

The Agreement was drafted in French between the parties. The English version is an unofficial translation and, in the event of any discrepancy between the versions, the original Agreement in French shall prevail.

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: **500-06-000958-187**

SUPERIOR COURT
(Class Action Division)

MATHIEU BARBEAU

Plaintiff

c.

THE ATTORNEY GENERAL OF QUEBEC

Defendant

AGREEMENT

- A. WHEREAS** the Superior Court has granted the Motion to institute a Class Action by judgment dated June 19, 2019;
- B. WHEREAS** Mr. Mathieu Barbeau has been appointed to act as representative for the purposes of instituting the class action on behalf of the class members of the following group :
- Any person taken for a first video-appearance to the Rivière-des-Prairies or Bordeaux detention centres since October 1, 2016 and released by the Court following the video-appearance, with or without conditions and strip-searched at the detention centre before the video-appearance .
- C. WHEREAS** the allegations contained in the September 4, 2019 Originating Application and the October 21, 2022 Amended Originating Application;
- D. WHEREAS** the alleged systematic practice ceased on March 20, 2020 due to the health emergency and has not resumed since;
- E. WHEREAS** the time period covered by this class action is therefore October 11, 2016 to March 20, 2020;
- F. WHEREAS** for the purposes of this agreement, the class is redefined as follows:

Any person taken for a first video-appearance at the Rivière-des-Prairies or Bordeaux detention centres between October 11, 2016 and March 20, 2020 and released by the Court following the video-appearance, with or without conditions and strip searched at the detention centre prior to the video-appearance.

- G. WHEREAS** it is in the interest of the parties and the public interest, including the administration of justice, to avoid a trial that would further delay compensation to class members;
- H. WHEREAS** the representative and his counsel believe that this agreement is fair, reasonable and in the best interests of the class members;
- I. WHEREAS** the defendant also believes that this agreement is desirable to resolve the entire litigation;
- J. WHEREAS** the parties have agreed, at the conclusion of a settlement conference held on November 8, 2022 in the presence of the Honourable Carol Cohen J.S.C., to the contents of this agreement, it being understood that the appendixes shall be discussed by the time this agreement is submitted to the Honourable Donald Bisson J.S.C. on or before December 14, 2022;
- K. WHEREAS**, the parties wish to settle this class action without prejudice and without any admission of liability, by mutual concessions;

SUBJECT TO THE APPROVAL OF THE COURT, THE PARTIES AGREE AS FOLLOWS:

1. The defendant shall pay a lump sum of \$7,650,000. This sum shall cover, in addition to the compensation to class members, legal fees, publication and notice costs, administration costs, and the fees of the plaintiff's lawyers and the claims administrator ("Administrator"). The defendant shall have no other amount or interest to pay for any reason whatsoever;
2. The defendant shall pay the lump sum of \$7,650,000 into the trust account of the plaintiff's law firm Trudel Johnston & Lespérance L.L.P. ("TJL") within 30 days from the date that the judgment approving this agreement becomes final;
3. The plaintiff's lawyers shall deduct their disbursements and fees, plus taxes, from the lump sum payment made by the defendant, in accordance with the judgment to be rendered approving the agreement and fees;
4. The plaintiff's and defendant's lawyers will work together to identify an administrator who is familiar with the prison environment so as to optimize the search for persons who may have a valid claim;

5. Upon receipt of invoices, TJL will pay the Administrator the amounts required to compensate the class members and the payment of its fees;

Eligible Claim

6. In order for their claim to be eligible, the class member shall:
 - a. Complete the form, the content of which is to be discussed between the parties and the Administrator, in electronic or paper format. The paper form must be signed by the member or his or her representative. In the case of the electronic form, the class member, the member's representative or the Administrator shall check a box which will be considered as a signature;
 - b. Declare, under penalty of perjury:
 - i. having been taken for their first video-appearance at the Montreal (Bordeaux) or Rivière-des-Prairies centers between October 11, 2016 and March 20, 2020;
 - ii. having been strip searched prior to the video-appearance
 - iii. having been released by the Court following the video-appearance, with or without conditions.
 - c. Send his or her completed Form to the Administrator during the claim period as defined in this agreement. The postmark will be used as proof of the date of mailing. For class members who are detained during the claim period, the date the form is signed shall be considered the date the form is sent, but the form must be received no later than 30 days after the end of the claim period;
7. Relevant annotated rolls will be provided to the Administrator by the plaintiff's lawyers;
8. The Administrator shall note on the annotated roll an entry indicating that the claimant was charged, present and detained and was released, with or without conditions. In order for a person appearing on the roll to be considered a member of the class action, the annotations must match these:
 - The "Comparution off. crim"
 - Have the status "D" for detained at the time of the appearance;
 - Have been released from custody following the appearance.
9. One of the following in the "Decision" section will indicate to the Administrator that the individual is a class member:
 - "Prom", for promise to appear;
 - "D" for filing (« *dépôt* » in French);

- "Cond" or "C (\$ amount)," for condition;
- "Adj 524 + COND", for adjudication of a proceeding under section 524 Cr.C., with result of conditional release;
- "Withdrawal" or "Withdrawal of charges." (or « *Retrait* » or « *Retrait des accusations* » in French)
- "Eng third" or "Eng 1/3" for third party undertaking (or « *Eng tiers* » in French);
- "Eng pers", for personal undertaking; or
- "Relieved" "RDM", for relieved from default.

