

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

NO: 500-06-000843-173

(Class Action)
SUPERIOR COURT

FRANK BERDAH

-and-

9316-1305 QUÉBEC INC.

-and-

GIOVANNI PAQUIN, residing and domiciled at
at 919 Girouard avenue, Montreal, district of
Montreal, Province of Quebec, H4A 3B9

Applicants

-vs-

ATTORNEY GENERAL OF QUÉBEC

-and-

KPH TURCOT, UN PARTENARIAT S.E.N.C.

-and-

CONSTRUCTION KIEWIT CIE

-and-

PARSONS CANADA LTD.

Defendants

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 ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, SITTING IN AND FOR THE DISTRICT OF MONTREAL, YOUR APPLICANT STATES AS FOLLOWS:

I. THE CLASS

1. Giovanni Paquin, Frank Berdah and the company the latter owns, 9316-1305 Québec Inc. (hereinafter the “**Applicants**”), wish to institute a class action on behalf of the following class of which they are members, namely:

Class:

All natural and legal persons who have suffered damages from the maintenance work of the Turcot interchange (the “**Turcot Project**”);

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

or any other Class to be determined by the Court;

II. INTRODUCTION

2. Defendant, the Attorney General of Québec, acts on behalf of the Ministère du Transport du Québec, a public body created by the *Act Representing the Ministère des Transports*, chapter M-28;
3. The Turcot interchange is a hub for road traffic in the Montreal area interconnecting highways 15, 20 and 720, in addition to facilitating access to the Champlain Bridge.
4. The Turcot interchange is also an essential road link between Montreal’s Pierre-Elliott Trudeau International Airport and Montreal’s downtown core;
5. According to information publicly available on one of Defendant’s websites, the Turcot interchange is one of the most important interchanges in the province of Quebec, with a traffic volume of more than 300,000 vehicles per day, Applicants disclosing **Exhibit P-1**;
6. On its website, Exhibit P-1, Defendant declared that after 50 years of service, the Turcot interchange had to be rebuilt;
7. This rebuilding, known as the “Turcot Project”, includes the reconstruction of the Angrignon, De La Vérendrye and the Montreal-West interchanges, as well as adjacent sections of highways 15, 20 and 720;

8. The Turcot Project was supposed to be carried out in 4 phases and works completed by the Fall of 2016, Applicants disclosing the document published by Defendant titled "*Projet de Reconstruction du Complexe Turcot – Phasage des travaux*" as **Exhibit P-2**;
9. A second document published by Defendant dated October 5th, 2015, confirms that the Turcot Project would now be carried out until at least 2020, Applicants disclosing the document titled "*Turcot - Conception d'ensemble*", as **Exhibit P-3**;
10. On February 27th, 2015, Defendant signed a design-build contract (contrat de conception-construction) with Defendant **KPH TURCOT**, un partenariat S.E.N.C., Applicants disclosing the multibillion-dollar contract as **Exhibit P-4**;
11. KPH TURCOT, un partenariat S.E.N.C., is a consortium with its partners being Defendants **Construction KIEWIT CIE** and **Parsons Canada Ltd.**, Applicants disclosing an extract of the enterprise's information statement from the enterprise register (CIDREQ) as **Exhibit P-5**;
12. Applicant, Frank Berdah (hereinafter "**Berdah**"), is natural person who has suffered quantifiable damages caused by the Turcot Project;
- 12.1 Applicant, Giovanni Paquin (hereinafter "**Paquin**"), has his domicile and residence at 919 avenue Girouard, Montreal, H4A 3B9, in proximity to the Turcot exchange, since July 2012;
- 12.2 Paquin is an urban planner by profession;
13. Berdah owns the business 9316-1305 Québec Inc. ("**Galuchat**"), situated at 5457 Saint-Jacques street, Montreal, Quebec, H4A 2E1, in the heart of the Turcot Project reconstruction, Applicants disclosing an extract of the enterprise's information statement from the enterprise register (CIDREQ) as **Exhibit P-6**;

