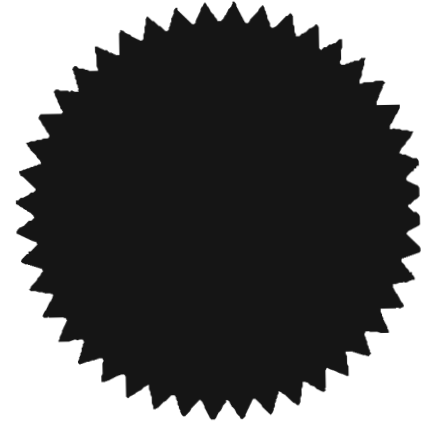


SUPERIOR COURT



CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No. 500-06-000304-051

DATE: April 10, 2007

PRESENT: THE HONOURABLE HÉLÈNE LANGLOIS J.S.C.

RACHEL ENGLER-STRINGER
Petitioner

v.

VILLE DE MONTRÉAL
Respondent

JUDGMENT

[1] On July 28, 2003, at the time of a meeting of the trade ministers of World Trade Organization (WTO) member countries, a march took place to protest WTO policies.

[2] During the demonstration, a number of participants were arrested and detained, and some, including the petitioner, were also accused of unlawful assembly.

[3] The petitioner is seeking authorization to institute a class action against the Ville de Montréal (the respondent) on behalf of the natural persons (the members) of the following group:

[TRANSLATION]

Any person arrested and detained near 2111, boulevard Saint-Laurent in Montréal by the Service de Police de la Ville de Montréal (SPVM) on July 28,

2003 around 10 a.m. to 10:30 a.m., or charged with unlawful assembly, as part of SPVM event number 20030727-001.

[4] She alleges that the members were unlawfully and arbitrarily arrested and detained by the Service de police de la Ville de Montréal (SPVM) and, in some cases, were the object of abuse of process.

[5] The petitioner is seeking authorization to act as the members' representative and, in that regard, to institute, on their behalf, a class action for damages and extracontractual liability pursuant to general law, the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*, as well as a motion for a permanent injunction.

[6] The action for damages includes the following heads of damages:

- Violation of rights protected by the <i>Charter of human rights and freedoms</i> and the <i>Canadian Charter of Rights and Freedoms</i>	Damages	\$200 to \$5000
	Exemplary damages	\$200 to \$5000
- Damage resulting from abuse of process	Damages	\$2000
	Exemplary damages	\$2000
- Damage resulting from court attendance for breach of conditions, for having been arrested and detained	Damages	\$1000
	Exemplary damages	\$1000
- Material damage	Damages	\$1

[7] The purpose of the motion for a permanent injunction is to obtain, against the respondent, an order to cease transmitting to anyone any information, held in any form whatsoever, concerning the members and related to the event involved, to provide a list of the people and organizations to which such information may have been transmitted, and to give the members that information concerning them.

[8] The respondent contests that demand. It essentially contends that, in this case, the conditions for authorization to institute a class action, as set forth in paragraphs (a) and (b) of article 1003 of the *Code of Civil Procedure*, have not been met.

THE ALLEGED FACTS

[9] At one point during the march held on July 28, 2003, the participants were asked to disperse.

[10] Most of them, including the petitioner, chose to leave the demonstration and go to a vacant lot on boulevard Saint-Laurent in order to discuss other possible activities.

[11] Suddenly, those participants were encircled by SPVM police officers who prevented them from leaving the premises and told them they were being arrested for unlawful assembly and participation in a riot.

[12] Subsequently, it took several hours for the participants to be identified.

[13] During that time, they were deprived of food, drinking water and any immediate medical assistance, and they had no access to washroom facilities.

[14] They were hot, hungry and thirsty.

[15] After being identified, they were photographed, searched and handcuffed.

[16] Because of the handcuffs, they had pain in their hands, wrists, arms, necks and backs. Their fingers were numb and they had marks on their wrists for several days.

[17] Then they were held in a bus for four hours, where they were seated with their hands handcuffed behind their backs.

[18] Later, they were taken and held at the southern operational centre, where they were even hotter and were still hungry and thirsty.

[19] They were subjected to sarcasm and a lack of respect on the part of the police officers. A number were not allowed to individually seek the assistance of an attorney.

[20] After undergoing the lock-up procedure, they were taken to cells where conditions were such that they could not sleep. A number of them, including the petitioner, spent the night there.

