

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000660-130

DATE: March 26th, 2019

PRESIDING: THE HONOURABLE PEPITA G. CAPRIOLO, J.S.C.

RAHIM

- and -

SYED MUHAMMAD ALI RIZVI

Plaintiffs

v.

**THE MINISTER OF IMMIGRATION, DIVERSITY AND INCLUSION AND THE
GOVERNMENT OF QUÉBEC, REPRESENTED BY THE ATTORNEY GENERAL OF
QUÉBEC**

Defendant

RECTIFIED JUDGMENT

- [1] **CONSIDERING** that on February 19, 2018, the Court authorized a class action against the Minister of Immigration, Diversity and Inclusion (the “**Minister**”) and the Government of Québec, represented by the Attorney General of Quebec (collectively, the “**Defendants**”) for the following class of persons (the “**Authorization Judgment**”):

Group 1: *All individuals who filed an application with the Ministère de l'Immigration et des Communautés culturelles du Québec for a selection certificate in the "skilled worker" category prior to July 8, 2013; whose application had not reached the preliminary processing stage as of August 1, 2013; whose application included form A-1520-AA or A-1520-AF containing the phrase "Your application for a selection certificate will be processed based on regulations in effect when it was submitted" or similar language; and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the August 1, 2013 amendments to immigration regulations, the individuals no longer accumulated enough points to pass preliminary processing or to be selected;*

Group 2: *All individuals who filed an application with the Ministère de l'Immigration et des Communautés culturelles du Québec for a selection certificate in the "skilled worker" category prior to July 8, 2013, whose application had not reached the preliminary processing stage as of August 1, 2013; and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the August 1, 2013 amendments to immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected;*

Group 3: *All individuals who filed an application with the Ministère de l'Immigration, Diversité et Inclusion Québec for a selection certificate in the "skilled worker" category, whose application had not reached the preliminary processing stage as of March 8, 2017, and whose application, as at the date of final judgment herein, has been refused by the Minister because, due to the retroactive application of the March 8, 2017 amendments to the immigration regulations, the individuals no longer cumulated enough points to pass preliminary processing or to be selected;*

(collectively, "**Class Members**" or the "**Class**");

- [2] **CONSIDERING** that on September 26, 2018, the Court authorized a timetable for subsequent proceedings and fixed a ten-day trial scheduled to begin on March 18, 2019;
- [3] **CONSIDERING** that the Plaintiffs allege that the Defendants were unjustly enriched, committed a fault, and acted in bad faith by refusing to offer to reimburse the Application Fees of Class Members whose applications for Certificates of Selection for Quebec were doomed to failure as a result of the application of amendments to the *Regulation respecting the weighting applicable to the selection of foreign nationals*, CQLR c. I-0.2, r. 2 (the "**Weighting Regulation**");

- [4] **CONSIDERING** the Settlement Agreement agreed to between the parties, without concession or admission of wrongdoing or liability by the Defendants, **Exhibit R-1**;
- [5] **CONSIDERING** the *Joint Application for Approval of a Notice to Class Members*;
- [6] **CONSIDERING** the Amended Pre-Approval Notice to Class Members provided to this Court, **Exhibit R-2**;
- [7] **CONSIDERING** Articles 581 and 590 of the *Code of Civil Procedure*;
- [8] **CONSIDERING** that the original Pre-Approval Notice to Class Members did not conform to the requirements of Article 590;
- [9] **CONSIDERING** the representations made by the Parties;

FOR THOSE REASONS, THE COURT:

GRANTS the *Joint Application for Approval of Notice to Class Members*;

SETS the hearing date for the application for approval of the Settlement Agreement on June 19, 2019 at 9:30 A.M. in a room to be determined;

APPROVES the form and content of the Pre-Approval Notice to Class Members, in its French and English versions (Amended Annex A of this judgment);

ORDERS that the Pre-Approval Notice in the form found in Amended Annex A of this judgment be posted on the Immigration Quebec website until the Court approves the Settlement Agreement and emailed by the Minister of Immigration, Diversity and Inclusion, in both French and English, to the last email address provided by each Group Member, to the list of Quebec immigration lawyers found in the attached Annex B, as well as to cbancism@listserver.cba.org, within fifteen (15) days of the present judgment;

THE WHOLE without costs.



