

ONTARIO
SUPERIOR COURT OF JUSTICE

The Honourable
Justice Perell

) The 16th day
) of FEBRUARY, 2016



BETWEEN:

MONATHON BANCROFT-SNELL and 1739793 ONTARIO INC.

Plaintiffs

-and-

VISA CANADA CORPORATION, MASTERCARD INTERNATIONAL INCORPORATED,
BANK OF AMERICA CORPORATION, BANK OF MONTREAL, BANK OF NOVA
SCOTIA, CANADIAN IMPERIAL BANK OF COMMERCE, CAPITAL ONE FINANCIAL
CORPORATION, CITIGROUP INC., FEDERATION DES CASSES DESJARDINS DU
QUEBEC, NATIONAL BANK OF CANADA INC., ROYAL BANK OF CANADA, and
TORONTO DOMINION BANK

Defendants

Proceeding Under the *Class Proceedings Act, 1992*

ORDER

Desjardins – Round 1

THIS MOTION made by the Plaintiffs, in writing;

ON READING the pleadings and materials filed;

AND ON BEING ADVISED that the Plaintiffs and others have entered into an agreement with the Defendant Fédération des caisses Desjardins du Québec (the “Settling Defendant”), dated December 23, 2015 (the “Desjardins Settlement Agreement”);

AND ON BEING ADVISED that the Plaintiffs and the Settling Defendant consent to this Order;

AND ON BEING ADVISED that the Non-Settling Defendants take no position on this Order;

THIS COURT ORDERS AND DECLARES THAT:

1. Except to the extent that they are modified by this Order, the definitions set out in the Desjardins Settlement Agreement, apply to and are incorporated into this Order;
2. The within proceeding (the "Ontario Proceeding") is certified as a class proceeding only as against the Settling Defendant, for settlement purposes only;
3. The "Ontario MasterCard Settlement Class" is defined as:

All Canadian resident persons who, during the Class Period, accepted payments for the supply of goods or services by way of MasterCard Credit Cards pursuant to the terms of Merchant Agreements, except the except the BC MasterCard Settlement Class, the Alberta MasterCard Settlement Class, the Saskatchewan MasterCard Settlement Class, the Quebec MasterCard Settlement Class, and the Excluded Persons;

4. The "Ontario Visa Settlement Class" is defined as:

All Canadian resident persons who, during the Class Period, accepted payments for the supply of goods or services by way of Visa Credit Cards pursuant to the terms of Merchant Agreements, except the BC Visa Settlement Class, the Alberta Visa Settlement Class, the Saskatchewan Visa Settlement Class, the Quebec Visa Settlement Class, and the Excluded Persons;

5. The Ontario MasterCard Settlement Class and the Ontario Visa Settlement Class are referred to collectively as the "Ontario Settlement Class";
6. Jonathon Bancroft-Snell and 1739793 Ontario Inc. are appointed as the representative plaintiffs for the Ontario Settlement Class;

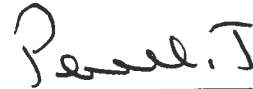
7. The Ontario Proceeding is certified on the basis that the following issue is common to the Ontario Settlement Class:

Did the Settling Defendant conspire with others to fix, maintain, increase or control Merchant Discount Fees and/or Interchange Fees paid by merchants who accepted payment by Visa Credit Card and/or MasterCard Credit Cards in Canada during the Class Period?

8. The period to opt-out of the Ontario Proceeding has already expired pursuant to this Court's order pronounced August 6, 2015. Any member of the Ontario Settlement Class who has validly opted-out of the Ontario Proceeding is not bound by the Desjardins Settlement Agreement, and will not be entitled to receive any share of benefits payable in connection with the Desjardins Settlement Agreement;
9. Any member of the Ontario Settlement Class who has not validly opted-out of the Ontario Proceeding is bound by this Order and the Desjardins Settlement Agreement, and will not be entitled to opt-out of the continuing action as against the Non-Settling Defendants;
10. This Order is binding upon each member of the Ontario Settlement Class who has not validly opted out of the Ontario Proceeding, including those persons who are minors or mentally incapable;
11. The form of the Pre-Approval Notice is hereby approved substantially in the form attached hereto as **Schedule "A"**;
12. The plan of dissemination for the Pre-Approval Notice (the "Plan of Dissemination") is hereby approved in the form attached hereto as **Schedule "B"**;
13. The Pre-Approval Notice shall be disseminated in accordance with the Plan of Dissemination approved as part of this Order and by any other additional means as may be ordered by any of the other Courts in the Canadian Proceedings; and

14. This Order, including without limiting the generality of the foregoing, the certification of the Ontario Proceeding against the Settling Defendant and the definitions of Ontario Settlement Class, Class Period and Common Issue, is without prejudice to any position a Non-Settling Defendant may take in this or any other proceeding on any issue, including the issue of whether the Ontario Proceeding should be certified as a class proceeding as against the Non-Settling Defendants. For greater certainty, this Order, the Court's reasons in support of this Order and the certification of the Ontario Proceeding against the Settling Defendant for settlement purposes only are not binding on and shall have no effect on the continuing prosecution of the Ontario Proceeding or any other proceeding as against the Non-Settling Defendants.