[21] Then, on July 27, 2003, 146 participants appeared before the Municipal Court of Montréal.

[22] The petitioner was held for about 36 hours.

[23] She is aware that, when they were freed, their personal items were not returned to some of the participants.

[24] A total of approximately 238 people were accused of unlawful assembly.

[25] The charges brought against minors were dropped on October 2, 2003. The charges brought against those of full age, i.e. about 211 people, were divided into four groups to facilitate case management.

r.p.

[26] The defence for each group requested disclosure of the evidence, which was granted.

[27] In each case, the Crown attorneys advised of their intention, notwithstanding the order, not to disclose the information. In fact, the charges were withdrawn on March 8, 2005, September 6, 2005, April 11, 2005 and November 24, 2005, depending on the group.

THE MOTION FOR AUTHORIZATION

[28] Article 1003 of the *Code of Civil Procedure* sets forth four conditions for the authorization of a class action:

1003. The court authorizes the bringing of the class action and ascribes the status of representative to the member it designates if of opinion that:

(a) the recourses of the members raise identical, similar or related questions of law or fact;

(b) the facts alleged seem to justify the conclusions sought;

(c) the composition of the group makes the application of article 56 or 67 difficult or impracticable; and

(d) the member to whom the court intends to ascribe the status of representative is in a position to represent the members adequately.

[29] The general principles that the Court must consider at the authorization stage are as follows:¹

[TRANSLATION]

1. A class action is simply a proceeding, not an exceptional scheme. It is a social measure that promotes access to justice by permitting a comparable, equitable remedy for all members without the proliferation of similar proceedings, in a framework that ensures a balance of power between the parties.
2. An authorization proceeding is a summary, preparatory stage intended to be no more than a filtering and verification mechanism.
3. At that stage, the merits of the dispute are not decided since the respondents retain the right to raise all their grounds of defence during the trial, once authorization has been granted. Hence, it is not a matter of assessing the merits of the main action. The motion for authorization is not the trial, and is not part of the trial. It does not involve a ruling on the merits of the case.

¹ Clément Gascon J. in *Option Consommateurs v. Banque Amex du Canada*, AZ-50400009, J.E. 2007-80, November 1, 2006, see reference at para. 23.

4. In an authorization proceeding, the judge merely verifies whether the conditions stipulated in art. 1003 C.C.P. are satisfied, that is, the quality of the representative, the similarity and relatedness of the questions of fact or of law, and the juridical relationship between the allegations and the conclusions sought. In the latter case, the burden is one of demonstration, not proof.
5. A liberal, rather than a restrictive, approach must prevail, and any doubt must be to the benefit of the petitioners, that is, in favour of authorization of the action.
6. At that stage, discretion is limited. If the four conditions of article 1003 C.C.P. are met, the Court usually must authorize the action.

[Footnotes omitted.]

A. Identical, similar or related questions of law or of fact

[30] The action must involve, in regard to all the members, [TRANSLATION] "a number of questions of law or of fact that are sufficiently similar or related in order to justify the action".²

[31] In *Western Canadian Shopping Centres v. Dutton*,³ Madam Chief Justice McLachlin wrote the following in that regard:

The commonality question should be approached purposively. The underlying question is whether allowing the suit to proceed as a representative one will avoid duplication of fact-finding or legal analysis. Thus an issue will be "common" only where its resolution is necessary to the resolution of each class member's claim. It is not essential that the class members be identically situated *vis-à-vis* the opposing party. Nor is it necessary that common issues predominate over non-common issues or that the resolution of the common issues would be determinative of each class member's claim. However, the class members' claims must share a substantial common ingredient to justify a class action. Determining whether the common issues justify a class action may require the court to examine the significance of the common issues in relation to individual issues. In doing so, the court should remember that it may not always be possible for a representative party to plead the claims of each class member with the same particularity as would be required in an individual suit.

... success for one class member must mean success for all. All members of the class must benefit from the successful prosecution of the action, although not necessarily to the same extent. A class action should not be allowed if class members have conflicting interests. ...

2 *Nadon v. Ville d'Anjou* [1994] R.J.Q. 1823 at 1831 (C.A.).

3 [2001] 2 S.C.R. 534 at 554.

[32] The root of all the claims is the demonstration of July 28, 2003 and the events related to it.

[33] All the members were arrested and held; several were charged with unlawful assembly and were allegedly subjected to abuse of process.