PEPITA G. CAPRIOLO, j.c.s.

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QUEBEC REGULAR SKILLED WORKER IMMIGRATION PROGRAM – CLASS ACTION SETTLEMENT

NOTICE OF SETTLEMENT APPROVAL HEARING

Read this notice carefully as it may affect your legal rights.

You are receiving this notice because you may be eligible for compensation, as explained below.

Please note that many people who are receiving this notice may not be eligible for compensation because they do not meet the class definitions described below.

WHICH CLASS MEMBERS ARE ELIGIBLE FOR COMPENSATION?

This notice is intended for persons who filed an application with the Quebec Minister of Immigration, Diversity and Inclusion for a Quebec Selection Certificate (“**CSQ**”) in the Regular Skilled Worker programme and who fulfill the following conditions:

- a) **Group 1:** Individuals whose CSQ Applications were filed between February 1, 2012 and May 31, 2013; whose CSQ Application contained an immigration form A-1520-AA or A-1520-AF indicating that their CSQ application would be processed in accordance with the regulations in force at the time of filing with the MIDI or the language “Your application for a selection certificate will be processed based on the regulations in effect when it was submitted”; and whose CSQ Application was refused subsequent to the entry into force of the selection grid on August 1st, 2013.
- b) **Group 2:** Individuals whose application for a CSQ was filed before February 1st, 2012 or between June 1st, 2013 and July 7th, 2013; and whose CSQ application was refused subsequent to the entry into force of the selection grid on August 1st, 2013.
- c) **Group 3:** Individuals whose application for a CSQ was filed between July 8th, 2013 and March 8th, 2017; and whose CSQ application was refused subsequent to the entry into force of the selection grid on March 8th, 2017.

(the “**Eligible Class Members**”).

PURPOSE OF THIS NOTICE:

On February 19, 2018, the Superior Court of Quebec (the “**Court**”) authorized a class action against the Minister of Immigration, Diversity and Inclusion (the “**Minister**”) and the Government of Québec (collectively, the “**Defendants**”). The authorized action alleges that the Defendants were unjustly enriched, committed a fault, and acted in bad faith by refusing to offer to reimburse the application fees paid Class Members whose CSQ applications were doomed to failure as a result of the application of amendments to the

*Regulation respecting the weighting applicable to the selection of foreign nationals, CQLR c. I-0.2, r. 2 (the "**Weighting Regulation**").*

A Settlement Agreement has been reached between the Plaintiffs and the Defendants. The Settlement Agreement is not an admission of liability on the part of the Defendants.

Pursuant to the Settlement Agreement, each Eligible Class Member (defined above) is entitled to receive compensation as follows:

- a) Group 1: 50% of the fees paid by a member of group 1 to submit his or her CSQ Application;
- b) Group 2: 25% of the fees paid by a member of group 2 to submit his or her CSQ Application; and
- c) Group 3: 25% of the fees paid by a member of group 3 to submit his or her CSQ Application.

Group membership will be closed on the date of the Approval Order, the hearing of which is scheduled for **June 19, 2019**.

APPROVAL HEARING:

On **June 19, 2019** the Court will hear an Application for Approval of the Settlement Agreement and an Application to Approve Class Counsel's Fees (the "**Applications for Approval**"). The hearing will take place at the **Montreal Courthouse** located at **1, rue Notre-Dame East, in Montreal, H2Y 1B6** starting at **9:30 am**.

At this hearing, the Court will determine whether the Settlement Agreement is fair and reasonable and in the best interests of the Class Members.

At the same hearing, counsel for the Applicant will ask the Court to approve the payment of \$650,000 for its fees and \$7,500 for its expenses, plus applicable taxes. **Such fees and expenses will not be deducted from any compensation given to Class Members.**

OPPOSING THE APPLICATIONS FOR APPROVAL

If you approve of this Settlement Agreement **you have nothing to do at this time.**

If you wish to comment on the Settlement Agreement or make an objection to the Application for Approval at the hearing, you can communicate your reasons for contesting in writing by sending a letter by registered mail to the Superior Court of Québec in Montréal at 1 Notre-Dame Street East, Montreal, Quebec, H2Y 1B6, by **May 19, 2019**, at the latest. The letter must include the court number of this file: 500-06-000660-130.