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

9316-1305 Québec Inc./Galuchat and Berdah's Cause of Action:

14. Berdah has owned Galuchat, an upholstery store, since January 15th, 2015;
15. Since February 2015, the Turcot Project has notably caused Berdah and Galuchat: (i) trouble and inconvenience; (ii) moral damages; (iii) stress; (iv) loss of enjoyment of

life; (v) loss of enjoyment of property; and (vi) loss of income and/or business;

16. Berdah is forced to constantly endure unbearable noise from the Defendants' Turcot Project, as it appears from a series of videos taken by Applicant in the summer of 2016, disclosed *en liasse* as **Exhibit P-7**;

16.1 Defendants have recognized and admitted that the noise levels from the Turcot Project are higher than normal, as it appears, for instance, from an email and notice sent to Berdah (as well as to Paquin and others) from the MTQ on March 6th, 2017, which includes the following, Applicants disclosing *en liasse* **Exhibit P-11**:

Nous tenons à vous informer que des travaux entraînant des vibrations seront effectués dans le secteur du pont Saint-Jacques, à compter de la **semaine du 13 mars jusqu'en mai 2017**. Ces travaux sont nécessaires afin de permettre l'installation de pieux pour la construction d'un mur de soutènement au sud de la rue Saint-Jacques, entre l'avenue Girouard et la rue Addington. **Ces travaux pourraient également entraîner des niveaux sonores plus élevés qu'à la normale...**

[our emphasis in bold].

17. Defendants erected a wall in front of Berdah's store, which makes access thereto a serious inconvenience, Applicant disclosing a video with helicopter footage filmed by *TVA Nouvelles* reporting on his struggles on November 7th, 2016, as **Exhibit P-8**;

18. Berdah is thus confined in his store for two years now;

19. Defendants' Turcot Project has denied Berdah of his *Charter* right to the peaceful enjoyment of his property;

20. As a result of this situation, revenues in Berdah's upholstery store have dropped significantly;

21. Berdah's business lost value as a result of Defendants' Turcot Project;

22. Berdah was forced to lay off all of his employees, save for one who works only part-time;

23. Berdah must park several blocks away from his store and walk through a virtual maze in order to get to work on a daily basis (which is stressful all year-round, but even more so in the freezing winter months);

24. As a result of the makeshift infrastructure setup by Defendants leading to and in front of Berdah's store, the city no longer cleans the garbage, debris caused by the

works and dirt around Berdah's business, nor does it remove the snow from the very long makeshift walkway leading thereto;

25. As a result of Defendants' Turcot Project, Berdah is deprived of his *Charter* right to a healthful environment;
26. The Turcot Project has caused Berdah abnormal and intolerable inconveniences and annoyance, in violation of article 976 of the *Civil Code of Quebec*;
- 26.1 The nuisance is significant and repetitive, consisting of episodes of foul odors, dust and noise, and originates from the works being performed by Defendants at the Turcot Project;
27. Berdah has pleaded in vain with municipal and provincial levels of government, but all of his requests for assistance have either been ignored or declined;
28. Berdah and Galuchat's struggle has been reported by almost all the major news outlets in Montreal, Applicants disclosing *en liasse* the news articles as **Exhibit P-9**;

Giovanni Paquin's Cause of Action:

