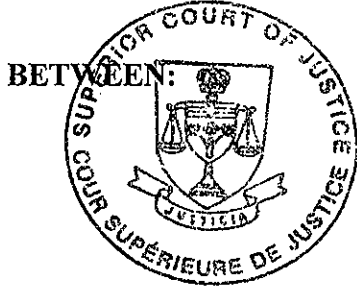


**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING UNDER THE CLASS PROCEEDINGS ACT, 1992

BEFORE THE HONOURABLE)
MR. JUSTICE BELOBABA)
TUESDAY, THE 12th DAY OF
JULY, 2016.



INAYET KHERANI

Plaintiff

and

BANK OF MONTREAL

Defendant

ORDER

THIS MOTION made by the Plaintiffs for an order, *inter alia*, that the following actions have common discoveries and trial together: *Palsetia v. Suleman et al*, Court File No. 07-CV-341491CP (“Palsetia Action”); *Lalani v. Reeves*, Court File No. 07-CV-338183 CP (“Lalani Action”); *Juma et al v. Western Union Financial Services Canada Inc., o/a Western Union*, Court File No. 08-CV-353663CP (“Juma Action”); *Pardhan v. Bank of Montreal*, Court File No. 08-CV-350772CP (“Pardham Action”); *Kherani v. Bank of Montreal*, Court File No. 08-CV-353703CP (“Kherani Action”); and *Mirshahi v. Suleman et al*, Court File No. 08-CV-353823CP (“Mirshani Action”) (collectively the “Class Actions”) was heard this day at 130 Queen Street West, Toronto, Ontario.

ON READING the Motion Record and supplementary motion records, the Factum and Brief of Authorities of the Plaintiff, the Responding Motion Record, Factum and Brief of Authorities of the Defendant and the Factum and Brief of Authorities of the Bank of Montreal,

AND ON HEARING the submissions of counsel for: the Plaintiffs, the Defendant, the Bank of Montreal, Musa Suleman, 1501747 Ontario Inc. and 1376563 Ontario Inc., the Attorney General for Canada, Sadruddin Adatia, Olympic Sports Data Services, Limited and Spiros G. Athanas; and Mr. Reeves, personally,

1. **THIS COURT ORDERS THAT** this Action together with the following actions: *Palsetia v. Suleman et al*, Court File No. 07-CV-341491CP; *Lalani v. Reeves*, Court File No. 07-CV-338183 CP; *Pardhan v. Bank of Montreal*, Court File No. 08-CV-350772CP; *Juma et al. v. Western Union Financial Services Canada Inc. o/a Western Union*, Court File No. 08-CV-353663CP; and *Mirshahi v. Suleman et al*, Court File No. 08-CV-353823CP (the “Class Actions”) shall proceed with common documentary and oral discovery and shall be heard one after another as the trial judge directs.

2. **THIS COURT ORDERS THAT** the litigation plan for this Action and the Class Actions shall be as follows:

Phased Litigation Plan

THIRD PARTY ACTIONS, FOURTH PARTY ACTIONS AND DISCOVERY

- a. The third party actions and fourth party actions¹ will be stayed until the completion of the trial of the Phase 1 Common Issues or until further order of the court.

¹ See Attached at Schedule “A”

- b. The plaintiffs and the defendants in the Class Actions² will make full document production.
- c. The plaintiffs and the defendants in the Class Actions will proceed to a first phase of oral discoveries, dealing only with the common issues relating to liability³ and not quantification of damages or apportionment of liability as amongst the defendants.
- d. Within 60 days of the completion of the first phase of discoveries (including answers to undertakings given and refusals ordered answered), the plaintiffs and defendants in the Class Actions will advise all other parties to the Class Actions whether any of them will bring motions for summary judgment on issues of liability.

TRIAL OF THE COMMON ISSUES

- e. The trial together of the Common Issues in the Class Actions will proceed in two separate phased trials:
 - i. Only Common Issues relating to liability⁴ will be decided in Phase 1 of the common issues trial in the Class Actions.
 - ii. Common Issues relating to causation and damages⁵ will be decided in Phase 2 of the common issues trial in the Class Actions, should a second phase be necessary.

