not communicated in a culturally sensitive and trauma-informed manner; and
- c. the balance of convenience favours granting the relief.

[20] Accordingly, in my view, it is just and equitable in the circumstances to exercise the Court's jurisdiction and grant the injunctive relief sought against non-parties (*Equustek* at para 28).

IV. Conclusion

[21] The Plaintiffs' Motion is granted.

INTERIM ORDER IN T-402-19, T-141-20, AND T-1120-21

THIS COURT ORDERS that:

1. no legal professionals, other than class counsel appointed by this Court, the Plaintiff, Assembly of First Nations, or the Court-appointed administrator, Deloitte LLP, shall publish a communication to class members relating to these class proceedings without the Court's prior approval obtained on motion made on notice to the parties in these class proceedings; and
2. the websites of the Consumer Law Group and any other such websites containing communications to class members relating to these class proceedings shall be removed upon service of this Order, pending the disposition by the Court of the Plaintiffs' Motion for relief in the week of November 21, 2022, unless such communications are approved by the Court on motion made on notice to the parties in these class proceedings.

"Ann Marie McDonald"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-402-19

STYLE OF CAUSE: XAVIER MOUSHOOM, JEREMY MEAWASIGE (by his litigation guardian, Jonavon Joseph Meawasige), JONAVON JOSEPH MEAWASIGE v THE ATTORNEY GENERAL OF CANADA

DOCKET: T-141-20

STYLE OF CAUSE: ASSEMBLY OF FIRST NATIONS, ASHLEY DAWN LOUISE BACH, KAREN OSACHOFF, MELISSA WALTERSON, NOAH BUFFALO-JACKSON by his Litigation Guardian, Carolyn Buffalo, CAROLYN BUFFALO, and DICK EUGENE JACKSON also known as RICHARD JACKSON v THE ATTORNEY GENERAL OF CANADA

DOCKET: T-1120-21

STYLE OF CAUSE: ASSEMBLY OF FIRST NATIONS and ZACHEUS JOSEPH TROUT v THE ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: HELD BY VIDEOCONFERENCE

DATE OF HEARING: AUGUST 17, 2022

ORDER AND REASONS: MCDONALD J.

DATED: AUGUST 18, 2022

APPEARANCES:

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Mohsen Seddigh
Robert Kugler

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D. Geoffrey Cowper, Q.C.
Dianne G. Corbiere
Peter N. Mantas

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Karen Osachoff, Melissa Walterson, Noah Buffalo-
Jackson by his Litigation Guardian, Carolyn Buffalo,
Carolyn Buffalo, and Dick Eugene Jackson also known
as Richard Jackson

Jeff Orenstein

FOR THE RESPONDENT

Jonathan Tarlton

FOR THE DEFENDANT

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Attorney General of Canada
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FOR THE DEFENDANT

Court File No. CV-19-615862-00CL
Court File No. CV-19-616077-00CL
Court File No. CV-19-616779-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) [●], the [●] day
) of [●], 2024
CHIEF JUSTICE MORAWETZ)

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **JTI-MACDONALD CORP.**

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **IMPERIAL TOBACCO CANADA LIMITED**
AND **IMPERIAL TOBACCO COMPANY LIMITED**

AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF **ROTHMANS, BENSON & HEDGES INC.**

ORDER GRANTING INTERLOCUTORY INJUNCTIVE RELIEF

THIS MOTION made by Quebec Class Action Plaintiffs pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for injunctive relief against Actis Law Group and Ms. Andrea Grass (collectively, "**Actis Law Group**") was made this day in Toronto, Ontario.

ON READING the QCAPs' Notice of Motion, the Affidavit of André Lespérance dated December 8, 2024 (the "**Lespérance Affidavit**"), together with the exhibits thereto, and on hearing the submissions of Quebec Class Counsel and other such counsel requesting

to be heard, all other parties having been duly served with the Motion Record as appears from the Affidavit of Service of Helene Bouthillette sworn December 8, 2024;

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms used herein, unless herein otherwise defined, shall have the meanings ascribed to them in the Lespérance Affidavit and the CCAA Plans;

3. **THIS COURT ORDERS** that the request for interlocutory injunctive relief is justified, QCAPs having shown a clear right to the relief sought, that serious and irreparable harm will result if the order is not granted, that the balance of inconvenience weighs in their favour and that the requested relief is urgent;

4. **THIS COURT ORDERS** that the interlocutory injunctive relief granted hereunder shall remain in effect until the Sanction Order is rendered or until any such later date if this Order is thereafter extended or made permanent.

5. **THIS COURT ORDERS** that Actis Law Group shall immediately take down and remove:

- a. the web-pages entitled “Canadian Tobacco Class Action Settlement Representation”, found at the following link: <https://actislaw.org/class-actions/canadian-tobacco-class-action-settlement-representation>; and its French language equivalent, “Représentation au règlement canadien de l’actions collectives sur le tabac”, found at the following link: <https://actislaw.org/actions-collectives/representation-au-reglement-canadien-de-laction-collective-sur-le-tabac>; and
- b. any other pages or websites in which they have any involvement whatsoever containing communications or other information relating to the Quebec Class Actions and/or the claims and distribution processes under

the CCAA Plans, including the Quebec Class Action Administration Plan, for the purpose of soliciting any Tobacco-Victims including class members in the Quebec Class Actions (“**Quebec Class Members**”) for representation or to provide any other services to them in connection with their Tobacco Claims;

(collectively the “**Actis Website**”)

6. **THIS COURT ORDERS** Actis Law Group to cease and desist from soliciting, communicating with, approaching, entering into retainer agreements with, and/or providing information or advice to any Tobacco-Victims, including Quebec Class Members, in connection with the CCAA Plans, including the Quebec Class Action Administration Plan and/or any compensation due thereunder;

7. **THIS COURT ORDERS** Actis Law Group to provide Quebec Class Council with the list of all persons who signed up or provided information through the Actis Website or otherwise, including all contact and other information obtained and/or collected by them (the “**Actis List**”) by December 10, 2024 at 3 pm.

8. **THIS COURT ORDERS** Actis Law Group to destroy all copies of the Actis List in their possession, whether in electronic or paper form, and provide Quebec Class Counsel with an affidavit confirming such destruction and that no information in connection therewith has been retained by them, by no later than December 10, 2024 at 5 pm.

9. **DISPENSE** the Quebec Class Action Plaintiffs from the requirement to provide an undertaking as to damages in respect of the Order granted hereunder.

AID AND RECOGNITION

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency having jurisdiction in Canada or in any other foreign jurisdiction, to give effect to this Order. All courts, tribunals, regulatory and administrative bodies and agencies are hereby respectfully requested to make such

Orders and to provide such assistance, as may be necessary or desirable to give effect to this Order.

Chief Justice Geoffrey B. Morawetz

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c.C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF:

JTI-MACDONALD CORP.

IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

ROTHMANS, BENSON & HEDGES INC.

Court File No. CV-19-615862-00CL

Court File No. CV-19-616077-00CL

Court File No. CV-19-616779-00CL

ONTARIO
**SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**
Proceeding commenced at Toronto

MOTION RECORD
(QCAPs' Motion for Injunctive Relief)
(Returnable December 9, 2024)

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