

CANADA  
PROVINCE OF QUÉBEC  
DISTRICT OF MONTREAL

(CLASS ACTION)  
SUPERIOR COURT

No.: 500-06-001066-204

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M [REDACTED] A [REDACTED],

*Plaintiff*

v.

**TICKETMASTER CANADA HOLDINGS  
ULC,**

*-and-*

**TICKETMASTER CANADA ULC,;**

*-and-*

**TICKETMASTER CANADA LP,**

*Defendants*

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**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION  
(Articles 574 C.C.P. and following)**

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**TO ONE OF THE HONOURABLE JUSTICES OF THE SUPERIOR COURT OF  
QUÉBEC, SITTING IN AND FOR THE DISTRICT OF MONTRÉAL, THE  
PETITIONER STATES THE FOLLOWING:**

**INTRODUCTION**

1. Plaintiff wishes to institute a class action on behalf of the following Group, of which Plaintiff is a member:

All persons in Canada, who purchased before March 11, 2020 one or more tickets from the Defendants for an event scheduled to take

place after March 11, 2020, which event was subsequently either postponed, rescheduled or cancelled, without a full refund being provided by Defendants, or any other Group(s) or Sub-Group(s) to be determined by the Court;

(hereinafter referred to as the “**Class Member(s)**”, the “**Group Member(s)**”, the “**Customer(s)**”) or the “**Consumer(s)**”);

2. Defendants are all related entities doing business under the names Ticketmaster TM, Réseau Admission, and Les Services Ticketmaster Canada (hereinafter collectively “**TM**” or “**Ticketmaster**”). Defendants together sell, market and distribute concert, sporting event, and other show or event tickets throughout Canada, including Quebec, Plaintiff communicating herewith the *Registraire des entreprises* CIDREQ reports regarding the Defendants, *en liasse*, as **Exhibit R-1**;

### THE SITUATION

3. Through their “Ticketmaster” websites and online applications, Defendants market and sell various event tickets within Canada and Quebec, including sporting events, concerts, festivals, theater, musicals, art events, family events, etc.
4. Before March 12, 2020, Defendants, would immediately refund any amounts paid by their Customers for concert tickets, shows, etc. (including other purchased services such as parking), if the event in question was either cancelled, postponed or rescheduled. Class Members would therefore purchase said tickets and products under those existing terms and conditions.
5. However, on or about March 12, 2020, Ticketmaster abruptly, and without warning or consent, unilaterally changed its refund policy to now specify that cancelled events would be refunded only after 30 days (if not longer) and that if an event is deemed by them to be either postponed or rescheduled, it would be up to the organizer (or promoters) of the event to offer a refund or a credit of the ticket

purchased, the whole as more fully appears from extracts from Defendants' website, communicated herewith as **Exhibit R-2**, as though recited at length herein.

6. Accordingly, as of March 12, 2020, Defendants refuse to refund their Customers, the Class Members, for the amounts paid for event tickets, parking, etc. regarding postponed or rescheduled events, and this retroactively affecting purchases made by the Class Members before March 12, 2020.
7. The Class Members who purchased tickets and/or other services on Defendants' websites never contracted with the event organizers or promoters directly. The Class Members only contracted with and communicated with Defendants' Ticketmaster website in this regard and therefore it is the Defendants who have the obligation to refund the Class Members in the case of cancelled, postponed or rescheduled events.
8. Notwithstanding a huge media and social media backlash regarding Defendants' new refund policy, Defendants are still proceeding with their abusive refund policy, copies of various news articles regarding this situation are communicated herewith, *en liasse*, as **Exhibit R-3**.
9. Defendants' chosen moment to modify the policy and to no longer refund the postponed and rescheduled event tickets could not be more damaging for the Class Members.
10. Indeed, on March 11, 2020, the World Health Organization (hereinafter the "**WHO**") declared COVID-19 (corona virus) a pandemic, as appears from the "WHO Director-General's opening remarks at the media briefing on COVID-19 - 11 March 2020" on the organization's website, communicated hereto as **Exhibit R-4**, as though recited at length.
11. During the following days, the federal government and the governments of the

various provinces announced a state of emergency due to the international pandemic crisis of COVID-19 affecting people all over Canada and other countries. Accordingly (and still being the case as of the initial filing of these proceedings), Canadians across the country are not permitted to participate in public gatherings, events, etc. and no dates or timelines have been announced as to when such large events, concerts, or shows would be possible, since no treatment or vaccine has been developed in order to treat / prevent the corona virus.

