

C A N A D A

**PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

NO: 500-06-000930-186

**(Class Action)
SUPERIOR COURT**

KATY HAROCH

and

AVRAHAM BROOK

Applicants

-vs-

THE TORONTO-DOMINION BANK

and

**CANADIAN IMPERIAL BANK OF
COMMERCE**

and

CIBC MORTGAGES INC.

and

BANQUE DE MONTRÉAL

and

ROYAL BANK OF CANADA

and

THE BANK OF NOVA SCOTIA

and

SCOTIA MORTGAGE CORPORATION

and

LAURENTIAN BANK OF CANADA

and

**FÉDÉRATION DES CAISSES DESJARDINS
DU QUÉBEC**

and

NATIONAL BANK OF CANADA

and

HSBC BANK OF CANADA

and

TANGERINE BANK (formerly known as ING
BANK OF CANADA)

and

FIRST NATIONAL FINANCIAL LP

and

LA CAISSE POPULAIRE DE RAGUENEAU,
legal person having its principal
establishment at 550 Route 138, Ragueneau,
District of Baie Comeau, Province of Québec,
G0H 1S0

and

**CAISSE POPULAIRE DESJARDINS DE
HAVRE-SAINT-PIERRE**, legal person having
its principal establishment at 1072 rue de la
Dulcinée, Havre-Saint-Pierre, District of
Mingan, Province of Québec, G0G 1P0

and

**CAISSE POPULAIRE DESJARDINS DE
BAIE-COMEAU**, legal person having its
principal establishment at 267 boulevard
Lasalle, Baie-Comeau, District of Baie-
Comeau, Province of Québec, G4Z 1S7

and

CAISSE POPULAIRE DESJARDINS DE MINGAN-ANTICOSTI, legal person having its principal establishment at 998, Chemin du roi, CP 40, Longue-Pointe-de Mingan, District of Mingan, Province of Québec, G0G 1V0

and

LA CAISSE POPULAIRE DESJARDINS DE SEPT-ÎLES, legal person having its principal establishment at 760 Laure boulevard, Sept-Îles, District of Mingan, Province of Québec, G4R 1Y4

and

CAISSE DESJARDINS DE PORT-CARTIER legal person having its principal establishment at 8 boul. des Îles, Port-Cartier, District of Mingan, Province of Québec, G5B 2J4

and

CAISSE POPULAIRE DESJARDINS DE HAUTERIVE, legal person having its principal establishment at 990 Laflèche boulevard, Baie-Comeau, District of Baie-Comeau, Province of Québec, G5C 2W9

and

CAISSE POPULAIRE DESJARDINS DE BLANC-SABLON, legal person having its principal establishment at 1056 Dr. Camille-Marcoux boulevard, Lourdes-de-Blanc Sablon, District of Mingan, Province of Québec, G0G 1W0

and

CAISSE POPULAIRE DESJARDINS DU SAGUENAY-SAINT-LAURENT, legal person having its principal establishment at 11 Sirois

Street, CP 159, Les Escoumins, District of Baie-Comeau, Province of Québec, G0T 1K0

and

CAISSE POPULAIRE DESJARDINS DE TÊTE-À-LA-BALEINE, legal person having its principal establishment at 101 rue de la Chute, Tête-à-la-Baleine, District of Mingan, Province of Québec, G0G 2W0

and

CAISSE DESJARDINS DU CENTRE DE LA HAUTE-CÔTE-NORD, legal person having its principal establishment at 53, 2^e avenue, Forestville, District of Baie-Comeau, Province of Québec, G0T1E0

and

LA CAISSE POPULAIRE DE LA TABATIÈRE, legal person having its principal establishment at 6, rue Desjardins, Gros-Mécatina (La Tabatière), District of Mingan, Province of Québec, G0G 1T0

and

CAISSE DESJARDINS DE LA BAIE DES CHALEURS, legal person having its principal establishment at 554, boulevard Perron Est, CP 2067, Maria, District of Bonaventure, Province of Québec, G0C 1Y0

and

CAISSE POPULAIRE DESJARDINS MER ET MONTAGNES, legal person having its principal establishment at 2, Rue de Couvent, Grande-Vallée, District of Gaspé, Province of Québec, G0E1K0

and

CAISSE POPULAIRE DESJARDINS DU

CENTRE-SUD GASPÉSIEN, legal person having its principal establishment at 70, Boul. René-Lévesque Est, Chandler, District de Gaspé, Province of Québec, G0C 1K0

and

CAISSE DESJARDINS DE LA POINTE DE LA GASPÉSIE, legal person having its principal establishment at 80, Rue Jacques-Cartier, Gaspé, District of Gaspé, Province of Québec, G4X 2V2

and

CAISSE POPULAIRE DESJARDINS DES RAMÉES, legal person having its principal establishment at 1278, Ch. De la Vernière, Les Îles-de-la-Madelaine (L'Étang-du-Nord), District of Gaspé, Province of Québec, G4T 3E6

and

CAISSE POPULAIRE DESJARDINS DE HÂVRE-AUX-MAISONS, legal person having its principal establishment at 38, Ch. Central, Les Îles-de-la-Madelaine, District of Gaspé, Province of Québec, G4T 5G9

and

CAISSE DESJARDINS DU LITTORAL GASPÉSIEN, legal person having its principal establishment at 73, Grande-Allée Est, Grande-Rivière, District of Gaspé, Province of Québec, G0C 1V0

and

CAISSE POPULAIRE DESJARDINS DE LA HAUTE-GASPÉSIE, legal person having its principal establishment at 10, 1^{re} avenue Est, Sainte-Anne-Des-Monts, District of Gaspé, Province of Québec, G4V 1A3

and

CAISSE POPULAIRE DESJARDINS DE RIVIÈRE-DU-LOUP, legal person having its principal establishment at 315, Boul. Armand-Thériault, Rivière-du-Loup, District of Kamouraska, Province of Québec, G5R 0C5

and

CAISSE DESJARDINS DU BIC-SAINT-FABIEN, legal person having its principal establishment at 157, Rue de Sainte-Cécile-du-Bic, Rimouski, District of Rimouski, Province of Québec, G0L 1B0

and

CAISSE DESJARDINS DE RIMOUSKI, legal person having its principal establishment at 100, Rue Julie-Réhel, Rimouski, District of Rimouski, Province of Québec, G5L 0G6

and

CAISSE DESJARDINS DE MONT-JOLI-EST DE LA MITIS, legal person having its principal establishment at 1553, Boul. Jacques-Cartier, Mont-Joli, District of Rimouski, Province of Québec, G5H 2V9

and

CAISSE DESJARDINS VALLÉE DE LA MATAPÉDIA, legal person having its principal establishment at 15, rue du Pont, Amqui, District of Rimouski, Province of Québec, G5J 0E6

and

CAISSE DESJARDINS DE VIGER ET VILLERAY, legal person having its principal establishment at 91, Rue Saint-Jean-Baptiste, CP 197, L'Isle-Verte, District of Kamouraska, Province of Québec, G0L1K0

and

CAISSE DESJARDINS DE LA MATANIE, legal person having its principal establishment at 300, Rue du Bon-Pasteur, CP 248, Matane, District of Rimouski, Province of Québec, G4W 3N2

and

CAISSE DESJARDINS DES BASQUES, legal person having its principal establishment at 80, Rue Notre-Dame Ouest, Trois-Pistoles, District of Kamouraska, Province of Québec, G0L 4K0

and

CAISSE DESJARDINS DE LA RIVIÈRE NEIGETTE, legal person having its principal establishment at 24, Rue Principale, Saint-Anaclet-de-Lessard, District of Rimouski, Province of Québec, G0K 1H0

and

CAISSE DESJARDINS DES LACS DE TÉMISCOUATA, legal person having its principal establishment at 415, Av. Principale, Dégelis, District of Kamouraska, Province of Québec, G5T 1L4

and

CAISSE DESJARDINS TRANSCONTINENTAL-PORTAGE, legal person having its principal establishment at 1857, Rue Principale, Pohénégamook, District of Kamouraska, Province of Québec, G0L 1J0

and

CAISSE DESJARDINS DE LA RÉGION DE THETFORD, legal person having its principal establishment at 300, Boulevard Frontenac Est, Thetford Mines, District of Frontenac,

Province of Québec, G6G 7M8

and

CAISSE DESJARDINS DES ETCHEMINS, legal person having its principal establishment at 223, 2^{ième} Avenue, Lac-Etchemin, District of Beauce, Province of Québec, G0R 1S0

and

CAISSE DESJARDINS DU SUD DE LA BEAUCE, legal person having its principal establishment at 2880, 25^{ième} Avenue, Saint-Prosper, District of Beauce, Province of Québec, G0M 1Y0

and

CAISSE DESJARDINS DE BELLECHASSE, legal person having its principal establishment at 730, Route Bégin, Saint-Anselme, District of Beauce, Province of Québec, G0R 2N0

and

CAISSE DESJARDINS DE BEAUCE-CENTRE, legal person having its principal establishment at 825, Avenue du Palais, Saint-Joseph-de-Beauce, District of Beauce, Province of Québec, G0S 2V0

and

CAISSE DESJARDINS DE L'ANSE DE LA POCATIÈRE, legal person having its principal establishment at 308, 4^{ième} Avenue, La Pocatière, District of Kamouraska, Province of Québec, G0R 1Z0

and

CAISSE DESJARDINS DES SOMMETS DE LA BEAUCE, legal person having its

principal establishment at 9, Route 271 Sud, Saint-Éphrem-de-Beauce, District of Beauce, Province of Québec, G0M 1R0

and

CAISSE DESJARDINS DE LA NOUVELLE-BEAUCE, legal person having its principal establishment at 275, Avenue Marguerite-Bourgeoys, Sainte-Marie, District of Beauce, Province of Québec, G6E 3Y9

and

CAISSE DESJARDINS DE LA MRC DE MONTMAGNY, legal person having its principal establishment at 116, Boulevard Taché Ouest, Montmagny, District of Montmagny, Province of Québec, G5V 3A5

and

CAISSE DESJARDINS DU CENTRE DE KAMOURASKA, legal person having its principal establishment at 620, Rue Taché, Saint-Pascal, District of Kamouraska, Province of Québec, G0L 3Y0

and

CAISSE DESJARDINS DU NORD DE L'ISLET, legal person having its principal establishment at 339, Boulevard Nilus-Leclerc, L'Islet, District of Montmagny, Province of Québec, G0R 2C0

and

CAISSE DESJARDINS DU SUD DE LA CHAUDIÈRE, legal person having its principal establishment at 10555, Boulevard Lacroix, Saint-Georges, District of Beauce, Province of Québec, G5Y 1K2

and

CAISSE DESJARDINS DES CHAMPS ET DES BOIS, legal person having its principal establishment at 487, Avenue de l'École, Saint-Alexandre-de-Kamouraska, District of Kamouraska, Province of Québec, G0L 2G0

and

CAISSE DESJARDINS DU CARREFOUR DES LACS, legal person having its principal establishment at 572, Avenue Jacques-Cartier, Disraëli, District of Frontenac, Province of Québec, G0N 1E0

and

CAISSE DESJARDINS DU SUD DE L'ISLET ET DES HAUTES-TERRES, legal person having its principal establishment at 112, Rue Principale, Saint-Pamphile, District of Montmagny, Province of Québec, G0R 3X0

and

CAISSE DESJARDINS DES CHUTES MONTMORENCY, legal person having its principal establishment at 4, Rue Vachon, Québec, District of Québec, Province of Québec, G1C 2V2

and

CAISSE POPULAIRE DESJARDINS DE CHARLESBOURG, legal person having its principal establishment at 155, 76^e Rue Est, Québec, District of Québec, Province of Québec, G1H 1G4

and

CAISSE DESJARDINS DE BEAUPORT, legal person having its principal establishment at 799, Rue Clemenceau, Québec, District of Québec, Province of Québec, G1C 8J7

and

CAISSE DESJARDINS DE QUÉBEC, legal person having its principal establishment at 150, Rue Marie-de-l'Incarnation, Québec, District of Québec, Province of Québec, G1N 4G8

and

CAISSE DESJARDINS DU PLATEAU MONTCALM, legal person having its principal establishment at 1351, Chemin Sainte-Foy, Québec, District of Québec, Province of Québec, G1S 2N2

and

CAISSE DESJARDINS DE LA CÔTE-DE-BEAUPRÉ, legal person having its principal establishment at 9751, Boulevard Sainte-Anne, Sainte-Anne-de-Beaupré, District of Québec, Province of Québec, G0A 3C0

and

CAISSE DESJARDINS DE L'ÎLE-D'ORLÉANS, legal person having its principal establishment at 1185, Chemin Royal, Saint-Pierre-de-l'Île-d'Orléans, District of Québec, Province of Québec, G0A 4E0

and

CAISSE DESJARDINS DE LIMOILOU, legal person having its principal establishment at 800, 3^{ième} Avenue, Québec, District of Québec, Province of Québec, G1L 2W9

and

CAISSE DESJARDINS DE LA CHAUDIÈRE, legal person having its principal establishment at 103-1190B Rue de Courchevel, Lévis, District of Québec, Province of Québec, G6W 0M6

and

CAISSE DESJARDINS DE LÉVIS, legal person having its principal establishment at 995, Boulevard Alphonse-Desjardins, Lévis District of Québec, Province of Québec, G6V 0M5

and

CAISSE DESJARDINS DE L'OUEST DE PORTNEUF, legal person having its principal establishment at 1075, Boulevard Bona-Dussault, Saint-Marc-des-Carières, District of Québec, Province of Québec, G0A 4B0

and

CAISSE POPULAIRE DESJARDINS DU PIÉMONT LAURENTIEN, legal person having its principal establishment at 1638, Rue Notre-Dame, L'Ancienne-Lorette, District of Québec, Province of Québec, G2E 3B6

and

CAISSE DESJARDINS DE CAP-ROUGE-SAINT-AUGUSTIN, legal person having its principal establishment at 1111, Boulevard de la Chaudière, Québec, District of Québec, Province of Québec, G1Y 3T4

and

CAISSE POPULAIRE DESJARDINS DE LES ECUREUILS, legal person having its principal establishment at 984, Rue Notre-Dame, Donnacona, District of Québec, Province of Québec, G3M1J5

and

CAISSE POPULAIRE DESJARDINS DE SAINT-RAYMOND-SAINTE-CATHERINE, legal person having its principal establishment at 225, Avenue Saint-Maxime,