10. The Administrator may reject a claim if the annotated roll does not indicate that the claimant appeared in custody before being released on the same day, if the claim is incomplete, or if the paper form is not signed, after giving the claimant an opportunity to complete the claim.

Notice of Agreement

11. Counsel for the plaintiff shall publish a notice pursuant to section 590 of the *Code of Civil Procedure* stating that the agreement will be submitted to the court for approval on a date to be fixed by the court (the "Notice of Agreement"). Such notice shall be discussed by the parties;

12. The Notice of Agreement will specify the nature of the agreement and the intended method of distribution. It will also inform Class Members that they may assert their contentions before the court regarding the agreement;

13. The publication of the Notice of Agreement will be in accordance with the dissemination plan to be discussed by the parties;

Notice of Judgment

14. The Administrator retained will implement a campaign to publicize and disseminate the notice announcing the judgment approving the agreement (the "Judgment Notice"). The publicity campaign will be conducted in three phases: one at the beginning of the claim period, a second around the middle of the claim period, and a third approximately one month before the end of the claim period. The principles that must guide the publicity campaign and the dissemination of Notice of Judgment will be discussed between the parties and the Administrator;

15. The Notice of Judgment will be discussed between the parties. If certain advertising campaign platforms require a shorter notice format, the Administrator may tailor the content of the Judgment Notice to better reach class members;

16. The cost of advertising and disseminating the Judgment Notice will be borne by the Administrator at a flat rate to be determined on the basis of submissions received;

The Administrator and the distribution of indemnities to members

- 17.** The Administrator will determine the eligibility of the claim within 30 days of receipt based on the annotated roll;
- 18.** Should it be necessary to obtain a docket to assist a member in identifying the date of their strip search, the Administrator shall obtain the docket and the cost shall be borne by the Administrator out of the settlement amount. The cost of the docket shall not be deducted from the member's compensation;
- 19.** The claim period shall be for a period of nine months commencing on the 60th day following the date on which the judgment approving this Agreement becomes final. Only at the end of the nine month period shall compensation be paid to Members;
- 20.** If sufficient funds remain after subtracting legal fees, publication and notice costs, administration costs, and attorneys' and Administrator's fees, each claimant shall be paid \$2,000 for each eligible strip search;
- 21.** If the amounts remaining after subtracting costs and fees are insufficient to fully compensate each claimant :
 - a.** First, each will receive \$2,000 or, if there are insufficient funds to compensate each claimant for \$2,000, an equal share of the remaining funds;
 - b.** Second, claimants with two or more qualifying strip searches will receive an additional \$2,000 or, if there are insufficient funds for each claimant to receive the additional \$2,000, an additional indemnity of an equal share of the remaining funds;
 - c.** And so on until the funds are fully distributed.

Remainder

- 22.** Any cheque not cashed within 6 months of its issuance shall be cancelled and shall constitute a remainder;
- 23.** Any balance remaining shall be distributed in accordance with articles 596 paragraph 3 of the *Code of Civil Procedure* and 42 of the *Act respecting the Fonds d'aide aux actions collectives*.

Release

- 24.** The plaintiff and the class members as defined for the purposes of this agreement give full release in favour of the defendant and any person they represent in this class action, their successors, agents, officers, representatives, directors, servants, employees and any person who may be related to them in any way, and waive any and all past, present or future claims or actions of any nature whatsoever that the plaintiff and the class members as defined for purposes of this agreement had, have or may have, directly or indirectly, based on any facts or causes of action alleged in any proceeding in connection with the facts of the Originating Application.

Final Provisions

- 25.** The parties acknowledge that this document constitutes a transaction pursuant to Articles 2631 and following of the *Civil Code of Quebec*, to which the signatory parties freely consent;
- 26.** This agreement is indivisible;
- 27.** This agreement shall be subject to the approval of the Superior Court. Refusal by the Court to approve this agreement shall result in its termination and nullity;
- 28.** The validity of this agreement is not, however, dependent upon the Court's approval of the Representative's application for lawyers' fees and costs;
- 29.** The parties undertake to submit this agreement and its appendices to the Honourable Donald Bisson J.S.C., Coordinating Judge of the Class Action Division, no later than December 14, 2022, in order to schedule a hearing on the approval of this agreement;
- 30.** The agreement shall become effective and enforceable upon approval by the Court, except for paragraphs 11 to 13 which shall be effective upon execution hereof;
- 31.** Following final judgment approving the agreement, the agreement shall be binding on all class members;
- 32.** The Superior Court retains all powers to resolve any disputes or difficulties that may arise in the implementation of this agreement;
- 33.** The parties agree that this document may be signed electronically and that each signed page may be added to the document as a whole, which shall then be deemed the original;

34. The Administrator shall provide counsel for the parties with a final administration report. Counsel for the parties shall apply to the Court to release the Administrator and render the closing judgment as soon as possible following the completion of the distribution process.

Montreal, November 8, 2022

MATHIEU BARBEAU

Plaintiff

Montreal, November 8, 2022

TRUDEL JOHNSTON & LESPÉRANCE

Counsel for the plaintiff

Montreal, November 8, 2022

BERNARD ROY
(Justice-Québec)

Counsel for the defendant and duly
authorized representatives