

Québec Superior Court Affirms Ignorance Of The Law Does Not Delay Class Action Prescription Period

June 21, 2018

Segalovich v. C.S.T. Consultants Inc.

In the matter of [Segalovich v. C.S.T. Consultants Inc.](#), the Québec Superior Court dismissed the authorization of a class action claiming fees charged to subscribers and contributors of Registered Education Savings Plans (“RESPs”). The Court ruled that the petitioner’s personal claim was prescribed, affirming that ignorance of the law does not delay the beginning of the prescription period.

Background

The petitioner alleged that the defendants’ practice of charging \$200 for each unit of a RESP plan contravened s.1.1(7) and s.1.1(11) of Regulation no. 15 respecting Conditions Precedent to Acceptance of Scholarship or Educational Plan Prospectuses. He argued that the law only permits a charge of \$200 per RESP plan , even where a plan comprises multiple units.

Decision

The Court first analyzed the four-pronged test to be applied to an application for authorization of a class action and concluded that the petitioner had an arguable case in asserting that the word “plan” in the relevant sections of the law refers to an entire plan and not to individual units.

That said, the signature of the contract and the actual payment of the fees associated with the RESP occurred more than three years prior to the institution of the proceedings, **thereby rendering the petitioner’s claim “prescribed on its face.”** To circumvent prescription, the petitioner argued that he was not aware of the legal framework governing his claim until he began investigating the facts underpinning the class action. The Court’s decision affirmed that the petitioner’s justification of ignorance of the law is not to be confounded with an impossibility to act: “Knowledge of the facts on which a

claim can be based is sufficient to commence the prescriptive period, even where the Plaintiff is unaware of the legal basis for his action.”

The class action was therefore dismissed for failing to meet the prescription period.

Disclosure: BLG’s Anne Merminod and [Stéphane Pitre](#) acted as counsel for the defendants C.S.T. Consultants Inc. and Canadian Scholarship Trust Foundation.

By

[Stéphane Pitre](#)

Expertise

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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