CAUSATION AND DAMAGES

- f. Should some or all of the common issues pertaining to liability⁶ be resolved in favour of the class, additional oral discovery, and/or expert reports may be

² Juma Action (Court File No. 08-CV-353663-CP); Pardhan Action (Court File No. 08-CV-350772CP); Kherani Action (Court File No. CV-08-00353703CP); Lalani Action (Court File No. 07-CV-338183CP); Palestia Action (Court File No. 07-CV-341493CP); Mirshahi Action (Court File No. CV-08-0353823CP)

³ In the Juma Action, liability shall include Common Issues (a), (b), (c), (d), (e) and the first part of (g).
 In the Pardhan Action, liability shall include Common Issues (1), (2), (3), (4), (5) and the first part of (7)
 In the Kherani Action, liability shall include Common Issues (1), (2), (3), (4), (5) and the first part of (7)
 In the Lalani Action, liability shall include Common Issues (a), (b), (c), (d), (e), (f), (h) and the first part of (j)
 In the Palestia Action, liability shall include Common Issues (a), (b), (c), (d), (e), (f) and the first part of (h)
 In the Mirshahi Action, liability shall include Common Issues (a), (b), (c), (d), (e), (f) and the first part of (h)

⁴ See footnote 3 above.

⁵ In the Juma Action, damages shall include Common Issue (f)
 In the Pardhan Action, damages shall include Common Issue (6)
 In the Kherani Action, damages shall include Common Issue (6)
 In the Lalani Action, damages shall include Common Issue (g) and (i)
 In the Palestia Action, damages shall include Common Issue (g)
 In the Mirshahi Action, damages shall include Common Issue (g)

required to answer the Phase 2 questions. Counsel will meet as quickly as possible following the resolution of the Phase 1 Common Issues in order to determine the scope of any additional oral discovery and expert evidence required and any other steps necessary to resolve any outstanding issues at Phase 2.

QUANTIFICATION OF PUNITIVE DAMAGES

- g. The quantum of punitive damages,⁷ if any, as against each defendant in the Class Actions, will be determined after the determination of compensatory damages.

3. **THIS COURT ORDERS THAT** any document that is not required to be served personally or by an alternative to personal service may be served:

(a) On a party who has a lawyer of record by e-mailing a copy to the lawyer's office in accordance with subrule 16.05(1)(f) and 16.06.1(1) of the *Rules of Civil Procedure*; and,

(b) On a party who is acting in person or on a person who is not a party by e-mailing a copy to the party or person at the email address provided by the person or party.

4. **THIS COURT ORDERS THAT** the Class Actions are exempt from Rule 48.14 of the *Rules of Civil Procedure*.

5. **THIS COURT ORDERS THAT** an order in this action or in any of the Class Actions shall be effective in this and all of the Class Actions unless otherwise ordered.

⁶ See footnote 3 above.

⁷ In the Juma Action, the portion of Common Issue (g) dealing with the quantum of any punitive damages award. In the Pardhan Action, the portion of Common Issue 7 dealing with the quantum of any punitive damages award. In the Kherani Action, the portion of Common Issue 7 dealing with the quantum of any punitive damages award. In the Lalani Action, the portion of Common Issue (j) dealing with the quantum of any punitive damages award. In the Palestia Action, the portion of Common Issue (h) dealing with the quantum of any punitive damages award. In the Mirshahi Action, the portion of Common Issue (h) dealing with the quantum of any punitive damages award.

6. **THIS COURT ORDERS THAT** paragraphs 1 to 5 apply to all of the Class Actions.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO:

OCT 05 2016

PER / PAR: 



THE HONOURABLE JUSTICE BELOBABA

SCHEDULE "A"

Court File No. 07-CV-341493 CP A1 – Sharukh Palsetia v. Musa Suleman and 1376563 Ontario Inc. v. Farid "Freddie" Ibrahim and Amin Damji

Court File No. 08-CV-350772 CP A1 – Alnasir Pardhan v. Bank of Montreal v. Royal Canadian Mounted Police, Sadru Adadatia, Ali Basaria, Ali Bavania, Amin Damji, Salim Damji, Saffin Damji, Azim Daya, Farid Ibrahim, Alnasir Jadvji, Zahur Jinnah, Kassam Juma, Mansur Juma, Shams Kassam, Shamez Ladak, Karim Ladha, Rahim Lavji, Zahra Lavji, Al Karim Manji, Hafiz Sachedina, Shiraz Sachedina, Musa Suleman, Naheel Suleman, Alnoor Vellani, Sadru Virji and 1376563 Ontario Inc.