Saint-Raymond, District of Québec, Province of Québec, G3L 3W2

and

CAISSE DESJARDINS DU CENTRE DE PORTNEUF, legal person having its principal establishment at 1, Rue du Jardin, Pont-Rouge, District of Québec, Province of Québec, G3H 0H6

and

CAISSE POPULAIRE DESJARDINS DE NEUVILLE, legal person having its principal establishment at 757, Rue des Érables, Neuville, District of Québec, Province of Québec, G0A 2R0

and

CAISSE DESJARDINS DU CENTRE DE LOTBINIÈRE, legal person having its principal establishment at 140, Rue Principale, Saint-Apollinaire, District of Québec, Province of Québec, G0S 2E0

and

CAISSE DESJARDINS DE SILLERY-SAINT-LOUIS-DE-FRANCE, legal person having its principal establishment at 1444, Avenue Maguire, Québec, District of Québec, Province of Québec, G1T 1Z3

and

CAISSE DESJARDINS DES RIVIÈRES DE QUÉBEC, legal person having its principal establishment at 2287, Avenue Chauveau, Québec, District of Québec, Province of Québec, G2C 0G7

and

CAISSE DESJARDINS DE L'UNIVERSITÉ LAVAL, legal person having its principal establishment at 1506-2325, Rue de l'Université, Québec, District of Québec, Province of Québec, G1V 0B3

and

CAISSE DESJARDINS DE WENDAKE, legal person having its principal establishment at 155, Rue Chef-Aimé-Romain, Wendake, District of Québec, Province of Québec, G0A 4V0

and

CAISSE DESJARDINS DE SAINTE-FOY, legal person having its principal establishment at 200-990, Avenue de Bourgogne, Québec, District of Québec, Province of Québec, G1W 0E8

and

CAISSE DESJARDINS DE CHARLEVOIX-EST, legal person having its principal establishment at 130, Rue John-Nairne, La Malbaie, District of Charlevoix, Province of Québec, G5A 1Y1

and

CAISSE DESJARDINS DU FLEUVE ET DES MONTAGNES (CHARLEVOIX), legal person having its principal establishment at 2, Rue Saint-Jean-Baptiste, Baie-Saint-Paul, District of Charlevoix, Province of Québec, G3Z1L7

and

CAISSE POPULAIRE DESJARDINS DE L'ÎLE-AUX-COUDRES, legal person having its principal establishment at 29, Chemin de la Traverse, L'Isle-aux-Coudres, District of Charlevoix, Province of Québec, G0A 3J0

and

CAISSE DESJARDINS DE CHICOUTIMI, legal person having its principal establishment at 245, Rue Racine Est, CP 8180, Chicoutimi, District of Chicoutimi, Province of Québec, G0A 3J0

and

CAISSE DESJARDINS DU DOMAINE-DU-ROY, legal person having its principal establishment at 841, Boulevard Saint-Joseph, Roberval, District of Roberval, Province of Québec, G8H 2L6

and

CAISSE DESJARDINS DE JONQUIÈRE, legal person having its principal establishment at 2358, Rue Saint-Dominique, CP 991, Jonquière, District of Chicoutimi, Province of Québec, G7X 7W8

and

CAISSE POPULAIRE DESJARDINS D'ALMA, legal person having its principal establishment at 600, Rue Collard Ouest, CP 2036, Alma, District of Alma, Province of Québec, G8B 5W1

and

CAISSE DESJARDINS DES CINQ-CANTONS, legal person having its principal establishment at 535, Rue Saint-Alphonse, Saint-Bruno, District of Alma, Province of Québec, G0W 2L0

and

CAISSE DESJARDINS DE LA BAIE, legal person having its principal establishment at 1262, 6^{ième} Avenue, Saguenay, District of Chicoutimi, Province of Québec, G7B 1R4

and

CAISSE DESJARDINS DU NORD DU LAC-SAINT-JEAN, legal person having its principal establishment at 1200, Boulevard Wallberg, Dobleau-Mistassini, District of Roberval, Province of Québec, G8L 1H1

and

CAISSE DESJARDINS D'ARVIDA KÉNOG-AMI, legal person having its principal establishment at 1970, Boulevard Mellon, Jonquière, District of Chicoutimi, Province of Québec, G7S 3H1

and

CAISSE DESJARDINS DU BAS-SAGUENAY, legal person having its principal establishment at 243, Rue Saint-Jean-Baptiste, L'Anse-Saint-Jean, District of Chicoutimi, Province of Québec, G0V 1J0

and

CAISSE DESJARDINS DE LA RIVE-NORD DU SAGUENAY, legal person having its principal establishment at 2212, Rue Roussel, Chicoutimi, District of Chicoutimi, Province of Québec, G7G 1W7

and

CAISSE POPULAIRE DESJARDINS DES PLAINES BORÉALES, legal person having its principal establishment at 1032, Rue Saint-Cyrille, Normandin, District of Roberval, Province of Québec, G8M 4H5

and

CAISSE DESJARDINS DE PEKUAKAMI, legal person having its principal establishment at 1838, Rue Ouiatchouan, Mashteuiatsh, District of Roberval, Province

of Québec, G0W 2H0

and

CAISSE DESJARDINS DE GENTILLY LÉVRARD-RIVIÈRE DU CHÊNE, legal person having its principal establishment at 1780, Avenue des Hirondelles, Bécancour, District of Trois-Rivières, Province of Québec, G9H 4L7

and

CAISSE DESJARDINS DES CHÊNES, legal person having its principal establishment at 242, Rue Sainte-Thérèse, Saint-Germain-de-Grantham, District of Drummond, Province of Québec, J0C 1K0

and

CAISSE DESJARDINS DE GODEFROY, legal person having its principal establishment at 4265, Boulevard Port-Royal, Bécancour, District of Trois-Rivières, Province of Québec, G9H 1Z3

and

CAISSE DESJARDINS DE NICOLET, legal person having its principal establishment at 181, Rue Notre-Dame, Nicolet, District of Trois-Rivières, Province of Québec, J3T 1V8

and

CAISSE POPULAIRE DESJARDINS DE L'EST DE DRUMMOND, legal person having its principal establishment at 330, Rue Notre-Dame, Notre-Dame-du-Bon-Conseil, District of Drummond, Province of Québec, J0C 1A0

and

CAISSE DESJARDINS DES BOIS-FRANCS, legal person having its principal

establishment at 300, Boulevard des Bois-Francis Sud, CP, 800, Victoriaville, District of Arthabaska, Province of Québec, G6P 7W7

and

CAISSE DESJARDINS DE L'ÉRABLE, legal person having its principal establishment at 1658, Rue Saint-Calixte, CP 187, Plessisville, District of Frontenac, Province of Québec, G6L 2Y7

and

CAISSE DESJARDINS DE DRUMMONDVILLE, legal person having its principal establishment at 460, Boulevard Saint-Joseph, Drummondville, District of Drummond, Province of Québec, J2C 2A8

and

CAISSE DESJARDINS DU CENTRE-DE-LA-MAURICIE, legal person having its principal establishment at 2500, 105^{ième} Avenue, Shawinigan, District of Saint-Maurice, Province of Québec, G9P 1P6

and

CAISSE DESJARDINS DE L'EST DE TROIS-RIVIÈRES, legal person having its principal establishment at 670, Boulevard Thibeau, Trois-Rivières, District of Trois-Rivières, Province of Québec, G8T 6Z8

and

LA CAISSE POPULAIRE DE MASKINONGÉ, legal person having its principal establishment at 62, Rue Saint-Aimé, Maskinongé, District of Trois-Rivières, Province of Québec, J0K 1N0

and

LA CAISSE POPULAIRE DE NOTRE DAME DU MONT CARMEL, legal person having its principal establishment at 3960, Rue Monseigneur-Béliveau, Notre-Dame-du-Mont-Carmel, District of Trois-Rivières, Province of Québec, G0X 3J0

and

CAISSE DESJARDINS DE TROIS-RIVIÈRES, legal person having its principal establishment at 5625, Boulevard Jean-XXIII, Trois-Rivières, District of Trois-Rivières, Province of Québec, G8Z 4B2

and

LA CAISSE POPULAIRE DE ST-ALEXIS DES MONTS, legal person having its principal establishment at 41, Rue Richard, Saint-Alexis-Des-Monts, District of Saint-Maurice, Province of Québec, J0K 1V0

and

CAISSE DESJARDINS DE MÉKINAC-DES CHENAUX, legal person having its principal establishment at 400, Rue Notre-Dame, Saint-Tite, District of Saint-Maurice, Province of Québec, G0X 3H0

and

CAISSE POPULAIRE DESJARDINS CITÉ DE SHAWINIGAN, legal person having its principal establishment at 1560, Rue Trudel, Shawinigan, District of Saint-Maurice, Province of Québec, G9N 0A2

and

CAISSE DESJARDINS DE LA TUQUE, legal person having its principal establishment at 341, Rue Saint-Joseph, La Tuque, District of Saint-Maurice, Province of Québec, G9X 1L3

and

CAISSE DESJARDINS DE L'OUEST DE LA MAURICIE, legal person having its principal establishment at 75, Avenue Saint-Laurent, Louiseville, District of Trois-Rivières, Province of Québec, J5V 1J6

and

CAISSE DESJARDINS DE SAINT-BONIFACE, legal person having its principal establishment at 120, Rue Guillemette, Saint-Boniface, District of Saint-Maurice, Province of Québec, G0X 2L0

and

CAISSE DESJARDINS DES VERTS-SOMMETS DE L'ESTRIE, legal person having its principal establishment at 155, Rue Child, Coaticook, District of Saint-François, Province of Québec, J1A 2B4

and

CAISSE DESJARDINS DE LAC MÉGANTIC – LE GRANIT, legal person having its principal establishment at 4749, Rue Laval, Lac-Mégantic, District of Mégantic, Province of Québec, G6B 1C8

and

CAISSE DESJARDINS DU NORD DE SHERBROOKE, legal person having its principal establishment at 1845, Rue King Ouest, Sherbrooke, District of Saint-François, Province of Québec, J1J 2E4

and

CAISSE DESJARDINS DES SOURCES, legal person having its principal establishment at 535, 1^{re} Avenue, Asbestos, District of Saint-François, Province of Québec, J1J 2E4

Québec, J1T 3Y3

and

CAISSE DESJARDINS DU HAUT-SAINT-FRANÇOIS, legal person having its principal establishment at 46, Rue de l'Hôtel-de-Ville, East Angus, District of Saint-François, Province of Québec, J0B 1R0

and

CAISSE DESJARDINS DU LAC-MEMPHRÉMAGOG, legal person having its principal establishment at 230, Rue Principale Ouest, Magog, District of Saint-François, Province of Québec, J1X 2A5

and

CAISSE DESJARDINS DU VAL-SAINT-FRANÇOIS, legal person having its principal establishment at 77, Rue Saint-Georges, Windsor, District of Saint-François, Province of Québec, J1S 2K5

and

CAISSE DESJARDINS DES DEUX-RIVIÈRES DE SHERBROOKE, legal person having its principal establishment at 1261, Rue King Est, Sherbrooke, District of Saint-François, Province of Québec, J1G 1E7

and

CAISSE DESJARDINS DE BROME-MISSISQUOI, legal person having its principal establishment at 101, Rue Principale, Cowansville, District of Bedford, Province of Québec, J2K 1J3

and

CAISSE DESJARDINS DE GRANBY-HAUTE-YAMASKA, legal person having its

principal establishment at 450, Rue Principale, Granby, District of Bedford, Province of Québec, J2G 2X1

and

CAISSE POPULAIRE DE WATERLOO, legal person having its principal establishment at 4990, Rue Foster, Waterloo, District of Bedford, Province of Québec, J0E 2N0

and

CAISSE POPULAIRE DESJARDINS DU BASSIN-DE-CHAMBLY, legal person having its principal establishment at 455, Boulevard Brassard, Chambly, District of Longueuil, Province of Québec, J3L 4V6

and

LA CAISSE POPULAIRE DE ST-THÉODORE D'ACTON, legal person having its principal establishment at 1698, Rue Principale, Saint-Théodore-d'Acton, District of Saint-Hyacinthe, Province of Québec, J0H 1Z0

and

CAISSE DESJARDINS DE LA RÉGION DE SAINT-HYACINTHE, legal person having its principal establishment at 1697, Rue Girouard Ouest, Saint-Hyacinthe, District of Saint-Hyacinthe, Province of Québec, J2S 2Z9

and

CAISSE DESJARDINS DE LA POMME-RAIE, legal person having its principal establishment at 200, Rue Desjardins Est, Farnham, District of Bedford, Province of Québec, J2N 1P9

and

CAISSE DESJARDINS PIERRE-DE SAUREL, legal person having its principal establishment at 385, Boulevard Polinquin, Sorel-Tracy, District of Richelieu, Province of Québec, J3P 5N6

and

CAISSE DESJARDINS D'ACTON VALE-RIVIÈRE NOIRE, legal person having its principal establishment at 1100, Rue Saint-André, Acton Vale, District of Saint-Hyacinthe, Province of Québec, J0H 1A0

and

CAISSE DESJARDINS DE LA SEIGNEURIE DE RAMEZAY, legal person having its principal establishment at 385, Rue Couture, Sainte-Hélène-de-Bagot, District of Saint-Hyacinthe, Province of Québec, J0H 1M0

and

CAISSE DESJARDINS DE ROUVILLE, legal person having its principal establishment at 1111, 3^e Rue, Richelieu, District of Saint-Hyacinthe, Province of Québec, J3L 3Z2

and

CAISSE DESJARDINS DE BELOEIL-MONT-SAINT-HILAIRE, legal person having its principal establishment at 830, Rue Laurier, Beloeil, District of Saint-Hyacinthe, Province of Québec, J3G 4K4

and

CAISSE DESJARDINS DU HAUT-RICHELIEU, legal person having its principal establishment at 730, Boulevard d'Iberville, Saint-Jean-sur-Richelieu, District of Iberville Province of Québec, J2X 3Z9

and

CAISSE DESJARDINS DE JOLIETTE ET DU CENTRE DE LANAUDIÈRE, legal person having its principal establishment at 1995, boulevard Firestone Est, Notre-Dame-des-Prairies, District of Joliette, Province of Québec, J6E 0V5

and

CAISSE POPULAIRE DESJARDINS DE ST-ROCH-DE-L'ACHIGAN, legal person having its principal establishment at 40, Rue du Docteur-Wilfrid-Locat, St-Roch-de-l'Achigan, District of Joliette, Province of Québec, J0K 3H0

and

CAISSE DESJARDINS DE LA NOUVELLE-ACADIE, legal person having its principal establishment at 4, Rue Beaudry, Saint-Jacques, District of Joliette, Province of Québec, J0K 2R0

and

CAISSE DESJARDINS DE MONTCALM ET DE LA OUAREAU, legal person having its principal establishment at 3690, Rue Queen, Rawdon, District of Joliette, Province of Québec, J0K 1S0

and

CAISSE POPULAIRE DESJARDINS LE MANOIR, legal person having its principal establishment at 820, Montée Masson, Mascouche, District of Joliette, Province of Québec, J7K 3B6

and

CAISSE DESJARDINS DE D'AUTRAY, legal person having its principal establishment at 701, Avenue Gilles-Villeneuve, Berthierville, District of Joliette, Province of Québec,