- 28.1 Paquin has been renting and residing in an apartment adjacent to the Turcot Exchange since July 2012;
- 28.2 Only a few months thereafter, the Turcot Project has notably caused Paquin: (i) trouble and inconvenience; (ii) moral damages; (iii) stress; (iv) loss of enjoyment of life; and (v) loss of enjoyment of property;
- 28.3 Since 2012, Paquin has constantly endured unbearable banging noises from the Defendants' Turcot Project, which very often cause the furniture in his apartment to shake;
- 28.4 Construction trucks constantly pass by his residence at all hours of the day and night, causing loud noises and lights which deprive him of sleep, Applicant disclosing a video he filmed in January 2017 at approximately 23h00 as **Exhibit P-12**;
- 28.5 On Friday, February 10th, 2017, Paquin and his neighbours suffered a complete loss of water (as a result of a water main burst) beginning around 6:00 a.m., which lasted until Sunday, February 12th, 2017;
- 28.6 The electricity and water in Paquin's apartment constantly shuts off for several hours and days at a time;

28.7 Paquin is often unable to cook due to the fact that he is without water and electricity, and is thus forced to incur costs of paying for outside, less healthy food;

28.8 On February 10th, 2017, Paquin sent an email to his borough explaining some of the above;

28.9 Within 7 minutes of Paquin's email, Peter McQueen, City Councillor for the Notre-Dame-de-Grâce district, immediately responded by recognizing and admitting the following, Applicant disclosing the complete email thread as **Exhibit P-13**:

Thank you for notifying us about this and I am forwarding your message to the highest levels of our borough management for their solution if (sic) this problem asap please. I agree that you residents of that corner have suffered enough disruption from Transport Québec work there....

[our emphasis in bold]

28.10 To date, Paquin and other residents have not received any form of compensation whatsoever for the damages they have suffered for years from Transport Québec's work;

28.11 On February 12th and 13th, 2017, several Montreal news outlets reported on Paquin's struggles, Applicant disclosing the news article from the CBC and the Montreal Gazette en liasse as **Exhibit P-14**;

28.12 The CBC news article dated February 12th, 2017, includes the following declarations by Peter McQueen:

Compensation for residents

Local city councillor Peter McQueen said residents living around the Turcot work site have been paying the price for commuters who use the artery.

He said **they've had to deal with dust, noise, traffic and the smells from sewage over the last three years.**

"**Transports Québec should pay reparations to the poor tenants and residents of lower NDG who suffer the consequences of their work,**" said McQueen.

[our emphasis in bold]

28.13 The Montreal Gazette news article dated February 13th, 2017, includes the following declarations by Peter McQueen:

"I can tell by the reaction from my services that whatever happened is out of the ordinary and it's taking more time than anticipated," said McQueen, who represents the Notre-Dame-de- Grâce district. **"It's a very difficult situation for the residents."**

McQueen said the residents of the area have put up with a lot, and he would like the province to compensate them for their inconveniences.

"It's another case of how residents of N.D.G. pay the price for Turcot work, and it appears to always be the same residents over and over," McQueen said.

[our emphasis in bold]

- 28.14 The Turcot Project has caused Paquin abnormal and intolerable inconveniences and annoyances, in violation of article 976 of the *Civil Code of Quebec*;
- 28.15 The nuisance is significant and repetitive, consisting of episodes of foul odors, dust, noise and deprivation of basic necessities (such as water and electricity), all of which originate from the works being performed by Defendants at the Turcot Project;
- 28.16 Defendants' Turcot Project has denied Paquin of his *Charter* right to the peaceful enjoyment of his property and deprived him of his *Charter* right to a healthful environment;

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

29. All Class members are natural or legal persons who have suffered damages as a result of the Turcot Project, which they may collectively claim against the Defendants;
30. In this case, the legal and factual backgrounds at issue are common to all the members of the Class, namely whether the Defendants must compensate Class members for the damages they suffered and whether they must reduce their noise levels at the Turcot Project;
31. The claims of every Class member are founded on very similar facts to the Applicant's claim;
32. The damages sustained by the Class members flow, in each instance, from a common nucleus of operative facts;