[34] Thus, in this case, the evidence of the facts alleged as the basis for the action will be essentially common to the members.

[35] Hence, the alleged conditions of the arrest and detention by the respondent and the content and unfolding of the procedures alleged to be abusive concern a number of members who will take advantage of a single assessment of the facts, from these common standpoints.

[36] The general law questions of civil liability and those relating to the interpretation of certain provisions of the Charters are common to the class as a whole or to certain groups within it.

[37] In regard to certain groups of members, the respondent raises the argument of prescription or of the inadmissibility of the action. These mixed questions of law and of fact are common to the members.

[38] The Court will have to determine whether all the members or groups of members sustained injury, the relationship between the injury and the alleged offences, and whether they are entitled to exemplary damages.

[39] Moreover, any distinction in terms of damage sustained by each member or group of members would not prevent the recourse from being a class action since, the [TRANSLATION] "legislator did not want to limit a class action to stereotypical cases".⁴

[40] In any event, the Court is authorized, as the case may be, to rule on the individual claims of the members.⁵

[41] Lastly, the motion for an injunction is brought for the benefit of all the members.

[42] In short, the action raises questions of law and of fact that are sufficiently similar to satisfy that condition.

4 *Tremaine v. A.H. Robins Canada inc.* [1990] R.D.J. 500 (C.A.).

5 Article 1037 of the *Code of Civil Procedure*.

B. Alleged facts that appear to justify the conclusions sought

[43] At the stage of authorization of a class action [TRANSLATION] "... the judge merely verifies whether the conditions stipulated in art. 1003 C.C.P. are satisfied, that is, the quality of the representative, the similarity and relatedness of the questions of fact or of law, and the juridical relationship between the allegations and the conclusions sought. In the latter case, the burden is one of demonstration, not proof".⁶

[44] The process at the stage of authorization of a class action is aimed at [TRANSLATION] "granting a person a mandate to represent a group and verifying the juridical syllogism that relies on the allegations of the judicial proceeding".⁷

[45] The respondent contended that the juridical relationship between the allegations and the conclusions sought in regard to damages demonstrates that the recourse for damages related to the arrest and detention of certain members, namely, those who sustained moral or material injury, was prescribed as of January 28, 2004, while the recourse for abuse of process was prescribed for the members who were acquitted or the charges against whom were dismissed before March 7, 2005.

[46] In that regard, the respondent invoked, firstly, the short prescription of six months provided for in sections 586 and 587 of the *Cities and Towns Act*⁸ and, secondly, the three-year general law prescription.

[47] Lastly, it argued the inadmissibility of the action for damages for abuse of process, brought by the members who pleaded guilty to the offence of unlawful assembly.

[48] At the authorization stage, the Court need not rule on the merits of the case. It is sufficient to cursorily verify whether there is a serious colour of right in regard to a recourse, since the action has not yet been instituted.

[49] Recently, Gendreau J., in *Pharmascience inc. v. Option consommateurs (Piro)*,⁹ wrote the following in that regard: [TRANSLATION] "It is not for the judge seized of the application for authorization to evaluate the risks and stumbling blocks that lie ahead for the applicant. What is more, even if the judge observed that there was no basis for certain claims, she would not be authorized to exclude them immediately from the

6 Gendreau J. in *Pharmascience inc. v. Option Consommateurs* [2005] QCCA 437 at 6, para. 25 (C.A.) 500-09-014659-049, Michel Robert, Paul-Arthur Gendreau, André Rochon J.J.A., April 29, 2005.

7 *Pharmascience inc. v. Option Consommateurs* at para. 35.

8 R.S.Q., c. C-19.

9 *Supra* note 7 at para. 52.

debate. That flows from the elimination of the motion for partial dismissal from the *Code of Civil Procedure*".

[50] In particular, in matters of prescription, it is taught that, unless it appears that the argument applies to all the claims of the members, it cannot be accepted at the stage of the motion for authorization.¹⁰

[51] The respondent also argued that the alleged facts provide insufficient support for recourse for abuse of process and the right to a permanent injunction.

[52] The allegations that a number of members were charged with unlawful assembly, and that, in the framework of the judicial process in connection with these charges, the Court ordered the Crown to disclose certain evidentiary elements and, despite that order, the Crown advised of its intention not to do so and chose rather to withdraw the charges constitute a sufficient demonstration at this stage.