12. During this pandemic and crisis, with many Class Members either sick or out of work and with no income for the foreseeable future, said Class Members require their refund immediately for rent and groceries, etc.
13. Furthermore, certain Class Members purchased other products or services when purchasing the event tickets, such as parking at the event venue. Defendants are also refusing to refund said amounts paid in the case of postponed or rescheduled events.
14. Defendants have abusively labeled hundreds of events on its website as either postponed or rescheduled, without providing any indication as to when the events are apparently to take place, the whole representing a blatantly bad faith attempt to withhold and retain the Class Members' money indefinitely.
15. Indeed, Defendants cannot confirm if such events will ever occur but have nonetheless labeled said events as postponed or rescheduled, which is misleading and represents bad faith on the part of the Defendants.
16. Defendants' website also still lists other events in the coming months as still proceedings as scheduled (the original dates still being listed), whereas it is clear that such events will also need to be cancelled or postponed due to the pandemic and social distancing obligations already in place now and those to be imposed in the coming months as the provinces slowly begin to reopen businesses and traffic.

17. Since the pandemic was announced, Defendants have absolutely no reasonable grounds to believe that any such events will take place in the foreseeable future. Defendants should deem and should have labeled all such events as cancelled and immediately refunded all amounts paid by the Class Members, as per the refund policy in place when the Class Members had made their purchases. Instead, Defendants decided to illegally withhold and hold hostage the Class Members' money, for Defendants' own financial gain and to the detriment of the Class Members' wellbeing.

### **FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY THE PLAINTIFF**

17. On January 16, 2020, Plaintiff purchased two tickets and one parking at venue for the ZZ Top concert at Place Bell in Laval (Quebec) which was scheduled to take place on May 17, 2020, and Plaintiff paid the total amount of \$250, the whole as more fully appears from his purchase invoice and confirmation email, copy of which is communicated herewith as **Exhibit R-5**.
18. On April 15, 2020, Plaintiff received by email from TM the following message announcing that the event was "postponed" without justification and without confirming a new event date:

"Hi live event fan,  
Your event is still happening, but at a future date yet to be announced.

ZZ Top  
Place Bell  
NEW DATE: To Be Announced

Hang on to your tickets — we'll email you as soon as the new date is announced.

If you're selling tickets to this event, the listing with the old event date will come down — then just list the new tickets with the new date from My Account on your computer or mobile device.

We are working with the event organizer to identify a new date and we will contact you as soon as we have confirmation. If your event organizer is offering refunds, this option (a refund link) will be visible under the order in your Ticketmaster account. If the refund link is not appearing, the event organizer is not offering refunds at this time. Please note that given the unprecedented circumstances, event organizers are constantly assessing the situation and making determinations regarding refunds. If your event is not currently enabled for refunds, check back later, as this status may change.

Thanks for being a fan!  
Ticketmaster Fan Support” ;

a copy of the said April 15, 2020 email from Defendant to Plaintiff is communicated herewith as **Exhibit R-6**.

19. As appears from R-6, Defendants are in bad faith asserting that the concert event in question “is still happening, but at a future date yet to be announced”. This is factually impossible for Defendants to assert at this moment and is clearly designed in order to illegally withhold the Plaintiff’s money.
20. Plaintiff would not have purchased the tickets if he had known that Defendants would illegally hold his money if and when the event was postponed or rescheduled.
21. The event in question is clearly cancelled but Defendants are in bad faith refusing to deem it as cancelled.
22. When Plaintiff purchased his tickets, the Defendants’ stated refund policy was that a refund would be given to purchasers of any cancelled, postponed or rescheduled

event.