You may also attend the hearing whether or not you make a formal objection in writing, and you may address the Court with your concerns.

RELEASE OF CLAIMS AND EFFECT ON OTHER PROCEEDINGS

If the Settlement Agreement receives the Court's approval, you will be bound by the terms of the Settlement Agreement if you are a class member, unless you have already opted out of the authorized class. This means that you will not be able to bring any other claim or legal proceedings against the Minister of Immigration, Diversity and Inclusion in relation to the matters alleged in these proceedings.

ADDITIONAL INFORMATION AND QUESTIONS

The complete versions of the Settlement Agreement and the Applications for Approval can be found at www.imk.ca.

For any questions concerning the Settlement Agreement and the Applications for Approval, please communicate with the Plaintiffs' counsel:

M^e Olga Redko
IMK LLP
Place Alexis Nihon | Tower 2
3500 De Maisonneuve Boulevard West, Suite 1400
Montréal, Québec H3Z 3C1
Email : oredko@imk.ca
Tel: 514 934-7742
Fax: 514 935-2999

Please be advised that the present notice only contains a summary of the Applications for Approval. In case of conflict between this notice and the applications, the Applications for Approval will govern.

**THIS NOTICE WAS AUTHORIZED BY THE HONOURABLE PEPITA CAPRIOLO,
J.C.S.**

PROGRAMME RÉGULIER D'IMMIGRATION DES TRAVAILLEURS QUALIFIÉS DU QUÉBEC – RÈGLEMENT DE L'ACTION COLLECTIVE

AVIS D'AUDIENCE D'APPROBATION DE LA TRANSACTION

Veillez lire attentivement le présent avis : il peut avoir des effets sur vos droits.

Vous recevez cet avis parce que vous pourriez être admissible à une indemnité, tel qu'expliqué ci-dessous.

Veillez noter que des destinataires de cet avis pourraient ne pas être admissibles à l'indemnité parce qu'ils ne répondent pas à la définition des groupes ci-dessous.

QUELS MEMBRES DES GROUPES SONT ADMISSIBLES À UNE INDEMNITÉ?

Le présent avis est destiné aux personnes qui ont déposé une demande de certificat de sélection du Québec (**CSQ**) auprès du ministère de l'Immigration, de la Diversité et de l'Inclusion du Québec dans le cadre du Programme régulier des travailleurs qualifiés et qui remplissent les conditions suivantes :

- a) **Groupe 1** : les personnes dont la demande de CSQ a été déposée entre le 1^{er} février 2012 et le 31 mai 2013; dont la demande de CSQ comprenait le formulaire A-1520-AA ou A-1520-AF indiquant que la demande serait traitée conformément à la réglementation à la vigueur à la date du dépôt auprès du MIDI ou contenait la phrase « Nous traiterons votre demande de certificat de sélection selon la réglementation en vigueur au moment où vous la déposerez »; et dont la demande de CSQ a été refusée en application de la grille de sélection entrée en vigueur le 1^{er} août 2013.
- b) **Groupe 2** : les personnes dont la demande de CSQ a été déposée avant le 1^{er} février 2012 ou entre le 1^{er} juin 2013 et le 7 juillet 2013 et a été refusée en application de la grille de sélection entrée en vigueur le 1^{er} août 2013.
- c) **Groupe 3** : les personnes dont la demande de CSQ a été déposée entre le 8 juillet 2013 et le 8 mars 2017 et a été refusée en application de la grille de sélection entrée en vigueur le 8 mars 2017.

(les « membres admissibles des groupes »).

OBJET DU PRÉSENT AVIS

Le 19 février 2018, la Cour supérieure du Québec (la « **Cour** ») a autorisé une action collective contre le ministre de l'Immigration, de la Diversité et de l'Inclusion (le « **ministre** ») et le Gouvernement du Québec (collectivement les « **défendeurs** »). Selon les allégations de l'action autorisée, les défendeurs se seraient injustement enrichis, auraient commis une faute et auraient agi de mauvaise foi en omettant d'offrir

le remboursement des frais payés par les membres pour une demande de CSQ que l'application des modifications au *Règlement sur la pondération applicable à la sélection des ressortissants étrangers*, RLRQ c. I-0.2, r. 2 (le « *Règlement de pondération* ») aurait vouée à l'échec.