[53] As regards the motion for a permanent injunction, it is related to the event concerned and associated with the recourse for damages.

[54] The respondent also contended that the motion for a permanent injunction was unlawfully formulated since it contemplates the application of the *Act respecting Access to documents held by public bodies and the Protection of personal information*,¹¹ which is under the jurisdiction of the Commission d'accès à l'information.

[55] That question is related to the merits of the action, which has not yet been instituted.

[56] However, it is worth pointing out that a judgment authorizing a class action is a preparatory judgment that does not rule on the merits of the debate between the parties and in no way prejudices the grounds of defence that the respondent may raise.

[57] Lastly, the motion includes more than a hundred factual allegations that appear to give rise to the conclusions sought.

10 *Doyer v. Canada (Ministre de la Santé)*, 500-06-000097-002, S.C., Daniel H. Tingley J., March 27, 2001 (Q.J. No. 11300) at para. 31; *Berlatie v. Grise Management Corp.*, S.C.M. 500-06-000010-872, 1989-11-10 at 5; *Association des propriétaires et locataires de St-Ignace-sur-Lac v. Consolidated Bathurst*, S.C.M. 500-06-000002-903, 1990-12-13 at 7; *Tremaine v. A.H. Robins Canada inc.* [1990] R.D.J. 500 (C.A.) at 506, Bisson J.; *Carruthers v. Paquette*, [1993] R.J.Q. 1467 (S.C.) at 1472, Lemieux J.; *Nadon v. Ville d'Anjou* [1993] R.J.Q. 1823 (C.A.) at 1830; *Syndicat canadien de la fonction publique, section locale 1236 v. Ville d'Outremont*, S.C.M. 500-06-000021-960, 1998-01-21 at 6, Grenier J.; *Huneault v. Syndicat du Transport de Montréal*, [1993] R.J.Q. 1837 (appeal dismissed) and *Godin v. La Société canadienne de la Croix-Rouge*, C.A.M. 500-09-001564-921, 1993-05-10.

11 R.S.Q., c. A-2.1.

[58] Hence, that condition is satisfied.

The composition of the group

[59] Approximately 238 members may be involved.

[60] The petitioner took steps to identify them. However, she does not know all the members or their contact information.

[61] The Court believes that the third condition is satisfied.

The sufficient representativeness of Rachel Engler-Stringer

[62] In *Gilbert v. Vacances Sans frontières ltée*,¹² LeBel J., then sitting on the Court of Appeal, described the role of the representative in a class action as follows:

[TRANSLATION]

A representative is obviously interested in the problem, has conducted a reasonable investigation, is aware of the difficulties that have arisen and appears capable of directing the steps required to see the proceedings through. Furthermore, our Court has decided that, in analysing the capacity of representation under paragraph (d) of article 1003, representativeness or typicality of the recourse must not be made a criterion for the attribution of the status of representative. If he or she appears otherwise fit to manage the recourse, the petitioner can obtain the status of representative.

[63] The petitioner took part in the July 28, 2003 march.

[64] She was arrested, detained and charged with unlawful assembly, and sustained the consequences associated with the legal proceedings.

[65] She took the steps required to institute the class action and demonstrated *prima facie* her capacity to represent the members adequately.

[66] The fourth condition is also satisfied.

•

[67] Hence, since the criteria set forth in article 1003 of the *Code of Civil Procedure* have been satisfied, the institution of the class action should be authorized.

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[68] The petitioner is seeking authorization to transmit the notice to the members by postal mail and e-mail.

12 [1991] R.D.J. 513 (C.A.) at 516.

[69] However, the events concerned took place between July 2003 and April 2005, and real problems in finding certain members and their impact on the unfolding of the recourse are to be anticipated.

[70] Therefore, the petitioner must, in addition to transmitting a notice by the means she suggests, publish an abbreviated notice to the members in a French-language newspaper and an English-language newspaper.

[71] **THEREFORE, THE COURT:**

[72] **ALLOWS** the reamended motion for authorization to institute a class action and to serve as representative;

[73] **AUTHORIZES** the institution of the following class action:

[TRANSLATION]

An action for damages against the Ville de Montréal based on extracontractual liability pursuant to general law, the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*, as well as a motion for a permanent injunction;

[74] **ASCRIBES** to Rachel Engler-Stringer the status of representative for the purpose of instituting the class action on behalf of a group hereinafter described as:

[TRANSLATION]

Any person arrested and detained near 2111, boulevard Saint-Laurent in Montréal by the Service de Police de la Ville de Montréal (SPVM) on July 28, 2003 around 10 a.m. to 10:30 a.m., or charged with unlawful assembly, as part of SPVM event number 20030727-001.

