

CITATION: Brazeau v. Canada (Attorney General), 2021 ONSC 4982
COURT FILE NO.: CV-15-53262500-CP
Reddock v. Canada (Attorney General), 2021 ONSC 4982
COURT FILE NO.: CV-17-570771-00CP
DATE: 20210715

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**SUPERIOR COURT (Class Action
Division)**

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-06-000781-167

Between:

Between:

**CHRISTOPHER BRAZEAU and DAVID
KIFT
Plaintiffs**

**ARLENE GALLONE
Plaintiff**

- and -

c.

**ATTORNEY GENERAL OF CANADA
Defendant**

**PROCUREUR GÉNÉRAL DU CANADA
Defendant**

Proceeding under the *Class Proceedings Act,
1992*

And Between:

**JULLIAN JORDEA REDDOCK
Plaintiff**

- and -

**ATTORNEY GENERAL OF CANADA
Defendant**

Proceeding under the *Class Proceeding Act,
1992*

Date hearing/d'audience: In writing

Counsel:

James Sayce, Charles Hatt, and Nathalie Gondek, for the Plaintiffs in Brazeau and Kift v. Attorney General of Canada

H. Michael Rosenberg, James Sayce, Charles Hatt, Charlotte-Anne Malischewski and Jacob Klugsberg for the Plaintiff in Reddock v. Attorney General of Canada

André Lespérance, Clara Poissant-Lespérance, and Marianne Dagenais-Lespérance for the Demanderesse in Gallone c. Procureur Général du Canada

Susan Gans, Negar Hashemi, Sean Stynes, Lucan Gregory, Diya Bouchédid, Eric Lafrenière and Nicholas Banks for the Defendant ou Défenderesse in: (a) Brazeau and Kift v. Attorney General of Canada; (b) Reddock v. Attorney General of Canada; and (c) Gallone c. Procureur Général du Canada

Lory Beauregard for the Fond d'aide aux actions collective

REASONS FOR DECISION/JUGEMENT – Part 4**MASSE, J. and PERELL, J.****A. Introduction**

[1] Pursuant to the *Class Proceedings Act, 1992*¹, Justice Paul Perell of the Ontario Superior Court of Justice is case managing the Ontario class actions, *Brazeau v. Canada (Attorney General)* and *Reddock v. Canada (Attorney General)*.

[2] Pursuant to the *Québec Code of Civil Procedure*,² Justice Chantal Masse, of the Superior Court of Québec is case managing the Québec class action, *Gallone c. Canada (Attorney General)*.³

[3] This is Part 4 of our jointly written decision or judgment in *Brazeau, Reddock, and Gallone*.⁴ While it is a jointly written decision, it may and should be read as separate decisions of the Ontario Superior Court of Justice and of the Superior Court of Québec.

[4] In Part 1, we prepared a Draft Distribution and Individual Issues Protocol, (the *Draft D&I Protocol*), which was set out in Schedule “D” of that judgment. The protocol was a provisional decision. Part 1 of our joint decision included the invitation to the parties to make submissions in writing before the hearing was concluded and then a final Order would be made by our respective courts.

¹ S.O. 1992, c. 6.

² CQLR, c. C-25.01.

³ C.S.Q Court File No.: 500-06-000781-167.

⁴ *Brazeau v. Canada (Attorney General)*, 2020 ONSC 7229, *Reddock v. Canada (Attorney General)*, 2020 ONSC 7232; *Gallone c. Canada (Procureur Général)*, 2020 *

[5] In Part 2, after we had received and reviewed the written submissions, we released what was to be a final decision. The decision included as a schedule the approved Distribution and Individual Issues Protocol.

[6] After the release of our Part 2 decision, the parties set about settling the terms of the courts' formal orders and as a part of that effort, the parties had further consultations about the Protocol, including discussions with the administrator. Those further consultations resulted in consensual revisions to the protocol, which the parties have asked the courts in Ontario and Québec to approve. In Part 3 of our decision, with some revisions of our own, we approved the revised protocol.⁵

[7] After we released Part 3, we received the following self-explanatory email message from Éric Lafrenière, Avocat général, Ministère de la Justice:

Madame la juge Masse, Justice Perell,

The present is to apprise the courts on a few items that still need your attention: a) minor typos to be corrected in the Protocol; b) documents requiring court approval; c) change in the Go-live (Notice) date.

A. Minor typos

In the last version of the Protocol approved by the courts, several paragraphs appear to accidentally cross-reference to paragraph "0" instead of the actual paragraph number. The following is a list of the proper cross-references:

- In section 7.10, the cross-reference should be to s. 7.9.
- In section 7.11, the cross-reference should be to s. 7.9.
- In subsection 10.5(a), the cross-reference should be to s. 8.5.
- In subsection 10.5(d), the cross-reference should be to ss. 10.5(c).
- In subsection 10.5(f), the cross-reference should be to s. 10.5.
- In section 10.7, the cross-reference should be to s. 10.5.
- In subsection 11.10(a), the cross-reference should be to s. 8.5.

Attached is a new version of the Protocol with the above-mentioned corrections.

B. Documents to be approved by the courts

The following documents still require the approval of the courts:

- the French version of the short and the long Notice form (previously attached to Class counsel email to the courts on June 11, 2021)
- the French version of the Track Selection form (previously attached to Class counsel email to the courts on June 11, 2021)
- the French and English version of the Claim Form (previously attached to Class counsel email to the courts on June 11, 2021)
- the French version of the Opt-out election letter instructions
- the Notice Program in English only
- the French version of the Protocol

⁵ See for example, *Brazeau v. Canada (Attorney General)*, 2021 ONSC 4294.

- the Terms of Appointment of Epiq

These documents are attached hereto, except the Terms of Appointment of Epiq which has not yet been agreed upon by all parties. We will send Epiq's Terms of Appointment to the Courts by July 23rd.

C. Change to the Go-live date

As outlined in the Protocol sections 4.1, 5.7, 5.8 and 5.9. and in Mr Rosenberg's letter dated June 11, 2021, the parties have been preparing for the commencement of the Claims Period on July 10, 2021 (Go-live date), or as soon as practicable. Unfortunately, July 10, 2021, is no longer feasible for the commencement of the Claims Period due to the time necessary for translations and preliminary approvals required to meet this date.

Based on the advice of the Administrator (Epiq) regarding the necessary logistics for the production and distribution of the various material linked to the Notices, the Claim Period of one year could start on the date of the Notice which would occur within 30 business days after your approval of all the documents required (listed above in B).

We would be pleased to keep the courts informed and provide updates if needed.

Éric Lafrenière

Avocat général | General Counsel

MINISTÈRE DE LA JUSTICE CANADA | DEPARTMENT OF JUSTICE CANADA

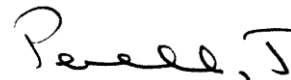
[8] We have reviewed the documents and find them to be satisfactory and thank counsel for advising us of the typographical errors. Accordingly, we approve the following: (a) the French version of the short and the long Notice form; (b) the French version of the Track Selection form; (c) the French and English version of the Claim Form; (d) the French version of the Opt-out election letter instructions; (e) the Notice Program in English only; and (f) the French version of the Protocol.

[9] Orders to be drafted accordingly.

[10] When counsel have settled the Terms of Appointment of Epiq, they should send it to us in the form of an Order for our signature.



Masse, J.



Perell, J.

July 15, 2021

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Released: July 15, 2021