23. This behavior by TM represents false representations, willful and intentional omissions of important facts and represents clearly abusive and bad faith conduct given the fact that Class Members are living a stressful situation during this pandemic and require the refunds for other more important purposes such as rent, food, etc.
24. Plaintiff indeed requires his refund immediately, now that the event is clearly cancelled.
25. Plaintiff never agreed to await a decision from event organizers or promoters before receiving a refund in the case of event cancellation, postponement, or rescheduling.
26. Plaintiff never agreed to accept anything less than a full refund in the case of event cancellation, postponement, or rescheduling and Defendant cannot impose anything else such as a credit for future event dates.

**FACTS GIVING RISE TO AN INDIVIDUAL ACTION BY EACH OF THE MEMBERS OF THE GROUP**

27. Class Members including Plaintiff have purchased one or more event tickets and/or products such as parking from the Defendants before March 11, 2020 for events that have been cancelled, postponed or rescheduled after March 11, 2020.
28. Class Members have the right to be fully reimbursed for any products or services not provided on the dates scheduled at the time of purchase.
29. Class Members have experienced or will experience stress and financial anxiety due to the Defendants' illegal and abusive refusal to reimburse them immediately.

30. Class members therefore suffered direct damages by purchasing event tickets from the Defendants.
31. Defendants have been unjustly enriched by their illegal conduct in refusing to reimburse the Class Members.
32. Class Members and the Plaintiff are therefore entitled to claim the full reimbursement of the purchase price for their event tickets in question, and other related services purchased (such as parking).
33. Indeed, the Class Member would not have purchased the event tickets at all had they been informed of TM's plan to change its refund policy and not immediately refund them in case of event cancellation, postponement or rescheduling.
34. The global pandemic is not a justification for the illegal, retroactive and unilateral modifications of the terms and conditions by the Defendants, without the Class Members' consent.
35. Class Members never agreed to await a decision from event organizers or promoters before receiving a refund in the case of event cancellation, postponement, or rescheduling.
36. Class Members never agreed to accept anything less than a full refund in the case of event cancellation, postponement, or rescheduling and Defendants cannot impose anything else such as a credit for future event dates, nor impose future event dates on the Class Members.
37. Furthermore, Defendants cannot unilaterally subject the Class Members' refunds to the will of third parties, namely event organizers.
38. Plaintiff respectfully submits that Defendants intentionally and in bad faith changed their refund policies for their own financial benefit and at the costs of its Customers, making Defendants liable to pay punitive and exemplary damages to all Class



Members, in an amount to be determined by the Court.

39. Indeed, Defendants' said actions show a malicious, oppressive, bad faith, and high-handed conduct that represents a marked departure from ordinary standards of decency when dealing with Customers. In that event, punitive damages should be awarded to Class Members.

#### **CONDITIONS REQUIRED TO INSTITUTE A CLASS ACTION**

40. The composition of the Group makes it difficult or impracticable to apply the rules for mandates to sue on behalf of others or for consolidation of proceedings (Article 575 (3) C.C.P.) for the following reasons.
41. Plaintiff is unaware of the specific number of persons who purchased event tickets from the Defendants, but from the popularity of its online platforms, it is safe to estimate that it is in the tens if not hundreds of thousands across the country.
42. Class Members are numerous and are scattered across the entire province and country.
43. In addition, given the costs and risks inherent in an action before the courts, many people will hesitate to institute an individual action against the Defendants. Even if the Class Members themselves could afford such individual litigation, the court system could not as it would be overloaded. Further, individual litigation of the factual and legal issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the court system.
44. Moreover, a multitude of actions instituted risks leading to contradictory judgments on questions of fact and law that are similar or related to all Class Members.
45. 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.