Date:



THE HONOURABLE JUSTICE PERELL

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 23 2016

PER / PAR: G. McBrath

Schedule "A" to Desjardins Round 1 Order

DESJARDINS NOTICE

Legal Notice

If you accepted Visa or MasterCard credits cards as payment for goods or services after March 23, 2001, your rights could be affected by a proposed national class action settlement with Desjardins.

The Credit Card Actions

Class action lawsuits were commenced in British Columbia (the "BC Action"), Alberta, Saskatchewan, Quebec and Ontario (collectively, the "Credit Card Actions") against Visa Canada Corporation ("Visa"), MasterCard International Incorporated ("MasterCard") and certain banks which issue credit cards ("Issuing Banks") alleging each of Visa and MasterCard conspired with their issuing banks and Acquirers in setting the amount of interchange fees and imposing rules restricting merchants' ability to surcharge or refuse higher cost Visa and MasterCard credit cards ("Acquirer" is an organization or person that entered into a contract with a merchant for the provision of Visa Credit Card or MasterCard Credit Card services and charging Merchant Discount Fees, which account for and/or include Interchange fees in Canada). The BC Action was certified as a class proceeding as against all defendants except for the Fédération des caisses Desjardins du Québec ("Desjardins").

The Settlement

Although Desjardins denies liability, it has reached a national settlement with the plaintiffs (the "Desjardins Settlement"), subject to approval of the courts in British Columbia, Alberta, Saskatchewan, Quebec and Ontario (the "Courts"). Desjardins will pay CAD \$9,900,000 (the "Settlement Amount") for the benefit of the Settlement Class Members (see below) and provide cooperation that will assist with prosecuting the ongoing actions against the non-settling defendants in exchange for a full release of claims against it and its related entities.

If the Settlement is approved, the Class Lawyers will ask the Courts to approve the deduction of certain amounts (collectively, the "Court Approved Expenses") from the Settlement Amount, including costs incurred to distribute this notice and process opt-out requests, comments and objections (see below), a counsel fee of up to 25% of the recovered amounts, and disbursements.

As the Credit Card Actions will continue as against the other defendants, it is proposed that the amounts remaining from the Settlement Amount after deduction of all Court Approved Expenses be held in trust for Settlement Class Members pending receipt of further settlements or awards that may justify a distribution effort, or conclusion of the Credit Card Actions. At such time, a distribution protocol will be created and submitted to the Courts for approval, and further notice will be provided to Settlement Class

Members. If you would like to receive direct notice of any distribution efforts, please register at www.creditcardsettlements.ca , or contact one of the Class Lawyers listed below.

Certification/Authorization as Class Proceedings for Settlement Purposes

Separate and apart from the certification of the BC Action against all defendants (except for Desjardins), in order to implement the Settlement, the Courts have certified/authorized all of the Credit Card Actions as class proceedings against Desjardins for settlement purposes only.

Who Are The Settlement Class Members?

You are a Settlement Class Member if you accept or accepted Visa credit cards and/or MasterCard credit cards as payment for goods or services and incurred merchant discount fees, including interchange fees, in Canada since March 23, 2001.

All Settlement Class Members are affected by this notice.

Settlement Approval Hearings

Hearings to consider approval of the Settlement, a counsel fee of up to 25% of the recovered amounts, and disbursements payable from the Settlement Amount will be heard on • (British Columbia Supreme Court, Vancouver), • (Court of Queen's Bench of Alberta, Edmonton) , • (Court of Queen's Bench for Saskatchewan, Regina), • (Quebec Superior Court, Montreal) and • (Ontario Superior Court of Justice, Toronto). Anyone can attend the hearings, but if you wish to speak to the Court, please advise the Administrator (Epiq Systems)*.

If you wish to provide written comment on or objection to the Settlement, you must do so by delivering same to the Administrator* by •. Comments or objections will be provided to the Court for consideration in whether to approve or reject the Settlement.

Participating in the Settlements or the Credit Card Actions

If you fall within the Settlement Class, including the Quebec Settlement Class (defined below), and wish to participate in the Settlement and in the continuing Credit Card Actions, you do not need to do anything at this time.

Opting Out of the Class Proceedings in British Columbia, Alberta, Saskatchewan and Ontario

The deadline to opt out of the Settlements or the class actions in British Columbia, Alberta, Saskatchewan and Ontario has already expired. You can no longer opt-out of the British Columbia, Alberta, Saskatchewan and Ontario class actions.

Opting Out of the Class Proceedings in Quebec Only

The deadline to opt out of the Desjardins Settlement or the class action in Quebec is ●.

Consequences of Opting Out in Quebec

By opting out, you are choosing:

- 1) **not** to take part in any of the Desjardins Settlement in Quebec,
- 2) **not** to participate in the ongoing prosecution of the Credit Card Class Action in Quebec against the other defendants, AND
- 3) **not** to participate in any future settlements reached in the Credit Card Class Action in Quebec.

