

C A N A D A

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

S U P E R I O R C O U R T
(CLASS ACTION CHAMBER)

N° 500-06-000660-130

RAHIM

Petitioner

v.

THE MINISTER OF IMMIGRATION,
DIVERSITY AND INCLUSION and THE
GOVERNMENT OF QUEBEC, both
represented by the ATTORNEY
GENERAL OF QUEBEC

Respondent

**MOTION FOR PERMISSION TO AMEND PLEADING
AND TO ADD A REPRESENTATIVE PLAINTIFF
(Art. 585 CCP)**

**IN SUPPORT OF HIS MOTION TO AMEND HIS PLEADING AND TO ADD A
REPRESENTATIVE PLAINTIFF, PETITIONER STATES AS FOLLOWS:**

1. On September 4, 2013, Tatiana Stasenکو filed a Motion for Authorization of a Class Action and to be designated as Representative in the present file, the whole as appears from the Court record.
2. On April 4, 2016, following changes in her personal circumstances that rendered her unable to adequately represent the putative members of the proposed class, Ms. Stasenکو filed a Motion for Substitution of the Representative Plaintiff and for Permission to Amend, which was granted by judgment of the honourable Pepita G. Capriolo, J.S.C. on June 20, 2016, communicated herewith as **Exhibit R-1**.
3. By Capriolo J.S.C.'s judgment, Ms. Stasenکو was replaced as representative plaintiff by Rahim, the "**Petitioner**" in the current proceedings.
4. The Petitioner filed an Amended Motion for Authorization of a Class Action and to be designated as Representative on August 23, 2016, the whole as appears from the Court record.
5. On March 8, 2017, the Minister of Immigration, Diversity and Inclusion (the "**Minister**") published new changes to the *Regulation respecting the weighting*

applicable to the selection of foreign nationals, c. I-0.2, r. 2 (the "**Weighting Regulation**") in the *Gazette officielle du Québec*, the whole as appears from a copy of the notice published in the *Gazette officielle du Québec* on March 8, 2017, communicated herewith as **Exhibit R-2**.

6. These new amendments alter the number points allotted to some of the selection factors considered under the Minister's Skilled Worker immigration program in the course of an individual's application for a Quebec Selection Certificate. They also raise the number of points required for an applicant to pass preliminary processing and to receive a CSQ.
7. The amendments are retroactive in effect, covering all applications submitted to the Minister except those that had been filed before March 8, 2017 *and* for which preliminary processing had already commenced.
8. The practical result of these amendments is that some applicants who would have had enough points under the old weighting system to pass through preliminary processing now do not meet the required cut-off scores. This renders them automatically ineligible to receive a Quebec selection certificate.
9. These individuals will not, however, be reimbursed the fees they paid for filing their applications, the whole as appears from a copy of an article published in *Le Devoir* on March 10, 2017, communicated herewith as **Exhibit R-3**.
10. Rhia Basnet, who submitted her application for a Quebec Selection Certificate on June 13, 2016 and paid \$1,105.00 in fees, and whose application has not yet reached the preliminary processing stage, is directly affected by the newest retroactive amendments to the *Weighting Regulation*. Under the new point system, Ms. Basnet will not have sufficient points to obtain a Quebec selection certificate. The Minister has not offered to reimburse Ms. Basnet her fees.
11. Ms. Basnet consequently wishes to act as representative plaintiff for a new group of class members who as a result of the March 8, 2017 amendments to the *Weighting Regulation* no longer qualify for a Quebec selection certificate, and who now seek reimbursement of their application fees.
12. To this end, the Petitioner wishes to amend the proceedings in this file to add a claim for damages relating to the Minister's most recent changes to the *Weighting Regulation*, add a new group to the proposed class, and permit Ms. Basnet to act as representative plaintiff for this group, the whole as it appears from the Re-Amended Motion, communicated herewith as **Exhibit R-4**.
13. Furthermore, the Petitioner wishes to amend the definition of the existing two groups of the proposed class, in order to clarify that only those individuals whose applications are doomed to failure *as a result of* the Minister's 2013 amendments to immigration regulations would fall into either proposed group.
14. Given that this proposed class action has not yet been authorized, it is not against the interest of justice to permit these amendments. Rather, it is in fact more appropriate and proportionate for the court to adjudicate all claims related to

amendments to immigration regulations in one proceeding, rather than in two separate actions.

FOR THESE REASONS, MAY IT PLEASE THE COURT TO:

GRANT the present Motion;

AUTHORIZE the amendment of the Motion for authorization of a class action;

THE WHOLE without costs except in case of contestation.

MONTREAL, this 16th day of May 2017



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NOTICE OF PRESENTATION

TO: Attorney General of Quebec
1 Notre-Dame Street East, Suite 8.01, in
the City and District of Montreal,
Province of Quebec, H2Y 1B6

Attorneys for the Respondent
MINISTER OF IMMIGRATION, DIVERSITY AND
INCLUSION

TAKE NOTICE that the *Petitioner's Motion for Permission to Amend Pleading and to Add a Representative Plaintiff* will be presented for adjudication at a date and time and in a room to be designated by the Honourable Pepita G. Capriolo, J.S.C., at the Montreal Courthouse, located at 1 Notre-Dame Street East, Montreal, Quebec.

DO GOVERN YOURSELF ACCORDINGLY.

MONTREAL, this 16th day of May 2017



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MINISTER OF IMMIGRATION, DIVERSITY AND
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TAKE NOTICE that the *Petitioner's Motion for Permission to Amend Pleading and to Add a Representative Plaintiff* will be presented for adjudication at a date and time and in a room to be designated by the Honourable Pepita G. Capriolo, J.S.C., at the Montreal Courthouse, located at 1 Notre-Dame Street East, Montreal, Quebec.

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MONTREAL, this 16th day of May 2017

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A F F I D A V I T

I, the undersigned, RAHIM, individual domiciled and residing at 5400 W. Parmer Ln, App 321, Austin, State of Texas, 78727, United States of America, hereby make the following solemn declaration:

1. All the facts contained in paragraphs 1 to 4 and 13 of the present motion are true.

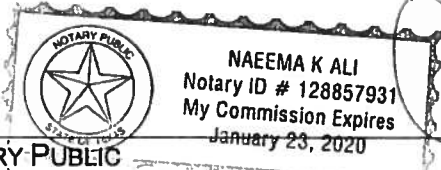

AUSTIN, THIS ___ DAY OF MAY 2017

AND I HAVE SIGNED:



RAHIM

SOLEMNLY AFFIRMED BEFORE ME
IN AUSTIN, THIS 15th DAY OF MAY
2017


NOTARY PUBLIC 

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DISTRICT OF MONTREAL

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LIST OF ADDITIONAL EXHIBITS

- Exhibit R-1** Judgment of the honourable Pepita G. Capriolo, J.S.C., dated June 20, 2016;
- Exhibit R-2** Notice of amendments to the *Regulation respecting the weighting applicable to the selection of foreign nationals*, c. 1-0.2, r. 2 published in the *Gazette officielle du Québec* on March 8, 2017;
- Exhibit R-3** Article in *Le Devoir*, dated March 10, 2017;
- Exhibit R-4** Re-amended motion for authorization of a class action and to be designated as representatives.

MONTREAL, this 16th day of May 2017




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