

Therrien c. Sony Interactive Entertainment

2022 QCCS 4073

**SUPERIOR COURT
(Class Actions)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No: 500-06-001064-209

DATE: November 7, 2022

PRESENT: THE HONOURABLE MARTIN F. SHEEHAN, J.S.C.

PHILIPPE THERRIEN
Representative Plaintiff

v.
SONY INTERACTIVE ENTERTAINMENT LLC
Defendant

and
FONDS D'AIDE AUX ACTIONS COLLECTIVES
Mis en cause

**JUDGMENT
(ON AN APPLICATION TO APPROVE THE DISPOSAL OF THE REMAINING
BALANCE AND FOR A CLOSING JUDGMENT)**

- [1] On July 7, 2021, the Court approved the settlement of the class action in the present matter and ordered the Parties to report on the execution of the judgment upon receipt of the final report from the Claims Administrator.¹
- [2] The Representative Plaintiff now brings before this Court an *Application to Approve the Disposal of the Remaining Balance and for a Closing Judgment* (the “**Application**”).

¹ *Therrien c. Sony Interactive Entertainment*, 2021 QCCS 2823.

- [3] Defendant and the Fond d'aide aux actions collectives support the Application.
- [4] The Claims Administrator, Velvet Payments Inc., finalized its Closing Report on September 13, 2022.²
- [5] According to the Closing Report there remains a balance of \$14,143.50 representing uncashed cheques that are now stale dated (because they were not cashed within 6 months of their issuance).
- [6] Article 60 of the *Regulation of the Superior Court of Québec in Civil Matters*,³ states that if a Closing Report mentions a remaining balance the representative must present an application to the court to dispose of the amounts, giving notice of presentation to the Fonds d'aide aux actions collectives.
- [7] Pursuant to article 1(1)(a) of the *Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives*,⁴ the Fonds d'aide aux actions collectives is entitled to 50% of such a balance (i.e. \$7,071.75).
- [8] Plaintiff suggest that the remaining balance of \$7,071.75 be paid to Fondation Patro (registered charity no. 118924497 RR 0001 whose mission is promote the well-being and development of people of all backgrounds and ages, especially youth and the most vulnerable.⁵
- [9] Before approving the distribution of a residual balance, the Court must consider remedial measures to maximize the distribution to members.⁶
- [10] When all appropriate circumstances are considered, such measures would not be proportionate or appropriate in the present matter.
- [11] The total settlement value was \$60,000. The Claims Administrator confirmed that a cheque of \$32.18 was mailed directly to the last known address on file of each Class Member in accordance with the terms of the settlement. This represents 100% recovery for each Class Member.
- [12] Class Members were under no obligation to complete a claim form or provide a proof of purchase.
- [13] Over 75% of Class Members deposited their cheques.
- [14] Given the modest amount of the settlement and the modest remaining balance of \$14,143.50, it would not be proportionate to incur the additional notice costs.

² Exhibit R-1.

³ *Regulation of the Superior Court of Québec in civil matters*, CQLR, c. C-25.01, r 0.2.1.

⁴ CQLR, c. F-3.2.0.1.1, r. 2.

⁵ Exhibits R-2 and R-3.

⁶ *Option consommateurs c. Infineon Technologies*, 2019 QCCA 2132, par. 52.

- [15] Finally, a redistribution to the existing 1,425 who deposited their cheques would result in additional costs beyond the bargain entered into by the parties. Defendant also alleges that such an additional distribution would result in overcompensation as Class Members would receive more than 100% of the amount they had initially spent.

PAR CES MOTIFS, LE TRIBUNAL :	FOR THESE REASONS, THE COURT:
[16] ACCUEILLE la présente demande;	GRANTS the present Application;
[17] ORDONNE à Velvet Payments, l'administrateur des réclamations, de verser au Fonds d'aide aux actions collectives la somme de 7 071,75 \$, représentant 50 % du reliquat conformément à l'article 1(1)(a) du <i>Règlement sur le pourcentage retenu par le Fonds d'aide aux actions collectives</i> , dans les dix jours du présent jugement;	ORDERS Velvet Payments, the Claims Administrator, to pay to the Fonds d'aide aux actions collectives \$7,071.75 , representing 50% of the remaining balance pursuant to article 1(1)(a) of the <i>Regulation respecting the percentage withheld by the Fonds d'aide aux actions collectives</i> , within ten days of the present judgment;
[18] APPROUVE le paiement de 7 071,75 \$ du reliquat restant de 50 % à la Fondation Patro (organisme de bienfaisance enregistré n°118924497 RR 0001) et ORDONNE à Paiements Velvet d'effectuer ledit paiement du reliquat dans les dix jours du présent jugement;	APPROVES the payment of \$7,071.75 from the remaining 50% balance to Fondation Patro (registered charity no. 118924497 RR 0001) and ORDERS Velvet Payments to make said payment from the remaining balance within ten days of the present judgment;
[19] DÉCLARE que la défenderesse Sony Interactive Entertainment LLC a satisfait toutes ses obligations en vertu de l'Entente de règlement approuvée par le Tribunal le 7 juillet 2021;	DECLARES that the Defendant Sony Interactive Entertainment LLC has satisfied its obligations under the Settlement Agreement approved by the Court on July 7, 2021;
[20] DÉCLARE la fin de l'action collective;	DECLARES the closure of the class action;
[21] LE TOUT , sans frais de justice.	THE WHOLE , without legal costs.

MARTIN F. SHEEHAN, j.s.c.

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