46. In these circumstances, a class action is the only appropriate procedure for all of the Class Members to effectively pursue their respective rights and have access to justice.
47. The damages sustained by the Class Members flow, in each instance, from a common nucleus of operative facts, namely Defendants' misconduct, faults, omissions, false advertising and/or misrepresentations.
48. The claims of the Class Members raise identical, similar or related issues of law and fact (Article 575 (1) C.C.P.), namely:
  - a) Did Defendants engage in unfair and/or deceptive acts or practices regarding the unilateral and retroactive modification of its refund policies on or about March 12, 2020?
  - b) Are Defendants obligated to reimburse to the Class Members all amounts paid before March 11, 2020 for event tickets or services concerning events which were subsequently cancelled, postponed or rescheduled after March 11, 2020?
  - c) Are Defendants responsible to pay compensatory damages to the Class Members for other damages suffered including disbursements and out-of-pocket expenses, loss of time, inconvenience, and in what amount?
  - d) Are Defendants responsible to pay punitive and/or exemplary damages to the Class Member, and in what amount?
49. The majority of the issues to be dealt with are issues common to every Class Member.

50. The interests of justice favor that this application be granted in accordance with its conclusions.

### **NATURE OF THE ACTION AND CONCLUSIONS SOUGHT**

51. The action that the Plaintiff wishes to institute for the benefit of the Class Members is an action in damages and consumer protection.
52. The facts alleged herein appear to justify the conclusions sought by the Plaintiff (Article 575 (2) C.C.P.), namely the following conclusions that Plaintiff wishes to introduce by way of an originating application:

**GRANT** the class action of the Plaintiff on behalf of all the Class Members against Defendants;

**CONDEMN** the Defendants solidarily to pay to each of the Class Members compensatory damages, including without limitation the full purchase price paid for event tickets and other disbursements such as parking purchased before March 11, 2020 for events cancelled, postponed or rescheduled after March 11, 2020, including all other disbursements, out-of-pocket expenses, loss of time, inconvenience suffered, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay to each of the Class Members a sum to be determined by the Court in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay interest and additional indemnity on the above sums according to the Law from the date of service of the application for authorization to institute a class action;

**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, additional indemnity, and costs;

**ORDER** that the claims of individual class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants solidarily to bear the costs of the present action including experts' fees and notice fees;

**RENDER** any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full legal costs and expenses including expert's fee and publication fees to advise the Class Members;

53. Plaintiff suggests that this class action be exercised before the Superior Court in the District of Montreal for the following reasons:
- a. Many Class Members, including Plaintiff, are domiciled in the District of Montreal;
  - b. Plaintiff purchased his tickets in the District of Montreal and the invoice was sent by Defendants from the District of Montreal, as appears from Exhibit R-5;
  - c. Defendants have elected domicile in the Province of Quebec, District of Montreal (as appears from Exhibit R-1);
  - d. The Plaintiff's legal counsel practices law in the District of Montreal;
52. Plaintiff, who is requesting to be appointed as Representative, is in a position to

properly represent the Class Members (Article 575 (4) C.C.P.) since Plaintiff:

- a. is a Class Member who purchased concert tickets and parking for a May 17, 2020 concert event that never occurred, as detailed above;
- b. understands the nature of the action and has the capacity and interest to fairly and adequately protect and represent the interests of the Class Members;
- c. is available to dedicate the time necessary for the present action before the Courts of Quebec and to collaborate with Class Counsel in this regard;
- d. is ready and available to manage and direct the present action in the interest of the Class Members and is determined to lead the present file until a final resolution of the matter, the whole for the benefit of the Class Members;
- e. does not have interests that are antagonistic to those of other Class Members;
- f. has given the mandate to the undersigned attorneys to obtain all relevant information to the present action and intends to keep informed of all developments;
- g. has given the mandate to the undersigned attorneys to post the present matter on their firm website in order to keep the Class Members informed of the progress of these proceedings and in order to more easily be contacted or consulted by said Class Members;
- h. is, with the assistance of the undersigned attorneys, ready and available to dedicate the time necessary for this action and to collaborate with other Class Members and to keep them informed;