Une transaction a été conclue entre les demandeurs et les défendeurs. La transaction ne constitue pas un aveu de responsabilité de la part des défendeurs.

En vertu de la transaction conclue, chaque membre des groupes définis ci-dessus a droit à une indemnité calculée de la façon suivante :

- a) Groupe 1 : 50 % des frais payés par le membre du groupe 1 pour présenter sa demande de CSQ;
- b) Groupe 2 : 25% des frais payés par le membre du groupe 2 pour présenter sa demande de CSQ;
- c) Groupe 3 : 25% des frais payés par le membre du groupe 3 pour présenter sa demande de CSQ.

Les groupes vont être fermés en date de l'audience d'approbation de la transaction, qui est prévue le **19 juin 2019**.

AUDIENCE D'APPROBATION

Le **19 juin 2019**, la Cour entendra la demande pour approbation de la transaction et la requête pour approbation des honoraires des avocats des groupes (« requêtes pour approbation »). L'audience aura lieu au **Palais de justice de Montréal**, au **1, rue Notre-Dame Est**, à **Montréal, H2Y 1B6**, à **9 h 30**.

Lors de cette audience, la Cour déterminera si la transaction est équitable et raisonnable et si elle sert les intérêts des membres.

Lors de cette même audience, les avocats des demandeurs demanderont à la Cour d'approuver le paiement d'une somme de 650 000 \$ pour leurs honoraires, et une somme de 7500 \$ pour ses débours, plus les taxes applicables. **Ces honoraires et débours ne seront pas déduits des indemnités versées aux membres.**

OBJECTION AUX DEMANDES D'APPROBATION

Si vous approuvez la transaction, **vous n'avez rien à faire pour l'instant.**

Si vous souhaitez commenter la transaction ou vous opposer à la demande d'approbation lors de l'audience, vous pouvez faire part des motifs de votre objection par écrit, par l'envoi d'une lettre par courrier recommandé au greffe de la Cour supérieure du Québec, district de Montréal, au 1, rue Notre Dame Est, Montréal,

Québec, H2Y 1B6, au plus tard le **19 mai 2019**. La lettre doit indiquer le numéro de dossier de la cour: 500-06-000660-130.

Vous pouvez assister à l'audience, que vous comptiez ou non vous opposer officiellement aux demandes par écrit, et vous pouvez faire part de vos préoccupations à la Cour.

QUITTANCE ET EFFET SUR LES AUTRES ACTIONS

Si la Cour approuve la transaction et que vous êtes membre d'un groupe, vous serez lié par les conditions de la transaction, sauf si vous vous êtes déjà exclu de l'action autorisée. C'est à dire que vous ne pourrez pas soumettre de nouvelles réclamations ni tenter une autre action en justice contre le ministère de l'Immigration, de la Diversité et de l'Inclusion relativement aux allégations visées par les procédures en instance.

RENSEIGNEMENTS SUPPLÉMENTAIRES ET QUESTIONS

La transaction et les demandes d'approbation figurent en version intégrale sur le site Web www.imk.ca.

Pour toute question relative à la transaction et aux demandes d'approbation, veuillez communiquer avec l'avocate des demandeurs :

M^e Olga Redko
IMK LLP
Place Alexis Nihon | Tour 2
3500, boul. De Maisonneuve Boulevard Ouest, bureau 1400
Montréal (Québec) H3Z 3C1
Courriel : oredko@imk.ca
Téléphone : 514 934-7742
Télécopieur : 514 935-2999

Veillez noter que le présent avis ne contient qu'un résumé des demandes d'approbation. En cas de conflit entre le présent avis et les demandes, les demandes d'approbation ont préséance.

LE PRÉSENT AVIS A ÉTÉ AUTORISÉ PAR L'HONORABLE PEPITA CAPRIOLO, J.C.S.

