

SUPERIOR COURT

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-06-000938-189

DATE: May 6, 2019

BY: THE HONOURABLE THOMAS M. DAVIS, J.S.C.

PANAGIOTIS LEVENTAKIS

Applicant

v.

FACEBOOK, INC.

Defendant

JUDGMENT OF TEMPORARY STAY

[1] **CONSIDERING** the *Application to Temporarily Stay the Class Action*, whereby both parties are requesting that the class action filed by the Applicant, Panagiotis Leventakis, against the Defendant, Facebook, Inc., (the “**Quebec Action**”) be temporarily stayed for a period ending sixty (60) days after the final certification judgment to be rendered in the BC Action;

[2] **CONSIDERING** the parallel class action, commenced on the same day as the Quebec Action, in British Columbia in *Chow et al. v. Facebook, Inc.*, court docket number VLC-S-S-188374 (the “**BC Action**”) which raises the same issues and whose class definition includes the members of the Quebec Action;

[3] **CONSIDERING** that a Judicial Management Conference took place on February 28, 2019 before Justice Ronald A. Skolrood, who has been assigned to case manage the BC Action, whereby the parties agreed that the next step would be a further Judicial

Management Conference, to take place on March 26, 2019 to set a schedule for certification;

[4] **CONSIDERING** that the parties have agreed to the certification scheduled by consent, such that a further judicial management conference would be redundant;

[5] **CONSIDERING** that the certification hearing in the BC Action has been fixed for December 4, 5 and 6, 2019;

[6] **CONSIDERING** that no procedural steps, other than an Application to Adduce Additional Evidence, have been taken in the Quebec Action to date;

[7] **CONSIDERING** that the rights and interests of the Quebec class members will be protected in the BC Action and that Quebec Council will participate actively therein;¹

[8] **CONSIDERING** that Defendant is in agreement with Applicant's Application and agrees that the Quebec Action should be stayed in favour of the BC Action;

[9] **CONSIDERING** article 3137 C.C.Q;

[10] **CONSIDERING** that the criteria for *lis pendens* are satisfied in the present matter;

[11] **CONSIDERING** the matter of *Hazan c. Micron Technology Inc.*, where, considering a stay application, Justice Bisson stated:

[28] Les éléments suivants ressortent de la jurisprudence québécoise en action collective :

[...]

2) Lorsqu'on demande la suspension d'une demande d'autorisation d'exercer une action collective déposée devant la Cour supérieure au Québec en faveur d'une demande d'autorisation déposée à l'extérieur du Québec, les articles 3137 CcQ et 577 Cpc permettent une telle suspension seulement si :

- 1-Les deux actions sont mues entre les mêmes parties;
- 2-Les deux actions sont fondées sur les mêmes faits;
- 3-Les deux actions ont le même objet;
- 4-L'autre action est déjà pendante devant l'autorité étrangère. Il s'agit de l'exigence d'antériorité du recours étranger;

¹ *Chasles c. Bell Canada inc.*, 2017 QCCS 5200.

- 5-L'action étrangère peut donner lieu ou a déjà donné lieu à une décision pouvant être reconnue au Québec. L'article 3155(4) CcQ entre en jeu dans le cadre de ce critère.

[...]

- 4) La Cour supérieure peut suspendre toute demande d'autorisation d'exercer une action collective déposée devant la Cour supérieure en faveur d'une demande d'autorisation déposée à l'extérieur du Québec si toutes les parties y consentent;²

[References omitted; Court's underlining]

[12] **CONSIDERING** also the judgment of Justice Claudine Roy in *Equifax inc. c. Li*, where she recognizes that : "*Un juge peut toujours, dans l'exercice de ses pouvoirs de gestion, suspendre un dossier à la demande des parties.*"³

[13] **CONSIDERING** that Counsel for the parties have undertaken to provide this Court with an update on the status of the BC Action on a semiannual basis, and to advise this Court within thirty (30) days of any significant development in the BC Action that may affect the course of the Quebec Action;

[14] **CONSIDERING** that a stay is consistent with the principles of proportionality and judicial economy and will avoid the risk of contradictory judgments and multiple proceedings;

FOR THESE REASONS, THE COURT:

[15] **GRANTS** the *Application to Temporarily Stay the Class Action*;


[16] **STAYS** any and all proceedings related to the *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* for a period ending 60 days after the final certification judgment to be rendered in the BC Action (court docket number VLC-S-S-188374), or such later date as may be further ordered by the Court or as requested by the parties;

[17] **PRAYS ACT** of the Applicant's undertaking to provide this Court with an update on the status of the BC Action on a semiannual basis, and to advise this Court within thirty (30) days of any significant development in the BC Action that may affect the course of the Quebec Action, and **ORDERS** the Applicant to comply with said undertaking;

² 2019 QCCS 387.

³ 2018 QCCA 1560, par. 11.

[18] **WITHOUT COSTS.**

A handwritten signature in blue ink, appearing to read "Thomas Davis", written over a horizontal line.

THOMAS M. DAVIS, J.S.C.

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