- 32.1 For instance, a September 12th, 2016, *Journal de Montréal* news article titled “*Travaux à l'échangeur Turcot: la qualité de l'air inquiète*”, suggests that it became impossible to live with the current pollution levels for a number of residents, Applicants disclosing **Exhibit P-15**;
- 32.2 A November 14th, 2016, news video broadcasted on Global News further confirmed that Montreal residents living near the Turcot Interchange construction sites continue to complain that their traffic, dust and cleaning problems were getting worse, Applicants disclosing a copy of the Global News video as **Exhibit P-16**;
33. All of the damages to the Class members are a direct and proximate result of the Defendants' misconduct and willful blindness with respect to its obligations;
34. In taking the foregoing into account, all Class members are justified in claiming amounts, to be determined, as compensation for the following damages:
- a) trouble and inconvenience;
 - b) moral damages;
 - c) stress;
 - d) loss of enjoyment of life;
 - e) loss of enjoyment of property; and
 - f) loss of income and/or business (in the case of legal persons);
35. Individual questions, if any, pale by comparison to the numerous common questions that are significant to the outcome of the present Application;
36. **The questions of fact and law raised and the recourse sought by this Application are identical with respect to each Class member, namely:**
- a) Do Defendants infringe on Class members' rights to peaceful enjoyment of their property (article 6) and their right to a healthy environment (article 46.1) as set out in Quebec's *Charter of Human Rights and Freedoms*?
 - b) Do Defendants contravene sections 19.1 and 20 of the *Environment Quality Act* (chapter Q-2)?
 - c) Do Defendants contravene the noise standards set out in the *Environment Quality Act* (chapter Q-2), notably with respect to the *Note d'instruction 98-01* under section 94 of said Act?

- d) Do Defendants contravene the municipal noise by-laws for the cities impacted by the Turcot Project?
- e) Have Defendants caused Class members abnormal and intolerable inconveniences, thereby failing in their obligation of good neighbourly conduct?
- f) Did Defendants err in the design, construction, installation, maintenance and operation of equipment with respect to the Turcot Project?
- g) Were Defendants negligent of the well-being of the Class members, their tranquility and their right to peaceful enjoyment of their property?
- h) Are Class members entitled to moral damages?
- i) Are Class members entitled to compensatory damages for trouble and inconvenience, Defendants' violation of their rights, and/or for the loss of value of their property?
- j) Are Defendants solidarily liable for damages suffered by the Class members?
- k) Are Class members entitled to obtain orders, both under the general rules and under section 19.3 of the *Environment Quality Act*, aimed at reducing the noise emitted by the Turcot Project, so that it is reduced to acceptable levels both qualitatively and quantitatively?
- l) Do Defendants violate article 976 of the *Civil Code of Quebec*?
- m) Do Defendants violate article 1457 of the *Civil Code of Quebec*?
- n) Is it necessary to issue an injunction against the Defendants?

C) THE COMPOSITION OF THE CLASS

- 37. 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;
- 38. According to Exhibit P-1, the Turcot interchange has a traffic volume of more than 300,000 vehicles per day;
- 39. By all accounts, there are likely tens of thousands of people, if not more, who are members of the Class;
- 40. The names and addresses of all persons included in the Class are not known to the

Applicants, but may be in the possession of the provincial government;

41. Class members are very numerous and are dispersed across the province;
42. 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;
43. 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

44. Applicants requests that they be appointed the status of representative plaintiffs;
45. Applicant Paquin is a member of the Class and can represent the residents (natural persons) of the areas affected by the Turcot Project;
- 45.1 Applicant Berdah and Applicant 9316-1305 Québec Inc. are members of the class and can represent the businesses (legal persons) affected by the Turcot Project;
46. Applicants have begged for help from the MTQ, city counselors, mayors, news outlets and others in order to seek some form of reparation, but all of their efforts have gone in vain;
47. On July 14th, 2016, Berdah sent the following email to the MTQ, Applicant disclosing his email and the MTQ's response *en liasse* as **Exhibit P-10**:

*« Bonjour Mr yvan Paquette ou a qui de droit.
Je vous re écris pour vous faire savoir mon desaroie et deception complete
envers la MTQ par apport a tout ce qui passe pour lechangeur turcot.*

Rien absolument rien a ete ameliorer de votre cote.