J0K 1A0

and

CAISSE DESJARDINS DU NORD DE LANAUDIÈRE, legal person having its principal establishment at 20, Rue Saint-Gabriel, Saint-Gabriel-de-Brandon, District of Joliette, Province of Québec, J0K 2N0

and

CAISSE DESJARDINS DE TERREBONNE, legal person having its principal establishment at 801, Boulevard des Seigneurs, Terrebonne, District of Terrebonne, Province of Québec, J6W 1T5

and

CAISSE DESJARDINS PIERRE-LE GARDEUR, legal person having its principal establishment at 477, Rue Notre-Dame, Repentigny, District of Joliette, Province of Québec, J6A 2T6

and

CAISSE DESJARDINS DES MOISSONS-ET-DE-ROUSSILLON, legal person having its principal establishment at 296, Voie de Desserte de la route 132, Saint-Constant, District of Longueuil, Province of Québec, J5A 2C9

and

CAISSE DESJARDINS DE SALABERRY-DE-VALLEYFIELD, legal person having its principal establishment at 120, Rue Alexandre, Salaberry-de-Valleyfield, District of Beauharnois, Province of Québec, J6S 3K4

and

CAISSE POPULAIRE DESJARDINS BEAUHARNOIS, legal person having its principal establishment at 555, Rue Ellice, Beauharnois, District of Beauharnois, Province of Québec, J6N 1X8

and

CAISSE DESJARDINS DU MONT-SAINT-BRUNO, legal person having its principal establishment at 1649, Rue Montarville, Saint-Bruno-de-Montarville, District of Longueuil, Province of Québec, J3V 3T8

and

CAISSE DESJARDINS DES PATRIOTES, legal person having its principal establishment at 1071, Boulevard de Montarville, Boucherville District of Longueuil, Province of Québec, J4B 6R2

and

CAISSE DESJARDINS DE L'OUEST DE LA MONTÉRÉGIE, legal person having its principal establishment at 724, Boulevard Saint-Jean-Baptiste, Mercier, District of Beauharnois, Province of Québec, J6R 0B2

and

CAISSE DESJARDINS DE SAINT-HUBERT, legal person having its principal establishment at 2400, Boulevard Gaétan-Boucher, Longueuil, District of Longueuil, Province of Québec, J3Y 5B7

and

CAISSE DESJARDINS DE CHÂTEAUGUAY, legal person having its principal establishment at 235, Chemin de la Haute-Rivière, Châteauguay, District of Beauharnois, Province of Québec, J6K 5B1

and

CAISSE DESJARDINS DU VIEUX-LONGUEUIL, legal person having its principal establishment at 1, Rue Saint-Charles Ouest, Longueuil, District of Longueuil, Province of Québec, J4H 1C4

and

CAISSE POPULAIRE DE LA PRAIRIE, legal person having its principal establishment at 450, Boulevard Taschereau, La Prairie, District of Longueuil, Province of Québec, J5R 1V1

and

CAISSE DESJARDINS DES SEIGNEURIES DE LA FRONTIÈRE, legal person having its principal establishment at 373, Rue Saint-Jacques, Napierville, District of Iberville, Province of Québec, J0J 1L0

and

CAISSE DESJARDINS DU HAUT-SAINT-LAURENT, legal person having its principal establishment at 4B, Rue Bridge, Ormstown, District of Beauharnois, Province of Québec, J0S 1K0

and

CAISSE DESJARDINS CHARLES-LEMOYNE, legal person having its principal establishment at 477, Avenue Victoria, Saint-Lambert, District of Longueuil, Province of Québec, J4P 2J1

and

CAISSE DESJARDINS DE BROSSARD, legal person having its principal establishment 8800, Boulevard Leduc, Brossard, District of Longueuil, Province of

Québec, J4Y 0G4

and

CAISSE DESJARDINS PIERRE-BOUCHER, legal person having its principal establishment at 2401, Boulevard Rolland-Therrien, Longueuil, District of Longueuil, Province of Québec, J4N 1C5

and

CAISSE POPULAIRE KAHNAWAKE, legal person having its principal establishment at Kahnawake Complexe Services, River Road, CP 1987, Kahnawake, District of Longueuil, Province of Québec, J0L 1B0

and

CAISSE DESJARDINS DE LA VALLÉE DES PAYS-D'EN-HAUT, legal person having its principal establishment at 218, Rue Principale, Saint-Sauveur, District of Terrebonne, Province of Québec, J0R 1R0

and

CAISSE DESJARDINS THÉRÈSE-DE BLAINVILLE, legal person having its principal establishment at 201, Boulevard du Curé-Labelle, Sainte-Thérèse, District of Terrebonne, Province of Québec, J7E 2X6

and

CAISSE DESJARDINS DE LA RIVIÈRE-DU-NORD, legal person having its principal establishment at 100, Place du Curé-Labelle, Saint-Jérôme, District of Terrebonne, Province of Québec, J7Z 1Z6

and

CAISSE DESJARDINS DE MONT-TREMBLANT 470, Rue Charbonneau, Mont-

Tremblant, District de Terrebonne, Province of Québec, J8E 3H4

and

CAISSE DESJARDINS DU COEUR DES HAUTES-LAURENTIDES, legal person having its principal establishment at 597, Boulevard Albiny-Paquette, Mont-Laurier, District of Labelle, Province of Québec, J9L 1L5

and

CAISSE DESJARDINS DU LAC DES DEUX-MONTAGNES, legal person having its principal establishment at 100, Rue Notre-Dame, Oka, District of Terrebonne, Province of Québec, J0N 1E0

and

CAISSE POPULAIRE DESJARDINS DE SAINTE-AGATHE-DES-MONTS, legal person having its principal establishment at 77, Rue Principale Est, Sainte-Agathe-des-Monts, District of Terrebonne, Province of Québec, J8C 1J5

and

CAISSE POPULAIRE DESJARDINS DE MIRABEL, legal person having its principal establishment at 8000, Rue Saint-Jacques, Mirabel, District of Terrebonne, Province of Québec, J7N 2B7

and

CAISSE DESJARDINS DE SAINT-MARTIN DE LAVAL, legal person having its principal establishment at 2466, Boulevard Curé-Labelle, Laval, District of Laval, Province of Québec, H7T 1R1

and

CAISSE POPULAIRE DESJARDINS DE L'ENVOLÉE, legal person having its principal establishment at 13845, Boulevard du Curé-Labelle, CP 1200, Mirabel, District of Terrebonne, Province of Québec, J7J 1A1

and

CAISSE DESJARDINS D'ARGENTEUIL, legal person having its principal establishment at 570, Rue Principale, Lachute, District of Terrebonne, Province of Québec, J8H 1Y7

and

CAISSE DESJARDINS DE LA ROUGE, legal person having its principal establishment at 550, Rue de l'Annonciation Nord, Rivière-Rouge, District of Labelle, Province of Québec, J0T 1T0

and

CAISSE DESJARDINS DU NORD DE LAVAL, legal person having its principal establishment at 396, Boulevard Curé-Labelle, Laval, District of Laval, Province of Québec, H7L 4T7

and

CAISSE DESJARDINS DE L'OUEST DE LAVAL, legal person having its principal establishment at 440, Autoroute Chomedey, Laval, District of Laval, Province of Québec, H7X 3S9

and

CAISSE DESJARDINS DE CHOMEDEY, legal person having its principal establishment at 3075, Boulevard Cartier Ouest, Laval, District of Laval, Province of Québec, H7V 1J4

and

CAISSE DESJARDINS DU CENTRE ET DE L'EST DE LAVAL, legal person having its principal establishment at 4433, Boulevard de la Concorde Est, Laval, District de Laval, Province of Québec, H7C 1M4

and

CAISSE DESJARDINS DE SAINT-EUSTACHE-DEUX-MONTAGNES, legal person having its principal establishment at 575, Boulevard Arthur-Sauvé, Saint-Eustache, District of Terrebonne, Province of Québec, J7P 4X5

and

CAISSE DESJARDINS DES GRANDS BOULEVARDS DE LAVAL, legal person having its principal establishment at 3111, Boulevard Saint-Martin Ouest, Laval, District of Laval, Province of Québec, H7T 0K2

and

CAISSE DESJARDINS DU SUD-OUEST DE MONTRÉAL, legal person having its principal establishment at 4545 rue Notre-Dame Ouest, Montréal, District of Montréal, Province of Québec, H4C 1S3

and

CAISSE DESJARDINS DU QUARTIER-LATIN DE MONTRÉAL, legal person having its principal establishment at 1255, Rue Berri, Montréal, District of Montréal, Province of Québec, H2L 4C6

and

CAISSE DESJARDINS DU CENTRE-NORD DE MONTRÉAL, legal person having its principal establishment at 7915, Boulevard

Saint-Laurent, Montréal, District of Montréal,
Province of Québec, H2R 1X2

and

**CAISSE DESJARDINS DU PLATEAU-
MONT-ROYAL**, legal person having its
principal establishment at 435, Avenue du
Mont-Royal Est, Montréal, District of
Montréal, Province of Québec, H2J 1W2

and

**CAISSE DESJARDINS DE BORDEAUX—
CARTIERVILLE—SAINT-LAURENT**, legal
person having its principal establishment at
145-3500 Boulevard de la Côte-Vertu,
Montréal, District of Montréal, Province of
Québec, H4R 1P8

and

**CAISSE DESJARDINS DES VERSANTS DU
MONT ROYAL**, legal person having its
principal establishment at 1145, Avenue
Bernard, Montréal, District of Montréal,
Province of Québec, H2V 1V4

and

**CAISSE DESJARDINS DE NOTRE-DAME-
DE-GRÂCE**, legal person having its principal
establishment at 3830, Boulevard Décarie,
Montréal, District of Montréal, Province of
Québec, H4A 3J7

and

**CAISSE DESJARDINS DE L'ÎLE-DES-
SOEURS—VERDUN**, legal person having its
principal establishment at 5035, Rue de
Verdun, Verdun, District of Montréal,
Province of Québec, H4G 1N5

and

CAISSE DESJARDINS DE LACHINE, legal person having its principal establishment at 910, Rue Provost, Lachine, District of Montréal, Province of Québec, H8S 1M9

and

CAISSE DESJARDINS DE VAUDREUIL - SOULANGES, legal person having its principal establishment at 1-100, Boulevard Don-Quichotte, L'Île-Perrot, District of Beauharnois, Province of Québec, J7V 6L7

and

CAISSE DESJARDINS DE L'OUEST-DE-L'ÎLE, legal person having its principal establishment at 303, Boulevard Brunswick, Pointe-Claire, District of Montréal, Province of Québec, H9R 4Y2

and

CAISSE DESJARDINS DE LASALLE, legal person having its principal establishment at 7700, Boulevard Newman, Montréal, District of Montréal, Province of Québec, H8N 1X8

and

CAISSE DESJARDINS DU COMPLEXE DESJARDINS, legal person having its principal establishment at 226-5 Complexe Desjardins, Niveau Promenade, CP 244, Succ. Desjardins, Montréal, Province of Québec, H5B 1B4

and

CAISSE DESJARDINS DE ROSEMONT – LA-PETITE-PATRIE, legal person having its principal establishment at 2597, Rue Beaubien Est, Montréal, District of Montréal, Province of Québec, H1Y 1G4

and

CAISSE DESJARDINS DU COEUR-DE-L'ÎLE, legal person having its principal establishment at 2050, Boulevard Rosemont, Montréal, District of Montréal, Province of Québec, H2G 1T1

and

CAISSE DESJARDINS DE MERCIER-EST – ANJOU, legal person having its principal establishment at 7000, Boulevard Joseph-Renaud, Anjou, District of Montréal, Province of Québec, H1K 3V5

and

CAISSE DESJARDINS DE POINTE-AUX-TREMBLES, legal person having its principal establishment at 13120, Rue Sherbrooke Est, Montréal, District of Montréal, Province of Québec, H1A3W2

and

CAISSE DESJARDINS DU CENTRE-EST DE MONTRÉAL, legal person having its principal establishment at 6955, Rue Jean-Talon Est, Montréal, District of Montréal, Province of Québec, H1S 1N2

and

CAISSE POPULAIRE DESJARDINS D'HOCHELAGA-MAISONNEUVE, legal person having its principal establishment at 3871, Rue Ontario Est, Montréal, District of Montréal, Province of Québec, H1W 1S7

and

CAISSE POPULAIRE DESJARDINS UKRAINIENNE DE MONTRÉAL, legal person having its principal establishment at 3250, Rue Beaubien Est, Montréal, District of Montréal, Province of Québec, H1X 3C9

and

CAISSE DESJARDINS DE SAULT-AU-RÉCOLLET - MONTRÉAL-NORD, legal person having its principal establishment at 10205, Boulevard Pie IX, Montréal, District of Montréal, Province of Québec, H1H 3Z4