[75] **IDENTIFIES** as follows the main questions of fact and of law that will be dealt with collectively:

1. Did the employees of the Ville de Montréal violate the constitutional or quasi-constitutional rights of the persons arrested and detained, as provided for in the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*? If so, which rights?
2. Did the employees of the Ville de Montréal commit one or more abuses of process?
3. Did the employees of the Ville de Montréal commit one or more abuses of a right?
4. Are the employees of the Ville de Montréal liable for bodily injury, and moral and material damage caused in the above-mentioned event?
5. Is the Ville de Montréal liable for the damage caused by its employees?

6. Is there a causal link between the faults committed by the employees of the Ville de Montréal and the damage sustained by the members of the group?
7. Is it appropriate to award damages? If so, in what amount?
8. Is it appropriate to award exemplary damages for abuse of a right, for abuse of process and for violation of fundamental rights pursuant to the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*? If so, in what amount?
9. Is it appropriate to order the Ville de Montréal to cease to transmit to anyone whatsoever any information, in any form whatsoever, concerning the members and related to the event involved, to provide a list of the people and organizations to which such information may have been transmitted and to give the members all the information obtained that is related to the events and concerns them?

[76] **IDENTIFIES** as follows the related conclusions sought:

ORDER the Ville de Montréal to pay damages and exemplary damages, as hereinafter broken down, to the following persons:

Ground	Damages	Exemplary damages
1. To all persons whose right to liberty, security, safety and integrity of their person was violated when they were arrested and detained, at the time of the above-mentioned event (sections 1 and 23 of the <i>Charter of human rights and freedoms</i> and sections 7 and 9 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$5000.00	\$5000.00
2. To all persons detained more than 24 hours, for each hour exceeding the first 24 hours (sections 1 and 24 of the <i>Charter of human rights and freedoms</i> and sections 7 and 9 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$200.00	\$200.00
3. To all persons detained more than 24 hours without appearing before a judge, at the time of the above-mentioned event (section 30 of the <i>Charter of human rights and freedoms</i> and subsection 503(1) of the <i>Criminal Code</i>)	\$1500.00	\$1500.00

<p>4. To all persons denied the right to a peaceful meeting, freedom of expression and freedom of opinion, at the time of the above-mentioned event (section 3 of the <i>Charter of human rights and freedoms</i> and paragraphs (b) and (e) of section 2 of the <i>Canadian Charter of Rights and Freedoms</i>)</p>	\$2500.00	\$5000.00
<p>5. To all persons discriminated against on the basis of their political convictions or involvement in political activities, as well as on the basis of their social conditions, in connection with the above-mentioned event (section 10 of the <i>Charter of human rights and freedoms</i> and section 15 of the <i>Canadian Charter of Rights and Freedoms</i>)</p>	\$1000.00	\$2000.00
<p>6. To all persons not treated with the dignity, humanity and respect due to the human person, at the time of the above-mentioned event (sections 4 and 25 of the <i>Charter of human rights and freedoms</i>)</p>	\$1000.00	\$1000.00
<p>7. To all persons subjected to cruel and unusual treatment, at the time of the above-mentioned event (section 12 of the <i>Canadian Charter of Rights and Freedoms</i>)</p>	\$1000.00	\$1000.00
<p>8. To all persons identified and searched unreasonably, at the time of the above-mentioned event (section 24.1 of the <i>Charter of human rights and freedoms</i> and section 8 of the <i>Canadian Charter of Rights and Freedoms</i>)</p>	\$1000.00	\$1000.00

9. To all persons subjected to unreasonable search and seizure, at the time of the above-mentioned event (section 24.1 of the <i>Charter of human rights and freedoms</i> and section 8 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$500.00	\$500.00
10. To all persons denied the right to counsel, at the time of the above-mentioned event (section 29 of the <i>Charter of human rights and freedoms</i> and section 10 (b) of the <i>Canadian Charter of Rights and Freedoms</i>)	\$1000.00	\$1000.00
11. To all persons denied the right to advise their next of kin, at the time of the above-mentioned event (section 29 of the <i>Charter of human rights and freedoms</i>)	\$500.00	\$50.00
12. To all persons who sustained an abuse of process for being forced to appear in court, in connection with the above-mentioned event	\$2000.00	\$2000.00
13. To all persons cited for breach of conditions for having been arrested and detained, at the time of the above-mentioned event	\$1000.00	\$1000.00
14. Subject to subsequent amendment, to all persons who sustained material damage because of the police officers of the Service de Police de la Ville de Montréal	\$1.00	

