Significant Class Action Victory for BLG

Montréal (September 13, 2019) — BLG was successful in having dismissed the Motion to Authorize a Class Action related to overlimit transactions and fees on credit cards. This is a significant win for our clients Bank of Montreal, Bank of Nova Scotia, Tangerine Bank and President's Choice Bank.

The plaintiff Melissa Pilon alleged that 16 banks engaged in an illegal practice by allowing credit card holders across Canada to occasionally use credit beyond the contractually agreed credit limit (i.e. over-the-limit transactions). The BLG Disputes teams anticipated the issues, vigilantly developed a conclusive strategy and pleaded a strong and convincing contestation (alongside other defence counsel) based on Federal and Québec legislation that allow the practice.

The Québec Superior Court dismissed the Motion to Authorize a Class Action on the following basis: *i)* the Federal regulation does not prohibit banks from processing over-the-limit transactions and charging a fee (as long as the surpassing does not result from a hold being put on the credit card); *ii)* the new Provincial consumer protection legislation, in force since August 2019, actually regulates over-the-limit transactions, but without prohibiting them, as was the case prior to August, 2019 ; and *iii)* Ms. Pilon was not in a position to properly represent the class members contesting excess credit since she herself had regularly sought to increase her credit limit and then threatened to sue when her requests were refused, thereby contradicting the class complaint.

Mathieu Lévesque, Guy Pratte, Patrick Plante and Anaïs Bussières McNicoll acted for Bank of Montreal, Karine Chênevert and Alexander De Zordo acted for the Bank of Nova Scotia, Jean Saint-Onge and Eve Gaudet acted for Tangerine Bank, while Anne Merminod, Alexandra Hébert and Stéphane Pitre acted for President's Choice Bank.

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