and

CAISSE DESJARDINS DE RIVIÈRES-DES-PRAIRIES, legal person having its principal establishment at 8300, Boulevard Maurice-Duplessis, Montréal, District of Montréal, Province of Québec, H1E 3A3

and

CAISSE POPULAIRE DESJARDINS CANADIENNE ITALIENNE, legal person having its principal establishment at 6999, Boulevard Saint-Laurent, Montréal, District of Montréal, Province of Québec, H2S 3E1

and

CAISSE DESJARDINS DE HULL-AYLMER, legal person having its principal establishment at 250 boulevard Saint-Joseph, Gatineau, District of Gatineau, Province of Québec, J8Y 3X6

and

CAISSE DESJARDINS DES COLLINES-DE L'OUTAOUAIS, legal person having its principal establishment at 88 rue Principale Est, La Pêche, District of Gatineau, Province of Québec, J0X 2W0

and

CAISSE POPULAIRE DESJARDINS DE GATINEAU, legal person having its principal establishment at 655, Boulevard Saint-René Ouest, Gatineau, District of Gatineau, Province of Québec, J8T 8M4

and

CAISSE POPULAIRE DESJARDINS GRACEFIELD, legal person having its principal establishment at 32, rue Principale, C.P. 99, Gracefield, District of Gatineau, Province of Québec, J0X 1W0

and

CAISSE DESJARDINS DES RIVIÈRES DE PONTIAC, legal person having its principal establishment at 175 rue Principale, CP 70, Fort-Coulonge, District of Pontiac, Province of Québec, J0X 1V0

and

CAISSE POPULAIRE DESJARDINS DE LA HAUTE-GATINEAU, legal person having its principal establishment at 100 rue Principale Sud, bureau 29, Maniwaki, District of Labelle, Province of Québec, J9E 3L4

and

CAISSE DESJARDINS DU COEUR-DES-VALLÉES, legal person having its principal establishment at 104 rue Maclaren Est, Gatineau, District of Gatineau, Province of Québec, J8L 1K1

and

CAISSE DESJARDINS DE LA PETITE-NATION, legal person having its principal establishment at 105 rue Principale, Saint-André-Avellin, District of Gatineau, Province of Québec, J0V 1W0

and

CAISSE DESJARDINS DU TÉMISCAMINGUE, legal person having its principal establishment at 51 rue Sainte-Anne, Ville-Marie, District of Témiscamingue, Province of

Québec, J9V 2B6

and

CAISSE DESJARDINS DE ROUYN-NORANDA, legal person having its principal establishment at 75 avenue Québec, Rouyn-Noranda, District of Rouyn-Noranda, Province of Québec, J9X 7A2

and

CAISSE DESJARDINS DE L'EST DE L'ABITIBI, legal person having its principal establishment at 602 3^e Avenue, Val-d'Or, District of Abitibi, Province of Québec, J9P 1S5

and

CAISSE DESJARDINS DE L'ABITIBI-OUEST, legal person having its principal establishment at 66 5^e Avenue Est, La Sarre, District of Abitibi, Province of Québec, J9Z 1K9

and

CAISSE DESJARDINS D'AMOS, legal person having its principal establishment at 2 rue Principale Nord, C.P. 670, Amos, District of Abitibi, Province of Québec, J9T 3X2

and

CAISSE DESJARDINS DE CHIBOUGAMAU, legal person having its principal establishment at 519, 3^e Rue, Chibougamau, District of Abitibi, Province of Québec, G8P 1N8

and

CAISSE DESJARDINS EENOU EEYOU, legal person having its principal establishment at 136 Amanda, Suite 200,

Mistissini, District of Abitibi, Province of Québec, G0W 1C0

and

CAISSE DESJARDINS DE L'ADMINISTRATION ET DES SERVICES PUBLICS, legal person having its head office at 1035, rue De la Chevrotière, Québec, District of Québec, Province of Québec, G1R 5X4

and

CAISSE DESJARDINS DU RÉSEAU MUNICIPAL (MONTRÉAL, LONGUEUIL, REPENTIGNY), legal person having its principal establishment at 2600 boulevard Saint-Joseph, Montréal, District of Montréal, Province of Québec, H1Y 2A4

and

CAISSE DESJARDINS DES TRANSPORTS, legal person having its principal establishment at 5705 rue Sherbrooke Est, Montréal, District of Montréal, Province of Québec, H1N 1A8

and

CAISSE DESJARDINS DES POLICIERS ET POLICIÈRES, legal person having its principal establishment at 460 rue Gilford, Montréal, District of Montréal, Province of Québec, H2J 1N3

and

CAISSE DESJARDINS HYDRO, legal person having its principal establishment at 75 boulevard René-Lévesque Ouest, Suite 57, Montréal, District of Montréal, Province of Québec, H2Z 1A3

and

CAISSE D'ÉCONOMIE DESJARDINS DU PERSONNEL MUNICIPAL (QUÉBEC), legal person having its principal establishment at 600, boulevard Pierre-Bertrand, Suite 100, Québec, District of Québec, Province of Québec, G1M 3W5

and

CAISSE DESJARDINS DES TECHNOLOGIES DE L'INFORMATION, legal person having its principal establishment at 288 rue Saint-Joseph, La Tuque, District of Saint-Maurice, Province of Québec, G9X 1K8

and

CAISSE D'ÉCONOMIE DESJARDINS DE LA MÉTALLURGIE ET DES PRODUITS FORESTIERS (SAGUENAY-LAC-SAINT-JEAN), legal person having its principal establishment at 1936 boulevard Mellon, Jonquière, District of Chicoutimi, Province of Québec, G7S 3H3

and

CAISSE DESJARDINS DES RESSOURCES NATURELLES, legal person having its principal establishment at 500 rue Arnaud, Sept-Îles, District of Mingan, Province of Québec, G4R 3B5

and

CAISSE DESJARDINS DU SECTEUR PUBLIC DE L'ESTRIE, legal person having its principal establishment at 560 rue Bowen Sud, Sherbrooke, District of Saint-François, Province of Québec, J1G 2E3

and

CAISSE DESJARDINS DES TRAVAILLEUSES ET TRAVAILLEURS UNIS, legal person having its principal establishment at 545

boulevard Crémazie Est, Suite 302, Montréal,
District of Montréal, Province of Québec,
H2M 2V1

and

CAISSE DESJARDINS DES MILITAIRES,
legal person having its principal
establishment at 190 rue Dubé, suite 109,
Centre commercial Canex, Courcelette,
District of Charlevoix, Province of Québec,
G0A 1R1

and

CAISSE DESJARDINS PORTUGAISE, legal
person having its principal establishment at
4244 boulevard Saint-Laurent, Montréal,
District of Montréal, Province of Québec,
H2W 1Z3

and

CAISSE DESJARDINS DU CHAÎNON, legal
person having its principal establishment at
315 rue MacDonald, Suite 102, Saint-Jean-
sur-Richelieu, District of Iberville, Province of
Québec, J3B 8J3

and

CAISSE DESJARDINS DE L'ÉDUCATION,
legal person having its principal
establishment at 9405 rue Sherbrooke Est,
Suite 2500, Montréal, District of Montréal,
Province of Québec, H1L 6P3

and

**CAISSE D'ÉCONOMIE DES LITUANIENS
DE MONTRÉAL "LITAS"** (faisant affaires
sous la dénomination Montreal Lithuanian
Credit Union "**Litas**"), legal person having its
principal establishment at 1475, rue De Sève,
Montréal, District of Montréal, Province of
Québec, H4E 2A8

and

CAISSE D'ÉCONOMIE DESJARDINS DES EMPLOYÉS EN TÉLÉCOMMUNICATION, legal person having its principal establishment at 1050 Côte du Beaver Hall, Suite 340, Montréal, District of Montréal, Province of Québec, H2Z 0A5

and

CAISSE DESJARDINS DE LA CULTURE, legal person having its principal establishment at 215 rue Saint-Jacques Ouest, Suite 200, Montréal, District of Montréal, Province of Québec, H2Y 1M6

and

CAISSE DESJARDINS DU SECTEUR DE L'ENSEIGNEMENT DES BASSES-LAURENTIDES, legal person having its principal establishment at 500, chemin des Anciens, Deux-Montagnes, District of Terrebonne, Province of Québec, J7R 6A7

and

CAISSE D'ÉCONOMIE SOLIDAIRE DESJARDINS, legal person having its principal establishment at 155 boulevard Charest Est, Suite 500, Québec, District of Québec, Province of Québec, G1K 3G6

and

CAISSE DESJARDINS DES EMPLOYÉS DE VILLE DE LAVAL, legal person having its principal establishment at 4210 rue Garand, Laval, District of Laval, Province of Québec, H7L 5Z6

and

CAISSE DESJARDINS DU RÉSEAU DE LA SANTÉ, legal person having its principal

establishment at 2100 boulevard de
Maisonneuve Est, Suite 102, Montréal,
District of Montréal, Province of Québec, H2K
4S1

Defendants

**2ND RE-AMENDED APPLICATION TO AUTHORIZE THE BRINGING OF A CLASS
ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFFS
(ARTICLES 571 AND FOLLOWING C.C.P.)**

**TO THE HONORABLE CHANTAL CORRIVEAU, J.S.C. ACTING AS THE
DESIGNATED JUDGE IN THE PRESENT CASE, YOUR APPLICANTS STATE AS
FOLLOWS:**

I. INTRODUCTION

1. This class action seeks the reimbursement of the amounts overpaid by Quebec Class Members to Defendants on account of abusive mortgage prepayment charges (either partial or complete prepayments), as well as punitive damages for the exploitation of Quebec consumers;
2. Defendants generate substantial profits – far exceeding their actual costs and lost revenue – by charging mortgage prepayment charges whenever Class Members payoff their mortgage before the end of the term or when they make a partial payment of more than 10% of the amount owing on their mortgage before term (also known as “*paiement anticipé*”);
3. Defendants do so by including a clause (similar to the one reproduced below) in their respective hypothecary loan agreements that provide for prepayment charges as follows:

The charge or penalty is the **higher of the following**:

- 3 months' interest calculated on the prepayment amount

or

 - the interest rate differential (hereinafter “**IRD**”)
4. For Class Members, the higher of the two options is always the IRD, which is virtually impossible for any reasonable person to calculate on their own;
 5. When mortgage prepayment charges exceed 3-months interest, Class Members paying the IRD suffer lesion within the meaning of article 2332 of the *Civil Code*

of Quebec (“**CCQ**”). The penalty in the form of the IRD is also abusive pursuant to articles 1437 and 1623 CCQ and abusive under section 8 of Quebec’s *Consumer Protection Act* (“**CPA**”);

6. Section 10(1) of the *Interest Act* R.S.C., 1985, c. I-15, provides as follows:

When no further interest payable

10 (1) Whenever any principal money or interest secured by mortgage on real property or hypothec on immovables is not, under the terms of the mortgage or hypothec, payable until a time more than five years after the date of the mortgage or hypothec, then, if at any time after the expiration of the five years, any person liable to pay, or entitled to pay in order to redeem the mortgage, or to extinguish the hypothec, tenders or pays, to the person entitled to receive the money, the amount due for principal money and interest to the time of payment, as calculated under sections 6 to 9, **together with three months further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time after the payment on the principal money or interest due under the mortgage or hypothec.**

7. The Supreme Court has held that the purpose of section 10(1) of the *Interest Act* is to ensure that mortgagors are not “locked in” for more than five years and that a penalty of 3-months interest was the most that can be charged by any lender. If a mortgagor signed a 10-year mortgage and decided to pay off his mortgage after 6 years, the most the lender can charge in prepayment fees is 3-months of interest, even though there are 4 years remaining on the term;
8. Section 10(1) of the *Interest Act* was drafted in the 19th century, when the term of a mortgage and its amortization period generally coincided. The Supreme Court confirms that Courts can interpret s. 10(1) in light of today’s commercial practices, where most residential mortgages are for five years or less, but amortized over twenty or thirty years;
9. The Defendants have created complex formulas and impose “posted rates” that result in the IRD always being an amount greater than 3-months of interest charged to Class Members;
10. This enables Defendants to opt for the option in the clause that is far more advantageous to them and to charge Class Members disproportionate mortgage prepayment charges that exceed 3-months interest – that become objectively abusive and lesionary;
11. In a December 4th, 2013 Globe and Mail news article titled “*The hidden trap of mortgage penalties*”, disclosed as **Exhibit P-1**, personal finance columnist Rob Carrick writes:

It's easy to get caught in the posted mortgage rate trap at the big banks.

No, you won't have to pay the posted rate on your next mortgage. Pretty much nobody does that any more, according to mortgage broker Robert McLister. **The real danger is that posted rates will be used to calculate the penalty if you ever have to break your mortgage, probably costing you thousands of extra dollars.**

A mortgage penalty compensates a lender for the interest payments it loses out on when you break a mortgage contract. "That's the intention," said Mr. McLister, who is also editor of CanadianMortgageTrends.com. **"But in many cases, it overcompensates. It's punitive in many cases."**

12. In an August 6th, 2010 Globe and Mail news article titled "*Mortgage breakage costs: let's stop the nonsense*", disclosed as **Exhibit P-2**, Marcel Mooij sheds some light on the banks' "posted" rates and explains how complicated it is, even for professionals, to calculate the IRD:

Have you ever wondered why the banks list posted mortgage rates that are ridiculously high?

One reason is that it could result in you paying \$10,000 or more in extra penalties should you ever break your mortgage with them [...]

While the three months interest is pretty easy to understand, **the IRD is a little mysterious**. For help on this, I went to TD Bank's mortgage website. RBC has a similar section.

13. Robert McLister refers to the IRD formula using the following terms, in a September 14th, 2012 Globe and Mail article (updated on March 26th, 2017) titled "*Ten questions to help you avoid mortgage-penalty shock*", disclosed as **Exhibit P-3**:

Figuring out the penalty on a fixed-rate mortgage **is like solving a calculus equation**. Homeowners who try often wind up hitting their head against hard objects in frustration.

It's been that way for years, and as many unwittingly discover, mortgage penalties can be disturbingly expensive.

14. In a December 2010 Report titled "*Coping with Mortgage Penalties in Canada*", disclosed herewith as **Exhibit P-4**, Richard Beaumier exposes the issue of mortgage prepayment penalties and finds that:

In theory, the rate differential amount should cover the economic or financial loss incurred in the lender's investment when the interest rate goes down.

