

SUPERIOR COURT

(Class Action)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N° : 500-06-000524-104

DATE : October 26, 2015

PRESIDING: THE HONOURABLE JEAN-YVES LALONDE, J.S.C.

OPTION CONSOMMATEURS
Petitioner

-and-

KARINE ROBILLARD
Designated Person

v.

PRODUITS VITAFOAM CANADA LIMITÉE
VITAFOAM INC.
CARPENTER CANADA Co.
CARPENTER CO.
FUTURE FOAM INC.
FLEXIBLE FOAM PRODUCTS INC.
LEGGETT & PLATT INC.
MOHAWK INDUSTRIES INC.
HICKORY SPRINGS MANUFACTURING COMPANY
WOODBIDGE FOAM CORPORATION
Respondents

-and-

LES INDUSTRIES FOAMEXTRA INC.
FOAMEX INNOVATIONS INC.
MICHAEL CALDERONI
DONALD PHILLIPS
VINCENZO BONADDIO
Defendants

-and-

BELLEAU LAPOINTE, S.E.N.C.R.L.
Class counsel

-and-

FONDS D'AIDE AUX RECOURS COLLECTIFS
Mise en cause

JUDGMENT
(CARPENTER SETTLEMENT AGREEMENT)

JL3286

[1] **WHEREAS** Option consommateurs has brought before this Court a Motion for the approval of a settlement agreement entered into notably with the Respondents Carpenter Canada Co. and Carpenter Co.;

[2] **CONSIDERING** the Motion before the Court;

[3] **CONSIDERING** the exhibits in the file;

[4] **CONSIDERING** also the agreement entered into on June 16th, 2015 filed as Exhibit 2 in support of Mtre Luciana Brasil's Affidavit dated September 15th, 2015;

[5] **CONSIDERING** the submissions of counsel for the parties and the representations made on all sides;

[6] **CONSIDERING** Section 1025 of the *Code of Civil Procedure*;

[7] **WHEREFORE, THE COURT:**

[8] **GRANTS** the present *Requête pour l'approbation de transactions et en approbation des honoraires et déboursés des Procureurs-requérants*;

[9] **DECLARES** that the definitions set forth in the Settlement Agreement apply to and are incorporated into this Judgment and, as a consequence, shall form an integral part thereof, being understood that the definitions are binding on the Parties to the Settlement Agreement, and that the other Respondents and Defendants, which are Non-Settling Defendants, are in no way bound by those definitions except for the purposes of the Judgment;

[10] **DECLARES** that, subject to all of the other provisions of the Judgment, the Settlement Agreement is valid, fair, reasonable and in the best interest of the Québec Settlement Class Members, and constitutes a transaction within the meaning of Article 2631 of the *Civil Code of Québec*, binding all Parties and all members described therein;

[11] **APPROVES** the Settlement Agreement in conformity with Article 1025 of the *Code of Civil Procedure* and **DECLARES** that it shall be implemented in accordance with its terms, but subject to the terms of the Judgment;

[12] **DECLARES** that, subject to the other provisions of the Judgment, the Settlement Agreement, in its entirety (including the preamble, the definitions, schedules and addendum), is attached to the Judgment as Schedule "A" and shall form an integral part of the Judgment and shall be binding on all Parties;

[13] **ORDERS AND DECLARES** that effective immediately upon the later of the date the Settlement Amount has been paid in full and the Effective Date, and in consideration of payment of the Settlement Amount and for other valuable consideration set forth in the Settlement Agreement, the Releasers, jointly, severally and solidarily, release, hold harmless and forever discharge, with prejudice, the Releasees, jointly, severally and solidarily, from the Released Claims that any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have, or hereafter can, shall, or may have against the Releasees, or any of them;

[14] **ORDERS AND DECLARES** that upon the Effective Date, the Quebec Proceeding shall be settled, without costs and without reservation as against the Carpenter Defendants, and the Parties shall sign and file a declaration of settlement out of court with the Quebec Court;

[15] **DECLARES** that any Person who is a party to a Quebec Other Action who makes a claim under the Settlement Agreement shall be deemed to irrevocably consent to the dismissal, without costs, without reservation, and with prejudice, of his, her or its Quebec Other Action against the Releasees, as the case may be;

[16] **DECLARES** that each Quebec Other Action commenced by a Person who makes a claim under this Settlement Agreement shall be dismissed as against the Releasees, as the case may be, without costs, without reservation, and with prejudice;

[17] **ORDERS AND DECLARES** that this Judgment, including the Settlement Agreement, shall be binding on every Québec Settlement Class Member who has not validly opted-out of the action;

[18] **DECLARES** that the Quebec Petitioner and the Quebec Settlement Class expressly waive and renounce the benefit of solidarity with respect to any share of liability, including

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without limitation, liability arising from *in solidum* obligations, that can be attributed in any way to the Releasees in respect of the Quebec Proceeding (if any), in capital, interest and/or costs;

[19] **DECLARES** that the Quebec Petitioner and the Quebec Settlement Class expressly waive and renounce, to the Releasees' exclusive benefit, any right to claim or receive payment from the Non-Settling Defendants or any other Person, any amount representing any share of liability that can be attributed in any way to the Releasees in respect of the Quebec Proceeding (if any), in capital, interest and/or costs, including any amount that a Releasee would have been liable to pay to a Non-Settling Defendant as indemnification in the absence of this settlement;

[20] **DECLARES** that the Quebec Petitioner and the Quebec Settlement Class release the Non-Settling Defendants and any other person in respect of any share of liability that can be attributed in any way to the Releasees in respect of the Quebec Proceeding (if any), including any amount that a Releasee would have been liable to pay to a Non-Settling Defendant as indemnification in the absence of this Settlement in capital, interest and costs;

[21] **DECLARES** that any claim in warranty or other claim or joinder of parties to obtain from the Releasees any contribution, indemnity or any amount representing the share of liability attributed to the Releasees in the Quebec Proceeding (if any) or relating to the Released Claims shall be inadmissible and void in the context of the Quebec Proceeding;

[22] **DECLARES** that the Quebec Petitioner and the Quebec Settlement Class will bear the Releasees' share in the contribution in respect of the Quebec Proceeding (if any) that would result from the insolvency of a Non-Settling Defendants or any other Person;

[23] **DECLARES** that this Court retains an ongoing supervisory role for the purpose of implementing, administering and enforcing the Settlement Agreement, and subject to the terms and conditions set out in the Settlement Agreement;

[24] **DECLARES** that this Court retains an exclusive jurisdiction over the Quebec Proceedings, the Parties thereto and Class Counsel Fees in those Proceedings;

[25] **DECLARES** that the Settling Defendants shall have no responsibility or involvement in the administration, investment or distribution of the Trust Account;


[26] **ORDERS** that this Judgment is contingent upon the approval by the Ontario Court and the B.C. Court in the Proceedings in their jurisdictions, and this Judgment shall have no force and effect unless and until such approval orders are made;

[27] **PRAYS ACT** that the Parties renounce to the rights arising from the present Judgment in the event the Settlement Agreement is terminated in accordance with its terms, the whole according to art. 476 C.C.P.;

[28] **WITHOUT COSTS.**



THE HONOURABLE JEAN-YVES LALONDE, J.S.C.

COPIE CONFORME
TRUE COPY
JACQUES BLANCHETTE

Greffier adjoint
Deputy Clerk

26 OCT. 2015