

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No.: 500-06-000500-104

SUPERIOR COURT
(Class Action Chamber)

VIRGINIA NELLES

Plaintiff

vs.

ROYAL BANK OF CANADA

Defendant

DEFENDANT'S PARTICULARIZED MOTION TO DISMISS ACTION
(Art. 165 (4) C.C.P.)

TO THE HONOURABLE JUSTICE ROBERT MONGEON OF THE SUPERIOR COURT OF QUEBEC, DISTRICT OF MONTREAL, THE DEFENDANT STATES AS FOLLOWS:

1. Plaintiff Virginia Nelles brought a Motion for Authorization to Institute a Class Action and to Obtain the Status of Representative against Defendant Royal Bank of Canada on February 5, 2010;
2. The Motion for Authorization contained specific allegations of fact setting forth Plaintiff's cause of action against the Defendant, in particular at paragraphs 2.34 and following;
3. The Defendant elected not to contest the authorization of the class action;
4. The Superior Court of Quebec authorized the class action on July 14, 2010, and appointed Plaintiff to represent the following group of persons:

All persons, and estates of deceased persons, trustees, es qualité trusts and corporations whose funds were deposited to the account "Earl Jones In Trust, number 00361-5266622" (the "Earl Jones In Trust Account") at the Royal Bank of Canada, Beaconsfield Branch, between the period October 22, 1981 and August 28, 2008, and who did not receive reimbursement of the total funds deposited therein.

5. On August 17, 2010, Plaintiff served the Defendant with a Motion Introductive of Class Action Proceedings;
6. Plaintiff's Motion Introductive of Class Action Proceedings does not contain any specific allegations establishing Plaintiff's cause of action as class representative;
7. Because there are no allegations concerning Virginia Nelles' personal cause of action, Plaintiff's suit is (...) unfounded in law, even if the facts alleged are true;
8. On September 2, 2010, Defendant's counsel addressed a letter to Plaintiff's counsel asking that the lack of allegations specific to Plaintiff's cause of action in Motion Introductive of Class Action Proceedings be remedied, failing which, the issue would be brought before the Court, as appears from a copy of the letter, exhibit R-1;
9. On September 10, 2010, Plaintiff's counsel confirmed its refusal to amend the Motion Introductive of Class Action Proceedings to (...) include allegations disclosing Plaintiff's cause of action;
10. The Defendant therefore has no choice but to seek the dismissal of the action;
11. The present Motion is well-founded in fact and in law.

FOR THESE REASONS, MAY IT PLEASE THE COURT:

GRANT the present Motion to dismiss;

DISMISS plaintiff's action;

THE WHOLE with costs.

MONTREAL, October 15, 2010

Borden Ladner Gervais LLP

Borden Ladner Gervais LLP
Attorneys for Defendant
Royal Bank of Canada

COPIE CERTIFIÉ CONFORME
TRUE CERTIFIED COPY

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