

C A N A D A
PROVINCE OF QUEBEC
DISTRICT DE MONTREAL

SUPERIOR COURT
(Class actions)

No: 500-06-000372-066

OPTION CONSOMMATEURS

Petitioner

-and-

SERGE LAMOUREUX

VIVIAN MALLAY

WENDY LEE SIMPSON

MICHEL MÉTHOT

YVON DESROSIERS

BENOÎT NADEAU

MICHELLE GRIFFITH

JUSTIN CHAUVETTE

MARYLOU CORRIVEAU

JEAN AUDET

Designated persons

v.

BANK OF MONTREAL

ROYAL BANK OF CANADA

NATIONAL BANK OF CANADA

CANADIAN IMPERIAL BANK OF

COMMERCE

CITIBANK CANADA

MBNA CANADA

AMEX BANK OF CANADA

SCOTIABANK

Respondents

NOTICE OF THE INSTITUTION OF A CLASS ACTION
(Summary Notice)

1. **TAKE NOTICE** that the bringing of a class action was authorized on October 25, 2007 by judgment of the Honourable Mr. Justice Clément Gascon of the Superior Court, who attributed representative status to OPTION CONSOMMATEURS and *designated person* status to Serge Lamoureux, Vivian Mallay, Wendy Lee Simpson, Michel Méthot, Yvon Desrosiers, Benoît Nadeau, Michelle Griffith, Justin Chauvette, Marylou Corriveau and Jean Audet for the benefit of the natural persons forming part of the group hereinafter described, namely:

“All natural persons who entered into a variable credit contract (credit card) with Royal Bank of Canada, National Bank of Canada, Canadian Imperial Bank of Commerce, Citibank Canada, and MBNA Canada in Quebec for purposes other than the operation of a business and who, since January 12th, 2001, without expressly

asking for it, have been granted to an increase of the amount up to which variable credit is extended to them (hereinafter “credit limit”), and who have used since then their increased variable credit ; and

All natural persons who entered into a variable credit contract (credit card) with Bank of Montreal, Royal Bank of Canada, Canadian Imperial Bank of Commerce, MBNA Canada, Amex Bank of Canada and Scotiabank in Quebec for purposes other than the operation of a business and who have paid, since January 12th, 2001, for over-the-limit fees.”

This class action aims at recovering fees and exemplary damages, and will be instituted in the District of Montreal.

2. Summary of the Class Action

- 2.1 The consumers, holders of credit cards issued by one or the other of the respondents, are having their credit limit unilaterally increased by the respondents and/or pay « fixed » over-the-limit fees.
- 2.2 Option consommateurs alleges that these unilateral increases of the credit limits are contrary to section 128 of the *Consumer Protection Act* which provides that there should not be such increase unless the consumers expressly applies therefore.
- 2.3 Option consommateurs also alleges that by charging “fixed” over-the-limit fees, the respondents has contravened the imperative provisions of the *Consumer Protection Act* as they relate to the calculation of credit fees according to the actuarial method.
- 2.4 Via this class action, Option consommateurs asks that the respondents be condemned and pay each of their customers who are members of the group:
 - a) All the credit fees paid by the members, including over-the-limit fees since the time of their introduction;
 - b) The payment of an amount of \$200 in exemplary damages;
 - c) The interest and additional indemnity provided under the *Civil Code of Quebec*.

3. How to Become a Group Member?

- 3.1 **If you wish to be included in the class action, you do not have to do anything.** In effect, unless special permission is granted, all members who are part of the group will be bound by the judgment rendered on the class action unless he or she asks to be excluded.

- 3.2 **If you wish to be excluded from the class action, you must advise the Clerk of the Superior Court**, District of Montreal, by courier or registered mail. The Clerk's address is 1, Notre-Dame Street East, Suite 1.01, Montreal (Quebec) H2Y 1B6, and he must be informed no later than **December 27, 2007** that you are a member of the group described in the class action bearing docket number 500-06-000372-066 and that you wish to be excluded from these proceedings.
- 3.3 Nevertheless, any member of the group who has already instituted an individual action involving an issue which would be decided by the final judgment on the class action is deemed to have excluded himself from the group unless he discontinues his suit no later than **December 27, 2007**.

4. No Liability For Costs

No member of the group, other than the representative or an intervenant, can be ordered to pay the costs of the class action. In other words, the respondents cannot bring a claim against you merely because you are a member of the group.

5. Additional Information

- 5.1 The members of the group are invited, although not obliged, to provide their names, addresses and telephone numbers to OPTION CONSOMMATEURS or to the group's Attorneys, whose contact information is included below. Given the number of persons involved, it would be preferable to communicate by way of Internet, e-mail or fax. Please do not forget to advise of a change of address. We obviously recommend that you hold onto your account statements with your respective financial institutions.

This notice is only a summary of the Notice of class action proceedings. Members of the group who wish to consult the full Notice may do so by visiting the website of OPTION CONSOMMATEURS at www.option-consommateurs.org.

MONTREAL, NOVEMBER 24TH, 2007

<p>ATTORNEYS FOR THE GROUP</p> <p>SYLVESTRE FAFARD PAINCHAUD 740, Atwater Montreal (Quebec) H4C 2G9 Fax: (514) 937-6529 E-mail: s.bond@sfpavocats.ca</p>	<p>PETITIONER</p> <p>OPTION CONSOMMATEURS 2120, Sherbrooke Street East, Suite 604 Montreal (Quebec) H2K 1C3 Telephone: (514) 598-7288 Toll-free number: 1-888-412-1313 Fax: (514) 598-8511 E-mail: info@option-consommateurs.org</p>
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PUBLICATION OF THIS NOTICE HAS BEEN ORDERED BY THE COURT