However, in real-life cases, **this penalty is often higher than 200% of the actual loss incurred by the lender.** In the absence of more stringent guidelines, Canadian mortgage lenders have the ability to set, manage, and plan **abnormally high mortgage penalties**, as well as to add unjustified surcharges.

In Canada, mortgage penalties are asymmetrical: Mortgage lenders gain not only when the interest rates fall, but also when interest rates rise. Thus, rules have to be changed and calculations need to be made symmetrical.

In the U.S., most mortgage loans do not have built-in mortgage penalties. The absence of mortgage penalties has nothing to do with the issues recently faced by the U.S. mortgage industry [...]

During the quarter ending January 31, 2010, a total of 301 complaints were filed before the Ombudsman for Banking Services and Investments (OBSI), which is the double of complaints filed for the same quarter in 2009, and three times the amount in 2008. In essence, the complaints are about the amounts of the penalties on mortgage rate prepayments, which often amount to several thousands of dollars.

15. On October 8th, 2014, the CBC News published an article titled "*TD Bank client 'devastated' by \$17,000 mortgage penalty*", disclosed as **Exhibit P-5**, in which a TD spokeswoman admits that TD will sometimes reduce the mortgage prepayment charge:

After Go Public contacted TD asking for comment, the bank made the Truszes an offer.

In an email, TD spokeswoman Lynzey MacRae said the Truszes are happy with the offer, but cited "privacy reasons" for not providing details of the settlement.

MacRae said the IRD is designed to ensure a bank won't suffer when a customer decides to end a mortgage before its maturity date.

She said **TD policy is to make exceptions for military personnel, or in some cases for compassionate reasons**, which it evaluates on a case by case basis.

16. It is obvious that TD makes these “exceptions” when their abusive fees are exposed publicly and because the prepayment fee is in fact abusive and disproportionate. In its “case by case” evaluations, it appears that TD (and the other Defendants) ought to also consider the rights of Quebec Class Members, and notably the following legislative provisions:

Civil Code of Quebec

1436. *In a consumer contract or a contract of adhesion, a clause which is illegible or incomprehensible to a reasonable person is null if the consumer or the adhering party suffers injury therefrom, unless the other party proves that an adequate explanation of the nature and scope of the clause was given to the consumer or adhering party.*

1437. *An **abusive clause** in a consumer contract or contract of adhesion is null, or the obligation arising from it may be reduced.*

An abusive clause is a clause which is excessively and unreasonably detrimental to the consumer or the adhering party and is therefore contrary to the requirements of good faith; in particular, a clause which so departs from the fundamental obligations arising from the rules normally governing the contract that it changes the nature of the contract is an abusive clause.

1623. *A creditor who avails himself of a penal clause is entitled to the amount of the stipulated penalty without having to prove the injury he has suffered.*

*However, the amount of the stipulated penalty may be reduced if the creditor has benefited from partial performance of the obligation or **if the clause is abusive.***

2332. *In the case of a loan of a sum of money, the court may pronounce the nullity of the contract, order the reduction of the obligations arising from the contract or revise the terms and conditions of the performance of the obligations to the extent that it finds that, having regard to the risk and to all the circumstances, **one of the parties has suffered lesion.***

Consumer Protection Act

8. *The consumer may demand the nullity of a contract or a reduction in his obligations thereunder where the disproportion between the respective obligations of the parties is so great as to amount to exploitation of the*

consumer or where the obligation of the consumer is excessive, harsh or unconscionable.

272. If the merchant or the manufacturer fails to fulfil an obligation imposed on him by this Act, by the regulations or by a voluntary undertaking made under section 314 or whose application has been extended by an order under section 315.1, the consumer may demand, as the case may be, subject to the other recourses provided by this Act,

[...]

(c) that his obligations be reduced;

[...]

*without prejudice to his claim in damages, in all cases. **He may also claim punitive damages.***

- 16.1 It also appears that the CIBC Defendants applied a shortened amortization period when calculating the notional amount of interest payable under the Comparison Rate (the “Shortened Comparison Rate Amortization Period” or “SCRAP”), thereby reducing the amount of interest notionally payable under the “similar” or comparison rate and increasing the difference between the dollar amounts of interest payable under the contract rate and comparison rate, respectively;
- 16.2 On February 21st, 2019, Ontario’s Superior Court of Justice certified a class action against the CIBC in *Jordan v. CIBC Mortgages Inc.*, 2019 ONSC 1178, finding that the Plaintiff made an arguable case that the CIBC applied SCRAP improperly and increased the IRD penalties it calculated and charged (see paragraphs 169 to 177 of the judgment);
17. Consequently, the Applicants wish to institute a class action on behalf of the following classes of which they are members, namely:

Class:

All natural and legal persons who, since May 31st, 2015, paid to any of the Defendants (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec on a property located in the province of Quebec;

(hereinafter referred to as the “**Class**”)

CIBC Class:

All natural and legal persons who, since [...] 2005, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec on a property located in the province of Quebec;

(hereinafter referred to as the “**CIBC Class**”)

or any other Class to be determined by the Court;

- 17.1 Prescription was suspended for CIBC Class members on October 17, 2011, when Diane Lamarre filed her *Motion to Authorize the Bringing of a Class Action and to Obtain the Status of Representative* in Quebec Superior Court file no. 200-06-000139-116;
- 17.2 On December 6th, 2018, this Court ordered that Applicant Avraham Brook be substituted for Diane Lamarre in file no. 200-06-000139-116 and on December 19th, 2018, this Court ordered that file no. 200-06-000139-116 be transferred from the district of Quebec to the district of Montreal (and was recently assigned file no. 500-06-000970-190);

II. THE PARTIES

18. Applicants reside in the judicial district of Montreal [...]. Mr. Brook is a consumer within the meaning of article 1384 CCQ as well as within the meaning of section 1(e) CPA (his cause of action against the CIBC is detailed at paragraphs 71 to 94 below). Ms. Haroch signed a contract of adhesion within the meaning of article 1379 CCQ with the TD for investment purposes (as more fully detailed herein at paragraphs 39 to 70);
19. The Defendants – all merchants – are financial institutions and/or lenders that enter into hypothecary loan agreements and/or collateral hypothec agreements with Class Members (either directly or through mandataries). These agreements (in French, respectively, “*prêt hypothécaire*” and “*contrat d’hypothèque collatérale*”) are also commonly referred to as a “**Mortgage**”;
20. Defendant the Toronto-Dominion Bank (hereinafter “**TD**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-6**;
21. Defendants Canadian Imperial Bank of Commerce and CIBC Mortgages Inc. (hereinafter collectively referred to as “**CIBC**”), are merchants carrying on in the financial services industry as hypothecary lenders among the other services they provide, as it appears from extracts of the CIDREQ, disclosed *en liasse* as

Exhibit P-7;

- 21.1 At all material times, CBIC conducted its business under different names and trademarks, including “CIBC”, “Hypothèques CIBC”, “CIBC Mortgages”, “FirstLine”, “Hypothèques FirstLine”, “FirstLine Mortgages” and “Prêts et Hypothèques CIBC”;
- 21.2 Since 2001, CIBC has a subsidiary, 3877337 Canada Inc., a company incorporated under the *Canada Business Corporations Act*, RSC 1985, c C-44 and registered in Québec in June 2001, as it appears from an extract of the CIDREQ, disclosed herewith as **Exhibit P-42**. At all material times, CIBC also conducted business through its subsidiary 3877337 Canada Inc., under the names and trademarks of “Home Loans Canada”, “HLC Home Loans Canada”, “Hypothèques Logis Concept”, “HLC Hypothèques Logis Concept” and “HLC”;
22. Defendant the Banque de Montréal (hereinafter “**BMO**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-8**;
23. Defendant the Royal Bank of Canada (hereinafter “**RBC**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-9**;
24. Defendants the Bank of Nova Scotia and Scotia Mortgage Corporation (hereinafter collectively “**Scotia**”), are merchants carrying on in the financial services industry as mortgage lenders, among the other services they provide, as it appears from extracts of the CIDREQ, disclosed *en liasse* as **Exhibit P-10**;
25. Defendant the Laurentian Bank of Canada (hereinafter “**Laurentian**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-11**;
26. Defendant the Fédération des Caisses Desjardins du Québec (hereinafter “**Fédération Desjardins**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender (either directly or via mandataries) among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-12**;
- 26.1 It is clear from the Enterprise Registry (Exhibit P-12) that Fédération Desjardins is an organization that supports the hundreds of “*Desjardins caisses*” in Québec that offer financial services, including mortgages. Its mandate, according to information on its website, “*is to provide the caisses with the services they require and to coordinate the efforts of all other Desjardins Group components*”;

26.2 Olivier Nadeau (*Directeur gestion des produits de financement* for Fédération Desjardins) admitted the following in his Affidavit sworn on February 28, 2019, the Affidavit disclosed herewith in its entirety as Applicants' **Exhibit P-41**:

11. *La Fédération **prépare les modèles types de contrats de prêt hypothécaire qui comportent des clauses prévoyant le paiement des indemnités** en cas de remboursement hypothécaire anticipé, et les met à la disposition des caisses Desjardins. La Fédération **recommande aux caisses Desjardins d'utiliser ces modèles**, bien qu'aucun encadrement ou norme précise n'en gouverne l'utilisation ou l'application;*

IV. Les indemnités payables lors d'un remboursement hypothécaire anticipé

12. *Les caisses Desjardins sont les seules entités responsables de l'exécution des clauses contractuelles prévoyant le paiement d'indemnités lors d'un remboursement anticipé;*

[...]

ii. indemnités pouvant correspondre au DTI

18. *Les clauses d'indemnité des contrats de prêt hypothécaire à taux fixe ferme consentis aux particuliers prévoient quant à eux que le membre peut rembourser de manière anticipée en payant une indemnité égale au plus élevé des deux montants suivants : 1) un montant égal a trois mois d'intérêts; OU 2) un montant égal à l'intérêt calculé sur le montant remboursé jusqu'à la fin du terme du prêt au taux d'intérêt égal au différentiel du taux d'intérêt, tel qu'il appert de la Convention d'utilisation de l'option multiprojets (CF-01255-575) **préparée par la Fédération et mise à la disposition des caisses Desjardins**, en liasse, pièce FCDQ-1;*

[Our emphasis in bold].

26.3 Mr. Olivier Nadeau, who works for Defendant Fédération Desjardins, did not mention that the standard model hypothecary loan contract was modified by any of the Caisses Desjardins who were named as Defendants after he communicated his Affidavit (Exhibit P-41); furthermore, it is extremely unlikely that any of the 227 Caisses Desjardins Defendants (hereinafter "**Caisses Desjardins**") made any modification to the standard hypothecary loan contract (and specifically to the section concerning mortgage prepayment penalties) that

was: (i) prepared and drafted for them; (ii) given to them; and (iii) recommended by Defendant the Fédération Desjardins to use;

- 26.4 The 227 Caisses Desjardins are called as Defendants because Mr. Nadeau admits that they are responsible for the “*execution*” of the mortgage prepayment penalties paid by Class Members. However, the fact that these entities demanded and received the prepayment penalties does not exonerate the Fédération Desjardins from being solidarily liable towards the Class Members, given that the Fédération Desjardins enabled, recommended and was instrumental to the creation and conclusion of illegal transactions;
- 26.5 In light of the above, the Fédération Desjardins is solidarily liable with each of the 227 “Caisses Desjardins” Defendants named herein for the damages suffered by each Class Member who contracted with either entity;
27. Defendant the National Bank of Canada (hereinafter “**BNC**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-13**;
28. Defendant HSBC Bank of Canada (hereinafter “**HSBC**”) is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides, as it appears from an extract of the CIDREQ, **Exhibit P-14**;
29. Defendant Tangerine Bank is a merchant carrying on in the financial services industry, including as a hypothecary lender among the other services it provides. Tangerine Bank was formerly known as “ING BANK OF CANADA” (a name change was made on May 9th, 2014) and is a subsidiary of Defendant Scotia, the whole as it appears from an extract of the CIDREQ, disclosed as Applicant’s **Exhibit P-15**;
30. Defendant First National Financial LP (hereinafter “**First National**”) is a merchant and limited partnership carrying on in the financial services industry as a hypothecary lender. Its general partner is First National Financial GP Corporation and its special partner is First National Financial GP Corporation, the whole as it appears from an extract of the CIDREQ, **Exhibit P-16**;
31. In the course of their respective businesses, the Defendants enter into contracts of adhesion with Class Members, all of whom are adherents. They also enter into consumer contracts with Class Members, many of whom are consumers within the meaning of article 1384 CCQ and section 1(e) CPA;
32. All of the Defendants’ hypothecary loan agreements with Class Members include a clause that provides for prepayments and/or charges in amounts that are objectively excessive, disproportionate and abusive under articles 1437 and 1623 CCQ and section 8 CPA. Class Members also suffer objective lesion under article 2332 CCQ when said clause results in prepayment charges in excess of

3-months of interest;

33. The Applicants allege that all of the Defendants impose prepayment charges that are greater than 3-months of interest and are therefore objectively abusive, excessive and disproportionate. To meet their burden of demonstration at this stage of the proceedings, Applicants provide the following exhibits to support their allegations (contained in the present application) vis-à-vis each of the Defendants:

Defendant	Exhibit #
TD	Exhibit P-17;
CIBC	Exhibit P-18;
BMO	Exhibit P-19;
RBC	Exhibit P-20;
SCOTIA	Exhibit P-21;
LAURENTIAN	Exhibit P-22;
FÉDÉRATION DESJARDINS	Exhibit P-23;
BNC	Exhibit P-24;
HSBC	Exhibit P-25;
TANGERINE	Exhibit P-26;
FIRST NATIONAL	Exhibit P-27;
<u>227 CAISSES DESJARDINS</u>	<u>Exhibit P-41</u> <u>(paras. 10, 12</u> <u>and 15).</u>