55. The present Application is well founded in fact and in law.

**FOR THESE REASONS, MAY IT PLEASE THE COURT:**

**GRANT** the present Application;

**AUTHORIZE** the institution of a class action in the form of an originating application in damages and consumer protection;

**APPOINT** the Plaintiff as the Representative Plaintiff representing all persons included in the Classes herein described as:

All persons in Canada, who purchased before March 11, 2020 one or more tickets from the Defendants for an event scheduled to take place after March 11, 2020, which event was subsequently either postponed, rescheduled or cancelled, without a full refund being provided by Defendants, or any other Group(s) or Sub-Group(s) to be determined by the Court;

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

- a) Did Defendants engage in unfair and/or deceptive acts or practices regarding the unilateral and retroactive modification of its refund policies on or about March 12, 2020?
- b) Are Defendants obligated to reimburse to the Class Members all amounts paid before March 11, 2020 for event tickets or services concerning events which were subsequently cancelled, postponed or rescheduled after March 11, 2020?
- c) Are Defendants responsible to pay compensatory damages to the Class Members for other damages suffered including disbursements

and out-of-pocket expenses, loss of time, inconvenience, and in what amount?

- d) Are Defendants responsible to pay punitive and/or exemplary damages to the Class Member, and in what amount?

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

**GRANT** the class action of the Plaintiff on behalf of all the Class Members against Defendants;

**CONDEMN** the Defendants solidarily to pay to each of the Class Members compensatory damages, including without limitation the full purchase price paid for event tickets and other disbursements such as parking purchased before March 11, 2020 for events cancelled, postponed or rescheduled after March 11, 2020, including all other disbursements, out-of-pocket expenses, loss of time, inconvenience suffered, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay to each of the Class Members a sum to be determined by the Court in punitive and/or exemplary damages, and **ORDER** collective recovery of these sums;

**CONDEMN** the Defendants solidarily to pay interest and additional indemnity on the above sums according to the Law from the date of service of the application for authorization to institute a class action;

**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, additional indemnity, and costs;

**ORDER** that the claims of individual class members be the object of collective liquidation if the proof permits and alternately, by individual liquidation;

**CONDEMN** the Defendants solidarily to bear the costs of the present action including experts' fees and notice fees;

**RENDER** any other order that this Honorable Court shall determine and that is in the interest of the Class Members;

**THE WHOLE** with interest and additional indemnity provided for in the Civil Code of Quebec and with full legal costs and expenses including expert's fee and publication fees to advise the Class Members;

**DECLARE** that all Class Members who have not requested their exclusion from the Group in the prescribed delay to be bound by any judgment to be rendered on the class action to be instituted;

**FIX** the time limit for opting out of the class at thirty (30) days from the date of the publication or notification of the notice to the Class Members;

**ORDER** the publication or notification of a notice to the Class Members in accordance with Article 579 C.C.P., within sixty (60) days from the judgment to be rendered herein in digital edition of the LaPresse, the Journal de Montreal, the Journal de Quebec, the Montreal Gazette, the Globe and Mail, and the National Post, and **ORDER** Defendants to pay for all said publication/notification costs;

**ORDER** that said notice be posted and available on the Defendants' websites, Facebook page(s), and Twitter account(s), with a link stating "Important notice regarding all events cancelled, postponed or rescheduled after March 11, 2020" and **ORDER** Defendants to send the notice by email with proof of receipt and failing which by mail to all Class Members;



**THE WHOLE** with costs including the costs related to preparation, publication and dissemination of the notices to the Class Members.

**MONTREAL, May 12, 2020**

(s) Lex Group Inc.

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**Lex Group Inc.**

Per: Me. Joanie Lévesque

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