THE WHOLE, as regards compensatory damages, with interest at the legal rate calculated from the filing of the motion for authorization to institute a class action and to be the representative, and the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, and, as regards exemplary damages, with interest at the legal rate calculated as of the judgment to be handed down and the additional indemnity provided for in article 1619 of the *Civil Code of Québec*;

ORDER the Ville de Montréal to immediately cease to transmit to anyone whatsoever any information, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

ORDER the Ville de Montréal to provide a list of the people and organizations to which any information has been transmitted, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

ORDER the Ville de Montréal to give that information, as soon as possible, to all the members of the group contemplated by the action, whether it is held in a paper, computer, photographic, videographic or other medium;

ORDER the Ville de Montréal to destroy, as soon as possible, copies of any information, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

THE WHOLE, with costs, including those for notices and expert evidence, if any;

[77] **DECLARES** that, unless excluded, the members of the group will be bound by any judgment to be handed down in the class action in the manner provided for by law;

[78] **SETS** the exclusion deadline at 45 days from the date of the notice to members; once the deadline has expired, the members of the group who have not availed themselves of the means of exclusion will be bound by any judgment to be handed down;

[79] **ORDERS** the Ville de Montréal to give the petitioner, within 14 days of the judgment, the updated list of all the members that belong to the group contemplated by the class action;

[80] **ORDERS** that the members whose postal or e-mail address is known by the petitioner and her attorneys be sent, by postal mail or e-mail, the full text of the notice to members, as formulated in Schedule I of this judgment, in French and in English;

[81] **ORDERS** the publication of the abbreviated text of the notice to members, as formulated in Schedule II of this judgment, in a French-language newspaper and an English-language newspaper;

[82] **ORDERS** the filing of the full text of the notice to members, as formulated in Schedule I, with the office of the Superior Court of _____;

[83] **ORDERS** the posting of the full text of the notice to members, as formulated in Schedule I of this judgment, in French and in English, on the Website of the petitioner's counsel, until expiry of the exclusion deadline;

[84] **REFERS** the case to the chief judge for determination of the district in which the class action must be instituted and for designation of the judge to hear the case;

[85] **ORDERS** the court clerk, should the action be instituted in another district, to transmit the record, upon the decision of the chief judge, to the clerk of the other district;

[86] **THE WHOLE**, with costs to follow.

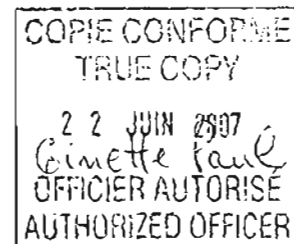
(s)

HÉLÈNE LANGLOIS J.S.C.

Mtre. Natacha Binsse-Masse
Mtre. Carmen Palardy
(OUELLET, NADON & ASSOCIÉS)
Counsel for the petitioner

Mtre. Chantai Bruyère
Mtre. Claude Hamelin
(CHAREST SÉQUIN CARON)
Counsel for the respondent

Date of hearing: October 10, 2006



SCHEDULE I

CANADA

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No. 500-06-000304-051

RACHEL ENGLER-STRINGER

Petitioner

v.

VILLE DE MONTRÉAL

Respondent

FULL NOTICE TO MEMBERS

1. **BE ADVISED** that the institution of a class action was authorized on _____ by a judgment of the Honourable _____, justice of the Superior Court, on behalf of the natural persons belonging to the group hereinafter described:

Any person arrested and detained near 2111, boulevard Saint-Laurent in Montréal by the Service de Police de la Ville de Montréal (SPVM) on July 28, 2003 around 10 a.m. to 10:30 a.m., or charged with unlawful assembly, as part of SPVM event number 20030727-001.

2. The chief judge ordered that the class action authorized by that judgment be instituted in the District of _____.

3. The address of the petitioner's counsel is as follows:

... 1406, rue Beaudry
Montréal (Québec) H2L 3E5

The address of the respondent is as follows:

VILLE DE MONTRÉAL
275, rue Notre-Dame Est
Montréal (Québec) H2Y 1C6

r. P.