1) le bruit est infernal

2) la poussiere se repends de partout.

3) l'accès a l'immeuble par addington se fait difficilement.

4) la coupure d"eaux devient de plus en plus frequent.

5) des debris du chantier rebondis sur le trottoir en avant de limmeuble.

6) nous ne savons pas encore si des dommages au bâtiment ou aux fondations ont été constatés. Nous nous apprêtons à nettoyer tout l'intérieur de l'immeuble pour vérifier cela du au bombardement du ciment ainsi que les piliers qui ont été creusés dans le sol. Veuillez noter que j'ai ajouté à tous mes emails et appels précédents qui ont été envoyés, sans aucune réponse concrète à l'amélioration du chantier mais surtout pour moi en tant que commerçant qui est malheureusement coupé de toute réalité avec ce projet. Malheureusement la ville de Montréal fait de même que vous il lance la balle dans votre cour et comme il dit le silence et d'or!!!! Ceci est une autre plainte formelle que je fais en vous disant que vous devez travailler plus rapidement que vous avez planifié. »

48. When it became apparent to Berdah that Defendants would never compensate him willingly, he contacted his attorney who practices mostly in class actions;
49. Berdah was referred to his attorney by his friend;
- 49.1 Paquin discovered that Berdah filed a class action after reading several news articles reporting on the present class action. Paquin then contacted his attorneys by email and met with them in person in order to undertake the role of Representative Plaintiff in the present case;
- 49.2 Paquin has already made himself available to Berdah, to his attorneys and to a number of media outlets and is prepared and determined to assist those in a similar situation to his;
- 49.3 Both Berdah and Paquin have discussed their cause with a number of neighbours and residents in the area;
50. As for identifying other Class members, Applicants draw certain inferences based on the magnitude of the Turcot Project, and notice that there is a very important number of citizens that find themselves in an identical situation, and that it would not be useful for them to attempt to identify them given their sheer number;
51. Applicants have given the mandate to their attorneys to obtain all relevant information with respect to the present action and intend to keep informed of all developments;
52. Applicants, with the assistance of their attorneys, are ready and available to manage and direct the present action in the interest of the members of the Class that they wish to represent and are determined to lead the present dossier until a final resolution of the matter, the whole for the benefit of the Class, as well as to dedicate the time necessary for the present action and to collaborate with their attorneys;

53. Applicants have the capacity and interest to fairly and adequately protect and represent the interest of the Class members;
54. Applicants are prepared to dedicate the time necessary for this action and to collaborate with other Class members and to keep them informed, Berdah doing so notably via his Facebook social media account, where he is very active concerning the present action;
55. Applicants are in good faith and have instituted this action 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 the Defendants' misconduct;
56. Applicants understand the nature of the action;
57. Applicants' interests are not antagonistic to those of other Class members;
58. Applicants' interest and competence are such that the present class action could proceed fairly;

IV. NATURE OF THE ACTION AND CONCLUSIONS SOUGHT

59. The action that the Applicants wish to institute on behalf of the Class members is an action in damages, with injunctive relief and declaratory judgment;
60. The conclusions that the Applicants wish to introduce by way of an Originating Application are:

GRANT 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;

ORDER the Defendants to take the necessary measures to reduce the noise generated by the Turcot Project, to acceptable levels, both qualitatively and quantitatively, based on the evidence that will be submitted to the Court;

CONDEMN the Defendants, solidarily, to pay the designated Plaintiffs and each of the Class members an annual amount, to be determined, as of August 2012 and until such time that sufficient noise mitigation measures have been implemented;

CONDEMN the Defendants, solidarily, to compensate the designated Plaintiffs and the Class members for the diminution in value to their property;

CONDEMN the Defendants, solidarily, to pay to each Class member a sum to be determined in compensation for any other damages which the Court may determine;