Quebec Settlement Class Members who opt out will not be bound by the Desjardins Settlement or the releases in the Desjardins Settlement, but will also not be entitled to share in any of the proceeds that may become available to merchants as part of the Desjardins Settlement or other settlement(s). Quebec Settlement Class Members who opt out will also not be entitled to participate in the continued prosecution of the Credit Card Class Action in Quebec or future settlements.

Consequences of Not Opting Out in Quebec

You are a **Quebec Settlement Class Member** if you are a Quebec resident person who accepted Visa and/or MasterCard credit cards as payment for goods or services and incurred merchant discount fees, including interchange fees, in Canada, at any time since March 23, 2001. Any legal persons established for a private interest, partnership or association which at any time between December 17, 2009 and December 17, 2010 had under its direction or control more than 50 persons bound to it by contract of employment are **not** Quebec Settlement Class Members.

Quebec Settlement Class Members who **do not opt out** will be bound by the Settlement and the releases in it, and will be entitled to share in any of the proceeds that may become available to merchants as part of the Settlement. They will have an opportunity to opt out of the ongoing litigation against the other defendants if and when such litigation is authorized as a class action against some or all of those remaining defendants.

* * *

FOR MORE INFORMATION on the status of the approval hearings or on how to opt out of the Quebec Credit Card Actions, comment or object to the Settlement, or to view the Desjardins Settlement and a list of other definitions that apply to this Notice, visit

www.creditcardsettlements.ca, which will be periodically updated with information on the Settlement approval process and the Credit Card Actions.

*For communications with the Opt-Out Administrator, Epiq Systems call <>, email <>, fax <> or write to <address>.

CLASS LAWYERS can be reached at lawyers@creditcardsettlements.ca and are:

- Branch MacMaster LLP at (604) 654-2999 (Luciana Brasil)
- Camp Fiorante Mathews Mogerman at (604) 689-7555 (David Jones)
- Consumer Law Group Inc. (for Quebec residents) at 1-888-909-7863 x2 (Jeff Orenstein)

This notice is approved by the Courts.

Schedule "B" to Desjardins Round 1 Order

PLAN OF DISSEMINATION

**Notice of Certification/Authorization and Settlement Approval Hearing
in the Matter of Visa/MasterCard Class Action Litigation**

The Plaintiffs propose that the Notice of Certification/Authorization and Settlement Approval Hearing (the "Pre-Approval Notice") shall be distributed in the following manner:

1. Published once in the following newspapers, in either English or French, as is appropriate for each newspaper, in a size no less than 1/6 page, and preferably in a business section (if available), subject to each having reasonable publication deadlines and costs:
 - (a) The Globe and Mail, national edition;
 - (b) National Post, national edition;
 - (c) Montreal La Presse; and
 - (d) Montreal The Gazette.

2. Published once in the following five (5) industry magazines, in either English or French, as is appropriate for each magazine, subject to each having reasonable publication deadlines and costs:
 - (a) Retail Council of Canada's Canadian Retailer Magazine;
 - (b) Canadian Convenience Stores Association's C-Store Life;
 - (c) Canadian Restaurant and Foodservices News;
 - (d) Grocery Business Magazine; and
 - (e) Canadian Business / PROFIT.

3. Sent to the following twenty (20) industry associations whose members accept Visa or MasterCard credit cards as a means of payment for goods or services, in either English or French, as is appropriate for each association, requesting voluntary distribution to their membership, including:
 - (a) Retail Council of Canada;
 - (b) Canadian Federation of Independent Businesses (CFIB);
 - (c) Retail Merchants Association of Canada (Ontario) Inc.;

- (d) Canadian Restaurant and Foodservices Association;
 - (e) Canadian Convenience Stores Association;
 - (f) Canadian Federation of Independent Grocers (CFIG);
 - (g) Food and Consumer Products of Canada;
 - (h) Canadian Association of Chain Drug Stores;
 - (i) Tourism Industry Association of Canada;
 - (j) Canadian Independent Petroleum Marketers Association;
 - (k) Canadian Jewellers Association;
 - (l) Small Business Matters;
 - (m) Canadian Wireless Telecommunications Association (CWTA);
 - (n) Canadian Association of Home and Property Inspectors;
 - (o) Canadian Parking Association;
 - (p) Association of Universities and Colleges of Canada;
 - (q) Automotive Retailers Association;
 - (r) Canadian Deals and Coupons Association;
 - (s) Canadian Cosmetic, Toiletry and Fragrance Association; and
 - (t) Canadian Franchise Association.
4. A copy will be posted in electronic format in English and in French on the websites of the Consortium Counsel.
 5. A copy will be provided to the CBA National Class Action Registry with a request that it be posted online.
 6. A copy will be sent to all persons who have contacted the Consortium Counsel and identified themselves as being potential class members.

Press Notice:

7. A Press Notice may be issued by the Plaintiff as a press release on the Canada Newswire. The wording of the Press Notice would require court approval before publication.

Jonathan Bancroft - Small
173 9793 Ontario Inc
Plaintiff

- and -

Vista Canada Corporation, Master-Care
International Inc. et al

Defendants

Court File No. CV-11-42659

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at Toronto.

Ordelor

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