4. The status of representative for the institution of the class action was ascribed to Rachel Engler-Stringer, post-doctoral intern in public health.
5. The main questions of fact and of law that will be dealt with collectively are as follows:
 1. Did the employees of the Ville de Montréal violate the constitutional or quasi-constitutional rights of the persons arrested and detained, as provided for in the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*? If so, which rights?
 2. Did the employees of the Ville de Montréal commit one or more abuses of process?
 3. Did the employees of the Ville de Montréal commit one or more abuses of a right?
 4. Are the employees of the Ville de Montréal liable for bodily injury, and moral and material damage caused in the above-mentioned event?
 5. Is the Ville de Montréal liable for the damage caused by its employees?
 6. Is there a causal link between the faults committed by the employees of the Ville de Montréal and the damage sustained by the members of the group?
 7. Is it appropriate to award damages? If so, in what amount?
 8. Is it appropriate to award exemplary damages for abuse of a right, for abuse of process and for violation of fundamental rights pursuant to the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*? If so, in what amount?
 9. Is it appropriate to order the Ville de Montréal to cease to transmit to anyone whatsoever any information, in any form whatsoever, concerning the members and related to the event involved, to provide a list of the people and organizations to which such information may have been transmitted and to give the members all the information obtained that is related to the events and concerns them?
6. The conclusions sought that are related to these questions are as follows:

ORDER the Ville de Montréal to pay damages and exemplary damages, as hereinafter broken down, to the following persons:

Ground	Damages	Exemplary damages
1. To all persons whose right to liberty, security, safety and integrity of their person was violated when they were arrested and detained, at the time of the above-mentioned event (sections 1 and 23 of the <i>Charter of human rights and freedoms</i> and sections 7 and 9 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$5000.00	\$5000.00
2. To all persons detained more than 24 hours, for each hour exceeding the first 24 hours (sections 1 and 24 of the <i>Charter of human rights and freedoms</i> and sections 7 and 9 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$200.00	\$200.00
3. To all persons detained more than 24 hours without appearing before a judge, at the time of the above-mentioned event (section 30 of the <i>Charter of human rights and freedoms</i> and subsection 503(1) of the <i>Criminal Code</i>)	\$1500.00	\$1500.00
4. To all persons denied the right to a peaceful meeting, freedom of expression and freedom of opinion, at the time of the above-mentioned event (section 3 of the <i>Charter of human rights and freedoms</i> and paragraphs (b) and (e) of section 2 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$2500.00	\$5000.00
5. To all persons discriminated against on the basis of their political convictions or involvement in political activities, as well as on the basis of their social conditions, in connection with the above-mentioned event (section 10 of the <i>Charter of human rights and freedoms</i> and section 15 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$1000.00	\$2000.00

6. To all persons not treated with the dignity, humanity and respect due to the human person, at the time of the above-mentioned event (sections 4 and 25 of the <i>Charter of human rights and freedoms</i>)	\$1000.00	\$1000.00
7. To all persons subjected to cruel and unusual treatment, at the time of the above-mentioned event (section 12 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$1000.00	\$1000.00
8. To all persons identified and searched unreasonably, at the time of the above-mentioned event (section 24.1 of the <i>Charter of human rights and freedoms</i> and section 8 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$1000.00	\$1000.00
9. To all persons subjected to unreasonable search and seizure, at the time of the above-mentioned event (section 24.1 of the <i>Charter of human rights and freedoms</i> and section 8 of the <i>Canadian Charter of Rights and Freedoms</i>)	\$500.00	\$500.00
10. To all persons denied the right to counsel, at the time of the above-mentioned event (section 29 of the <i>Charter of human rights and freedoms</i> and section 10 (b) of the <i>Canadian Charter of Rights and Freedoms</i>)	\$1000.00	\$1000.00
11. To all persons denied the right to advise their next of kin, at the time of the above-mentioned event (section 29 of the <i>Charter of human rights and freedoms</i>)	\$500.00	\$50.00
12. To all persons who sustained an abuse of process for being forced to appear in court, in connection with the above-mentioned event	\$2000.00	\$2000.00
13. To all persons cited for breach of conditions for having been arrested and detained, at the time of the above-mentioned event	\$1000.00	\$1000.00