34. Defendants generally charge prepayment fees mentioned in Exhibits P-17 to P-27 (and Exhibit P-41 including its annexes) when a Class Member sells their property before the end of their Mortgage term, or for any other reason when a Class Member pays off their Mortgage prior to term;
- 34.1 The abusive prepayment fees are also charged by Defendants to Class Members when the latter make a partial payment towards their mortgage (generally an amount exceeding 10%-15% of the amount owing on their mortgage), as it appears from the CIBC's clause titled "*Making partial prepayments with a prepayment charge*" (Exhibit P-36, at page 6-PDF) and from TD's clause at Exhibit P-29 (page 8-PDF) at the paragraph beginning with "*Pour un remboursement anticipé partiel...*";
35. The impact of these types of clauses is to *always* favour the Defendants who, as a result of the resiliation/prepayment (in the case of entire mortgage prepayment), no longer provide the services or loan to Class Members but pocket the profits. This situation is to the detriment of Class Members and is objectively abusive and unfair;
36. The formula used by Defendants to calculate the IRD is also incomprehensible to

a reasonable person (including to Defendants' frontline staff who interact with Class Members), as it is impossible in fact for any person to calculate the IRD based on the information included in their respective contracts with the various Defendants at the time the hypothecary loan agreement is entered into;

- 36.1 The incomprehensible clause referring to an IRD calculation is almost identical whether it refers to the entire prepayment or a "partial prepayment" of a Class Member's mortgage;
37. It is also virtually impossible for any reasonable person to calculate the IRD based on the information included in their respective contracts with the various Defendants when the time comes to compute the prepayment fee (often several years after the hypothecary loan agreement is signed). This was certainly the case for both Applicants Ms. Haroch and Mr. Brook;
- 37.1 Additionally, it appears that the CIBC is not using a "similar" mortgage, contrary to the representations it makes in its Mortgages (see, for instance, Exhibit P-36 in the charts at the top of pages 7-PDF and 9-PDF, second column) and appears to be using a comparator mortgage with a shorter amortization period, causing a prejudice to CIBC Class Members, as it appears from the Affidavit of Nicholas Wise dated May 1, 2013, filed in support of another similar class action certified in British Columbia (*Sherry v CIBC Mortgage Inc.*, 2018 BCSC 1484), disclosed herewith as **Exhibit P-43**;
- 37.2 As such, it appears that the CIBC has been misleading CIBC Class Members since 2005, so prescription should not run against CIBC Class Members until the notices are disseminated (should the present class action be authorized), because it was impossible in fact for CIBC Class Members to act. Indeed, CIBC Class Members could not have acted previously as they had no reason to doubt, prior to the Ontario Superior Court of Justice judgment in February 2019, that the CIBC was using a shorter amortization period and not a "similar" mortgage;
- 37.3 In the present case, CIBC's conduct (consisting of using a shorter amortization period) misleads CIBC Class Members and the courts have found that such conduct causes an impossibility to act;
- 37.4 The Applicants reserve their right to invoke the cause of action concerning the illegal use of a shorter amortization period against the other Defendants should discovery on the merits show that they also mislead consumers in this manner (for instance, at page 8-PDF of Exhibit P-29, the TD claims to use le "taux publié pour un prêt hypothécaire analogue");
38. Notwithstanding the forgoing, the prepayment fees and charges far exceed the injury or prejudice sustained by the Defendants as a result of the prepayment of the Mortgage because the Defendants are able to lend the amounts prepaid by Class Members at equivalent or higher interest rates (the three-month interest rate period thus represents a reasonable amount of time for Defendants to

contract with a new borrower at the same or higher rate);

III. CONDITIONS REQUIRED TO AUTHORIZE THIS CLASS ACTION AND TO APPOINT THE STATUS OF REPRESENTATIVE PLAINTIFFS (SECTION 575 C.C.P.):

A) THE FACTS ALLEGED APPEAR TO JUSTIFY THE CONCLUSIONS SOUGHT

1) Applicant Katy Haroch's Claim against TD

39. On or around March 2nd, 2015, Ms. Haroch signed a document titled "*Convention de CréditFlex Valeur domiciliaire TD avec garantie immobilière*", in order to open a TD Home Equity Line of Credit (referred to by TD as the "**Flexline**" or "**CréditFlex**" in French) for the property she owned at the time situated at 340-342 Alexis-Nihon in Ville St-Laurent, Quebec, H4M 2A3, as it appears from her CréditFlex agreement disclosed as **Exhibit P-28**;
- 39.1 The property situated at 340-342 Alexis-Nihon is a residential property that Ms. Haroch used primarily for investment purposes (she rented it out to tenants). Ms. Haroch resides at 1750 Saint-Louis Street, #308, Ville St-Laurent, Quebec, H4L 5N4;
40. Ms. Haroch's CréditFlex home equity line of credit account number was 0654-3259989, as it appears from Exhibit P-28;
41. On or around March 2nd, 2015, Ms. Haroch signed a second document (relating to the same CréditFlex account #0654-3259989) titled "*Convention de modification de la convention CréditFlex Valeur domiciliaire TD avec garantie immobilière*", as it appears from the modification agreement to the CréditFlex agreement disclosed as **Exhibit P-29**;
42. It appears that the purpose of having Ms. Haroch sign the modification agreement (Exhibit P-29 at page 2) was to convert a portion of the capital of the CréditFlex line of credit into a fixed term loan at a fixed interest rate;
43. The TD secured its loan with a "*Contrat d'hypothèque collatérale*" notarized on March 11th, 2015, Applicant disclosing **Exhibit P-30**;
44. According to TD's website, the TD Home Equity Flexline / CréditFlex "... lets you use the value of your home as collateral to give you a line of credit with a low interest rate" (<https://www.td.com/ca/en/personal-banking/products/mortgages/td-home-equity-flexline/>), Applicant disclosing **Exhibit P-31**;
45. TD CréditFlex/Flexline offers consumers a line of credit (secured by hypothec) with a revolving portion and an optional term portion. This case concerns the term portion of Ms. Haroch's *CréditFlex*, where her hypothecary loan was fixed for a closed term of 5-years at a fixed interest rate of 2.79% (with a 25-year amortization period), as it appears from Exhibit P-29;

46. Ms. Haroch's modified CréditFlex agreement, which came into effect on March 23rd, 2015 (the conversion date) contained the following impugned clause concerning prepayment charges (see pages 2 and 7-10 of Exhibit P-29):

Frais de remboursement anticipé	Si vous payez un montant supérieur à ce que vous permet votre privilège de remboursement anticipé, vous devez nous payer des frais de remboursement anticipé d'un montant correspondant au plus élevé entre : a) trois (3) mois d'intérêt; et b) le montant différentiel du taux d'intérêt : soit le montant correspondant à la différence entre votre taux d'intérêt annuel et le taux d'intérêt affiché pour un prêt hypothécaire dont la durée se rapproche le plus du reste de la durée de votre prêt hypothécaire, déduction faite de tout escompte sur le taux que vous avez reçu, multiplié par le montant remboursé par anticipation et multiplié par la durée restante.
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47. When signing her agreements and the deed (Exhibits P-28, P-29 and P-30), Ms. Haroch was never specifically explained that she would incur prepayment charges if she paid off her loan early (she was **not** asked to initial next to the impugned clause), nor was she given any explanation about the complex formula used to calculate the IRD (i.e. "*le montant différentiel du taux d'intérêt*");
48. Ms. Haroch made her weekly payments for over 2 years and then eventually decided to sell her property secured by hypothec by the TD (340-342 Alexis-Nihon);
49. On or around October 26th, 2017, Ms. Haroch closed the sale of her property (340-342 Alexis-Nihon) at the notary and therefore had to pay off the existing balance of the fixed portion of her Mortgage to TD prior to the closing date;
50. On or around October 10th, 2017, the TD prepared its Discharge/Transfer/Payout Statement, confirming that it will charge Ms. Haroch \$12,648.47 on account of "Prepayment Charge IRD", as it appears from said Statement disclosed as **Exhibit P-32**;
51. There were 29 months remaining on Ms. Haroch's fixed term (last payment was due on March 16th, 2020, as it appears at page 3 of Exhibit P-29);
52. According to TD – and as it appears from the discharge statement (Exhibit P-32) – the balance owing on Ms. Haroch's fixed term and fixed rate loan as of October 10th, 2017 was \$347,976.98;
53. Based on a prepayment penalty of three months of interest (which is the only portion of the prepayment clause that was comprehensible to Ms. Haroch), the total amount that the TD should have charged Ms. Haroch on account of prepayment charges would be approximately \$2,427.14 (based on her annual interest rate of 2.79%);
54. Using its complicated IRD formula (which was incomprehensible to Ms. Haroch

at the time of signing her agreement and until this very day), the TD calculated a prepayment charge of \$12,648.47;

55. Ms. Haroch went to her branch and tried to negotiate in order to have the penalty waived or reduced, but the bank representative told her that the penalty is computer generated and that there was nothing they can do to reduce the amount;
56. The prepayment charge of \$12,648.47 was disbursed directly from the notary to TD on or around October 26th, 2017;
57. TD should have not charged Ms. Haroch more than \$2,427.17 (representing 3-months interest) and therefore overcharged Ms. Haroch by \$10,221.30;
58. In addition to being overcharged by \$10,221.30, this situation caused Ms. Haroch a great deal of stress, frustration, trouble and inconvenience, because she never expected to pay such a high amount as a penalty to the TD just for selling her property and for paying off her mortgage early;
59. The difference in the amount of \$10,221.30 is objectively abusive, excessive and disproportionate;
60. Ms. Haroch suffered objective lesion by paying \$12,648.47, when a prepayment penalty of 3-months interest in the amount of \$2,437.17 would have been more than enough to compensate TD for its costs;
61. Ms. Haroch was unhappy about paying the prepayment charge of \$12,648.47, but was in no position to negotiate with a giant bank such as TD, who impose this abusive clause in its consumer contracts and contracts of adhesion (Exhibit P-29);
62. To further illustrate the objectively abusive, excessive and disproportionate nature of the prepayment charge, Ms. Haroch discloses the prepayment charges she would have paid to MCAP, another hypothecary lender in Quebec, **Exhibit P-33**;
63. On its website, MCAP describes as *“one of Canada's largest independent mortgage financing companies, with over \$66 billion in assets under administration”*;
64. As it appears from Exhibit P-33, MCAP would have charged Ms. Haroch \$2,427.14 (equal to exactly 3-months interest) to payout her Mortgage early;
65. Given that Ms. Haroch is a consumer within the meaning of the CPA, she is entitled to claim punitive damages in the amount of \$1000.00 from TD pursuant to section 272 CPA;
66. Ms. Haroch reiterates that TD's clause concerning prepayment charges (*“Frais*

de remboursement anticipé") was incomprehensible to her, as she could never figure out or calculate the prepayment charge based on the information in the documents provided by TD until this day (Exhibits P-29 and P-32);

67. The jurisprudence indicates that objective lesion requires a comparison of what the consumer paid for the prepayment charge (\$12,648.47 in this case) and the "wholesale" cost to the merchant of providing this service (in this case, 3-months of interest appears to be appropriate since it is provided for by TD in the impugned clause and it is also the amount that many other hypothecary lenders in Quebec charge in the same circumstances);
68. There is thus an important disproportion between the \$12,648.47 charged to Ms. Haroch and the service provided by TD;
69. Moreover, the TD could have either: (i) secured Ms. Haroch's fixed rate mortgage back in March of 2015; or (ii) lent the amount Ms. Haroch prepaid (\$347,976.98) to another borrower at an equivalent or higher interest rate than Ms. Haroch's 2.79% (or could have easily done so within the 3-month penalty period), given that TD's fixed rate for a two-year closed mortgage as of October 10th, 2017 was 3.04% (thus 0.25% greater than Ms. Haroch's rate), as it appears from **Exhibit P-34**;
70. Ms. Haroch's damages are a direct and proximate result of TD's misconduct;

2) Applicant Avraham Brook's Claim against CIBC

71. On or around June 22nd, 2015, Mr. Brook entered into a hypothecary loan agreement with CIBC, as it appears from the Deed of Hypothecary Loan disclosed as **Exhibit P-35**;
72. Just prior to this date (sometime between June 16th and June 22nd, 2015), Mr. Brook and a representative of the CIBC signed a document titled "Revised Mortgage Approval" (for mortgage # 002 010 201), disclosed as **Exhibit P-36**;
73. As is appears from Exhibit P-36, the term of the loan was fixed at an interest rate of 2.79% for 60 months, with an amortization period of 30 years;
74. Mr. Brook's mortgage agreement contained the following impugned clause concerning prepayment charges (see pages 6 to 8 of Exhibit P-36):

If you want to prepay the entire outstanding principal amount of your mortgage, a prepayment charge will apply to the total amount of the prepayment... The prepayment charge will be the higher of the following two amounts:

- three months' interest costs on the amount you are prepaying that is subject to a prepayment charge calculated at your existing annual interest rate; or

- the interest rate differential amount, which is explained below
75. When signing both the Deed and Approval documents (Exhibits P-35 and P-36), Mr. Brook was never explained that he would incur prepayment charges if he paid off his Mortgage early (he was **not** asked to initial next to the impugned clause), nor was he given any explanation about the complex formula used to calculate the IRD;
 76. On April 19th, 2018, Mr. Brook sold his residence and therefore had to pay off the balance on his existing Mortgage to the CIBC;
 77. On or around April 19th, 2018, the CIBC charged Mr. Brook **\$29,340.36** on account of prepayment charges, as it appears from his Payout/Discharge Statement dated April 18th, 2018, disclosed as **Exhibit P-37**;
 78. The prepayment charge of \$29,340.36 was disbursed directly from the notary to CIBC;
 79. Mr. Brook tried to negotiate this penalty with the CIBC, but was told that if the entire amount of the prepayment charge was not paid, CIBC would not disburse the proceeds of the sale of his home;
 80. In hindsight, Mr. Brook now realizes that the CIBC was a far more sophisticated negotiator than he was and that the CIBC was in a dominant position by providing in Exhibit P-36 that it be paid prepayment charges that far exceed its costs in the event that Mr. Brook were to pay off his Mortgage early;
 81. The clause concerning prepayment charges was incomprehensible to Mr. Brook, as neither he nor his two sons (both practicing Quebec attorneys) were ever able to figure out how to calculate the prepayment charge based on the information provided by CIBC and even after speaking to the CIBC representative at the bank;
 82. In fact, both of Mr. Brook's sons also tried to negotiate with the CIBC, who refused to reduce the prepayment charge by any amount whatsoever;
 83. CIBC should not have charged Mr. Brook more than 3-months interest (i.e. \$5,788.69);
 84. The difference of \$23,551.67 is objectively abusive, excessive and disproportionate;
 85. This situation caused Mr. Brook a great deal of stress, anxiety, frustration, trouble and inconvenience, because he never imagined having to foot such a huge bill just for selling his house and paying off his Mortgage early (Mr. Brook's wife had passed away in 2015, he had just closed his butcher shop and his financial situation was becoming more and more precarious);

