

C A N A D A

(Class Action Chamber)
SUPERIOR COURT

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO.: 500-06-000496-105

DENIS GAGNON

Petitioner

v.

BELL MOBILITÉ

Respondent

NOTICE TO MEMBERS

(Article 1006 CCP)

1. TAKE NOTICE that the bringing of a class action has been authorized on January 24, 2011 by judgment of the Superior Court of Québec, for the benefit of the persons forming part of the group hereinafter described, namely:

“All natural persons and legal persons with less than 50 employees, who are domiciled or were domiciled in Québec, who have been charged early termination fees by the Respondent since January 1, 2007.”

2. The Chief Justice has ordered that the class action authorized by the said judgment shall be brought in the district of Montréal.
3. The status of Representative has been ascribed to Mr. Denis Gagnon.
4. The principal questions of law or fact to be dealt with collectively are as follows:
 - a) Was the precise amount of the early termination fees charged by the Respondent to the Petitioner and to the members disclosed in a contract?

- b) If not, are these fees null?
- c) Are the early termination fees charged by the Respondent to the Petitioner and to the members excessive or abusive?
- d) Do the early termination fees charged to the Petitioner and to the members exceed the injury actually suffered by the Respondent?
- e) Do the early termination fees charged to the Petitioner and to the members contravene their right to unilaterally resiliate their contract?
- f) Did the Respondent contravene the Consumer Protection Act?
- g) If so, what type of damages are the Petitioner and members entitled to?

5. The conclusions sought with relation to such questions are as follows:

- (1) **GRANT** the Petitioner's Motion to institute a class action;
- (2) **CONDEMN** the Respondent to pay to the Petitioner the sum of **\$200.00** with interest and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (3) SUBSIDIARILY, **CONDEMN** the Respondent to pay to the Petitioner the sum that exceeds the injury actually suffered by the Respondent, the whole with interest and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (4) **CONDEMN** the Respondent to pay to each member a sum equivalent to the early termination fees paid since January 1, 2007, with interest and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;
- (5) SUBSIDIARILY, **CONDEMN** the Respondent to pay to each member a sum equivalent to the portion of the early termination fees that exceeds the injury actually suffered by the Respondent, the whole with interest and the additional indemnity provided by Article 1619 of the *Civil Code of Québec*, calculated from the date of service of the motion;

- (6) **CONDEMN** the Respondent to pay a lump sum of **\$2,000,000.00** as punitive damages;
 - (7) **ORDER** that the above damages be the object of individual claims and of collective recovery for the punitive damages only, the whole in accordance with Articles 1037 to 1040 of the *Code of Civil Procedure*;
 - (8) **CONDEMN** the Respondent to any other form of relief as may be just and proper;
6. The class action to be brought by the Representative for the benefit of the members of the group will be an action in damages and punitive damages against the Respondent for illegally charged early termination fees.
 7. Any member of the group who has not requested his exclusion in the manner hereinafter indicated will be bound by any judgment to be rendered on the class action.
 8. The date after which a member can no longer request his exclusion without special permission has been set at MARCH 21ST 2011.
 9. A member who has not already brought a suit in his own name may request his exclusion from the group by advising the clerk of the Superior Court of the district of Montréal by registered or certified mail before the expiry of the delay for exclusion.
 10. Any member of the group who has brought a suit which the final judgment on the class action would decide will be deemed to have requested his exclusion from the group if he does not discontinue such suit before the expiry of the delay for exclusion.
 11. The Court may permit a member to intervene in the class action if it considers such intervention useful to the group. An intervening member may be bound to submit to an examination on discovery or a medical examination at the request of the Respondent. A member who does not intervene in the class action can only be required to submit to an examination on discovery or a medical examination if the Court considers it useful.
 12. A member of the group other than the Representative or an intervener cannot be condemned to pay the costs of the class action.

13. For any additional information, please contact counsel for the Representative at:

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