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 the Bringing of a Class Action and to Appoint the Status of Representative Plaintiff*;

ORDER that the claims of individual Class members be the object of collective recovery if the proof permits and alternately, by individual recovery;

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;

CONDEMN the Defendants to bear the costs of the present action, including class counsel's professional fees and disbursements, the cost of 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;

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

V. JURISDICTION

62. The Applicants suggest that this class action be exercised before the Superior Court of the province of Quebec, in the district of Montreal, for the following reasons:

- a) A great number of the Class members, including the Applicants, reside in the district of Montreal;
- b) The Applicants' cause of action took place in the district of Montreal;
- c) The Applicants' attorneys practice their profession in the district of Montreal;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present application;

AUTHORIZE the bringing of a class action in the form of an Originating Application in declaratory judgment, injunctive relief and damages;

APPOINT the Applicants the status of representative plaintiffs of the persons

included in the Class herein described as:

Class:

All natural and legal persons who have suffered damages from the maintenance work of the Turcot interchange (the “**Turcot Project**”);

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

or any other Class to be determined by the Court;

IDENTIFY the principle questions of fact and law to be treated collectively as the following:

- a) Do Defendants infringe on Class members’ rights to peaceful enjoyment of their property (article 6) and their right to a healthy environment (article 46.1) as set out in Quebec’s *Charter of Human Rights and Freedoms*?
- b) Do Defendants contravene sections 19.1 and 20 of the *Environment Quality Act* (chapter Q-2)?
- c) Do Defendants contravene the noise standards set out in the *Environment Quality Act* (chapter Q-2), notably with respect to the *Note d’instruction 98-01* under section 94 of said Act?
- d) Do Defendants contravene the municipal noise by-laws for the cities impacted by the Turcot Project?
- e) Have Defendants caused Class members abnormal and intolerable inconveniences, thereby failing in their obligation of good neighbourly conduct?
- f) Did Defendants err in the design, construction, installation, maintenance and operation of equipment with respect to the Turcot Project?
- g) Were Defendants negligent of the well-being of the Class members, their tranquility and their right to peaceful enjoyment of their property?
- h) Are Class members entitled to moral damages?
- i) Are Class members entitled to compensatory damages for trouble and

inconvenience, Defendants' violation of their rights, and/or for the loss of value of their property?

- j) Are Defendants solidarily liable for damages suffered by the Class members?
- k) Are Class members entitled to obtain orders, both under the general rules and under section 19.3 of the *Environment Quality Act*, aimed at reducing the noise emitted by the Turcot Project, so that it is reduced to acceptable levels both qualitatively and quantitatively?
- l) Do Defendants violate article 976 of the Civil Code of Quebec?
- m) Do Defendants violate article 1457 of the Civil Code of Quebec?
- n) Is it necessary to issue an injunction against the Defendants?

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

GRANT 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;

ORDER the Defendants to take the necessary measures to reduce the noise generated by the Turcot Project, to acceptable levels, both qualitatively and quantitatively, based on the evidence that will be submitted to the Court;

CONDEMN the Defendants, solidarily, to pay the designated Plaintiffs and each of the Class members an annual amount, to be determined, as of August 2012 and until such time that sufficient noise mitigation measures have been implemented;

CONDEMN the Defendants, solidarily, to compensate the designated Plaintiffs and the Class members for the diminution in value to their property;

CONDEMN the Defendants, solidarily, to pay to each Class member a sum to be determined in compensation for any other damages which the Court may determine;

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 the Bringing of a Class Action and to Appoint the Status of*

Representative Plaintiff;

ORDER that the claims of individual Class members be the object of collective recovery if the proof permits and alternately, by individual recovery;

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;

CONDEMN the Defendants to bear the costs of the present action, including class counsel's professional fees and disbursements, the cost of 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;

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;

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;

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 LA PRESSE, LE JOURNAL DE MONTRÉAL, and the MONTREAL GAZETTE;

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 Concerning the Turcot Project – Avis d'une action collective concernant le projet échangeur Turcot";

ORDER the Defendants to send an Abbreviated Notice regular mail and by e-mail to each Class member, to their last known physical and e-mail addresses, with the subject line "Notice of a Class Action – Avis d'une action collective";

RENDER any other order that this Honourable Court shall determine;

The whole with costs including publications fees.