86. To further illustrate the objectively abusive, excessive and disproportionate nature of the prepayment charge, Mr. Brook discloses the prepayment charges he would have paid to MCAP, another hypothecary lender in Quebec, **Exhibit P-38**;
87. As it appears from Exhibit P-38, MCAP would have charged Mr. Brook \$5,788.69 (equal to exactly 3-months interest) to payout his Mortgage early;
88. Mr. Brook suffered objective lesion by paying \$29,340.36 when the CIBC should have charged him \$5,788.69 (for a difference of \$23,551.67);
89. Mr. Brook was disgruntled about paying the prepayment charge, but was in no position to negotiate with a giant bank such as CIBC, who includes this abusive clause in their consumer contracts and contracts of adhesion, Exhibit P-36;
90. The jurisprudence indicates that objective lesion requires a comparison of what the consumer paid for the prepayment charge (in this case \$29,340.36) and the “wholesale” cost to the merchant of providing this service (in this case, 3-months of interest appears to be appropriate since it is provided for by CIBC in the impugned clause and it is also the amount that many other hypothecary lenders in Quebec charge in the same circumstances);
91. There is thus an important disproportion between the \$29,340.36 charged to Mr. Brook and the service provided by CIBC;
92. Moreover, the CIBC could have either: (i) secured Mr. Brook’s fixed rate mortgage back in June of 2015; or (ii) lent the amount Mr. Brook prepaid (\$829,920.25) to another borrower at an equivalent or higher interest rate than Mr. Brook’s 2.79% (or could have easily done so within the 3-month penalty period), given that its fixed rate for a two-year mortgage as of May 24th, 2018 is 3.34% (thus 0.55% greater than the Mr. Brook’s rate), as it appears from **Exhibit P-39**;
- 92.1 Lastly, it appears that the CIBC used a shorter amortization period, and therefore not a “**mortgage product similar to yours**”, contrary to the representations in Exhibit P-36 (see the charts at the top of pages 7-PDF and 9-PDF, second column), causing a prejudice to Mr. Brook, as described by Mr. Wise in Exhibit P-43:

7. One of the important features or characteristics of any mortgage is its amortization period. That is the period, often 20 years or longer, after which the mortgage principal will be completely repaid, on the assumption that the interest rate and periodic (e.g., monthly) payments are constant for that entire period. Most mortgages have terms or durations that are shorter than the amortization period. At the end of the contractual term of the mortgage, also called the “maturity date”, the borrower typically enters into a new or renewed

mortgage contract.

8. Two variables that affect the length of the amortization period are the rate of interest being charged and the amount of each monthly, biweekly or other periodic payment of principal and interest. If either the interest rate is reduced without reducing the amount of each periodic payment, or if the amount of each periodic payment is increased without increasing the interest rate, the amortization period will be shortened.

9. In other words, if the periodic payment remains unchanged but a lower interest rate is applied, the amortization will be shortened, because the principal debt will be paid off faster.

[...]

15. The effect of this assumption, which is inherent in the Defendant's Formula, is that the Defendant charges a significantly higher prepayment penalty (assuming that it is entitled to charge any penalty at all, which I understand is in issue in this case) that would be the case if the Defendant's Formula did not assume a shorter amortization period.

16. The Defendant's Formula assumes that even when using the lower Comparison Rate of interest (as defined in paragraph 11 of my Affidavit #1) to calculate interest costs, the monthly, biweekly or other periodic payments under the mortgage would be in the same dollar amount. As discussed in paragraphs 8 and 9 above, lowering the rate of interest but maintaining the periodic payments at the same dollar amount has the effect of shortening the amortization period.

[...]

20. The Defendant calculates its IRD prepayment penalties as the difference between two different principal balances, calculated on a future date (the end of the mortgage term, also known as the maturity date). Those two balances are as follows:

a. The first balance is based on interest at the contractual rate under the existing mortgage, plus any discount from the posted rate at the time the existing mortgage began, and using the amortization period of the exiting mortgage; and

b. The other balance is based on a change from the existing mortgage of not one but two variables: (1) a different interest rate (the Comparison Rate); and (2) a shorter amortization period.

21. This difference in principal balances that is charged by the Defendant, which would otherwise not exist until a futures date (the maturity date) is collected on the date of the prepayment. Because the Defendant's Formula assumes a comparison mortgage which has a shorter amortization period than actually exists under the mortgage that is being prepaid, and because under the Defendant's Formula the amount of the penalty charged depends in part on the principal balance of that comparison mortgage at its maturity date, the Defendant's Formula inflates the amount of the pre-payment penalty."

93. Given that Mr. Brook is a consumer within the meaning of the CPA, he is entitled to claim punitive damages in the amount of \$1000.00 from CIBC pursuant to section 272 CPA;
94. Mr. Brook's damages are a direct and proximate result of CIBC's misconduct;

The Level at which the Disproportion becomes Exploitative

95. Interpreting Section 10(1) of the *Interest Act* in today's reality demonstrates that - in the case of the Applicants - both the CIBC and the TD (and the other Defendants in the case of the other Class Members) have charged and, as of the date of the filing of this Application, continue to charge Quebec Class Members prepayment charges that are objectively abusive, exploitative and disproportionate;
96. The Applicants believe that further evidentiary support for their allegations will come to light after a reasonable opportunity for discovery;
97. There is an important disproportion between the two options provided for in the hypothecary loan agreements used to calculate the prepayment charges in the case of all Class Members;
98. Moreover, the Defendants impose prepayment charges on Class Members that not only exceed their costs, but in fact generate profits both by imposing the charge on Class Member and then again by relending the funds at higher interest rates;
99. In order that there be no doubt whatsoever as to the abusive, exploitative and disproportionate nature of the prepayment charges that are the object of this class action, the Applicants suggest, based on the evidence available to date,

that a prepayment charge of 3-months of interest would have been a just and reasonable fair market rate;

100. Consequently, an excessive disproportion exists in the case of any prepayment charge imposed by Defendants when the rate being charged by Defendants is greater than 3-months of interest;
101. In the cases of both Ms. Haroch and Mr. Brook, for instance, they paid the TD and CIBC, respectively, 500% more than what they would have paid to other hypothecary lenders such as MCAP, or that they would have paid using the only reasonable and comprehensible option in the impugned clause of their respective agreements (being the 3-months of interest formula);
102. As a result of the foregoing, both Applicants and Class Members are justified in claiming compensatory damages, as well as punitive damages based on repeated violations of section 8 CPA (pursuant to section 272 CPA), as well as compensatory damages and a declaratory judgment pursuant to article 1437 CCQ;
103. Given that Applicants hereby seek to have the abusive clauses reduced, they are accordingly entitled to claim and do hereby claim from TD, CIBC and the other Defendants the aggregate of the sums paid on account of prepayment charges in excess of three-months of interest;

Applicants' claims for punitive damages

104. This head of damages is claimed uniquely for the Applicants and Class Members who are consumers within the meaning of the CPA;
105. The overall conduct of TD and the CIBC (and of the other Defendants) before, during and after the violations, were lax, careless, passive and ignorant with respect to consumers' rights and to their own obligations;
106. In this case, TD, CIBC and all the other Defendants breach and continue to breach the CPA, without any explanation (other than to maximize profits for shareholders), for a significant period;
107. This complete disregard for consumers' rights and to their own obligations under the CPA on the part of TD and CIBC (as well as the other Defendants) is in and of itself an important reason for this Court to enforce measures that will punish the Defendants, as well as deter and dissuade other entities – both local and foreign - from engaging in similar reprehensible conduct to the detriment of Quebec consumers;
108. The reality is that the TD, CIBC and the others Defendants have likely generated billions of dollars in profits over the years by charging prepayment charges in excess of 3-months of interest;

109. It is reported that as of October 31st 2017, the Defendants hold hundreds of billions of dollars' worth of mortgages in Canada, **Exhibit P-40**;
110. It is safe to assume that the Defendants account for more than 95% of this amount;
111. It appears that these prepayment charges are nothing more than a cash-cow for the Defendants, who were charging Class Members fees that exceed their costs, even when they will lend the same funds out at a higher interest;
112. The Defendants have crafted hypothecary loan agreements that give them *carte blanche* to exploit Quebec consumers and to charge them abusive and disproportionate prepayment charges;
113. The severity of the Defendants' conduct is compounded by virtue of the fact that one of the options in the clause (i.e. the one that is substantially to the Banks' benefit and to the detriment of Class Members) is incomprehensible to Class Members, while the only other option in the clause that is comprehensible to Class Members (i.e. the one that is less profitable to the Banks but more advantageous to Class Members) is never used in the case of all Class Members;
114. Moreover, the Defendants – equipped with actuarial data and resources – are far more sophisticated than the consumers they contract with and know very well that their “posted rates” (which they make up) will always generate a significant profit for them when a consumer incurs prepayment charges;
115. The punitive damages provided for in section 272 *CPA* have a preventive objective, that is, to discourage the repetition of such undesirable conduct;
116. The Defendants' violations are intentional, calculated, malicious and vexatious;
117. The Defendants demonstrated through their behavior (before, during and after the violation) that they are more concerned about their bottom line than about consumers' rights and their own obligations under the *CPA*;
118. Applicants are accordingly entitled to claim and do hereby claim from TD, CIBC and the other Defendants the sum of \$100 million on account of punitive damages, subject to adjustment;
119. TD's, CIBC's and the other Defendants' patrimonial situations are so significant that the foregoing amount of punitive damages is appropriate in the circumstance;

B) THE CLAIMS OF THE MEMBERS OF THE CLASS RAISE IDENTICAL, SIMILAR OR RELATED ISSUES OF LAW OR FACT:

120. All Class Members, regardless of which of the Defendants they contracted with,

have a common interest both in proving the violation of section 8 of the *CPA* by all of the Defendants and of the application of either 1432, 1436, 1437 and/or 2332 CCQ - and in maximizing the aggregate of the amounts unlawfully charged to them by Defendants;

121. The nature of the interest necessary to establish the standing of the Applicants must be viewed from the perspective of the common interest of the proposed Class and not solely from the perspective of the Representative Plaintiffs;
122. In this case, the legal and factual backgrounds at issue are common to all the members of the Class, namely whether the prepayment charges imposed and collected by Defendants are abusive, disproportionate and constitute objective lesion under Quebec law;
123. The claims of every member of the Class are founded on very similar facts to the Applicants' claims against TD and the CIBC;
124. Requiring a separate class action against each Defendant based on very similar questions of fact and identical questions of law would be a waste of resources and could result in conflicting judgments;
125. Every member of the Class was charged an abusive and disproportionate prepayment charge by one of the Defendants (i.e. more than 3-months of interests when paying their mortgage off entirely before term or when making a partial prepayment);
- 125.1 It appears that the CIBC used a shortened amortization period for each CIBC Class Member paying a prepayment penalty dating as far back to 2005, Applicants disclosing Dianne Lamarre's "Acte de prêt hypothécaire" dated June 20, 2006 as **Exhibit P-44** (see pages 12, 13 and 36) and her discharge statement as **Exhibit P-45**;
126. The same legal issues are present in the action of each Class member against each Defendant (each Defendant faces more or less the same issues regarding the interpretation and application of section 8 CPA and articles 1432, 1436, 1437 and 2332 CCQ);
127. By reason of Defendants' unlawful conduct, Applicants and every Class Member have suffered damages, which they may collectively claim against the Defendants;
128. Although the Applicants themselves does not have a personal cause of action against, or a legal relationship with, each of the Defendants, the Class contains enough members with personal causes of action against each Defendant;
129. The facts and legal issues of the present action support a proportional approach to class action standing that economizes judicial resources and enhances access to justice;

130. In taking the foregoing into account, all members of the Class are justified in claiming the sums which they unlawfully overpaid to Defendants, as well as punitive damages pursuant to section 272 CPA (in the case of consumers within the meaning of the CPA);
131. Each Class Member is justified in claiming at least one or more of the following as damages:
 - Reimbursement of all prepayment charges in excess of 3-months of interest; and
 - An amount to be determined on account of moral damages, troubles and inconvenience;
132. In addition to the sums claimed above, each Class Member who is a consumer within the meaning of the CPA is justified in claiming punitive damages, the aggregate of which is being claimed in the amount of \$100 million, subject to adjustment;
133. All of the damages to the Class Members are a direct and proximate result of the Defendants' misconduct;
134. Individual questions, if any, pale by comparison to the common questions that are significant to the outcome of the present Application;
135. **The recourses of the Class Members raise identical, similar or related questions of fact or law, namely:**
 - a) Do the prepayment charges imposed and collected by the Defendants constitute exploitation and objective lesion under section 8 of the CPA?
 - b) Do the prepayment charges imposed and collected by the Defendants constitute lesion under article 2332 CCQ?
 - c) Are the prepayment charges imposed and collected by the Defendants excessively and unreasonably detrimental to consumers and/or adherents such that the contractual clauses allowing Defendants to charge such fees are abusive under article 1437 of the CCQ?
 - d) Is the clause in the Defendants' hypothecary loan agreements providing for the charge of the greater of 3-months interest or the IRD a clause that is incomprehensible to a reasonable person pursuant article 1436 CCQ?
 - e) Is the clause in the Defendants' hypothecary loan agreements providing for the charge of the greater of 3-months interest or the IRD a penal clause and, if so, is the amount in excess of 3-months interest abusive pursuant to article 1623 CCQ?