Court File No. 08-CV-350772 CP B1¹ – Alnasir Pardhan v. Bank of Montreal v. Attorney General of Canada, Sadruddin Adatia, Karim Basaria, Ali Bavania, Amin Damji, Salim Damji, Shaffin Damji, Azim Daya, Farid Ibrahim, Alnasir Jadvji, Zahur Jinnah, Kassam Juma, Mansur Juma Rahemtullah, Shams Kassam, Shamez Ladak, Karim Ladha, Rahim Lavji, Zahra Lavji, Al Karim Manji, Hafiz Sachedina, Shiraz Sachedina, Musa Suleman, Naheel Suleman, Alnoor Vellani, Shiraz Virji and 1376563 Ontario Inc. and. Musa Suleman, Naheel Suleman, and 1376563 Ontario Inc. v. Alnasir Pardhan

Court File No. 08-CV-350772 CP C1 – Alnasir Pardhan v. Bank of Montreal v. Maynard Hal Garber also known as Chuck Garber also known as Robert Albert Fox also known as Nigel Roberts also known as Robert Albert Fox also known as Robert Fox, Bank Hapoalim (Switzerland) Ltd. also known as Banque Hapoalim (Suisse) SA also known as Bank Hapoalim (Schweiz) AG, Banco De Costa Rica, Edward Reeves, Western Union Financial Services (Canada) Inc. o/a Western Union, Olympic Sports Data Services, Limited and Spiros G. Athanas

Court File No. 08-CV-353663-CP A1 - Rizwan Juma and Nasrin Juma v. Western Union Financial Services (Canada) Inc. o/a Western Union v. Edward Reeves, Bank of Montreal, Olympic Sports Data Services, Limited, Spiros G. Athanas, ~~Maynard Hal Garber also known as Chuck Garber also known as Robert Albert Fox also known as Nigel Roberts also known as Robert Albert Fox also known as Robert Fox, Bank Hapoalim (Switzerland) Ltd. also known as Banque Hapoalim (Suisse) SA also known as Bank Hapoalim (Schweiz) AG, Banco De Costa Rica²~~

Court File No. 08-CV-353703 CP A1 - Inayet Kherani v. Bank of Montreal v. Attorney General of Canada, Sadruddin Adatia, Karim Basaria, Ali Bavania, Amin Damji, Salim Damji, Shaffin Damji, Azim Daya, Farid Ibrahim, Alnasir Jadvji, Zahur Jinnah, Kassam Juma, Mansur Juma Rahemtullah, Shams Kassam, Shamez Ladak, Karim Ladha, Rahim Lavji, Zahra Lavji, Al Karim Manji, Hafiz Sachedina, Shiraz Sachedina, Musa Suleman, Naheel Suleman, Alnoor Vellani, Shiraz Virji, 1376563 Ontario Inc., Maynard Hal Garber also known as Chuck Garber also known

¹ Same as Court File No. 08-CV-340772 CP A1 except amended to reflect change in name party from the Royal Canadian Mounted Police to the Attorney General for Canada.

² Strikethrough indicates that the Third Party Action has been discontinued by Western Union Financial Services (Canada) Inc. as against those Parties.

as Robert Albert Fox also known as Nigel Roberts also known as Robert Albert Fox also known as Robert Fox, Bank Hapoalim (Switzerland) Ltd. also known as Banque Hapoalim (Suisse) SA also known as Bank Hapoalim (Schweiz) AG and Banco De Costa Rica

INAYET KHERANI

Plaintiff

-and-

BANK OF MONTREAL

Defendant

Court File No. 08-CV-00353703CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

**PROCEEDING COMMENCED AT
TORONTO**

ORDER

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