Montreal, April 6th, 2017

A handwritten signature in blue ink, consisting of several fluid, overlapping strokes. The signature is positioned above a horizontal line.

TICKET LÉGAL INC.

PER: ME JOEY ZUKRAN

Attorneys for Applicant

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Class Action)
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CONSTRUCTION KIEWIT CIE

-and-

PARSONS CANADA LTD.

Defendants

AMENDED LIST OF EXHIBITS

Exhibit P-1: Screen capture of Defendant's website confirming that the Turcot interchange is one of the most important interchanges in the province of Quebec, with a traffic volume of more than 300,000 vehicles per day, (<https://www.turcot.transports.gouv.qc.ca/en/Pages/default.aspx>);

- Exhibit P-2:** Copy of document published by Defendant titled "*Projet de Reconstruction du Complexe Turcot – Phasage des travaux*";
- Exhibit P-3:** Copy of document dated October 5th, 2015, titled "*Turcot - Conception d'ensemble*";
- Exhibit P-4:** Copy of design-build contract (contrat de conception-construction) with KPH TURCOT, dated February 27th, 2015;
- Exhibit P-5:** Extract of the enterprise's information statement from the enterprise register (CIDREQ) for KPH TURCOT;
- Exhibit P-6:** Extract of the enterprise's information statement from the enterprise register (CIDREQ) for 9316-1305 Québec Inc. ("*Galuchat*");
- Exhibit P-7:** *En liasse*, copies of videos taken by Applicant in the summer of 2016 showing the noise caused by Turcot Project construction;
- Exhibit P-8:** Copy of TVA Nouvelles helicopter video footage published on November 7th, 2016, showing the wall erected in front of Applicant's store;
- Exhibit P-9:** *En liasse*, copies of Montreal news articles reporting on Applicant's situation;
- Exhibit P-10:** *En liasse*, copies of the July 14th, 2016, email Applicant sent to the MTQ and the MTQ's response;
- Exhibit P-11:** *En liasse*, copy of the email received from the MTQ dated March 6th, 2017 and document titled "Avis aux residents – vibrations Saint-Jacques" attached thereto;
- Exhibit P-12:** Copy of video filmed by Applicant outside his apartment in January 2017;
- Exhibit P-13:** Copy of emails between Paquin and Peter McQueen on February 10th, 2017;
- Exhibit P-14:** *En liasse*, copies of the February 12th and 13th, 2017, news article from CBC and the Montreal Gazette;
- Exhibit P-15:** Copy of September 12th, 2016, *Journal de Montréal* news article titled "Travaux à l'échangeur Turcot: la qualité de l'air inquiète";
- Exhibit P-16:** Copy of November 14th, 2016, news video broadcasted by Global News concerning dust and pollution problems;

These exhibits are available on request.

Montreal, April 6th, 2017

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

TICKET LÉGAL INC.

PER: ME JOEY ZUKRAN

Attorneys for Applicant

(Class Action)
SUPERIOR COURT
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

FRANK BERDAH

-and-

93161305 QUÉBEC INC.,

-and-

GIOVANNI PAQUIN, residing and domiciled
at 919 Girouard avenue, Montreal, district
of Montreal, Province of Quebec, H4A 3B9

Applicants

-vs-

ATTORNEY GENERAL OF QUEBEC

-and-

KPH TURCOT, UN PARTENARIAT S.E.N.C.
ET ALS.

Defendants

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.)

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