

COURT FILE NUMBER 1801-10956
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF(S) RENÉE DELORME as Representative Plaintiff
DEFENDANT(S) HER MAJESTY THE QUEEN IN RIGHT OF CANADA, IBM CANADA LIMITED.
DOCUMENT **APPLICATION OF THE PLAINTIFF FOR CERTIFICATION**



\$50.00
CMH
Sept 7 2022

Entered

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
NAPOLI SHKOLNIK CANADA
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A Class Proceeding pursuant to the *Class Proceedings Act*, Chapter S.A. 2003 ch C-16.5

NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Judge.

To do so, you must be in Court when the application is heard as shown below:

Date: September 7, 2022
Time: 10:00 a.m.
Where: Remotely
Before Whom: Associate Chief Justice J. Rooke

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Certification of this action as a class proceeding;
2. Defining the Class as follows:

All individuals, whether unionized or non-unionized, who worked for the Government of Canada at any time between January 1, 2014 through until the date of settlement approval.

3. Appointing Renée Delorme as Representative Plaintiff for the Class Members.
4. Establishing a process whereby Class Members can request to opt-out of the class proceeding;
5. Stating the relief claimed by the Plaintiff to be as follows:
 - a. an Order that this action be certified as a Class Proceeding;
 - b. an Order approving the proposed notice plan and litigation plan; and
 - c. such further and other relief as this Honorable Court may deem fit;
6. Certifying the following issue as a common issue:
 - a. Did the Government of Canada owe a duty of care to Class members in respect of the Phoenix Pay System?
7. Such further orders as this Honourable Court considers appropriate.

Grounds for making this application:

8. The pleadings herein disclose a cause of action against the Defendant, IBM Canada Limited;
9. There is an identifiable class of two or more persons;
10. The claims of the Class Members raise common issues respecting the within litigation;
11. A class action is the preferable procedure for the fair and efficient resolution of the common issues;
12. The Plaintiff, Renée Delorme, is an appropriate Representative Plaintiff and:
 - a. will fairly and adequately represent the interests of the Class;
 - b. has produced a Litigation Plan that sets out a workable method of advancing the class proceeding on behalf of the Class and notifying Class Members of the class proceeding; and
 - c. does not have, in respect of the common issues, an interest that is in conflict with the interest of other Class Members;
13. IBM Canada Limited consents to the certification of this matter as a class proceeding;
14. Certification of this matter as a class proceeding is only sought for the purposes of settlement of this Action against IBM Canada Limited. If the settlement agreement in this matter is not approved, the parties agree that any certification order made should be set aside.

Material or evidence to be relied on:

- (a) The Affidavits of Renée Delorme, filed;
- (b) The pleadings and proceedings herein; and

- (c) Such other and further material as counsel may advise.

Applicable rules:

15. Rule 2.6(1) of the *Alberta Rules of Court*.

Applicable Acts and regulations:

16. *The Class Proceedings Act*, S.A. 2003 c. C-16.5

Any irregularity complained of or objection relied on:

17. None.

How the application is proposed to be heard or considered:

18. Virtually on WebEx before Associate Chief Justice J.D. Rooke.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.