- f) Should the clause (or a portion thereof) concerning prepayment charges in the Defendants' various hypothecary loan agreements be declared null, entitling Class Members to a full reimbursement of the amounts paid in excess of 3-months of interest?
- g) In the alternative, must the Class Members' obligations be reduced and if so, by how much?
- h) Can section 10(1) of the *Interest Act* be adapted to situations where the term of the Mortgage is 5 years or less?
- i) Are Class Members entitled to moral damages and/or damages for troubles and inconvenience and, if so, what amount must the Defendants pay?
- j) Are Class Members who are consumers within the meanings of the CPA entitled to punitive damages and if so, what amount must the Defendants pay?
- k) Is Defendant the Fédération des Caisses Desjardins du Québec solidarily liable with each of the 227 "Caisses Desjardins" Defendants named herein for the monetary condemnation pronounced against the latter?
- l) In calculating the prepayment penalty, was CIBC entitled to use a different amortization period for the "similar" mortgage than that in its mortgage contract? If not, are the CIBC Class Members entitled to damages and in what amount?

C) THE COMPOSITION OF THE CLASS

- 136. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings;
- 137. According to Exhibit P-40, the Defendants hold and administer hundreds of billions of dollars' worth of mortgages in Canada;
- 138. The size of the Class is conservatively estimated to include tens of thousands of members in the province of Quebec;
- 139. The names and addresses of all persons included in the Class are not known to the Applicants, however, are in the possession of the Defendants;
- 139.1 To date, more than 500 "sign-ups" were received by Class Counsel on the webpage dedicated to this class action <https://lpclex.com/mortgages/> (in English) and <https://lpclex.com/fr/hypotheques/> (in French);

140. Class members are very numerous and are dispersed across the province, across Canada and elsewhere;
141. These facts demonstrate that it would be impractical, if not impossible, to contact each and every Class Member to obtain mandates and to join them in one action;
142. In these circumstances, a class action is the only appropriate procedure for all of the members of the Class to effectively pursue their respective rights and have access to justice without overburdening the court system;

D) THE CLASS MEMBERS REQUESTING TO BE APPOINTED AS REPRESENTATIVE PLAINTIFFS ARE IN A POSITION TO PROPERLY REPRESENT THE CLASS MEMBERS

143. Applicants requests that they be appointed the status of representative plaintiffs for the following main reasons:
 - a) they are both members of the Class and both have a personal interest in seeking the conclusions that they propose herein;
 - b) they are both competent, in that they each have the potential to be the mandatory of the action if it had proceeded under article 91 of the *Code of Civil Procedure*;
 - c) their interests are not antagonistic to those of other Class Members;
144. Additionally, Applicants respectfully add that:
 - a) Ms. Haroch and Mr. Brook have the time, energy, will and determination to assume all the responsibilities incumbent upon them in order to diligently carry out the action;
 - b) they mandated their attorney to file the present application for the sole purpose of having their rights, as well as the rights of other Class Members, recognized and protected so that they may be compensated for the damages that they have suffered as a consequence of Defendants' illegal and abusive behavior and so that they Defendants can be held accountable for their misconduct;
 - c) they cooperate and will continue to fully cooperate with their attorney, who has experience in consumer protection-related class actions;
 - d) they understand the nature of the action;
 - e) On November 26th, 2018, Mr. Brook travelled to Quebec City for the day and attended the hearing in front of Justice Blanchard, J.C.S., on the application to substitute him for Ms. Lamarre.

145. As for identifying other Class members, Applicants draw certain inferences from the situation and realize that by all accounts, there is a very important number of Class Members that find themselves in an identical situation, and that it would not be any more useful for them to attempt to identify them given their sheer number (as alleged above, there are more than 500 “sign ups” to this class action to date);
146. For the above reasons, Applicants respectfully submit that their interest and competence are such that the present class action could proceed fairly and in the best interest of Quebec Class Members;

IV. DAMAGES

147. During the Class Period, the Defendants have likely generated aggregate amounts in the hundreds of millions of dollars (if not more) from Class Members in the province of Quebec on account of prepayment charges (in excess of 3-months interest);
148. All of the Defendants’ misconduct is reprehensible and to the detriment of vulnerable Quebec consumers and adherents;
149. All of the Defendants must be held accountable for the breach of obligations imposed on them by legislation in Quebec, including:
 - a) Quebec’s *Consumer Protection Act*, notably sections 8 and 272;
 - b) The *Civil Code of Quebec*, notably articles 6, 7, 1436, 1437, 1623 and 2332 CCQ;
150. In light of the foregoing, the following damages may be claimed against the Defendants:
 - a) compensatory damages, in an amount to be determined, on account of the damages suffered;
 - b) moral damages, in an amount to be determined, as well as damages for trouble and inconvenience; and
 - c) punitive damages (for Class Members that are consumers within the meaning of the *CPA*) in the aggregate amount of \$100 million for the breach of obligations imposed on Defendants pursuant to section 272 CPA;

V. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

151. The action that the Applicants wish to institute on behalf of the members of the

Class is an action in damages and declaratory judgment;

152. The conclusions that the Applicants wish to introduce by way of an originating application are:

GRANT the Representative Plaintiffs' action against Defendants on behalf of all the Class Members;

DECLARE the Defendants liable for the damages suffered by the Applicants and each of the Class Members;

DECLARE that the prepayment charges imposed and collected by Defendants amount to exploitation under section 8 CPA;

DECLARE that the prepayment charges imposed and collected by Defendants are excessively and unreasonably detrimental to consumers or adhering parties and are therefore not in good faith under article 1437 CCQ;

DECLARE that the prepayment charges imposed and collected by Defendants constitute lesion under article 2332 CCQ;

DECLARE abusive and null the clauses in the Defendants' hypothecary loan agreements which provide for prepayment charges in excess of 3-months of interest;

CONDEMN the Defendants to pay the Representative Plaintiffs and Class Members compensatory damages for the aggregate of prepayment charges in excess of 3-months of interest;

ORDER the collective recovery of all damages owed to the Class Members for the amounts overcharged;

CONDEMN the Defendants to pay Class Members the sum of \$100 million on account of punitive damages, subject to adjustment, and **ORDER** collective recovery of these sums;

CONDEMN the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize a Class Action*;

DECLARE that Defendant the Fédération des Caisses Desjardins du Québec is solidarily liable with each of the 227 "Caisses Desjardins" Defendants named herein for the monetary condemnation pronounced against the latter;

ORDER the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;

ORDER that the claims of individual Class members be the object of collective

liquidation if the proof permits and alternately, by individual liquidation;

CONDEMN the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;

RENDER any other order that this Honourable Court shall determine;

153. The interests of justice favour that this Application be granted in accordance with its conclusions;

VI. JURISDICTION

154. Applicants suggest that this class action be exercised before the Superior Court in the district of Montreal, since both are domiciled and reside in the district of Montreal.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

1. **GRANT** the present application;
2. **AUTHORIZE** the bringing of a class action in the form of an originating application in damages;
3. **APPOINT** the Applicants the status of Representative Plaintiffs of the persons included in the Classes herein described as:

Class:

All natural and legal persons who, since May 31st, 2015, paid to any of the Defendants (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec on a property located in the province of Quebec;

(hereinafter referred to as the "**Class**")

CIBC Class:

All natural and legal persons who, since [...] 2005, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec on a property located in the province of Quebec; (hereinafter referred to as the "**CIBC Class**");

or any other Class to be determined by the Court;

4. **IDENTIFY** the principle questions of fact and law to be treated collectively as the following:
- a) Do the prepayment charges imposed and collected by the Defendants constitute exploitation and objective lesion under section 8 of the CPA?
 - b) Do the prepayment charges imposed and collected by the Defendants constitute lesion under article 2332 CCQ?
 - c) Are the prepayment charges imposed and collected by the Defendants excessively and unreasonably detrimental to consumers and/or adherents such that the contractual clauses allowing Defendants to charge such fees are abusive under article 1437 of the CCQ?
 - d) Is the clause in the Defendants' hypothecary loan agreements providing for the charge of the greater of 3-months interest or the IRD a clause that is incomprehensible to a reasonable person pursuant article 1436 CCQ?
 - e) Is the clause in the Defendants' hypothecary loan agreements providing for the charge of the greater of 3-months interest or the IRD a penal clause and, if so, is the amount in excess of 3-months interest abusive pursuant to article 1623 CCQ?
 - f) Should the clause (or a portion thereof) concerning prepayment charges in the Defendants' various hypothecary loan agreements be declared null, entitling Class Members to a full reimbursement of the amounts paid in excess of 3-months of interest?
 - g) In the alternative, must the Class Members' obligations be reduced and if so, by how much?
 - h) Can section 10(1) of the *Interest Act* be adapted to situations where the term of the Mortgage is 5 years or less?
 - i) Are Class Members entitled to moral damages and/or damages for troubles and inconvenience and, if so, what amount must the Defendants pay?
 - j) Are Class Members who are consumers within the meanings of the CPA entitled to punitive damages and if so, what amount must the Defendants pay?
 - k) Is Defendant the Fédération des Caisses Desjardins du Québec

solidarily liable with each of the 227 “Caisses Desjardins” Defendants named herein for the monetary condemnation pronounced against the latter?

- l) In calculating the prepayment penalty, was CIBC entitled to use a different amortization period for the “similar” mortgage than that in its mortgage contract? If not, are the CIBC Class Members entitled to damages and in what amount?

5. **IDENTIFY** the conclusions sought by the class action to be instituted as being the following:

- a) **GRANT** the Representative Plaintiffs’ action against Defendants on behalf of all the Class Members;
- b) **DECLARE** the Defendants liable for the damages suffered by the Applicants and each of the Class Members;
- c) **DECLARE** that the prepayment charges imposed and collected by Defendants amount to exploitation under section 8 CPA;
- d) **DECLARE** that the prepayment charges imposed and collected by Defendants are excessively and unreasonably detrimental to consumers or adhering parties and are therefore not in good faith under article 1437 CCQ;
- e) **DECLARE** that the prepayment charges imposed and collected by Defendants constitute lesion under article 2332 CCQ;
- f) **DECLARE** abusive and null the clauses in the Defendants’ hypothecary loan agreements which provide for prepayment charges in excess of 3-months of interest;
- g) **CONDEMN** the Defendants to pay the Representative Plaintiffs and Class Members compensatory damages for the aggregate of prepayment charges in excess of 3-months of interest;
- h) **ORDER** the collective recovery of all damages owed to the Class Members for the amounts overcharged;
- i) **CONDEMN** the Defendants to pay Class Members the sum of \$100 million on account of punitive damages, subject to adjustment, and **ORDER** collective recovery of these sums;
- j) **CONDEMN** the Defendants to pay interest and the additional indemnity on the above sums according to law from the date of service of the *Application to Authorize a Class Action*;

- k) **DECLARE** that Defendant the Fédération des Caisses Desjardins du Québec is solidarily liable with each of the 227 “Caisses Desjardins” Defendants named herein for the monetary condemnation pronounced against the latter;
 - l) **ORDER** the Defendants to deposit in the office of this Court the totality of the sums which forms part of the collective recovery, with interest and costs;
 - m) **ORDER** that the claims of individual Class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;
 - n) **CONDEMN** the Defendants to bear the costs of the present action at all levels, including the cost of all exhibits, notices, the cost of management of claims and the costs of experts, if any, including the costs of experts required to establish the amount of the collective recovery orders;
 - o) **RENDER** any other order that this Honourable Court shall determine;
6. **DECLARE** that all members of the Class that have not requested their exclusion, be bound by any judgement to be rendered on the class action to be instituted in the manner provided for by the law;
 7. **FIX** the delay of exclusion at thirty (30) days from the date of the publication of the notice to the members, date upon which the members of the Class that have not exercised their means of exclusion will be bound by any judgement to be rendered herein;
 8. **ORDER** the publication of a notice to the members of the Class in accordance with article 579 C.C.P. within sixty (60) days from the judgement to be rendered herein in the “News” sections of the Saturday editions of Le Journal de Montréal and the MONTREAL GAZETTE;
 9. **ORDER** that said notice be published on the Defendants’ various websites, Facebook pages and Twitter accounts, in a conspicuous place, with a link stating “Notice of a Class Action”;
 10. **ORDER** the Defendants to send an Abbreviated Notice by e-mail to each Class Member, to their last known e-mail address, with the subject line “Notice of a Class Action”;
 11. **ORDER** the Defendants to send a Notice by regular mail to each Class Member, to their last known physical address, with the subject line “Notice of a Class Action”;

12. **ORDER** the Defendants and their representatives to supply class counsel, within thirty (30) days of the judgment rendered herein, all lists in their possession or under their control permitting to identify Class Members, including their names, addresses, phone numbers and email addresses;
13. **RENDER** any other order that this Honourable Court shall determine;
14. **THE WHOLE** with costs, including the court stamp, bailiff fees, stenographer fees and publication fees.

Montreal, April 23rd, 2019

(s) Joey Zukran

LPC AVOCAT INC.

Per: Me Joey Zukran

Attorney for Applicants

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action)
SUPERIOR COURT

NO: 500-06-000930-186

KATY HAROCH
and
AVRAHAM BROOK

Applicants

-vs-

THE TORONTO-DOMINION BANK
ET ALS.

Defendants

LIST OF NEW EXHIBITS

- EXHIBIT P-42:** Extract of the CIDREQ for 3877337 Canada Inc.;
- EXHIBIT P-43:** Copy of the Affidavit of Nicholas Wise dated May 1, 2013;
- EXHIBIT P-44:** Copy of Diane Lamarre's "Acte de prêt hypothécaire" dated June 20, 2006;
- EXHIBIT P-45:** Copy of Diane Lamarre's discharge statement dated May 31, 2010.

Montreal, April 23rd, 2019

(s) Joey Zukran

LPC AVOCAT INC.
Per: Me Joey Zukran
Attorney for Applicants

500-06-000930-186

(Class Action)
SUPERIOR COURT
DISTRICT OF MONTREAL

KATY HAROCH
AVRAHAM BROOK

Applicants

v.

THE TORONTO-DOMINION BANK ET ALS.

Defendants

**2ND RE-AMENDED APPLICATION TO AUTHORIZE THE
BRINGING OF A CLASS ACTION AND TO APPOINT
THE STATUS OF REPRESENTATIVE PLAINTIFFS
(ARTICLES 571 AND FOLLOWING C.C.P.)**

ORIGINAL

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