14. Subject to subsequent amendment, to all persons who sustained material damage because of the police officers of the Service de Police de la Ville de Montréal	\$1.00	
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THE WHOLE, as regards compensatory damages, with interest at the legal rate calculated from the filing of the motion for authorization to institute a class action and to be the representative, and the additional indemnity provided for in article 1619 of the *Civil Code of Québec*, and, as regards exemplary damages, with interest at the legal rate calculated as of the judgment to be handed down and the additional indemnity provided for in article 1619 of the *Civil Code of Québec*;

ORDER the Ville de Montréal to immediately cease to transmit to anyone whatsoever any information, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

ORDER the Ville de Montréal to provide a list of the people and organizations to which any information has been transmitted, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

ORDER the Ville de Montréal to give that information, as soon as possible, to all the members of the group contemplated by the action, whether it is held in a paper, computer, photographic, videographic or other medium;

ORDER the Ville de Montréal to destroy, as soon as possible, copies of any information, whether held in a paper, computer, photographic, videographic or other medium, concerning the members of the group contemplated by the class action related to the above-mentioned event;

THE WHOLE with costs, including those for notices and expert evidence, if any;

7. The class action to be instituted by the representative on behalf of the members of the group will consist in:

An action for damages against the Ville de Montréal based on extracontractual liability pursuant to general law, the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*, as well as a motion for a permanent injunction;

8. Any member of the group not excluded in the manner indicated hereinafter will be bound by any judgment to be handed down in the class action.
9. The date after which a member can no longer be excluded, except with special permission, has been set at _____.

10. A member who has not yet drafted a personal request can exclude himself or herself from the group by notifying the clerk of the Superior Court of the District of _____, by certified mail before expiry of the exclusion deadline.
11. Any member of the group who has drafted a request that the final judgment in the class action would dispose of is deemed to be excluded from the group if he or she does not withdraw his or her request before expiry of the exclusion deadline.
12. A member of the group other than the representative or an intervening party cannot be asked to pay the costs of the class action.
13. A member can have the Court receive his or her intervention if it is considered useful to the group. An intervening member must undergo an examination on discovery or a medical examination, as the case may be, at the request of the respondent. A member who does not intervene in the class action may be subjected to an examination on discovery or a medical examination only if the Court considers it necessary.

PERSONS TO CONTACT FOR MORE INFORMATION ABOUT THE CLASS ACTION

Counsel for the petitioner:

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SCHEDULE II

**IF YOU WERE ARRESTED ON JULY 28, 2003 AT THE TIME OF THE
WTO MINI-CONFERENCE IN MONTRÉAL,
THIS NOTICE MAY CONCERN YOU.**

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class action)

No. 500-06-000304-051

RACHEL ENGLER-STRINGER

Petitioner

v.

VILLE DE MONTRÉAL

Respondent

ABBREVIATED NOTICE TO MEMBERS

BE ADVISED that the institution of a class action was authorized on _____ by a judgment of the Honourable _____, justice of the Superior Court; the status of representative was ascribed to Rachel Engler-Stringer on behalf of the natural persons belonging to the group hereinafter described:

Any person arrested and detained near 2111, boulevard Saint-Laurent in Montréal by the Service de Police de la Ville de Montréal (SPVM) on July 28, 2003 around 10 a.m. to 10:30 a.m., or charged with unlawful assembly, as part of SPVM event number 20030727-001.

The nature of the recourse that your representative intends to institute on behalf of the members of the group is as follows:

G.P.

An action for damages against the Ville de Montréal based on extracontractual liability pursuant to general law, the *Charter of human rights and freedoms* and the *Canadian Charter of Rights and Freedoms*, as well as a motion for a permanent injunction;

The chief judge ordered that the class action be instituted in the District of _____.

Note that the members of the group will be bound by any judgment to be handed down in the class action, unless they exclude themselves by notifying the clerk of the Superior Court of _____ at _____ by certified mail no later than _____. The Court will receive the intervention of a member if it is useful to the group. The members of the group other than the representative or an intervening party cannot be asked to pay the expenses or costs of the class action.

The full text of the notice to members is available at the office of the Superior Court of _____ and on the Website of your representative's attorneys at the following address: _____. In the event of a difference between this abbreviated notice and the full text, the latter will prevail.

PERSONS TO CONTACT FOR MORE INFORMATION ABOUT THE CLASS ACTION

Counsel for the petitioner:

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